submitted to EPA on August 7, 1995 by the California Air Resources Board.

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.

Date: October 6, 1996.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–27843 Filed 10–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 82

[FRL–5645–3]

RIN 2060–AF36

Protection of Stratospheric Ozone: Proposal to Extend the Existing Reclamation Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Through this action EPA is proposing to amend the Clean Air Act section 608 refrigerant recycling regulations to extend the effectiveness of the refrigerant purity requirements of § 82.154 (g) and (h), which are currently scheduled to expire on December 31, 1996, until EPA adopts revised purity requirements. EPA initially extended these requirements in response to requests from the air-conditioning and refrigeration industry to avoid widespread contamination of the stock of chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants that could result from the lapse of the purity standard. Such contamination would cause extensive damage to air-conditioning and refrigeration equipment, release of refrigerants, and refrigerant shortages with consequent price increases.

EPA proposed a more flexible approach to ensuring the purity of refrigerants on February 29, 1996, and solicited public comment. EPA received significant comments regarding the potential delegation of authority and the unintentional creation of a monopoly. EPA believes prior to adopting a more flexible approach EPA must further consider these comments. EPA intends to issue a supplemental proposal that would revise several aspects of the February 29, 1996 proposal.

Today EPA is proposing to extend the current reclamation requirements. This continuation will not result in any additional burden on the regulated community. Moreover, the retention of the reclamation requirement will protect the environment, public health, and consumers by ensuring that contaminated refrigerants are not vented or charged into equipment.

DATES: Comments must be received by December 2, 1996 unless a public hearing is held. A public hearing, if requested, will be held in Washington, DC. If such a hearing is requested, it will be held on November 12, 1996 at 9 a.m. Anyone who wishes to request a hearing should call Cindy Newberg at 202/233–9729 by November 8, 1996. If a public hearing is held, the comment period will be extended until December 16, 1996.

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. A–92–01, Waterside Mall (Ground Floor) Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 in room M–1500. Dockets may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials. Comments on this action should be addressed to Public Docket No, A 92–01 VIII.L at the above address.

If a public hearing is held, it will be held at the Washington Information Center, Headquarters Services, Waterside Mall (ground floor) 401 M Street, SW., Washington, DC 20460.

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. Interested persons may contact the Stratospheric Protection Hotline 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.

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

I. Regulated Entities
II. Overview
III. Background
VI. Today's Action
V. Summary of Support Analysis

I. Regulated Entities

Entities potentially regulated by this action are those that wish to recover, recycle, reclaim, sell, or distribute in interstate commerce refrigerants that contain chlorofluorocarbons (CFCs) and/or hydrochlorofluorocarbons (HCFCs). Regulated categories and entities include:

Category	Example of regulated entities
Industry	Reclaimers. Equipment manufacturers. Air-conditioning and refrigeration contractors and technicians. Owners and operators of industrial process refrigeration equipment. Laboratories. Plumbing, heating and cooling contractors.

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 608 of the Clean Air Amendments of 1990; discussed in regulations published on May 14, 1993 (59 FR 28660); 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. Overview

Paragraphs 82.154(g) and (h) of 40 CFR part 82, subpart F set requirements for sale of used refrigerant, mandating that it meet certain purity standards. These requirements will expire on December 31, 1996. EPA is considering whether it is appropriate to promulgate new, more flexible, requirements based on industry guidelines. To that end, EPA issued a Notice of Proposed Rulemaking (NPRM) on February 29, 1996 (61 FR 7858) that addressed various issues including the adoption of a more flexible approach to reclamation. EPA has analyzed the public comments. EPA will issue a final rulemaking soon; however, EPA has decided not to complete promulgation of all the proposed changes discussed in that NPRM as part of one final rulemaking.

The February 29, 1996, NPRM was an omnibus notice that addressed many aspects of 40 CFR Part 82, Subpart F. Amongst the various issues considered in that NPRM is the adoption of a more flexible approach to reclamation with the related adoption of third-party certification for laboratories and reclaimers. Other issues addressed in the NPRM include changes to the recordkeeping and reporting requirements for technician certification programs, the adoption of an updated

industry standard, amending the definitions of motor vehicle air-conditioning-like appliances and small appliances, the adoption of formal revocation procedures for approved certification programs, transfers of refrigerant between subsidiaries, and clarifying the distinction between major and minor repairs. EPA planned to issue one final rulemaking later this year. Instead, after careful analysis, EPA intends to issue two notices: a final rulemaking completing many aspects of that NPRM; and a separate revised proposal notice reconsidering the adoption of a more flexible approach to reclamation and third-party certification for laboratories and reclaimers. EPA has determined that this course of action is necessary to provide sufficient opportunity for the Agency to fully consider a broad range of alternative structures for an effective program that ensures the quality of refrigerants.

Central to the proposed adoption of a more flexible approach to reclamation, is the proposed adoption of third-party certification programs for both laboratories and reclaimers. Commenters have identified several specific concerns regarding the appropriateness of delegating various functions to third-parties, and whether EPA may unintentionally create a monopoly. Through today's notice, EPA is not signaling the Agency's agreement or disagreement with any of the comments received. EPA is merely indicating a need to further consider these comments. EPA believes a flexible approach to reclamation can be developed that avoids any inappropriate delegations and also does not force the creation of unwanted monopolies. However, the commenters have prompted EPA to consider other potential structures for such a program that vary significantly from what was proposed. To ensure that the public has adequate opportunity to comment, EPA intends to issue a revised proposal this winter.

While EPA believes its appropriate to provide an opportunity for the public to comment on changes to the NPRM, a lapse in the current standards could result in widespread contamination of the stock of CFC and HCFC refrigerants and must be avoided. Such contamination would cause extensive damage to air-conditioning and refrigeration equipment, release of refrigerants, and refrigerant shortages with consequent price increases. Release of CFC and HCFC refrigerants has been found to deplete stratospheric ozone, resulting in increased human and environmental exposure to ultraviolet radiation. Increased exposure to ultraviolet radiation in turn can lead to serious health and environmental effects. Therefore, EPA is proposing to extend the effectiveness of the current refrigerant purity requirements, only until EPA can complete a rulemaking to adopt more flexible requirements that will still ensure refrigerant purity.

III. Background

On May 14, 1993, EPA published final regulations establishing a recycling program for ozone-depleting refrigerants recovered during the servicing and disposal of air-conditioning and refrigeration equipment (58 FR 28660). These regulations include evacuation requirements for appliances being serviced or disposed of, standards and testing requirements for used refrigerant sold to a new owner, certification requirements for refrigerant reclaimers, and standards and testing requirements for refrigerant recycling and recovery equipment.

When EPA promulgated the final rule, the Agency noted that further rulemaking would be required to address issues that had been raised during the comment period for the proposed rule (57 FR 58644). One of these issues was whether a standard for used refrigerant could be developed that would protect air-conditioning and refrigeration equipment, but would allow technicians to clean refrigerant themselves, rather than sending the refrigerant to an off-site reclaimer.

The final rule published on May 14, 1993, requires that refrigerant sold to a new owner be reclaimed to the ARI Standard 700 of purity by a certified reclaimer (§ 82.154(g) and (h) referencing standard in § 82.164 and the definition of reclaim found in § 82.152). As discussed in the final rule, this requirement protects the purity of used refrigerant to prevent damage to air-conditioning and refrigeration equipment from the use of contaminated refrigerant. Equipment damage from contaminated refrigerant would result in costs to equipment owners, in releases of refrigerant from damaged equipment through increased leakage, servicing and replacement, and in reduction in consumer confidence in the quality of used refrigerant. This reduction in consumer confidence could lead to the premature retirement or retrofit of CFC or HCFC equipment since consumers would no longer believe that a sufficient stock of trustworthy refrigerants was available.

Although the reclamation requirements contained in 82.154(g) and (h) would clearly protect equipment, EPA believed that a more flexible but as effective requirement should be developed, particularly for refrigerant transferred between owners whose equipment was similar and was serviced by the same contractor. However, the only existing standard at the time EPA promulgated the rule was ARI Standard 700, and the only agreed upon means of enforcing it was by limiting sale of used refrigerant to only certified reclaimers. Certified reclaimers, unlike contractors or technicians, are required to have the equipment available that can verify that the refrigerant meets the purity standards, thus ensuring its purity prior to selling the refrigerants.

In order to encourage industry to explore the possibility of developing more flexible but still effective standards and technologies for purifying refrigerant, as well as more flexible means for ensuring compliance with purity standards, EPA adopted a commenter's suggestion and established an expiration date, or ''sunset,'' for the reclamation requirement. EPA accordingly made the reclamation requirements at § 82.154(g) and (h) effective until May 15, 1995, two years after publication of the final rule. EPA believed that this two-year period would be sufficient for industry to develop new guidelines for reuse of refrigerant and for EPA to complete a rulemaking to adopt them if EPA determined that they would continue to reduce emissions to the lowest achievable level and maximize the recapture and recycling of refrigerants (58 FR 28679).

In December, 1994, a committee representing a wide range of interests within the air-conditioning and refrigeration industry published *Industry Recycling Guide (IRG–2): Handling and Reuse of Refrigerants in the United States.* This document establishes requirements and recommendations for the reuse of refrigerant in a number of different situations, including refrigerant transfers on the open market and between equipment owned by different people but serviced by the same contractor. EPA began pursuing a rulemaking to adopt the IRG–2 requirements. However, because the original sunset date was approaching, EPA also pursued a rulemaking to extend the effectiveness of § 82.154(g) and (h) (60 FR 14608). That rulemaking extended the effectiveness of the provisions until March 18, 1996. EPA believed that this extension would provide sufficient opportunity to develop and publish a proposed rule, take public comment, and develop and publish a final rule.

EPA drafted a proposed rulemaking concerning the adoption of a more

flexible approach for ensuring refrigerant purity. However, several events beyond the agency's control delayed the EPA's ability to release this proposal prior to February 29, 1996. Therefore, at the urging of industry representatives, EPA extended the sunset date for the purity requirements to avoid a lapse of the reclamation requirements.

Representatives of the air-conditioning and refrigeration industry expressed concern that any lapse in refrigerant purity requirements could result in a number of problems, including sloppy handling of refrigerant and dumping of contaminated refrigerant on the market. These problems would result in significant damage to equipment, release of refrigerant, and aggravated refrigerant shortages.

Currently, the reclamation requirement encourages careful handling of refrigerant, because refrigerant that is irretrievably contaminated (for instance through mixture with other refrigerants) will not be accepted by any reclaimer, rendering it worthless. If this check is removed, sloppy handling may become widespread. This would not only lead to damage to equipment, but to the permanent loss of part of the stock of pure refrigerant through refrigerant mixture. Even in the best case in which the mixed refrigerant was properly disposed of, the limited supply of refrigerant would thereby be further reduced, necessitating more retrofit or replacement of existing equipment. Unfortunately, it is likely that the mixed refrigerant would often be used in air-conditioning and refrigeration equipment or vented rather than disposed of properly.

The possibility of widespread dumping of refrigerant on the market has been raised by reports that contractors and ''recyclers'' are stockpiling used refrigerant. In some cases, dumping dirty refrigerant on the market might be attractive simply because it enables the seller of refrigerant to avoid the costs of reclamation; for others, it might be attractive because the refrigerant is unreclaimable and therefore worthless if analyzed or sent to a reclaimer. In either situation, such dumping would lead to widespread equipment damage and potential releases of refrigerant. In addition, since domestic CFC production ceased December 31, 1995, protecting the purity of the existing stock of CFC refrigerants is essential.

IV. Today's Action

In response to these concerns, EPA is extending the effectiveness of the current reclamation requirements until the Agency can adopt replacement requirements. It was never EPA's intent to leave air-conditioning and refrigeration equipment and refrigerant supplies unprotected by a purity standard, but only to replace the existing standard with a more flexible standard when that was developed. As discussed above, EPA is currently undertaking rulemaking to adopt a more flexible standard.

V. 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 action to amend 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 rulemaking 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 rule merely extends the current reclamation requirements during consideration of a more flexible approach that may result in reducing the burden of part 82 Subpart F of the Stratospheric Protection regulations on regulated entities, including State, local, and tribal governments or private sector entities.

C. Paperwork Reduction Act

There is no additional information collection requirements associated with this rulemaking EPA has determined that the Paperwork Reduction Act does not apply. The initial section 608 final rulemaking did address all recordkeeping associated with the refrigerant purity provisions. An Information Collection Request (ICR) document was prepared by EPA and approved by the Office of Management and Budget(OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. This ICR is contained in the public docket A–92–01.

D. Regulatory Flexibility Analysis

EPA has determined that is not necessary to prepare a regulatory flexibility analysis in connection with this proposed rule because it continues existing requirements. Any impact this proposed rule will have on small entities will be to provide relief from regulatory burdens.

List of Subjects in 40 CFR Part 82

Enviromental protection, Aerosols, air pollution control, Chemicals, Chlorofluorocarbons, Hydrochlorofluorocarbons, Labeling, Stratospheric ozone layer.

Dated: October 28, 1996.

Carol M. Browner,

Administrator.

Part 82, chapter I, title 40, of the code of Federal Regulations, 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. Section 82.154 is amended by revising paragraphs (g) and (h) to read as follows:

§ 82.154 Prohibitions.

* * * * *

(g) No person may sell or offer for sale for use as a refrigerant any class I or class II substance consisting wholly or in part of used refrigerant unless:

(1) The class I or class II substance has been reclaimed as defined at § 82.152;

(2) The class I or class II substance was used only in an MVAC or MVAC-like appliance and is to be used only in an MVAC or MVAC-like appliance; or

(3) The class I or class II substance is contained in an appliance that is sold or offered for sale together with the class I or class II substance.

(h) No person may sell or offer for sale for use as a refrigerant any class I or class II substance consisting wholly or in part of used refrigerant unless:

(1) The class I or class II substance has been reclaimed by a person who has been certified as a reclaimer pursuant to § 82.164;

(2) The class I or class II substance was used only in an MVAC or MVAC-like appliance and is to be used only in an MVAC or MVAC-like appliance; or

(3) The class I or class II substance is contained in an appliance that is sold or offered for sale together with the class I or class II substance.

* * * * *

[FR Doc. 96–28095 Filed 10–31–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2090

[WO–350–1430–00–24 1A]

RIN 1004–AC65

Nonmineral Entries on Mineral Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to remove the regulations concerning Nonmineral Entries on Mineral Lands, in its entirety. This action is undertaken because this subpart consists of redundant and unnecessary requirements.

DATES: Any comments must be received by BLM at the address below on or before December 2, 1996. Comments received after the above date will not necessarily be considered in the decisionmaking process on the final rule.

ADDRESSES: If you wish to comment, you may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, D.C., or mail comments to the BLM, Administrative Record, Room 401LS, 1849 C Street, NW., Washington, D.C. 20240. Commenters may transmit comments electronically via the Internet to: WOComment@wo.blm.gov [For Internet, please include ''attn: AC65'', your name and address in your message. If you do not receive a confirmation from the system that we have received your internet message, contact us directly. Comments will be available for public review at the L Street address during regular business hours, 7:45 a.m. to 4:15 p.m., Monday through Friday, except Holidays.

FOR FURTHER INFORMATION CONTACT: Chris Fontecchio, Regulatory Affairs Group, BLM, at (202) 452–5012.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background and Discussion of Proposal
III. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments on the proposed rule should be specific, should be confined to issues pertinent to this proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is addressing. Comments should specifically address why any or all of the provisions of subpart 2093 should be deleted. BLM will not necessarily consider or include in the Administrative Record for the final rule, comments which BLM receives after the close of the comment period (see **DATES** above) or comments delivered to an address other than those listed (see **ADDRESSES** above).

II. Background and Discussion of Proposal

These regulations were enacted pursuant to a series of statutes dating back to 1902. Most of subpart 2093 is a review of the various statutory authorities governing nonmineral entries on mineral lands, and the remainder of this subpart sets out BLM procedures for processing claims and other actions under these statutes.

The portions of this subpart which reiterate statutory language are unnecessarily duplicative and can be removed. These portions are found in sections 2093.0–3; 2093.1–1, 2093.1–2; 2093.2–1; 2093.2–2; 2093.3–1; 2093.3–4; 2093.3–5; 2093.4–1; and 2093.5–1.

The remaining sections contain procedures enacted to help BLM to carry out its statutory duties. These sections have become largely obsolete; nonmineral entries on mineral lands are extremely rare and unlikely to become any more widespread, given the scarcity of land on which such entries could be available in the foreseeable future and the repeal of the homestead laws. BLM has not used this subpart in over ten years.

In addition, while BLM cannot determine with certainty that there are no applications pending anywhere in the United States, the few which might remain do not require an extensive, formal procedural program. Rather, BLM can consider each application based on the guidance provided by the applicable statutes. A comment period is provided to give applicants or other interested parties an opportunity to voice any particular concerns that this removal action might raise. Finally, these procedures govern BLM's internal working and are best suited for publication in the BLM Manual.

III. Procedural Matters

National Environmental Policy Act

The BLM has prepared an environmental assessment (EA), and has found that the proposed rule would not constitute a major federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental