

*Class II Substance* means any substance designated as class II in 40 CFR part 82, appendix B to subpart A.

*Commercial*, when used to describe the purchaser of a product, means a person that uses the product in the purchaser's business or sells it to another person and has one of the following identification numbers:

- (1) A federal employer identification number;
  - (2) A state sales tax exemption number;
  - (3) A local business license number;
- or
- (4) A government contract number.

*Consumer*, when used to describe a person taking action with regard to a product, means the ultimate purchaser, recipient or user of a product.

*Distributor*, when used to describe a person taking action with regard to a product means:

- (1) The seller of a product to a consumer or another distributor; or
- (2) A person who sells or distributes that product in interstate commerce for export from the United States.

*Foam Insulation Product*, when used to describe a product containing or consisting of plastic foam, means a product containing or consisting of the following types of foam:

- (1) Closed cell rigid polyurethane foam;
- (2) Closed cell rigid polystyrene boardstock foam;
- (3) Closed cell rigid phenolic foam; and
- (4) Closed cell rigid polyethylene foam when such foam is suitable in shape, thickness and design to be used as a product that provides thermal insulation around pipes used in heating, plumbing, refrigeration, or industrial process systems.

*Hydrochlorofluorocarbon* means any substance listed as class II in 40 CFR part 82, appendix B to subpart A.

*Initial Inventory* means that the original product has completed all of its manufacturing processes and is ready for sale by the manufacturer. Products in initial inventory may be subsequently incorporated into another product by a different manufacturer after purchase. To continue selling products after the effective date of the provisions, the manufacturer or dis-

tributor must be able to show, upon request by EPA, that the product was in fact manufactured, and thus placed into initial inventory prior to the effective date. Shipping forms, lot numbers, manufacturer date stamps or codes, invoices, or the like are normally kept records that could be maintained from the time the product was put into initial inventory and may be used to demonstrate when a product was placed in initial inventory.

*Product* means an item or category of items manufactured from raw or recycled materials which is used to perform a function or task.

*Release* means to emit into the environment during the manufacture, use, storage or disposal of a product.

*Space Vehicles* means a man-made device, either manned or unmanned, designed for operation beyond earth's atmosphere. This definition includes integral equipment such as models, mock-ups, prototypes, molds, jigs, tooling, hardware jackets, and test coupons. Also included is auxiliary equipment associated with test, transport, and storage, which through contamination can compromise the space vehicle performance.

[58 FR 69675, Dec. 30, 1993, as amended at 61 FR 64427, Dec. 4, 1996; 66 FR 57522, Nov. 15, 2001]

#### § 82.64 Prohibitions.

(a) Effective February 16, 1993, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products identified as being nonessential in § 82.66(a).

(b) Effective February 16, 1993, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products specified in § 82.66(b) to a person who does not provide proof of being a commercial purchaser, as defined under § 82.62.

(c) Effective January 17, 1994, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products identified as being nonessential in § 82.66(c) or § 82.66(d) except as permitted under § 82.65(g).

(d) Except as permitted under § 82.65, effective January 1, 1994, no person may sell or distribute, or offer for sale or distribution, in interstate commerce

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any product identified as being non-essential in § 82.70(a) or § 82.70(c).

(e) Except as permitted under § 82.65, effective January 1, 1994, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products specified in § 82.70(b) to a person who does not provide proof of being a commercial purchaser, as defined under § 82.62.

(f) Except as permitted under § 82.65(d), effective January 1, 1996, no person may sell or distribute, or offer for sale or distribution, in interstate commerce any product identified as being nonessential in § 82.70(c)(ii).

(g) It is a violation of this subpart to sell or distribute, or offer for sale or distribution, products effected by the provisions of § 82.68 if the seller knew or should have known that the purchaser was purchasing the product for a prohibited application.

### § 82.65 Temporary exemptions.

(a) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any products specified as nonessential in § 82.70 which are manufactured and placed into initial inventory by December 31, 1993.

(b) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any products specified as nonessential in § 82.70 which are manufactured and placed into initial inventory within the date 90 days after the effective date of any federal approvals required for product reformulation, where application for the required approval was timely and properly submitted to the approving federal agency prior to January 1, 1994.

(c)(1) Any person may sell or distribute or offer to sell or distribute, in interstate commerce, at any time, any products specified as nonessential in § 82.70 which are manufactured and placed into initial inventory within 45 days after the receipt of denial by any federal agency of an application for reformulation where initial application for the required approval was timely and properly submitted to the approving federal agency prior to January 1, 1994.

(2) If, within 45 days of receipt of a denial of an application for reformula-

tion, a person submits a new viable application for federal approval of a reformulation, that person may continue to sell and distribute, or offer to sell and distribute until 45 days of denial of that application.

(d) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any integral skin foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards, which are manufactured and placed into initial inventory prior to January 1, 1996.

(e) Any person selling or distributing, or offering to sell or distribute, any product specified in this section after January 1, 1994, or January 1, 1996 for paragraph (d) of this section, or after January 17, 1994 for any product specified in paragraph (g) of this section, must retain proof that such product was manufactured and placed into initial inventory before the relevant date specified in this section. Such proof may take the form of shipping forms, lot numbers, manufacturer date stamps, invoices or equivalent business records.

(f) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, any aircraft pesticide containing class I until an alternative aircraft pesticide containing class II is available in interstate commerce.

(g) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any replacement part that was manufactured with, or contains a class I substance or was packaged in material that was manufactured with or contains a class I substance only if:

(1) The replacement part was manufactured for use in a single model of a product; and

(2) The replacement part and product model are no longer manufactured; and

(3) The replacement part was placed into initial inventory prior to April 16, 1992.

(h) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any air-conditioning or refrigeration products specified as nonessential in § 82.66(e) that are manufactured and placed into initial inventory by January 14, 2002.