

maintain the certifications as records for 3 years.

(iii) Every third party applicator of a quantity of critical use methyl bromide must maintain invoice and order records related to the sale of such material for 3 years.

(2) Reporting—Every third party applicator of critical use methyl bromide must report to the Administrator annually, the following items:

(i) For critical uses of class I, Group VI controlled substances, an annual list of the amount of critical use methyl bromide bought;

(ii) For critical uses of class I, Group VI controlled substances, an annual list of the amount of critical use methyl bromide sold for each specified critical use in Appendix L of this subpart;

(iii) For critical uses of class I, Group VI controlled substances, report annually the amount of critical use methyl bromide owned by the reporting entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, as well as quantities held by the reporting entity on behalf of another entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, along with the name of the entity on whose behalf the material is held;

(iv) The number of unexpended and expended critical stock allowances;

(v) The amount of methyl bromide produced or imported prior to the January 1, 2005 phaseout date owned by the reporting entity, as well as quantities held by the reporting entity on behalf of another entity, specifying the name of the entity on whose behalf the material is held.

(dd) Every approved critical user purchasing an amount of critical use methyl bromide or purchasing fumigation services with critical use methyl bromide must, for each request, identify the use as a critical use and certify being an approved critical user. The approved critical user certification will state, in part: "I certify, under penalty of law, I am an approved critical user and I will use this quantity of methyl bromide for an approved critical use. My action conforms to the requirements associated with the critical use exemption published in 40 CFR part 82. I am aware that any agricultural com-

modity within a treatment chamber, facility or field I fumigate with critical use methyl bromide cannot subsequently or concurrently be fumigated with non-critical use methyl bromide during the same control period, excepting a QPS treatment or a treatment for a different use (*e.g.*, a different crop or commodity). I will not use this quantity of methyl bromide for a treatment chamber, facility, or field that I previously fumigated with non-critical use methyl bromide during the same control period, excepting a QPS treatment or a treatment for a different use (*e.g.*, a different crop or commodity), unless a local township limit now prevents me from using methyl bromide alternatives or I have now become an approved critical user as a result of rule-making." The certification will also identify the type of critical use methyl bromide purchased, the location of the treatment, the crop or commodity treated, the quantity of critical use methyl bromide purchased, and the acreage/square footage treated, and will be signed and dated by the approved critical user.

[60 FR 24986, May 10, 1995]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 82.15 see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 82.15 Prohibitions for class II controlled substances.

(a) *Production.* (1) Effective January 21, 2003, no person may produce class II controlled substances for which EPA has apportioned baseline production and consumption allowances, in excess of the quantity of unexpended production allowances, unexpended Article 5 allowances, unexpended export production allowances, or conferred unexpended HCFC-141b exemption allowances held by that person for that substance under the authority of this subpart at that time in that control period, unless the substances are transformed or destroyed domestically or by a person of another Party, or unless they are produced using an exemption granted in paragraph (f) of this section. Every kilogram of excess production constitutes a separate violation of this subpart.

(2) Effective January 21, 2003, no person may use production allowances to produce a quantity of class II controlled substance unless that person holds under the authority of this subpart at the same time consumption allowances sufficient to cover that quantity of class II controlled substances. No person may use consumption allowances to produce a quantity of class II controlled substances unless the person holds under authority of this subpart at the same time production allowances sufficient to cover that quantity of class II controlled substances.

(b) *Import.* (1) Effective January 21, 2003, no person may import class II controlled substances (other than transshipments, heels or used class II controlled substances) for which EPA has apportioned baseline production and consumption allowances, in excess of the quantity of unexpended consumption allowances, or conferred unexpended HCFC-141b exemption allowances held by that person under the authority of this subpart at that time in that control period, unless the substances are for use in a process resulting in their transformation or their destruction, or unless they are produced using an exemption granted in paragraph (f) of this section. Every kilogram of excess import constitutes a separate violation of this subpart.

(2) Effective January 21, 2003, no person may import, at any time in any control period, a used class II controlled substance for which EPA has apportioned baseline production and consumption allowances, without having submitted a petition to the Administrator and received a non-objection notice in accordance with § 82.24(c)(3) and (4). A person issued a non-objection notice for the import of an individual shipment of used class II controlled substances may not transfer or confer the right to import, and may not import any more than the exact quantity (in kilograms) of the used class II controlled substance stated in the non-objection notice. Every kilogram of import of used class II controlled substance in excess of the quantity stated in the non-objection notice issued by the Administrator in accordance with § 82.24(c)(3) and (4) constitutes a separate violation of this subpart.

(c) Production with Article 5 allowances. No person may introduce into U.S. interstate commerce any class II controlled substance produced with Article 5 allowances. Every kilogram of a class II controlled substance that was produced with Article 5 allowances that is introduced into U.S. interstate commerce constitutes a separate violation under this subpart. No person may export any class II controlled substance produced with Article 5 allowances to a non-Article 5 Party to the Protocol as listed in Appendix E to this subpart. Every kilogram of a class II controlled substance that was produced with Article 5 allowances that is exported to a non-Article 5 Party to the Protocol as listed in Appendix E of this subpart constitutes a separate violation under this subpart.

(d) Production with export production allowances. No person may introduce into U.S. interstate commerce any class II controlled substance produced with export production allowances. Every kilogram of a class II controlled substance that was produced with export production allowances that is introduced into U.S. interstate commerce constitutes a separate violation under this subpart.

(e) Trade with Parties. No person may import or export any quantity of a class II controlled substance listed in Appendix A to this subpart, from or to any foreign state that is not either:

(1) A Party to the Montreal Protocol that has ratified the Beijing Amendments. Parties that have ratified the Beijing Amendments as of June 17, 2004 are listed in Annex 1 to Appendix C of this subpart. Or,

(2) A Party to the Montreal Protocol that has provided notice, certification, and data in accordance with Decision XV/3(c)(i), (ii), and (iii) respectively, to the Ozone Secretariat. A list of Parties that have provided notice, certification and data in accordance with Decision XV/3(c)(i), (ii), and (iii) respectively, by June 17, 2004 can be found in Annex 3 to Appendix C of this subpart and on a list maintained by the Ozone Secretariat. Or,

(3) A Party to the Montreal Protocol operating under Article 5(1) to the

Environmental Protection Agency

§ 82.16

Montreal Protocol. A list of Parties operating under Article 5(1) to the Montreal Protocol as of June 17, 2004 can be found in Annex 4 to Appendix C of this subpart.

(f) Exemptions. (1) Medical Devices [Reserved]

[68 FR 2848, Jan. 21, 2003, as amended at 69 FR 34031, June 17, 2004; 71 FR 41171, July 20, 2006]

§ 82.16 Phaseout schedule of class II controlled substances.

(a) In each control period as indicated in the following table, each person is granted the specified percentage of baseline production allowances and baseline consumption allowances for the specified class II controlled substances apportioned under §§ 82.17 and 82.19:

Control period	Percent of HCFC-141b	Percent of HCFC-22 & HCFC-142b
2003	0	100
2004	0	100
2005	0	100
2006	0	100
2007	0	100
2008	0	100
2009	0	100

(b) Effective January 1, 2003, no person may produce HCFC-141b except for use in a process resulting in its transformation or its destruction, for export under § 82.18(a) using unexpended Article 5 allowances, for export under § 82.18(b) using unexpended export production allowances, for HCFC-141b exemption needs using unexpended HCFC-141b exemption allowances, or for exemptions permitted in § 82.15(f). Effective January 1, 2003, no person may import HCFC-141b (other than transshipments, heels or used class II controlled substances) in excess of the quantity of unexpended HCFC-141b exemption allowances held by that person except for use in a process resulting in its transformation or its destruction, or for exemptions permitted in § 82.15(f).

(c) Effective January 1, 2010, no person may produce HCFC-22 or HCFC-142b for any purpose other than for use in a process resulting in their transformation or their destruction, for use

in equipment manufactured before January 1, 2010, for export under § 82.18(a) using unexpended Article 5 allowances, or for export under § 82.18(b) using unexpended export production allowances, or for exemptions permitted in § 82.15(f). Effective January 1, 2010, no person may import HCFC-22 or HCFC-142b (other than transshipments, heels or used class II controlled substances) for any purpose other than for use in a process resulting in their transformation or their destruction, for exemptions permitted in § 82.15(f), or for use in equipment manufactured prior to January 1, 2010.

(d) Effective January 1, 2015, no person may produce class II controlled substances not previously controlled, for any purpose other than for use in a process resulting in their transformation or their destruction, for use as a refrigerant in equipment manufactured before January 1, 2020, for export under § 82.18(a) using unexpended Article 5 allowances, or for export under § 82.18(b) using unexpended export production allowances, or for exemptions permitted in § 82.15(f). Effective January 1, 2015, no person may import class II controlled substances not subject to the requirements of paragraph (b) or (c) of this section (other than transshipments, heels or used class II controlled substances) for any purpose other than for use in a process resulting in their transformation or their destruction, for exemptions permitted in § 82.15(f), or for use as a refrigerant in equipment manufactured prior to January 1, 2020.

(e) Effective January 1, 2020, no person may produce HCFC-22 or HCFC-142b for any purpose other than for use in a process resulting in their transformation or their destruction, for export under § 82.18(a) using unexpended Article 5 allowances, or for export under § 82.18(b) using unexpended export production allowances, or for exemptions permitted in § 82.15(f). Effective January 1, 2020, no person may import HCFC-22 or HCFC-142b for any purpose other than for use in a process resulting in their transformation or their destruction, or for exemptions permitted in § 82.15(f).

(f) Effective January 1, 2030, no person may produce class II controlled