

| Name of non-regulatory SIP revision          | Applicable geographic area                        | State submittal date | EPA approval date  | Additional explanation |
|--|---|----------------------|--|------------------------|
| Negative Declarations—VOC Source Categories. | Metropolitan Washington ozone nonattainment area. | 4/8/93, 9/4/97       | 10/27/99, 64 FR 57777  | 52.478(a), 52.478(b).  |
| Negative Declarations—VOC Source Categories. | Metropolitan Washington ozone nonattainment area. | 1/26/10, 3/24/11     | 4/29/13 [ <i>Insert Federal Register page number where the document begins and date.</i> ] | 52.478(c).             |

■ 3. Section 52.478 is amended by adding paragraph (c) to read as follows:

**§ 52.478 Rules and regulations.**

(c) On March 24, 2011, the District of Columbia submitted a letter to EPA declaring that there are no sources located in the District which belong to the following VOC categories:  
 (1) Auto and Light-duty Truck Assembly Coatings;  
 (2) Fiberglass Boat Manufacturing Materials;  
 (3) Paper, Film and Foil Coatings;  
 (4) Flatwood Paneling.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 82**

[EPA-HQ-OAR-2011-0111; FRL-9800-9]

RIN-2060-AQ84

**Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances—Fire Suppression and Explosion Protection**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the U.S. Environmental Protection Agency's Significant New Alternatives Policy program, this action lists C7 Fluoroketone as an acceptable substitute, subject to narrowed use limits, for ozone-depleting substances used as streaming agents in the fire suppression and explosion protection sector. The program implements Section 612 of the Clean Air Act, as amended in 1990, which requires the Agency to

evaluate substitutes and find them acceptable where they pose comparable or lower overall risk to human health and the environment than other available substitutes.

**DATES:** This rule is effective on May 29, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2011-0111. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://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:** Bella Maranion, Stratospheric Protection Division, Office of Atmospheric Programs (6205J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343-9749; fax number: (202) 343-2363; email address: [maranion.bella@epa.gov](mailto:maranion.bella@epa.gov).  
**SUPPLEMENTARY INFORMATION:** The regulations implementing the Significant New Alternatives Policy (SNAP) program are codified at 40 CFR

part 82, subpart G. The appendices to subpart G list substitutes for ozone-depleting substances (ODSs) for specific end uses as unacceptable or as acceptable with certain restrictions imposed on their use. In addition, a list of acceptable substitutes without restrictions is available at <http://www.epa.gov/ozone/snap/lists/index.html>. This final rule will add a new fire suppression agent to the SNAP list of acceptable substitutes in the appendices to subpart G and specifically to the list of substitutes for halon 1211 for streaming uses. This action does not place any significant burden on the regulated community but lists as acceptable, subject to narrowed use limits, a new halon substitute. The restrictions will ensure that this substitute will not pose a greater risk to human health or the environment than other available or potentially available substitutes in the fire suppression end use.

This final rule finds C7 Fluoroketone acceptable subject to narrowed use limits as a substitute for halon 1211 for use as a streaming agent in portable fire extinguishers in nonresidential applications. Halons are chemicals that were once widely used in the fire protection sector but have been banned from production in the U.S. since 1994 because their emissions into the atmosphere are highly destructive to the stratospheric ozone layer. This action will provide users that need specialized fire protection applications with more alternatives to the use of halons. Businesses that may be regulated, either through manufacturing, distribution, installation and servicing, or use of the fire suppression equipment containing the substitutes are listed in the table below:

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

| Category            | NAICS Code | Description of regulated entities                                |
|---------------------|------------|--|
| Construction .....  | 238210     | Alarm system (e.g., fire, burglar), electric, installation only. |
| Manufacturing ..... | 325998     | Fire extinguisher chemical preparations manufacturing.           |

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

| Category            | NAICS Code | Description of regulated entities                           |
|---------------------|------------|---|
| Manufacturing ..... | 332919     | Nozzles, fire fighting, manufacturing.                      |
| Manufacturing ..... | 334290     | Fire detection and alarm systems manufacturing.             |
| Manufacturing ..... | 336611     | Shipbuilding and repairing.                                 |
| Manufacturing ..... | 339999     | Fire extinguishers, portable, manufacturing.                |
| Manufacturing ..... | 336411     | Aircraft manufacturing.                                     |
| Manufacturing ..... | 336413     | Other aircraft parts and auxiliary equipment manufacturing. |

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 **FOR FURTHER INFORMATION CONTACT** section.

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**I. Section 612 Program**

**A. Statutory Requirements**

Section 612 of the Clean Air Act (CAA) requires EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of Section 612 are:

- **Rulemaking**—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon

tetrachloride, methyl chloroform, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance 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.

- **Listing of Unacceptable/Acceptable Substitutes**—Section 612(c) also 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 “unacceptable,” “acceptable subject to use conditions,” and “acceptable subject to narrowed use limits” substitutes are found in the appendices to subpart G of 40 CFR part 82.

- **Petition Process**—Section 612(d) grant the right to any person to petition EPA to add a substitute to, or delete a substitute 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.

- **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.

- **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.

- **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. Regulatory History**

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 include: Refrigeration and air-conditioning; foam blowing; solvents cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consumed the largest volumes of ODS.

Section 612 of the CAA requires EPA to list as acceptable those substitutes that do not present a significantly greater risk to human health and the environment as compared with other substitutes that are currently or potentially available.

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. 40 CFR 82.176(a). This requirement applies to the persons planning to introduce the substitute into interstate commerce,<sup>1</sup> which typically are

<sup>1</sup> 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

chemical manufacturers but may include importers, formulators, or end-users when they are responsible for introducing a substitute into commerce.<sup>2</sup> The 90-day SNAP review process begins once EPA receives the submission and determines that the submission includes complete and adequate data (40 CFR 82.180(a)). As required by the CAA, the SNAP regulations, 40 CFR 82.174(a), prohibit the introduction of a substitute into interstate commerce earlier than 90 days after notice has been provided to the Agency.

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<sup>3</sup> (40 CFR 82.180(b)). Use conditions and narrowed use limits are both considered “use restrictions” and are explained 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. Substitutes that are acceptable subject to use restrictions may be used only in accordance with those restrictions.

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. 40 CFR 82.174(c).

For some substitutes, the Agency may permit a narrow 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.” 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. 40 CFR 82.174(c).

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

In contrast, EPA publishes decisions concerning substitutes that are deemed acceptable with no restrictions in “notices of acceptability,” rather than as proposed and final rules. As described in the preamble to the rule initially implementing the SNAP program in the **Federal Register** at 59 FR 13044 on March 18, 1994, 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.

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 U.S. 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 the substitute. In many instances, the information simply refers to sound operating practices that have already been identified in existing industry and/or building codes and standards. Thus, many of the comments, if adopted, would not require the affected user to make significant changes in existing operating practices.

For copies of the comprehensive SNAP lists of substitutes or additional information on SNAP, refer to EPA’s Ozone Layer Protection Web site at [www.epa.gov/ozone/snap/index.html](http://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 in the **Federal Register** at 59 FR 13044 on March 18, 1994, codified

at 40 CFR part 82, subpart G. A complete chronology of SNAP decisions and the appropriate citations are found at <http://www.epa.gov/ozone/snap/chron.html>.

## II. Listing Decision: Fire Suppression and Explosion Protection Streaming

Application: C7 Fluoroketone—Acceptable Subject to Narrowed Use Limits

EPA’s decision: EPA finds C7 Fluoroketone acceptable subject to narrowed use limits as a substitute for halon 1211 for use as a streaming agent. The narrowed use limits require that C7 Fluoroketone be used only in nonresidential applications.

C7 Fluoroketone is also known as C7 FK or FK-6-1-14. This substitute is a blend of two isomers, 3-pentanone,1,1,1,2,4,5,5,5-octafluoro-2,4-bis(trifluoromethyl) (Chemical Abstracts Service Registry Number [CAS Reg. No.] 813-44-5) and 3-hexanone,1,1,1,2,4,4,5,5,6,6,6-undecafluoro-2-(trifluoromethyl) (CAS Reg. No. 813-45-6). You may find the submission under docket EPA-HQ-OAR-2011-0111 at <http://www.regulations.gov>.

*Environmental information:* C7 Fluoroketone has zero ODP and a GWP of approximately 1. Therefore, C7 Fluoroketone is not expected to pose any significant adverse impact on the ozone layer or climate.

The physicochemical properties of the majority of halon substitutes make it unlikely that the substitutes would be released to surface water as a result of use. In the case of C7 Fluoroketone, the proposed substitute is insoluble in water and readily volatilizes. Thus, EPA expects that all of the constituents would rapidly vaporize during expulsion from the container, would not be likely to settle, and therefore would be unlikely to lead to surface water contamination or generation of solid waste.

C7 Fluoroketone has not been exempted as a volatile organic compound (VOC) under the CAA (40 CFR 51.100(s)). VOC emissions from the production of portable extinguishers charged with C7 Fluoroketone are controlled through standard industry practices, and as such, emissions from manufacture of units are likely to be minimal. An assessment was performed to compare the annual VOC emissions from use of C7 Fluoroketone in portable extinguishers in one year to other anthropogenic sources of VOC emissions. This assessment is available in docket EPA-HQ-OAR-2011-0111 under the name, “Risk Screen on

a warehouse from which the domestic manufacturer releases the product for sale or distribution, and at the site of United States Customs clearance.

<sup>2</sup> 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.

<sup>3</sup> The SNAP regulations also include “pending,” referring to submissions for which EPA has not reached a determination, under this provision.

Substitute for Halon 1211 as a Streaming Agent in Portable Fire Extinguishers Substitute: C7 Fluoroketone.” This assessment finds that even if the entire portion for streaming agent applications of the allowable quantity of C7 FK produced by the submitter in one year was all released to the atmosphere (extremely unlikely), the resulting VOC emissions would be approximately equal to  $3.0 \times 10^{-2}$  percent of annual VOC emissions caused by fires,<sup>4</sup> or only about  $1.1 \times 10^{-3}$  percent of all annual anthropogenic VOC emissions.<sup>5</sup> The environmental impacts of these VOCs are not considered a significant risk to local air quality.

*Toxicity and exposure data:*

Inhalation of C7 Fluoroketone could cause respiratory tract irritation and symptoms may include cough, sneezing, nasal discharge, headache, hoarseness, and nose and throat pain. Contact with the eyes and/or skin during product use is not expected to result in significant irritation. Ingestion of C7 Fluoroketone is not expected to cause health effects, and there is no anticipated need for first aid if C7 Fluoroketone is ingested. The potential health effects of C7 Fluoroketone can be minimized by following the exposure guidelines and recommendations for ventilation and personal protective equipment (PPE) outlined in the Material Safety Data Sheet (MSDS) and discussed further below.

EPA evaluated occupational and general population exposure at manufacture and at end use to ensure that the use of C7 Fluoroketone will not pose unacceptable risks to workers or the general public. This risk screen is available in docket EPA-HQ-OAR-2011-0111 under the name, “Risk Screen on Substitute for Halon 1211 as a Streaming Agent in Portable Fire Extinguishers Substitute: C7 Fluoroketone.”

EPA is providing the following additional information regarding use of C7 Fluoroketone as a streaming agent in nonresidential applications. Appropriate protective measures should be taken and proper training administered for the manufacture, clean-up and disposal of this product. For this new chemical, the manufacturer developed an acceptable exposure limit (AEL) for the workplace set at a level believed to protect from chronic adverse

health effects those workers who are regularly exposed, such as in the manufacturing or filling processes. EPA reviewed the submitter’s supporting data and accepts the manufacturer’s AEL for C7 Fluoroketone of 225 ppm over an 8-hour time-weighted average.<sup>6</sup> EPA recommends the following for establishments filling canisters to be used in streaming applications:

- adequate ventilation should be in place;
- all spills should be cleaned up immediately in accordance with good industrial hygiene practices; and
- training for safe handling procedures should be provided to all employees that would be likely to handle the containers of the agent or extinguishing units filled with the agent.

EPA anticipates that C7 Fluoroketone will be used consistent with the recommendations specified in the manufacturer’s MSDS.

EPA recommends that users of C7 Fluoroketone as a streaming agent act in accordance with the latest edition of NFPA Standard 10 for Portable Fire Extinguishers. We expect that users will be able to meet the recommended workplace exposure limit and address potential health risks by following the above recommendations, using the substitute in accordance with the manufacturer’s MSDS, and following other safety precautions common to the fire protection industry.

*Comparison to other fire suppressants:* C7 Fluoroketone is not ozone-depleting with a GWP of approximately 1 in contrast to halon 1211 (with an ODP of 7.1 and a GWP of 1890), the ODS which it replaces. Compared to other substitutes for halon 1211, such as HCFC Blend B (with ODP of roughly 0.01 and GWP of roughly 80), HFC-227ea (with ODP of 0 and GWP of 3220), and HFC-236fa (with an ODP of 0 and GWP of 9810), C7 Fluoroketone has a similar or less significant impact on the ozone layer and climate. Risk to the general population is expected to be negligible provided because under the narrowed use limits the substitute is not approved for use in residential applications. Occupational exposure should not pose a problem if use is in accordance with the manufacturer’s MSDS and other precautions normally used in the fire protection industry.

### III. Response to Public Comment

The EPA published in the **Federal Register** at 77 FR 58035 on September 19, 2012, a direct final rule and a companion proposed rule issuing listings for three fire suppressants under EPA’s SNAP program. Because EPA received an adverse comment concerning the fire suppressant C7 Fluoroketone, EPA withdrew that part of the direct final rule that listed C7 Fluoroketone at 77 FR 74381 on December 19, 2012. This section summarizes EPA’s response to the comment received on the proposed rule. The comment as well as a late comment from the manufacturer of C7 Fluoroketone and additional supporting documents used for EPA’s response can be found in docket EPA-HQ-OAR-2011-0111.

*Comments:* A commenter questioned the potential toxicity and environmental impacts of C7 Fluoroketone based on the ability of some other fluorinated ketones to react in water to form active perfluorinated compounds. The commenter indicates concern that the reactivity of perfluorinated ketones in water, particularly in tissues in which there is a lung:blood air interface (e.g., nose, sinus, trachea along an inhalation portal of entry), may pose significant risks to individuals breathing the compound due to interference with proper oxygenation of the blood and/or lung edema. The commenter also stated that the two principal components of C7 Fluoroketone were expected to produce derivatives of perfluorobutanoic acid in the environment, in particular hexafluoroacetone (HFA). The commenter provides two references documenting the extreme reactivity of HFA in water.

In response to the above comment, the compound’s manufacturer submitted a late comment disagreeing with these statements and indicating that hydrate formation is significantly different for branched fluoroketones such as C7 Fluoroketone compared to simple unbranched fluoroketones such as HFA. The manufacturer stated that C7 Fluoroketone has low mammalian toxicity, low potential for aquatic toxicity and low environmental impact.

*Response:* After evaluating the comment, reviewing the risk screen prepared under SNAP, and reviewing supplemental information provided by the manufacturer, EPA disagrees with the concerns raised by the first commenter. In the SNAP submission for C7 Fluoroketone in the streaming end-use and in more recent information submitted by the manufacturer, data indicate that C7 Fluoroketone has very

<sup>4</sup> Based on 2010 projections calculated using 2008 EPA annual VOC emissions data for residential wood burning and agricultural field burning (EPA 2008 and EPA 2011) and ICF assumptions.

<sup>5</sup> Based on 2010 projections calculated using 2008 EPA annual VOC emissions data (EPA 2009) and ICF assumptions.

<sup>6</sup> “Determination of an AEL for C7 Fluoroketone (C7 FK),” Appendix A to Risk Screen on Substitute for Halon 1211 as a Streaming Agent in Portable Fire Extinguishers Substitute: C7 Fluoroketone. Available in docket EPA-HQ-OAR-2011-0111.

low solubility or reactivity in water and that it is highly volatile. The lack of water solubility for C7 FK indicates that it will not form gem-diol hydrates and will thus not have appreciable effects in any organisms that might be exposed to it. In addition, the lack of solubility and high volatility will prevent any significant formation of perfluorobutanoic acid derivatives (e.g., HFA) in surface waters. While the two references provided by the commenter document the extreme reactivity of HFA in water (a fact that is supported by other sources of chemical information), these references provide no information to support the claim that C7 Fluoroketone should react similarly.

Further, two inhalation studies performed for C7 Fluoroketone (a 5-day repeat toxicity study in which study animals were exposed to high concentrations of the compound and a 28-day repeat dose study in which male and female rats were exposed to concentrations  $\leq 10,000$  ppm for 6 hours per day) showed no inhalation portal-of-entry effects.<sup>7</sup> No other observations were reported that might indicate any other adverse effects on blood oxygenation or similar impairments. The concern with potential toxicity of C7 Fluoroketone is not supported by information available about its chemistry and current toxicity testing data on the compound.

#### IV. Final Action

We are issuing a final listing for C7 Fluoroketone, finding it acceptable subject to narrowed use limits for use as a substitute for halon 1211 as a streaming agent in non-residential applications, as initially proposed. We have determined that the overall environmental and human health risk posed by C7 Fluoroketone is lower than or comparable to the risks posed by other available substitutes in the same end use.

#### V. 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 it is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

<sup>7</sup> Portal of entry effects are specifically investigated in acute and short-term inhalation exposure studies as the relevant tissues will receive the greatest exposure to the study compound.

#### B. Paperwork Reduction Act

This action does not impose any new information collection burden. This final rule is an Agency determination. 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). The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (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 impact of today's rule on small entities, small entities are defined as (1) a small business that produces or uses fire suppressants such as total flooding and/or streaming agents as defined by the Small Business Administration's regulations at 13 CFR 121.201; (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. This final rule will not impose any requirements on small entities beyond current industry practices. Today's action effectively supports the introduction of a new alternative to the market for fire protection extinguishing systems, thus providing additional options for users making the transition away from ozone-depleting halons.

Use of halon 1301 total flooding systems and halon 1211 streaming agents have historically been in specialty fire protection applications including essential electronics, civil aviation, military mobile weapon

systems, oil and gas and other process industries, and merchant shipping with smaller segments of use including libraries, museums, and laboratories. The majority of halon system and equipment owners continue to maintain and refurbish existing systems since halon supplies continue to be available in the U.S. Owners of new facilities make up the market for the new alternative agent systems and may also consider employing other available fire protection options including new, improved technology for early warning and smoke detection. Thus, EPA is providing more options to any entity, including small entities, by finding substitutes acceptable for use. The narrowed use limit imposed on the substitute in today's rule is consistent with the application suggested by the submitter and with current industry practices. Therefore, we conclude that the rule does not impose any new cost on businesses.

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. By finding a new substitute acceptable, today's rule gives additional flexibility to small entities that are concerned with fire suppression. EPA also has worked closely together with the NFPA, which conducts regular outreach with small entities and involves small state, local, and tribal governments in developing and implementing relevant fire protection standards and codes.

#### D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for State, local, or tribal governments or the private sector. This action imposes no enforceable duty on any State, local, or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action 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. This final rule will provide an additional option for fire protection subject to safety guidelines in industry standards. These standards are typically already required by state or local fire codes, so this action will not affect small governments.

#### E. Executive Order 13132: Federalism

This action 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 the substance and not to governmental entities. Thus, Executive Order 13132 does not apply to this action.

*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 this substance and not to tribal or 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 E.O. 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in E.O. 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's health and risk assessments are discussed in section II.

*H. Executive Order 13211: Actions 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, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus

standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. 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 defers to existing NFPA voluntary consensus standards and Occupational Safety and Health Administration (OSHA) regulations that relate to the safe use of halon substitutes reviewed under SNAP. EPA has worked in consultation with OSHA to encourage development of technical standards to be adopted by voluntary consensus standards bodies. EPA refers users to the latest edition of NFPA 10 Standard for Portable Fire Extinguishers. A copy of this standard may be obtained by calling the NFPA's telephone number for ordering publications at 1-800-344-3555.

*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 increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This final rule provides a fire suppression substitute with no ODP and low GWP. The

avoided ODS and greenhouse gas emissions would assist in restoring the stratospheric ozone layer, avoiding adverse climate impacts, and result in human health and environmental benefits.

*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 29, 2013.

**List of Subjects in 40 CFR Part 82**

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

Dated: April 18, 2013.

**Bob Perciasepe,**  
*Acting 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. Subpart G of part 82 is amended by adding appendix T to read as follows:

**Appendix T to Subpart G of Part 82—Substitutes listed in the April 29, 2013 Final Rule, effective May 29, 2013.**

## FIRE SUPPRESSION AND EXPLOSION PROTECTION SECTOR—ACCEPTABLE SUBJECT TO NARROWED USE LIMITS

| End-use         | Substitute                                       | Decision                                   | Conditions                                    | Further Information  |
|-----------------|--|--|---|--|
| Streaming ..... | C7 Fluoro-ketone as a substitute for Halon 1211. | Acceptable subject to narrowed use limits. | For use only in non-residential applications. | Use of this agent should be in accordance with the latest edition of NFPA Standard 10 for Portable Fire Extinguishers. For operations that fill canisters to be used in streaming applications, EPA recommends the following:<br>—Adequate ventilation should be in place;<br>—All spills should be cleaned up immediately in accordance with good industrial hygiene practices; and<br>—Training for safe handling procedures should be provided to all employees that would be likely to handle containers of the agent or extinguishing units filled with the agent.<br>See additional comments 1, 2, 3, 4. |

## Additional comments:

1—Should conform to relevant OSHA requirements, including 29 CFR 1910, Subpart L, Sections 1910.160 and 1910.162.

2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.

3—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

4—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to halon substitutes.

[FR Doc. 2013–10046 Filed 4–26–13; 8:45 am]

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

[Docket No. 121009528–2729–02]

RIN 0648–XC634

## Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; quota transfers.

**SUMMARY:** NMFS announces that the State of North Carolina is transferring a portion of its 2013 commercial summer flounder quota to the Commonwealth of Virginia and to the State of Rhode Island; and that the Commonwealth of Virginia is transferring a portion of its 2013 commercial summer flounder quota to the Commonwealth of Massachusetts and to the State of New Jersey. NMFS is adjusting the quotas and announcing the revised commercial quota for each state involved.

**DATES:** Effective April 24, 2013, through December 31, 2013.

**FOR FURTHER INFORMATION CONTACT:** Carly Bari, Fishery Management Specialist, 978–281–9224.

## SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are in 50 CFR part 648, and require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i) to evaluate requests for quota transfers or combinations.

North Carolina has agreed to transfer 556,921 lb (252,615 kg) of its 2013 commercial quota to Virginia. This transfer was prompted by summer flounder landings of a number of North Carolina vessels that were granted safe harbor in Virginia due to hazardous shoaling, from March 20, 2013, to April 5, 2013, thereby requiring a quota transfer to account for an increase in Virginia's landings that would have otherwise accrued against the North Carolina quota. North Carolina has also

agreed to transfer 8,940 lb (4,055 kg) of its 2013 commercial quota to Rhode Island. This transfer was prompted by summer flounder landings of a North Carolina vessel that was granted safe harbor in Rhode Island on March 17, 2013, thereby requiring a quota transfer to account for an increase in Rhode Island's landings that would have otherwise accrued against the North Carolina quota.

Virginia has agreed to transfer 10,990 lb (4,985 kg) of its 2013 commercial quota to Massachusetts. This transfer was prompted by summer flounder landings of a Virginia vessel that was granted safe harbor in Massachusetts on March 20, 2013, thereby requiring a quota transfer to account for an increase in Massachusetts' landings that would have otherwise accrued against Virginia quota. Virginia has also agreed to transfer 11,729 lb (5,320 kg) of its 2013 commercial quota to New Jersey. This transfer was prompted by summer flounder landings of a Virginia vessel that was granted safe harbor in New Jersey on March 7, 2013, thereby requiring a quota transfer to account for an increase in New Jersey's landings that would have otherwise accrued against the Virginia quota. The Regional Administrator has determined that the criteria set forth in § 648.102(c)(2)(i) have been met. The revised summer flounder quotas for calendar year 2013 are: North Carolina, 422,360 lb (191,579 kg); Virginia, 5,040,501 lb (2,286,333 kg); New Jersey, 1,972,066 lb (894,514 kg); Rhode Island, 1,839,824 lb (834,530