

formulas is central to their operations. However, EPA does not believe that the technical constraints that arise from product requirements and field application of spray foam also necessarily apply to pour foam applications. For example, although buoyancy foam may demonstrate very similar application constraints and concerns as spray foam, there is no thermal requirement associated with buoyancy foam, and field trials of new formulations over several seasons are not required. Many companies with pour foam applications have already made transitions from HCFC-141b to gaseous blowing agents such as HFC-134a, HCFC-22 and HCFC-22/142b blends, and liquid blowing agents such as hydrocarbons and water. Nonetheless, EPA will consider petitions for pour foam and other HCFC-141b applications because, within the wide range of end-uses, there may be HCFC-141b users who currently have technical constraints in transitioning from HCFC-141b to non-ozone-depleting alternatives. EPA believes that it is appropriate to allow these formulators to demonstrate their needs. If formulators within these or other applications can demonstrate that they have not had access to and/or have been unable to fully implement ozone-friendly alternatives to meet their thermal or dimensional performance, flammability control or other product requirements, and they meet the criteria established in § 82.18, EPA will grant a limited quantity of HCFC-141b exemption allowances for a limited time.

5. Information Supporting Decision to Expand the Petition Process

All of the information can be obtained through EPA's Air Docket (see Addresses section above for docket contact info). Please refer to Air Docket A-98-33 when seeking supporting documents.

Allocation Rule: Comments on the space vehicle/defense petition process and other HCFC-141b users' needs for HCFC-141b beyond January 1, 2003. *Air Docket:* A-98-33: IV-D-07, IV-D-09, IV-D-14, IV-D-18, IV-D-26, IV-D-27, IV-D-30, IV-D-32, IV-F-03, IV-F-05, IV-G-01, IV-G-02, IV-G-03, IV-G-04.

SNAP Rule: Pre-proposal letters, Comments to the July 11, 2000 SNAP proposal (65 FR 42653), Notice of Data Availability (NODA) published on May 23, 2001 (66 FR 28408) and comments to the NODA. *Air Docket:* A-98-33, IV-D-66.

Other Correspondence: The Agency received a variety of additional correspondence commenting on the

issue of the HCFC-141b phaseout on January 1, 2003, and a possible extension and/or exemption. A specific request for an extension to the HCFC-141b phaseout was submitted to the Agency by Polythane Systems, Inc. As part of this request, the commenter asserted that a combination of factors would prevent their company, as well as others in the pour and spray foam industry, from being able to transition from HCFC-141b by January 1, 2003. These factors include safety and flammability concerns and unavailability of sufficient test quantities of alternative blowing agents, the need for several years of field testing of new roof technologies to ensure adequate performance, and economic and logistical constraints in accessing stockpiled quantities of HCFC-141b. Many letters in support of the Polythane Systems, Inc. request were sent to EPA by individual companies and Congressional representatives. *Air Docket:* A-98-33: IV-D-35 to IV-D-64 and IV-G-06, IV-G-07, IV-G-08, IV-G-09.

6. Reason for Petition Process

Of the seven commenters to the proposal who addressed continued use of HCFC-141b, five favored a broad extension of the phaseout date for HCFC-141b until proven cost-effective alternatives are available. Some commenters suggested that HCFC-141b be phased out later than 2003 and suggested that 2004, 2005, 2020, or 2029 be the new phaseout date. Others suggested no phaseout date at all. Two commenters indicated a preference for granting an exemption to the spray and foam polyurethane sector after January 1, 2003, by providing allowances modeled after the space vehicle/defense allowances proposed in the July 20, 2001, rule.

In light of these comments, EPA considered whether it was appropriate to extend the phaseout, grant an industry-wide exemption or provide an exemption modeled after the space vehicle/defense petition process proposed. After considering these options, EPA maintains that it is inappropriate to change the January 1, 2003 phaseout date established in 1993 or grant an industry-wide exemption for the spray/pour foam industry. Within the spray and pour foam industry there are disparities between those who have had access to alternatives and resources to implement alternatives in a timely fashion and those who have faced legitimate technical hurdles because they have not had access to alternatives. Additionally, there are numerous end-use applications within this industry

and HCFC-141b may be needed in some applications and not in others. EPA does not believe it is appropriate to provide an industry-wide exemption to accommodate those specific companies and/or end-uses that may need a limited amount of HCFC-141b, for a limited time. Further, EPA does not believe an industry-wide exemption would guarantee that small users with technical constraints would have access to the HCFC-141b produced after January 1, 2003, because they would be forced to compete with other companies for a limited amount of HCFC-141b. Also, EPA believes that an industry-wide exemption limited to the spray and pour foam industry would not provide for unforeseen needs for HCFC-141b in other sectors. Finally, hundreds if not thousands of companies have been relying on the phaseout date for HCFC-141b for nearly 10 years and have made investments accordingly. EPA believes that changing that date would be unfair to those companies who have invested in the transition from HCFC-141b.

EPA believes that expanding the petition process in today's rule provides access to additional HCFC-141b beyond January 1, 2003 for legitimate needs.

7. Total Quantity for Exemption

EPA proposed (July 20, 2001) to limit the total quantity of the HCFC-141b exemption per year for space vehicle or narrow defense needs to one (1) percent of the aggregate of the U.S. HCFC-141b baselines. This reflected the expected small number of requests for small quantities from space vehicle/defense uses. Several commenters requested that EPA state the exact amount in order to clarify that their specific space vehicle/defense needs could be met. Because EPA is expanding the petition process in today's final rule, the Agency is not adopting its proposed limit on the amount of HCFC-141b that would be available for the space vehicle/defense needs. The quantity provided will be based on the needs of each petitioner as demonstrated through their petition (see § 82.18). The U.S. obligation under the Protocol is to control consumption [production + import - export], with a 35 percent reduction in the HCFC consumption cap beginning January 1, 2004. EPA will not authorize quantities of HCFCs under the exemption process that would cause the U.S. to exceed the HCFC consumption cap as agreed under the Montreal Protocol. If HCFC-141b requested in petitions exceeds the amount available under the cap, preference will be given to petitioners who can demonstrate the most vital