

and recordkeeping, Ozone, Volatile organic compounds, Wilderness areas.

Dated: September 22, 1995.

Allyn M. Davis,

Acting Regional Administrator (6RA).

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40 CFR Part 82

[FRL-5306-4]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes restrictions or prohibitions on substitutes for ozone depleting substances (ODSs) under the U.S. Environmental Protection Agency (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the amended Clean Air Act of 1990 which requires EPA to evaluate and regulate substitutes for the ODSs to reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. The intended effect of the SNAP program is to expedite movement away from ozone depleting compounds while avoiding a shift into high-risk substitutes posing other environmental problems.

On March 18, 1994, EPA promulgated a final rulemaking setting forth its plan for administering the SNAP program (59 FR 13044), and issued decisions on the acceptability and unacceptability of a number of substitutes. In this Notice of Proposed Rulemaking (NPRM), EPA is issuing its preliminary decisions on the acceptability of certain substitutes not previously reviewed by the Agency. To arrive at determinations on the acceptability of substitutes, the Agency completed a cross-media evaluation of risks to human health and the environment by sector end-use.

DATES: Written comments or data provided in response to this document must be submitted by November 1, 1995.

ADDRESSES: Written comments and data should be sent to Docket A-91-42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4:00 p.m. on weekdays. Telephone (202) 260-7549; fax (202) 260-4400. As provided in 40 CFC part 2, a reasonable

fee may be charged for photocopying. To expedite review, a second copy of the comments should be sent to Sally Rand, Stratospheric Protection Division, Office of Atmospheric Programs, U.S. EPA, 401 M Street, S.W., 6205-J, Washington, D.C. 20460. Information designated as Confidential Business Information (CBI) under 40 CFR, part 2 subpart B 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: Sally Rand at (202) 233-9739 or fax (202) 233-9577, Substitutes Analysis and Review Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, Washington, D.C. 20460

SUPPLEMENTARY INFORMATION:

I. Overview of This Action

This action is divided into five sections, including this overview:

- I. Overview of This Action
- II. Section 612 Program
 - A. Statutory Requirements
 - B. Regulatory History
- III. Proposed Listing of Substitutes
- IV. Administrative Requirements
- V. Additional Information
- Appendix A: Summary of Proposed Listing Decisions

II. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA is referring 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 unpublished 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. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which 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; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consume large volumes of ozone-depleting compounds.

The Agency defines a "substitute" as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute 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.

III. Proposed Listing of Substitutes

To develop the lists of unacceptable and acceptable substitutes, EPA conducts screens of health and environmental risks posed by various substitutes for ozone-depleting compounds in each use sector. The outcome of these risks screens can be found in the public docket, as described above in the **ADDRESSES** portion of this notice.

Under section 612, the Agency has considerable discretion in the risk management decisions it can make in SNAP. The Agency has identified five possible decision categories: acceptable, acceptable subject to use conditions; acceptable subject to narrowed use limits; unacceptable; and pending. Acceptable substitutes can be used for all applications within the relevant sector end-use. Conversely, it is illegal to replace an ODS with a substitute listed by SNAP as unacceptable. A pending listing represents substitutes for which the Agency has not received complete data or has not completed its review of the data.

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 risks to human health and the environment. Use of such substitutes in ways that are inconsistent with such use conditions renders these substitutes unacceptable.

Even though the Agency can restrict the use of a substitute based on the potential for adverse effects, it may be necessary to permit a narrowed range of use within a sector end-use because of the lack of alternatives for specialized applications. Users intending to adopt a substitute acceptable with narrowed use limits must ascertain that other acceptable alternatives are not technically feasible. Companies 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, e.g., 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 application and end-uses which are not specified as acceptable in the narrowed use limit renders these substitutes unacceptable.

In this Notice of Proposed Rulemaking (NPRM), EPA is issuing its preliminary decision on the acceptability of certain substitutes not previously reviewed by the Agency. As described in the final rule for the SNAP program (59 FR 13044), EPA believes that notice-and-comment rulemaking is required to place any alternative on the list of prohibited substitutes, to list a substitute as acceptable only under certain use conditions or narrowed use limits, or to remove an alternative from either the list of prohibited or acceptable substitutes.

EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substitute. Consequently, EPA is adding substitutes to the list of acceptable alternatives without first requesting comment on new listings. Updates to the acceptable and pending lists are published as separate Notices of Acceptability in the Federal Register.

Parts A. through C. below present a detailed discussion of the proposed substitute listing determinations by major use sector. Tables summarizing listing decisions in this Notice of Proposed Rulemaking are in Appendix A. The comments contained in Appendix A provide additional information on a substitute. Since comments are not part of the regulatory decision, they are not mandatory for use of a substitute. Nor should the comments be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of acceptable substitutes to apply all comments in their application of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning

1. Acceptable Subject to Use Conditions

a. CFC-12 Automobile and Non-automobile Motor Vehicle Air Conditioners, Retrofit and New

EPA is concerned that the existence of several substitutes in this end-use may increase the likelihood of significant refrigerant cross-contamination and potential failure of both air conditioning systems and recovery/recycling equipment. In addition, a smooth

transition to the use of substitutes strongly depends on the continued purity of the recycled CFC-12 supply. In order to prevent cross-contamination and preserve the purity of recycled refrigerants, EPA is proposing several conditions on the use of all motor vehicle air conditioning refrigerants. For the purposes of this rule, no distinction is made between "retrofit" and "drop-in" refrigerants; retrofitting a car to use a new refrigerant includes all procedures that result in the air conditioning system using a new refrigerant. Please note that EPA only reviews refrigerants based on environmental and health factors.

In particular, when retrofitting a CFC-12 system to use any substitute refrigerant, the following conditions must be met:

- Each refrigerant may only be used with a set of fittings that is unique to that refrigerant. These fittings (male or female, as appropriate) must be used with all containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all air conditioning system service ports. These fittings must be designed to mechanically prevent cross-charging with another refrigerant. A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant. Using an adapter or deliberately modifying a fitting to use a different refrigerant will be a violation of this use condition. In addition, fittings shall meet the following criteria, derived from Society of Automotive Engineers (SAE) standards and recommended practices:

- When existing CFC-12 service ports are to be retrofitted, conversion assemblies shall attach to the CFC-12 fitting with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that permanently prevents the assembly from being removed.
- All conversion assemblies and new service ports must satisfy the vibration testing requirements of sections 3.2.1 or 3.2.2 of SAE J1660, as applicable, excluding references to SAE J639 and SAE J2064, which are specific to HFC-134a.
- In order to prevent discharge of refrigerant to the atmosphere, systems shall have a device to limit compressor operation before the pressure relief device will vent refrigerant. This requirement is waived for systems that do not feature such a pressure relief device.
- All CFC-12 service ports shall be retrofitted with conversion assemblies or shall be rendered permanently

incompatible for use with CFC-12 related service equipment by fitting with a device attached with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that prevents the device from being removed.

- When a retrofit is performed, a label must be used as follows:

- The person conducting the retrofit must apply a label to the air conditioning system in the engine compartment that contains the following information:

- * the name and address of the technician and the company performing the retrofit
- * the date of the retrofit
- * the trade name, charge amount, and, when applicable, the ASHRAE refrigerant numerical designation of the refrigerant
- * the type, manufacturer, and amount of lubricant used
- * if the refrigerant is or contains an ozone-depleting substance, the phrase "ozone depleter"
- * if the refrigerant displays flammability limits as blended, measured according to ASTM E681, the statement "This refrigerant is FLAMMABLE. Take appropriate precautions."

- This label must be large enough to be easily read and must be permanent.

- The background color must be unique to the refrigerant.

- The label must be affixed to the system over information related to the previous refrigerant, in a location not normally replaced during vehicle repair.

- Information on the previous refrigerant that cannot be covered by the new label must be permanently rendered unreadable.

- No substitute refrigerant may be used to "top-off" a system that uses another refrigerant. The original refrigerant must be recovered in accordance with regulations issued under section 609 of the CAA prior to charging with a substitute.

Since these use conditions necessitate unique fittings and labels, it will be necessary for developers of automotive refrigerants to consult with EPA about the existence of other alternatives. Such discussions will lower the risk of duplicating fittings already in use.

No determination guarantees satisfactory performance from a refrigerant. Consult the original equipment manufacturer or service personnel for further information on using a refrigerant in a particular system.

(a) HCFC Blend Delta

HCFC Blend Delta is proposed acceptable as a substitute for CFC-12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above. The composition of this blend has been claimed confidential by the manufacturer. This blend contains at least one HCFC, and therefore contributes to ozone depletion, but to a much lesser degree than CFC-12. Regulations regarding recycling and reclamation issued under section 609 of the Clean Air Act apply to this blend. Its production will be phased out according to the accelerated schedule (published 12/10/93, 58 FR 65018). The GWPs of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

(b) Blend Zeta

Blend Zeta is proposed acceptable as a substitute for CFC-12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above. The composition of this blend has been claimed confidential by the manufacturer. This blend does not contribute to ozone depletion. The GWPs of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

B. Solvents

1. Acceptable Subject to Use Conditions

a. Metals Cleaning

(1) Monochlorotoluenes/ Benzotrifluorides

Monochlorotoluenes/benzotrifluorides are proposed acceptable subject to use conditions as substitutes for CFC-113 and MCF in metals cleaning. These two classes of chemicals are being sold as blends for a variety of cleaning applications. Of all the structures of commercial interest, the only chemical with an Occupational Health and Safety Administration (OSHA) standard is orthochlorotoluene, one of the monochlorotoluenes. This substance has an OSHA Permissible Exposure Level (PEL) of 50 ppm. Using this standard as a proxy, the Agency is proposing to set a workplace standard of 50 ppm for monochlorotoluenes as a group. None of the benzotrifluorides has a PEL. Based on a toxicological study recently completed by the company interested in commercialization of these chemicals, the Agency is proposing to set a workplace standard of 25 ppm for

benzotrifluorides. Companies intending to use monochlorotoluene/benzotrifluoride mixtures should take the inherent hazard of these chemicals into account in implementing applications.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91-596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91-596.

b. Electronics Cleaning

(1) Monochlorotoluenes/ Benzotrifluorides

Monochlorotoluenes/benzotrifluorides are proposed acceptable subject to use conditions as substitutes for CFC-113 and MCF in electronics cleaning. For the reasons described in the section on metals cleaning, the Agency is proposing to set a workplace standard of 50 ppm for monochlorotoluenes and 25 ppm for benzotrifluorides.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91-596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91-596.

c. Precision Cleaning

(1) Monochlorotoluenes/ Benzotrifluorides

Monochlorotoluenes/benzotrifluorides are proposed acceptable subject to use conditions as substitutes for CFC-113 and MCF in precision cleaning. For the reasons described in the section on metals cleaning, the Agency is proposing to set a workplace standard of 50 ppm for monochlorotoluenes and 25 ppm for benzotrifluorides.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under Pub. L. 91-596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in Pub. L. 91-596.

C. Fire Suppression and Explosion Protection

As was discussed in the March 18, 1994 SNAP rulemaking, EPA in some cases finds acceptable the use of an agent only under certain conditions. In implementing its use of conditions, the Agency has sought to avoid overlap

with other existing regulatory authorities. EPA believes that section 612 clearly authorizes imposition of use conditions to ensure safe use of replacement agents. EPA's mandate is to list agents that "reduce the overall risk to human health and the environment" for "specific uses." In light of this authorization, EPA is only intending to set conditions for the safe use of halon substitutes in the workplace until OSHA incorporates specific language addressing gaseous agents into OSHA regulation. Under OSHA Public Law 91-596, section 4(b)(1), OSHA is precluded from regulating an area currently being regulated by another federal agency. EPA is specifically deferring to OSHA, and has no intention to assume responsibility for regulating workplace safety especially with respect to fire protection. EPA's workplace use conditions will not bar OSHA from regulating under its Pub. L. 91-596 authority.

1. Proposed Acceptable Subject to Use Conditions

a. Total Flooding Agents

(1) IG-55 (Formerly [Inert Gas Blend] B)

IG-55 is proposed acceptable as a Halon 1301 substitute for total flooding applications. IG-55, which is comprised of 50% nitrogen and 50% argon, is designed to lower the oxygen level in a protected area to a level that does not support combustion, and, unlike pure carbon dioxide systems, sufficient oxygen remains to maintain life support.

The toxicological issues of concern with inert gas systems differ from those of halocarbon agents, in that the end-point for hypoxic (low oxygen) atmospheres is asphyxiation while the end-point for halocarbons is cardiotoxicity leading to cardiac arrhythmias. Thus, EPA requested the manufacturers of the newly proposed inert gas systems to conduct a peer review by a panel of medical specialists to consider specific questions concerning exposing the typical working population to this agent. A similar review was conducted at EPA's request by the manufacturer of IG-541, which simultaneously lowers oxygen and raises CO₂ levels.

The results of the peer review and discussions with other medical specialists further convinces us that the SNAP conditions previously listed for IG-541 are appropriate for IG-55 and IG-01 as well. Specifically, while the terms No Observed Adverse Effect Level (NOAEL) and Lowest Observed Adverse Effect Level (LOAEL) refer to cardiotoxic effect levels which are not appropriate when discussing hypoxic

atmospheres, EPA intends to propose a 'no effect level' for inert gas systems at 12% oxygen, and a 'lowest effect level' at 10% oxygen.

Thus, consistent with the Occupational Safety and Health Administration (OSHA) conditions used by EPA for all total flooding agents, EPA proposes that an IG-55 system could be designed to an oxygen level of 10% if employees can egress the area within one minute, but may be designed only to the 12% level if it takes longer than one minute to egress the area. If the possibility exists for the oxygen to drop below 10%, employees must be evacuated prior to such oxygen depletion. A design concentration of less than 10% oxygen may only be used in normally unoccupied areas, as long as any employee who could possibly be exposed can egress within 30 seconds.

EPA stresses that, even though the medical specialists concur that it is probably safe to expose the typical worker to 10% or 12% oxygen for up to five minutes, EPA does not encourage any employee to intentionally remain in the area, even in the event of accidental discharge. In addition, the system must include alarms and warning mechanisms as specified by OSHA.

The question has been raised concerning the benefits or dangers of added carbon dioxide in other inert gas systems. The added CO₂ induces increased respiration after an exposure of approximately 3 to 5 minutes, which ensures adequate oxygen uptake by the brain. EPA's review of IG-541 (59 FR 13044, March 18, 1994) considered this parameter, and the Agency believed that the CO₂ offered an added margin of safety. However, questions remain as to the relative 'risk balanced' distinction between an inert gas system with, and one without, added CO₂. Fire scenarios are unpredictable, and therefore the amount of combustion products are also unpredictable. It is difficult to evaluate whether deeper breathing due to added CO₂ under different fire circumstances may also be bringing in more combustion products and thus constitute an increased risk. EPA believes on the basis of the peer review that in the event of an accidental discharge where there is no fire, the added CO₂ in the mixture will serve as a margin of safety for protected populations. EPA also recognizes the known physiological benefits of added CO₂ to prevent brain hypoxia in other applications. Therefore, EPA will be working with other regulatory agencies and the technical community to further delineate appropriate use conditions for the use of the varying inert gas systems in the fire protection sector.

EPA intends that all personnel be evacuated from an area prior to, or quickly after, discharge. An inert gas system may not be designed with the intention of personnel remaining in the area unless appropriate protection is provided, such as self-contained breathing apparatus.

(2) IG-01 (Formerly [Inert Gas Blend] C)

IG-01 is proposed acceptable as a Halon 1301 substitute for total flooding applications. IG-01 is comprised 100% of argon, and as with IG-55, is designed to lower the oxygen level in a protected area to a level that does not support combustion, while maintaining sufficient oxygen for life support.

As with IG-55, EPA proposes that an IG-01 system may be designed to an oxygen level of 10% if employees can egress the area within one minute, but may be designed only to the 12% level if it takes longer than one minute to egress the area. If the possibility exists for the oxygen to drop below 10%, employees must be evacuated prior to such oxygen depletion. A design concentration of less than 10% may only be used in normally unoccupied areas, as long as any employee who could possibly be exposed can egress within 30 seconds.

EPA stresses that, even though the medical specialists concur that it is probably safe to expose the typical worker to 10% or 12% oxygen for up to five minutes, EPA does not encourage any employee to intentionally remain in the area, even in the event of accidental discharge. In addition, the system must include alarms and warning mechanisms as specified by OSHA.

Please refer to the discussion of IG-55 for a fuller description of inert gas systems.

2. Proposed Acceptable Subject to Narrowed Use Limits

a. Streaming Agents

(1) *CF₃I is proposed acceptable as a Halon 1211 substitute in nonresidential applications.* CF₃I (Halon 13001) is a fluoriodocarbon with an atmospheric lifetime of only 1.15 days due to its rapid photolysis in the presence of light. Due to the short atmospheric lifetime of this chemical and the photolytic decomposition mechanism, the resulting GWP is essentially equivalent to that of CO₂, which is 1. The ODP when released at ground level is extremely low, with current conservative estimates ranging from .008 to .01. Detailed kinetic data and three dimensional modeling efforts are currently in progress, and are expected to reduce these values significantly.

CF₃I has a weight and volume equivalence to Halon 1211 of 0.94 and 0.97 respectively. While it is potentially a 'drop-in' replacement for Halon 1211, with some modifications in elastomers or other system materials, there exists a question as to whether current technical standards allow the reuse of halon 1211 canisters for other chemicals. Both the National Fire Protection Association (NFPA) standard and UL listings should be examined in this context.

Cardiosensitization data received by the Agency indicate that CF₃I has a NOAEL of 0.2 per cent and a LOAEL of 0.4 per cent. Previous studies of exposure to streaming agents indicate that actual exposure to a trained firefighter in a well-ventilated area will not exceed these values. However, the manufacturer is required to conduct personal monitoring tests to verify exposure levels in scenarios representative of its potential market prior to receiving a final SNAP acceptability listing. Because of the low cardiosensitization values, EPA is proposing to prohibit use of this agent in consumer residential applications where the possibility of incorrect use by untrained users is high.

D. Aerosols

1. Acceptable Subject to Use Conditions

a. Solvents

(1) *Monochlorotoluenes/Benzotrifluorides*

Monochlorotoluenes/benzotrifluorides are proposed acceptable subject to use conditions as substitutes for CFC-113 and MCF as aerosol solvents. These two classes of chemicals are being sold as blends for aerosol applications. Of all the structures of commercial interest, the only chemical with an Occupational Health and Safety Administration (OSHA) standard is orthochlorotoluene, one of the monochlorotoluenes. This substance has an OSHA Permissible Exposure Level (PEL) of 50 ppm. Using this standard as a proxy, the Agency is proposing to set a workplace standard of 50 ppm for monochlorotoluenes as a group. None of the benzotrifluorides has a PEL. Based on a toxicological study recently completed by the company interested in commercialization of these chemicals, the Agency is proposing to set a workplace standard of 25 ppm for benzotrifluorides. Companies intending to use monochlorotoluene/benzotrifluoride mixtures should take the inherent hazard of these chemicals into account in implementing applications.

These workplace standards are designed to protect worker safety until

the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91-596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91-596.

E. Adhesives, Coatings and Inks

1. Acceptable Subject to Use Conditions

a. Monochlorotoluenes/Benzotrifluorides

Monochlorotoluenes/benzotrifluorides are proposed acceptable subject to use conditions as substitutes for CFC-113 and MCF in adhesives, coatings, and inks. These two classes of chemicals are being sold as blends for these applications. Of all the substances of commercial interest, the only chemical with an Occupational Health and Safety Administration (OSHA) standard is orthochlorotoluene, one of the monochlorotoluenes. This substance has an OSHA Permissible Exposure Level (PEL) of 50 ppm. Using this standard as a proxy, the Agency is proposing to set a workplace standard of 50 ppm for monochlorotoluenes as a group. None of the benzotrifluorides has a PEL. Based on a toxicological study recently completed by the company interested in commercialization of these chemicals, the Agency is proposing to set a workplace standard of 25 ppm for benzotrifluorides. Companies intending to use monochlorotoluene/benzotrifluoride mixtures should take the inherent toxicity of these chemicals into account in implementing applications.

These workplace standards are designed to protect worker safety until the Occupational Safety and Health Administration (OSHA) sets its own standards under P.L. 91-596. The existence of the EPA standards in no way bars OSHA from standard-setting under OSHA authorities as defined in P.L. 91-596.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, [58 FR 51735, October 4, 1993] the Agency must determine whether the 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 have been documented in the public record.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires EPA to prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing any small governments that may be significantly or uniquely affected by the rule. Section 205 requires that regulatory alternatives be considered before promulgating a rule for which a budgetary impact statement is prepared. The Agency must select the least costly, most cost-effective, or least burdensome alternative that achieves the rule's objectives, unless there is an explanation why this alternative is not selected or this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. However, the rule has the net effect of reducing burden from part 82, Stratospheric Protection regulations, on regulated entities.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 604(a), applies to any rulemaking

that is subject to public notice and comment requirements. The Act requires that a regulatory flexibility analysis be performed or the head of the Agency certifies that a rule will not have a significant economic effect on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

The Agency believes that this final rule will not have a significant effect on a substantial number of small entities and has therefore concluded that a formal RFA is unnecessary. Because costs of the SNAP requirements as a whole are expected to be minor, the rule is unlikely to adversely affect businesses, particularly as the rule exempts small sectors and end-uses from reporting requirements and formal agency review. In fact, to the extent that information gathering is more expensive and time-consuming for small companies, this rule may well provide benefits for small businesses anxious to examine potential substitutes to any ozone-depleting class I and class II substances they may be using, by requiring manufacturers to make information on such substitutes available.

D. Paperwork Reduction Act

The EPA has determined that this final rule contains no information requirements subject to the Paperwork Reduction Act 44 S.S.C. 3501 et seq.

V. Additional Information

For copies of the comprehensive SNAP lists or additional information on SNAP contact the Stratospheric Protection Hotline at 1-800-296-1996,

Monday-Friday, between the hours of 10:00 a.m. and 4:00 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). Federal Register notices can be ordered from the Government Printing Office Order Desk (202) 783-3238; the citation is the date of publication. Notices and rulemaking under the SNAP program can also be retrieved electronically from EPA's Protection of Stratospheric Ozone Technology Transfer Network (TTN), Clean Air Act Amendment Bulletin Board. The access number for users with a 1200 or 2400 bps modem is (919) 541-5742. For users with a 9600 bps modem the access number is (919) 541-1447. For assistance in accessing this service, call (919) 541-5384 during normal business hours (EST).

List of Subjects in 40 CFR Part 82

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

Dated: September 25, 1995.

Carol M. Browner,
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. Sec. 7414, 7601, 7671-7671q.

2. Section 82.180 is amended by revising paragraph (a)(8)(ii) to read as follows:

§ 82.180 Agency review of snap submissions.

(a) * * *

(8) * * *

(ii) *Communication of Decision to the Public.* The Agency will publish in the Federal Register on a quarterly basis a complete list of the acceptable and unacceptable alternatives that have been reviewed to date. In the case of substitutes proposed as acceptable with use restrictions, proposed as unacceptable or proposed for removal from either list, a rulemaking process will ensue. Upon completion of such rulemaking, EPA will publish revised lists of substitutes acceptable subject to use conditions or narrowed use limits and unacceptable substitutes to be incorporated into the Code of Federal Regulations. (See Appendices to this subpart.)

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3. Subpart G is amended by adding the following Appendix C to read as follows:

Subpart G—Significant New Alternatives Policy Program

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Appendix C to Subpart G—Substitutes Subject to Use Restrictions and Unacceptable Substitutes Listed in the [FR publication date of final rule] final rule, effective [30 days after FR publication date of rule].

REFRIGERANTS—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS

Application	Substitute	Decision	Comments
CFC-12 Automobile Motor Vehicle Air Conditioning (Retrofit and New Equipment/NIKS).	HCFC Blend Delta, Blend Zeta.	Proposed acceptable when (1) used with unique fittings and detailed labels and (2) all CFC-12 has been removed from the system prior to retrofitting. Refer to the text for a full description.	EPA is concerned that the existence of several substitutes in this end-use may increase the likelihood of significant refrigerant cross-contamination and potential failure of both air conditioning systems and recovery/recycling equipment. In addition, a smooth transition to the use of substitutes strongly depends on the continued purity of the recycled CFC-12 supply. For the purposes of this rule, no distinction is made between "retrofit" and "drop-in" refrigerants; retrofitting a car to use a new refrigerant includes all procedures that result in the air conditioning system using a new refrigerant.

SOLVENT CLEANING SECTOR—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Decision	Conditions	Comments
Metals Cleaning with CFC-113, MCF and HCFC-141b.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.
Electronics Cleaning w/ CFC-113, MCF and HCFC-141b.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.
Precision Cleaning w/ CFC-113, MCF and HCFC-141b.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS: TOTAL FLOODING AGENTS

Application	Substitute	Decision	Conditions	Comments
Halon 1301—Total Flooding Agents.	IG-55 (formerly [Inert Gas Blend] B).	Proposed Acceptable.	Until OSHA establishes applicable workplace requirements: EPA proposes that an IG-55 system may be designed to an oxygen level of 10% if employees can egress the area within one minute, but may be designed only to the 12% oxygen level if it takes longer than one minute to egress the area. If the possibility exists for the oxygen to drop below 10%, employees must be evacuated prior to such oxygen depletion. A design concentration of less than 10% may only be used in normally unoccupied areas, as long as any employee who could possibly be exposed can egress within 30 seconds.	The Agency does not contemplate personnel remaining in the space after system discharge during a fire without Self Contained Breathing Apparatus (SCBA) as required by OSHA. EPA does not encourage any employee to intentionally remain in the area after system discharge, even in the event of accidental discharge. In addition, the system must include alarms and warning mechanisms as specified by OSHA. See additional comments 1, 2.
	IG-01 (formerly [Inert Gas Blend] C).	Proposed Acceptable.	Until OSHA establishes applicable workplace requirements: EPA proposes that an IG-55 system may be designed to an oxygen level of 10% if employees can egress the area within one minute, but may be designed only to the 12% oxygen level if it takes longer than one minute to egress the area. If the possibility exists for the oxygen to drop below 10%, employees must be evacuated prior to such oxygen depletion. A design concentration of less than 10% may only be used in normally unoccupied areas, as long as any employee who could possibly be exposed can egress within 30 seconds.	The Agency does not contemplate personnel remaining in the space after system discharge during a fire without Self Contained Breathing Apparatus (SCBA) as required by OSHA. EPA does not encourage any employee to intentionally remain in the area after system discharge, even in the event of accidental discharge. In addition, the system must include alarms and warning mechanisms as specified by OSHA. See additional comments 1, 2.

1—Must conform with OSHA 29 CFR 1910 Subpart L Section 1910.160 of the U.S. Code.

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

PROPOSED ACCEPTABLE SUBJECT TO NARROWED USE LIMITS: STREAMING AGENTS

Application	Substitute	Decision	Comments
Halon 1211— Streaming Agents.	CF ₃ I	Proposed Acceptable in non-residential uses only.	The manufacturer intends to conduct personal monitoring tests to verify exposure levels.

AEROSOLS—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Decision	Conditions	Comments
CFC-113, MCF and HCFC-141b as solvent.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.

ADHESIVES, COATINGS AND INKS—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Decision	Conditions	Comments
CFC-113, MCF and HCFC-141b.	Monochlorotoluenes and benzotrifluorides.	Acceptable	Subject to a 50 ppm workplace standard for monochlorotoluenes and a 25 ppm standard for benzotrifluorides.	The workplace standard for monochlorotoluenes is based on an OSHA PEL of 50 ppm for orthochlorotoluene. The workplace standard for benzotrifluorides is based on a recent toxicology study.

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40 CFR Part 300

[FRL-5308-3]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 19

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") which is Appendix B of 40 CFR part 300, constitutes this list.

This rule proposes 12 new sites to the General Superfund Section of the NPL. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-

financed remedial action(s), if any, may be appropriate.

This document also proposes to withdraw an earlier proposal to list the Broward County, 21st Manor Dump Site, on the NPL. This proposed withdrawal is based on the results of a baseline risk assessment prepared for the site.

DATES: Comments must be submitted on or before December 1, 1995.

ADDRESSES: Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; (Mail Code 5201G); 401 M Street, SW; Washington, DC 20460; 703/603-8917. Please note this is the mailing address only. If you wish to visit the HQ Docket to view documents, and for additional Docket addresses and further details on their contents, see Section I of the "Supplementary Information" portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (Mail Code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, or the Superfund Hotline, Phone (800) 424-9346 or (703) 412-9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

- I. Introduction
- II. Contents of This Proposed Rule
- III. Executive Order 12866

- IV. Unfunded Mandates
- V. Governors' Concurrence

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99-499, stat. 1613 *et seq.* To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action. . . and, to the extent practicable taking into account the potential urgency of such