

a reply showing the new balance of unexpended allowances, taking into account the 0.1 percent offset.

### 3. Inter-Company Transfers

Section 607(c) of the Act permits inter-company transfers of allowances. Inter-company transfers are transfers of allowances, for the same ODS under a chemical-by-chemical system, from one company to another company. For example, Company A would transfer its allowances to Company B who wished to have more allowances. Both companies would need to record and report the chemical(s) associated with that transfer. The requisite offset would be deducted by EPA from the transferor's allowance balance when processing the transfer.

EPA proposed to allow inter-company transfers, with an environmental offset and to process all transfer requests within three working days from when EPA receives the request.

Because the consumption and production allowances for a specific HCFC disappear after its phaseout date, EPA proposed that inter-company transfers of those allowances will no longer be possible after its phaseout date. For example, after HCFC-141b is phased out on January 1, 2003, a company cannot transfer its HCFC-141b production or consumption allowances to another company. No production or consumption allowances for HCFC-141b will exist after December 31, 2002.

EPA also proposed allowing inter-company transfers of Article 5 allowances to allow for shifts in production that would permit market efficiencies.

One commenter expressed support for inter-company transfers and the remaining commenters were silent on this issue. EPA will allow inter-company transfers of production allowances and consumption allowances until the phaseout date of each HCFC and will allow inter-company transfers of Article 5 allowances. After the phaseout date for a specific HCFC, EPA will allow inter-company transfers of export production allowances. EPA will process inter-company transfers within three working days from when EPA receives a fax or a request for the transfer. EPA will send replies showing the new balances of unexpended allowances for each company. The transferor's new balance will reflect the 0.1 percent offset.

### 4. Inter-pollutant Transfers Combined With Inter-Company Transfers

Section 607(c) of the CAA authorizes inter-company combined with inter-pollutant transfers, subject to certain

requirements. EPA proposed allowing inter-pollutant transfers combined with inter-company transfers for HCFCs, with a 0.1 percent offset. These transfers will be treated as a single transaction and therefore require only a 0.1 percent offset. Three of the ten commenters on transfers specifically favored inter-pollutant transfers combined with inter-company transfers. One commenter felt this capability is flexible and will enable companies to meet their production/import needs. Seven commenters generally supported maximum flexibility in transfers. EPA will allow inter-pollutant transfers combined with inter-company transfers of production allowances and consumption allowances up to the phaseout date of each HCFC. A 0.1 percent offset will be required to provide the environmental benefit called for in the CAA.

The chemical-by-chemical phaseout will affect the availability of these transfers and the types of allowances over time. For example, after the 2003 phaseout of HCFC-141b and before 2010, a company receiving export production allowances and Article 5 allowances for HCFC-141b could engage in inter-company transfers of those allowances, but not in inter-pollutant transfers. In 2010, when export production allowances and Article 5 allowances for HCFC-22 and HCFC-142b become available, these allowances will be transferable with the ones for HCFC-141b.

### 5. International Trades of Current-Year Allowances

For purposes of industrial rationalization, international trades of production and consumption allowances are permitted in some circumstances but require more review than inter-pollutant and inter-company transfers. The Protocol defines industrial rationalization in Article 1 as "the transfer of all or a portion of the calculated level of production of one Party to another, for the purpose of achieving economic efficiencies or responding to anticipated shortfalls in supply as a result of plant closures."

#### (a) Consumption Allowances

In Article 2, the Protocol restricts the international trade of HCFC consumption by linking it with CFC consumption. A more detailed discussion may be found in II.1.5 of the NPRM (66 FR 38076). Under the Protocol, the U.S. cannot trade HCFC consumption to another Party because the U.S. per capita CFC consumption in 1989 was 1.28 kilograms, well above the 0.25 kilogram per capita limit required

of a Party trading consumption to another Party.

However, the Protocol allows the U.S. to potentially receive a trade of HCFC consumption from another Party. Only two Article 2 countries, Norway and Poland, had a per capita CFC consumption in 1989 below 0.25 kilograms. These are the only Parties from which the U.S. could potentially receive a trade of HCFC consumption.

Only two of the ten commenters on transfers singled out international consumption trades for special mention. One commenter felt that such trades would be difficult to engage in and would therefore likely not be a part of their import business. A commenter who was interested in the trade of consumption rights from Norway and Poland requested that the provisions be included in the final rule. Today's action creates provisions and requirements for EPA's processing of a request to trade consumption from one of the two eligible countries to the U.S. To trade consumption from a Party, EPA must receive a letter from that country's diplomatic embassy stating that their consumption level is being reduced by the amount being traded, in accordance with 82.18(d).

#### (b) Production Allowances

During the eleventh Meeting of the Parties in 1999, the adoption of a production cap provided the potential for trades of production between Parties. Because of the minimal restrictions placed on the trade of HCFC production compared to trade of HCFC consumption, EPA proposed provisions for the international trade of production allowances and the subsequent calculations necessary to revise the production limits for all traders trading production in the same control period.

Only three commenters out of ten commenting on transfers discussed international trades of production and two were in favor while one was not. EPA did not receive any comments suggesting alternative methods of calculating the revised production limits. If EPA approves the proposed trade, the Administrator is required to establish revised production limits for the trader so that the aggregate domestic production permitted after the trade reflects the effect of the trade of production allowances. Such trades cannot result in an increase in production over what would have occurred in the absence of the trade. EPA will notify each trader of the revised production limit after approving the trade of production allowances to a Party rather than waiting to the end of the control period; traders will then be able to make timely market decisions