

Highlights from the new EU ODS Regulation

Introduction

After the adoption by the European Parliament, the Council has adopted the final text of a recast of Regulation 2037/2000 on Ozone Depleting Substances.

The recast is predominantly a "clean-up" of the old ODS regulation, e.g. by eliminating the various phase-out provisions for the use of HCFCs. On the other hand it will cover many more market operators, and contains stricter requirements on all persons handling ODS.

The new regulation will take effect on 1 January 2010, when the old regulation will be repealed.

Major Changes

- Definitions, especially "placing on the market"
- Phase out of HCFC production
- Import and export of HCFCs
- Recovery, Reclamation and Destruction & Leak prevention
- New ODS

Definitions

EU 2037/2000	New regulation
'placing on the market' means the supplying or making available to third persons, against payment or free of charge, of controlled substances or products containing controlled substances covered by this Regulation	<p>'placing on the market' means the supplying or making available to third persons against payment or free of charge, and includes the release for free circulation as referred to in Regulation (EC) No 450/2008, of controlled substances or new substances or product and equipment containing or relying on controlled substances within the Community. In respect of products and equipment being part of immovables or means of transport this refers only to the supplying or making available within the Community for the first time.</p> <p>Comment Much broader definition and also affects producers of equipment and products.</p>
'use' means the utilisation of	'use' means the utilisation of

<p>controlled substances in the production or maintenance, in particular refilling, of products or equipment or in other processes <i>except for feedstock and processing agent uses,</i></p>	<p>controlled substances or new substances in the production, servicing or maintenance, in particular refilling, of products or equipment or in other processes</p> <p>Comment: Feedstock and process agents no longer exempted</p>
<p>'reclamation' means the reprocessing and upgrading of a recovered controlled substance through such processes as filtering, drying, distillation and chemical treatment in order to restore the substance to a specified standard of performance, which often involves processing off site at a central facility,</p>	<p>'reclamation' means the reprocessing of a recovered controlled substance in order to meet the equivalent performance of virgin material, taking into account its intended use,</p> <p>Comment: less detailed.</p>
<p>'production' means the amount of controlled substances produced, less the amount destroyed by technologies approved by the Parties and less the amount entirely used as feedstock or as a processing agent in the manufacture of other chemicals. No amount recovered, recycled or reclaimed shall be considered as 'production',</p>	<p>'production' means the amount of controlled substances or new substances produced, including the amount produced, intentionally or inadvertently, as by-product unless this by-product is destroyed as part of the manufacturing process or following a documented procedure ensuring compliance with this Regulation and the legislation on waste. No amount recovered, recycled or reclaimed shall be considered as 'production', nor any insignificant amount unavoidably incorporated in products in trace quantities or emitted during manufacturing,</p> <p>Comment: includes all by-products, regardless their quantity. Covers many other processes. No de minimis threshold. Includes production for feedstock</p>
<p>'undertaking' means any natural or legal person:</p> <ul style="list-style-type: none"> - who produces, recycles for placing on the market or uses controlled substances for industrial or commercial purposes in the Community, - who releases such imported substances for free circulation 	<p>'undertaking' means any natural or legal person:</p> <ul style="list-style-type: none"> - who produces, recovers, recycles, reclaims, uses or destroys controlled substances or new substances, - who imports such substances, - who exports such substances,

<p>in the Community, or who exports such substances from the Community for <u>industrial or commercial purposes</u>.</p>	<ul style="list-style-type: none"> - who places on the market such substances, or - who operates refrigeration, air conditioning or heat pump equipment, or fire protection systems, which contain controlled substances, <p>Comment: deletion of “industrial or commercial purposes”; may extend applicability to any individual.</p>
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In conclusion, the ODS regulation will affect many more companies and individuals.

HCFC production, placing on the market and use.

In principle, production of ODS, including HCFCs will be prohibited with the following exemptions:

- Production, placing on the market and use of HCFCs as feedstock and process agents, and must be labeled accordingly.
- In case of process agents, the use is only permitted in installations existing at 1 September 1997 and if emissions are insignificant, and must be labelled accordingly.
- Production of HCFCs is permitted subject to a phase-out schedule
 - o Baseline is 1997 production
 - o 65% reduction in 2010
 - o 86% reduction in 2014
 - o 94% reduction in 2017
 - o Phase-out in 2020.
- Use of HCFCs is permitted for re-packing for export.
- Any repacker must register with the EU
- Use of reclaimed or recycled HCFCs is permitted for the maintenance and servicing, the refrigeration, air-conditioning and heat pumps. The equipment concerned shall be labelled with and indication of the type of substance, its quantity contained in the equipment.
 - o >3Kg charge, mandatory record keeping.

Import and Export of HCFCs.

In principle import and export of (products & equipment containing) HCFCs is prohibited. HCFC imports and exports are subject to a strict licensing system:

- Undertakings must first register
- License for each shipment – no universal EAN

- o Very detailed requirements (art 18, para 3)
- Commission must decide within 30 days.

Recovery, Reclamation, Destruction & Leak Prevention

- Mandatory recovery when servicing equipment (R&AC, solvents, Heat Pumps, Fire protection/extinguishers).
- Other equipment, if technically and economically feasible
- Only approved destruction technologies
- Leakage inspection in accordance with the F-Gas regulation (yearly, six-monthly or quarterly)
- Minimum qualifications as per F-gas regulation

New Substances

The Regulation also covers some substances that are not included in the Montreal Protocol.

- The production, use, placing on the market and im/export of Halon 1211 is prohibited;
- For four other substances (n-propyl bromide, ethyl bromide, methyl-chloride and trifluoro-methyl iodide), the same reporting requirements are applicable as for all ODS.

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