

§ 82.8

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§ 82.8 Grant of essential use allowances and critical use allowances.

(a) Effective January 1, 1996, persons in the following list are allocated essential-use allowances or exemptions

for quantities of a specific class I controlled substance for a specific essential-use (the Administrator reserves the right to revise the allocations based on future decisions of the Parties).

TABLE I—ESSENTIAL USE ALLOCATION FOR CALENDAR YEAR 2005

Company	Chemical	Quantity (metric tons)
Metered Dose Inhalers (for Oral Inhalation) for Treatment of Asthma and Chronic Obstructive Pulmonary Disease		
Armstrong Pharmaceuticals	CFC–11 or CFC–12 or CFC–114	270.90
Boehringer Ingelheim Pharmaceuticals	CFC–11 or CFC–12 or CFC–114	480
Inyx USA, Ltd	CFC–11 or CFC–12 or CFC–114	111
Schering-Plough Corporation	CFC–11 or CFC–12 or CFC–114	816
3M Pharmaceuticals	CFC–11 or CFC–12 or CFC–114	69.18
Wyeth Pharmaceuticals	CFC–11 or CFC–12 or CFC–114	73.40

(b) A global exemption for class I controlled substances for essential laboratory and analytical uses shall be in effect through December 31, 2007, subject to the restrictions in appendix G of this subpart, and subject to the record keeping and reporting requirements at § 82.13(u) through (x). There is no amount specified for this exemption.

(c) Effective January 1, 2005, critical use allowances are apportioned as set forth in paragraph (c)(1) of this section for the exempted production and import of class I, Group VI controlled substances specifically for those approved critical uses listed in Appendix L to this subpart for the applicable control period. Every kilogram of production and import in excess of the total number and type of unexpended critical use allowances held for a particular type of use constitutes a separate violation of this subpart. Effective January 1, 2005, critical stock allowances are issued as set forth in paragraph (c)(2) of this section for the sale of class I, Group VI controlled substances from inventory produced or imported before the January 1, 2005 phase-out date specifically for those approved critical uses listed in Appendix L to this subpart for the applicable control period.

(1) Allocated critical use allowances granted for specified control period.

Company	2006 Critical use allowances for pre-plant uses* (kilograms)	2006 Critical use allowances for post-harvest uses* (kilograms)
Great Lakes Chemical Corp	3,840,406	369,856
Albemarle Corp	1,579,235	152,091
Ameribrom, Inc	872,402	84,018
TriCal, Inc	27,037	2,604
Total	6,319,080	608,569

* For production or import of class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in appendix L to this subpart.

(2) Allocated critical stock allowances granted for specified control period. The following companies are allocated critical stock allowances for 2006 on a pro-rata basis in relation to the inventory held by each.

Company
Albemarle
Ameribrom, Inc.
Bill Clark Pest Control, Inc.
Blair Soil Fumigation
Burnside Services, Inc.
Cardinal Professional Products
Carolina Eastern, Inc.
Degesch America, Inc.
Dodson Bros. Trical Inc.
Great Lakes Chemical Corp.
Harvey Fertilizer & Gas
Helena Chemical Co.
Hendrix & Dail
Hy Yield Bromine
Industrial Fumigation Company
J.C. Ehrlich Co.
Pacific Ag
Pest Fog Sales Corp.
Prosource One
Reddick Fumigants
Royster-Clark, Inc.
Southern State Cooperative, Inc.
Trident Agricultural Products
UAP Southeast (NC)
UAP Southeast (SC)

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Company
Univar
Vanguard Fumigation Co.
Western Fumigation
TOTAL—1,136,008 kilograms

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§ 82.9 Availability of production allowances in addition to baseline production allowances for class I controlled substances.

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

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

(2) 15 percent of their baseline production allowances for class I, Group VI controlled substances listed under § 82.5 of this subpart for each control period ending before January 1, 2005;

(3) 15 percent of their baseline production allowances for class I, Group II controlled substances listed under § 82.5 of this subpart for each control period beginning January 1, 1994, until January 1, 2003;

(4) 15 percent of their baseline production allowances for Class I, Group IV and Group V controlled substances listed under § 82.5 of this subpart for each control period beginning January 1, 1996 until January 1, 2010;

(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) A company may increase or decrease its production allowances, its Article 5 allowances by trading with another Party to the Protocol according to the provision under this paragraph (c). A company may increase or decrease its essential-use allowances for CFCs for use in essential MDIs according to the provisions under this paragraph (c). A nation listed in appen-

dix 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 or import that the nation is permitted under the Montreal Protocol or to receive from the person for the current control period some amount of production or import that the person is permitted under this subpart. If the controlled substance is produced under the authority of production allowances and is to be returned to the Party from whom production 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 produced under the authority of production allowances and 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 or essential-use allowance 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 or essential-use allowances that are 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 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, type of allowance being transferred, and the level of allowances being transferred;