

operating under an allowance allocation system very similar to the system selected for CFCs (53 FR 30566, August 12, 1988). The CFC allowance allocation system was determined to be the most economically efficient, market-based, and simple to administer in meeting the requirements of the Protocol. Recordkeeping for HCFCs will be similar to that for CFCs but will be somewhat simplified due to the absence of essential use allowances, destruction credits, and transformation credits. The experience gained by those entities familiar with the CFC allowance allocation system will carry over in the class II allowance allocation system.

In addition, the UMRA does not apply to rules that are necessary for the national security or the ratification or implementation of international treaty obligations. As a Party to the Protocol, the U.S. must comply with the phaseout schedule for HCFCs created in 1992 the consumption cap for HCFCs established in 1996. This final rule contains provisions to implement these obligations.

Thus, this rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

#### List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Reporting and recordkeeping requirements.

Dated: December 18, 2002.

**Christine Todd Whitman,**  
Administrator.

For the reasons stated in the preamble, 40 CFR part 82 is amended as follows:

#### PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for Part 82 continues to read as follows:

**Authority:** 42 U.S.C. 7414, 7601, 7671–7671q.

#### Subpart A—Production and Consumption Controls

2. Amend § 82.3 as follows:

a. Revise the section heading.

b. Revise the definitions for “Article 5 allowances”, “Baseline consumption allowances”, “Baseline production allowances”, “Confer”, “Consumption allowances”, “Party”, “Production allowances.”

c. Remove the definitions for “Destruction credits”, and “Transformation credits.”

d. Add new definitions in alphabetical order for the terms “Export production allowances”, “Formulator”, “HCFC–141b exemption allowances”, “Individual shipment”, “Non-objection notice”, “Source facility”, “Space vehicle”, “Unexpended export production allowances”, and “Unexpended HCFC–141b exemption allowances”.

The revisions and additions read as follows:

#### § 82.3 Definitions for class I and class II controlled substances.

\* \* \* \* \*

*Article 5 allowances* means the allowances apportioned under § 82.9(a) and § 82.18(a).

*Baseline consumption allowances* means the consumption allowances apportioned under § 82.6 and § 82.19.

*Baseline production allowances* means the production allowances apportioned under § 82.5 and § 82.17.

\* \* \* \* \*

*Confer* means to shift the essential-use allowances obtained under § 82.4(t) from the holder of the unexpended essential-use allowances to a person for the production of a specified controlled substance, or to shift the HCFC–141b exemption allowances granted under § 82.16(h) from the holder of the unexpended HCFC–141b exemption allowances to a person for the production or import of the controlled substance.

\* \* \* \* \*

*Consumption allowances* means the privileges granted by this subpart to produce and import controlled substances; however, consumption allowances may be used to produce controlled substances only in conjunction with production allowances. A person's consumption allowances for class I substances are the total of the allowances obtained under §§ 82.6 and 82.7 and 82.10, as may be modified under § 82.12 (transfer of allowances). A person's consumption allowances for class II controlled substances are the total of the allowances obtained under §§ 82.19 and 82.20, as may be modified under § 82.23.

\* \* \* \* \*

*Export production allowances* means the privileges granted by § 82.18(b) to produce HCFC–141b for export following the phaseout of HCFC–141b on January 1, 2003.

\* \* \* \* \*

*Formulator* means an entity that distributes a class II controlled substance(s) or blends of a class II controlled substance(s) to persons who

use the controlled substance(s) for a specific application identified in the formulator's petition for HCFC–141b exemption allowances.

\* \* \* \* \*

*HCFC–141b exemption allowances* means the privileges granted to a HCFC–141b formulator; an agency, department, or instrumentality of the U.S.; or a non-governmental space vehicle entity by this subpart to order production of or to import HCFC–141b, as determined in accordance with § 82.16(h).

\* \* \* \* \*

*Individual shipment* means the kilograms of a used controlled substance for which a person may make one (1) U.S. Customs entry, as identified in the non-objection letter from the Administrator under §§ 82.13(g) and 82.24(c)(4).

\* \* \* \* \*

*Non-objection notice* means the privilege granted by the Administrator to import a specific individual shipment of used controlled substance in accordance with §§ 82.13(g) and 82.24(c)(3) and (4).

*Party* means any foreign state that is listed in Appendix C to this subpart (pursuant to instruments of ratification, acceptance, or approval deposited with the Depositary of the United Nations Secretariat), as having ratified the specified control measure in effect under the Montreal Protocol. Thus, for purposes of the trade bans specified in § 82.4(l)(2) pursuant to the London Amendments, only those foreign states that are listed in Appendix C to this subpart as having ratified both the 1987 Montreal Protocol and the London Amendments shall be deemed to be Parties.

\* \* \* \* \*

*Production allowances* means the privileges granted by this subpart to produce controlled substances; however, production allowances may be used to produce controlled substances only in conjunction with consumption allowances. A person's production allowances for class I substances are the total of the allowances obtained under §§ 82.5, 82.7 and 82.9, and as may be modified under § 82.12 (transfer of allowances). A person's production allowances for class II controlled substances are the total of the allowances obtained under § 82.17 and as may be modified under §§ 82.18 and 82.23.

\* \* \* \* \*

*Source facility* means the 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 piece of