

**(f) Fees**

The State (or the Administrator) may reduce any fee required under this chapter to take into account the financial resources of small business stationary sources.

**(g) Continuous emission monitors**

In developing regulations and CTGs under this chapter that contain continuous emission monitoring requirements, the Administrator, consistent with the requirements of this chapter, before applying such requirements to small business stationary sources, shall consider the necessity and appropriateness of such requirements for such sources. Nothing in this subsection shall affect the applicability of subchapter IV-A of this chapter provisions relating to continuous emissions monitoring.

**(h) Control technique guidelines**

The Administrator shall consider, consistent with the requirements of this chapter, the size, type, and technical capabilities of small business stationary sources (and sources which are eligible under subsection (c)(2) of this section to be treated as small business stationary sources) in developing CTGs applicable to such sources under this chapter.

(July 14, 1955, ch. 360, title V, §507, as added Pub. L. 101-549, title V, §501, Nov. 15, 1990, 104 Stat. 2645.)

## REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (c)(1)(B), is Pub. L. 85-536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

The Paperwork Reduction Act, referred to in subsecs. (d)(2) and (e)(1)(B), probably means the Paperwork Reduction Act of 1980, Pub. L. 96-511, Dec. 11, 1980, 94 Stat. 2812, as amended, which was classified principally to chapter 35 (§3501 et seq.) of Title 44, Public Printing and Documents, prior to the general amendment of that chapter by Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 163. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of Title 44 and Tables.

The Regulatory Flexibility Act, referred to in subsecs. (d)(2) and (e)(1)(B), is Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1164, which is classified generally to chapter 6 (§601 et seq.) of Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 5 and Tables.

The Equal Access to Justice Act, referred to in subsecs. (d)(2) and (e)(1)(B), is title II of Pub. L. 96-481, Oct. 21, 1980, 94 Stat. 2325. For complete classification of this Act to the Code, see Short Title note set out under section 504 of Title 5.

## SUBCHAPTER VI—STRATOSPHERIC OZONE PROTECTION

**§ 7671. Definitions**

As used in this subchapter—

**(1) Appliance**

The term “appliance” means any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, includ-

ing any air conditioner, refrigerator, chiller, or freezer.

**(2) Baseline year**

The term “baseline year” means—

(A) the calendar year 1986, in the case of any class I substance listed in Group I or II under section 7671a(a) of this title,

(B) the calendar year 1989, in the case of any class I substance listed in Group III, IV, or V under section 7671a(a) of this title, and

(C) a representative calendar year selected by the Administrator, in the case of—

(i) any substance added to the list of class I substances after the publication of the initial list under section 7671a(a) of this title, and

(ii) any class II substance.

**(3) Class I substance**

The term “class I substance” means each of the substances listed as provided in section 7671a(a) of this title.

**(4) Class II substance**

The term “class II substance” means each of the substances listed as provided in section 7671a(b) of this title.

**(5) Commissioner**

The term “Commissioner” means the Commissioner of the Food and Drug Administration.

**(6) Consumption**

The term “consumption” means, with respect to any substance, the amount of that substance produced in the United States, plus the amount imported, minus the amount exported to Parties to the Montreal Protocol. Such term shall be construed in a manner consistent with the Montreal Protocol.

**(7) Import**

The term “import” means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

**(8) Medical device**

The term “medical device” means any device (as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)), diagnostic product, drug (as defined in the Federal Food, Drug, and Cosmetic Act), and drug delivery system—

(A) if such device, product, drug, or drug delivery system utilizes a class I or class II substance for which no safe and effective alternative has been developed, and where necessary, approved by the Commissioner; and

(B) if such device, product, drug, or drug delivery system, has, after notice and opportunity for public comment, been approved and determined to be essential by the Commissioner in consultation with the Administrator.

**(9) Montreal Protocol**

The terms “Montreal Protocol” and “the Protocol” mean the Montreal Protocol on

Substances that Deplete the Ozone Layer, a protocol to the Vienna Convention for the Protection of the Ozone Layer, including adjustments adopted by Parties thereto and amendments that have entered into force.

**(10) Ozone-depletion potential**

The term “ozone-depletion potential” means a factor established by the Administrator to reflect the ozone-depletion potential of a substance, on a mass per kilogram basis, as compared to chlorofluorocarbon-11 (CFC-11). Such factor shall be based upon the substance’s atmospheric lifetime, the molecular weight of bromine and chlorine, and the substance’s ability to be photolytically disassociated, and upon other factors determined to be an accurate measure of relative ozone-depletion potential.

**(11) Produce, produced, and production**

The terms “produce”, “produced”, and “production”, refer to the manufacture of a substance from any raw material or feedstock chemical, but such terms do not include—

(A) the manufacture of a substance that is used and entirely consumed (except for trace quantities) in the manufacture of other chemicals, or

(B) the reuse or recycling of a substance.

(July 14, 1955, ch. 360, title VI, §601, as added Pub. L. 101-549, title VI, §602(a), Nov. 15, 1990, 104 Stat. 2649.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in par. (8), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

**§ 7671a. Listing of class I and class II substances**

**(a) List of class I substances**

Within 60 days after November 15, 1990, the Administrator shall publish an initial list of class I substances, which list shall contain the following substances:

Group I  
chlorofluorocarbon-11 (CFC-11)  
chlorofluorocarbon-12 (CFC-12)  
chlorofluorocarbon-113 (CFC-113)  
chlorofluorocarbon-114 (CFC-114)  
chlorofluorocarbon-115 (CFC-115)

Group II  
halon-1211  
halon-1301  
halon-2402

Group III  
chlorofluorocarbon-13 (CFC-13)  
chlorofluorocarbon-111 (CFC-111)  
chlorofluorocarbon-112 (CFC-112)  
chlorofluorocarbon-211 (CFC-211)  
chlorofluorocarbon-212 (CFC-212)  
chlorofluorocarbon-213 (CFC-213)  
chlorofluorocarbon-214 (CFC-214)  
chlorofluorocarbon-215 (CFC-215)  
chlorofluorocarbon-216 (CFC-216)  
chlorofluorocarbon-217 (CFC-217)

Group IV

carbon tetrachloride

Group V

methyl chloroform

The initial list under this subsection shall also include the isomers of the substances listed above, other than 1,1,2-trichloroethane (an isomer of methyl chloroform). Pursuant to subsection (c) of this section, the Administrator shall add to the list of class I substances any other substance that the Administrator finds causes or contributes significantly to harmful effects on the stratospheric ozone layer. The Administrator shall, pursuant to subsection (c) of this section, add to such list all substances that the Administrator determines have an ozone depletion potential of 0.2 or greater.

**(b) List of class II substances**

Simultaneously with publication of the initial list of class I substances, the Administrator shall publish an initial list of class II substances, which shall contain the following substances:

hydrochlorofluorocarbon-21 (HCFC-21)  
hydrochlorofluorocarbon-22 (HCFC-22)  
hydrochlorofluorocarbon-31 (HCFC-31)  
hydrochlorofluorocarbon-121 (HCFC-121)  
hydrochlorofluorocarbon-122 (HCFC-122)  
hydrochlorofluorocarbon-123 (HCFC-123)  
hydrochlorofluorocarbon-124 (HCFC-124)  
hydrochlorofluorocarbon-131 (HCFC-131)  
hydrochlorofluorocarbon-132 (HCFC-132)  
hydrochlorofluorocarbon-133 (HCFC-133)  
hydrochlorofluorocarbon-141 (HCFC-141)  
hydrochlorofluorocarbon-142 (HCFC-142)  
hydrochlorofluorocarbon-221 (HCFC-221)  
hydrochlorofluorocarbon-222 (HCFC-222)  
hydrochlorofluorocarbon-223 (HCFC-223)  
hydrochlorofluorocarbon-224 (HCFC-224)  
hydrochlorofluorocarbon-225 (HCFC-225)  
hydrochlorofluorocarbon-226 (HCFC-226)  
hydrochlorofluorocarbon-231 (HCFC-231)  
hydrochlorofluorocarbon-232 (HCFC-232)  
hydrochlorofluorocarbon-233 (HCFC-233)  
hydrochlorofluorocarbon-234 (HCFC-234)  
hydrochlorofluorocarbon-235 (HCFC-235)  
hydrochlorofluorocarbon-241 (HCFC-241)  
hydrochlorofluorocarbon-242 (HCFC-242)  
hydrochlorofluorocarbon-243 (HCFC-243)  
hydrochlorofluorocarbon-244 (HCFC-244)  
hydrochlorofluorocarbon-251 (HCFC-251)  
hydrochlorofluorocarbon-252 (HCFC-252)  
hydrochlorofluorocarbon-253 (HCFC-253)  
hydrochlorofluorocarbon-261 (HCFC-261)  
hydrochlorofluorocarbon-262 (HCFC-262)  
hydrochlorofluorocarbon-271 (HCFC-271)

The initial list under this subsection shall also include the isomers of the substances listed above. Pursuant to subsection (c) of this section, the Administrator shall add to the list of class II substances any other substance that the Administrator finds is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer.

**(c) Additions to the lists**

(1) The Administrator may add, by rule, in accordance with the criteria set forth in subsection (a) or (b) of this section, as the case may be, any substance to the list of class I or class II substances under subsection (a) or (b) of this section. For purposes of exchanges under section 7661f<sup>1</sup> of this title, whenever a substance is

<sup>1</sup> So in original. Probably should be section “7671f”.