

§ 52.1076 Control strategy plans for attainment and rate-of-progress: ozone.

* * * * *

(x) *Determination of attainment.* EPA has determined, as of March 26, 2012, that based on 2008 to 2010 ambient air quality data, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 8-hour ozone moderate nonattainment area has attained the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual 8-hour ozone NAAQS.

■ 5. Section 52.1082 is amended by adding paragraph (d) to read as follows:

§ 52.1082 Determinations of attainment.

* * * * *

(d) Based upon EPA's review of the air quality data for the 3-year period 2008 to 2010, EPA determined that Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 8-hour ozone moderate nonattainment area (the Philadelphia Area) attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of June 15, 2011. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia Area nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

Subpart FF—New Jersey

■ 6. Section 52.1576 is added to read as follows:

§ 52.1576 Determinations of attainment.

Based upon EPA's review of the air quality data for the 3-year period 2008 to 2010, EPA determined that Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 8-hour ozone moderate nonattainment area (the Philadelphia Area) attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of June 15, 2011. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia Area

nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

■ 7. Section 52.1582 is amended by adding paragraph (n) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone.

* * * * *

(n) *Attainment determination.* EPA has determined, as of March 26, 2012, that based on 2008 to 2010 ambient air quality data, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 8-hour ozone moderate nonattainment area has attained the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual 8-hour ozone NAAQS.

Subpart NN—Pennsylvania

■ 8. Section 52.2037 is amended by adding paragraph (r) to read as follows:

§ 52.2037 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(r) *Determination of attainment.* EPA has determined, as of March 26, 2012, that based on 2008 to 2010 ambient air quality data, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 8-hour ozone moderate nonattainment area has attained the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual 8-hour ozone NAAQS.

■ 9. Section 52.2056 is amended by adding paragraph (f) to read as follows:

§ 52.2056 Determinations of attainment.

* * * * *

(f) Based upon EPA's review of the air quality data for the 3-year period 2008 to 2010, EPA determined that Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 8-hour ozone moderate nonattainment area (the Philadelphia Area) attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) by the applicable attainment

date of June 15, 2011. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia Area nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

[FR Doc. 2012-7196 Filed 3-23-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 82**

[EPA-HQ-OAR-2011-0776; FRL-9651-3]

RIN-2060-AR20

Protection of Stratospheric Ozone: Amendment to HFO-1234yf SNAP Rule for Motor Vehicle Air Conditioning Sector

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking direct final action to revise one of the use conditions required for use of hydrofluoroolefin (HFO)-1234yf (2,3,3,3-tetrafluoroprop-1-ene), a substitute for ozone-depleting substances (ODSs) in the motor vehicle air conditioning end-use within the refrigeration and air conditioning sector, to be acceptable subject to use conditions under EPA's Significant New Alternatives Policy (SNAP) program. The revised use condition incorporates by reference a revised standard from SAE International.

DATES: This rule is effective on May 21, 2012 without further notice, unless EPA receives adverse comment or receives a request for a public hearing by April 23, 2012. If we receive adverse comment or a request for a public hearing, we will publish a timely withdrawal in the **Federal Register** informing the public that all or part of this rule will not take effect. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of May 21, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2011-0776 by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- *Email*: Comments may be sent by electronic mail (email) to *a-and-r-*

docket@epa.gov, Attention EPA-HQ-OAR-2011-0776.

• **Mail:** OAR Docket and Information Center, U.S. Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. To expedite review, a second copy of the comments should be sent to Margaret Sheppard at the address listed below under **FOR FURTHER INFORMATION CONTACT**.

• **Hand Delivery:** Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. 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-2011-0776. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 email. The 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 email comment directly to EPA without going through www.regulations.gov your email 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>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

EPA has established a public docket for this action under Docket ID No. EPA-HQ-OAR-2011-0776. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT:

Margaret Sheppard, Stratospheric Protection Division, Office of Atmospheric Programs; Environmental Protection Agency, Mail Code 6205J, 1200 Pennsylvania Avenue NW., Washington DC 20460; telephone number (202) 343-9163, fax number, (202) 343-2338; email address at sheppard.margaret@epa.gov. The published versions of notices and rulemakings under the SNAP program are available on EPA's Stratospheric Ozone Web site at <http://www.epa.gov/ozone/snap/regs>. The full list of SNAP decisions in all industrial sectors is available at <http://www.epa.gov/ozone/snap>.

SUPPLEMENTARY INFORMATION: EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. We are revising an existing use condition for hydrofluoroolefin (HFO)-1234yf (2,3,3,3-tetrafluoroprop-1-ene) in motor

vehicle air conditioning (MVAC) by incorporating by reference an updated edition of a standard from SAE International and clarifying the scope of the use condition. EPA previously listed HFO-1234yf as acceptable, subject to use conditions, for use in MVAC systems in new passenger cars and light-duty trucks (March 29, 2011; 76 FR 17488). This action does not place any significant burden on the regulated community and ensures consistency with standard industry practices.

In the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to revise a use condition for HFO-1234yf in MVAC to incorporate by reference an updated standard and clarify the scope of the use condition, if adverse comments are received or a public hearing is requested on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment or a request for a public hearing, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

You may claim that information in your comments is confidential business information (CBI), as allowed by 40 CFR Part 2. If you submit comments and include information that you claim as CBI, we request that you submit them directly to Margaret Sheppard at the address under **FOR FURTHER INFORMATION CONTACT** 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. This information will remain confidential unless EPA determines, in accordance with 40 CFR part 2, subpart B, that the information is not subject to protection as CBI.

Table of Contents

- I. Does this action apply to me?
- II. How and why is EPA revising a use condition for HFO-1234yf in MVAC?
 - A. Revised Standard SAE J2844
 - B. Clarification of Scope of Requirement for Unique Fittings on Refrigerant Containers
- III. How does the SNAP program work?
 - A. What are the statutory requirements and authority for the SNAP program?
 - B. What are EPA's regulations implementing section 612?

- C. How do the regulations for the SNAP program work?
- D. Where can I get additional information about the SNAP program?
- IV. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act (RFA)
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

- G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act

I. Does this action apply to me?

This final rule regulates the use of the chemical HFO-1234yf (2,3,3,3-

tetrafluoroprop-1-ene, Chemical Abstracts Service Registry Number [CAS Reg. No.] 754–12–1) as a refrigerant in new motor vehicle air conditioning (MVAC) systems in new passenger cars and light-duty trucks. Businesses in this end-use that might want to use HFO-1234yf in new MVAC systems in the future include:

- Automobile manufacturers
- Automobile repair shops

Regulated entities may include:

TABLE 1—POTENTIALLY REGULATED ENTITIES, BY NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS) CODE

Category	NAICS code	Description of regulated entities
Industry	336111	Automobile Manufacturing.
Services	811111	General Automotive Repair.

This table is not intended to be exhaustive, but rather a guide regarding entities likely to be regulated by this action. If you have any questions about whether this action applies to a particular entity, consult the person listed in the preceding section, **FOR FURTHER INFORMATION CONTACT.**

II. How and why is EPA revising a use condition for HFO-1234yf in MVAC?

EPA’s Significant New Alternatives Policy (SNAP) program has a long-standing approach of requiring unique fittings for use with each refrigerant substitute for CFC-12 in MVAC systems. This is intended to prevent cross-contamination of different refrigerants, preserve the purity of recycled refrigerants, and ultimately to avoid venting of refrigerant. In the 1996 SNAP rule requiring the use of fittings on all refrigerants submitted for the use in MVAC systems, EPA urged industry to develop mechanisms to ensure that the refrigerant venting prohibition under Clean Air Act (CAA) Section 608 and 40 CFR 82.154 is observed (61 FR 54032; October 16, 1996). EPA has issued multiple rules codified in the Code of Federal Regulations (CFR) requiring the use of fittings unique to a refrigerant for use on “containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all [motor vehicle] air conditioning system service ports.” (See, e.g., appendices C and D to subpart G of 40 CFR part 82)

On March 29, 2011, EPA listed HFO-1234yf as acceptable, subject to use conditions, for use in MVAC systems in new passenger cars and light-duty trucks (76 FR 17488). The use conditions contain two requirements for

unique fittings to be used with the refrigerant containers for HFO-1234yf. First, the rule requires the use of the unique fittings, specified in SAE International ¹ (herein after, SAE) standard J639 (February 2011 edition), for use on the MVAC high-side and low-side service ports. Second, the rule requires use of fittings consistent with SAE J2844 (February 2011 edition) for connections with refrigerant containers of 20 lbs (9L) or greater. The March 2011 final rule does not allow for use of HFO-1234yf with small can taps because the refrigerant manufacturer had not submitted such fittings for EPA’s review and no industry standards address fittings appropriate for use with small cans or containers of refrigerant (i.e., less than 5 lbs). (76 FR 17494–17495)

In this direct final rule, we are revising the requirement for the unique fitting (also known as a connection or coupler) to be used with large refrigerant containers. The new requirement is that containers of HFO-1234yf for use in professional servicing ² of MVAC systems must be used with fittings consistent with SAE J2844 (October 2011 edition). The fitting provided in the October 2011 edition of SAE J2844 is a left-handed screw valve with a diameter of 0.5 inches and Acme (trapezoidal) thread with 16 threads per inch. We are clarifying that this unique fitting requirement applies only to containers of HFO-1234yf for professional servicing of MVAC systems

and does not apply to containers for industrial transfers, e.g., within a chemical manufacturing company or for delivery to automobile manufacturers, which use containers larger than 50 lbs or 23 L.

EPA recognizes that the fitting in the October 2011 edition of SAE J2844 is not “unique” in its direction and diameter, as per the criteria for uniqueness mentioned in appendix H to subpart G of 40 CFR part 82. However, the Acme thread has a trapezoidal shape that makes it impossible to cross-connect this fitting with others already identified with the same thread direction and diameter which use different shaped thread. Therefore, we find this fitting to be unique, and we are allowing its use on refrigerant containers of HFO-1234yf used for professional servicing.

A. Revised Standard SAE J2844

SAE International first established the standard SAE J2844, “R-1234yf (HFO-1234yf) New Refrigerant Purity and Container Requirements for Use in Mobile Air-Conditioning Systems” in February 2011. Shortly thereafter, the committee responsible for this standard decided that revisions to the standard were appropriate (June 13, 2011 Letter from K. Horen, Honeywell). In particular, the committee decided that the original “quick-connect” type fitting addressed in the February 2011 edition of SAE J2844 for refrigerant containers for servicing should be replaced by a screw-type valve. Quick-connect fittings are more likely to become dislodged and to release refrigerant without warning to the service technician. In contrast, if a screw-type valve is not properly

¹ Formerly, the Society of Automotive Engineers.
² Consistent with Subpart B to 40 CFR Part 82, professional servicing involves being paid to perform service, whether it is for cash, credit, goods or services.

connected and is releasing refrigerant, there is an audible hiss of released refrigerant that may give warning to a service technician. SAE revised the J2844 standard in October 2011 to specify a different, screw-type valve fitting for refrigerant containers to be used for MVAC servicing.

We believe that incorporating the revised industry standard is consistent with the Clean Air Act and, as described above, we believe that the fitting in the revised industry standard is unique even though it does not meet all of the criteria specified in appendix H to subpart G of 40 CFR part 82. Further, the new fittings adopted in the revised standard may have an environmental benefit by reducing the chance that an entire container of refrigerant could leak without detection. Therefore, we are revising the use condition to reference the October 2011 edition of the SAE J2844 standard for purposes of the fittings for large containers of HFO-1234yf for use in professional servicing.

B. Clarification of Scope of Requirement for Unique Fittings on Refrigerant Containers

During implementation of the March 2011 final rule, manufacturers of the refrigerant HFO-1234yf contacted EPA, asking for clarification of the fitting requirement for refrigerant containers. One manufacturer stated, based on its understanding, that this requirement was for containers for “professional service or service for consideration” and asked for clarification of this point (June 22, 2011 Letter from S. Bernhardt, Honeywell). Further, the manufacturer stated that, for cylinders greater than 50 lbs, it planned to use a specific fitting approved by the Cylinder Gas Association (CGA 670 fitting), and for cylinders greater than 450 lbs, industrial fittings would be used (June 13, 2011 Letter from K. Horen, Honeywell). Manufacturers expressed concerns that the quick-connect fitting in SAE standard J2844 (February 2011 edition) incorporated by reference in the final rule was not robust enough to use with large refrigerant containers, particularly containers used for industrial transfer or for bulk packing sent to automobile manufacturers for initial filling of MVAC systems.

In this direct final rule, we clarify that the requirement for the unique fittings on refrigerant containers of HFO-1234yf applies to containers for use for professional servicing. In the “Further Information” column of our decision, we state that, for HFO-1234yf, refrigerant containers for use in professional servicing are from 5 lbs to 50 lbs in size. Based on information

from the refrigerant manufacturer, containers larger than 50 lbs would not be intended for use in professional servicing (June 13, 2011 Letter from K. Horen, Honeywell). We expect that refrigerant containers for HFO-1234yf larger than 50 lbs, with a volume larger than 23 liters, are used for transport and industrial transfer of refrigerant, rather than for servicing. Under section 4.1.1.2 of SAE J2844 (October 2011 edition), such cylinders are required to “comply with the fitting requirements specified by applicable transportation rules and laws.”

EPA’s concerns at the time it first established the requirement for unique fittings for MVAC substitutes were (1) the potential for cross-contamination of refrigerant due to mixing and (2) the need for purity of recycled refrigerant (61 FR 54033). We are also concerned about unintended incentives for intentional venting because contaminated refrigerant would no longer be of economic value and because separation or destruction of cross-contaminated refrigerant costs more than venting. These are concerns that primarily are implicated during servicing of the MVAC system. It is far more likely that a technician might intentionally or unintentionally try to charge equipment with a different refrigerant during servicing of an MVAC system than that someone would transfer a refrigerant to a very large container (i.e., larger than 50 lbs) containing a different refrigerant. Thus, we clarify that the requirement for a unique fitting for containers of HFO-1234yf applies to containers to be used for professional servicing (sizes of 5 to 50 lbs).

Finally, we note that our final rule listing HFO-1234yf as acceptable subject to use conditions did not apply to small containers. The refrigerant manufacturer would need to submit a unique fitting specifically for use with small can taps and small refrigerant containers before EPA could determine whether to find use of such small containers acceptable under SNAP. In addition, such containers could not be sold until a significant new use notice is submitted to EPA, consistent with EPA’s final significant new use rule for HFO-1234yf under the Toxic Substances Control Act (October 27, 2010; 75 FR 65987).

III. How does the SNAP program work?

A. What are the statutory requirements and authority for the SNAP program?

CAA Section 612 requires EPA to develop a program for evaluating alternatives to ozone-depleting substances (ODS). EPA refers to this

program as the SNAP program. The major provisions of Section 612 are:

1. Rulemaking

Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I substance (i.e., chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II substance (i.e., hydrochlorofluorocarbon) with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

2. Listing of Unacceptable/Acceptable Substitutes

Section 612(c) requires EPA to publish a list of the substitutes unacceptable for specific uses and to publish a corresponding list of acceptable alternatives for specific uses. The list of acceptable substitutes is found at <http://www.epa.gov/ozone/snap/lists/index.html> and the lists of substitutes that are “unacceptable,” “acceptable subject to use conditions,” and “acceptable subject to narrowed use limits” are in subpart G of 40 CFR part 82.

3. Petition Process

Section 612(d) grants the right to any person to petition EPA to add a substance to, or delete a substance from, the lists published in accordance with Section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.

4. 90-day Notification

Section 612(e) directs EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer’s unpublished health and safety studies on such substitutes.

5. Outreach

Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of

such substances in key commercial applications.

6. Clearinghouse

Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. What are EPA's regulations implementing Section 612?

On March 18, 1994, EPA published the original rulemaking (59 FR 13044) which established the process for administering the SNAP program and issued EPA's first lists identifying acceptable and unacceptable substitutes in the major industrial use sectors (subpart G of 40 CFR part 82). These sectors—refrigeration and air conditioning; foam blowing; cleaning solvents; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion—are the principal industrial sectors that historically consumed the largest volumes of ODS.

CAA Section 612 requires EPA to ensure that substitutes found acceptable do not present a significantly greater risk to human health and the environment than other substitutes that are currently or potentially available.

C. How do the regulations for the SNAP program work?

Under the SNAP regulations, anyone who plans to market or produce a substitute to replace a class I substance or class II substance in one of the eight major industrial use sectors must provide notice to the Agency, including health and safety information on the substitute, at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to the persons planning to introduce the substitute into interstate commerce,³ which typically are chemical manufacturers, but may also include importers, formulators, equipment manufacturers, or end-

³ As defined at 40 CFR 82.104, "interstate commerce" means the distribution or transportation of any product between one state, territory, possession or the District of Columbia, and another state, territory, possession or the District of Columbia, or the sale, use or manufacture of any product in more than one state, territory, possession or District of Columbia. The entry points for which a product is introduced into interstate commerce are the release of a product from the facility in which the product was manufactured, the entry into a warehouse from which the domestic manufacturer releases the product for sale or distribution, and at the site of United States Customs clearance.

users.⁴ The regulations identify certain narrow exemptions from the notification requirement, such as research and development and test marketing (40 CFR 82.176(b)(4) and (5), respectively).

The Agency has identified four possible decision categories for substitutes that are submitted for evaluation: acceptable; acceptable subject to use conditions; acceptable subject to narrowed use limits; and unacceptable (40 CFR 82.180(b)). Use conditions and narrowed use limits are both considered "use restrictions" and are explained in the paragraphs below. Substitutes that are deemed acceptable with no use restrictions (no use conditions or narrowed use limits) can be used for all applications within the relevant end-uses within the sector.

After reviewing a substitute, the Agency may determine that a substitute is acceptable only if certain conditions in the way that the substitute is used are met to minimize risks to human health and the environment. EPA describes such substitutes as "acceptable subject to use conditions." Entities that use these substitutes without meeting the associated use conditions are in violation of EPA's SNAP regulations.

For some substitutes, the Agency may permit a narrowed range of use within an end-use or sector. For example, the Agency may limit the use of a substitute to certain end-uses or specific applications within an industry sector. EPA describes these substitutes as "acceptable subject to narrowed use limits." The Agency requires the user of a narrowed-use substitute to demonstrate that no other acceptable substitutes are available for the specific application by conducting comprehensive studies. A person using a substitute that is acceptable subject to narrowed use limits in applications and end-uses that are not consistent with the narrowed use limit is using the substitute in an unacceptable manner and is in violation of Section 612 of the CAA and EPA's SNAP regulations.

The Agency publishes its SNAP program decisions in the **Federal Register** (FR). EPA publishes decisions concerning substitutes that are deemed acceptable subject to use restrictions (use conditions and/or narrowed use limits), or for substitutes deemed unacceptable, as proposed rulemakings to provide the public with an opportunity to comment, before publishing final decisions.

In contrast, EPA publishes decisions concerning substitutes that are deemed

⁴ As defined at 40 CFR 82.172, "end-use" means processes or classes of specific applications within major industrial sectors where a substitute is used to replace an ODS.

acceptable with no restrictions in "notices of acceptability," rather than as proposed and final rules. As described in the March 18, 1994, rule initially implementing the SNAP program, EPA does not believe that rulemaking procedures are necessary to list alternatives that are acceptable without restrictions because such listings neither impose any sanction nor prevent anyone from using a substitute (59 FR 13047).

Many SNAP listings include "Comments" or "Further Information" to provide additional information on substitutes. Since this additional information is not part of the regulatory decision, these statements are not binding for use of the substitute under the SNAP program. However, regulatory requirements so listed are binding under other regulatory programs (e.g., worker protection regulations promulgated by the Occupational Safety and Health Administration (OSHA)). The "Further Information" classification does not necessarily include all other legal obligations pertaining to the use of the substitute. While the items listed are not legally binding under the SNAP program, EPA encourages users of substitutes to apply all statements in the "Further Information" column in their use of these substitutes. In many instances, the information simply refers to sound operating practices that have already been identified in existing industry and/or building codes or standards. Thus many of the statements, if adopted, would not require the affected user to make significant changes in existing operating practices.

D. Where can I get additional information about the SNAP program?

For copies of the comprehensive SNAP lists of substitutes or additional information on SNAP, refer to EPA's Ozone Depletion Web site at: www.epa.gov/ozone/snap/index.html. For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published March 18, 1994 (59 FR 13044), codified at 40 CFR part 82, subpart G. A complete chronology of SNAP decisions and the appropriate citations is found at: <http://www.epa.gov/ozone/snap/chron.html>.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of

Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden. It contains no new requirements for reporting. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations in subpart G of 40 CFR part 82 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control numbers 2060–0226 (EPA ICR No. 1596.08). This Information Collection Request (ICR) included five types of respondent reporting and recordkeeping activities pursuant to SNAP regulations: submission of a SNAP petition, filing a SNAP/TSCA Addendum, notification for test marketing activity, recordkeeping for substitutes acceptable subject to use restrictions, and recordkeeping for small volume uses. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statutes 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; for NAICS code 336111 (Automobile manufacturing), a small business has <1000 employees; for NAICS code 336391 (Motor Vehicle Air-Conditioning Manufacturing), a small business has <750 employees; and for NAICS code 811111 (General Automotive Repair), a small business has annual receipts of less than \$7.0 million (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 final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this final rule are small businesses involved in automotive repair. This final rule will not impose any requirements on small entities beyond current industry practices. Today's action effectively ensures consistency with current industry practices, whereas without these revisions, small businesses would need to reconcile differences between EPA regulations and industry standards.

It is not clear that there would be any cost differential between these new unique fittings, those used with the current automotive refrigerant, HFC-134a, or other fittings that the automotive industry could adopt instead. It is possible that the fittings required in the revised use condition will be less expensive than those required in the March 29, 2011 final rule because they are a standard shape and size easily produced in a metal-working shop. Thus, cost impacts of this final rule on small entities are expected to be small. This final rule is expected to relieve burden for some small entities, such as automotive repair shops, by avoiding confusion over which fittings to use and by using a more robust fitting that allows quick detection of any leaks from the valve.

Although this final 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. EPA has worked together with SAE International and with groups representing professional service technicians such as the Mobile Air Conditioning Society Worldwide, which conducts regular outreach with technicians and owners of small businesses such as retail refrigerant suppliers and automobile repair shops.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This final rule will not impose any requirements beyond current industry practices, and thus, compliance costs are expected to be small. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or

uniquely affect small governments. The requirements of this rule apply to the servicing of motor vehicle air conditioning systems. The requirements of this rule for unique fittings are expected to be comparable in cost to those of current fittings. Requirements would be the same as those imposed on any other entity performing servicing on motor vehicle air conditioning systems.

E. Executive Order 13132: Federalism

This final rule does not have federalism implications. It 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. This regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It does not significantly or uniquely affect the communities of Indian tribal governments, because this regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action only concerns allowing use of a specific fitting that may reduce technician's exposure in the course of professional servicing of MVAC systems. Therefore, we did not conduct further health or risk assessments beyond those in the original rulemaking (March 29, 2011; 76 FR 17488).

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant

regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in 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 rulemaking involves technical standards. EPA has decided to use SAE International's SAE J2844 standard, "R-1234yf (HFO-1234yf) New Refrigerant Purity and Container Requirements for Use in Mobile Air-Conditioning Systems". This standard can be obtained from <http://www.sae.org/technical/standards/>. This standard addresses, among other things, appropriate fittings and other requirements for refrigerant containers for use in professional servicing of MVAC systems using the alternative refrigerant HFO-1234yf.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This final rule requires specific use conditions for unique fittings for use with refrigerant containers for professional servicing of MVAC systems, for those servicing MVAC systems using this low GWP refrigerant alternative. It does not directly affect the amount of exposure to or emissions of HFO-1234yf expected.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective May 21, 2012.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: March 15, 2012.

Lisa P. Jackson,
Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is 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 G—Significant New Alternatives Policy Program

- 2. Appendix B to subpart G of part 82 is amended by revising the entry for the substitute HFO–1234yf and by revising a note at the end of the first table to read as follows:

**Appendix B to Subpart G of Part 82—
Substitutes Subject to Use
Restrictions and Unacceptable
Substitutes**

REFRIGERANTS—ACCEPTABLE SUBJECT TO USE CONDITIONS

Application	Substitute	Decision	Conditions	Comments
*	*	*	*	*
CFC-12 Automobile Motor Vehicle Air Conditioning (New equipment in passenger cars and light-duty trucks only).	HFO-1234yf as a substitute for CFC-12.	Acceptable subject to use conditions.	Manufacturers must adhere to all of the safety requirements listed in the Society of Automotive Engineers (SAE) Standard J639 (adopted 2011), including requirements for: unique fittings, flammable refrigerant warning label, high-pressure compressor cutoff switch and pressure relief devices. For connections with refrigerant containers for use in professional servicing (that is, service for consideration, consistent with subpart B to 40 CFR part 82), use fittings consistent with SAE J2844 (revised October 2011). Manufacturers must conduct Failure Mode and Effect Analysis (FMEA) as provided in SAE J1739 (adopted 2009). Manufacturers must keep the FMEA on file for at least three years from the date of creation.	Additional training for service technicians recommended. Observe requirements of Significant New Use Rule at 40 CFR 721.10182. HFO-1234yf is also known as 2,3,3,3-tetrafluoro-prop-1-ene (CAS No 754-12-1). Refrigerant containers of HFO-1234yf for use in professional servicing are from 5 lbs (2.3 L) to 50 lbs (23 L) in size. Requirements for handling, storage, and transportation of compressed gases apply to this refrigerant, such as regulations of the Occupational Safety and Health Administration at 29 CFR 1910.101 and the Department of Transportation's requirements at 49 CFR 171-179. Requirements for handling, storage, and transportation of compressed gases apply to this refrigerant, such as regulations of the Occupational Safety and Health Administration at 29 CFR 1910.101 and the Department of Transportation's requirements at 49 CFR 171-179.
*	*	*	*	*

Note: The use conditions in this appendix contain references to certain standards from SAE International. The standards are incorporated by reference and the referenced sections are made part of the regulations in part 82:

1. SAE J639. Safety Standards for Motor Vehicle Refrigerant Vapor Compression Systems. Revised February 2011. SAE International.
2. SAE J1739 JAN2009. Potential Failure Mode and Effects Analysis in Design (Design FMEA), Potential Failure Mode and Effects Analysis in Manufacturing and Assembly Processes (Process FMEA). Revised January 2009. SAE International.
3. SAE J2844 OCT2011. R-1234yf (HFO-1234yf) New Refrigerant Purity and Container Requirements for Use in Mobile Air-Conditioning Systems. Revised October 2011. SAE International.

The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from SAE Customer Service, 400 Commonwealth Drive, Warrendale, PA 15096-0001 USA; email: CustomerService@sae.org; Telephone: 1-877-606-7323 (U.S. and Canada only) or 1-724-776-4970 (outside the U.S. and Canada); Internet address: <http://store.sae.org/dl/about.htm>. You may inspect a copy at U.S. EPA's Air Docket; EPA West Building, Room 3334; 1301 Constitution Ave. NW.; Washington, DC or at the National Archives and Records Administration (NARA). For questions regarding access to these standards, the telephone number of EPA's Air Docket is 202-566-1742. For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

* * * * *

[FR Doc. 2012-6916 Filed 3-22-12; 4:15 pm]

BILLING CODE 6560-50-P