

[In percent]—Continued

Control period	Class I substances in groups I and III	Class I substances in group II	Class I substances in group IV	Class I substances in group V	Class I substances in group VI	Class I substances in group VII
2000	0	0	0	0	100	0
2001	0	0	0	0	0	0

§ 82.8 Grant and phased reduction of baseline production and consumption allowances for class II controlled substances. [Reserved]

§ 82.9 Availability of production allowances in addition to baseline production allowances.

(a) Every person apportioned baseline production allowances for class I controlled substances under § 82.5 (a) through (f) is also granted Article 5 allowances equal to:

(1) 15 percent of their baseline production allowances for class I, Group II controlled substances listed under § 82.5 for each control period beginning January 1, 1994 until January 1, 2003;

(2) 10 percent of their baseline production allowance listed for class I, Group I, Group III, Group IV, and Group V controlled substances listed under § 82.5 for each control period ending before January 1, 1996;

(3) 15 percent of their baseline production allowances for class I, Group I, Group III, Group IV, and Group V controlled substances listed under § 82.5 for each control period beginning January 1, 1996 until January 1, 2006.

(b) Effective January 1, 1995, a person allocated Article 5 allowances may produce class I controlled substances for export to Article 5 countries as under § 82.11 and transfer Article 5 allowances as under § 82.12.

(c) Until January 1, 1996, a company may also increase or decrease its production allowances by trading with another Party to the Protocol according to the provision under this paragraph (c) of this section. A nation listed in appendix C to this subpart (Parties to the Montreal Protocol) must agree either to transfer to the person for the current control period some amount of production that the nation is permitted under the Montreal Protocol or to receive from the person for the current control period some amount of production that the person is permitted under this subpart. If the controlled substance is to be returned to the Party from whom allowances are received, the request for production allowances shall also be considered a request for consumption allowances under § 82.10(c). If the controlled substance is to be sold in the United States or to

another Party (not the Party from whom the allowances are received), the U.S. company must expend its consumption allowances allocated under §§ 82.6 and 82.7 in order to produce with the additional production allowances.

(1) For trades from a Party, the person must obtain from the principal diplomatic representative in that nation's embassy in the United States a signed document stating that the appropriate authority within that nation has established or revised production limits for the nation to equal the lesser of the maximum production that the nation is allowed under the Protocol minus the amount transferred, the maximum production that is allowed under the nation's applicable domestic law minus the amount transferred, or the average of the nation's actual national production level for the three years prior to the transfer minus the production allowances transferred. The person must submit to the Administrator a transfer request that includes a true copy of this document and that sets forth the following:

- (i) The identity and address of the person;
- (ii) The identity of the Party;
- (iii) The names and telephone numbers of contact persons for the person and for the Party;
- (iv) The chemical type and level of production being transferred;
- (v) The control period(s) to which the transfer applies; and
- (vi) For increased production intended for export to the Party from whom the allowances would be received, a signed statement of intent to export to the Party.

(2) For trades to a Party, a person must submit a transfer request that sets forth the following:

- (i) The identity and address of the person;
- (ii) The identity of the Party;
- (iii) The names and telephone numbers of contact persons for the person and for the Party;
- (iv) The chemical type and level of allowable production to be transferred; and
- (v) The control period(s) to which the transfer applies.

(3) After receiving a transfer request that meets the requirements of

paragraph (c)(2) of this section, the Administrator may, at his discretion, consider the following factors in deciding whether to approve such a transfer:

- (i) Possible creation of economic hardship;
- (ii) Possible effects on trade;
- (iii) Potential environmental implications; and
- (iv) The total amount of unexpended production allowances held by United States entities.

(4) The Administrator will issue the person a notice either granting or deducting production allowances and specifying the control period to which the transfer applies, provided that the request meets the requirement of paragraph (c)(1) of this section for trades from Parties and paragraphs (c)(2) of this section for trades to Parties, unless the Administrator has decided to disapprove the trade under paragraph (c)(3) of this section for trades to Parties. For a trade from a Party, the Administrator will issue a notice that revises the allowances held by the person to equal the unexpended production allowances held by the person under this subpart plus the level of allowable production transferred from the Party. For a trade to a Party, the Administrator will issue a notice that revises the production limit for the person to equal the lesser of:

- (i) The unexpended production allowances held by the person under this subpart minus the amount transferred; or
- (ii) The unexpended production allowances held by the person under this subpart minus the amount by which the United States average annual production of the controlled substance being traded for the three years prior to the transfer is less than the total allowable production allowable for that substance under this subpart minus the amount transferred. The change in allowances will be effective on the date that the notice is issued.

(5) If after one person obtains approval for a trade of allowable production of a controlled substance to a Party, one or more other persons obtain approval for trades involving the same controlled substance and the same control period, the Administrator will