

INT Lee County 014° and Lakeland, FL, 154° radials; Lakeland; Cross City, FL; INT Cross City 287° and Marianna, FL, 141° radials; Marianna; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; INT Montgomery 357° and Vulcan, AL, 139° radials; Vulcan.

\* \* \* \* \*

**V-599 (Revised)**

From Lee County, FL; INT Lee County 083° and Dolphin, FL, 331° radials; Dolphin.

\* \* \* \* \*

**V-601 (New)**

From Pahokee, FL; INT Pahokee 211° and Key West, FL, 020° radials; Key West.

\* \* \* \* \*

Issued in Washington, DC, on October 4, 1995.

**Harold W. Becker,**

*Manager, Airspace-Rules and Aeronautical Information Division.*

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 52 and 602**

[TD 8622]

RIN 1545-AQ23

**Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilants or propellants in metered-dose inhalers, and floor stocks taxes on ODCs. The regulations reflect changes to the law made by the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, and the Energy Policy Act of 1992 and affect persons who manufacture, import, export, sell, or use ODCs.

**EFFECTIVE DATE:** These regulations are effective January 1, 1993.

**FOR FURTHER INFORMATION CONTACT:** Ruth Hoffman, (202) 622-3130 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

The collections of information contained in these final regulations have been reviewed and approved by the

Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-1361.

Estimated average annual burden per recordkeeper: 0.2 hour.

Estimated average annual burden per respondent: 0.1 hour.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

**Background**

This document contains amendments to the Environmental Tax Regulations (26 CFR part 52) relating to exports of ODCs under sections 4681 and 4682. Sections 4681 and 4682 were enacted as part of the Omnibus Budget Reconciliation Act of 1989, and amended by the Omnibus Budget Reconciliation Act of 1990 and the Energy Policy Act of 1992 (Energy Act).

Section 4682(d)(3) provides a limited exemption from tax for ODCs that are exported. Although final regulations (TD 8370) under sections 4681 and 4682 were published in the **Federal Register** on November 4, 1991 (56 FR 56303), the section relating to exports of ODCs was reserved.

The Energy Act increased and made uniform the base tax amounts for all ODCs and extended the floor stocks tax to calendar years after 1994. The Energy Act also provides a reduced rate of tax for (1) ODCs used as propellants in metered-dose inhalers (for years after 1992), (2) ODCs used as medical sterilants (for 1993 only), and (3) methyl chloroform (for 1993 only).

On January 15, 1993, proposed regulations (PS-89-91) relating to exports of ODCs and the Energy Act changes were published in the **Federal Register** (58 FR 4625). Written comments responding to the notice of proposed rulemaking were received. A public hearing was not held. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision. The comments and revisions are discussed below.

**Explanation of Revisions and Summary of Comments**

*Mixtures*

Under the 1991 final regulations, the creation of a mixture is treated as a

taxable use of the ODCs contained in the mixture unless a person elects other treatment (the mixture election). The proposed regulations provided, however, that the creation of a mixture for export is not a taxable use of the ODCs contained in the mixture. Commenters supported the proposed rule and suggested that it also apply to mixtures created for feedstock use. These final regulations adopt the proposed rule and extend its application to include the creation of a mixture for feedstock use. However, these regulations do not adopt the suggestion that the rule be further extended to apply to sales of ODCs for the creation of a mixture.

*Metered-Dose Inhalers*

Several commenters pointed out that the proposed definition of a metered-dose inhaler, by including the phrase directly to the lungs, excluded two of the eight types of inhalers. They suggested that we modify the definition to remove this phrase. The final regulations adopt this suggestion.

*Exemption Amount*

One commenter pointed out that the provisions of the proposed regulations describing exemption amounts should refer to exceptions from tax under section 4682(d) rather than under section 4682(d)(3). The final regulations adopt the suggested reference.

One commenter suggested that we add an example illustrating the calculation of the exemption amount when a person is both a manufacturer and an importer. The final regulations provide such an example.

*Registration*

One commenter suggested that we specify how to register with the IRS. The final regulations explain the registration procedure.

*Credit or Refund for Exports*

One commenter thought that the wording of the proposed rule relating to a claim for credit or refund of tax paid on ODCs that are exported was ambiguous as to which year's exemption limitation applies to such a claim. The final regulations clarify that the applicable limitation is the limitation for the calendar year during which the ODCs were sold.

The same commenter raised questions about the documentation to be submitted with a claim and suggested that the regulations provide more information. Documentation needs to be submitted with a claim only if specifically required. Neither the proposed nor the final regulations

require documentation to be submitted with the claim.

Another commenter suggested that for periods before 1993 we accept export documentation similar to that required by the Environmental Protection Agency. These final regulations provide that such documentation is acceptable.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

**Drafting Information**

The principal author of these regulations is Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects**

26 CFR Part 52

Chemicals, Excise taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR parts 52 and 602 are amended as follows:

**PART 52—ENVIRONMENTAL TAXES**

**Paragraph 1.** The authority citation for part 52 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Section 52.4682-5 also issued under 26 U.S.C. 4662(e)(4).

**§ 52.4681-0 [Removed]**

**Par. 2.** Section 52.4681-0 is removed.

**Par. 3.** Section 52.4681-1 is amended by:

1. Revising paragraph (a)(3)(ii).
2. Revising paragraph (c)(7)(iii)(A).
3. Revising paragraph (d)(3).

The revisions read as follows:

**§ 52.4681-1 Taxes imposed with respect to ozone-depleting chemicals.**

(a) \* \* \*

(3) \* \* \*

(ii) Dates on which tax imposed. The floor stocks tax is imposed on January 1 of each calendar year after 1989.

\* \* \* \* \*

(c) \* \* \*

(7) \* \* \*

(iii) \* \* \*

(A) Section 52.4682-1(b)(2)(iii) (relating to mixture elections), § 52.4682-1(b)(2)(iv) (relating to mixtures for export), and § 52.4682-1(b)(2)(v) (relating to mixtures for use as a feedstock);

\* \* \* \* \*

(d) \* \* \*

(3) Post-1989 ODCs held for sale or for use in further manufacture by any person other than the manufacturer or importer thereof on January 1, 1990, and post-1989 and post-1990 ODCs that are so held on January 1 of each calendar year after 1990.

**Par. 4.** Section 52.4682-1 is amended by:

1. Revising paragraph (a).
2. Revising the introductory text of paragraph (b)(2)(ii).
3. Adding paragraphs (b)(2)(iv) and (b)(2)(v).
4. Revising paragraphs (f) and (g).
5. Adding paragraph (h).
6. Adding and reserving paragraph (i).
7. Adding paragraph (j).
8. Adding and reserving paragraph (k).

The revisions and additions read as follows:

**§ 52.4682-1 Ozone-depleting chemicals.**

(a) *Overview.* This section provides rules relating to the tax imposed on ozone-depleting chemicals (ODCs) under section 4681, including rules for identifying taxable ODCs and determining when the tax is imposed, and rules prescribing special treatment for certain ODCs. See § 52.4681-1(a)(1) and (c) for general rules and definitions relating to the tax on ODCs.

(b) \* \* \*

(2) \* \* \*

(ii) *Mixtures.* Except as provided in paragraphs (b)(2)(iii), (iv), and (v) of this section, the creation of a mixture containing two or more ingredients is treated as a taxable use of the ODCs contained in the mixture. For this purpose, a mixture cannot be represented by a chemical formula, and an ODC is contained in a mixture only if the chemical identity of the ODC is not changed. Thus, except as provided

in paragraphs (b)(2)(iii), (iv), and (v) of this section—

\* \* \* \* \*

(iv) *Special rule for exports.* The creation of a mixture for export is not a taxable use of the ODCs contained in the mixture. If a manufacturer or importer sells a mixture for export, § 52.4682-5 applies to the ODCs contained in the mixture. See § 52.4682-5(e) for rules relating to liability of a purchaser for tax if the mixture is not exported.

(v) *Special rule for use as a feedstock.* The creation of a mixture for use as a feedstock (within the meaning of paragraph (c) of this section) is not a taxable use of the ODCs contained in the mixture.

\* \* \* \* \*

(f) *Methyl chloroform; reduced rate of tax in 1993.* The amount of tax imposed on methyl chloroform is determined under section 4682(g)(5) if the manufacturer or importer of the methyl chloroform sells or uses it during 1993.

(g) *ODCs used as medical sterilants—*  
(1) *Phase-in of tax.* The amount of tax imposed on an ODC is determined under section 4682(g)(4) if the manufacturer or importer of the ODC—  
(i) Uses the ODC during 1993 as a medical sterilant; or

(ii) Sells the ODC in a qualifying sale (within the meaning of paragraph (g)(4) of this section) during 1993.

(2) *Excess payments—*(i) *In general.* Under section 4682(g)(4)(B), a credit against income tax (without interest) or a refund of tax (without interest) is allowed to a person if—

(A) The person uses an ODC during 1993 as a medical sterilant; and

(B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 exceeds the amount that would have been determined under section 4682(g)(4).

(ii) *Amount of credit or refund.* The amount of credit or refund of tax is equal to the excess of—

(A) The tax that was paid with respect to the ODCs under sections 4681 and 4682; over

(B) The tax that would have been imposed under section 4682(g)(4).

(iii) *Procedural rules.* (A) The amount determined under section 4682(g)(4)(B) and paragraph (g)(2)(ii) of this section is treated as a credit described in section 34(a) (relating to credits for gasoline and special fuels) unless a claim for refund has been filed.

(B) See section 6402 and the regulations under that section for procedural rules relating to claiming a credit or refund of tax.

(3) *Definition of use as a medical sterilant.* An ODC is used as a medical

sterilant if it is used in the manufacture of sterilant gas.

(4) *Qualifying sale.* A sale of an ODC for use as a medical sterilant is a qualifying sale if the requirements of § 52.4682-2(b)(3) are satisfied with respect to the sale.

(h) *ODCs used as propellants in metered-dose inhalers—(1) Reduced rate of tax.* The amount of tax imposed on an ODC is determined under section 4682(g)(4) if the manufacturer or importer of the ODC—

(i) Uses the ODC after 1992 as a propellant in a metered-dose inhaler; or  
 (ii) Sells the ODC in a qualifying sale (within the meaning of paragraph (h)(4) of this section) after 1992.

(2) *Excess payments—(i) In general.* Under section 4682(g)(4)(B), a credit against income tax (without interest) or a refund of tax (without interest) is allowed to a person if—

(A) The person uses an ODC after 1992 as a propellant in a metered-dose inhaler; and

(B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 exceeds the amount that would have been determined under section 4682(g)(4).

(ii) *Amount of credit or refund.* The amount of credit or refund of tax is equal to the excess of—

(A) The tax that was paid with respect to the ODCs under sections 4681 and 4682; over

(B) The tax that would have been imposed under section 4682(g)(4).

(iii) *Procedural rules—(A)* The amount determined under section 4682(g)(4)(B) and paragraph (h)(2)(ii) of this section is treated as a credit described in section 34(a) (relating to credits for gasoline and special fuels) unless a claim for refund has been filed.

(B) See section 6402 and the regulations under that section for procedural rules relating to claiming a credit or refund of tax.

(3) *Definition of metered-dose inhaler.* A metered-dose inhaler is an aerosol device that delivers a precisely-measured dose of a therapeutic drug.

(4) *Qualifying sale.* A sale of an ODC for use as a propellant for a metered-dose inhaler is a qualifying sale if the requirements of § 52.4682-2(b)(4) are satisfied with respect to the sale.

(i) [Reserved]

(j) *Exports; cross-reference.* For the treatment of exports of ODCs, see § 52.4682-5.

(k) *Recycling.* [Reserved]

**Par. 5.** Section 52.4682-2 is amended by:

1. Adding paragraphs (a)(1)(iii) and (a)(1)(iv).

2. Amending the second sentence of paragraph (a)(2) by:

a. Removing the language “submission of a document to” and adding “registration with” in its place.

b. Removing the language “registration certificates” and adding “certificates” in its place.

3. Removing the language “registration” from paragraphs (b)(1)(i) and (b)(2)(i).

4. Adding paragraphs (b)(3) and (b)(4).

5. Revising the heading for paragraph (d).

6. Revising paragraph (d)(1)(i).

7. Adding paragraphs (d)(4) and (d)(5).

The additions and revisions read as follows:

**§ 52.4682-2 Qualifying sales.**

(a) \* \* \*

(1) \* \* \*

(iii) Under section 4682(g)(4) and § 52.4682-1(g) (relating to ODCs used as medical sterilants), ODCs sold in qualifying sales are taxed at a reduced rate in 1993.

(iv) Under section 4682(g)(4) and § 52.4682-1(h) (relating to ODCs used as propellants in metered-dose inhalers), ODCs sold in qualifying sales are taxed at a reduced rate in years after 1992.

\* \* \* \* \*

(b) \* \* \*

(3) *Use as medical sterilants.* A sale of ODCs is a qualifying sale for purposes of § 52.4682-1(g) if the manufacturer or importer of the ODCs—

(i) Obtains a certificate in substantially the form set forth in paragraph (d)(4) of this section from the purchaser of the ODCs; and

(ii) Relies on the certificate in good faith.

(4) *Use as propellants in metered-dose inhalers.* A sale of ODCs is a qualifying sale for purposes of §§ 52.4682-1(h) and 52.4682-4(b)(2)(vii) if the manufacturer or importer of the ODCs—

(i) Obtains a certificate in substantially the form set forth in paragraph (d)(5) of this section from the purchaser of the ODCs; and

(ii) Relies on the certificate in good faith.

\* \* \* \* \*

(d) *Certificate—(1) \* \* \* (i) Rules relating to all certificates.* This paragraph (d) sets forth certificates that satisfy the requirements of paragraphs (b)(1) through (4) of this section. The certificate shall consist of a statement executed and signed under penalties of perjury by a person with authority to bind the purchaser. A certificate provided under paragraph (d)(2) or (5) of this section may apply to a single purchase or to multiple purchases and need not specify an expiration date. A

certificate provided under paragraph (d)(3) or (4) of this section may apply to a single purchase or multiple purchases, and will expire as of December 31, 1993, unless an earlier expiration date is specified in the certificate. A new certificate must be given to the supplier if any information on the current certificate changes. The certificate may be included as part of any business records normally used to document a sale.

\* \* \* \* \*

(4) *Certificate relating to ODCs used as medical sterilants—(i) ODCs that will be resold for use by the second purchaser as medical sterilants.* If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser as medical sterilants, the certificate provided by the purchaser must be in substantially the following form:

**CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER AS MEDICAL STERILANTS**

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

(not after 12/31/93)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

\_\_\_\_\_  
 (Name of seller)

\_\_\_\_\_  
 (Address of seller)

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are purchasing the ozone-depleting chemicals for use as medical sterilants (as defined in § 52.4682-1(g)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-12 .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_  
 All shipments to Purchaser at the following location(s):

\_\_\_\_\_  
 All shipments to Purchaser under the following Purchaser account number(s):

\_\_\_\_\_  
 All shipments to Purchaser under the following purchase order(s):

\_\_\_\_\_  
 One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than for the purpose set forth in this certificate may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the sales covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Purchaser that the right to provide a certificate has been withdrawn from any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser \_\_\_\_\_  
 Address of Purchaser \_\_\_\_\_  
 Taxpayer Identifying Number of Purchaser \_\_\_\_\_  
 Title of person signing \_\_\_\_\_  
 Printed or typed name of person signing \_\_\_\_\_  
 Signature \_\_\_\_\_

(ii) *ODCs that will be used by the purchaser as medical sterilants.* If the purchaser will use the ODCs as medical sterilants, the certificate provided by the purchaser must be in substantially the following form:

**CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE USED BY THE PURCHASER AS MEDICAL STERILANTS**

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_  
 Expiration Date \_\_\_\_\_  
 (not after 12/31/93)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller) \_\_\_\_\_  
 (Address of seller) \_\_\_\_\_

will be used by Purchaser as medical sterilants (as defined in § 52.4682-1(g)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-12 .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following purchase order(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ One or more shipments to Purchaser identified as follows:  
 \_\_\_\_\_  
 \_\_\_\_\_

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than as medical sterilants may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use as medical sterilants of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser \_\_\_\_\_  
 Address of Purchaser \_\_\_\_\_  
 Taxpayer Identifying Number of Purchaser \_\_\_\_\_  
 Title of person signing \_\_\_\_\_  
 Printed or typed name of person signing \_\_\_\_\_  
 Signature \_\_\_\_\_

(5) *Certificate relating to ODCs used as propellants in metered-dose inhalers—(i) ODCs that will be resold for use by the second purchaser as propellants in metered-dose inhalers.* If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser as propellants in

metered-dose inhalers, the certificate provided by the purchaser must be in substantially the following form:

**CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER AS PROPELLANTS IN METERED-DOSE INHALERS**

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Date \_\_\_\_\_

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller) \_\_\_\_\_  
 (Address of seller) \_\_\_\_\_

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are purchasing the ozone-depleting chemicals for use as propellants in metered-dose inhalers (as defined in § 52.4682-1(h)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-11 .....	_____
CFC-12 .....	_____
CFC-114 .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following purchase order(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ One or more shipments to Purchaser identified as follows:  
 \_\_\_\_\_  
 \_\_\_\_\_

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than for the purpose set forth in this certificate may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the sales covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government

officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Purchaser that the right to provide a certificate has been withdrawn from any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
Name of Purchaser

\_\_\_\_\_  
Address of Purchaser

\_\_\_\_\_  
Taxpayer Identifying Number of Purchaser

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Printed or typed name of person signing

\_\_\_\_\_  
Signature

(ii) ODCs that will be used by the purchaser as propellants in metered-dose inhalers. If the purchaser will use the ODCs as propellants in metered-dose inhalers, the certificate provided by the purchaser must be in substantially the following form:

**CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE USED BY THE PURCHASER AS PROPELLANTS IN METERED-DOSE INHALERS**

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Date \_\_\_\_\_  
The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

Product	Percentage
CFC-11 .....	_____
CFC-12 .....	_____
CFC-114 .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_  
All shipments to Purchaser at the following location(s):

\_\_\_\_\_  
All shipments to Purchaser under the following Purchaser account number(s):

\_\_\_\_\_  
All shipments to Purchaser under the following purchase order(s):

\_\_\_\_\_  
One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than as propellants in metered-dose inhalers may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use as propellants in metered-dose inhalers of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
Name of Purchaser

\_\_\_\_\_  
Address of Purchaser

\_\_\_\_\_  
Taxpayer Identifying Number of Purchaser

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Printed or typed name of person signing

\_\_\_\_\_  
Signature

**Par. 6.** Section 52.4682-4 is amended by:

1. Removing the introductory text of paragraph (b)(2).
2. Revising the first sentence of paragraph (b)(2)(i)(B)(1).
3. Adding paragraphs (b)(2)(vi) through (b)(2)(viii).
4. Adding a sentence at the end of paragraph (d)(1)(i).
5. Revising paragraph (d)(1)(iv)(A)(1).
6. Adding paragraph (d)(4).
7. Revising paragraph (e)(4)(i).
8. Redesignating paragraph (e)(5) as paragraph (e)(6) and adding a new paragraph (e)(5).
9. Revising *Example 5* of newly designated paragraph (e)(6).

The revisions and additions read as follows:

**§ 52.4682-4 Floor stocks tax.**

\* \* \* \* \*

(h) \* \* \*  
(2) \* \* \*  
(i) \* \* \*  
(B) \* \* \* (1) *In general.* In the case of the floor stocks tax imposed on January 1 of a calendar year after 1990, the tax is not imposed on an ODC that has been mixed with any other ingredients, but only if it is established that such ingredients contribute to the accomplishment of the purpose for which the mixture will be used. \* \* \*  
\* \* \* \* \*

(vi) *ODCs to be exported*—(A) *In general.* The floor stocks tax is not imposed on any ODC that was sold in a qualifying sale for export (as defined in § 52.4682-5(d)(1)).

(B) *ODCs sold before January 1, 1993.* An ODC that was sold by its manufacturer or importer before January 1, 1993, is treated, for purposes of this paragraph (b)(2)(vi), as an ODC that was sold in a qualifying sale for export for purposes of § 52.4682-5(d)(1) if the ODC will be exported.

(vii) *ODCs used as propellants in metered-dose inhalers; years after 1992*—(A) *In general.* The floor stocks tax is not imposed on January 1 of calendar years after 1992 on any ODC that was sold in a qualifying sale for use as a propellant in a metered-dose inhaler (as defined in § 52.4682-1(h)).

(B) *ODCs sold before January 1, 1993.* An ODC that was sold by its manufacturer or importer before January 1, 1993, is treated, for purposes of this paragraph (b)(2)(vii), as an ODC that was sold in a qualifying sale for purposes of § 52.4682-1(h) if the ODC will be used as a propellant in a metered-dose inhaler (within the meaning of § 52.4682-1(h)).

(viii) *ODCs used as medical sterilants; 1993.* The floor stocks tax is not imposed in 1993 on any ODC held for use as a medical sterilant (as defined in § 52.4682-1(g)).

\* \* \* \* \*

(d) \* \* \*  
(1) \* \* \*  
(i) \* \* \* The amount of the floor stocks tax imposed on the ODCs contained in a nonexempt mixture is computed on the basis of the weight of the ODCs in that mixture.

\* \* \* \* \*

(iv) \* \* \*

(A) \* \* \*

(1) The tentative tax amount is determined, except as provided in paragraph (d)(2), (3), or (4) of this section, by reference to the rate of tax prescribed in section 4681(b)(1)(B) and the ozone-depletion factors prescribed in section 4682(b).

\* \* \* \* \*

(4) *Methyl chloroform; 1993.* In the case of methyl chloroform, the tentative tax amount is determined under section 4682(g)(5) for purposes of computing the floor stocks tax imposed on January 1, 1993.

(e) \* \* \*

(4) \* \* \*

(i) At least 400 pounds of ODCs that are not described in paragraph (d)(2) or (d)(3) of this section and are otherwise subject to tax;

\* \* \* \* \*

(5) *Calendar years after 1994.* In the case of the floor stocks tax imposed on January 1 of 1995 and each following calendar year, a person is liable for the tax only if, on such date, the person holds—

(i) At least 400 pounds of ODCs that are not described in paragraph (d)(3) or (d)(4) of this section and are otherwise subject to tax;

(ii) At least 50 pounds of ODCs that are described in paragraph (d)(3) of this section and are otherwise subject to tax; or

(iii) At least 1000 pounds of ODCs that are described in paragraph (d)(4) of this section and are otherwise subject to tax.

(6) \* \* \*

*Example 5.* (a) On January 1, 1994, D holds for sale 300 pounds of CFC-113 (an ODC not described in paragraph (d)(2) or (d)(3) of this section) and 25 pounds of Halon-1301 (an ODC described in paragraph (d)(3) of this section). D is liable for the floor stocks tax imposed on January 1, 1994, because 25 pounds of Halon-1301 exceeds the de minimis amount specified in paragraph (e)(4)(iii) of this section. The 300 pounds of CFC-113 is less than the amount specified in paragraph (e)(4)(i) of this section. Nevertheless, tax is imposed on both the 25 pounds of Halon-1301 and the 300 pounds of CFC-113.

(b) The amount of the floor stocks tax is determined separately for the 300 pounds of CFC-113 and the 25 pounds of Halon-1301 and is equal to the difference between the tentative tax amount and the amount of tax previously imposed on those ODCs. For Halon-1301, for example, the tax is determined as follows. The tentative tax amount is  $\$1,087.50$  ( $\$4.35$  (the base tax amount in 1994)  $\times 10$  (the ozone-depletion factor for Halon-1301)  $\times 25$  (the number of pounds held)). The tax previously imposed on the Halon-1301 is  $\$6.28$  ( $\$3.35$  (the base tax amount in 1993)  $\times 10$  (the ozone-depletion factor for Halon-1301)  $\times 0.75$  percent (the applicable percentage determined under section 4682(g)(2)(A))  $\times 25$  (the number of pounds held)). Thus, the floor stocks tax imposed on the 25 pounds of Halon-1301 in 1994 is  $\$1,081.22$ , the difference between  $\$1,087.50$  (the tentative tax amount) and  $\$6.28$  (the tax previously imposed).

\* \* \* \* \*

**Par. 7.** Section 52.4682-5 is added to read as follows:

**§ 52.4682-5 Exports.**

(a) *Overview.* This section provides rules relating to the tax imposed under section 4681 on ozone-depleting chemicals (ODCs) that are exported. In general, tax is not imposed on ODCs that a manufacturer or importer sells for export, or for resale by the purchaser to a second purchaser for export, if the procedural requirements set forth in paragraph (d) of this section are met. The tax benefit of this exemption is limited, however, to the manufacturer's or importer's exemption amount. Thus, if the tax that would otherwise be imposed under section 4681 on ODCs that a manufacturer or importer sells for export exceeds this exemption amount, a tax equal to the excess is imposed on the ODCs. The exemption amount, which is determined separately for post-1989 ODCs and post-1990 ODCs, is calculated for each calendar year in accordance with the rules of paragraph (c) of this section. This section also provides rules under which a tax imposed under section 4681 on exported ODCs may be credited or refunded, subject to the same limit on tax benefits, if the procedural requirements set forth in paragraph (f) of this section are met. See § 52.4681-1(c) for definitions relating to the tax on ODCs.

(b) *Exemption or partial exemption from tax—(1) In general.* Except as provided in paragraph (b)(2) of this section, no tax is imposed on an ODC if the manufacturer or importer of the ODC sells the ODC in a qualifying sale for export (within the meaning of paragraph (d)(1) of this section).

(2) *Tax imposed if exemption amount exceeded—(i) Post-1989 ODCs.* The tax imposed on post-1989 ODCs that a manufacturer or importer sells in qualifying sales for export during a calendar year is equal to the excess (if any) of—

(A) The tax that would be imposed on the ODCs but for section 4682(d)(3) and this section; over

(B) The post-1989 ODC exemption amount for the calendar year determined under paragraph (c)(1) of this section.

(ii) *Post-1990 ODCs.* The tax imposed on post-1990 ODCs that a manufacturer or importer sells in qualifying sales for export during a calendar year is equal to the excess (if any) of—

(A) The tax that would be imposed on the ODCs but for section 4682(d)(3) and this section; over

(B) The post-1990 ODC exemption amount for the calendar year

determined under paragraph (c)(2) of this section.

(iii) *Allocation of tax—(A) Post-1989 ODCs.* The tax (if any) determined under paragraph (b)(2)(i) of this section may be allocated among the post-1989 ODCs on which it is imposed in any manner, provided that the amount allocated to any post-1989 ODC does not exceed the tax that would be imposed on such ODC but for section 4682(d)(3) and this section.

(B) *Post-1990 ODCs.* The tax (if any) determined under paragraph (b)(2)(ii) of this section may be allocated among the post-1990 ODCs on which it is imposed in any manner, provided that the amount allocated to any post-1990 ODC does not exceed the tax that would be imposed on such ODC but for section 4682(d)(3) and this section.

(c) *Exemption amount—(1) Post-1989 ODC exemption amount.* A manufacturer's or importer's post-1989 ODC exemption amount for a calendar year is the sum of the following amounts:

(i) The 1986 export percentage of the aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on the maximum quantity, determined without regard to additional production allowances, of post-1989 ODCs that the person is permitted to manufacture during the calendar year under rules prescribed by the Environmental Protection Agency (40 CFR part 82).

(ii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1989 ODCs that the person manufactures during the calendar year under any additional production allowance granted by the Environmental Protection Agency.

(iii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1989 ODCs imported by the person during the calendar year.

(2) *Post-1990 ODC exemption amount.* A manufacturer's or importer's post-1990 ODC exemption amount for a calendar year is the sum of the following amounts:

(i) The 1989 export percentage of the aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on the maximum quantity, determined without regard to additional production allowances, of post-1990 ODCs the person is permitted to manufacture during the calendar year under rules prescribed by the Environmental Protection Agency.

(ii) The aggregate tax that would (but for section 4682(d), section 4682(g), and

this section) be imposed under section 4681 on post-1990 ODCs that the person manufactures during the calendar year under any additional production allowance granted by the Environmental Protection Agency.

(iii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1990 ODCs imported by the person during the calendar year.

(3) *Definitions*—(i) *1986 export percentage*. See section 4682(d)(3)(B)(ii) for the meaning of the term *1986 export percentage*.

(ii) *1989 export percentage*. See section 4682(d)(3)(C) for the meaning of the term *1989 export percentage*.

(d) *Procedural requirements relating to tax-free sales for export*—(1) *Qualifying sales*—(i) *In general*. A sale of ODCs is a qualifying sale for export if—

(A) The seller is the manufacturer or importer of the ODCs and the purchaser is a purchaser for export or for resale to a second purchaser for export;

(B) At the time of the sale, the seller and the purchaser are registered with the Internal Revenue Service; and

(C) At the time of the sale, the seller—  
(1) Has an unexpired certificate in substantially the form set forth in paragraph (d)(3)(ii) of this section from the purchaser; and

(2) Relies on the certificate in good faith.

(ii) *Qualifying resale*. A sale of ODCs is a qualifying resale for export if—

(A) The seller acquired the ODCs in a qualifying sale for export and the purchaser is a second purchaser for export;

(B) At the time of the sale, the seller and the purchaser are registered with the Internal Revenue Service; and

(C) At the time of the sale, the seller—  
(1) Has an unexpired certificate in substantially the form set forth in paragraph (d)(3)(ii)(A) of this section from the purchaser of the ODCs; and

(2) Relies on the certificate in good faith.

(iii) *Special rule relating to sales made before July 1, 1993*. If a sale for export made before July 1, 1993, satisfies all the requirements of paragraph (d)(1)(i) or (ii) of this section other than those relating to registration, the sale will be treated as a qualifying sale (or resale) for export. Thus, a sale made before July 1, 1993, may be a qualifying sale (or resale) even if the parties to the sale are not registered and the required certificate does not contain statements regarding registration.

(iv) *Registration*. Application for registration is made on Form 637 (or any other form designated for the same use

by the Commissioner) according to the instructions applicable to the form. A person is registered only if the district director has issued that person a letter of registration and it has not been revoked or suspended. The effective date of the registration must be no earlier than the date on which the district director signs the letter of registration. Each business unit that has, or is required to have, a separate employer identification number is treated as a separate person.

(2) *Good faith reliance*. The requirements of paragraph (d)(1) of this section are not satisfied with respect to a sale of ODCs and the sale is not a qualifying sale (or resale) if, at the time of the sale—

(i) The seller has reason to believe that the ODCs are not purchased for export; or

(ii) The Internal Revenue Service has notified the seller that the purchaser's registration has been revoked or suspended.

(3) *Certificate*—(i) *In general*. The certificate required under paragraph (d)(1) of this section consists of a statement executed and signed under penalties of perjury by a person with authority to bind the purchaser, in substantially the same form as model certificates provided in paragraph (d)(3)(ii) of this section, and containing all information necessary to complete such model certificate. A new certificate must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earliest of the following dates—

(A) The date one year after the effective date of the certificate;

(B) The date the purchaser provides a new certificate to the seller; or

(C) The date the seller is notified by the Internal Revenue Service or the purchaser that the purchaser's registration has been revoked or suspended.

(ii) *Model certificates*—(A) *ODCs sold for export by the purchaser*. If the purchaser will export the ODCs, the certificate must be in substantially the following form:

CERTIFICATE OF PURCHASER OF  
CHEMICALS FOR EXPORT BY THE  
PURCHASER

(To support tax-free sales under section 4682(d)(3) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_  
Expiration Date \_\_\_\_\_

(not more than one year after effective date)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

Purchaser is registered with the Internal Revenue Service as a purchaser of ozone-depleting chemicals for export under registration number \_\_\_\_\_. Purchaser's registration has not been suspended or revoked by the Internal Revenue Service.

The following percentage of ozone-depleting chemicals purchased from:

_____ (Name of seller)	
_____ (Address of seller)	
_____ (Taxpayer identifying number of seller) are purchased for export by Purchaser.	
Product	Percentage
CFC-11 .....	_____
CFC-12 .....	_____
CFC-113 .....	_____
CFC-114 .....	_____
CFC-115 .....	_____
Halon-1211 .....	_____
Halon-1301 .....	_____
Halon-2402 .....	_____
Carbon tetrachloride .....	_____
Methyl chloroform .....	_____
Other (specify) _____	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ All shipments to Purchaser under the following purchase order(s):  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ One or more shipments to Purchaser identified as follows:  
\_\_\_\_\_  
\_\_\_\_\_

Purchaser understands that Purchaser will be liable for tax imposed under section 4681 if Purchaser does not export the ODCs to which this certificate applies.

Purchaser understands that any use of the ODCs to which this certificate applies other than for export may result in the revocation of Purchaser's registration.

Purchaser will retain the business records needed to document the export of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its registration has been revoked or suspended.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser \_\_\_\_\_  
 1 \_\_\_\_\_  
 Address of Purchaser \_\_\_\_\_  
 \_\_\_\_\_  
 Taxpayer Identifying Number of Purchaser \_\_\_\_\_  
 Title of person signing \_\_\_\_\_  
 Printed or typed name of person signing \_\_\_\_\_  
 Signature \_\_\_\_\_

(B) ODCs sold by the purchaser for resale for export by the second purchaser. If the purchaser will resell the ODCs to a second purchaser for export by the second purchaser, the certificate must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS FOR REALE FOR EXPORT BY THE SECOND PURCHASER

(To support tax-free sales under section 4682(d)(3) of the Internal Revenue Code.)

Effective Date \_\_\_\_\_  
 Expiration Date \_\_\_\_\_  
 (not more than one year after effective date)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

Purchaser is registered with the Internal Revenue Service as a purchaser of ozone-depleting chemicals for export under registration number \_\_\_\_\_. Purchaser's registration has not been suspended or revoked by the Internal Revenue Service.

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller) \_\_\_\_\_  
 (Address of seller) \_\_\_\_\_  
 (Taxpayer identifying number of seller) \_\_\_\_\_  
 will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are (1) registered with the Internal Revenue Service as purchasers of ozone-depleting chemicals for export and (2) purchasing the ozone-depleting chemicals for export.

Product	Percentage
CFC-11 .....	_____
CFC-12 .....	_____
CFC-113 .....	_____
CFC-114 .....	_____
CFC-115 .....	_____
Halon-1211 .....	_____
Halon-1301 .....	_____
Halon-2402 .....	_____
Carbon tetrachloride .....	_____
Methyl chloroform .....	_____
Other (specify) .....	_____

This certificate applies to (check and complete as applicable):

\_\_\_\_\_ All shipments to Purchaser at the following location(s):

\_\_\_\_\_ All shipments to Purchaser under the following Purchaser account number(s):

\_\_\_\_\_ All shipments to Purchaser under the following purchase order(s):

\_\_\_\_\_ One or more shipments to Purchaser identified as follows:

Purchaser understands that Purchaser will be liable for tax imposed under section 4681 if Purchaser does not resell the ODCs to which this certificate applies to a Second Purchaser for export or export those ODCs.

Purchaser understands that any use of the ODCs to which this certificate applies other than for resale to Second Purchasers for export may result in the revocation of Purchaser's registration.

Purchaser will retain the business records needed to document the sales to Second Purchasers for export covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its registration has been revoked or suspended. In addition, the Internal Revenue Service has not notified Purchaser of the revocation or suspension of the registration of any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser \_\_\_\_\_

Address of Purchaser \_\_\_\_\_

Taxpayer Identifying Number of Purchaser \_\_\_\_\_

Title of person signing \_\_\_\_\_

Printed or typed name of person signing \_\_\_\_\_

Signature \_\_\_\_\_

(4) Documentation of export—(i) After December 31, 1992. After December 31, 1992, to document the exportation of any ODCs, a person must have the evidence required by the Environmental Protection Agency as proof that the ODCs were exported.

(ii) Before January 1, 1993. Before January 1, 1993, to document the exportation of any ODCs, a person must have evidence substantially similar to that required by the Environmental

Protection Agency as proof that the ODCs were exported.

(e) Purchaser liable for tax—(1) Purchaser in qualifying sale. The purchaser of ODCs in a qualifying sale for export is treated as the manufacturer of the ODC and is liable for any tax imposed under section 4681 (determined without regard to exemptions for qualifying sales under this section or § 52.4682-1) when it sells or uses the ODCs if that purchaser does not—

(i) Export the ODCs and document the exportation of the ODCs in accordance with paragraph (d)(4) of this section; or

(ii) Sell the ODCs in a qualifying resale for export.

(2) Purchaser in qualifying resale. The purchaser of ODCs in a qualifying resale for export is treated as the manufacturer of the ODC and is liable for any tax imposed under section 4681 (determined without regard to exemptions for qualifying sales under this section or § 52.4682-1) when it sells or uses the ODCs if that purchaser does not export the ODCs and document the exportation of the ODCs in accordance with paragraph (d)(4) of this section.

(f) Credit or refund—(1) In general. Except as provided in paragraph (f)(2) of this section, a manufacturer or importer that meets the conditions of paragraph (f)(3) of this section is allowed a credit or refund (without interest) of the tax it paid to the government under section 4681 on ODCs that are exported. Persons other than manufacturers and importers of ODCs cannot file claims for credit or refund of tax imposed under section 4681 on ODCs that are exported.

(2) Limitation. The amount of credits or refunds of tax under this paragraph (f) is limited—

(i) In the case of tax paid on post-1989 ODCs sold during a calendar year, to the amount (if any) by which the post-1989 exemption amount for the year exceeds the tax benefit provided to such post-1989 ODCs under paragraph (b) of this section; and

(ii) In the case of tax paid on post-1990 ODCs sold during a calendar year, to the amount (if any) by which the post-1990 exemption amount for the year exceeds the tax benefit provided to such post-1990 ODCs under paragraph (b) of this section.

(3) Conditions to allowance of credit or refund. The conditions of this paragraph (f)(3) are met if the manufacturer or importer—

(i) Documents the exportation of the ODCs in accordance with paragraph (d)(4) of this section; and

(ii) Establishes that it has—

(A) Repaid or agreed to repay the amount of the tax to the person that exported the ODC; or

(B) Obtained the written consent of the exporter to the allowance of the credit or the making of the refund.

(4) *Procedural rules.* See section 6402 and the regulations under that section for procedural rules relating to filing a claim for credit or refund of tax.

(g) *Examples.* The following examples illustrate the provisions of this section. In each example, the sales are qualifying sales for export (within the meaning of paragraph (d)(1) of this section), all registration, certification, and documentation requirements of this section are met, and the ODCs sold for export are exported:

*Example 1. (i) Facts.* D, a corporation, manufactures CFC-11, a post-1989 ODC, and does not manufacture or import any other ODCs. In 1993, D manufactures 100,000 pounds of CFC-11, the maximum quantity D is allowed to manufacture in 1993 under EPA regulations. D has no additional production allowance from EPA for 1993. In 1993, the tax on CFC-11 is \$3.35 per pound. D's 1986 export percentage for post-1989 ODCs is 50%. In 1993, D sells 80,000 pounds of CFC-11 in qualifying sales for export. The remainder of D's production is not exported.

(ii) *Components of limit on tax benefit.* Under paragraph (c)(1) of this section, D's exemption amount for 1993 is equal to the sum of—

(A) D's 1986 export percentage multiplied by the aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682-5) be imposed under section 4681 on the maximum quantity of post-1989 ODCs D is permitted to manufacture during 1993;

(B) The aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682-5) be imposed under section 4681 on post-1989 ODCs that D manufactures during 1993 under an additional production allowance; and

(C) The aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682-5) be imposed under section 4681 on post-1989 ODCs imported by D during 1993.

(iii) *Limit on tax benefit.* The amounts described in paragraphs (ii)(B) and (C) of this *Example 1* are equal to zero. Thus, D's 1993 exemption amount is \$167,500 (50% of \$335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC-11 in 1993)).

(iv) *Application of limit on tax benefit.* Under paragraph (b)(2) of this section, the tax imposed on the CFC-11 D sells for export is equal to the excess of the tax that would have been imposed on those ODCs but for section 4682(d) and § 52.4682-5, over D's 1993 exemption amount. But for § 52.4682-5, \$268,000 (\$3.35 x 80,000) of tax would have been imposed on the CFC-11 sold for export. Thus, \$100,500 (\$268,000 - \$167,500) of tax is imposed on the CFC-11 sold for export.

*Example 2. (i) Facts.* E, a corporation, manufactures CFC-11, a post-1989 ODC, and does not manufacture or import any other

ODCs. In 1993, E manufactures 100,000 pounds of CFC-11, the maximum quantity E is allowed to manufacture in 1993 under EPA regulations. E has no additional production allowance from EPA for 1993. In 1993, the tax on CFC-11 is \$3.35 per pound. E's 1986 export percentage for post-1989 ODCs is 50%. In 1993, E sells 45,000 pounds of CFC-11 tax free in qualifying sales for export and pays tax under section 4681 on an additional 35,000 pounds of exported CFC-11. The remainder of E's production is not exported.

(ii) *Limit on tax benefit.* E's 1993 exemption amount is \$167,500, (50% of \$335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC-11 in 1993)). The credit or refund allowed to E under paragraph (f) of this section is limited under paragraph (f)(2) of this section to the amount by which E's 1993 exemption amount exceeds E's 1993 tax benefit under paragraph (b) of this section.

(iii) *Application of limit on tax benefit.* Because E sold 45,000 pounds of CFC-11 tax free in qualifying sales for export in 1993, E's 1993 tax benefit under paragraph (b) of this section is \$150,750 (\$3.35 x 45,000). Thus, the credit or refund allowed to E under paragraph (f) of this section is limited to \$16,750 (\$167,500 - \$150,750).

*Example 3. (i) Facts.* F, a corporation, manufactures CFC-11, a post-1989 ODC, and does not manufacture any other ODCs. F also imports CFC-11. In 1993, F manufactures 60,000 pounds of CFC-11 (100,000 pounds is the maximum quantity F is allowed to manufacture in 1993 under EPA regulations) and imports 40,000 pounds. F has no additional production allowance from EPA for 1993. In 1993, the tax on CFC-11 is \$3.35 per pound. F's 1986 export percentage for post-1989 ODCs is 50%. In 1993, F sells 45,000 pounds of CFC-11 tax free in qualifying sales for export and pays tax under section 4681 on an additional 35,000 pounds of exported CFC-11. The remainder of F's production is not exported.

(ii) *Limit on tax benefit.* F's 1993 exemption amount is \$301,500, (\$167,500 (50% of \$335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC-11 in 1993) plus \$134,000 (the tax that would otherwise be imposed on the 40,000 pounds imported)). The credit or refund allowed to F under paragraph (f) of this section is limited under paragraph (f)(2) of this section to the amount by which F's 1993 exemption amount exceeds F's 1993 tax benefit under paragraph (b) of this section.

(iii) *Application of limit on tax benefit.* Because F sold 45,000 pounds of CFC-11 tax free in qualifying sales for export in 1993, F's 1993 tax benefit under paragraph (b) of this section is \$150,750 (\$3.35 x 45,000). Thus, the credit or refund allowed to F under paragraph (f) of this section is limited to \$150,750 (\$301,500 - \$150,750). The limitation does not affect F's credit or refund because the tax F paid on exported ODCs is only \$117,250 (\$3.35 x 35,000).

(h) *Effective date.* This section is effective January 1, 1993.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

**Par. 8.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**Par. 9.** In § 602.101, paragraph (c) is amended by revising the entries for 52.4682-2(b) and 52.4682-2(d) and adding entries in numerical order to the table to read as follows:

**§ 602.601 OMB Control numbers.**

CFR part or section where identified and described	Current OMB control No.
* * * * *	
(c) ***	
52.4682-2(b) .....	1545-1153 1545-1361
52.4682-2(d) .....	1545-1153 1545-1361
* * * * *	
52.4682-5(d) .....	1545-1361
52.4682-5(f) .....	1545-1361
* * * * *	

Approved: August 31, 1995.

**Margaret Milner Richardson,**  
*Commissioner of Internal Revenue.*

**Cynthia G. Beerbower,**  
*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 95-24603 Filed 10-10-95; 8:45 am]

**BILLING CODE 4830-01-U**

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Part 1910**

**[Docket No. H-004 E, F, G, H, I, and J]**

**Occupational Exposure to Lead**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Amendments to final rule.

**SUMMARY:** This document embodies a determination by OSHA that it is economically feasible for the brass and bronze ingot manufacturing industry as a whole to achieve an air lead limit of 75 µg/m<sup>3</sup> within six years by means of engineering and work practice controls. It amends Table I of paragraph (e)(1), the compliance Implementation Schedule, of the final rule on occupational exposure to lead, 29 CFR 1910.1025, to reflect that determination. This document also amends that Table based