

plan before or after the NOIT is provided, so long as it is not an irrevocable commitment. However, the same concerns would arise if the plan converted such a contract to irrevocable commitments before or after initiating a standard termination.

Request for Comments

PBGC is soliciting comments on issues related to a purchase of irrevocable commitments before the initiation of a standard termination. PBGC seeks comments on any and all relevant issues, including the following:

(1) Factors PBGC should take into account in determining whether a purchase of irrevocable commitments before the initiation of a standard termination is related to (*i.e.*, in preparation of) the standard termination (*e.g.*, plan annuitizes plan benefits of all retirees or terminated vested participants with no connection to any other plan transaction, such as a merger).

(2) Whether there should be a rebuttable presumption that a purchase of irrevocable commitments made within a specific time period (*e.g.*, a year) before the first day a NOIT is issued in a standard termination is related to a standard termination and if so, what time period.

(3) Whether there should be a safe harbor for a purchase of irrevocable commitments under specified circumstances before the first day a NOIT is issued in a standard termination. If so, what time period should apply (*e.g.*, one year, two years, or three years before a NOIT is issued)? Whether a safe harbor should be conditioned on the purpose of the purchase (*e.g.*, to lock in rates with an insurer in order to ensure plan sufficiency). Whether a safe harbor should be limited to plans in which the plan assets exceed plan benefits by a certain margin. If so, by what margin and as of what date? What reporting and disclosure requirements should be required with a safe harbor?

(4) How PBGC can better identify plans that purchase irrevocable commitments for some or all participants shortly before initiating a standard termination.

(5) Appropriate enforcement actions in the case of a purchase of irrevocable commitments before the initiation of a related standard termination.

(6) Appropriate information penalties for failures to provide notices and disclosures required as part of the termination process, including guideline information penalty amounts, and aggravating and mitigating factors (*e.g.*, before purchasing irrevocable commitments, the plan administrator provided participants with the information required in the NOIT and NOPB, or the plan reported information to PBGC about irrevocable commitments purchased).

(7) In the case of a permissible purchase of irrevocable commitments in accordance with § 4041.22(b) made after a NOIT is issued, what information should the plan be required to provide to participants? To PBGC?⁶

⁶ 2007 Blue Book Q&A 6 provides informal guidance that PBGC staff interprets § 4041.24(a) as

(8) What are employers' experiences with "locking in" rates for purchases of irrevocable commitments? What are the costs of locking in rates and how long do locked-in rates remain in effect? In the case of annuity contracts that are purchased as an investment vehicle, can plans lock in rates for the conversion of these contracts to irrevocable commitments at a future date and if so, at what costs and for how long?

Issued in Washington, DC, this 18th day of November 2009.

Vincent K. Snowbarger,

Acting Director, Pension Benefit Guaranty Corporation.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-R01-OAR-2009-0031; A-1-FRL-8974-6]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Perchloroethylene Air Emission Standards for Dry Cleaning Facilities: Commonwealth of Massachusetts Department of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve Massachusetts Department of Environmental Protection's ("MassDEP") request to implement and enforce the amended 310 CMR 70.00 Environmental Results Program ("ERP") Certification and the amended 7.26(10)-(16) Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities (together referred to as the "amended Dry Cleaner ERP") as a partial substitution for the amended National Emissions Standards for Hazardous Air Pollutants for Perchloroethylene Dry Cleaning Facilities ("Dry Cleaning NESHAP"), as it applies to area sources. This approval would make the

not requiring a plan administrator to issue a NOPB to a participant whose benefits are paid out in accordance with § 4041.22 on or before the due date for issuing the NOPB. However, the Instructions to Form 501 provide that the post-distribution certification must include such participants and beneficiaries for whom annuities are purchased after the plan's termination date in the normal course of business, including a certification of their distributions by category and amount (see also, 2008 Blue Book Q&A 7). 2009 Blue Book Q&A 11 provides informal guidance that a standard termination audit will generally cover any participant or beneficiary who is an affected party as of the plan's termination date, regardless of the timing of the distribution for that affected party.

Massachusetts Department of Environmental Protection's amended rules federally enforceable. Major sources would remain subject to the Federal Dry Cleaning NESHAP. In addition, dry cleaners installed in a building with a residence between December 21, 2005 and July 13, 2006 would remain subject to the Federal Dry Cleaning NESHAP.

DATES: Written comments must be received on or before December 23, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2009-0031 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* mcdonnell.ida@epa.gov.

3. *Fax:* (617) 918-0653.

4. *Mail:* "EPA-R01-OAR-2009-0031", Ida McDonnell, U.S.

Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAP), Boston, MA 02114-2023.

5. *Hand Delivery or Courier:* Deliver your comments to: Ida McDonnell, Acting Manager, Air Permits, Toxics and Indoor Programs Unit, Office of Ecosystem Protection, U.S.

Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAP), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments. EPA will forward copies of all submitted comments to the Massachusetts Department of Environmental Protection.

FOR FURTHER INFORMATION CONTACT:

Susan Lancey, Air Permits, Toxics and Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAP), Boston, MA 02114-2023, telephone number (617) 918-1656, fax number (617) 918-0656, e-mail lancey.susan@epa.gov.

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the Commonwealth of Massachusetts' Section 112(l) submittal as a direct final

rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: October 15, 2009.

Ira W. Leighton,

Acting Regional Administrator, EPA-New England.

[FR Doc. E9-27819 Filed 11-20-09; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA-HQ-OAR-2009-0351; FRL-8982-7]

RIN 2060-AP62

Protection of Stratospheric Ozone: The 2010 Critical Use Exemption From the Phaseout of Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing uses that qualify for the 2010 critical use exemption and the amount of methyl bromide that may be produced, imported, or supplied from existing pre-phaseout inventory for those uses in 2010. EPA is taking action under the authority of the Clean Air Act to reflect a recent consensus decision taken by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer at the Twentieth Meeting of the Parties. EPA is seeking comment on the list of critical uses and on EPA's determination of the amounts of methyl bromide needed to satisfy those uses.

DATES: Comments must be submitted by December 23, 2009. Any party

requesting a public hearing must notify the contact person listed below by 5 p.m. Eastern Standard Time on November 30, 2009. If a hearing is requested it will be held on December 8, 2009 and comments will be due to the Agency January 7, 2010. EPA will post information regarding a hearing, if one is requested, on the Ozone Protection Web site <http://www.epa.gov/ozone/strathome.html>. Persons interested in attending a public hearing should consult with the contact person below regarding the location and time of the hearing.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2009-0351, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- E-mail: a-and-r-Docket@epa.gov.

- Fax: 202-566-1741.

- Mail: Docket EPA-HQ-OAR-2009-0351, Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Mail code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

- Hand Delivery: Docket EPA-HQ-OAR-2009-0351, Air and Radiation Docket at EPA West, 1301 Constitution Avenue NW., Room B108, Mail Code 6102T, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2009-0351. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA

recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

FOR FURTHER INFORMATION CONTACT: For further information about this proposed rule, contact Jeremy Arling by telephone at (202) 343-9055, or by e-mail at arling.jeremy@epa.gov or by mail at U.S. Environmental Protection Agency, Stratospheric Protection Division, Stratospheric Program Implementation Branch (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You may also visit the Ozone Depletion Web site of EPA's Stratospheric Protection Division at <http://www.epa.gov/ozone/strathome.html> for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and related topics.

SUPPLEMENTARY INFORMATION:

This proposed rule concerns Clean Air Act (CAA) restrictions on the consumption, production, and use of methyl bromide (a Class I, Group VI ozone-depleting substance) for critical uses during calendar year 2010. Under the Clean Air Act, methyl bromide consumption (consumption is defined under the CAA as production plus imports minus exports) and production was phased out on January 1, 2005, apart from allowable exemptions, such as the critical use exemption and the quarantine and preshipment exemption. With this action, EPA is proposing and seeking comment on the uses that will qualify for the 2010 critical use exemption as well as specific amounts of methyl bromide that may be produced, imported, or sold from pre-phaseout inventory for proposed critical uses in 2010.

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