



# Federal Register

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**Monday,  
April 29, 2002**

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**Part V**

## **Environmental Protection Agency**

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**40 CFR Part 82**

**Protection of Stratospheric Ozone:  
Availability of Allowances To Produce  
Methyl Bromide for Developing  
Countries; Final Rule and Proposed Rule**

**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 82**

[FRL-7202-6]

RIN 2060-AJ74

**Protection of Stratospheric Ozone:  
Availability of Allowances To Produce  
Methyl Bromide for Developing  
Countries**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rule extends the availability of limited production rights to manufacture methyl bromide solely for export to developing countries. The rule published in the **Federal Register** on November 28, 2000 (65 FR 70795), allocated additional production allowances, called Article 5 allowances, for the manufacture of methyl bromide solely for export to developing countries only until January 1, 2002. Today's action extends this time limit on the allocation of Article 5 allowances for methyl bromide until January 1, 2005, in accordance with the Clean Air Act. The rationale for this extension appears in the preamble to the direct final rule.

**DATES:** This rule will become effective on June 28, 2002 without further notice unless the Agency receives adverse comment by May 29, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Comments on this proposed rulemaking should be submitted in duplicate (two copies) to: Air Docket No. A-92-13, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Mail Code 6102, Washington, DC, 20460. If sending comments by courier, they should be delivered to Air Docket No. A-92-13, USEPA, 401 M Street, SW., Room M-1500, Washington, DC, 20460.

Materials relevant to this rulemaking are contained in Public Docket No. A-2000-24. The docket is located in room M-1500, Waterside Mall (Ground Floor), 401 M Street, SW., Washington, DC 20460. The materials may be inspected from 8am until 5:30pm, Monday through Friday. We may charge a reasonable fee for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** The Stratospheric Ozone Information Hotline at 1-800-296-1996, or Tom Land, U.S. Environmental Protection

Agency, Global Programs Division (6205J), 1200 Pennsylvania Ave., NW., Washington, DC, 20460, (202)-564-9185, *land.tom@epa.gov*.

**SUPPLEMENTARY INFORMATION:** We are revising the methyl bromide phaseout regulation as a direct final rule without prior proposal because we view this revision as noncontroversial and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to update the allocation of limited production rights for the manufacture of methyl bromide solely for export to developing countries if adverse comments are filed. This rule will be effective on June 28, 2002 without further notice unless we receive adverse comment by May 29, 2002. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this revision to part 82, subpart A should do so at this time.

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**I. What Is the Legislative and Regulatory Background of the Phaseout Regulations for Ozone-Depleting Substances?**

The current regulatory requirements of the Stratospheric Ozone Protection Program that limit production and consumption of ozone-depleting substances were promulgated by the Environmental Protection Agency (EPA or the Agency) in the **Federal Register** on December 20, 1994 (59 FR 65478), May 10, 1995 (60 FR 24970), August 4, 1998 (63 FR 41625), and October 5, 1998 (63 FR 53290). The regulatory program was originally published in the **Federal Register** on August 12, 1988 (53 FR 30566), in response to the 1987 signing, by the U.S. and other countries, of the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol).<sup>1</sup>

The requirements contained in the final rules published in the **Federal Register** on December 20, 1994 and May 10, 1995 establish an Allowance Program. The Allowance Program and its history are described in the notice of proposed rulemaking published in the **Federal Register** on November 10, 1994 (59 FR 56276). The control and the phaseout of the production and consumption of class I ozone-depleting substances as required under the Protocol and the CAA are accomplished through the Allowance Program.

In developing the Allowance Program, we collected information on the amounts of ozone-depleting substances produced, imported, exported, transformed and destroyed within the U.S. for specific baseline years for specific chemicals. This information was used to establish the U.S. production and consumption ceilings for these chemicals. The data were also used to assign company-specific production and import rights to companies that were in most cases producing or importing during the specific year of data collection. These production or import rights are called "allowances." Due to the complete phaseout of many of the ozone-depleting chemicals, the quantities of allowances granted to companies for those chemicals were gradually reduced and eventually eliminated. Production allowances and consumption

<sup>1</sup> Several revisions to the original 1988 rule were issued on the following dates: February 9, 1989 (54 FR 6376), April 3, 1989 (54 FR 13502), July 5, 1989 (54 FR 28062), July 12, 1989 (54 FR 29337), February 13, 1990 (55 FR 5005), June 15, 1990 (55 FR 24490) and June 22, 1990 (55 FR 25812) July 30, 1992 (57 FR 33754), and December 10, 1993 (58 FR 65018).

allowances continue to exist for only one specific class I controlled ozone-depleting substance—methyl bromide. All other production or consumption of class I controlled substances is prohibited under the Protocol and the CAA, but for a few narrow exemptions.

In the context of the regulatory program, the use of the term consumption may be misleading. Consumption does not mean the “use” of a controlled substance, but rather is defined as the formula: production + imports – exports, of controlled substances (Article 1 of the Protocol and Section 601 of the CAA). Class I controlled substances that were produced or imported through the expenditure of allowances prior to their phaseout date can continue to be used by industry and the public after that specific chemical’s phaseout under these regulations, unless otherwise precluded under separate regulations.

The specific names and chemical formulas for the class I controlled ozone-depleting substances are in appendix A and appendix F in subpart A of 40 CFR part 82. The specific names and chemical formulas for the class II controlled ozone-depleting substances are in appendix B and appendix F in subpart A.

Although the regulations phased out the production and consumption of class I, Group II substances (halons) on January 1, 1994, and all other class I controlled substances (except methyl bromide) on January 1, 1996, a very limited number of exemptions exist, consistent with U.S. obligations under the Protocol. The regulations (40 CFR part 82) allow for the manufacture of phased-out class I controlled substances, provided the substances are either transformed, or destroyed. They also allow limited manufacture if the substances are (1) exported to countries operating under Article 5 of the Protocol or (2) produced for essential uses as authorized by the Protocol and the regulations. Limited exceptions to the ban on the import of phased-out class I controlled substances also exist if the substances are: (1) Previously used, (2) imported for essential uses as authorized by the Protocol and the regulations, (3) imported for destruction or transformation only, or (4) a transshipment or a heel (a small amount of controlled substance remaining in a container after discharge).

## II. What Is Methyl Bromide?

Methyl bromide is an odorless and colorless gas used in the U.S. and throughout the world as a fumigant. Methyl bromide, which is toxic to living things, is used in many different

situations to control a variety of pests, such as: insects, weeds, pathogens, and nematodes. Additional characteristics and details about the uses of methyl bromide, as well as information on the basis for listing methyl bromide as a class I substance, can be found in the proposed rule published in the **Federal Register** on March 18, 1993 (58 FR 15014) and the final rule published in the **Federal Register** on December 10, 1993 (58 FR 65018). Updated information on methyl bromide can be found at the following sites of the World Wide Web: [www.epa.gov/ozone/mbr/](http://www.epa.gov/ozone/mbr/) and [www.teap.org](http://www.teap.org) or by contacting the Stratospheric Ozone Protection Hotline at 1–800–296–1996.

## III. What Is the Regulatory Background Relating Specifically to Methyl Bromide?

The Parties to the Protocol established a freeze in the level of methyl bromide production and consumption for industrialized countries at the 1992 Meeting in Copenhagen. The Parties agreed that each industrialized country’s level of methyl bromide production and consumption in 1991 should be the baseline for establishing the freeze. EPA published a final rule in the **Federal Register** on December 10, 1993, listing methyl bromide as a class I, Group VI controlled substance, freezing U.S. production and consumption at this 1991 level, and, in § 82.7 of the rule, setting forth the percentage of baseline allowances for methyl bromide granted to companies in each control period (each calendar year) until the year 2001 (58 FR 65018). Consistent with the CAA requirements for newly listed class I ozone-depleting substances, this rule established a 2001 phaseout for methyl bromide. In the rule published in the **Federal Register** on December 30, 1993 (58 FR 69235), we established baseline methyl bromide production and consumption allowances for specific companies in § 82.5 and § 82.6.

At their 1997 meeting, the Parties agreed to establish the phaseout schedule for methyl bromide in industrialized countries. The U.S. Congress followed by amending the CAA (in October 1998) to direct EPA to promulgate regulations reflecting the Protocol phaseout date of 2005, with interim phasedown steps in 1999, 2001, and 2003. EPA promulgated a regulation that was published in the **Federal Register** on June 1, 1999 (64 FR 29240), instituting the initial interim reduction of 25 percent in the production and import of methyl bromide for the 1999 and 2000 control periods. EPA promulgated a direct final rule in the

**Federal Register** on November 28, 2000 (65 FR 70795) establishing the remaining reduction steps of 50 percent of baseline production and consumption for 2001 and 2002, a 70 percent reduction from baseline during 2003 and 2004, and a complete phaseout of methyl bromide production and consumption in 2005 with the possibility of limited exemptions for critical and emergency uses. The Agency also promulgated an interim final rule in the **Federal Register** on July 19, 2001, (66 FR 37752) instituting exemptions for the production and import of quantities of methyl bromide used for quarantine and preshipment applications.

## IV. Will Production Allowances Be Available for Export to Developing Countries (§ 82.9)?

### a. What Does the Protocol Say About Production for Export to Developing Countries?

The Protocol provides a more relaxed methyl bromide phaseout schedule for Article 5 countries (developing countries operating under Article 5, paragraph 1, of the Protocol), culminating in a complete phaseout in 2015. The Parties believed that until the phaseout date for developing countries, existing production facilities in industrialized countries should be able to supply developing countries, thereby decreasing incentives for construction of new plants in those countries. Thus, the Protocol allows industrialized countries to produce limited, additional methyl bromide explicitly for export to developing countries during and after the phasedown in the industrialized countries.

### b. How Did the U.S. Provide for Production for Export to Developing Countries Under the CAA?

Domestically, the Protocol provisions that allow limited production for export to Article 5 countries are reflected in section 604 of the CAA. The current phaseout requirements for methyl bromide appear in section 604(h) of the CAA, as added by section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105–277). In adding section 604(h), Congress also added a provision to 604(e) that specifically addresses production of methyl bromide for export to developing countries. This provision, section 604(e)(3), states that: “\* \* \* the Administrator may, consistent with the Protocol, authorize the production of limited quantities of methyl bromide, solely for use in developing countries

that are Parties to the Copenhagen Amendments to the Montreal Protocol.”

*c. What Production for Export to Article 5 Countries Is Allowed Under the Protocol Past 2001?*

As explained above, the CAA specifies that any grant of allowances for export to Article 5 countries be consistent with the Protocol. The Protocol allows industrialized countries to produce limited, additional methyl bromide explicitly for export to developing countries during and after the phasedown in the industrialized countries.

In regard to the remaining years of the phasedown for industrialized countries, Article 2H, paragraph 5 of the Protocol states that from January 1, 2002 until January 1, 2005, “\* \* \* [the calculated level of production] may exceed [the relevant] limit by a quantity equal to the annual average of its production of the controlled substance in Annex E for basic domestic needs for the period 1994 to 1998 inclusive.”

The Protocol also addresses the period between the complete phaseout for industrialized countries (January 1, 2005) and the complete phaseout for Article 5 countries (January 1, 2015). The difference between the methyl bromide phaseout dates in developing and industrialized countries creates the possibility for developing countries to import methyl bromide beyond the phaseout in industrialized countries (*i.e.*, past January 1, 2005). Thus, an allowance for production to export may be granted not only for 2002–2004 but also past the U.S. domestic phaseout. Article 2H, paragraph 5 bis, provides that: “[e]ach party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of [methyl bromide] for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed eighty per cent of the annual average of its production of the substance for basic domestic needs for the period 1995 to 1998 inclusive.”

Consistent with the 2015 phaseout for Article V countries, the Protocol goes on to specify in Article 2H, paragraph 5 ter that: “[e]ach Party shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated level of production of [methyl bromide] for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.”

*d. How Do EPA’s Regulations Permit Additional Production for Export to Article 5 Countries?*

EPA created a category of allowances called, “Article 5 Allowances” in § 82.9 of the regulations to permit limited production of controlled ozone-depleting substances explicitly for export to developing countries. Each U.S. producer of an ozone-depleting substance is granted “Article 5 Allowances” equal to an additional specified percentage of their baseline production allowances that are listed in § 82.5. This quantity of additional production is permitted solely for export to Article 5 countries.

*e. What Level of Production for Export to Article 5 Countries Is EPA Allocating Past 2001?*

With today’s action, EPA is extending the availability of Article 5 Allowances at a level of 15 percent of each company’s baseline in § 82.5 for the 2002, 2003, and 2004 control periods. While this level is consistent with the Protocol for 2002–2004, it may be that a higher level would also be consistent with the Protocol for these control periods.

In the future, the Agency will adjust the level of Article 5 allowances to be consistent with the maximum level permitted by the Protocol as discussed above. The Agency will be seeking additional information to confirm the accuracy of the amount of methyl bromide shipped from the United States to Article 5 Parties during the new baseline period (1995–1998) that was defined in the Protocol. EPA has been unable to confirm the accuracy of the amount of methyl bromide each U.S. producer shipped to Article 5 Parties during 1995 to 1998. The quantity exported from the U.S. to Article 5 Parties includes: (1) amounts produced through expending production allowances and consumption allowances for which the U.S. companies then requested a “refund” of consumption allowances, and (2) amounts produced through expending Article 5 allowances for explicit shipment to Article 5 Parties. One of the confounding factors in confirming data is that the U.S., as one of the major world exporters of methyl bromide, transhipped large quantities through Belgium to developing countries. Some portion of the quantities that went to Belgium were acknowledged to be explicitly for meeting the basic domestic needs of Article 5 Parties while the rest went to non-Article 5 Parties. We have been unable to confirm data on shipments from the U.S. to developing

countries with the European Commission and the Ozone Secretariat.

EPA’s preliminary analysis indicates that the average quantity of methyl bromide for Article 5 countries for the period 1995 through 1998 is likely to be larger than the 15 percent being allocated with today’s rule. However, the Agency will be seeking additional information to confirm data to adjust the grant of Article 5 allowances. We are permitting production of methyl bromide explicitly for developing countries at a level equal to 15 percent of the 1991 baseline in § 82.5, which is likely to be more stringent than the level agreed to by the Parties to the Protocol.

The average production of methyl bromide exported to Article 5 countries during 1995 through 1998 was established as the post-2001 baseline to meet basic domestic needs at the Eleventh Meeting of the Parties to the Montreal Protocol in Beijing. Once the U.S. historical data is confirmed, we plan to grant each U.S. company, for each remaining control period up to 2005, the average quantity exported to Article 5 countries from 1995 through 1998 as Article 5 Allowances. From 2005 to 2015, when the methyl bromide reduction schedule begins for developing countries (except for previously discussed exemptions), we plan to grant to U.S. companies Article 5 allowances in an amount not to exceed 80% of the baseline 1995–1998 average in accordance with the provisions of the Beijing adjustments to the Protocol.

**V. What Are the Supporting Analyses?**

*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 to State, local, and tribal governments, in the aggregate, or to 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 burden some alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. 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 the Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local, or tribal government or the private sector. Rather, it extends the availability of an exemption from a regulatory prohibition. Thus, today's rule is not subject to the requirements of sections 202 or 205 of the UMRA.

We determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments; therefore, we are 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. 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 is identified by the North American Industry Classification System code (NAICS) in the Table below.

Type of enterprise	NAICS code	Size standard (number of employees)
Organic Chemical Wholesaling .....	422690	100

(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. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This final rule will not impose any requirements on small entities, as it regulates large, multinational corporations that either produce, import or export class I, group VI ozone-depleting substances. We have therefore concluded that today's final rule will

relieve regulatory burden for all small entities.

*c. 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 a "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 entitlements, 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.

It has been determined by OMB and EPA that this action is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review under the Executive Order.

*d. Applicability of Executive Order 13045—Children's Health Protection*

*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.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it implements an exemption established in the Montreal Protocol and adopted by Congress in section 604(e)(3) of the Clean Air Act.

*e. Paperwork Reduction Act*

This action does not add any information collection requirements or increase burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Office of Management and Budget (OMB) renewed the

approval of the information collection requirements and assigned OMB control number 2060-0170 (EPA ICR No. 1432.18).

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.

*f. 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 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 rule extends an exemption used by large, multinational corporations that either produce, import or export class I, group VI ozone-depleting substances. It has no effect on State or local governments. Thus, Executive Order 13132 does not apply to this rule.

*g. 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 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 rule extends an exemption used by large, multinational corporations that either produce, import or export class I, group VI ozone-depleting substances. It has no effect on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

*h. The National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its 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 does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*i. Submission to Congress and the Comptroller General*

The Congressional Review Act, 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 rule is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective June 28, 2002.

**List of Subjects in 40 CFR Part 82**

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

Dated: April 22, 2002.

**Christine Todd Whitman,**  
*Administrator.*

For reasons set out in the preamble, title 40 chapter I of the Code of Federal Regulations 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 A—Production and Consumption Controls**

2. Section 82.9 is amended by revising paragraph (a)(2) to read as follows:

**§ 82.9 Availability of allowances in addition to baseline production allowances for class I ozone depleting substances—International transfers of production allowances, Article 5 allowances, essential-use allowances, and essential-use CFCs**

(a) \* \* \*

(2) 15 percent of their baseline production allowances for class I, Group VI controlled substances listed under § 82.5 of this subpart for each control period ending before January 1, 2005;

\* \* \* \* \*

[FR Doc. 02-10416 Filed 4-26-02; 8:45 am]

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