

Environment: substances depleting the ozone layer. Recast

2008/0165(COD) - 25/03/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 667 votes to 13, with 10 abstentions, a legislative resolution amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council on substances that deplete the ozone layer (ODS).

The amendments adopted in plenary were the result of a compromise negotiated with the Council.

Minimising ODS: the compromise stresses that many ozone depleting substances (ODS) are greenhouse gases but are not controlled under the United Nations Framework Convention for Climate Change and its Kyoto Protocol. Given that, at present, many alternatives to ozone depleting substances have a high a global warming potential, it is therefore necessary to minimise and eliminate the production and use of ODS **wherever technically feasible alternatives** with low global warming potentials are available.

Definitions: "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. MEPs also clarified the definition of "placing on the market" and introduced a definition of "products and equipment relying on controlled substances".

Placing on the market and use of controlled substances: controlled substances shall not be placed on the market in non-refillable containers, except for laboratory and analytical uses.

Labelling: as of 1 July 2010 containers of controlled substances produced or placed on the market as process agents shall be labelled with a clear indication that those substances may only be used as process agents. Where such substances are required to be labelled in accordance with Directive 67/548/EEC and Directive 1999/45 EC or Regulation (EC) No 1272/2008, such indication shall be included in the label referred to in these Directives or in the supplemental information part of the label as referred to in the aforementioned Regulation.

Those labelling requirements shall also apply to controlled substances produced or placed on the market for essential laboratory and analytical uses.

The Commission may determine, in accordance with the regulatory procedure with scrutiny, the form and content of the label to be used.

Controlled substances as process agents: the maximum amount of controlled substances that may be used as process agents within the Community shall not exceed 1 083 metric tonnes per year. The maximum amount of controlled substances that may be emitted from process agent uses within the Community shall not exceed 17 metric tonnes per year.

Destruction and reclamation of controlled substances: controlled substances and products and equipment containing or relying on controlled substances may be placed on the market for destruction within the Community. Controlled substances may also be placed on the market for reclamation within the Community.

Essential laboratory and analytical uses of controlled substances other than hydrochlorofluorocarbons: the text provides that the Commission shall issue licences to producers and importers of the controlled substances, other than hydrochlorofluorocarbons, produced or imported for essential laboratory or analytical use. The quantity annually authorised under licences for individual producers and importers shall not exceed 130% of the annual average of the calculated level of controlled substances licensed for the respective producer or importer for essential laboratory or analytical use in the years 2007 to 2009.

Total quantity annually authorised under licences shall not exceed 110 ODP tonnes. Remaining quantities may be allocated to producers and importers who did not place on the market or use the controlled substances, for their own account for essential laboratory and analytical uses in the years 2007 to 2009.

The Commission shall determine, in accordance with the regulatory procedure with scrutiny, a mechanism for the allocation of quotas to producers and importers.

Phase-out schedule: hydrochlorofluorocarbons may be produced provided that each producer ensures the following:

- the calculated level of its production of hydrochlorofluorocarbons in the period from 1 January 2010 to 31 December 2010 and in each 12-month period thereafter until 31 December 2013 does not exceed **35%** of the calculated level of its production of hydrochlorofluorocarbons in 1997;
- the calculated level of its production of hydrochlorofluorocarbons in the period from 1 January 2014 to 31 December 2014 and in each 12-month period thereafter until 31 December 2016 does not exceed **14%** of the calculated level of its production of hydrochlorofluorocarbons in 1997;
- the calculated level of its production of hydrochlorofluorocarbons in the period from 1 January 2017 to 31 December 2017 and in each 12-month period thereafter until 31 December 2019 does not exceed **7%** of the calculated level of its production of hydrochlorofluorocarbons in 1997;
- **it produces no hydrochlorofluorocarbons after 31 December 2019** (note that the committee responsible had mentioned the end of 2014 as the deadline).

Methyl bromide: until **18 March 2010**, methyl bromide may be placed on the market and used for quarantine and for pre-shipment applications for treatment of goods for export provided that the placing on the market and use of methyl bromide are allowed respectively under Directive 91/414/EEC and Directive 98/8/EC as transposed by the Member State concerned.

Methyl bromide may only be used on approved sites and, if economically and technically feasible, under the condition that at least 80% of methyl bromide released from the consignment is recovered. The calculated level of methyl bromide which undertakings place on the market or use for their own account in the period from 1 January 2010 to 18 March 2010 shall not exceed 45 ODP tonnes.

Each undertaking shall ensure that the calculated level of methyl bromide does not exceed 21% of the average of the calculated level of methyl bromide which it placed on the market or used for its own account for quarantine and pre-shipment in the years 2005 to 2008.

Decommissioning of equipment containing halons: halons may only be placed on the market by undertakings authorised by the competent authority for storing halons for critical uses. Fire protection systems and fire extinguishers containing halons applied in critical uses shall be decommissioned by the end dates to be specified in Annex VI.

List of products and equipment: the Commission shall make available at the latest by **1 January 2010** a list of products and equipment which might contain or rely on controlled substances and of Combined Nomenclature codes for guidance of the Member States' customs authorities.

Leakages and emissions of controlled substances: undertakings operating refrigeration, air conditioning or heat pump equipment, or fire protection systems, including their circuits, which contain controlled substances, shall ensure that the stationary equipment or systems:

- with a fluid charge of 3kg or more of controlled substances are checked for leakage at least once every 12 months (this shall not apply to equipment with hermetically sealed systems, which are labelled as such and contain less than 6kg of controlled substances);
- with a fluid charge of 30kg or more of controlled substances are checked for leakage at least once every six months;
- with a fluid charge of 300kg or more of controlled substances are checked for leakage at least once every three months; and that any detected leakage is repaired as soon as possible and in any event within 14 days.

The equipment or system shall be checked for leakage within one month after a leak has been repaired to ensure that the repair has been effective. Undertakings shall maintain **records** on: (i) the quantity and type of controlled substances added and the quantity recovered during servicing, maintenance and final disposal of the equipment or system referred to above; (ii) other relevant information including the identification of the company or technician who performed the servicing or maintenance, as well as the dates and results of the leakage checks carried out. These records shall be made available on request to the competent authority and to the Commission.

Reporting by undertakings: each producer shall communicate the following data: (i) any purchases from and sales to other producers in the Community; (ii) any quantity recycled, reclaimed or destroyed and the technology used for the destruction. Each undertaking using controlled substances as feedstock or process agents, shall communicate the following data: (i) any quantities of such substances used as feedstock or process agents; (ii) any stocks of such substances; (iii) processes and emissions involved.