use of limited quantities of class II substances solely for purposes of use in medical devices if such authorization is determined by the Commissioner, in consultation with the Administrator, to be necessary for use in medical devices.

(B) Cap on exception

Under no circumstances may the authority set forth in subparagraph (A) be applied to authorize any person to produce a class II substance in annual quantities greater than 10 percent of that produced by such person during the baseline year.

(2) Developing countries

(A) In general

Notwithstanding the provisions of subsection (a) or (b) of this section, the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of a class II substance in excess of the quantities otherwise permitted under such provisions solely for export to and use in developing countries that are Parties to the Montreal Protocol, as determined by the Administrator. Any production authorized under this subsection shall be solely for purposes of satisfying the basic domestic needs of such countries.

(B) Cap on exception

(i) Under no circumstances may the authority set forth in subparagraph (A) be applied to authorize any person to produce a class II substance in any year following the effective date of subsection (b)(1) of this section and before the year 2030 in annual quantities greater than 110 percent of the quantity of such substance produced by such person during the baseline year.

(ii) Under no circumstances may the authority set forth in subparagraph (A) be applied to authorize any person to produce a class II substance in the year 2030, or any year thereafter, in an annual quantity greater than 15 percent of the quantity of such substance produced by such person during the baseline year.

(iii) Each exception authorized under this paragraph shall terminate no later than January 1, 2040.

(July 14, 1955, ch. 360, title VI, § 605, as added Pub. L. 101–549, title VI, § 602(a), Nov. 15, 1990, 104 Stat. 2658; amended Pub. L. 112–81, div. A, title III, § 320, Dec. 31, 2011, 125 Stat. 1361.)

AMENDMENTS

2011—Subsec. (a)(4). Pub. L. 112–81 added par. (4).

§ 7671e. Accelerated schedule

(a) In general

The Administrator shall promulgate regulations, after notice and opportunity for public comment, which establish a schedule for phasing out the production and consumption of class I and class II substances (or use of class II substances) that is more stringent than set forth in section 7671c or 7671d of this title, or both, if—

(1) based on an assessment of credible current scientific information (including any assessment under the Montreal Protocol) regarding harmful effects on the stratospheric ozone layer associated with a class I or class II substance, the Administrator determines that such more stringent schedule may be necessary to protect human health and the environment against such effects,

(2) based on the availability of substitutes for listed substances, the Administrator determines that such more stringent schedule is practicable, taking into account technological achievability, safety, and other relevant factors, or

(3) the Montreal Protocol is modified to include a schedule to control or reduce production, consumption, or use of any substance more rapidly than the applicable schedule under this subchapter.

In making any determination under paragraphs (1) and (2), the Administrator shall consider the status of the period remaining under the applicable schedule under this subchapter.

(b) Petition

Any person may petition the Administrator to promulgate regulations under this section. The Administrator shall grant or deny the petition within 180 days after receipt of any such petition. If the Administrator denies the petition, the Administrator shall publish an explanation of why the petition was denied. If the Administrator grants such petition, such final regulations shall be promulgated within 1 year. Any petition under this subsection shall include a showing by the petitioner that there are data adequate to support the petition. If the Administrator determines that information is not sufficient to make a determination under this subsection, the Administrator shall use any authority available to the Administrator, under any law administered by the Administrator, to acquire such information.

(July 14, 1955, ch. 360, title VI, § 606, as added Pub. L. 101–549, title VI, § 602(a), Nov. 15, 1990, 104 Stat. 2660.)

§ 7671f. Exchange authority

(a) Transfers

The Administrator shall, within 10 months after November 15, 1990, promulgate rules under this subchapter providing for the issuance of allowances for the production of class I and II substances in accordance with the requirements of this subchapter and governing the transfer of such allowances. Such rules shall insure that the transactions under the authority of this section will result in greater total reductions in the production in each year of class I and class II substances than would occur in that year in the absence of such transactions.

(b) Interpollutant transfers

(1) The rules under this section shall permit a production allowance for a substance for any year to be transferred for a production allowance for another substance for the same year on an ozone depletion weighted basis.

(2) Allowances for substances in each group of class I substances (as listed pursuant to section 7671a of this title) may only be transferred for