

Moreover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v US EPA*, 427 US 246, 256-66 (S.Ct. 1976); 42 U.S.C. § 7410(a)(2).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a federal mandate that may result in estimated annual costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this state implementation plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under Section 182(f) of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being proposed for approval by this action would impose any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action would impose no new requirements; such sources are already subject to these regulations under state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this proposed action does not include a mandate that may result in estimated annual costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone,

Reporting and recordkeeping requirements.

Authority: 42 U.S.C 7401-7671q.

Dated: September 15, 1995.

William J. Muszynski,

*Deputy Regional Administrator.*

[FR Doc. 95-24451 Filed 9-29-95; 8:45 am]

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#### 40 CFR Parts 52 and 81

[LA-15-1-6073b; FRL-5307-5]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Approval of the Maintenance Plan for the New Orleans Consolidated Metropolitan Statistical Area (CMSA); Redesignation of the New Orleans CMSA to Attainment

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

**ACTION:** Proposed rulemaking.

**SUMMARY:** On October 15, 1994, the State of Louisiana submitted a revised maintenance plan and request to redesignate the New Orleans CMSA ozone nonattainment area to attainment. The New Orleans CMSA is comprised of six parishes: Jefferson, Orleans, St. Charles, St. Bernard, St. John the Baptist, and St. Tammany. Maintenance and contingency plans are not included in the action for the parishes of St. John the Baptist and St. Tammany. St. John the Baptist Parish was previously redesignated to attainment, and St. Tammany Parish has never been designated as nonattainment.

This maintenance plan and redesignation request was initially submitted to the EPA on April 23, 1993. Although the EPA deemed this initial submittal complete on September 10, 1993, certain approvability issues existed. The State of Louisiana addressed these approvability issues and has revised its submissions. Under the Clean Air Act (CAA), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. In this action, EPA is approving Louisiana's redesignation request because it meets the maintenance plan and redesignation requirements set forth in the CAA, and EPA is approving the 1990 base year emissions inventory. The approved maintenance plan will become a federally enforceable part of the State Implementation Plan (SIP) for Louisiana.

In the Final Rules Section of this Federal Register, the EPA is approving this redesignation request as a direct final rulemaking without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments on this proposed rule must be postmarked by November 1, 1995. If no adverse comments are received, then the direct final rule will be effective on December 1, 1995.

**ADDRESSES:** Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD-L), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

Anyone wishing to review this petition at the Region 6 EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mick Cote, Air Planning Section (6PD-L), EPA Region 6, telephone (214) 665-7219.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final rule which is located in the Rules Section of this Federal Register.

List of Subjects in 40 CFR Parts 52 and 81

Environmental protection, Air pollution control, Area designations, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, National Parks, Reporting

and recordkeeping, Ozone, Volatile organic compounds, Wilderness areas.

Dated: September 22, 1995.

Allyn M. Davis,

Acting Regional Administrator (6RA).

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## 40 CFR Part 82

[FRL-5306-4]

### Protection of Stratospheric Ozone

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed rulemaking.

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

On March 18, 1994, EPA promulgated a final rulemaking setting forth its plan for administering the SNAP program (59 FR 13044), and issued decisions on the acceptability and unacceptability of a number of substitutes. In this Notice of Proposed Rulemaking (NPRM), EPA is issuing its preliminary decisions on the acceptability of certain substitutes not previously reviewed by the Agency. To arrive at determinations on the acceptability of substitutes, the Agency completed a cross-media evaluation of risks to human health and the environment by sector end-use.

**DATES:** Written comments or data provided in response to this document must be submitted by November 1, 1995.

**ADDRESSES:** Written comments and data should be sent to Docket A-91-42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4:00 p.m. on weekdays. Telephone (202) 260-7549; fax (202) 260-4400. As provided in 40 CFC part 2, a reasonable

fee may be charged for photocopying. To expedite review, a second copy of the comments should be sent to Sally Rand, Stratospheric Protection Division, Office of Atmospheric Programs, U.S. EPA, 401 M Street, S.W., 6205-J, Washington, D.C. 20460. Information designated as Confidential Business Information (CBI) under 40 CFR, part 2 subpart B must be sent directly to the contact person for this notice. However, the Agency is requesting that all respondents submit a non-confidential version of their comments to the docket as well.

**FOR FURTHER INFORMATION CONTACT:** Sally Rand at (202) 233-9739 or fax (202) 233-9577, Substitutes Analysis and Review Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, Washington, D.C. 20460

#### SUPPLEMENTARY INFORMATION:

##### I. Overview of This Action

This action is divided into five sections, including this overview:

- I. Overview of This Action
- II. Section 612 Program
  - A. Statutory Requirements
  - B. Regulatory History
- III. Proposed Listing of Substitutes
- IV. Administrative Requirements
- V. Additional Information
- Appendix A: Summary of Proposed Listing Decisions

##### II. Section 612 Program

###### A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA is referring 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, methyl bromide, 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. EPA must publish a corresponding

list of acceptable alternatives for specific uses.

**Petition Process**—Section 612(d) grants 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) requires 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 Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consume large volumes of ozone-depleting compounds.

The Agency defines a "substitute" as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to chemical manufacturers, but may include importers, formulators or