Approval of the proposed rule would eliminate the above problems and is consistent with previous NRC actions. Further, the proposed rule will have no adverse effect on public health and safety.

The benefit of this proposed rule to nuclear power reactor licensees is to make available a greater choice of spent fuel storage cask designs that can be used under a general license. The new cask vendors with casks to be listed in 10 CFR 72.214 benefit by having to obtain NRC certificates only once for a design that can then be used by more than one power reactor licensee. The NRC also benefits because it will need to certify a cask design only once for use by multiple licensees. Casks approved through rulemaking are to be suitable for use under a range of environmental conditions sufficiently broad to encompass multiple nuclear power plant sites in the United States without the need for further site-specific approval by NRC. Vendors with cask designs already listed may be adversely impacted because power reactor licensees may choose a newly listed design over an existing one. However, the NRC is required by its regulations and the NWPA direction to certify and list approved casks. This proposed rule would have no significant identifiable impact or benefit on other Government agencies.

Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the proposed rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and BFS. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this proposed rule because this amendment does not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

List of Subjects in 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d–48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1026 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1026
SAR Submitted by: BFNL Fuel Solutions
SAR Title: Final Safety Analysis Report for the FuelSolutions™ Spent Fuel Management System
Docket Number: 72–1026
Certificate Expiration Date: [insert 20 years after the effective date of the final rule]
Model Number: WSNF–200, WSNF–201, and WSNF–203 systems; W–150 storage cask; W–100 transfer cask; and the W–21 and W–74 canisters

* * * * *

Dated at Rockville, Maryland, this 19th day of June, 2000.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 00–17464 Filed 7–10–00; 8:45 am]

BILLING CODE 7590–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 004–0023; FRL–6733–4]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing a limited approval and a limited disapproval of a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP) concerning particulate matter (PM–10) [1] emissions from open outdoor fires. The intended effect of proposing a limited approval and limited disapproval of a rule is to strengthen the federally approved SIP by incorporating this revision. EPA's final action on this proposal will incorporate the rule into the SIP. While strengthening the SIP, this revision contains deficiencies which the MCESD must address before EPA can grant full approval under section 110(k)(3) of the Clean Air Act (CAA).

We are proposing limited approval of a revision to the MCESD portion of the Arizona (SIP) concerning PM–10 emissions from abrasive blasting.

We are also proposing full approval of a revision to the MCESD portion of the Arizona (SIP) concerning PM–10

[1] There are two separate national ambient air quality standards (NAAQS) for PM–10, an annual standard of 50 μg/m^3 and a 24-hour standard of 150 μg/m^3.

emissions from nonmetallic mineral mining and processing.

We are following the CAA requirements for actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: Any comments must arrive by August 10, 2000.

ADDRESSES: Mail comments to: Andrew Steckel, Chief, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revisions and our technical support documents (TSDs) at our Region IX office from 8 a.m. to 4:30 p.m., Monday through Friday. To see copies of the submitted rule revisions, you may also go to the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415)744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
MCESD	312	Abrasive Blasting	07/13/88	01/04/90
MCESD	314	Open Outdoor Fires	07/13/88	01/04/90
MCESD	316	Nonmetallic Mineral Mining and Processing	04/21/99	08/04/99

On May 25, 1990, May 25, 1990, and October 18, 1999, respectively, EPA found that these rule submittals meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. The completeness letters may be found in the docket for this rulemaking.

B. Are There Other Versions of These Rules?

There are no previous versions of Rule 312 in the SIP?

We previously approved a version of Rule 314 into the SIP on April 10, 1995 (60 FR 18010), at which time the Phoenix metropolitan area was classified as a moderate nonattainment area for PM–10. The MCESD regulates certain sources of PM–10 in the nonattainment area. However, the approval action was vacated by the Ninth Circuit Court of Appeals in *Ober* v. *EPA,* 84 F.3d 304 (9th Cir. 1996), so action is being taken again on the original submittal. The original submittal of Rule 314 was intended to replace SIP Rules 50 and 51, which will be replaced by finalizing this rulemaking. The Phoenix metropolitan area is now classified as a serious nonattainment area for PM–10 and a more stringent standard applies to Rule 314. 40 CFR 81.303; compare subsections (a) and (b) of section 189 of the CAA.

We approved a version of Rule 316 into the SIP on August 4, 1997 (62 FR 41856).

C. What Is the Purpose of the Submitted Rules?

Rule 312 limits the emission of particulate matter from abrasive blasting operations to 20 percent opacity, except for not more than three minutes in any one hour period. Required control measures are one of the following: Confined blasting, wet abrasive blasting, hydroblasting, or an approved equivalent control.

Rule 314 prohibits open outdoor fires, except for the following exemptions:

- Fires for cooking, warmth for humans, recreation, branding of animals, or the use of orchard heaters for frost protection.
- Fires permitted by the Arizona Department of Environmental Quality for the disposal of dangerous material where there is no safe alternative.

Additional exemptions are permitted subject to the stipulation of the conditions and time of day best for minimizing air pollution and protecting health, safety, and comfort of persons. Other exemptions are permitted subject to certain stipulations of the Control Officer, including size of pile to be burned, hours, and meteorological conditions.

Rule 316 limits the emission of particulate matter from nonmetallic mineral processing plants, asphaltic concrete plants, and concrete plants to values of percent opacity or particulate matter concentration for stacks and to values of percent opacity for various sources of fugitive dust within the plants. The TSDs have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

We evaluated these rules for enforceability and consistency with the CAA as amended in 1990, with 40 CFR part 51, and with EPA's PM–10 policy. Sections 172(c)(1) and 189(a) of the CAA require moderate PM–10 nonattainment areas to implement reasonably available control measures (RACM), including reasonably available control technology (RACT) for stationary sources of PM–10. Section 189(b) requires that serious PM–10 nonattainment areas, in addition to meeting the RACM/RACT requirements, implement best available control measures (BACM), including best available control technology (BACT). The Phoenix metropolitan area is a serious PM–10 nonattainment area. The

MCESD regulates certain sources of PM–10 in the nonattainment area.

EPA's preliminary guidance for both moderate and serious PM–10 nonattainment areas provides that RACM/RACT and BACM/BACT are required to be implemented for all source categories unless the State demonstrates that a particular source category does not contribute significantly to PM–10 levels in excess of the NAAQS (*i.e., de minimis* sources). See *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 57 FR 13498, 13540 (April 16, 1992) and *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 59 FR 41998, 42011 (August 16, 1994). PM–10 emissions from the source categories that are the subject of these proposed actions do not meet the significance test above according to the December 1999 *Revised MAG 1999 Serious Area Particulate Plan for PM–10 for the Maricopa County Nonattainment Area* (PM–10 Plan).[2] Therefore, Rules 312, 314, and 316 are not required to meet BACM/BACT control levels.

However, the State submitted Rules 314 and 316 as RACM/RACT rules on which the PM–10 Plan relies. Thus EPA is evaluating Rules 314 and 316 to determine if they meet RACM/RACT requirements, to ensure that they do not relax the SIP in violation of CAA sections 110(l) and 193, and that they meet enforceability and other general SIP requirements of section 110.

In contrast to Rules 314 and 316, MCESD does not identify Rule 312, abrasive blasting, in PM–10 Plan as a RACM/RACT rule. Therefore, we are evaluating Rule 312 only to ensure that it does not relax the SIP in violation of CAA sections 110(l) and 193, and that it meets enforceability and other general SIP requirements of section 110. Rule 312 strengthens the SIP by regulating a previously non-regulated source of PM–10 emissions, so SIP relaxation is not at issue. The TSDs have more information on how we evaluated the rules.

Guidance and policy documents that we used to define specific enforceability, SIP relaxaton, and RACM/RACT requirements include the following:

- *PM–10 Guideline Document,* (EPA–452/R093–008).
- *Procedures for Identifying Reasonably Available Control Technology for Stationary Sources of PM–10* (EPA–452/R–93–001).
- *Revised MAG 1999 Serious Area Particulate Plan for PM–10 for the Maricopa County Nonattainment Area* (December 1999).
- *General Preamble Appendix C3—Prescribed Burning Control Measures,* 57 FR 18072 (April 28, 1992).
- *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 59 FR 41998 (August 16, 1994).

B. Do Any of the Rules Fully Meet the Evaluation Criteria?

These rules improve the SIP by establishing more stringent emission limits and by clarifying recordkeeping provisions. These rules are largely consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and RACT requirements. Rule provisions which do not fully meet the evaluation criteria are summarized below and discussed further in the TSDs.

MCESD Rule 316 has standards for nonmetallic mineral mining and processing plants generally as stringent or more stringent than NSPS (40 CFR 60.672) and analogous rules in other states. The rule is more stringent than the SIP rule. We have determined that MCESD Rule 316 meets the requirements of RACT and other applicable requirements of the CAA. As a result, we have determined that MCESD Rule 316 should be given full approval.

C. What Are the Rule Deficiencies?

- Rule 312 has a provision that prevents full approval of the SIP revision:

- The rule enforceability is limited due to the discretion of the Control Officer in paragraph 302.4 to approve alternate control methods.

Rule 314 has provisions that prevent full approval of the SIP revision:

- The exemption to burn dangerous materials in paragraph 302.2 limits enforceability, because the dangerous materials are not defined.
- Exemptions permitting open burning with the stipulation of conditions and time of day in paragraph 302.3 limit enforceability, because the conditions for allowing exemptions are not specified and are at the discretion of the Control Officer. In order to meet the requirements of RACM and to be enforceable, the Control Officer should use conditions based on quantitative data, such as reasonably available meteorological data, to predict which days are favorable for open burning and smoke dispersion.
- The exemption to burn with an air curtain destructor in paragraph 302.5 limits enforceability, because the Control Officer has discretion to approve the material to be burned and type and size of equipment without any guidelines.

D. EPA Recommendations to Further Improve the Rules

The TSD for Rule 316 describes an additional rule revision that does not affect EPA's current action but is recommended for the next time the local agency modifies the rule.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, we are proposing a limited approval of the submitted Rules 312 and 314 to improve the SIP. If finalized, this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient. We are also simultaneously proposing a limited disapproval of Rule 314 under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months. These sanctions would be imposed as described in 59 FR 39832 (August 4, 1994). A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rule has been adopted by the MCESD, and EPA's final limited disapproval would not prevent the local agency from enforcing Rule 314. Sanctions would not be imposed for Rule 312.

As authorized in section 110(k) of the Act, EPA is proposing a full approval of the submitted Rule 316 to improve the SIP.

We will accept comments from the public on the proposed limited approval and limited disapproval, the proposed limited approval, and the proposed full approval for the next 30 days.

III. Background Information

Why Were These Rules Submitted?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency PM–10 rules.

[2] On April 13, 2000, EPA proposed approval of this plan. See 65 FR 19963. If the PM–10 Plan should be modified in the future, EPA could require additional control measures to meet BACM/BACT requirements.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

Date	Event
03/03/78	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act). 43 FR 8964; 40 CFR 81.305.
07/01/87	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). (52 FR 24672).
11/15/90	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
11/15/90	PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate or serious pursuant to section 189(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 188(c).

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13045

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

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

C. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, 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 to the OMB 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 on matters that significantly or uniquely affect their communities.''

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

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

E. Regulatory Flexibility Act

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 will not have a significant impact on a substantial number of small entities because SIP actions under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP action does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility

analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Particulate matter.

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

Dated: June 28, 2000.

Nora McGee,

Acting Regional Administrator, Region IX.

[FR Doc. 00–17492 Filed 7–10–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6729–5]

RIN 2060–AG12

Protection of Stratospheric Ozone; Listing of Substitutes for Ozone-Depleting Substances

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

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

DATES: Written comments or data provided in response to this document must be submitted by September 11, 2000. A public hearing will be held if requested in writing. If a public hearing is requested, EPA will provide notice of the date, time and location of the hearing in a subsequent **Federal Register** document.

ADDRESSES: Written comments and data should be sent to Docket A–2000–18, U.S. Environmental Protection Agency, OAR Docket and Information Center, 401 M Street, SW, Room M–1500, Mail Code 6102, Washington, DC 20460. The docket may be inspected between 8 a.m. and 5:30 p.m. on weekdays. Telephone (202) 260–7548; fax (202) 260–4400. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying. To expedite review, a second copy of the comments should be sent to Anhar Karimjee at the address listed below under **FOR FURTHER INFORMATION.** Information designated as Confidential Business Information (CBI) under 40 CFR part 2, subpart 2, must be sent directly to the contact person for this notice. However, the Agency is requesting that all respondents submit a non-confidential version of their comments to the docket as well.

FOR FURTHER INFORMATION CONTACT: Anhar Karimjee at phone: (202) 564–2683, fax: (202) 565–2095 or e-mail: karimjee.anhar@epa.gov, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to the office location at 501 3rd Street, NW, Washington, DC, 20001. The Stratospheric Protection Hotline can be reached at (800) 296–1996 and additional information can be found at EPA's Ozone Depletion World Wide Web site at ''http://www.epa.gov/ozone/title6/snap/''.

SUPPLEMENTARY INFORMATION: On March 18, 1994, EPA promulgated a rulemaking setting forth its plan for administering the SNAP program (59 FR 13044), and has since issued decisions on the acceptability and unacceptability of a number of substitutes. Today's proposal presents EPA's response to a SNAP submission received in February 1999, requesting review of the following foam blowing agents as substitutes for HCFC–141b: HFC–134a; HCFC–22; HCFC–142b; HCFC–124; and a HCFC–22/142b blend. This proposal also addresses use of HCFC–22 and HCFC–142b as foam blowing agents. In this Notice of Proposed Rulemaking, EPA is proposing the following decisions on the acceptability of substitutes in the foams sector:

To list HCFC–141b and blends thereof as unacceptable as substitutes in all foam end-uses. Current HCFC–141b use would be grandfathered (*i.e.,* allowed to continue) until January 1, 2005. To list HCFC–22, HCFC–142b, and blends thereof as unacceptable as substitutes in all foam end-uses. Current HCFC–22/–142b use would be grandfathered until January 1, 2005.

To list HCFC–124 as unacceptable as a substitute in all foam end-uses. EPA is not proposing to grandfather the use of HCFC–124 because it has not been previously listed as an acceptable foam blowing agent. No further action is proposed on the SNAP submission request for review of HFC–134a. EPA previously listed HFC–134a as an acceptable substitute for HCFC 141b (64 FR 63558).