Subpart E—Approval of State Programs and Delegation of Federal Authorities

3. Section 63.99 is amended by adding paragraph (a)(38)(iii) to read as follows:

§ 63.99 Delegated Federal Authorities.

(a) * * *

(38) * * *

(iii) Philadelphia is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards, if delegation is requested by the City of Philadelphia Department of Public Health Air Management Services and approved by EPA Region III, at sources within the City of Philadelphia, in accordance with the final rule, dated January 29, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02–2121 Filed 1–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–7130–7]

RIN 2060–AG12

Protection of Stratospheric Ozone: Removal of Restrictions on Certain Fire Suppression Substitutes for Ozone-Depleting Substances; and Listing of Substitutes

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to remove restrictions previously imposed on the use of certain substitutes for ozone-depleting substances (ODSs) under the Significant New Alternatives Policy (SNAP) program. Specifically, EPA is rescinding use conditions imposed under the SNAP program that limit human exposure to halocarbon and inert gas agents used in the fire suppression and explosion protection industry. These use conditions are redundant with safety standards that have since been established by the National Fire Protection Association (NFPA). These halocarbon and inert gas agents will now either be acceptable or acceptable subject to narrowed use limits, depending on the specific agent.

Today, EPA is also taking direct final action to change the listing from acceptable, subject to use conditions, to unacceptable, for a fire suppressant which the manufacturer has withdrawn from the market because of concerns about fetal toxicity; add a substitute to the SNAP list of acceptable substitutes with narrowed use limits in the fire suppression and explosion protection sector; and change a listing decision to remove a restriction from one substitute and to make it an acceptable agent for fire suppression and explosion protection, without use conditions or narrowed use limits. EPA is issuing a companion proposal to this direct final rule elsewhere in today's **Federal Register**. If we receive any adverse comments in response to an amendment, table, or table entry of the rule, EPA will withdraw those amendments, tables, or table entries of this direct final action and will consider and respond to any comments prior to taking any new, final action.

DATES: This rule is effective on April 1, 2002 without further notice, unless EPA receives adverse comment or receives a request for a public hearing by February 28, 2002. If we receive adverse comment or a request for a public hearing, we will publish a timely withdrawal in the **Federal Register** informing the public that all or amendments, tables, or table entries of this rule will not take effect.

ADDRESSES: Send your comments and data specific to this final rule to Docket A–91–42, U.S. Environmental Protection Agency, OAR Docket and Information Center, 1200 Pennsylvania Avenue NW., Mail Code 6102, Washington, DC 20460. The docket is physically located at 401 M Street, SW., Room M–1500. You may inspect the docket between 8 a.m. and 5:30 p.m. on weekdays. Telephone (202) 260–7548; fax (202) 260–4400. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying. To expedite review, send a second copy of your comments directly to Margaret Sheppard at the address listed below under For Further Information. Information designated as Confidential Business Information (CBI) under 40 CFR, part 2, Subpart 2, must be sent directly to the contact person for this notice. However, the Agency is requesting that all respondents submit a non-confidential version of their comments to the docket as well.

FOR FURTHER INFORMATION CONTACT: Margaret Sheppard at (202) 564–9163 or fax (202) 565–2155, U.S. Environmental Protection Agency, Global Programs Division, Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to the office location at 501 3rd Street, NW., 4th floor; Washington, DC 20001. Also contact the Stratospheric Protection Hotline at (800) 296–1996 and EPA's Ozone Depletion World Wide Web site at *''http://www.epa.gov/ozone/title6/snap/''*.

SUPPLEMENTARY INFORMATION: In this direct final rule, EPA is removing, or in some cases, modifying, restrictions that were imposed on the use of certain substitutes for ODSs under the SNAP program in the fire suppression and explosion protection industry sector. Today's action also adds a fire suppression agent to the list of acceptable substitutes, subject to narrowed use limits. The regulations implementing the SNAP program are codified at 40 CFR part 82, subpart G. The appendices to subpart G list substitutes for ODSs that have had restrictions imposed on their use. The revisions in this direct final rule modify the appendices to subpart G.

EPA is publishing today's revisions to the SNAP lists without prior proposal because the Agency views them as non-controversial and anticipates no adverse comment. The most significant position of this rule is to simply remove restrictions that are now duplicative of standards of the National Fire Protection Association (NFPA). In addition, we are adding a new agent to the list of acceptable substitutes, subject to narrowed use limits, and changing the listing from acceptable, subject to use conditions, to unacceptable for an agent that is no longer sold or produced because of fetal toxicity and a high ozone depletion potential. This action does not place any significant new burden on the regulated community. Rather, it removes mandatory conditions on use of certain substitutes under the SNAP program while encouraging voluntary compliance with NFPA's 2001 Standard. For the only part of the action creating further restrictions, it is our understanding that the agent we are listing as unacceptable is not currently being used; thus, it should not add significantly to regulatory burden. Today's action decreases the regulatory burden on the fire protection community while continuing to protect human health and the environment. Members of the fire protection community participate on NFPA's technical committee that is responsible for developing and updating the 2001 standard and adhere to the standards set by NFPA. For these reasons, EPA anticipates that this action will be welcomed.

However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a

companion proposed rule that proposes the same actions as this direct final rule. The direct final rule will be effective on April 1, 2002 without further notice unless we receive adverse comment (or a request for a public hearing) by February 28, 2002. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that all or amendments, tables, or table entries of this rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second public comment period on this action. Any parties interested in commenting must do so at this time.

You may claim that information in your comments is confidential business information, as allowed by 40 CFR part 2. If you submit comments and include information that you claim as confidential business information, we request that you submit them directly to Margaret Sheppard in two versions: one clearly marked ''Public'' to be filed in the public docket, and the other marked ''Confidential'' to be reviewed by authorized government personnel only.

Table of Contents

I. The Significant New Alternatives Policy (SNAP) Program and How It Works

A. What Are the Statutory Requirements and Authority for the SNAP Program?

Section 612 of the Clean Air Act (CAA) authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

• *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

• *Listing of Unacceptable/Acceptable Substitutes*—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.

• *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substitute to or delete a substitute from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.

• *90-day Notification*—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's health and safety studies on such substitutes.

• *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

• *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. How Do the Regulations for the SNAP Program Work?

On March 18, 1994, EPA published the original rulemaking (59 FR 13044) that described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvents cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consumed large volumes of ozone-depleting substances.

Anyone who produces a substitute for an ODS must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to chemical manufacturers, but may include importers, formulators or end-users when they are responsible for introducing a substitute into commerce.

The Agency has identified four possible decision categories for substitutes: acceptable; acceptable subject to use conditions; acceptable subject to narrowed use limits; and unacceptable. Use conditions and narrowed use limits are both considered ''use restrictions'' and are explained below. Substitutes that are deemed acceptable with no use restrictions (no use conditions or narrowed use limits) can be used for all applications within the relevant sector end-use. Substitutes that are acceptable subject to use restrictions may be used only in accordance with such restrictions. It is illegal to replace an ODS with a substitute listed as unacceptable.

After reviewing a substitute, the Agency may make a determination that a substitute is acceptable only if certain conditions of use are met to minimize risk to human health and the environment. Such substitutes are described as ''acceptable subject to use conditions.'' Use of such substitutes without meeting associated use conditions renders these substitutes unacceptable and subjects the user to enforcement for violation of section 612 of the Clean Air Act.

For some substitutes the Agency may permit a narrowed range of use within a sector (that is, the Agency may limit the use of a substitute to certain end-uses or specific applications within an

industry sector), to allow agents to be used in specific uses that would otherwise be deemed unacceptable. Such substitutes are described as ''acceptable subject to narrowed use limits.'' Users intending to adopt a substitute that is acceptable subject to narrowed use limits must ascertain that other acceptable alternatives are not technically feasible. Users must document the results of their evaluation, and retain the results on file for the purpose of demonstrating compliance. This documentation shall include descriptions of substitutes examined and rejected, processes or products in which the substitute is needed, reason for rejection of other alternatives (for example, performance, technical or safety standards), and the anticipated date other substitutes will be available and projected time for switching to other available substitutes. Use of such substitutes in applications and end-uses which are not specified as acceptable in the narrowed use limit renders these substitutes unacceptable.

The Agency publishes its SNAP program decisions in the **Federal Register**. For those substitutes that are deemed acceptable subject to use restrictions (use conditions and/or narrowed use limits), or for substitutes deemed unacceptable, EPA first publishes these decisions as proposals to allow the public opportunity to comment, and final decisions are published as final rulemakings. In contrast, substitutes that are deemed acceptable with no restrictions are published as ''notices of acceptability'', rather than as proposed and final rules. As described in the rule implementing the SNAP program (59 FR 13044), EPA does not believe that rulemaking procedures are necessary to list alternatives that are acceptable without restrictions because such listings neither impose any sanction nor remove any prior license to use a substitute.

Many SNAP listings include statements in the column labelled ''Further Information'' (or in earlier listings, ''Comments''). These comments provide additional information on substitutes determined to be either unacceptable, acceptable subject to narrowed use limits, or acceptable subject to use conditions. Since these statements are not part of the regulatory decision, they are not mandatory for use of a substitute unless they specifically reference regulatory requirements. Nor should the information be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of substitutes to apply all this information in their application of these substitutes, regardless of any regulatory requirements. In many instances, the information simply refers to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the statements, if adopted, would not require significant changes in existing operating practices for the affected industry.

C. Where Can I Get Additional Information About the SNAP Program?

For copies of the comprehensive SNAP lists or additional information on SNAP, contact the Stratospheric Protection Hotline at (800) 296–1996, Monday-Friday, between the hours of 10 a.m. and 4 p.m. (EST). For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044), and see also the Code of Federal Regulations at 40 CFR part 82, subpart G. You can find a complete chronology of SNAP decisions and the appropriate **Federal Register** citations at EPA's Ozone Depletion World Wide Web site at *http://www.epa.gov/ozone/title6/snap/chron.html.*

II. Today's Regulatory Action

A. How Are ODSs and Their Substitutes Used in the Fire Suppression and Explosion Protection Industry Sector?

Substitutes for halons in the fire suppression and explosion protection industry are classified as either total flooding agents or streaming agents under the SNAP program. Today's action removes or modifies restrictions pertaining to workplace exposures on certain substitutes used as total flooding agents.

A total flooding fire protection system can be defined as ''a system consisting of an agent supply and distribution network designed to achieve a total flooding condition in a hazard volume,'' when total flooding is defined as ''the act and manner of discharging an agent for the purpose of achieving a specified minimum agent concentration throughout a hazard volume'' (National Fire Protection Association 2001 Standard for Clean Agent Fire Extinguishing Systems, 2000 Edition).

1. How Does the SNAP Program Assess Risk for Total Flooding Agents?

Beginning with the original SNAP rulemaking (March 18, 1994, 59 FR 13044) and continuing in subsequent rulemakings, EPA has listed several halocarbon and inert gas agents as acceptable substitutes for halons as total flooding agents. However, because of health risks associated with exposures at elevated concentrations of these agents, the acceptability decisions for halocarbon and inert gas agents were made subject to use conditions that are intended to limit human exposure to these agents.

For halocarbon agents, the health effect of concern is cardiac sensitization (an increase in the sensitivity of the heart to adrenaline). The use conditions for halocarbon substitutes under the SNAP program are based on the no observed adverse effect level (NOAEL) and lowest observed adverse effect level (LOAEL) for cardiac sensitization. See 59 FR 13098 (March 18, 1994).

For inert gas agents, the human health effect of concern is reduction of oxygen to potentially unsafe levels. The use conditions under the SNAP program for inert gas substitutes are based on minimum oxygen levels associated with use of the agent. See 59 FR 13098 (March 18, 1994).

In establishing standards for safe use of halocarbon total flooding alternatives, EPA based exposure limits on available animal toxicological data and established exposure times to be consistent with the exposure limits for halon 1301 in the Occupational Safety and Health Administration's (OSHA) standard on fixed fire suppression equipment (see 29 CFR 1910, subpart L sections 1910.162 and 1910.160). Section 1910.162 limits workers' exposure to halon 1301 by linking percent agent concentration in air with the length of time required to safely leave an area (the egress time). EPA developed standards for safe use of halocarbons that link percent concentration in air of the agent (based on the cardiac sensitization NOAEL and LOAEL as determined by animal testing) with egress times.

In establishing standards for safe use of inert gases used as alternatives to halons for total flooding applications, EPA linked minimum oxygen concentration in air with egress times. This is similar to the approach for setting exposure limits for halocarbon agents. For inert gases, we used 12% and 10% oxygen as functional equivalents of the NOAEL and LOAEL, respectively. See 59 FR 13108 and 13142 (March 18, 1994) and 61 FR 25588–25590 (May 22, 1996).

2. How Does the National Fire Protection Association Set Safety Standards for Total Flooding Agents?

The National Fire Protection Association (NFPA) is an independent,

voluntary membership, non-profit international organization that is dedicated to reducing the burden of fire on the quality of life by advocating scientifically-based consensus codes and standards, research, and education for fire and related safety issues. NFPA codes and standards are developed through a consensus process accredited by the American National Standards Institute (ANSI). NFPA codes and standards are used by the fire protection community throughout the United States and the world, and are widely used as a basis for legislation and regulation at all levels of government, from local to international.

Since 1896, the NFPA has been developing and updating scientifically based consensus codes and standards concerning all areas of fire safety. There are currently more than 300 NFPA fire codes and standards in use. Examples include NFPA 10 on Portable Extinguishers, NFPA 12 on Carbon Dioxide Systems, and NFPA 12A on Halon 1301 Systems. These standards allow for safe use of fire protection agents and systems.

NFPA codes and standards are developed and updated through an open, consensus-based process involving thousands of volunteers with technical expertise in a wide range of areas. Volunteers come from the fire services, educational institutions, businesses, insurance companies, industry, labor, consumers, and governing agencies. Any person can submit a proposal to NFPA for a new document or to update an existing one. Various technical committees, made up of volunteers representing a balance of different interests, are assigned to each project. The technical committee develops an initial draft of the project, and issues public notices asking for proposals to include in the document. The committee meets to consider all proposals on a project, and the proposals and the committee's action on them are published and made widely available to the public. Anyone may attend the committee meetings, and address technical committees. If a committee votes to approve their action on the proposals, a 60-day public comment period begins, after which the committee meets again to act on the comments (again anyone may attend the meeting and address the committee). If the committee votes to approve the comments, a report on the comments is published and is made available to anyone for review. The proposals and comments are then submitted for open debate at either of NFPA's twice annual Association meetings. Anyone (regardless of whether they are an NFPA member or not) can present their views on the proposal and comments at the annual meetings. After deliberation, the NFPA membership votes to either approve, amend, or return portions or the entire document to the technical committee. The technical committee then votes on any amendments to the document that were made at the NFPA Association meeting. Any person can file an appeal to NFPA if they are dissatisfied with actions taken during the development of codes and standards.

Building codes (or other local codes) specify requirements for fire protection systems based on the specific level of fire hazard present. These codes apply to the design, installation and operation of the fire protection system and assign the approval authority (or ''authority having jurisdiction,'' AHJ) that is responsible for determining that all systems installed meet the codes. The design and installation requirements for individual systems are based on compliance with applicable NFPA standards. NFPA standards apply to the fire protection agents, and the equipment and devices that make up the entire fire protection system. NFPA standards establish applicability of fire protection agents in particular system applications, and require that all equipment and devices used in a system be listed by a third party organization that is acceptable to the approval authority and is concerned with product evaluation. (''Listed'' means ''Equipment, materials or services included in a list published by an organization that is acceptable to the authority having jurisdiction and concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.'' National Fire Protection Association 2001 Standard for Clean Agent Fire Extinguishing Systems, 2000 Edition)

At the time that EPA developed the original SNAP rule, neither a relevant regulatory agency (for example, OSHA) nor a voluntary consensus standard setting body (for example, NFPA) had yet established use conditions that would adequately limit human exposure to alternatives to halons used as total flooding agents, nor had they established a procedure for determining use conditions. Thus, we developed exposure criteria under the SNAP program to allow for safe use of these alternative agents (that is, halocarbon and inert gas agents) in the interim. In the original SNAP rule, EPA established use conditions to allow halocarbon and inert gas alternative agents to be safely used and to facilitate the transition from use of halon 1301 to these agents. *See* 59 FR 13102 and 13139 through 13143 (March 18, 1994).

As halocarbon and inert gas total flooding alternatives were being developed to replace halon 1301, NFPA began work on a voluntary consensus standard to address design, installation, maintenance and operation of systems using these alternatives. The resulting standard, first published February 11, 1994, is called NFPA 2001 Standard on Clean Agent Fire Extinguishing Systems. The NFPA 2001 Standard is approved by the American National Standards Institute. The NFPA technical committee that developed and updates the 2001 standard is the Technical Committee on Alternative Protection Options to Halon.

NFPA 2001 established use conditions designed to limit human exposure to the alternative total flooding agents. The original NFPA 2001 Standard restricted use of agents to areas that are not normally occupied, if used in concentrations exceeding the NOAEL concentration. Concentrations less than the NOAEL were allowed in areas that are normally occupied. However, these earlier versions of the NFPA standard did not set limits on the duration of exposure at concentrations less than the NOAEL, and did not establish egress times. Thus, the February 11, 1994 version of the standard did not include as much protection for human health as the March 18, 1994 final SNAP rule. Only the most recent revision to NFPA 2001 established standard egress times consistent with OSHA requirements and the SNAP use conditions.

The latest edition of NFPA 2001 was published in March 2000 (NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems 2000 Edition). This most recent version of the standard includes the following revisions to the exposure limits and times for halocarbon and inert gas agents:

- For *halocarbon agents*, the NFPA 2001 Standard has been revised to adopt the use of a physiologically-based pharmacokinetic (PBPK) model to establish limits on exposure concentrations and times. Use of the PBPK model is a more precise method of determining safe human exposure concentrations and times than the method contained in previous editions of NFPA 2001 and EPA's SNAP listings.

• For *inert gas agents*, the NFPA 2001 Standard has been revised to adopt the findings of an expert panel on health effects of hypoxic (low oxygen) atmospheres. This expert panel was convened by EPA to re-evaluate egress times for inert gas agents using the latest technical information. Based on the expert panel's findings, the egress times in the NFPA 2001 Standard were revised.

The latest NFPA 2001 Standard is based on the most current scientific information and procedures for assessing risks associated with the use of halocarbon and inert gas fire suppression agents. NFPA's 2001 Standard for Clean Agent Fire Extinguishing Systems is now the basis for regulation of halon replacement systems throughout North America and is also widely used in other parts of the world. Based on these developments, EPA has concluded that NFPA has established a standard that:

(1) Adequately addresses safe exposure limits and times for halocarbon and inert gas agents;

(2) Takes into account the latest science and;

(3) Is more up-to-date than the SNAP exposure limits and egress times for these agents. Thus, we believe that there now exists a standard industry procedure with a scientific basis to establish exposure levels and egress times and that the use conditions required by the SNAP program, which establish exposure levels and egress times for these agents, are redundant and should be rescinded.

B. How Is EPA Changing the SNAP Program's Existing Substitute Listings for Fire Suppression and Explosion Protection To Coordinate With the NFPA 2001 Standard?

Today EPA is rescinding the SNAP use conditions that limit human exposure to halocarbon and inert gas total flooding alternatives, and is instead referring to the latest NFPA 2001 Standard for safe use of these agents. EPA originally established exposure limits and egress times for these alternatives to allow for their safe use in the absence of existing standards that addressed these issues. In setting those conditions, EPA did not intend to preempt other regulatory authorities or standard-setting bodies from establishing exposure levels for these agents. In fact, as stated in the proposal for the original SNAP rule (58 FR 28098; May 12, 1993), EPA intended only to fill regulatory gaps until other controls or standards were developed; we intended to rescind any conditions that became redundant or irrelevant once such gaps were filled.

EPA has worked with NFPA on development of each edition of the 2001 standard, including the latest revisions, and plans to work with NFPA on future editions. Rather than modifying SNAP exposure limits and times to reflect the same changes as are in the latest NFPA 2001 Standard, EPA is rescinding the SNAP exposure limits and times and is instead deferring to NFPA 2001, as the appropriate American national industry standard.

Although EPA is removing use conditions on the use of halocarbon and inert gas alternatives, we believe that the fire protection community will continue to use these agents safely because the NFPA 2001 Standard establishes exposure limits and times for safe use of these agents. EPA believes that by rescinding the SNAP regulation's use conditions for halocarbon and inert gas agents, these agents will be used more efficiently for the following two reasons:

(1) The fire protection industry is familiar with NFPA standards and is accustomed to using the 2001 Standard in design, installation and use of systems with these agents, and will now only have to look to one source (the 2001 Standard) to determine conditions for safe use instead of looking to both the 2001 Standard and SNAP's exposure limits and times; and

(2) The recent revisions to the halocarbon exposure limits and times in NFPA 2001 (that is, incorporating use of PBPK model data to set concentrations and times) allow for more efficient use of the agents themselves. They allow for safe use of optimal concentrations of agents designed to extinguish a fire more quickly and thus reduce the development of hazardous breakdown products as the agents themselves are exposed to fire.

Relying on NFPA's 2001 Standard for the establishment of safe exposure limits and times for halocarbon and inert gas alternatives is consistent with the government's goal of adopting voluntary consensus standards where appropriate. EPA has served and plans to continue to participate in NFPA's Technical Committee on Halon Alternative Protection Options, the committee responsible for development of the 2001 Standard, in keeping with the government's goal of Federal agency participation in the development of voluntary consensus standards. These goals are outlined in Office of Management and Budget (OMB) Circular No. A–119 on Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities.

EPA is rescinding SNAP use conditions that limit human exposure to halocarbon and inert gases used as substitutes for halons in the total flooding end use because we believe the NFPA standard will provide necessary protection for human health and the environment. As required by section 612 of the Clean Air Act, the SNAP program will continue to: review halon alternatives to ensure that they reduce overall risks to human health and the environment; publish lists of acceptable and unacceptable substitutes; and prohibit the use of any substitute that may present adverse effects to human health or the environment (where EPA has identified an alternative that reduces overall risk and is currently or potentially available). In the future, we expect to defer to the NFPA and other standard-setting bodies where they establish appropriate voluntary consensus standards that are accepted and followed by the relevant industry.

As a result of our decision to rescind the use conditions described above, EPA is revising the SNAP listings for halocarbon and inert gas alternatives to include the following comment, ''Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems.'' In the edition of NFPA 2001 that was published in March 2000, safety guidelines for halocarbon and inert gas agents are found in section 1–6, entitled ''Safety.''

As described below under the heading ''How Do the Regulations for SNAP Program Work?'', the SNAP program includes four possible listing decisions. An alternative may be listed as: (1) Acceptable with no restrictions; (2) acceptable with use conditions; (3) acceptable with narrowed use limits; or (4) unacceptable. Use conditions and narrowed use limits are two different types of regulatory restrictions that affect use of alternatives. Use conditions govern how an alternative may be used (for example, establishing maximum concentrations and times that people may be exposed to an agent). In contrast, narrowed use limits govern where an alternative may be used (for example, restricting use of an agent to nonresidential uses only).

Each of the inert gas agents previously listed as acceptable total flooding agents under SNAP were subject to use conditions that limit human exposure to the agents, but no other restrictions. As these use conditions are rescinded as of today's action, the inert gas agents now fall under the category of acceptable

alternatives without restrictions. Most of the halocarbon agents previously listed as acceptable total flooding agents under SNAP were subject to use conditions that limit human exposure to the agents (with no other restrictions). Likewise, these now fall under the category of acceptable alternatives without restrictions. Acceptable substitutes without restrictions are not listed in appendix G to subpart G of part 82. However, you can find lists of acceptable substitutes on EPA's SNAP Program web site at *http://www.epa.gov/ozone/title6/snap/lists/index.html.* Table 1, below, summarizes today's acceptability listings.

TABLE 1.—SUMMARY OF ACCEPTABLE TOTAL FLOODING SUBSTITUTES, FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR

End-use	Substitute	Decision	Further information
Total flooding	IG–01	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 5.
Total flooding	IG–100	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 5.
Total flooding	IG–541	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. This agent contains CO_2, which is intended to increase blood oxygenation and cerebral blood flow in low oxygen atmospheres. The design concentration should result in no more than 5% CO_2. See additional comments 1, 2, 5.
Total flooding	IG–55	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 5.
Total flooding	HFC–227ea	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 3, 4, 5.
Total flooding	HFC–125	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 3, 4, 5.
Total flooding	HFC–23	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 3, 4, 5.
Total flooding	HCFC–124	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 3, 4, 5.
Total flooding	HCFC Blend A	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 3, 4, 5.
Total flooding	HFC–134a	Acceptable	Use of blends containing this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 3, 4, 5, 6.
Total flooding	HCFC–22	Acceptable	Use of blends containing this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 3, 4, 5, 6.

Additional comments:
1—Should conform with relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160 and 1910.162.
2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.
3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.
4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.
5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (*e.g.,* respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.
6—The NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems gives guidelines for blends that contain HFC–134a or HCFC–22 and other acceptable total flooding agents, rather than referring to HFC–134a or HCFC–22 alone.

Two of the halocarbon agents in the above table, HFC–134a and HCFC–22, are not addressed in NFPA's 2001 Standard. Currently, neither of these agents is used (outside of blends) in total flooding systems in the U.S. For either of these agents to be used as total flooding agents (outside of any blend containing these agents that is already

addressed by NFPA 2001), a proposal would need to be submitted to NFPA to have the agent added to the 2001 Standard under NFPA's usual procedure for updating existing standards, and a total flooding system would need to be in compliance with any other local requirements. (NFPA's procedure for updating codes and standards is described above, under the heading ''NFPA's Safety Standards for Total Flooding Agents.'')

As noted, in previous SNAP listings, most of the halocarbons that are alternatives to halons for use as total flooding agents were subject to use conditions that limit human exposure without any additional restrictions. However, three halocarbon agents (HFC–236fa, C_3F_8 and C_4F_{10}) that we previously listed as acceptable were also subject to narrowed use limits that restrict where these alternatives may be used (in addition to use conditions that limit human exposure to the agents). Although EPA is today rescinding the use conditions regarding safe exposure to HFC–236fa, C_3F_8 and C_4F_{10}, the Agency is maintaining the narrowed use limits for these three agents. Therefore, these agents are still subject to restrictions under SNAP, and fall into the category of acceptable alternatives subject to narrowed use limits. The listings for these three agents are summarized in Table 2, below. EPA established the narrowed use limits imposed on the use of HFC–236fa, C_3F_8 and C_4F_{10} to restrict the use of these agents because of their relatively long atmospheric lifetimes and high global warming potentials, which are particularly high in the case of the perfluorocarbons (PFCs) C_3F_8 and C_4F_{10} (see Appendix H to subpart G of part 82).

Some agents have been listed in more than one appendix to subpart G of part 82. For example, when OSHA introduced standards for the use of C_3F_8 and C_4F_{10}, EPA revised the SNAP listing for those agents and placed them in a new Appendix, which then contained all relevant information for those agents. Thus, although C_3F_8 appeared both in Appendix B and appendix H, and C_4F_{10} appeared in both appendix A and appendix H, the listings in Appendices A and B for these agents were obsolete. Since we are revising the appendices to subpart G of part 82 at this time, we decided to leave only the more recent, complete decisions, found in appendix H, and to delete the obsolete listings in appendices A and B.

In reviewing the listings for total flooding agents, we found that there were a few agents that should be subject to a narrowed use limit, rather than subject to a use condition. For example, EPA had previously listed CF_3I as ''acceptable for use in normally unoccupied areas, subject to use conditions.'' We had originally stated in our decision that it is acceptable only for use in normally unoccupied areas, as well as subject to use conditions for the exposure limits and egress times. Although we are removing the use conditions regarding exposure limits and egress times, we believe that it is still appropriate to restrict the use of CF_3I to normally unoccupied areas. This is because we have not received information showing that this agent is safe to use in occupied areas. Consistent with our past practice for other substitutes, EPA now believes that this restriction should be included on the ''narrowed use'' list, rather than the ''use condition'' list. Thus, as an administrative matter, EPA is shifting CF_3I, with the limit on use to normally unoccupied areas, to the narrowed use list. This shift does not modify the substantive requirements applicable to use of CF_3I. (The same need to retain restrictions applies to some uses of the agent known as Gelled Halocarbon / Dry Chemical Suspension or Envirogel. Because there are additional actions that EPA is taking with respect to Envirogel and we believe it would be confusing to discuss our actions with respect to Envirogel in a piecemeal fashion, we discuss the retention of the restrictions as well as the other actions pertaining to Envirogel below in section II.D. of the preamble under the heading ''How is EPA's Decision on the Acceptability of Envirogel (Gelled Halocarbon / Dry Chemical Suspension) Changing in Today's Rule?''. For that reason, Envirogel is not included on Table 2 below; Tables 5 and 6 reflect all of the actions that EPA is taking on Envirogel in this notice.)

Finally, we also are changing the wording of the listing for SF_6 to list it as ''acceptable subject to narrowed use limits'' with a narrowed use limit that it be used only as a discharge testing agent in military applications and in civilian aircraft. (As new alternatives are now available for discharge testing, EPA will re-assess the acceptability listing of SF_6 in this application as part of a future regulatory review.) Currently, this restriction is listed in the ''use conditions'' list and, as with CF_3I, EPA believes that this restriction is more appropriately included in the narrowed use table. Thus, this also is a clarification of the limitations in the original decision, rather than a substantive change to the SNAP listings.

We also have slightly revised some information in the ''comments'' column, for the agents in Table 2 below. These are minor changes for consistency with current information and in presenting information about the Agency's decision. For example, we have added a note about the global warming potential and atmospheric lifetime of HFC–236fa to be consistent with the current comments for C_4H_{10}, C_3F_8, and SF_6. We also removed an obsolete reference about ODP data for the agent CF_3I.

TABLE 2.—TOTAL FLOODING SUBSTITUTES, ACCEPTABLE SUBJECT TO NARROWED USE LIMITS, FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR*

End-use	Substitute	Decision	Conditions	Further information
Total Flooding	HFC-236fa	Acceptable subject to narrowed use limits.	Acceptable when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC-236fa in a single step: -for use in explosion suppression and explosion inertion applications and. -for use in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems.	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Users should observe the limitations on HFC-236fa acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Documentation of such measures should be available for review upon request. The principal evironmental characteristic of concern for HFC-236fa is its high GWP of 9400 and long atmospheric lifetime of 226 years. Actual contributions to global warming depend upon the quantities emitted. See additional comments 1, 2, 3, 4, 5.
Total flooding	C_3F_8	Acceptable subject to narrowed use limits.	Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems.	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted.

TABLE 2.—TOTAL FLOODING SUBSTITUTES, ACCEPTABLE SUBJECT TO NARROWED USE LIMITS, FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR*—Continued

End-use	Substitute	Decision	Conditions	Further information
Total flooding	C_4F_{10}	Acceptable subject to narrowed use limits.	Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems.	See additional comments 1, 2, 3, 4, 5. Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Documentation of such measures should be available for review upon request. The principal enviromental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted.
Total flooding	CF_3I	Acceptable subject to narrowed use limits.	Use only in normally unoccupied areas.	See additional comments 1, 2, 3, 4, 5. Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. See additional comments 1, 2, 3, 4, 5.

*The decisions for Gelled Halocarbon/Dry Chemical Suspension (Envirogel) are summarized below in Section II.D. in Tables 5 and 6.

Additional comments:

1—Should conform with relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160 and 1910.162.

2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.

3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.

4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (*e.g.,* respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.

As noted, the Agency is rescinding the SNAP use conditions that limit human exposure to halocarbons or inert gases used as total flooding agents, and EPA is not rescinding any other use restrictions on any other substitutes for halons at this time. For example, narrowed use limits on substitutes used as total flooding agents remain the same, such as restrictions that limit use of a substitute to normally unoccupied areas. Existing use restrictions for total flooding substitutes other than halocarbons and inert gases also are not affected by today's action. Use conditions and narrowed use limits for substitutes for halons used as streaming agents are unaffected by today's direct final rule.

Previously listed total flooding agents other than halocarbon and inert gas agents that are not addressed by the NFPA 2001 standard are not affected by today's action. These include Inert Gas/Powdered Aerosol Blend, Powdered Aerosol C, Powdered Aerosol A, Carbon Dioxide, Foam A, Water, and Water mist (using potable or natural sea water). Today's action does not affect the existing SNAP listings for these agents in any way (use restrictions and/or comments apply to the use of many of these agents; see 40 CFR part 82 Subpart

G for complete listings). EPA may reconsider these listings in the future, depending upon the availability of technically feasible alternative methods to evaluate these other total flooding agents.

C. How Will Exposure Limits and Egress Times Be Determined for New Halocarbon and Inert Gas Total Flooding Agents in the Future?

EPA does not intend to establish exposure limits or egress times as use conditions for halocarbon and inert gas fire suppressants used as total flooding agents in future SNAP submissions. Instead, for any fire suppressant to be used as a total flooding agent that was previously unlisted, the manufacturer would need to submit a proposal to NFPA to have the agent added to the 2001 Standard under NFPA's usual procedure for updating existing standards. (described above under the heading ''NFPA's Safety Standards for Total Flooding Agents.'') A total flooding system would need to be in compliance with any other local requirements. The NFPA 2001 standard would take over the role of establishing exposure limits and egress times for total flooding agents.

As halocarbon or inert gas total flooding agents are submitted to the SNAP program in the future, EPA's regulations will continue to require the same information (including complete toxicological data) as has been required previously. The SNAP program will continue to evaluate these agents based on overall human health and environmental risks, and will publish listing decisions in the **Federal Register**. We plan to provide information on occupational exposure limits in future listing decisions, including the NOAEL and LOAEL. However, the SNAP listing would not specify exposure limits or egress times for halocarbon or inert gas total flooding agents; rather, we would expect submitters to request the NFPA 2001 committee to establish those values. A submitter would not need to receive exposure limits and egress times from the NFPA on their substitute, however, before EPA could decide on its acceptability under the SNAP program. To avoid confusion, we choose not to establish temporary exposure guidelines or use conditions under the SNAP program that could conflict with future, more appropriate exposure limits and egress times from the NFPA 2001 Committee. Not issuing use conditions on exposure for new agents also reduces administrative burden for the Agency and for submitters.

Importantly, we believe this approach will sufficiently protect public health and the environment. Generally, local fire codes reference NFPA standards where they exist. Therefore, we expect that the NFPA 2001 Committee will include new agents in the standard before new agents will be used. In addition, mentioning the NOAEL and LOAEL in SNAP decisions will assist users in assessing the health impacts of fire suppression agents, while avoiding potential conflicts with decisions of the NFPA committee. We expect that submitters of new agents will continue to work with the NFPA to have their agents included in the 2001 Standard, as has been the practice. We plan to participate in NFPA's voluntary consensus process on future editions of the 2001 Standard.

D. How is EPA Responding to the Withdrawal of HBFC–22B1 From the Market?

EPA previously listed HBFC–22B1 (tradename FM–100) as acceptable subject to use conditions for the total flooding end use for fire suppression in the March 18, 1994 SNAP rule. Since then, the manufacturer of HBFC–22B1 withdrew this fire suppression agent from the market because it was found to be a fetal toxin. Furthermore, this substitute has a high ozone depletion potential of 0.74, and its production was required to be phased out by January 1, 1996 (except for essential uses). Therefore, EPA is removing it from the list of acceptable substitutes and is listing it as an unacceptable substitute.

EPA reviewed the presentation of all listings for total flooding agents in the Code of Federal Regulations as part of rescinding use conditions for halocarbon and inert gas agents, as discussed above in section II.B. During that review, we decided that it was inappropriate to rescind the use conditions on HBFC–22B1 and list it as an acceptable substitute for halon 1301. We reasoned that if an agent is too toxic for the manufacturer to sell it, then the agent should be considered unacceptable under the SNAP program. In addition, because HBFC–22B1 has a relatively high ODP and because the manufacturer has withdrawn HBFC–22B1 from the market, we cannot consider this to be a viable substitute for halons that would help in the transition away from ozone depleting substances. Since listing this substitute as acceptable is contrary to the purpose of the SNAP program, we are listing it as an unacceptable substitute for halon 1301 in the total flooding end use in the fire protection sector. As a result of this listing, it will be unlawful to use HBFC–22B1 as a fire suppression agent as of the effective date of this regulation. This decision is summarized below in Table 3.

TABLE 3.—FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR, TOTAL FLOODING SUBSTITUTES, UNACCEPTABLE SUBSTITUTES

End-use	Substitute	Decision	Further information
Halon 1301	HBFC–22B1	Unacceptable	HBFC–22B1 is a Class I ozone depleting substance with an ozone depletion potential of .74. Production was phased out January 1, 1996.
Total Flooding Agents	.....	.....	The manufacturer of this agent removed it from the market because it is a fetal toxin.

Because this agent has not been produced for more than five years, because it is not available for sale, and because we believe no one is currently using this agent, we expect that our decision will not have a substantial impact on the industry or users. Because there should be little or no impact and because the manufacturer has recognized its toxicity, we expect our decision will not be controversial. Therefore, EPA is giving notice today of our decision to find HBFC–22B1 unacceptable without prior proposal.

E. What New Fire Suppressant Is EPA Finding Acceptable Subject to Narrowed Use Limits in Today's Action?

A manufacturer of fire suppression agents submitted the new agent Halotron II for review by the SNAP program. The submitter for Halotron II requested that it be listed only for areas that are not normally occupied. EPA finds Halotron II acceptable as a substitute for halon 1301 for use as a total flooding agent in the fire suppression and explosion protection sector, subject to the following narrowed use limits: it may be used

only in areas that are not normally occupied. This agent is a blend of halocarbon and other gases.

EPA has reviewed the potential environmental impacts of this blend and concluded that, by comparison to halon 1301 and other substitutes for halon 1301, this blend reduces overall risk to the environment. The components of this blend have negligible ozone-depletion potential. EPA's review of all of the environmental and human health impacts of this blend is contained in the public docket for this rulemaking. This listing decision is summarized in Table 4, below.

TABLE 4.—TOTAL FLOODING SUBSTITUTES, ACCEPTABLE SUBJECT TO NARROWED USE LIMITS, FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR

End-use	Substitute	Decision	Conditions	Further information
Total flooding	Halotron II	Acceptable subject to narrowed use limits.	Acceptable in areas that are not normally occupied only.	See additional comments 1, 2, 3, 4, 5.

Additional comments:
1—Should conform with relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160 and 1910.162.
2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.
3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.
4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.
5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (*e.g.,* respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.

EPA is adding Halotron II to the SNAP lists without prior proposal because the Agency views this as a non-controversial action and anticipates no adverse comment. We stated in the original SNAP rule that for substitutes that are deemed acceptable subject to use restrictions (use conditions and/or narrowed use limits), or for substitutes deemed unacceptable, we would publish these decisions as proposals to allow the public opportunity to comment on the decision. Although EPA is restricting use of this agent to areas that are not normally occupied, this limitation was requested by the submitter. Thus, we do not expect adverse comment. By listing Halotron II through direct final rulemaking, the Agency is expediting the addition of this agent to the list of acceptable substitutes, thereby providing greater opportunities for the public to transition from the use of halon to non-ozone-depleting alternatives.

F. How Is EPA's Decision on the Acceptability of Envirogel (Gelled Halocarbon/Dry Chemical Suspension) Changing in Today's Rule?

Envirogel (Gelled Halocarbon/Dry Chemical Suspension) is a blend of any of several hydrofluorocarbons (HFCs) with an additive. Today EPA is listing Envirogel as an acceptable substitute for total flooding in the fire suppression and explosion protection sector, using any of the HFCs that are addressed by NFPA's 2001 Standard.

EPA previously listed Envirogel as an acceptable substitute subject to use conditions for halon 1301 as a total flooding agent only in normally unoccupied areas in the **Federal Register** on June 13, 1995 (60 FR 31092) under the generic name Gelled Halocarbon/Dry Chemical Suspension.[1] Although we used a generic name to list this agent in the past, today we are listing the agent under its trade name, Envirogel.

The submitter of this agent originally requested SNAP review for unoccupied areas only. The submitter of Envirogel later re-submitted the agent with an ammonium polyphosphate additive for use in occupied areas. The SNAP program evaluated this agent for use in occupied areas and has determined that it is acceptable for such use. Thus, in today's action EPA is determining that Envirogel with the ammonium polyphosphate additive is acceptable for use in both occupied and unoccupied areas.

The original SNAP listing for this agent found it acceptable for use only in unoccupied areas, subject to use conditions on the exposure concentration and egress time, as discussed above in section II.B of the preamble (''How is EPA Changing the SNAP Program's Existing Substitute Listings for Fire Suppression and Explosion Protection to Coordinate with the NFPA 2001 Standard?''). Today's action rescinds those use conditions. Although Envirogel itself is not listed in NFPA's 2001 Standard, the hydrofluorocarbon gases that are used in this agent are addressed by the 2001 Standard. Use of Envirogel should be in accordance with the exposure limits set forth in NFPA 2001 for the particular hydrofluorocarbon gas used.

The original SNAP listing for this agent (60 FR 31092; June 13, 1995) included a discussion in the preamble regarding the use of either of two different additives (ammonium polyphosphate or monoammonium phosphate) with halocarbon gases. Note that today's decision, which broadens the acceptability of this agent to include use in occupied areas, only applies to the ammonium polyphosphate additive. Before this agent could be used in occupied areas with any additive other than ammonium polyphosphate, it would need separate review by the Agency. Envirogel used with monoammonium phosphate additive, when used as a total flooding agent as a substitute for halon 1301, is still subject to narrowed use limits.

Consistent with the discussion of CF_3I in section II.B of the preamble above, we are revising the previous listing from acceptable subject to use conditions (''acceptable for use in normally unoccupied areas'') to acceptable subject to narrowed use limits (''use only in normally unoccupied areas''). You can find the revised regulatory language below in Table 6. The EPA considers this an administrative revision that has no substantive implication for the use of Envirogel.

As discussed above, EPA is rescinding the use conditions on exposure limits for each of the SNAP-listed halocarbon fire protection agents that are addressed by NFPA's 2001 Standard. Use of Envirogel (Gelled Halocarbon / Dry Chemical Suspension) should be in accordance with the exposure limits set forth in the NFPA 2001 Standard, for whichever HFC gas is employed. The

[1] Envirogel also was previously listed as an acceptable substitute for halon 1211 as a streaming agent on August 26, 1994 (59 FR 44240) under the generic name Gelled Halocarbon/Dry Chemical Suspension.

listing decisions for Envirogel are summarized in Tables 5 and 6, below.

TABLE 5.—ACCEPTABLE TOTAL FLOODING SUBSTITUTES, FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR

End-use	Substitute	Decision	Comments
Total flooding	Envirogel with ammonium polyphosphate additive.	Acceptable	Use of this agent should be in accordance with the safety guidelines in the latest additive edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems, for whichever hydrofluorocarbon gas is employed. Envirogel is listed as a streaming substitute under the generic name Gelled Halocarbon/Dry Chemical Suspension. Envirogel was also previously listed as a total flooding substitute under the same generic name. See additional comments 1, 2, 3, 4, 5.

Additional comments:
1—Should conform with relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160 and 1910.162.
2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.
3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.
4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.
5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.

TABLE 6.—TOTAL FLOODING SUBSTITUTES, ACCEPTABLE SUBJECT TO NARROWED USE LIMITS, FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR

End-use	Substitute	Decision	Conditions	Comments
Total flooding	Envirogel with any additive other than ammonium polyphosphate.	Acceptable subject to narrowed use limits.	Use only in normally unoccupied areas.	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems, for whichever hydrofluorocarbon gas is employed. Envirogel is listed as a streaming substitute under the generic name Gelled Halocarbon/Dry Chemical Suspension. Envirogel was also previously listed as a total flooding substitute under the same generic name. See additional comments 1, 2, 3, 4, 5.

Additional comments:
1—Should conform with relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160 and 1910.162.
2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.
3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.
4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.
5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.

Envirogel (Gelled Halocarbon/Dry Chemical Suspension) has already been listed as an acceptable substitute under SNAP for total flooding applications. In today's decision, EPA does not impose any additional restrictions on the use of this agent, but rather is broadening the scope of its use as a substitute by finding Envirogel with ammonium polyphosphate additive to be acceptable as a substitute for halon 1301 for use as a total flooding agent in occupied areas. Thus, we do not expect adverse comment and EPA is giving notice today of our decision to broaden the scope of the existing SNAP listing for Envirogel without prior proposal.

G. How Will Today's SNAP Listings Fit in With Previous SNAP Listings in the Code of Federal Regulations?

Today's action revises many of the existing SNAP listings for total flooding halon substitutes. EPA is taking this opportunity to explain how today's listings will fit into the existing SNAP listings in the CFR, to avoid any confusion that might arise when comparing today's listings with previous SNAP listings.

The SNAP program has historically published listing decisions in separate tables depending on decision category. That is, separate tables have been published for substitutes that are deemed acceptable with no restrictions, for substitutes deemed acceptable subject to use conditions, for substitutes deemed acceptable subject to narrowed use limits, and for unacceptable substitutes. For substitutes that are subject to both use conditions and narrowed use limits (*i.e.,* HFC–236fa, C_3F_8 and C_4F_{10}), the SNAP program has historically included such substitutes in two separate tables (that is, in a table of substitutes subject to use conditions as well as in a table of substitutes subject to narrowed use limits).

When the original regulation implementing the SNAP program was published in March 1994, EPA also published the initial lists of substitutes (59 FR 13044). In that rulemaking, substitutes deemed acceptable subject to use restrictions (use conditions or narrowed use limits) or unacceptable were published in an appendix to the

regulation itself, and are therefore codified into the Code of Federal Regulations (CFR) as appendices to Subpart G of 40 CFR part 82. By contrast, substitutes that were deemed acceptable with no restrictions were only listed within the language of the preamble to the rule. Preamble language does not become codified in the CFR, and thus listings of substitutes that were deemed acceptable with no restrictions were not codified in the CFR. However, you can find lists of acceptable substitutes on the SNAP program web site or you may obtain a copy from EPA's Stratospheric Protection Hotline, as described below in the section I. C., ''Where Can I Get Additional Information about the SNAP Program? ''

Subsequent SNAP listing decisions have been published in the same manner. That is, acceptable substitutes with no restrictions have continued to be listed only in preamble language (and thus not codified in the CFR), while substitutes in all other decision categories have continued to be published as additional appendices to the SNAP regulation (and 40 CFR part 82 subpart G has been amended to include these additional appendices). Each time a SNAP rulemaking has been published that would add substitutes to the lists of acceptable substitutes with restrictions or unacceptable substitutes, additional appendices have simply been added at the end of the existing appendices in Subpart G. Note that even in cases where a new listing modifies a previous listing, the new listings have simply been appended to the existing appendices in Subpart G without removal of previous listings. Thus, users generally should look to the latest appendices found in Subpart G to be sure that they are aware of the most current SNAP requirements for a particular substitute.

By rescinding the use conditions for previously listed halocarbon and inert gas agents today, many agents that had previously been listed in Subpart G as acceptable, subject to use conditions, now fall into the category of acceptable without restrictions. In keeping with the manner in which SNAP listing decisions have historically been published, we summarized these substitutes within this preamble (see Table 1, above). Under past practice, these listings would not become part of the regulations at 40 CFR part 82 subpart G because they merely present acceptable substitutes and do not impose any restrictions. Similarly, in today's rule we are removing from the Code of Federal Regulations those substitutes for halon 1301 that previously were subject to use conditions for use as total flooding agents and now are acceptable without restriction. These are the halocarbons or inert gases that are listed in the NFPA 2001 standard. As a result, for appendices A, C, H and I, we are removing the entire table for substitutes for halons for use as total flooding agents subject to use conditions. For appendix B, we are revising the table for total flooding agents subject to use conditions so that it will only include those total flooding agents that are neither halocarbons nor inert gases.

Envirogel (Gelled Halocarbon/Dry Chemical Suspension) was previously listed in appendix B of subpart G as an acceptable substitute subject to use conditions for use as a total flooding agent. That listing is now being deleted from appendix B. Today we are listing Envirogel with the ammonium polyphosphate additive as an acceptable substitute for halon 1301 as a total flooding agent. Because this listing does not require use conditions or narrowed use limits, it will not appear in the regulatory language at the end of this action and will not appear in the Code of Federal Regulations. We are also issuing a new listing for Envirogel with any additive other than ammonium polyphosphate as an acceptable substitute subject to narrowed use limits for use as a total flooding agent. This listing will appear in the new appendix J to Subpart G in the regulatory language at the end of this action and in the Code of Federal Regulations.

Three of the halocarbon substitutes for which the use conditions have been rescinded today (HFC–236fa, C_3F_8 and C_4F_{10}) were previously listed as acceptable subject to both use conditions and narrowed use limits. Although no longer subject to use conditions, these three substitutes still fall into the category of acceptable subject to narrowed use limits (summarized in Table 2, above). The previous listings for these agents will still appear in appendix H of Subpart G, with revisions to delete the use conditions and to refer to the NFPA 2001 standard, while earlier, outdated decisions for C_4F_{10} from Appendix A and for C_3F_8 from appendix B will be removed. The narrowed use limits for these three agents include a requirement for a demonstration that other alternatives are not technically feasible. Part of that demonstration references ''applicable use conditions.'' Those use conditions for exposure limits and egress times are being rescinded in today's rule and replaced with a recommendation to observe the guidelines in the NFPA 2001 Standard. Therefore, in our listings in today's rule, we are changing the second part of the conditions to refer to ''safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems,'' rather than referring to ''applicable use conditions.''

In summary, we are making the following changes in regulatory text:

- Deleting the existing tables for total flooding agents that are acceptable subject to use conditions in appendices A, C, H and I.
- Deleting the existing tables for total flooding agents that are acceptable subject to narrowed use limits in appendix A.
- Revising the existing table for total flooding agents that are acceptable subject to use conditions in appendix B.
- Revising existing tables for total flooding agents that are acceptable subject to narrowed use limits in appendices B and H.
- Adding a new appendix J with tables for total flooding agents that are acceptable subject to narrowed use limits and for unacceptable total flooding agents.

III. Administrative Requirements

A. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector.

Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Section 204 of the UMRA requires the Agency to develop a process to allow elected state, local, and tribal government officials to provide input in the development of any

proposal containing a significant Federal intergovernmental mandate.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. Because this rule imposes no enforceable duty on any State, local or tribal government it is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments; therefore, EPA is not required to develop a plan with regard to small governments under section 203. Finally, because this rule does not contain a significant intergovernmental mandate, the Agency is not required to develop a process to obtain input from elected state, local, and tribal officials under section 204.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is significant and therefore subject to OMB review and the requirements of the Executive Order. The Order defines significant regulatory action as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order and EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

C. Paperwork Reduction Act

EPA has determined that this final rule contains no information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, that are not already approved by the Office of Management and Budget (OMB). OMB has reviewed and approved two Information Collection Requests (ICRs) by EPA which are described in the March 18, 1994 rulemaking (59 FR 13044, at 13121, 13146–13147) and in the October 16, 1996 rulemaking (61 FR 54030, at 54038–54039). These ICRs included five types of respondent reporting and record-keeping activities pursuant to SNAP regulations: submission of a SNAP petition, filing a SNAP/TSCA Addendum, notification for test marketing activity, record-keeping for substitutes acceptable subject to narrowed use limits, and record-keeping for small volume uses. The OMB Control Numbers are 2060–0226 and 2060–0350.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

D. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This direct final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This direct final rule will remove regulatory restrictions on the use of certain fire suppressants and replace them with a recommendation to use industry standards. These standards are typically already required by state or local fire codes, and this rule does not require tribal governments to change their regulations. Thus, Executive Order 13175 does not apply to this rule.

E. Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as (1) a small business that produces or uses fire suppressants as total flooding agents with 500 or fewer employees or total annual receipts of $5 million or less; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant

economic impact on a substantial number of small entities. Primarily, the rule removes regulatory restrictions on the use of most fire-suppressants used as total flooding agents and, instead, defers to the voluntary consensus standards set by the National Fire Protection Association. Thus, users of these substitutes are being relieved of regulatory constraints. For this action, EPA is also changing the listing of a substitute from acceptable subject to use conditions to unacceptable. This agent, HBFC–22B1, was phased out of production more than five years ago, except for a few essential uses. Later, the manufacturer withdrew it from the market because of its toxicity. Because this agent is generally unavailable and because of the potential liability associated with its toxic effects, EPA believes it is extremely unlikely that anyone is currently using this agent. We expect that listing this agent as an unacceptable substitute will have no significant impact on a substantial number of small entities. With respect to EPA's decision on Halotron II, EPA is finding it acceptable for all uses requested by the manufacturer. Moreover, the manufacturer of the new fire suppressant, Halotron II, has not yet sold it, so today's action does not affect, in any way, current usage. For Envirogel, today's action removes the use conditions and narrowed use limit on Envirogel with one additive, while maintaining the existing narrowed use limit on Envirogel used with all other additives. Thus, EPA is removing several regulatory constraints on the current ability of any entity, including small entities, to use this substitute. In addition, today's rule prevents potential conflicts between EPA regulations and existing state, local and tribal fire code requirements that incorporate NFPA standards by referring to standards of the NFPA.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. By introducing new substitutes and removing regulatory restrictions on a number of acceptable substitutes, today's rule gives additional flexibility to small entities that are concerned with fire suppression. EPA also has worked closely together with the National Fire Protection Association, which conducts regular outreach with, and involves small state, local, and tribal governments in developing and implementing relevant fire protection standards and codes.

F. Applicability of Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The acceptability listings and the removal of use conditions on the use of halocarbon and inert gas fire suppressants in this final rule primarily apply to the workplace, and thus, do not put children at risk disproportionately. The Agency finds HCFC–22B1 unacceptable in today's action. This agent is a fetal toxin, and thus, could be considered to put children at risk disproportionately. However, because this agent is generally unavailable and because of the potential liability associated with its toxic effects, EPA believes it is extremely unlikely that anyone is currently using this agent. Therefore, our action on this chemical is not likely to change the risk to children. This rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. EPA has decided to use the NFPA 2001 Standard on Clean Agent Fire Extinguishing Systems, 2000 edition, a voluntary consensus standard developed by the National Fire Protection Association (NFPA). You can obtain copies of this standard by calling the NFPA's telephone number for ordering publications at 1–800–344–3555 and requesting order number S3–2003–00. The NFPA 2001 standard meets the objectives of the rule by setting scientifically-based guidelines for exposure to halocarbon and inert gas agents used to extinguish fires. In addition, EPA has worked in consultation with OSHA to encourage development of technical standards to be adopted by voluntary consensus standards bodies.

H. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This direct final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule will remove regulatory restrictions on the use of certain fire suppressants and replace them with a recommendation to use industry standards. These standards are typically already required by state or local fire codes, and this rule does not require state, local, or tribal governments to change their regulations. Thus, Executive Order 13132 does not apply to this rule.

I. Judicial Review

Under section 307(b)(1) of the Act, EPA finds that these regulations are of national applicability. Accordingly, judicial review of the action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within sixty days of publication of the action in the **Federal Register**. Under section 307(b)(2), the requirements of this rule may not be challenged later in the judicial proceedings brought to enforce those requirements.

J. Executive Order 13211 (Energy Effects)

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Primarily, the rule removes regulatory restrictions on the use of most fire-suppressants used as total flooding agents and, instead, defers to a voluntary consensus standard. Thus, users of these substitutes are being relieved of regulatory constraints. In addition, the rule allows wider use of substitutes, providing greater flexibility for industry. For the one substitute not acceptable, EPA believes it is unlikely that anyone is currently using this agent because this agent is generally unavailable and because of the potential liability associated with its toxic effects. Further, we have concluded that this rule is not likely to have any adverse energy effects.

K. Submittal to Congress and General Accounting Office

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on April 1, 2002.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: January 15, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart G—Significant New Alternatives Policy Program

2. Appendix A to Subpart G of part 82 is amended by:

a. Removing the heading and table for ''Fire Suppression and Explosion Protection Total Flooding Agents, Substitutes Acceptable Subject To Use Conditions.''

b. Removing the heading and table for ''Fire Suppression and Explosion Protection Total Flooding Agents, Substitutes Acceptable Subject To Narrowed Use Limits.''

3. Appendix B of Subpart G of part 82 is amended by:

a. Amending the table entitled ''Fire Suppression and Explosion Protection—Acceptable Subjects to Use Conditions: Total Flooding Agents'' by removing the entries ''C3H8'', ''CF3I'' and ''Gelled Halocarbon/Dry Chemical Suspension'.

b. Adding a sentence to the end of footnote 1 to the table entitled ''Fire Suppression and Explosion Protection—Acceptable Subjects to Use Conditions: Total Flooding Agents''.

c. Revising the table entitled ''Fire Suppression And Explosion Protection-Acceptable Subject to Narrowed Use Limits: Total Flooding Agents''.

The revisions read as follows:

Appendix B to Subpart G of Part 82—Substitutes Subject to Use Restrictions and Unacceptable Substitutes

* * * * *

Fire Suppression and Explosion Protection—Acceptable Subjects to Use Conditions: Total Flooding Agents

* * * * *

[1] * * * You should use clean agents in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems.

* * * * *

Fire Suppression and Explosion Protection—Acceptable Subject to Narrowed Use Limits: Total Flooding Agents

End-use	Substitute	Decision	Conditions	Further information
Total flooding	Sulfurhexafluoride (SF_6).	Acceptable subject to narrowed use in limits.	May be used as a discharge test agent in military uses and in civilian aircraft uses only.	This agent has an atmospheric lifetime greater than 1,000 years, with an estimated 100-year, 500-year, and 1,000-year GWP of 16,100, 26,110 and 32,803 respectively. Users should limit testing only to that which is essential to meet safety or performance requirements. This agent is only used to test new Halon 1301 systems. See additional comments 1, 2, 3, 4, 5.
Total flooding	CF_3I	Acceptable subject to narrowed use limits.	Use only in normally unoccupied areas.	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Manufacturer has not applied for listing for use in normally occupied areas. Preliminary cardiosensitization data indicates that this agent would not be suitable for use in normally occupied areas. See additional comments 1, 2, 3, 4, 5.

Additional comments:

1—Must conform with relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160 and 1910.162.
2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.
3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.
4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.
5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.

* * * * *

4. Appendix C to Subpart G of part 82 is amended by removing the heading and table for ''Fire Suppression and Explosion Protection—Acceptable Subject to Use Conditions: Total Flooding Agents.''

5. Appendix H of Subpart G of part 82 is amended by:

a. Removing the heading and table for ''Fire Suppression and Explosion Protection—Total Flooding Agents—Acceptable Subject to Use Conditions.''

b. Revising the table for ''Fire Suppression and Explosion Protection Total Flooding Agents—Acceptable Subject to Narrowed Use Limits'' to read as follows:

Fire Suppression and Explosion Protection—Acceptable Subject to Narrowed Use Limits: Total Flooding Agents

End-use	Substitute	Decision	Conditions	Further information
Total flooding	HFC–236fa	Acceptable subject to narrowed use limits.	Acceptable when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC–236fa in a single step: for use in explosion suppression and explosion inertion applications, and for use in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems.	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Systems. Users should observe the limitations on HFC–236fa acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties, or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for HFC–236fa is its high GWP of 9400 and long atmospheric lifetime of 226 years. Actual contributions to global warming depend upon the quantities emitted. See additional comments 1, 2, 3, 4, 5.
Total flooding	C_3F_8	Acceptable subject to narrowed use limits.	Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements:. (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems.	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and

End-use	Substitute	Decision	Conditions	Further information
				(iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. See additional comments 1, 2, 3, 4, 5.
Total flooding	C_4F_{10}	Acceptable subject to narrowed use limits.	Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet safety guidelinesin the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems.	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. See additional comments 1, 2, 3, 4, 5.

Additional comments:

1—Should conform with relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160 and 1910.162.

2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.

3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.

4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.

* * * * *

6. Appendix I to Subpart G of part 82 is amended by removing the heading and table for ''Fire Suppression and Explosion Protection—Total Flooding Agents [Substitutes Acceptable Subject to Use Conditions].''

7. Subpart G of part 82 is amended by adding Appendix J to read as follows:

Appendix J to Subpart G of Part 82-Substitutes listed in the January 29, 2002 Final Rule, effective April 1, 2002.

FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR—TOTAL FLOODING SUBSTITUTES—ACCEPTABLE SUBJECT TO NARROWED USE LIMITS

End-use	Substitute	Decision	Conditions	Further information
Total flooding	Halotron II	Acceptable subject to narrowed use limits.	Acceptable in areas that are not normally occupied only.	See additional comments 1, 2, 3, 4, 5.
Total flooding	Envirogel with any additive other than ammonium polyphosphate.	Acceptable subject to narrowed use limits.	Acceptable in areas that are not normally occupied only.	Use of this agent should be in accordance with the safety guidelines in the latest edition of the NFPA 2001 Standard for Clean Agent Fire Extinguishing Systems, for whichever hydrofluorocarbon gas is employed. Envirogel is listed as a streaming substitute under the generic name Gelled Halocarbon / Dry Chemical Suspension. Envirogel was also previously listed as a total flooding substitutes under the same generic name. EPA has found Envirogel with the ammonium polyphosphate additive to be acceptable as a total flooding agent in both occupied and unoccupied areas. See additional comments 1, 2, 3, 4, 5.

Additional comments:
1—Should conform with relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160 and 1910.162.
2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.
3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.
4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.
5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.

FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR—TOTAL FLOODING SUBSTITUTES—UNACCEPTABLE SUBSTITUTES

End-Use	Substitute	Decision	Further Information
Halon 1301	HBFC–22B1	Unacceptable	HBFC–22B1 is a Class I ozone depleting substance with an ozone depletion potential of 0.74.
Total Flooding Agents	.....	.....	The manufacturer of this agent terminated production of this agent January 1, 1996, except for critical uses, and removed it from the market because it is a fetal toxin.

[FR Doc. 02–1495 Filed 1–28–02; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 98–67; FCC 01–371]

Telecommunications Services for Individuals With Hearing and Speech Disabilities; Recommended Telecommunications Relay Services Cost Recovery Guidelines; Request by Hamilton Telephone Company for Clarification and Temporary Waivers

AGENCY: Federal Communications Commission.

ACTION: Final rule; guidelines and clarification.

SUMMARY: In this *Memorandum Opinion and Order (MO&O),* the Federal Communications Commission (FCC or Commission), adopts cost-recovery guidelines for telecommunications relay services (TRS), speech-to-speech relay services (STS), and video relay services (VRS). These guidelines are based, in part, on the recommendation of the Interstate TRS Advisory Council and the TRS Fund Administrator (Advisory Council and Fund Administrator, respectively). The *MO&O* also addresses Hamilton Telephone Company's (Hamilton) petition for clarification. The Commission agrees that, under the current rules, there is no mandate for VRS providers to provide STS. The Commission also finds that VRS providers are not required to provide Spanish relay service at this time. VRS allows individuals with hearing and speech disabilities who use sign language to communicate with voice telephones.

DATES: Effective February 28, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Slipakoff, 202/418–7705, Fax 202/418–2345, TTY 202/418–0484, *pslipako@fcc.gov,* Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the *Memorandum Opinion and Order, CC Docket No. 98–67, FCC 01–371,* adopted December 17, 2001 and released December 21, 2001. The full text of the *MO&O* is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, or copies may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Suite CY–B402, Washington, DC 20554, phone (202) 863–2893.

Synopsis of the Memorandum Opinion and Order CC Docket No. 98–67

1. Title IV of the Americans with Disabilities Act of 1990 (ADA) requires the Commission to ensure that TRS is available to the extent possible and in the most efficient manner to persons