

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-6951-9]

RIN 2060-AJ15

Protection of the Stratospheric Ozone: De Minimis Exemption for Laboratory Essential Uses for Calendar Year 2001

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA has determined that it is appropriate to provide an exemption for laboratory and analytical essential uses for calendar year 2001. EPA has determined that an allowance for laboratory and analytical essential uses, which allows for the production and import of class I stratospheric ozone depleting substances (ODSs) beyond the phase-out of these substances, is allowable under the Clean Air Act as a *de minimis* exemption. Based on specific findings, EPA is proposing to amend the regulations on import and production of ODSs to reflect this determination and is allocating a general global exemption for class I ODSs for laboratory and analytical essential uses for the year 2001. This action would allow for the continued import and production of class I ODSs for laboratory uses where there are no sufficient substitutes. These laboratory uses include numerous analytical methods necessary for protecting public health and the environment.

Elsewhere in this issue of the **Federal Register**, EPA is amending the regulations on import and production of ODSs as a direct final rule without prior proposal because we view these revisions as noncontroversial and anticipate no significant adverse comments. You can find a detailed discussion of the revisions and our rationale in the preamble to the direct final rule.

DATES: We must receive comments on this proposed rule on or before April 12, 2001. If a hearing is requested, written comments must be received by April 27, 2001.

Anyone requesting a public hearing must contact the EPA by March 23, 2001. If requested, a public hearing will be held in Washington, DC at 10:30 on March 28, 2001.

ADDRESSES: Comments should be submitted to: Margaret Sheppard, U.S. Environmental Protection Agency (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. All comments will be filed in EPA Air docket number A-93-39. Your comments must be identified as comments on this proposed rule (companion to the direct final rule) and must be submitted in duplicate. If your comments contain confidential business information, submit them directly to Margaret Sheppard in two versions: one clearly marked "Public" to be filed in the public docket, and the other marked "Confidential" to be reviewed by authorized government personnel only.

Materials relevant to this rulemaking are contained in Docket No. A-93-39. The Docket is located in Waterside Mall Room M-1500, 401 M Street, SW., Washington, DC 20460, telephone (202) 260-7548. The materials may be inspected from 8 a.m. until 5:30 p.m. Monday through Friday. EPA may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Ozone Protection Hotline at (800) 296-1996 or Margaret Sheppard, U.S. Environmental Protection Agency, Global Programs Division, Office of Air and Radiation (6205J), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *sheppard.margaret@epa.gov*, (202) 564-9163 phone and (202) 565-2141 fax.

SUPPLEMENTARY INFORMATION: With this document, EPA is proposing to grant essential use allowances for import and

production of class I ozone depleting substances for the year 2001. We are allocating essential use allowances for essential laboratory uses under a *de minimis* exemption as a direct final rule without prior proposal because, we view this as a noncontroversial revision and anticipate no adverse comment. EPA believes that these revisions are noncontroversial because under a previous proposal for essential use allowances for 2000, we received almost unanimous support from a wide range of industry, government, and academic institutions for EPA to continue to allow new production and import of class I ODSs for laboratory and analytical uses through a *de minimis* exemption. If EPA receives no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

You may claim that information in your comments is confidential business information, as allowed by 40 CFR part 2. If you submit comments and include information that you claim as confidential business information, we request that you submit them directly to Margaret Sheppard in two versions: one clearly marked 'Public' to be filed in the public docket, and the other marked 'Confidential' to be reviewed by authorized government personnel only. The EPA will disclose information identified as 'Confidential' only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

The regulated categories affected by this action include:

Category	SIC	NAICS
1. Medical and Diagnostic Laboratories	8071	6215
2. Research and Development in the Physical, Engineering, and Life Sciences	8731 and 8733	54171
3. Environmental Consulting Services	8999	54162

This table is not intended to be exhaustive but, rather, provides a guide for readers likely to be interested in this proposed rule. If you have any questions regarding the applicability of this proposed rule please consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What Are the Administrative Requirements for This Proposal?

Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this proposed rule. EPA has also

determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as (1) a small business that manufactures or sells chemicals and has 500 or fewer

employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. Without today's proposed rule, manufacturers of ODSs for laboratory uses would be subject to the general ban on the production and import of class I ozone depleting substances under the Clean

Air Act. This action reduces regulatory burden by providing an exemption to the ban for the production and import of class I ozone depleting substances specifically for laboratory and analytic uses.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. The rule itself is an exemption which reduces the burden of the phase out of ozone depleting substances. We requested comment from laboratory users, some of whom work in small research laboratories, in the development of today's rule and have issued an exemption from a ban otherwise applicable. For information

regarding other administrative requirements for this action, please see the direct final rule published in the "Rules and Regulations" section of this **Federal Register**.

List of Subjects in 40 CFR Part 82

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

Dated: March 5, 2001.

Christine Todd Whitman,
Administrator.

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