

standards set forth in appendix A. Today's rulemaking adds a provision that equipment that extracts refrigerant for recycling on-site or for reclamation off-site must meet the SAE J2209 standards set forth in appendix B, the Standard for Recover Equipment.

The standard adopted today contains specifications for labeling recover equipment once it is certified; safety requirements; requirements that the equipment manufacturer must provide operating instructions; and a functional description of the equipment, including hose and fitting specifications, overflow protection requirements and additional storage tank requirements. The standard requires that the container for used refrigerant be gray with a yellow top and be marked in black print "DIRTY REFRIGERANT—DO NOT USE, MUST BE REPROCESSED." The standard states that the recovery equipment must be able to separate lubricant from recovered refrigerant and to indicate accurately the amount removed from the air-conditioning system in order to assure that the proper amount of lubricant can be returned to the system. It should be noted that EPA's labeling rule published on February 11, 1993 (58 FR 8136) requires that containers containing class I or II substances that enter into interstate commerce are required to bear a specific warning label. Such containers that are sent for off-site recycling or reclamation are entered into interstate commerce and thus require labeling.

The Act states that standards developed by the Administrator shall, as a minimum, be as stringent as SAE J1990 in effect as of the date of November 15, 1990. The standard proposed today is equally as stringent as SAE J1990 regarding the procedure for extracting refrigerant and separating lubricant from refrigerant. It offers a further specification on extraction efficiency (referring to 102 mm of mercury versus the more general statement regarding removal "to a vacuum"). Procedures and requirements regarding unintentional releases of refrigerant during the extraction process are equivalent to SAE J1990, and because recover-only equipment does not purge non-condensable gases from the refrigerant collected, no CFC-12 is released in the process.

Refrigerant removed from motor vehicle air conditioners with recover-only equipment must be either recycled on-site to the SAE J1991 standard of purity or sent off-site to a reclamation facility for purification to ARI 700-93, a higher standard of purity than SAE J1991. Under the provisions of the July 14, 1992 final rule, refrigerant may also

be sent off-site for recycling but only if the equipment used to recycle the refrigerant is owned by the person who owns both the recover-only equipment and owns or operates the establishment at which the refrigerant was extracted. Requirements concerning reclamation facilities and their ability to ensure that refrigerant meets the ARI 700-93 standard of purity were addressed in the direct final rule amending 40 CFR 82.164, published on August 19, 1994 (59 FR 42949).

The standard adopted today as appendix B represents a consensus of the Interior Climate Control Committee of SAE. This committee is made up of automotive industry experts, equipment and supply manufacturers, and chemical producers. SAE prepared the standards (SAE J1990, SAE J1991) later adopted by EPA in appendix A and the Agency believes that the standard set forth in today's rulemaking as appendix B is consistent with the specifications required in those standards for recovery. The Agency believes that the appendix B standard is appropriate for recovery because it achieves environmental protection through efficient recovery of refrigerant and protects automobile equipment through lubricant removal indication.

C. Substantially Identical Equipment

Section 82.36(b) of the regulations states that equipment purchased before the proposal of the standards for refrigerant recycling equipment in appendix A (*i.e.*, before September 4, 1991) shall be considered certified if it is "substantially identical" to equipment approved under § 82.36(a). Until now, this provision has effectively applied only to recover/recycle equipment, because only recover/recycle equipment has been approved by the Agency.

Today's rulemaking applies the Act's "substantially identical" provision to recover-only equipment as well. Recover-only equipment shall be considered approved if it is substantially identical to recover-only equipment approved under § 82.36(a) and if it was purchased prior to the date of proposal of this rulemaking (*i.e.*, April 22, 1992). EPA's regulations do not define "substantially identical," but a manufacturer or owner may request a determination from EPA on this point.

The Agency's views on implementation of the "substantially identical" provision are discussed in some detail in the September 4, 1991 Notice. In general, EPA proposes to follow the same strict approach in implementing this provision for recover-only equipment as for recover/recycle

equipment. The Agency is aware that although some recover-only machines have been sold, until mid-1992, manufacturers of these machines did not have the opportunity to have machines certified because the proposed standard had not been developed. Recover-only equipment that is certified to meet the standard in appendix B will be considered "approved refrigerant recycling equipment." Where the models sold in the past are the same as models that are approved, this equipment will be considered substantially identical. In situations where the models sold were not the same as the approved model, EPA will consult with approved independent standards testing organizations to evaluate the previously sold equipment. EPA will use these organizations' test data and any additional information submitted by the manufacturer, such as process diagrams and lists of components, in the evaluation. EPA will maintain a list of equipment determined to be substantially identical. An essential criterion for evaluation is that equipment removes refrigerant as efficiently as the SAE J2209 standard and separates lubricant from refrigerant. The Agency is also interested in ensuring safety in operation of the equipment.

Should manufacturers consider the possibility of retrofit kits to bring the pre-certification models up to the performance standard of certified models, EPA would require that the retrofit kits be certified by an approved independent standards testing organization and that equipment owners indicate in their certification to the Agency (as discussed in the September 4, 1991 proposal) that they have retrofitted equipment.

EPA is aware of some cases in which equipment purchased before the publication of the proposal to today's rule was produced by manufacturers that have not yet received a certification on any model or by manufacturers that no longer make equipment. In situations where equipment was purchased without certification and no model by that manufacturer achieves certification, EPA will evaluate the equipment on a model-by-model basis before making a substantially identical determination. Owners of the equipment, if they cannot contact manufacturers to determine the status of equipment, must submit process flowsheets and lists of components, and EPA reserves the right to inspect the equipment and request samples of refrigerant if necessary. The address for submittal of information is: MVACs Recycling Program Manager, Stratospheric Protection Division,