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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA-HQ-OAR-2015-0309; FRL-9941-81-OAR]

RIN 2060-AS68

Protection of Stratospheric Ozone: Revisions to Reporting and Recordkeeping for Imports and Exports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make minor conforming edits to the stratospheric protection regulations to implement the International Trade Data System. In the “Rules and Regulations” section of this **Federal Register**, we are making these edits as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule. This system allows businesses to transmit the transactional data required by multiple Federal agencies for the import and export of cargo through a single “window.” As businesses currently must submit trade data to multiple agencies, in multiple ways, and often on paper, the transition to electronic filing is expected to save businesses time and money. Specifically, this rulemaking would remove the requirement that the petition for used ozone-depleting substances accompany the shipment through U.S. Customs and remove references to Customs forms that are obsolete under the new system.

DATES: Written comments must be received by March 10, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2015-0309, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points

you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Jeremy Arling by regular mail: U.S. Environmental Protection Agency, Stratospheric Protection Division (6205T), 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone: (202) 343-9055; or by email: arling.jeremy@epa.gov. You may also visit the EPA’s Ozone Protection Web site at www.epa.gov/ozone/strathome.html for further information about EPA’s Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and other related topics.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Why is EPA issuing this proposed rule?

This document proposes to make minor conforming edits to the stratospheric protection regulations to implement the International Trade Data System primarily by removing references to specific Customs forms that will become obsolete under the new system. EPA has published a direct final rule making these edits in the “Rules and Regulations” section of this **Federal Register**. We view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule. For additional information on the action being taken, see the direct final rule published in the Rules and Regulations section of this **Federal Register**.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

B. Does this action apply to me?

This rulemaking may affect the following categories: Industrial Gas Manufacturing entities (NAICS code 325120), including fluorinated hydrocarbon gas manufacturers, importers, and exporters; Other Chemical and Allied Products Merchant Wholesalers (NAICS code 424690), including chemical gases and compressed gases merchant importers and exporters; and refrigerant reclaimers or other such entities that might import virgin, recovered, or reclaimed refrigerant gas.

This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility, company, business, or organization could be regulated by this action, you should carefully examine the regulations promulgated at 40 CFR part 82, subpart A. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section.

II. 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 and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA because the requirements to maintain entry numbers and EINs are a subset of the previous requirements to maintain forms containing this information. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0170 and 2060-0438.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small

entities subject to the rule. This action makes minor changes to recordkeeping and reporting requirements to remove references to U.S. Customs forms and other small edits.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. This action makes minor changes to recordkeeping and reporting requirements to remove references to U.S. Customs forms and other small edits.

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.

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

This action does not have tribal implications as specified in Executive Order 13175. This rulemaking does not significantly or uniquely affect the communities of Indian tribal governments, nor does it impose any enforceable duties on communities of Indian tribal governments. This action makes minor changes to recordkeeping and reporting requirements to remove references to U.S. Customs forms and other small edits. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not a “significant energy action” because it is not likely to have a significant adverse effect on the

supply, distribution or use of energy. This action makes minor changes to recordkeeping and reporting requirements to remove references to U.S. Customs forms and other small edits.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because it does not affect the level of protection provided to human health or the environment. This action makes minor changes to recordkeeping and reporting requirements to remove references to U.S. Customs forms and other small edits.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Imports, Ozone, Reporting and recordkeeping requirements.

Dated: January 21, 2016.

Gina McCarthy,
Administrator.

For the reasons stated in the preamble, 40 CFR part 82 is proposed to be 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.

■ 2. In § 82.3, revise the definition for “Importer” to read as follows:

§ 82.3 Definitions for class I and class II controlled substances.

* * * * *

Importer means any person who imports a controlled substance or a controlled product into the United States. “Importer” includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes, as appropriate:

- (1) The consignee;
- (2) The importer of record;

(3) The actual owner; or

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred.

* * * * *

■ 3. In § 82.13, revise paragraphs (g)(1)(xii), (g)(3)(v), and (g)(3)(viii)(D) to read as follows:

§ 82.13 Recordkeeping and reporting requirements for class I controlled substances.

* * * * *

(g) * * *

(1) * * *

(xii) The U.S. Customs entry number;

* * * * *

(3) * * *

(v) To pass the approved used class I controlled substances through U.S. Customs, the non-objection notice issued by EPA must accompany the shipment through U.S. Customs.

* * * * *

(viii) * * *

(D) The U.S. Customs entry number.

* * * * *

■ 4. In § 82.24, revise paragraphs (c)(2)(xiii), (c)(4)(v), (c)(4)(viii)(D), (d)(2)(i), and (d)(3)(i) to read as follows:

§ 82.24 Recordkeeping and reporting requirements for class II controlled substances.

* * * * *

(c) * * *

(2) * * *

(xiii) The U.S. Customs entry number;

* * * * *

(4) * * *

(v) To pass the approved used class II controlled substances through U.S. Customs, the non-objection notice issued by EPA must accompany the shipment through U.S. Customs.

* * * * *

(viii) * * *

(D) The U.S. Customs entry number.

* * * * *

(d) * * *

(2) * * *

(i) The Employer Identification

Number of the shipper or their agent;

* * * * *

(3) * * *

(i) The Employer Identification Number of the shipper or their agent; and

* * * * *

■ 5. In § 82.104, revise paragraph (m)(2) to read as follows:

§ 82.104 Definitions.

* * * * *

(m) * * *

(2) The importer of record;

* * * * *

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