

Ozone depleting substances

2022/0100(COD) - 16/01/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 538 votes to 8, with 13 abstentions, a legislative resolution on 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 European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Subject matter

The proposed regulation lays down rules on the production, import, export, placing on the market, storage and subsequent supply of ozone-depleting substances, as well as on their use, recovery, recycling, reclamation and destruction, and on the reporting of information related to those substances and on the import, export, placing on the market, subsequent supply and use of products and equipment containing ozone-depleting substances or whose functioning relies upon those substances.

Exemptions to ozone depleted substance prohibitions

The ozone depleted substances are prohibited in almost all cases, with only strictly limited exemptions. By way of derogation, 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 in order to be used as **feedstock**.

The Commission should be tasked with regularly **updating a list ozone-depleting substances** the use of which as feedstock is banned. An assessment of the availability of alternatives for feedstock is to be primarily done at international level, under the Montreal Protocol.

Where no technical assessments of available alternatives to existing feedstock uses and of emission levels of existing feedstock uses carried out under the Protocol are available that provide a sufficient basis for taking a decision whether to prohibit a feedstock use, the Commission should, by 31 December 2027, make its **own assessment**.

The text should also allow, under strict conditions, ozone-depleting substances used as process agents, in laboratories and for fire protection in special applications such as military equipment and airplanes.

The regulation extends the requirement to recover ozone-depleting substances for **destruction, recycling or reclamation**. The requirement should cover refrigeration, air conditioning and heat pump equipment, equipment containing solvents, fire protection systems and fire extinguishers and other equipment if technically and economically feasible.

Declaration of conformity

The amended text stipulated that undertakings which place on the market refillable containers for ozone-depleting substances should produce a declaration of conformity that includes **evidence** confirming that there are binding arrangements in place for the return of those containers for the purpose of refilling, in particular identifying the relevant actors, their obligatory commitments and the relevant logistical arrangements. Those arrangements should be made binding on the distributors of the refillable containers for ozone-depleting substances to the end-user.

The undertakings should keep the declaration of conformity for a period of **at least 5 years** from the placing on the market of the refillable containers for ozone-depleting substances and should make that declaration available, upon request, to the competent authority of the Member State concerned or to the Commission.

Undertakings that produce, including as by-production or side-production, place on the market, supply to another person in the Union or receive from another person in the Union ozone-depleting substances intended for use as feedstock, as process agents or intended to be destroyed or reclaimed, as well as undertakings that destroy or reclaim those substances or use those substances as feedstock or as process agents, should keep **records** containing information for each ozone-depleting substance.

The undertakings should keep the records for at least 5 years after production, placing on the market, supply or receipt.

Recovery and destruction of used ozone-depleting substances

From 1 January 2025, building owners and contractors shall ensure that, during renovation, refurbishing or demolition activities implying the removal of **foam panels** that contain foams with ozone-depleting substances, emissions are avoided to the extent possible by handling the foams or the substances contained therein in a way that ensures the destruction of those substances. In the case of recovery of those substances, the recovery should be carried out only by appropriately qualified natural persons.

Release of ozone-depleting substances and leak checks

The amended text stipulates that operators of refrigeration and air conditioning equipment or heat pumps, or fire protection systems, including their circuits, which contain ozone-depleting substances listed in Annex I should ensure that stationary equipment or systems with a fluid charge of:

- **3 kg or more but less than 30 kg of ozone-depleting substances** are checked for leaks at least once every 12 months, with the exception of equipment with hermetically sealed systems which are labelled as such and contain less than 6 kg of ozone-depleting substances listed in Annex I;
- **30 kg or more but less than 300 kg of ozone-depleting substances** are checked for leaks at least once every 6 months;
- **300 kg or more of ozone-depleting substances** are checked for leaks at least once every 3 months.

Penalties

Before 1 January 2026, Member States should notify the Commission of those rules and of those measures and should notify it, without delay, of any subsequent amendment affecting them. The penalties should be **effective, proportionate and dissuasive**, and should be determined while having due regard to the human population or the environment affected by the infringement.

The penalties should include: (i) administrative financial penalties; (ii) confiscation or seizure, or withdrawal or removal from the market, or taking possession by the competent authorities of Member States of illegally obtained goods; (iii) temporary prohibition from using, producing, importing, exporting or placing on the market the ozone- depleting substances or products and equipment containing ozone-depleting substances or whose functioning relies upon them, **in the event of a serious infringement or of repeated infringements**.

The maximum amount of the administrative financial penalty should be at least **five times** the market value of the ozone-depleting substances or products and equipment concerned. Where such infringements are repeated within a five-year period, the maximum amount of the administrative financial penalty should be at least **eight times** the market value of the ozone-depleting substances or products and equipment concerned.

Review

By 1 January 2030, the Commission should publish a report on the effects of this Regulation. The report should include an assessment of the availability of alternatives to ozone-depleting substances for uses regulated.