

1 March 2018

EFCTC POSITION ON THE EVALUATION OF THE EU ODS REGULATION (1005/2009)

The evaluation process of the ODS Regulation provides an opportunity to streamline the regulation to reflect the successes that have been achieved through the implementation of the current ODS Regulation 1005/2009. This would include the elimination of several time-limited provisions and repealed legal texts.

The European Commission has clearly recognized that moving forward on ozone and climate change requires research and innovation to develop new processes and products. We recommend provision of greater flexibility for the use of Controlled Substances as Process Agents under strict low-emission conditions to help stimulate innovation and to preserve the competitiveness of the European Industry.

Similarly, based on existing experience and building upon the well-functioning ODS licensing system, we would propose that greater flexibility is provided on the trade related provisions to reflect the changes that have occurred in the ODS EU and global market.

Finally, we recommend transferring the regulation of so-called New Substances to the REACH Regulation, which would avoid duplication of efforts. A second alternative would be to include a definition of “significant ozone depleting potential” and a possibility to delete substances from Annex II if their reported quantities placed on the market meet a pre-determined minimum threshold.

Introduction

The European Fluorocarbons Technical Committee (EFCTC) a Cefic Sector Group, represents the interest of producers of fluorocarbons and has been closely involved since the late 1980s in the development of an effective regulatory framework enabling the EU to act as a leader in the reduction of the use of Ozone Depleting Substances.

In its latest report, the European Environmental Agency confirmed that the ODS Regulation has been exceptionally successful in eliminating all emissive consumption of ODSs. Emissions from feedstock and process agent applications are very low (app. 1% for process agents and 0.06% for feedstock applications)¹.

The evaluation process of the ODS Regulation provides an opportunity to streamline the regulation to reflect the successes that have been achieved through the implementation of the current ODS Regulation 1005/2009.

¹ Ozone Depleting Substances, EEA Report 12/2017

EFCTC

Avenue E. van Nieuwenhuyse 4 B-1160 Brussels Belgium

Tel. +32.2.676.72.28 sga@cefic.be www.fluorocarbons.org

A sector group of Cefic 

European Chemical Industry Council - Cefic aisbl

EU Transparency Register n° 64879142323-90



Chapter III: Exemptions and Derogations

The references to directive 67/548 and 1999/45 can be deleted as CLP Regulation (1272/2008) has taken full effect.

Consideration should be given to amending Article 8 paragraph 2 to read: “Controlled substances may only be used as process agents in installations where technically and economically feasible alternative substances or technologies are not available, and where emissions are insignificant.” While we support the limitation of the use of Controlled Substances as process agents to the very minimum, the current text may inhibit the introduction of innovative technologies in the EU and result in a competitive disadvantage globally.

Assuming that a revised ODS Regulation will not take effect before 2020, Article 11 paragraphs 1, and 3 to 5 can be eliminated.

Chapter IV: Trade

In our experience, the electronic ODS licensing system has been working well. We would recommend to open up the possibility for allowing undertakings to submit requests for annual quotas under a so-called “contingency clause” where Controlled Substances can be imported in case of a disruption of local production. This would enable importers to submit more accurate estimates of their requirements for the exempted identified uses.

We also recommend adding a new paragraph after Article 18 paragraph 6: “Licenses shall have a validity of 60 days”. With diminishing production capacity of ODS globally, the current 30-day window is often too short to arrange the logistics for the shipments and other administrative documents required by the exporting countries.

Chapter V : New Substances

The contribution of Very Short Lived Substances to the Equivalent Stratospheric Chlorine Loading is insignificant in comparison with the mainstream Controlled Substances that have significant atmospheric lifetimes.²

Based on the EEA reports, which indicate that there is only limited use of a small number of new substances and that their use levels are constant, we recommend that this section be deleted as particular use restrictions would seem to be more appropriate under the provisions of the REACH regulation (1907/2006). This would also fit the “better regulation” principles espoused by the Commission, and would avoid duplication of regulation.

A second alternative would be to amend this Chapter to reduce the administrative burden in cases where they clearly exceed the environmental benefits.

- The term “significant ozone depleting potential” should be clarified. We would suggest that the minimum cut-off value should be set at 0.01, or to replace the concept with incremental equivalent stratospheric chlorine loading, for which we suggest a cut-off level of 1% of the 2015 levels.
- We also suggest to include a provision for the Commission to eliminate substances from Annex II part B, e.g. in case the reported quantities placed on the market stay below a threshold of e.g. 1000 tonnes for 3 consecutive years

² Scientific Assessment of Ozone Depletion: 2014

Similarly, the Commission must be mandated to change the ODP values in Annex II based on the latest Ozone Scientific Assessment Report.

We also believe that the Scientific Assessment Panel under the Montreal Protocol should be considered the only authoritative institution to justify addition or deletion of substances in Annex II part B.

Finally, we recommend the introduction of a threshold for the reporting requirements for New Substances to quantities of 10 ODP tonnes.

The European FluoroCarbons Technical Committee is a Cefic Sector Group that monitors legislation related to HFCs (hydrofluorocarbons), PFCs (perfluorinated carbons) and SF₆ (sulphur hexafluoride), CFCs (chlorofluorocarbons), HCFCs (hydrochlorofluorocarbons) and HFOs (hydrofluoro-olefins) in the EU and at global level.

Fluorocarbons are used as feedstock, as refrigerants, as solvents and as blowing agents for insulation plastic foams.

Contact: EFCTC Chairman: Mr. N. Campbell, nick.campbell@arkema.com

EFCTC Secretariat: Dr. S. Gallet, sga@cefic.be.