

40 CFR Part 82

[FRL-5174-6]

**Protection of Stratospheric Ozone;
Refrigerant Recycling****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: Through this action EPA is proposing to amend the Clean Air Act section 608 refrigerant recycling regulations to extend the effectiveness of the refrigerant purity requirements at § 82.154(g) and (h), which are currently scheduled to expire on May 15, 1995, only until one year after publication of any final rule based on this proposal or until EPA can complete rulemaking to adopt new refrigerant purity requirements based on industry guidelines, whichever comes first. In the final rules section of this **Federal Register**, EPA is promulgating this amendment as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the amendment is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time. EPA has found that there is good cause for denying the opportunity for a public hearing pursuant to CAA section 307(d)(1) and 5 U.S.C. section 553(b)(3)(B).

DATES: Comments on this proposed rule must be received on or before April 17, 1995.

ADDRESSES: Written comments on this proposed action should be addressed to Public Docket No. A-92-01 VIII.F, Waterside Mall (Ground Floor) Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M-1500. All supporting materials are contained in Docket A-92-01. Dockets may be inspected from 8 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Section 608 Recycling Program Manager, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric

Programs, Office of Air and Radiation (6205-J), 401 M Street, SW., Washington, DC 20460. The Stratospheric Ozone Information Hotline at 1-800-296-1996 can also be contacted for further information.

SUPPLEMENTARY INFORMATION:**I. Public Participation**

EPA is providing an opportunity for interested parties to submit written comments on this proposal. However, EPA is not providing an opportunity for a public hearing in addition to the opportunity to submit written comments. This is necessary to ensure that EPA has sufficient time to take final action on the proposed extension of the reclamation requirements before those requirements expire on May 15, 1995. Even without an opportunity for a public hearing, the public comment period will close in mid-April at the earliest. Thus, a public hearing would be impracticable if EPA is to be able to act on the proposed extension of the reclamation requirements before their expiration.

Moreover, it would be contrary to the public interest to effectively eliminate EPA's option to extend the reclamation requirements before expiration by providing an opportunity for a public hearing. As discussed in the direct final rule published in the final rules section of this **Federal Register**, a lapse in the reclamation requirements could result in widespread contamination of the stock of CFC and HCFC refrigerants. Such contamination would cause extensive damage to air-conditioning and refrigeration equipment, release of refrigerants, and refrigerant shortages. Release of refrigerants has been found to deplete stratospheric ozone. Refrigerant shortages would result in economic harms from refrigerant price increases and from the premature retrofit of CFC and HCFC equipment.

Moreover, the lack of opportunity for a public hearing should place little burden on the public. First, commenters still have the opportunity to submit written comments on this proposal. EPA believes that such an opportunity to comment will be fully sufficient here to comply with the interest in ensuring public participation in agency actions, particularly as EPA expects very few, if any, adverse comments. Indeed, an important impetus for proposing this rule has been a request by significant portions of the affected industry that EPA extend the current standard.

Second, if promulgated, the proposed rule would simply extend existing requirements, so EPA does not expect to receive significant new information

regarding the costs and benefits of these requirements during the comment period. Third, the extension is for a limited time period, one year. Well before that time, EPA expects to propose a substitute standard, with full opportunity for written comment and a public hearing. Fourth, if the proposed rule is promulgated, continued compliance with the existing standard should impose no new burden on affected parties.

Providing for a public hearing here would be impracticable and contrary to the public interest, as EPA is providing sufficient opportunity for submission of written comment, the burden imposed on affected parties is minimal, and EPA expects it will need to extend the reclamation requirements before the May 15, 1995, expiration date. Thus, the Agency finds good cause for denying the opportunity for a public hearing pursuant to CAA § 307(d)(1) and 5 U.S.C. section 553(b)(3)(B).

If adverse comments are received on the direct final rule, EPA is proposing to make the final rule that responds to those comments effective upon publication. This expedited effective date is necessary to extend the reclamation requirements before those requirements expire on May 15, 1995. Providing for a 30 day delay in effectiveness after publication would be impracticable and contrary to the public interest. As discussed above, EPA would not have sufficient time to extend the reclamation requirements prior to their expiration if EPA must allow for an additional 30 days after publication. Also, for the reasons discussed above, EPA believes that a lapse of those requirements would be contrary to the public interest. Finally, because the proposed rule merely extends the existing requirements, making the rule effective immediately upon publication places little burden on the affected parties. Given the lack of burden upon affected parties and the need to extend the reclamation requirements prior to their expiration, the Agency proposes to find good cause for expediting the effective date of the rule, pursuant to 5 U.S.C. section 553(d)(3).

II. Additional Information

For additional information, see the direct final rule published in the rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Chemicals, Reporting and recordkeeping requirements.

Dated: March 14, 1995.

Carol M. Browner,

Administrator.

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