

Ozone depleting substances

2022/0100(COD) - 05/04/2022 - Legislative proposal

PURPOSE: to introduce new measures on substances that deplete the ozone layer to achieve a higher level of additional emission reductions and to align them with the European Green Deal.

PROPOSED ACT: Regulation of the European Parliament.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: due to global action taken against ozone depletion through the adoption of the Montreal Protocol on Substances that Deplete the Ozone Layer in 1987 (the Protocol), the ozone hole is on the way to recovery, provided that compliance with existing measures is ensured and any new challenges are swiftly addressed. Most ozone depleting substances have high global warming potential and are contributory factors towards increasing the temperature of the planet.

[Regulation \(EC\) No 1005/2009](#) on substances that deplete the ozone layer (ODS Regulation) is the main instrument targeting ozone-depleting substances in the EU. While the ODS Regulation is still considered generally fit for purpose, it has been suggested that it could be better aligned with the European Green Deal and its design could be slightly improved.

A significant focus of the proposal is on increasing efficiency of the existing measures, rather than creating new ones. Therefore, by introducing new measures targeting products in which ODS were legally used in the past, the EU wants to **prevent the equivalent of 180 million tonnes of CO₂ and 32 000 tonnes of ozone depleting potential (ODP) emissions by 2050.**

This proposed Regulation has many similarities with the [proposed Regulation](#) on fluorinated greenhouse gas which is being revised in parallel. These two Regulations must jointly ensure that the Union complies with its obligations relating to hydrofluorocarbons and ozone depleting substances under the Montreal Protocol.

PURPOSE: the draft Regulation proposed by the Commission lays down rules on the production, import, export, placing on the market, further supply as well as use, recovery, recycling, reclamation and destruction of ozone depleting substances, on the reporting of information related to those substances and on the import, export, placing on the market, further supply and use of products and equipment containing ozone depleting substances or whose functioning relies upon on those substances.

It should apply to the ozone depleting substances listed in Annexes I and II and their isomers, whether alone or in a mixture and to products and equipment, and parts thereof, containing ozone depleting substances or whose functioning relies upon those substances.

More specifically, the proposal:

- **maintains the current control system** envisaged under the ODS Regulation, namely the general prohibitions on production, use and trade of ODS and products and equipment using ODS, and the applicable exemptions on a few uses where alternatives are not yet available (feedstock, process agents, essential analytical and laboratory uses);

- ensures the **necessary alignments with more recent EU legislation**, in particular [Regulation \(EU\) No 517/2014](#) on fluorinated greenhouse gases. To ensure consistency with this Regulation, importers and producers must provide **evidence of destruction or recovery for subsequent use of trifluoromethane** produced as a by-product in the production of ODS. The proposal also clarifies that, in general, the entry in the territory of non-refillable containers is prohibited, thus under any customs procedures;

- **modernises the licensing system** set out in the ODS Regulation to take into account its interconnection with the European Single Window Environment for Customs, which will allow for automatic customs controls per shipment. In this setup, importers and exporters of ozone depleting substances and products using such substances will only need to apply for **‘traders’ licenses**, instead of per shipment licenses, since the European Single Window Environment for Customs, enables real-time checks on each shipment automatically. Industry and authorities would benefit from **cost savings** due to a modernised licensing system and the end of obsolete quota and registration requirements;

- clarifies the **role of customs authorities** and, where relevant, of market surveillance authorities, in implementing the prohibitions and restrictions set out in the proposed Regulation and strengthens their powers to **prevent illegal trade of ODS**;

- **requires the recovery or destruction of ODS contained in certain types of foams used as isolation materials in building, from construction and demolition.** The **destruction of halons is prohibited** under the proposal to ensure that, where possible, it is recovered and re-used thereby preventing the need for future production of halon for critical uses. The leakage obligations set out the ODS Regulation have been simplified taking into account the prohibition to use ODS to refill products and equipment except for the use of halons in fire protection systems for critical uses;

- **improves enforcement and monitoring:** measures would be introduced to tackle illegal activities, similar to those proposed in the F-gases Regulation. The scope of reporting would be extended to a wider range of substances and activities to better understand residual ODS trade, emissions and future risks;

- establishes that the level and type of **administrative penalties** for infringements of the Regulation must be effective, dissuasive and proportionate and should also take into account relevant criteria (such as the nature and gravity of the infringement).