

and each successive package of amendments. EPA proposed to make its HCFC regulations consistent with this provision by including a ban on import or export of any quantity of HCFCs from or to any state that was not a Party to the Copenhagen Amendments, unless that state was complying with the Copenhagen Amendments.

Only one commenter requested clarification concerning allocation rights of an importer of record that previously imported from a non-Party. EPA agrees with the commenter's assumption that all consumption allowances allocated to importers are valid upon promulgation of the rule. However, beginning January 1, 2004, EPA notes that these allowances may only be expended to produce for export to, or to import from, Parties that are either: (1) Listed in Appendix L and have ratified the Beijing Amendments as listed in Appendix C, or (2) not listed in Appendix L but are listed in Appendix C as having ratified the Copenhagen Amendments.

EPA will allow trade with all Parties upon promulgation of this rule, but on January 1, 2004, trade will be restricted to Parties that are either: (1) Listed in Appendix L and have ratified the Beijing Amendments as listed in Appendix C, or (2) not listed in Appendix L but are listed in Appendix C as having ratified the Copenhagen Amendments, or (3) listed in Appendix C, Annex 2 of the Protocol, as complying with the Beijing Amendments if the foreign state is listed in Appendix L, or as complying with the Copenhagen Amendments if the foreign state is not listed in Appendix L. The UNEP Web site maintains a real-time list of current Parties to the Protocol and all its amendments for those wishing to ensure they are viewing the most current list. The Internet address is: <http://www.unep.org/ozone/ratified.shtml>.

K. Will There Be Changes in Definitions?

Because some of the definitions referred only to class I substances and new definitions were necessary to explain provisions for HCFCs, EPA proposed modifications to the existing definitions and the addition of new definitions to § 82.3.

1. Modifications

EPA proposed modifying the definitions for the following terms to include HCFCs: "baseline consumption allowances"; "baseline production allowances"; "consumption allowances"; "production allowances"; and "Article 5 allowances." There were no comments on these modifications.

Since the following terms do not apply to HCFCs, EPA proposed modifying them to make them explicitly apply to class I substances only: "destruction credits"; and "transformation credits." There were no comments and the Agency notes that the statutory time period in which a person could obtain these credits for class I controlled substances has passed, so is removing them from the rule.

EPA proposed modifying the definition for "Party" to include an example relating to the HCFC trade ban that the Parties agreed to in the 1999 Beijing Amendments. One commenter stated that the example implied that the term "Party" as used in provisions based on the Beijing Amendments includes foreign states that have not ratified the Beijing Amendments and requested that EPA clarify the example. This commenter believed that trade in HCFCs should only be permitted among foreign states that have ratified the 1999 Beijing Amendments. EPA agrees that the example in the proposed definition was confusing. In fact, EPA interprets the HCFC trade ban provisions agreed to in the 1999 Beijing Amendments as limiting imports from and exports to Parties that are either: (1) Listed in Appendix L and have ratified the Beijing Amendments as listed in Appendix C, or (2) not listed in Appendix L but are listed in Appendix C as having ratified the Copenhagen Amendments. Therefore, with today's action the example is being removed from the definition of Party.

2. Additions

EPA proposed adding the following new definitions: "export production allowances"; "unexpended export production allowances"; "individual shipment"; "non-objection notice"; "source facility." With today's action, EPA is replacing the concept of "space vehicle/defense allowances" with the broader concept of "HCFC-141b exemption allowances." Accordingly, EPA is adopting definitions for "HCFC-141b exemption allowances" and "unexpended HCFC-141b exemption allowances" in lieu of "space vehicle/defense allowances" and "unexpended space vehicle/defense allowances."

EPA also proposed to adopt definitions for "individual shipment," "non-objection notice," and "source facility" as part of a separate rulemaking involving changes to the petition process for used class I substances (63 FR 41627). EPA has taken into consideration comments received in the course of that rulemaking prior to adopting these definitions in final form. In the class I rulemaking, EPA received

one comment on the definition of "individual shipment." The comment asked for a clarification of the phrase "not to be dis-aggregated," which appeared in the definition as initially proposed. The comment also pointed out an inconsistency between this phrase and the phrase "not to be aggregated," which appeared in the initial paragraph under § 82.13(g)(2) and the proposed § 82.24(c)(3). With this action, EPA is adding a definition of "individual shipment" to § 82.3 that does not employ the phrase "not to be dis-aggregated", and is removing the phrase "not to be aggregated" from the proposed language for § 82.24(c)(3). The intent of the definition continues to be the same as explained in the rule published in the **Federal Register** on August 4, 1998 (63 FR 41627); that an importer shall submit a petition to import a specific quantity of used class I controlled substance as a single U.S. Customs entry. If an importer cannot arrange for the entire quantity to be shipped as one entry through U.S. Customs, the importer is required to submit to EPA a separate petition for the quantity of each individual U.S. Customs entry of a used controlled substance.

One commenter on the proposed petition process for used class II controlled substances believed EPA should clarify whether the definition of "individual shipment" may include a shipment that is the aggregate of many other shipments of used HCFCs. The commenter requested that EPA detail the documentation required for such an aggregated shipment. "Individual shipment" as it pertains to the threshold quantity requiring a petition means the total weight in kilograms of the HCFC that the petitioner wishes to import into the United States at one specific instance and that can be imported as a single U.S. Customs entry. Petitioners who wish to aggregate HCFCs from different sources into one "individual shipment," must make certain that their petition has the required multiple source information that makes up the individual shipment. For example, an importer that petitions the Agency to import an individual shipment of used HCFCs from more than one source must itemize the petition requirements applicable to each source. This itemization will be done based on the weight contribution of each source to the individual shipment. If the individual shipment consists of different HCFCs from multiple sources, EPA will respond in writing regarding each quantity of each specific HCFC. For example, if an individual shipment