ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AZ–001–BU FRL–6183–8]

Clean Air Act Reclassification; Arizona-Phoenix Nonattainment Area; Ozone; Extension of Plan Submittal Deadline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 6, 1997, EPA published a rule announcing our finding that the Phoenix, Arizona, metropolitan area had failed to attain the 1-hour national ambient air quality standard for ozone as required by the Federal Clean Air Act (CAA or the Act). This finding resulted in the area being reclassified by operation of law from a ''moderate'' to a ''serious'' ozone nonattainment area. In the rule, we also set a deadline of December 8, 1998 for Arizona to submit the revisions to its implementation plan that are needed to meet the Act's requirements for serious ozone nonattainment areas. Here, we are proposing a short extension of that deadline to March 22, 1999.

DATES: Comments may be submitted in writing until December 7, 1998.

ADDRESSES: Please address any comments you may have on this document to Frances Wicher at the address listed below. We have placed information related to this proposed action into a docket. You may look at the docket during normal business hours at the U.S. Environmental Protection Agency, Region 9, Office of Air Planning, 17th floor, 75 Hawthorne Street, San Francisco, California 94105.

We have also placed a copy of this document in the air programs section of our website at www.epa.gov/region09/air.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. (415) 744–1248 or wicher.frances@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Background

What is Being Proposed in This Action?

EPA is proposing to extend by three and one-half months, until March 22, 1999, the date by which the State of Arizona must submit the revisions to the Phoenix metropolitan area's state implementation plan (SIP) that are needed to meet the Clean Air Act's requirements for serious ozone nonattainment areas. The current submittal date is December 8, 1998.

We have discussed the reasons for this submittal date extension in a direct final rule which you can find in the Rules Section of this **Federal Register**.

We are extending the submittal deadline for the Phoenix-area serious ozone plan in a direct final rule without first proposing the rule and providing an opportunity for public comment. We are finalizing this rule directly because we believe this is noncontroversial and do not expect to receive unfavorable comments on it. If we do not receive unfavorable comments, we will take no further action on this proposed rule. If we do receive unfavorable comments, then we will withdraw the final rule and inform the public that the rule will not take effect. We will then address all public comments in a later final rule. Since there will not be a second comment period on this action, any member of the public who wants to comment on it should do so at this time.

Authority: 42 U.S.C. 7401 *et seq.*

Date Signed: October 24, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 98–29821 Filed 11–19–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6191–5]

Protection of Stratospheric Ozone: Allocation of 1999 Essential-Use Allowances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: With this action, EPA is proposing the allocation of essential-use allowances for the 1999 control period. The United States nominated specific uses of controlled ozone-depleting substances (ODS) as essential for 1999 under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). The Parties to the Protocol subsequently authorized specific quantities of ODS for 1999 for the uses nominated by the United States. Essential-use allowances permit a person to obtain controlled ozone-depleting substances as an exemption to the January 1, 1996 regulatory phaseout of production and import. Essential-use allowances are allocated to a person for exempted production or importation of a specific quantity of a controlled substance solely for the designated essential purpose.

DATES: Written comments on this proposed rule must be received on or before December 21, 1998, unless a public hearing is requested. Comments must then be received on or before 30 days following the public hearing. Any party requesting a public hearing must notify the Stratospheric Ozone Protection Hotline listed below by 5 p.m. Eastern Standard Time on November 30, 1998. If a hearing is held, EPA will publish a document in the **Federal Register** announcing the hearing information.

ADDRESSES: Comments on this rulemaking should be submitted in duplicate (two copies) to: Air Docket No. A–92–13, U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC, 20460. Inquiries regarding a public hearing should be directed to the Stratospheric Ozone Protection Hotline at 1–800–269–1996.

Materials relevant to this rulemaking are contained in Docket No. A–92–13. The Docket is located in room M–1500, First Floor, Waterside Mall at the address above. The materials may be inspected from 8 a.m. until 4 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Ozone Protection Hotline at 1–800–296–1996 or Tom Land, U.S. Environmental Protection Agency, Stratospheric Protection Division, Office of Atmospheric Programs, 6205J, 401 M Street, SW., Washington, DC, 20460, 202–564–9185.

SUPPLEMENTARY INFORMATION:

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I. Background

The Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol)

sets specific deadlines for the phaseout of production and importation of ozone depleting substances (ODS). At their Fourth Meeting in 1992, the signatories to the Protocol (the Parties) amended the Protocol to allow exemptions to the phaseout for uses agreed by the Parties to be essential. At the same Meeting, the Parties also adopted Decision IV/25, which established both criteria for determining whether a specific use should be approved as essential and a process for the Parties to use in making such a determination.

The criteria for an essential use as set forth in Decision IV/25 are the following: ''(1) That a use of a controlled substance should qualify as 'essential' only if:

(i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and

(ii) There are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health;

(2) That production and consumption, if any, of a controlled substance for essential uses should be permitted only if:

(i) All economically feasible steps have been taken to minimize the essential-use and any associated emission of the controlled substance; and

(ii) The controlled substance is not available in sufficient quantity and quality from existing stocks of banked or recycled controlled substances, also bearing in mind the developing countries' need for controlled substances.''

Decision IV/25 also sets out the procedural steps for implementing this process. It first calls for individual Parties to nominate essential-uses. These nominations are then to be evaluated by the Protocol's Technology and Economic Assessment Panel (TEAP or the Panel) which makes recommendations to representatives of all Protocol Parties. The final decision on which nominations to approve is to be taken by a meeting of the Parties.

II. Allocation of 1999 Essential-Use Allowances

In today's action, EPA is proposing allocation of essential-use allowances for the 1999 control period to entities listed in Table I for exempted production or import of the specific quantity of class I controlled substances solely for the specified essential-use.

TABLE I.—ESSENTIAL USES AGREED TO BY THE PARTIES TO THE PROTOCOL FOR 1999 AND ESSENTIAL-USE ALLOWANCES

Company/Entity	Class I controlled substance	Quantity (metric tonnes)
(i) Metered Dose Inhalers for Treatment of Asthma and Chronic Obstructive Pulmonary Disease		
International Pharmaceutical Aerosol Consortium (IPAC)—Armstrong Laboratories, Boehringer Ingelheim Pharmaceuticals, Glaxo Wellcome, Rhone-Poulenc Rorer, Schering-Plough Corporation, 3M.	CFC–11	899.5
	CFC–12	2157.4
	CFC–114	183.6
Medisol Laboratories, Inc.	CFC–11	67.3
	CFC–12	115.3
	CFC–114	9.6
Aeropharm Technology, Inc.	CFC–11	80.1
	CFC–12	160.2
Sciarra Laboratories, Inc.	CFC–11	0.5
	CFC–12	1.5
	CFC–114	0.5
(ii) Cleaning, Bonding and Surface Activation Applications for the Space Shuttle Rockets and Titan Rockets		
National Aeronautics and Space Administration (NASA)/Thiokol Rocket	Methyl Chloroform	56.7
United States Air Force/Titan Rocket	Methyl Chloroform	3.4
(iii) Laboratory and Analytical Applications		
Global Exemption (Restrictions in Appendix G Apply)	All Class I Controlled Substances (except Group VI).	No quantity specified

The International Pharmaceutical Aerosol Consortium (IPAC) consolidated requests for an essential-use exemption to be nominated to the Protocol as an agent of its member companies for administrative convenience. By means of a confidential letter to each of the companies listed above, EPA will allocate essential-use allowances separately to each company in the amount requested by it for the nomination.

Applications submitted by the entities in Table I requested class I controlled substances for uses claimed to be essential during the 1999 control period. The applications provided information in accordance with the criteria set forth in Decision IV/25 of the Protocol and the procedures outlined in the ''Handbook on Essential-Use Nominations.'' The applications request exemptions for the production and import of specific quantities of specific class I controlled substances after the phaseout as set forth in 40 CFR 82.4. The applications were reviewed by the U.S. government and nominated to the Protocol Secretariat for analysis by the Technical and Economic Assessment Panel (TEAP) and its Technical Option Committees (TOCs). The Parties to the Montreal Protocol approved the U.S. nominations for essential-use exemptions during the Ninth Meeting in 1997 (Decision IX/18). Today's action proposes the allocation of essential-use allowances to United States entities based on nominations decided upon by the Parties to the Protocol.

The 1999 global essential-use exemption for analytical and laboratory applications published in today's proposed rule does not alter the strict requirements both in 40 CFR 82.13 and in Appendix G to 40 CFR part 82, subpart A. The restrictions for the global laboratory and analytical essential-use exemption listed in Appendix G include requirements regarding purity of the class I controlled substances and the size of the containers. In addition, there are detailed reporting requirements in § 82.13 for persons that take advantage of the global laboratory and analytical essential-use exemption for class I controlled substances. The strict requirements are established because the Parties to the Protocol, and today's proposed rule, do not specify a quantity of essential-use allowances permitted for analytical and laboratory applications, but establish a global essential-use exemption, without a named recipient.

Any person obtaining class I controlled substances after the phaseout under the essential-use exemptions proposed in today's action would be subject to all the restrictions and requirements in other sections of 40 CFR part 82, subpart A. Holders of essential-use allowances or persons obtaining class I controlled substances under the essential-use exemptions must comply with the record keeping and reporting requirements in § 82.13 and the restrictions in Appendix G.

III. Summary of Supporting Analysis

A. Unfunded Mandates Reform Act

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

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

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

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

B. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's proposed rule does not create a mandate on State, local or tribal governments. The proposed rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this proposed rule.

C. Executive Order 12866

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

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

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

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

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

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

D. Paperwork Reduction Act

This action does not add any information collection requirements or increase burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The Office of Management and Budget (OMB) previously approved the information collection requirements contained in the final rule promulgated on May 10, 1995, and assigned OMB control number 2060–0170 (EPA ICR No. 1432.16).

Burden means the total time, effort, or financial resources expended by persons

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

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

E. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies or matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. The proposed rule does not impose any enforceable duties on Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

F. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities since essential-use allocations are granted to large pharmaceutical manufacturing corporations and not small entities such as small businesses, not-for-profit enterprises or small governmental jurisdictions.

EPA concluded that this proposed rule would not have a significant impact on a substantial number of small entities, therefore, I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

G. E.O. 13045: Protection of Children from Environmental Health Risks and Safety Risks

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

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Ozone layer, Reporting and record keeping requirements.

Dated: November 16, 1998.

Carol M. Browner,

Administrator.

40 CFR Part 82 is proposed to be amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

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

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

Subpart A—Production and Consumption Controls

2. Section 82.4(r)(2) is amended by revising the table to read as follows:

§ 82.4 Prohibitions.

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(r) * * *

(2) * * *

TABLE I.—ESSENTIAL USES AGREED TO BY THE PARTIES TO THE PROTOCOL FOR 1999 AND ESSENTIAL-USE ALLOWANCES

Company/Entity	Class I Controlled Substance	Quantity (metric tonnes)
(i) Metered Dose Inhalers for Treatment of Asthma and Chronic Obstructive Pulmonary Disease		
International Pharmaceutical Aerosol Consortium (IPAC)[1]–Armstrong Laboratories, Boehringer Ingelheim Pharmaceuticals, Glaxo Wellcome, Rhone-Poulenc Rorer, Schering-Plough Corporation, 3M.	CFC–11	899.5
	CFC–12	2157.4
	CFC–114	183.6
Medisol Laboratories, Inc.	CFC–11	67.3
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Aeropharm Technology, Inc.	CFC–11	80.1
	CFC–12	160.2
Sciarra Laboratories, Inc.	CFC–11	0.5
	CFC–12	1.5
	CFC–114	0.5
(ii) Cleaning, Bonding and Surface Activation Applications for the Space Shuttle Rockets and Titan Rockets		
National Aeronautics and Space Administration (NASA)/Thiokol Rocket	Methyl Chloroform	56.7
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(iii) Laboratory and Analytical Applications		
Global Exemption (Restrictions in Appendix G Apply)	All Class I Controlled Substances (except Group VI).	([2])

[1] The International Pharmaceutical Aerosol Consortium (IPAC) consolidated requests for an essential-use exemption to be nominated to the Protocol as an agent of its member companies for administrative convenience. By means of a confidential letter to each of the companies listed above, EPA will allocate essential-use allowances separately to each company in the amount requested by it for the nomination.
[2] No quantity specified.

[FR Doc. 98–31078 Filed 11–19–98; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7271]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.