the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this Federal Register, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.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 document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by August 19, 1996.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Placerville, CA 95667.

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603.

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Nikole Reaksecker, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1187.

SUPPLEMENTARY INFORMATION: This document concerns rules from the El Dorado County Air Pollution Control District (EDCAPCD), the Placer County Air Pollution Control District (PCAPCD), and the Ventura County Air Pollution Control District (VCAPCD). The following table lists the names of the rules, the dates of district adoption, and the dates that the California Air Resources Board (CARB) submitted the rules to EPA.

Rule	Adoption	Submittal
EDCAPCD 215—Architectural Coatings	9/27/94	11/30/94
EDCAPCD 236—Adhesives	7/25/95	10/13/95
EDCAPCD 237—Wood Products Coatings	6/27/95	10/13/95
PCAPCD 218—Architectural Coatings	2/9/95	5/24/95
PCAPCD 235—Adhesives	6/8/95	10/13/95
VCAPCD 74.20—Adhesives and Sealants	6/8/93	11/18/93

For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 18, 1996.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–18204 Filed 7–17–96; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Part 52

[OR–54–7269b; FRL–5515–4]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Oregon to support Oregon's ozone Nonattainment Area control strategy(ies). The SIP revision was submitted by the State to satisfy Federal Clean Air Act requirements. In the Final Rules Section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment 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 this proposed rule, no further activity is contemplated in relation to this 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.

DATES: Comments on this proposed rule must be received in writing by August 19, 1996.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 10, Office of Air Quality, 1200 6th Avenue, Seattle, WA 98101.

Oregon Department of Environmental Quality, 811 SW. Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Angela McFadden, Office of Air Quality (OAQ–107), EPA, Region 10, 1200 6th Avenue, Seattle, WA 98101, (206) 553–6908.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: May 22, 1996.

Jane S. Moore,

Acting Regional Administrator.

[FR Doc. 96–18202 Filed 7–17–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 82

[FRL–5535–6]

RIN 2060–AG19

Protection of Stratospheric Ozone: Reconsideration of the Ban on Fire Extinguishers Containing HCFCs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Through this action EPA is proposing to amend the Class II Nonessential Products Ban promulgated under Section 610 of the Clean Air Act Amendments to provide an exemption for portable fire extinguishing equipment that contains hydrochlorofluorocarbons (HCFCs) for non-residential applications. EPA is proposing this exemption based on new information. EPA believes an exemption is necessary to ensure that an effective substitute to halon, a class I ozone depleter, is readily available.

EPA believes that this proposed amendment, while decreasing the regulatory burden on HCFC extinguishant manufacturers and distributors, will not compromise the goals of protecting public health and the environment.

DATES: Comments on this proposal must be received by August 19, 1996 at the address below. A public hearing, if requested, will be held in Washington, DC. If such a hearing is requested, it will be held on August 2, 1996, at 9 a.m., and the comment period would then be extended to September 3, 1996. Anyone who wishes to request a hearing should call Cindy Newberg at 202/233–9729 by July 25, 1996. Interested persons may contact the Stratospheric Protection Hotline at 1–800–296–1996 to learn if a hearing will be held and to obtain the date and location of any hearing. Any hearing will be strictly limited to the subject matter of this proposal, the scope of which is discussed below.

The proposed effective date for the changes to the regulatory language would be 30 days after publication of the final rulemaking in the Federal Register.

ADDRESSES: Comments on this proposal must be submitted to the Air Docket Office, Public Docket No. A–93–20 VIII, Waterside Mall (Ground Floor) Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M–1500. Additional comments and materials supporting this rulemaking are contained in Public Docket No. A–93–20. Dockets may be inspected from 8 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

If a public hearing is convened, it will be held at 501 3rd Street, NW., first floor conference room, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cindy Newberg, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, DC 20460, (202)233–9729. The Stratospheric Ozone Information Hotline at 1–800–296–1996 can also be contacted for further information.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. Regulated Entities
II. Background
III. Portable Fire Extinguishers
IV. Summary of Supporting Analysis
A. Executive Order 12866
B. Unfunded Mandates Act
C. Paperwork Reduction Act
D. Regulatory Flexibility Act

I. Regulated Entities

Entities potentially regulated by this action are those that wish to manufacturer, sell, or distribute in interstate commerce portable fire extinguishers that contain hydrochlorofluorocarbons (HCFCs) for non-residential applications. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Manufacturers of fire extinguishants. Manufacturers and distributors of portable fire extinguishers. Fire protection specialists.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your company is regulated by this action, you should carefully examine the applicability criteria contained in Section 610(d) of the Clean Air Amendments of 1990; discussed in regulations published on December 30, 1993 (58 *FR* 69638); and discussed below. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

In 1993, EPA promulgated a rulemaking to establish regulations that implemented the statutory ban on nonessential products containing or manufactured with class II ozone-depleting substances under Section 610(d) of the Clean Air Act Amendments of 1990 (58 *FR* 69638). This final rule was developed by EPA to clarify definitions and to provide exemptions, as authorized under Section 610(d). EPA was not required to promulgate regulations since the ban was self-executing. The substances affected by the Class II Ban are plastic foam products, aerosol products and pressurized dispensers.

Section 610(d)(1) states that after January 1, 1994, ''it is unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce (A) any aerosol product or other pressurized dispenser which contains a class II substance; or (B) any plastic foam product which contains, or is manufactured with, a class II substance.'' Section 610(d)(2) authorizes EPA to grant certain exceptions and section 610(d)(3) creates exclusions from the class II ban in certain circumstances.

Section 610(d)(2) authorizes the Administrator to grant exceptions from the class II ban for aerosols and other pressurized dispensers where ''the use of the aerosol product or pressurized dispenser is determined by the Administrator to be essential as a result of flammability or worker safety concerns,'' and where ''the only available alternative to use of a class II substance is use of a class I substance which legally could be substituted for such class II substance.'' Section 610(d)(3) states that the ban of class II substances in plastic foam products shall not apply to ''foam insulation products'' or ''an integral skin, rigid, or semi-rigid foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards where no adequate substitute substance (other than a class I or class II substance) is practicable for effectively meeting such standards.'' For additional information concerning this rulemaking and for a complete list of exempted and excluded products, the reader should review the final regulations published in the Federal Register December 30, 1993 (58 *FR* 69638). These rules are also codified at 40 CFR Part 82 Subpart C.

III. Portable Fire Extinguishers

In the rulemaking, the Agency exempted from the Class II Ban the use of HCFCs in portable fire extinguishers

until such time as ''suitable'' substitutes for HCFCs in this application became ''commercially available'' (58 *FR* 69646). The inclusion of fire extinguishers in the class II ban was intended to be consistent with the class I ban, whereby CFCs used in fire extinguishers were banned since suitable substitutes were commercially available (January 15, 1993, 58 *FR* 4768). EPA distinguished between total flooding fire suppression systems, which were not identified as pressurized dispensers, and portable fire extinguishers, which the Agency interpreted as falling into the category of pressurized dispensers (58 *FR* 69647).

Since the Class II Ban became effective, EPA has learned new information as to significant complications in determining broad suitability of substitute fire extinguishants. EPA has received two petitions requesting that the Agency reconsider the Class II Ban as it relates to portable fire extinguishers. The first request for reconsideration was submitted by Paul Huston and Associates on March 10, 1995. The second petition was submitted by Alcalde & Fay on behalf of Halotron, Incorporated, and DuPont on June 22, 1995. Through these petitions, subsequent verbal and written communications, and additional research by the Agency, EPA has learned new and compelling information concerning the availability of fire extinguishants suitable to replace halon and CFCs in streaming applications.

Portable fire extinguishers for commercial applications present a unique dilemma, for a variety of reasons. First, their specific intended use is to protect human life and property. The fire extinguishant is typically used only in response to a threat to life or property. Second, one type of extinguishant is not universally suitable for all situations, in that different types of fires, different environments in which fires are potentially to be fought, and different types of property being protected, each dictate a particular set of characteristics, found in varying degrees in various extinguishants. Third, the fire protection industry's codes, standards and regulations are extremely complex, such that states and localities adopt standards parallel to a national standard at vastly divergent times. Furthermore, some states and localities have adopted different versions of fire codes. Additionally, typical insurance industry requirements mandate conformance with local codes before proper insurance coverage can be obtained. Given these constraints, for purposes of section 610(d), determining the suitability and thus, commercial availability, of a substitute for use generally in portable fire extinguishers for non-residential applications becomes extremely elusive.

EPA states that ''suitability of the agent implies that an agent is commercially available, that a fire will be extinguished quickly, and will result in minimum degradation of the products being protected from the fire'' (58 *FR* 69648). EPA has interpreted commercial availability to mean that the product is widely available for the desired application and that its use is not precluded in certain situations (i.e., because some local fire codes have not yet approved its use). In addition to commercial availability, the portable fire extinguisher must adequately extinguish the fire without causing undue harm to persons and not destroy the property it is intended to protect. For many typical commercial scenarios where halon was used in the past, only clean agents such as HCFCs can achieve these fire protection goals.

Suitability is interpreted to apply broadly throughout the nation, such that no entity has precluded that product's use through regulation or lack of regulatory modification. Without consistent standards regarding the use of a substitute in place across the country, EPA currently believes it would be nearly impossible to responsibly determine that a substitute used in a non-residential portable fire extinguisher was ''suitable'' and thus, that such HCFC fire extinguishers should be subject to the ban.

A logical question one may ask is, ''How can EPA adequately determine acceptability of potential fire extinguishant substitutes pursuant to Section 612 of the Clean Air Act and also believe itself unable to determine suitable fire extinguishant substitutes pursuant to Section 610(d)?'' The answer lies in the degree of burden entailed in EPA's determination. Under Section 610(d), the burden is on EPA to actually decide that one kind of extinguishant cannot be exempted from the ban by determining that the substitute will be just as effective and available as the replaced extinguishant. Under Section 612, on the other hand, the burden on EPA is merely to deem substitutes acceptable if they do not present other health or environmental hazards. The latter task does not extend to banning those substances that the substitute claims to replace, nor does it include an examination of efficacy. The rulemakings implementing Section 612 and establishing the Significant New Alternatives Policy (SNAP) Program indicate that EPA does not review a substitute's ability to effectively perform in the same manner as the ozone depleter. EPA believes that banning a substance (as required under § 610(d)) used in the protection of life and property, based on confusing information regarding the suitability of the substitute, would be irresponsible.

When EPA promulgated the initial rulemaking that exempted products from the class II ban in 1993, potential exemptions for other types of pressurized dispensers that were considered and ultimately denied usually were denied because there was a suitable substitute already available and already in use for either the same or for a similar application. Several of the substitutes were not-in-kind substitutes and others required significant changes prior to replacing the ozone-depleting substance with the substitute. Significantly, most of the identified substitutes for these pressurized dispensers were proven alternatives for the ozone depleter already used by others for a similar endeavor. However, for portable fire extinguishers used in non-residential applications, the potential non-ozone-depleting replacements that are also clean agents, are not yet in use.

Many of those seeking to replace halon continue to require clean agents. EPA states that ''non-halocarbon alternatives to Halon 1211 are already in widespread use in selected commercial applications because of their effectiveness, and due to the current regulatory climate, their use has been increasingly adopted wherever possible'' (58 *FR* 69647). EPA believes where non-gaseous agents can be used, appropriate consideration for these substitutes already occurs. However, the need for the continued availability of gaseous agents commonly referred to as clean agents was the basis for the limited exemption for HCFCs contained in the initial rulemaking. EPA intended for this exemption to expire after additional clean agents became available. However, as stated above, SNAP does not review the efficacy of the acceptable substitutes; therefore, EPA cannot rely on SNAP review to determine the efficacy of potential clean agents for purposes of Section 610(d). Furthermore, since the substitutes are not yet in use, EPA cannot rely on the findings of other users.

Given that suitability and commercial availability cannot be determined adequately for purposes of banning this product at this time, today's action proposes replacing the limited exemption that already exists with a

total exemption for portable fire extinguishers for non-residential applications from the Class II Ban at this time. This change in the regulatory language would simply serve to clarify the actual situation for the regulated community and provide a consistent determination regarding suitability based on current information. Furthermore, it would relieve the regulated community from the burdensome task of monitoring federal, state, and local activities concerning the review of other substitutes and attempting to assess at what point the standard of commercial availability has been achieved.

If at some future date, compelling information is brought to the Agency's attention indicating that suitable substitutes are widely available for fire extinguishing applications, EPA may ultimately conclude that suitable substitutes are commercially available and undertake appropriate notice and comment procedures to remove this exemption. EPA requests comment on this proposal.

IV. Summary of Supporting Analysis

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined by OMB and EPA that this proposed action to amendment to the final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review under the Executive Order.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this NPRM is estimated to result in the expenditure by State, local, and tribal governments or private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. As discussed in this preamble, this NPRM proposes to provide relieve by permitting the use of portable fire extinguishers that contain HCFCs; and therefore, would increase the flexibility in choosing a particular fire extinguishant thus reducing the net effect of the burden of part 82 subpart C of the Stratospheric Protection regulations on regulated entities, including State, local, and tribal governments or private sector entities.

C. Paperwork Reduction Act

Any information collection requirements in a rule must be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Because no informational collection requirements are proposed by today's action, EPA has determined that the Paperwork Reduction Act does not apply to this rulemaking and no Information Collection Request document has been prepared.

D. Regulatory Flexibility Act

EPA has determined that is not necessary to prepare a regulatory flexibility analysis in connection with this proposed rule. Any impact this proposed rule will have on small entities will be to provide relief from regulatory burdens. EPA has determined that this proposed rule will not have a significant adverse economic impact on a substantial number of small businesses.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Exports, Government procurement, Imports, Labeling, Reporting and recordkeeping requirements.

Dated: July 3, 1996.

Carol M. Browner,

Administrator.

Title 40, Code of Federal Regulations, part 82, is amended to read 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.

§ 82.62 [Amended]

2. Section 82.62 is amended by removing paragraphs (j) and (k).

§ 82.68 [Amended]

3. Section 82.68 is amended by removing and reserving paragraphs (f) and (g).

4. Section 82.70 is amended by revising paragraph (a)(2)(vii) to read as follows:

§ 82.70 Nonessential class II products and exceptions.

* * * * *

(a) * * *

(2) * * *

(vii) Portable fire extinguishing equipment used for non-residential applications; and

* * * * *

[FR Doc. 96–17904 Filed 7–17–96; 8:45 am]

BILLING CODE 6560–50–P