ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2005–0151, FRL–8212–5]

RIN 2060–AK45

Protection of Stratospheric Ozone: Adjusting Allowances for Class I Substances for Export to Article 5 Countries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed action amends previous action by the Agency regarding the allocation of Article 5 allowances that permit production of ozone-depleting substances (ODS) that are Class I, Group I controlled substances solely for export to developing countries to meet those countries' basic domestic needs. Specifically, this action will remove the 2007–2009 phasedown step for companies that manufacture CFCs–11, –12, or –114 for export to meet the basic domestic needs of developing countries. The Agency is taking this action in response to notification that there would otherwise be a shortfall in the availability of pharmaceutical-grade CFCs for use in metered dose inhalers in developing countries. In a final rule published December 29, 2005, EPA established initial baselines for each company that are far more stringent than required under the Beijing Adjustments to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Montreal Protocol), which set out restrictions for production to meet basic domestic needs. Therefore, even without the 2007–2009 step-down reduction, the U.S. will be at production levels to meet basic domestic needs that are far below those allowed under the Beijing Adjustments. This action is taken in accordance with the Montreal Protocol and the Clean Air Act (CAA).

DATES: Written comments on the rule must be received on or before September 22, 2006. Any party requesting a public hearing must notify the contact person listed below by 5 p.m. eastern standard time on August 28, 2006. If a hearing is requested it will be held on September 7, 2006 and comments will be due to the Agency October 10, 2006. EPA will post information regarding a hearing, if one is requested, on the Ozone Protection Web site *http://www.epa.gov/ozone*. Persons interested in attending a public hearing should consult with the contact person below regarding the location and time of the hearing.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR–2005–0151, by one of the following methods:

- *http://www.regulations.gov:* follow the on-line instructions for submitting comments.
- E-mail: *A-and-R-docket@epa.gov*.
- Fax: 202–566–1741.
- Mail: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery or Courier. Deliver your comments to: EPA Air Docket, EPA West, 1301 Constitution Avenue, NW., Room B108, Mail Code 6102T, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No EPA–HQ–OAR–2005–0151 EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility 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 Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Cindy Axinn Newberg, EPA, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 343–9729, *newberg.cindy@epa.gov*.

Table of Contents

I. What Is the Legislative and Regulatory Background of the Phaseout Regulations for Ozone-Depleting Substances?

The current regulatory requirements of the Stratospheric Ozone Protection Program that limit production and consumption of ozone-depleting substances (ODSs) can be found at 40 CFR part 82, subpart A. The regulatory program was originally published in the **Federal Register** on August 12, 1988 (53 FR 30566), in response to the 1987 signing and subsequent ratification of the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol). The U.S. was one of the original signatories to the 1987 Montreal Protocol and the U.S. ratified the Protocol on April 21, 1988. Congress

then enacted, and President Bush signed into law, the Clean Air Act Amendments of 1990 (CAAA of 1990), which included Title VI on Stratospheric Ozone Protection, codified as 42 U.S.C. Chapter 85, Subchapter VI, to ensure that the United States could satisfy its obligations under the Montreal Protocol. EPA issued new regulations to implement this legislation and has made several amendments to the regulations since.

The requirements contained in the final rules published in the **Federal Register** on December 20, 1994 (59 FR 65478) and May 10, 1995 (60 FR 24970) establish an Allowance Program. The Allowance Program and its history are described in the notice of proposed rulemaking published in the **Federal Register** on November 10, 1994 (59 FR 56276). The control and the phaseout of the production and consumption of Class I ODSs as required under the Protocol and the CAA are accomplished through the Allowance Program.

In developing the Allowance Program, we collected information on the amounts of ODSs produced, imported, exported, transformed and destroyed within the U.S. for specific baseline years for specific chemicals. This information was used to establish the U.S. production and consumption ceilings for these chemicals. The data were also used to assign company-specific production and import rights to companies that were in most cases producing or importing during the specific year of data collection. These production or import rights are called ''allowances.'' Due to the complete phaseout of many ODSs, the quantities of allowances granted to companies for those chemicals were gradually reduced and eventually eliminated. Production allowances and consumption allowances no longer exist for any ODSs that are Class I controlled substances. All production or consumption of Class I controlled substances is prohibited under the Montreal Protocol and the CAA, except for a few narrow exemptions.

In the context of the regulatory program, the use of the term ''consumption'' may be misleading. Consumption does not mean the ''use'' of a controlled substance, but rather is defined as the formula: production + imports − exports, of controlled substances (Article 1 of the Protocol and Section 601 of the CAA). Class I controlled substances that were produced or imported through the expenditure of allowances prior to their phaseout date may continue to be used by industry and the public after their phaseout date except where the regulations include explicit use restrictions. Use of such substances may be subject to other regulatory limitations.

The specific names and chemical formulas for the Class I controlled substances are in Appendix A and Appendix F in Subpart A of 40 CFR Part 82. The specific names and chemical formulas for the Class II controlled substances are in Appendix B and Appendix F in Subpart A.

Although the regulations phased out the production and consumption of Class I controlled substances, a very limited number of exemptions exist, consistent with U.S. obligations under the Montreal Protocol. The regulations allow for the manufacture of phased-out Class I controlled substances provided the substances are either transformed or destroyed. They also allow limited manufacture if the substances are (1) exported to meet the basic domestic needs of countries operating under Article 5 of the Montreal Protocol or (2) produced for essential or critical uses as authorized by the Montreal Protocol and the regulations. Limited exceptions to the ban on the import of phased-out Class I controlled substances also exist if the substances are: (1) Previously used, (2) imported for essential or critical uses as authorized by the Montreal Protocol and the regulations, (3) imported for destruction or transformation only, or (4) a transhipment or (5) a heel (a small amount of controlled substance remaining in a container after it is discharged or off-loaded) (40 CFR 82.4).

On December 29, 2005, EPA published a final rule in the **Federal Register** (70 FR 77042) concerning production of specific Class I controlled substances for export to meet the basic domestic needs of developing countries (''Article 5'' countries). It established a new Article 5 allowance baseline for Class I controlled substances, established a schedule for phased reductions in such allowances, and extended the time allowed for Article 5 production for methyl bromide. Article 5 allowances are solely for production to meet the basic domestic needs of developing countries referred to in the Protocol as ''Article 5'' parties. This action amends the schedule for phased reductions in Article 5 allowances for companies that produce and export Class I, Group I substances to meet the basic domestic needs of Article 5 countries.

II. Today's Action

Under the Montreal Protocol, industrialized countries and developing countries have different schedules for phasing out the production and import of ODSs. Developing countries operating under Article 5, paragraph 1 of the Montreal Protocol in most cases have additional time in which to phase out ODSs. The Parties to the Montreal Protocol recognized that it would be inadvisable for developing countries to spend their scarce resources to build new ODS manufacturing facilities to meet their basic domestic needs as industrialized countries phase out. The Parties therefore decided to permit a small amount of production in industrialized countries, in addition to the amounts permitted under those countries' phaseout schedules, for export to meet the basic domestic needs of developing countries.

The adjustments to the Montreal Protocol adopted by the Parties at their 11th meeting in Beijing required Parties that manufacture ODSs for basic domestic needs to establish baselines for such production, calculated based on the average quantity of the ODS exported to Article 5 countries over a specified range of years. The adjustments also instituted a reduction schedule for Article 5 manufacture which reflects the reduction schedule in place for developing country ODS consumption. The Beijing Adjustments underscore the Parties' concern that global oversupply of certain Class I ODSs is interfering with the transition to alternatives. The oversupply of these ODSs results in low prices that make it difficult for non-ozone-depleting alternatives to compete in the marketplace. Businesses and individuals thus lack an economic incentive to transition to alternatives. The Beijing baseline calculation was designed to overcome this problem with respect to Article 5 countries by reducing supply to those countries. The price of these ODSs should rise to reflect the decrease in supply.

In response to the Beijing Adjustments, EPA published a final rule in the **Federal Register** on December 29, 2005 (70 FR 77042). The Beijing Adjustments to the Protocol, Article 2A, paragraphs 4–7 state that an industrialized Party's allowable production of CFCs–11, –12, –113, –114, and –115, referred to under the Clean Air Act as Class I, Group I substances, to meet the basic domestic needs of Article 5 Parties shall be measured against ''the annual average of its production of [these substances] for basic domestic needs for the period 1995 to 1997 inclusive.'' EPA's December 29, 2005 action was far more stringent than the requirements set forth in Beijing. The Agency established a baseline for Class I, Group I substances

using the more recent export data from the years 2000–2003, years in which there were far fewer exports. Therefore, instead of establishing an aggregate baseline for Class I, Group I substances of 9,951 metric tons—reflecting the 1995–1997 average called for by the Beijing Adjustments—EPA's December 29, 2005 final rule established a more stringent baseline of 345 metric tons, reflecting export data from 2000–2003, believing that more recent export data represented a truer picture of the actual basic domestic needs for these chemicals in developing countries and would thereby address the concerns regarding global oversupply of CFCs.

After publication of the December 29, 2005 final rule, EPA was informed that although there is a global oversupply of CFCs in general, there are not sufficient supplies of pharmaceutical-grade CFCs available for use in metered dose inhalers in developing countries. Pharmaceutical-grade CFCs are more pure than a typical batch of CFCs and have to meet stringent specifications set out by regulatory authorities if they are to be used in medical devices. Developed countries like the United States have already reached their phaseout date for the production and consumption of CFCs. Under the Montreal Protocol, once a Party has reached the phaseout date for CFCs it is allowed to apply for an essential use exemption, which permits the Party to consume limited amounts of CFCs for essential uses such as certain metered dose inhalers. Developing countries do not phase out their CFC consumption until 2010 and do not have access to an essential use exemption until that time. Therefore, the Agency's previous conclusion that there is an oversupply of CFCs was not correct with regard to pharmaceutical-grade CFCs. Because the essential use exemption will not be available to developing countries until 2010, there is a need for developed countries to supply CFCs to meet this demand between 2007 and 2009 under the provisions for basic domestic needs identified in the Montreal Protocol and EPA regulations.

The number of facilities that are rated for pharmaceutical-grade CFC production is limited. One company that owns such a facility in the U.S. had previously sourced the developing country demand for pharmaceutical-grade CFCs from a facility in Europe which, as of 2006, is no longer in operation. Since EPA's December 29, 2005 final rule set baselines for CFC production for basic domestic needs that are far below the requirements of the Beijing Adjustments, the Agency could allow for a moderate increase in the amount of CFC production to meet domestic needs in order to make up the potential shortfall in pharmaceutical-grade CFC production for developing countries, while still exceeding compliance with the U.S.'s Montreal Protocol obligations.

The Montreal Protocol encourages industrial rationalization to minimize the number of sources that produce ozone-depleting substances. The closure of plants in Europe and in developing countries as part of their phase out plans is consistent with this environmental goal. However, EPA recognizes the compelling public health rationale for continued manufacture of certain CFC-containing metered dose inhalers (MDIs). In fact, on April 11, 2006, EPA published a proposed rule in the **Federal Register** to allow for the manufacture of CFCs for use in metered dose inhalers in the United States for the year 2006, nearly ten years after our phaseout of CFCs (71 FR 18262).

Therefore, the Agency is proposing to remove the next phasedown step for companies that manufacture Class I, Group I substances from the phaseout schedule for Article 5 allowances effective January 1, 2007. Since the Agency's December 29, 2005 final rule established very low baselines for these substances, the U.S. will still exceed compliance with the Beijing Adjustments even without a step-down to 15% of baseline. A step-down to 15% of the baseline established by the Beijing Adjustments (which is based on 1995–1997 export data) would result in an allowable production level of 1,493 metric tons. By comparison, EPA's proposed approach, which uses the more stringent regulatory baseline based on 2000–2003 export data but maintains the 50% step-down level through 2009, results in an allowable production level of only 173 metric tons.

As a result of the action described in this proposed rulemaking, companies that manufacture Class I, Group I substances will have their Article 5 production frozen at the 2006 reduction level of 50% of baseline for the remaining years of the Article 5 reduction schedule, specifically years 2007–2009. EPA reviewed data provided on the volume of pharmaceutical-grade CFCs produced to meet basic domestic needs over the years 2000–2005 and consulted with other governments to confirm whether they did project a need for pharmaceutical-grade CFCs between 2007 and 2009. In removing the next step-down requirement from our domestic regulation, EPA will allow companies to manufacture at their 2006 level, which will be sufficient to meet the need for pharmaceutical-grade CFCs based on the data reviewed by the Agency.

III. Statutory and Executive Order Reviews

A. Executive Order No. 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This proposed action does not impose any new information collection burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations, 40 CFR Part 82, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0170, EPA ICR number 1432. A copy of the OMB-approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this proposed rule. For purposes of assessing the impacts of today's rule on

small entities, small entity is defined as: (1) A small business that is identified by the North American Industry Classification System (NAICS) Code in the Table below; (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.

Category	NAICS code	SIC code	SIC small business size standard (in number of employees or millions of dollars)
1. Chemical and Allied Products, NEC	422690	5169	100

After considering the economic impacts of this proposed rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities, as it regulates large corporations that produce, import, or export Class I controlled substances. There are no small entities in this regulated industry.

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 proposed 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. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Further, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it does not impose any requirements on any State, local, or tribal government.

E. Executive Order No. 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 proposed rule 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 proposed rule is expected to primarily affect producers and exporters of Class I, Group I controlled substances. Thus, Executive Order 13132 does not apply to this proposed rule.

F. Executive Order No. 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order No. 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 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 proposed rule does not have tribal implications, as specified in Executive Order No. 13175, because it does not significantly or uniquely affect the communities of Indian tribal governments. The proposed rule does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order No. 13175 does not apply to this proposed rule.

G. Executive Order No. 13045: Protection of Children From Environmental Health & 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'' under E.O. 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.

While this proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, we nonetheless have reason to believe that the

environmental health or safety risk addressed by this action may have a disproportionate effect on children. Depletion of stratospheric ozone results in greater transmission of the sun's ultraviolet (UV) radiation to the earth's surface. The following studies describe the effects on children of excessive exposure to UV radiation: (1) Westerdahl J, Olsson H, Ingvar C. ''At what age do sunburn episodes play a crucial role for the development of malignant melanoma,'' Eur J Cancer 1994; 30A:1647–54; (2) Elwood JM, Jopson J. ''Melanoma and sun exposure: an overview of published studies,'' Int J Cancer 1997; 73:198–203; (3) Armstrong BK. ''Melanoma: childhood or lifelong sun exposure,'' In: Grobb JJ, Stern RS, Mackie RM, Weinstock WA, eds. ''Epidemiology, causes and prevention of skin diseases,'' 1st ed. London, England: Blackwell Science, 1997:63–6; (4) Whiteman D., Green A. ''Melanoma and Sunburn,'' Cancer Causes Control, 1994; 5:564–72; (5) Kricker A, Armstrong, BK, English, DR, Heenan, PJ. ''Does intermittent sun exposure cause basal cell carcinoma? A case control study in Western Australia,'' Int J Cancer 1995; 60:489–94; (6) Gallagher, RP, Hill, GB, Bajdik, CD, et al. ''Sunlight exposure, pigmentary factors, and risk of nonmelanocytic skin cancer I, Basal cell carcinoma,'' Arch Dermatol 1995; 131:157–63; (7) Armstrong, BK. ''How sun exposure causes skin cancer: an epidemiological perspective,'' Prevention of Skin Cancer. 2004; 89–116.

Allowing continuing U.S. production to meet developing countries' basic domestic needs, including their need for pharmaceutical-grade CFCs, avoids the need for those countries to install new ODS manufacturing facilities. The amount of CFCs that will be released to the atmosphere should remain the same regardless of the manufacturing location. In addition, avoiding the installation of new capacity is one means of ensuring that production levels continue to decline. Thus, this proposed rule is not expected to increase the impacts on children's health from stratospheric ozone depletion.

H. Executive Order No. 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not a ''significant energy action'' as defined in Executive Order No. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

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 its 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 proposed rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 82

Environmental protection.

Dated: August 17, 2006.

Stephen L. Johnson,

Administrator.

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.

2. Section 82.11 is amended by revising paragraph (a)(3) to read as follows:

§ 82.11 Exports of Class I controlled substances to Article 5 Parties.

(a) * * *

(3) Phased Reduction Schedule for Article 5 Allowances allocated in § 82.11. For each control period specified in the following table, each person is granted the specified percentage of the baseline Article 5 allowances apportioned under § 82.11.

Control period	Class I substances in group I (in percent)	Class I substances in group VI (In percent)
2006	50	80
2007	50	80
2008	50	80
2009	50	80
2010	0	80
2011	0	80
2012	0	80
2013	0	80
2014	0	80
2015	0	0

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[FR Doc. E6–13951 Filed 8–22–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 296

[Docket No. MARAD–2006–23804]

RIN 2133–AB68

Maintenance and Repair Reimbursement Pilot Program

AGENCY: Maritime Administration, DOT.

ACTION: Notice of opening of reply comment period.

SUMMARY: The Maritime Administration (MARAD) is amending its regulations governing its pilot program for the reimbursement of costs of qualified maintenance and repair (M&R) of Maritime Security Program (MSP) vessels performed in United States shipyards. Under Public Law 109–163, the Secretary of Transportation, acting through the Maritime Administrator, is directed to implement regulations that, among other things, replace MARAD's voluntary M&R reimbursement program with a mandatory system.

The notice of proposed rulemaking for this action was published in the **Federal Register** on February 8, 2006 (71 FR 6438). Several of the comments received argued that MARAD lacks authority to unilaterally add to existing MSP agreements the added obligation on the part of the MSP contractor to enter into an M&R Pilot Program agreement. In order to have a full airing of this fundamental issue, MARAD is hereby giving notice that we have decided to open a reply comment period for this rulemaking. Reply comments may address the issue highlighted above or any other issue raised in the original set of comments received in this docket.

DATES: Reply comments are due September 22, 2006.

ADDRESSES: You may submit reply comments [identified by DOT DMS Docket Number MARAD 2006–23804] by any of the following methods:

• Web site: *http://dms.dot.gov.* Follow the instructions for submitting