

petition should be readily available, EPA believes 30 days allows sufficient time for petitioners to provide the information requested and collect and compile supporting documentation. In subsequent years, the Agency will accept petition renewals on or before October 31st of the control period for an exemption for the next control period. This is explained in more detail below. Although EPA may request additional information from petitioners after these deadlines, the Agency will not consider petitions filed after these dates or entertain requests for more HCFC-141b than was requested in original petitions and/or subsequent renewals.

11. Length of Review Process

EPA proposed a 90-day review period for the space vehicle/defense petitions. In this final rule, EPA is adopting a maximum 21 business day review period for all HCFC-141b exemption petitions in order to expedite the review process and award the HCFC-141b exemption allowances to the petitioners in a reasonable amount of time. Within 21 business days, EPA will review each petition and determine the amount of HCFC-141b that will be granted to each petitioner for the specified control period. If more information is needed, EPA will contact the applicant and specify the necessary information. EPA will consider the merits of each individual petition and industry-wide data on the availability and viability of alternatives. EPA retains the right to disallow HCFC-141b exemption allowances based on information received regarding, *inter alia*, fraud, misrepresentation, inconsistency with Articles and Decisions under the Montreal Protocol, inconsistency with the CAA Amendments of 1990, or other reasons related to human health and the environment.

12. Notification of Petitioners

To allocate HCFC-141b exemption allowances, EPA will send an e-mail or letter to the petitioner identifying the total amount of newly produced or imported HCFC-141b that may be acquired within the control period by allocating HCFC-141b exemption allowances in this amount. This same letter will be placed in EPA's Air Docket A-98-33 with the total amount of the allowance redacted in order to protect the business interests of the petitioner. If EPA decides not to grant the request for any of the reasons stated in § 82.18, EPA will issue an objection letter disallowing the request which will include the reasons for the decision. Within ten working days after receipt of the objection letter, the requestor may

file a one-time appeal, with supporting reasons. EPA may affirm the objection or grant allowances, as she/he finds appropriate in light of the available evidence. If no appeal is taken by the tenth day after receipt of the objection letter, the disallowance will be final on that day.

13. How HCFC-141b Exemption Allowances Will Be Expended

Once HCFC-141b exemption allowances have been granted, the petitioner must find a supplier of HCFC-141b. Holding HCFC-141b exemption allowances for production or import does not imply or mandate production or import; each user must locate a willing supplier and negotiate supply. The petitioner must locate a supplier and send a letter to the producer/importer indicating: (1) Total quantity of allowances held; (2) quantity of allowances expended to date; (3) quantity of allowances requested; and (4) a written verification that the HCFC-141b to be manufactured is for the express purpose of meeting the HCFC-141b exemption needs. In addition, the petitioner must attach a copy of the EPA letter indicating total HCFC-141b exemption allowances allocated to them. If the quantity requested does not exceed remaining allowances (total quantity of allowances held minus quantity of allowances expended to date), the producer/importer may fill the request.

14. Transfer of HCFC-141b Exemption Allowances or Carryover into Subsequent Control Periods

HCFC-141b exemption allowances are not transferable between petitioners or in a chemical-to-chemical trade with other HCFCs. Unexpended HCFC-141b exemption allowances cannot be carried over into subsequent control periods. Unexpended HCFC-141b allowances expire at the end of the control period for which they were allocated. If there are needs beyond the control period for which the HCFC-141b was allocated, petitioners may renew their request for HCFC-141b exemption allowances for the next control period as described below.

15. Transfer of HCFC-141b Exemption Allowances in an Acquisition

EPA does not want to attach value to the allowances and provide an economic incentive for companies to petition the Agency for HCFC-141b exemption allowances. Allowances are issued on the basis of need. Therefore, if a company (the acquirer) acquires another company (the acquiree) that holds HCFC-141b exemption

allowances, the acquirer must submit a renewal petition to EPA. The HCFC-141b exemption allowances held by the acquiree disappear with the purchase of the acquiree. The petition must justify why the acquirer does not possess the technical capability or does not have access to adequate stockpiles to meet the needs of the newly acquired customers and in turn requires the HCFC-141b exemption allowances. Lack of technical capability means the company has not already developed and tested alternative formulations for the same markets to meet same or similar technical requirements. The acquirer should submit the petition at the time of the acquisition of the other company holding the HCFC-141b exemption allowances, provide the necessary documentation confirming the acquisition, and follow the requirements listed for a renewal petition pursuant to § 82.18. EPA will review the petition within 21 business days and inform the acquirer of the decision in a letter.

16. Reporting and Recordkeeping Requirements

To facilitate accurate tracking of exempted HCFC-141b production and use, EPA proposed three levels of reporting. First, EPA proposed that the petitioner would report quarterly to EPA on: The type of product made with or containing HCFC-141b; the specific application of the product; the quantity of HCFC-141b used or contained in the product; and the identity of the manufacturer of the product. Second, EPA proposed that the formulator of the foam or cleaning product submit information quarterly to EPA delineating the quantity of HCFC-141b received; the quantity of HCFC-141b used or contained in the product; the identity of the producer or importer supplying the HCFC-141b; the identity of the recipient of the product made with or containing HCFC-141b; and the quantity of HCFC-141b used or contained in the product sent to the recipient. Finally, EPA proposed that the HCFC-141b manufacturer or importer would report to EPA, on a quarterly basis, the total amount of HCFC-141b produced to provide for exemptions. EPA believed that it was appropriate to require reporting from the point of origin to the final end use of HCFC-141b in order to ensure that newly produced/imported HCFC-141b was used for specific exempted purposes to meet the needs identified by petitioners and that quarterly reporting at all three levels would facilitate EPA's tracking of consumption figures and compliance with the HCFC cap.