

Harbor at approximate position 42°21'26" N, 071°2'38" W.

(b) *Effective Date.* This rule is effective from 9:00 p.m. through 11:00 p.m. on June 23, 2008.

(c) *Definitions.* (1) Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the Captain of the Port (COTP).

(d) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the Captain of the Port (COTP) Boston or the COTP's designated representative.

(2) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission by calling the Sector Boston Command Center at 617-223-5761. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: June 2, 2008.

Gail P. Kulisch,

Captain, U.S. Coast Guard, Captain of the Port Boston.

[FR Doc. E8-13137 Filed 6-11-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA-HQ-OAR-2004-0488; FRL-8578-1]

RIN 2060-AM54

Protection of the Stratospheric Ozone: Alternatives for the Motor Vehicle Air Conditioning Sector Under the Significant New Alternatives Policy (SNAP) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Clean Air Act provides for the review of alternatives to ozone-depleting substances and the approval of substitutes that do not present a risk more significant than other alternatives that are available. Under that authority, the Significant New Alternatives Policy (SNAP) program, the Environmental Protection Agency (EPA) is expanding the list of acceptable substitutes for ozone-depleting substances (ODS). The

substitute addressed in this final rule (i.e., R-152a) is for the motor vehicle air conditioning (MVAC) end-use within the refrigeration and air-conditioning sector. This substitute does not pose significantly more risk than other substitutes that are available in this end use. Additionally, this substitute is a non ozone-depleting gas and consequently does not contribute to stratospheric ozone depletion.

DATES: This final rule is effective on August 11, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2004-0488. All documents in the docket are listed on the <http://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 <http://www.regulations.gov> or in hard copy from the EPA Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This 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:

Karen Thundiyil, Stratospheric Protection Division, Office of Air and Radiation, MC 6205J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343-9464; fax number: (202) 343-2363; e-mail address: thundiyil.karen@epa.gov.

SUPPLEMENTARY INFORMATION: This final action provides motor vehicle manufacturers and their suppliers an additional refrigerant option for motor vehicle air conditioning systems. The refrigerant substitute discussed in this action (i.e., R-152a) is non ozone-depleting. Members of the MVAC manufacturing and MVAC service industries have all been actively engaged in the development of this rulemaking and are developing prototype systems with the use conditions defined in this rulemaking.

This final action helps harmonize U.S. MVAC alternatives with European Union (EU) MVAC alternatives. The EU has banned the use of R-134a, the predominant MVAC refrigerant in the

U.S. and the EU, in new cars beginning in 2011. By 2020, cars sold in the EU may have to include the new alternative in this action. In response, U.S. original equipment manufacturers are developing MVAC systems using R-152a and other alternative refrigerants for the European market and for possible U.S. sale as well.

EPA is deferring final rulemaking on R-744 (carbon dioxide). EPA is currently continuing to consider further several issues with respect to this regulatory action.

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I. Significant New Alternatives Policy (SNAP) Program Authority

Section 612 of the Clean Air Act (the Act) authorizes 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:

A. Rulemaking

Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (e.g., chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform,

methyl bromide, and hydrobromofluorocarbon) or class II (e.g., 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.

B. 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.

C. 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.

D. 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.

E. 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.

F. 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.

On March 18, 1994, EPA published the original rulemaking (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; solvents cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting substances.

For the purposes of SNAP, the Agency defines a "substitute" as "any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II compound" 40 CFR 82.172. 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 substitute manufacturers, but may include importers, formulators, or end-users, when they are responsible for introducing a substitute into commerce.

A complete chronology of SNAP decisions and the appropriate **Federal Register** citations are available at EPA's Stratospheric Ozone World Wide Web site at <http://www.epa.gov/ozone/snap/chron.html>. This information is also available from the Air Docket (see **ADDRESSES** section above for contact information).

II. SNAP Listing Decisions

The Agency has identified four possible decision categories for substitutes: Acceptable; acceptable subject to use conditions; acceptable subject to narrowed use limits; and unacceptable. 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 sector end-use. Substitutes that are acceptable subject to use restrictions may be used only in accordance with those restrictions. It is illegal to replace an ozone depleting substance (ODS) with a substitute listed as unacceptable.

After reviewing a substitute, the Agency may make a determination that a substitute is acceptable only if certain conditions of use are met to minimize risks to human health and the environment. We describe such substitutes as "acceptable subject to use conditions." If you use these substitutes without meeting the associated use conditions, you use these substitutes in an unacceptable manner and you could

be subject to enforcement for violation of section 612 of the Clean Air Act.

For some substitutes, the Agency may permit a narrowed range of use within a sector. For example, we may limit the use of a substitute to certain end-uses or specific applications within an industry sector or may require a user to demonstrate that no other acceptable end uses are available for their specific application. We describe these substitutes as "acceptable subject to narrowed use limits." If you use a substitute that is acceptable subject to narrowed use limits, but use it in applications and end-uses which are not consistent with the narrowed use limit, you are using these substitutes in an unacceptable manner and you could be subject to enforcement for violation of section 612 of the Clean Air Act.

The Agency publishes its SNAP program decisions in the **Federal Register**. For those substitutes that are deemed acceptable subject to use restrictions (use conditions and/or narrowed use limits), or for substitutes deemed unacceptable, we first publish these decisions as proposals to allow the public opportunity to comment, and we publish final decisions as final rulemakings.

In contrast, we publish substitutes that are deemed acceptable with no restrictions in "notices of acceptability," rather than as proposed and final rules. As described in the rule implementing the SNAP program (59 FR 13044), we do 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." These statements provide additional information on substitutes that we determine are unacceptable, acceptable subject to narrowed use limits, or acceptable subject to use conditions. 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 listed in this column are binding under other programs. The further information does not necessarily include all other legal obligations pertaining to the use of the substitute. However, we encourage users of substitutes to apply all statements in the "Comments" 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 standards. Thus, many of the comments, if adopted, would not require the

affected industry to make significant changes in existing operating practices.

III. Summary of Acceptability Determinations

EPA has determined that R-152a (hydrofluorocarbon (HFC)-152a) is an acceptable refrigerant substitute (will now be referred to as "refrigerant") with use conditions for MVAC systems, as a replacement for CFC-12 in new MVAC systems. This determination applies to MVAC systems in newly manufactured vehicles only. EPA proposed to find R-152a as an acceptable substitute for CFC-12 in new MVAC systems on September 21, 2006 at 71 FR 55140 in a Notice of Proposed Rulemaking (referred to hereinafter as "the proposal" or NPRM).

IV. Summary of the Proposal

In the September 2006 NPRM, the Agency proposed that new R-152a motor vehicle air conditioning systems be listed as acceptable with the use condition that systems must be designed to avoid occupant exposure to concentrations above 3.7% for more than 15 seconds in the passenger cabin free space, even in the event of a leak. The proposal noted that the addition of a squib valve/directed release system is one effective strategy for mitigating risk of R-152a systems and that other mitigation strategies may also prove effective.

In the NPRM, EPA proposed requiring prominent labeling of R-152a MVAC systems with a warning such as "CAUTION SYSTEM CONTAINS FLAMMABLE R-152a REFRIGERANT—TO BE SERVICED ONLY BY QUALIFIED PERSONNEL." Consistent with SAE J639 Standard, this label should be mounted in the engine compartment on a component that is not normally replaced and where it can be easily seen. This label should include refrigerant identification information and indicate the refrigerant is flammable. Additionally, the NPRM noted that the original equipment manufacturer (OEM) should conduct and maintain records of failure mode and effects analysis (FMEA) tests they perform to ensure that MVAC systems are safe and are designed with sufficient risk mitigation devices to ensure that occupants are not exposed to levels of R-152a above 3.7% for more than 15 seconds.

V. R-152a Exposure

The American Industrial Hygienists Association (AIHA) Workplace Environmental Exposure Limit (WEEL) (8 hour time weighted average) for R-152a is 1,000 ppm (0.1% v/v), the

highest occupational exposure limit allowed under standard industrial hygiene practices for any industrial chemical. The toxicity profile of R-152a is comparable to R-12 and its most prevalent substitute, R-134a. The lowest observed adverse effect level for R-152a toxicity (15%) is above the level of flammability concern, discussed below, so protecting against flammable concentrations protects against potentially toxic conditions as well.

A wide range of concentrations has been reported for R-152a flammability where the gas poses a risk of ignition and fire (3.7%–20% by volume in air). Different test conditions, impurities and the measurement approach can all contribute to the range of flammable concentrations of R-152a. The lower flammability limit (LFL) for R-152a has been tested by many laboratories using different testing protocols with results ranging from 3.7% to 4.2%. EPA selected the lowest reported LFL to assess the potential for passenger exposure and predict localized pockets of refrigerant concentrations within the passenger compartment. This selection increases confidence that the substitute is regulated in a manner that is protective of the general population.

VI. Final Rule Discussion

This section summarizes the final rule and describes any differences between the NPRM and the final rule.

As proposed in the NPRM, in this final rule, EPA finds R-152a acceptable in new motor vehicle air conditioning systems with the use condition that systems must be designed to avoid occupant exposure to concentrations of R-152a above 3.7% in the passenger cabin free space for more than 15 seconds, even in the event of a leak.

EPA requires prominent labeling of R-152a MVAC systems with a warning such as "CAUTION SYSTEM CONTAINS FLAMMABLE R-152a REFRIGERANT—TO BE SERVICED ONLY BY QUALIFIED PERSONNEL." Consistent with SAE J639 Standard, this label must be mounted in the engine compartment on a component that is not normally replaced and where it can be easily seen. This label will include refrigerant identification information and indicate the refrigerant is flammable. In the final rule, EPA has added a reference to the new SAE J2773 Refrigerant Guidelines for Safety and Risk Analysis for Use in Mobile Air Conditioning Systems standard.

As proposed, we recommend that additional training for MVAC service technicians be provided and that OEMs conduct and keep on file FMEA on R-152a systems to ensure that MVAC

systems are safe and are designed with sufficient risk mitigation devices to ensure that occupants are not exposed to R-152a concentrations above 3.7% for more than 15 seconds in the passenger cabin free space.

During the public comment period, the U.S. Army Research, Development and Engineering Command (RDECOM) submitted a revised risk analysis of R-152a MVAC systems (Docket Document ID: EPA-HQ-OAR-2004-0488-0025, now referred to as the Army/EPA assessment. For details, see Response to Comments section below). Based on their revised assessment, we have modified the effective squib valve activation time from the proposed level of 10 seconds to 3 seconds. This revision alters the EPA list of potential risk mitigation strategies, but does not impact this final rule's regulatory text.

VII. Response to Comments

EPA requested and received comments on the use conditions and the risk mitigation strategies described in the proposal, as well as on other related issues. This section summarizes public comment to the proposal and describes how comments have been addressed in this final rule. The public comments have been grouped by topic.

A. Servicing

One commenter indicated Clean Air Act Section 609-certified, independent MVAC service technicians should be consulted before the rule is issued. In response, EPA contacted the National Institute for Automotive Service Excellence (ASE), who represents independent MVAC service technicians. ASE indicated they did not see any servicing issues in the proposal that would impact MVAC service technicians, but awaits EPA's follow-on rulemaking under section 609 of the Clean Air Act that will address refrigerant recovery and recycling requirements for R-152a MVAC systems.

One commenter said risks associated with MVAC service should be considered. EPA has considered risks associated with MVAC service and finds that MVAC service technicians already deal with issues of high pressure, flammability and toxic materials. We do not believe the addition of R-152a with use conditions to the list of acceptable substitutes for new MVAC systems will result in any greater risks to service technicians and that technician training will alleviate risks to service personnel. Another commenter indicated additional training for MVAC service technicians should not be required since service technicians already deal with

the issues associated with R-152a. Section 609 technician certification is outside the scope of today's section 612 rulemaking; however, EPA agrees that additional training for MVAC service technicians is not necessary since technicians already deal with flammability issues. EPA has not added additional training requirements, but recommends additional training on servicing for R-152a MVACs as needed in accordance with industry recommendations.

One commenter requested more information on why EPA is not finding R-152a acceptable as a substitute in retrofitted systems. The SNAP submission did not seek acceptability for retrofit purposes. EPA's proposed action only addressed the uses specified in the SNAP submission, which did not request EPA to find R-152a acceptable in retrofitted MVAC systems.

This rulemaking applies to OEMs and not MVAC service shops. A separate rulemaking under section 609 of the Clean Air Act will be issued to specify new equipment and practices (if any) required in the servicing of MVAC systems using the new alternative.

B. Army/EPA Assessment

The Army and EPA collaborated to conduct the assessment relied upon in the NPRM to assess the risks associated with R-152a in MVAC systems. EPA received comment on the NPRM, and specifically, the assessment, from the Army RDECOM. The Army noted that the amount of R-152a originally modeled to enter the passenger compartment as a result of a sudden system discharge was significantly less than the amount that will be used in MVAC systems because of an incorrect design assumption. The Army corrected this inadvertent error and submitted a revised analysis (Docket Document ID: EPA-HQ-OAR-2004-0488-0025). An unmitigated discharge of R-152a, in full recirculation mode, results in a R-152a concentration above the lower flammability limit for more than 60 minutes. The Army comment also indicated a 3 second, not a 10 second squib valve as originally thought, would be needed to ensure that R-152a can be used safely in new MVAC systems. Informed with this new data, EPA still finds that R-152a has risks comparable to R-134a if this rule's use conditions are observed, but consistent with the Army's analysis, if a squib valve is used, a 3 second, not 10 second squib valve will meet the rule's conditions. The revised Army/EPA assessment is the analysis document the EPA refers to throughout today's action.

In reviewing the methodology used by the Army/EPA assessment, one commenter pointed out that cars are not hermetically sealed. The EPA agrees; the Army/EPA assessment does not assume a hermetically sealed passenger compartment.

EPA requested comment on the potential effects of these alternatives on children but received no comment; however, as a matter of EPA policy, we have evaluated the environmental health or safety effects of the refrigerants on children. The results of this evaluation are contained in the Army/EPA assessment. EPA believes that children do not suffer a disproportionate effect from R-152a in new MVAC systems. The exposure limits and acceptability listings in this rule apply to car occupants, and in particular car service technicians. We expect adults are more likely to be present than children in MVAC service shops and children and adults would be equally impacted by flammability concerns in the passenger compartment, thus, the refrigerant does not put children at risk disproportionately.

C. Risk Mitigation Strategies

The use conditions in this final rule specify concentration limits for R-152a in vehicle passenger compartments. EPA leaves the choice of technical solutions that will meet these concentration limits to the OEMs. EPA agrees with one commenter who noted that effective risk mitigation strategies can be active or passive.

One commenter indicated a secondary loop should be required for R-152a system to minimize flammability risk. The EPA does not intend to limit technological innovation by requiring a specific risk mitigation strategy, but it does recognize that a secondary loop R-152a system can meet the regulatory conditions. Two commenters indicated a 10 second squib valve is not sufficient to ensure that R-152a concentrations will not exceed 3.7% for 15 seconds. Again, the final rule does not prescribe a specific technological requirement; however, it should be noted EPA has modified the final rule consistent with the U.S. Army/EPA assessment revision that a 3 second squib valve would be required to ensure that an accidental discharge of R-152a system would prevent passenger compartment concentration of 3.7% for 15 seconds.

One commenter asked EPA to consider modifying the R-152a use condition from a concentration performance standard to one that specifies that the evaporator reaches residual evaporator pressure within 15 seconds of leak detection. EPA has

considered this option. The commenter's suggested standard would not eliminate the potential for a flammable concentration of R-152a in the passenger compartment for an extended amount of time, i.e., more than 15 seconds. EPA finds its original proposal to be a technically feasible use condition that is more protective of possible flammable situations than the commenter's suggestion.

D. Industry Standards

Commenters indicated that SAE is developing standards for safety and servicing of alternative refrigerant MVAC systems. EPA notes that both the text of the SNAP regulatory conditions issued here, and additional information in the "Comments" column of the regulation reference the relevant SAE technical standards to promote consistency with established industry practices. Specifically, the rule use conditions reference the SAE J639 standard, Safety Standards for Motor Vehicle Refrigerant Vapor Compressions Systems Industry and SAE J2773, Refrigerant Guidelines for Safety and Risk Analysis for Use in Mobile Air Conditioning Systems. The "Comments" column references SAE J1739, Potential Failure Mode and Effects Analysis in Design (Design FMEA) and Potential Failure Mode and Effects Analysis in Manufacturing and Assembly Processes (Process FMEA) and Effects Analysis for Machinery (Machinery FMEA). SAE is also developing a standard for the measurement of R-152a in the passenger compartment that can be used to verify if a MVAC system design meets the requirements of this rulemaking.

E. Use Conditions

Two commenters indicated the need for clarity on whether the use conditions apply when the ignition is off as well as when the ignition is on. In response, the Agency clarified in the regulatory text that the use conditions apply only when the ignition is on.

One commenter stated that a vehicle crash could be so severe that the MVAC system evaporator could be damaged and possibly, reduce a risk mitigation system's effectiveness. The commenter proposed the inclusion of an evaporator crush resistance standard in this action. The final regulation requires that engineering strategies and/or devices shall be incorporated into the system such that "foreseeable leaks" into the passenger compartment do not result in elevated concentrations. While EPA understands that it is possible that a severe accident could damage an evaporator, we believe that in such case,

the damage to the car would be so severe as to result in inflow of ambient air, thus negating any risk associated with potentially elevated R-152a concentration.

Other use conditions already established in Appendix D to subpart G of 40 CFR Part 82, Subpart G, Appendix D are applicable to all substitute refrigerants in MVAC systems (*e.g.* unique fittings and labels).

VIII. Final Rule Summary

EPA finds R-152a acceptable with use conditions for new motor vehicle air conditioning (MVAC) systems. New R-152a systems must be designed to avoid occupant exposure to concentrations of R-152a above 3.7% in the passenger cabin free space for more than 15 seconds, even in the event of a leak.

EPA requires prominent labeling of R-152a MVAC systems with a warning such as "CAUTION SYSTEM CONTAINS FLAMMABLE R-152a REFRIGERANT—TO BE SERVICED ONLY BY QUALIFIED PERSONNEL." Consistent with SAE J639 Standard, this label will be mounted in the engine compartment on a component that is not normally replaced and where it can be easily seen. This label will include refrigerant identification information and indicate that the refrigerant is flammable.

Additionally, the final rule recommends additional training for MVAC service technicians and that OEMs conduct and keep on file R-152a systems FMEA to ensure that MVAC systems are safe and are designed with sufficient risk mitigation devices to ensure that occupants are not exposed to R-152a concentrations above 3.7% for more than 15 seconds in the passenger cabin free space.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735; October 4, 1993) this action is a "significant regulatory action." Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Today's action is an Agency determination. It contains no new requirements for reporting. The only new recordkeeping

requirement involves customary business practice. Today's rule requires minimal record-keeping of studies done to ensure that MVAC systems using R-152a meet the requirements set forth in this rule. Because it is customary business practice that OEMs conduct and keep on file Failure Mode and Effect Analysis (FMEA) on any potentially hazardous part or system, we believe this requirement will not impose an additional paperwork burden. 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. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

C. Regulatory Flexibility Act (RFA)

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 statute 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), it is <1000 employees; for NAICS code 336391 (Motor Vehicle Air-Conditioning Manufacturing), it is <750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA certifies that this action will not have a significant adverse economic impact on a substantial number of small entities. This final rule will not impose any new requirements on small entities and is expected to relieve burden for some small entities.

OEMs are not mandated to move to R-152a MVAC systems. EPA is simply listing R-152a as an acceptable alternative with use conditions in new

MVAC systems. This rule allows the use of this alternative to ozone depleting substances in the MVAC sector and outlines the conditions necessary for safe use. By approving this refrigerant under SNAP, EPA provides additional choice to the automotive industry which, if adopted, would reduce the impact of MVACs on the global environment. This rulemaking does not mandate the use of R-152a as a refrigerant in new MVACs.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that 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. Today's rule does not affect State, local,

or tribal governments. The enforceable requirements of today's rule related to integrating risk mitigation devices and documenting the safety of alternative MVAC systems affect only a small number of OEMs. This action provides additional technical options allowing greater flexibility for industry in designing consumer products. The impact of this rule on the private sector will be less than \$100 million per year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This regulation applies directly to facilities that use these substances and not to governmental entities. This rule does not mandate a switch to R-152a and the limited direct economic impact on entities from this rulemaking is less than \$100 million annually.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

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 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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in

Executive Order 13175. 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 rule.

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

Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The exposure limits and acceptability listings in this rule apply to car occupants, and in particular car drivers and service technicians. We expect adults are more likely to be present than children in MVAC service shops and children and adults would be equally impacted by flammability concerns in the passenger compartment, thus, the refrigerant does not put children at risk disproportionately. As a matter of EPA policy, however, we have evaluated the environmental health or safety effects of the refrigerants on children. The results of this evaluation are contained in "Risk Analysis for Alternative Refrigerant in Motor Vehicle Air Conditioning."

During the public comment period, the public was invited to submit or identify peer-reviewed studies and data, of which the agency may not be aware, that assess the potential effects of these alternatives on children and the Agency received no comments addressing this issue.

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

This rule is not a "significant energy action" as defined in Executive Order

13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action would impact manufacturing and repair alternative MVAC systems. Preliminary information indicates that these new systems are more energy efficient than currently available systems in some climates. Therefore, we conclude that this rule is not likely to have any adverse effects on energy supply, distribution or use.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, 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 the SAE most recent versions of J639, J1739 and J2773. These standards can be obtained from <http://www.sae.org/technical/standards/>. These standards address safety and reliability issues concerning alternative refrigerant MVAC systems.

J. 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 August 11, 2008.

List of Subjects in 40 CFR Part 82

Environmental protection, Motor vehicle air-conditioning, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: June 5, 2008.

Stephen L. Johnson,
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 is amended as follows:

■ a. In the first table by adding one new entry to the end of the table.

■ b. In the table titled “Refrigerants—Unacceptable Substitutes” by revising the entry for “CFC–12 Motor Vehicle Air Conditioners (Retrofit and New Equipment/NIKs)”.

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 only).	R–152a as a substitute for CFC–12.	Acceptable subject to use conditions.	Engineering strategies and/or devices shall be incorporated into the system such that foreseeable leaks into the passenger compartment do not result in R–152a concentrations of 3.7% v/v or above in any part of the free space ¹ inside the passenger compartment for more than 15 seconds when the car ignition is on. Manufacturers must adhere to all the safety requirements listed in the Society of Automotive Engineers (SAE) Standard J639, including unique fittings and a flammable refrigerant warning label as well as SAE Standard J2773.	Additional training for service technicians recommended. Manufacturers should conduct and keep on file failure mode and Effect Analysis (FMEA) on the MVAC as stated in SAE J1739.

¹ Free space is defined as the space inside the passenger compartment excluding the space enclosed by the ducting in the HVAC module.

REFRIGERANTS—UNACCEPTABLE SUBSTITUTES

End-use	Substitute	Decision	Comments
*	*	*	*
CFC–12 Motor Vehicle Air Conditioners (Retrofit and New Equipment/NIKs).	R–405A	Unacceptable	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other Substitutes exist which do not contain PFCs.
	Hydrocarbon Blend B	Unacceptable	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
	Flammable Substitutes, other than R–152a.	Unacceptable	The risks associated with using flammable substitutes (except R–152a) in this end-use have not been addressed by a risk assessment. R–152a may be used with the use conditions in Appendix B to this subpart.

* * * * *

[FR Doc. E8-13086 Filed 6-11-08; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 64**

[Docket No. FEMA-8027]

Suspension of Community Eligibility**AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: Effective Dates: The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood

Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are

met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows: