

consists of HCFC-22 and HCFC-123, EPA will cite the quantity for each substance in one notice.

In the rulemaking to change the petition process for used class I substances, EPA received one comment on the proposed definition of "source facility." As proposed, that definition reads as follows: "the exact location at which a used controlled substance was recovered from a piece of equipment, including the name of the company responsible for, or owning the location, a contact person at the location, the mailing address for that specific location, and a phone number and a fax number for the contact person at the location." The commenter stated that the phrase "exact location" is too specific, believing that it could refer to the valve or fitting on the piece of equipment from which the used controlled substance is recovered. The commenter pointed out that the valve or fitting will not have a mailing address. The commenter suggests replacing the phrase "exact location" with the word "site." EPA believes there may be some merit to the commenter's concern about the specificity of the proposed phrase. EPA's intent was to refer to the postal address of the owner of the equipment from which the ozone-depleting substance was recovered, not the exact location of the specific piece of equipment. However, to maintain the consistency of the wording within the definition, EPA is replacing the phrase "exact location" with the word "location" rather than site.

#### *L. Will Other Regulatory Options Be Used To Control HCFCs?*

Other authorities under Title VI are available to ensure that the U.S. complies with its phaseout schedule for HCFCs. These programs include the SNAP program, labeling of products made with ODSs, and the ban on non-essential products containing ODSs. These programs affect the sale and/or use of HCFCs rather than their production, import, and export. The allowance system directly affects the production, import, and export of HCFCs.

Eight commenters were unanimous in their belief that implementing these provisions to maintain compliance with the Protocol cap was unnecessary.

#### **1. Labeling**

Under Section 611 of the Act, EPA could require labels on products containing or made with HCFCs before January 1, 2015. Beginning on that date, all products containing or manufactured with HCFCs must bear a label indicating the association with a substance that

harms public health and the environment by destroying ozone in the upper atmosphere.

EPA did not propose to use labeling to discourage HCFC usage and to ensure compliance with the Protocol. Nine commenters agreed with the EPA position. At this time, EPA will not use labeling to further control HCFCs but will continue to evaluate the potential benefit of labeling requirements. Future action, if pursued, would be done through notice and comment rulemaking.

#### **2. SNAP Approval and Restrictions**

The Significant New Alternatives Policy program as authorized by Section 612 of the Act publishes lists of acceptable and unacceptable substitutes for HCFCs. In some SNAP sector end-uses, HCFCs have been listed as acceptable substitutes, but the availability of zero-ODP alternatives has increased in some of these uses. It is therefore possible that SNAP determinations regarding existing HCFC acceptable uses could be revised.

EPA did not propose to include any SNAP-related provisions in this rule. Seven of the eight commenters on regulatory options agreed with the EPA decision not to include SNAP-related provisions in this rule. The eighth commenter was silent on this issue. Although EPA is not including any SNAP provisions with the allowance system, it is possible that future independent SNAP approvals and restrictions might affect HCFC production and consumption.

#### **3. Non-Essential Products Ban**

Section 610(d) of the Act prohibits the sale, distribution, or offer for sale or distribution in interstate commerce, of certain non-essential products that contain or are made with HCFCs. EPA is authorized to grant exceptions to the ban under certain conditions.

EPA did not propose any provisions that would use the non-essential products ban to ensure compliance with the HCFC caps under the Protocol. Five of the eight commenters on regulatory options agreed with this decision; the other three were silent on the issue of a Section 610(d) ban. Although EPA is not including provisions in this rule relating to the non-essential products ban, it is possible that future independent evaluations of whether certain products containing or manufactured with HCFCs qualify as non-essential products might affect HCFC consumption.

#### *M. Will There Be Consumption Allowance Credits for Reductions of HCFC Production By-Products Regulated by Title VI?*

EPA realizes that there is at least one case where the production of an HCFC creates a by-product that is also regulated under Title VI of the Act. In an effort to encourage emissions reductions of such by-products, EPA has explored incentives for voluntary reductions. EPA sought comment on a proposal to provide one production allowance and one consumption allowance to producers of HCFCs for each kilogram of by-product that is reduced. Allowances could be granted only to the extent available under the cap. Only one commenter was in favor but stated that EPA would have to be certain that adequate allowances were available after the new entrant allocations are calculated. This commenter felt that such an incentive approach would be difficult to monitor and verify. Because there was not widespread support for the proposal and the Agency agrees that adequate monitoring will be difficult, EPA is not reserving any remaining allowances under the cap as an incentive to reduce by-products regulated under Title VI in the production of HCFCs.

#### *N. What Will the Reporting and Recordkeeping Requirements Be?*

EPA proposed reporting and recordkeeping requirements similar to those used for class I substances. The requirements include quarterly reports listing each chemical and the quantities (in kilograms) produced, imported, exported, transformed, and destroyed. In order to allow EPA to gather more accurate and timely HCFC market information and fulfill its reporting obligations under the Protocol, EPA proposed to expand the basic reporting and recordkeeping requirements for HCFC transactions that have been in place since 1996.

Five commenters felt the proposed reporting and recordkeeping requirements were excessive or overly burdensome and unnecessary. Three commenters stated that the proposal to require reporting within 15 days after each quarter failed to provide companies sufficient time to gather the information required and to ensure the accuracy of the data. The current regulations require reporting within 45 days after each quarter. EPA has requested that companies report within 15 days after each quarter during 2001 instead of the required 45 days so it could better monitor quarterly consumption figures. Most companies