

Stat. 2655; amended Pub. L. 105-277, div. A, § 101(a) [title VII, § 764], Oct. 21, 1998, 112 Stat. 2681, 2681-36.)

#### AMENDMENTS

1998—Subsec. (d)(5), (6). Pub. L. 105-277, § 101(a) [title VII, § 764(b)], added pars. (5) and (6).

Subsec. (e)(3). Pub. L. 105-277, § 101(a) [title VII, § 764(c)], added par. (3).

Subsec. (h). Pub. L. 105-277, § 101(a) [title VII, § 764(a)], added subsec. (h).

### § 7671d. Phase-out of production and consumption of class II substances

#### (a) Restriction of use of class II substances

Effective January 1, 2015, it shall be unlawful for any person to introduce into interstate commerce or use any class II substance unless such substance—

- (1) has been used, recovered, and recycled;
- (2) is used and entirely consumed (except for trace quantities) in the production of other chemicals;
- (3) is used as a refrigerant in appliances manufactured prior to January 1, 2020; or
- (4) is listed as acceptable for use as a fire suppression agent for nonresidential applications in accordance with section 7671k(c) of this title.

As used in this subsection, the term “refrigerant” means any class II substance used for heat transfer in a refrigerating system.

#### (b) Production phase-out

(1) Effective January 1, 2015, it shall be unlawful for any person to produce any class II substance in an annual quantity greater than the quantity of such substance produced by such person during the baseline year.

(2) Effective January 1, 2030, it shall be unlawful for any person to produce any class II substance.

#### (c) Regulations regarding production and consumption of class II substances

By December 31, 1999, the Administrator shall promulgate regulations phasing out the production, and restricting the use, of class II substances in accordance with this section, subject to any acceleration of the phase-out of production under section 7671e of this title. The Administrator shall also promulgate regulations to insure that the consumption of class II substances in the United States is phased out and terminated in accordance with the same schedule (subject to the same exceptions and other provisions) as is applicable to the phase-out and termination of production of class II substances under this subchapter.

#### (d) Exceptions

##### (1) Medical devices

##### (A) In general

Notwithstanding the termination of production required under subsection (b)(2) of this section and the restriction on use referred to in subsection (a) of this section, the Administrator, after notice and opportunity for public comment, shall, to the extent such action is consistent with the Montreal Protocol, authorize the production and

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 as-