

Ozone depleting substances

2022/0100(COD) - 30/03/2023 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 553 votes to 10, with 20 abstentions, amendments to the proposal for a regulation of the European Parliament and of the Council on substances that deplete the ozone layer and repealing Regulation (EC) No 1005/2009.

The matter was referred back to the committee responsible for inter-institutional negotiations.

New initiatives needed

Members recalled that according to the European Environment Agency, the 2021 ozone hole was one of the largest and deepest in recent years and was larger than the average over the last five and ten years. The recovery of the ozone layer is predicted to remain very precarious and will not be restored to its pre-1980 concentration until the middle of the 21st century.

To avoid the risk of further delays in the recovery of the ozone layer, it is necessary to ensure that existing obligations are fully implemented and that more action is taken.

Exemptions from bans

By way of derogation, the ozone-depleting substances listed in Annex I may be produced, placed on the market and subsequently supplied or made available to another person within the Union for payment or free of charge only where they are permitted to be **used as feedstock**.

Members suggested the following:

- the Commission should by 12 months after the date of entry into force of this Regulation, adopt delegated acts in accordance with Article 29 to supplement this Regulation by establishing a list of ozone depleting substances listed in Annex I for which the use as feedstock is permitted, the respective feedstock uses for each of those substances, and their emission level;
- by 1 January 2025 and every 2.5 years thereafter, the Commission should assess the **current and future availability of alternatives** to ozone depleting substances listed in Annex I for which the use as feedstock is permitted within the Union, taking into account scientific recommendations, the impacts in terms of ozone-depleting potential and the availability of more precise data on the greenhouse gas emissions from feedstock, technological developments resulting in the availability of technically feasible alternatives, and the energy use, efficiency, economic feasibility and cost of those alternatives;
- ozone depleting substances that are produced, placed on the market, and subsequently supplied or made available, whether in return for payment or free of charge, to another person within the Union for use as feedstock, **may only be used for that purpose**. Containers containing ozone depleting substances intended for such uses should be labelled with a clear indication that the substance may only be used for the applicable purpose.

Declaration of conformity

Members also stated that undertakings which place on the market refillable containers for ozone depleting substances should produce a declaration of conformity that includes evidence confirming the arrangements in place for the return of that container for the purpose of refilling. Those arrangements should contain binding obligations for compliance by the supplier of those containers to end-users.

The undertakings should keep the declaration of conformity for a period of at least 5 years after the placing on the market of refillable containers and shall make it available, on request, to the competent authorities of the Member States.

Labels on containers

Members believe that labels on containers of ozone-depleting substances should mention the warming potential of these substances. Where available, that information should include the **global warming potential expressed both on a 100-year and 20-year timescale**, to increase awareness about the short-term high global warming potential of some ozone depleting substances.

Release of ozone depleting substances and leakage checks

The amended text stipulated that undertakings operating refrigeration, air conditioning or heat pump equipment, or fire protection systems, including their circuits, which contain ozone depleting substances should ensure that the stationary equipment or systems with a fluid charge of:

(a) **3 kg or more** of ozone depleting substances are checked for leakage at least once every 12 months; this should not apply to equipment with hermetically sealed systems, which are labelled as such and contain less than 6 kg of controlled substances;

(b) **30 kg or more** of ozone depleting substances are checked for leakage at least once every 6 months;

(c) **300 kg or more** of ozone depleting substances are checked for leakage at least once every 3 months; and any detected leakage is repaired as soon as possible and in any event within 14 days; the equipment or system should be checked for leakage within 1 month after a leak has been repaired to ensure that the repair has been effective.

Penalties

In cases of unlawful production, import, export, placing on the market, or use of ozone depleting substances listed in Annex I or of products and equipment containing those substances or whose functioning relies upon those substances, Member States should envisage set out **minimum administrative fines** of at least four times the market value of the ozone depleting substances or products and equipment concerned and maximum administrative fines of at least six times the market value of the concerned substances or products and equipment concerned.

Members also consider it necessary to ensure that adequate arrangements are in place to enable whistle-blowers to alert the competent authorities to actual or potential infringements of this Regulation and to protect whistle-blowers from retaliation.

Fair transition

The text stressed that the shift towards the use of alternatives to ozone depleting substances will spur green innovation and employment. Member States should however ensure a fair and just transition, leaving no one behind, for the personnel employed by undertakings which do not succeed in the transition to such alternatives.

Review

By 1 January 2030, the Commission should present a report to the European Parliament and to the Council on the implementation and effectiveness of this Regulation. The Commission should assess in particular the availability of alternatives to ozone depleting substances for which a derogation is granted under the Regulation. The Commission should also assess the impact of this Regulation on the fight against the illegal trade of ozone depleting substances.

The European Scientific Advisory Board on Climate Change established under Regulation (EC) No 401/2009 may, on its own initiative, provide scientific advice and issue reports regarding this Regulation.