

**§ 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) and the restriction on use referred to in subsection (a), 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), 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) 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.)

**Editorial Notes**

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 deter-

mines 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 allowances for other substances in the same Group.

(3) The Administrator shall, as appropriate, establish groups of class II substances for trading purposes and assign class II substances to such groups. In the case of class II substances, allowances may only be transferred for allowances for other class II substances that are in the same Group.

**(c) Trades with other persons**

The rules under this section shall permit 2 or more persons to transfer production allowances (including interpollutant transfers which meet the requirements of subsections (a) and (b)) if the transferor of such allowances will be subject, under such rules, to an enforceable and quantifiable reduction in annual production which—

- (1) exceeds the reduction otherwise applicable to the transferor under this subchapter,
- (2) exceeds the production allowances transferred to the transferee, and
- (3) would not have occurred in the absence of such transaction.

**(d) Consumption**

The rules under this section shall also provide for the issuance of consumption allowances in accordance with the requirements of this subchapter and for the trading of such allowances in the same manner as is applicable under this section to the trading of production allowances under this section.

(July 14, 1955, ch. 360, title VI, § 607, as added Pub. L. 101-549, title VI, § 602(a), Nov. 15, 1990, 104 Stat. 2660.)

**§ 7671g. National recycling and emission reduction program**

**(a) In general**

(1) The Administrator shall, by not later than January 1, 1992, promulgate regulations establishing standards and requirements regarding the use and disposal of class I substances during the service, repair, or disposal of appliances and industrial process refrigeration. Such standards and requirements shall become effective not later than July 1, 1992.

(2) The Administrator shall, within 4 years after November 15, 1990, promulgate regulations establishing standards and requirements regarding use and disposal of class I and II substances not covered by paragraph (1), including the use and disposal of class II substances during service, repair, or disposal of appliances and industrial process refrigeration. Such standards and requirements shall become effective not later than 12 months after promulgation of the regulations.

(3) The regulations under this subsection shall include requirements that—

- (A) reduce the use and emission of such substances to the lowest achievable level, and
- (B) maximize the recapture and recycling of such substances.

Such regulations may include requirements to use alternative substances (including substances which are not class I or class II substances) or to minimize use of class I or class II substances, or to promote the use of safe alternatives pursuant to section 7671k of this title or any combination of the foregoing.

**(b) Safe disposal**

The regulations under subsection (a) shall establish standards and requirements for the safe disposal of class I and II substances. Such regulations shall include each of the following—

- (1) Requirements that class I or class II substances contained in bulk in appliances, ma-