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- J. Unfunded Mandates Reform Act

## I. Regulated Entities

The HCFC allowance allocation system will affect the following categories:

Category	NAICS code	SIC code	Examples of regulated entities
Chlorofluorocarbon gas manufacturing .....	325120	2869	Chlorodifluoromethane manufacturers; Dichlorofluoroethane manufacturers; Chlorodifluoroethane manufacturers
Chlorofluorocarbon gas importers .....	325120	2869	Chlorodifluoromethane importers; Dichlorofluoroethane importers; Chlorodifluoroethane importers.
Chlorofluorocarbon gas exporters .....	325120	2869	Chlorodifluoromethane exporters; Dichlorofluoroethane exporters; Chlorodifluoroethane exporters
Polystyrene foam product manufacturing .....	326140	3086	Plastics foam Products (Polystyrene Foam Products)
Urethane and other foam product (except polystyrene) manufacturing.	326150	3086	Insulation and cushioning, foam plastics (except polystyrene) manufacturing

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 regulated by this action. Other types of entities not listed in this table could also be affected. To determine whether your facility, company, business organization, etc., is regulated by this action, you should carefully examine these regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

## II. Background

### A. How Do the Montreal Protocol on Substances That Deplete the Ozone Layer and the U.S. Phase Out HCFCs?

In 1990, the Parties to the Protocol identified HCFCs as transitional substitutes for CFCs and other more destructive ODSs (ozone-depleting substances). In 1992, the Parties created a detailed phaseout schedule for HCFCs, with a cap on consumption for Article 2 (industrialized) countries like the U.S. The Protocol defines consumption as production plus imports minus exports. The consumption cap is derived from the formula of 2.8 percent of the Party's CFC consumption in 1989, plus the Party's consumption of HCFCs in 1989. Based on this formula, the consumption

cap for the U.S. is 15,240 ODP-weighted metric tonnes, effective January 1, 1996.

The Parties created a schedule with graduated reductions and the eventual phaseout of the consumption of HCFCs. The schedule calls for a 35 percent reduction of the cap in 2004, followed by a 65 percent reduction in 2010, a 90 percent reduction in 2015, a 99.5 percent reduction in 2020, and a total phaseout in 2030. The U.S. must comply with this phaseout schedule under the Protocol.

In 1992, EPA was petitioned by environmental groups and industry to implement the required phaseout by eliminating the most ozone-depleting HCFCs first. Based on the available data at the time, EPA believed that the U.S. could meet, and possibly exceed, the required Protocol reductions through the chemical-by-chemical phaseout. In 1993, as authorized by Section 606 of the Clean Air Act Amendments of 1990 (CAA), the U.S. established a phaseout schedule that will eliminate HCFC-141b, HCFC-22, and HCFC-142b first (58 FR 65018, December 10, 1993; 58 FR 15014, March 18, 1993).

In 1999, the Parties agreed to a cap on HCFC production for industrialized countries, effective January 1, 2004. This cap was derived from the average of the Party's consumption cap (2.8 percent of the Party's CFC consumption in 1989, plus the Party's HCFC consumption in 1989) and the result of the same formula for production (2.8

percent of the Party's CFC production in 1989, plus the Party's HCFC production in 1989). This formula results in a U.S. production cap of 15,537 ODP-weighted metric tonnes. As authorized by Section 606 of the CAA, EPA is adopting provisions in today's rule that are consistent with that production cap.

### B. What Sections of the Clean Air Act Apply to This Rulemaking?

Five sections of the CAA apply to this rulemaking. Section 602 requires that EPA publish a list of class II controlled substances. This list appears in 40 CFR part 82, subpart A, Appendix B. Since publication of the initial list, no new substances have been added to the list. Section 602 also requires that EPA assign ozone-depleting potentials (ODPs) to all class II controlled substances. Appendix B to part 82, subpart A in the regulatory text of this document lists class II controlled substances and their corresponding ODPs as currently specified by the Protocol.

HCFC reporting requirements mandated in Section 603 were in 40 CFR 82.13(n) and (o) but have been removed. Recordkeeping requirements and amended reporting requirements have been placed instead in 40 CFR 82.24.

Section 605 of the CAA requires EPA to promulgate regulations to phase out the production and consumption and restrict the use of HCFCs in accordance with the schedule set forth in that