# Ozone depleting substances

2022/0100(COD) - 20/02/2024 - Final act

PURPOSE: to remedy the depletion of the ozone layer, thereby contributing to the recovery of stratospheric ozone, limiting global warming and ensuring compliance with the Montreal Protocol on Substances that Deplete the Ozone Layer.

LEGISLATIVE ACT: Regulation (EU) 2024/590 of the European Parliament and of the Council on substances that deplete the ozone layer, and repealing Regulation (EC) No 1005/2009.

CONTENT: the 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.

***Prohibitions related to ozone-depleting substances (ODS)***

Under the Regulation, ODS are banned in almost all cases, with strictly limited derogations only. The text provides for a derogation for the use of ODS as feedstock for the production of other substances. The Commission will be responsible for regularly updating a list of ODS whose use as feedstock is banned on the basis of technical assessments carried out 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 will, **by 31 December 2027, make its own assessment** on the basis of scientific recommendations on the existing feedstock uses.

***Manufacturing agents***

The Regulation authorises, under **strict conditions**, the use of ODS as processing agents, in laboratories and for fire protection in special applications such as military equipment and aircraft.

Undertakings that produce or place on the market ODS that are intended to be used as synthesis intermediates or processing agents, or that are intended to be destroyed or regenerated, will be required to **keep records** containing information about each ODS. Undertakings will keep records for at least five years after production, placing on the market, supply or receipt.

***Release of ozone-depleting substances and leak checks***

The intentional release of ozone-depleting substances into the atmosphere, including when contained in products and equipment, will be **prohibited** where the release is not technically necessary for the intended uses permitted under this Regulation. Undertakings will take all necessary precautions to **prevent and minimise any unintentional release of ozone-depleting substances** during production, including where a release is inadvertently produced in the course of the production of other chemicals, equipment manufacturing process, use, storage and transfer from one container or system to another or transport.

Operators of refrigeration and air conditioning equipment or heat pumps, or fire protection systems, including their circuits, which contain ozone-depleting substances must ensure that such fixed equipment or systems are checked for leakage every 12 months, 6 months or 3 months as appropriate.

***Recovery and destruction of used ozone-depleting substances***

Ozone-depleting substances which are contained in refrigeration and air-conditioning equipment and heat pumps, equipment containing solvents or fire protection systems and fire extinguishers will, during the maintenance or servicing of equipment or before the dismantling or disposal of equipment, be recovered for destruction, recycling or reclamation, unless such recovery is regulated under other Union legal acts.

From 1 January 2025, building owners and contractors will ensure that, during renovation, refurbishing or demolition activities implying the **removal of foam panels** that contain foams with ozone-depleting substances listed in Annex I, 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 will be carried out only by appropriately qualified natural persons.

Where removal of the foams is not technically feasible, the building owner or contractor will draw up documentation providing evidence on the infeasibility of the removal in the specific case. Such documentation will be kept for 5 years and should be made available, upon request, to the competent authority of the Member State concerned or to the Commission.

**Halons** contained in fire protection systems and fire extinguishers will, during the maintenance or servicing of equipment or before the dismantling or disposal of equipment, be recovered for recycling or reclamation. The destruction of halons will be prohibited unless there is documented evidence that the purity of the recovered or recycled substance does not technically allow its reclamation and subsequent re-use.

***Containers for ODSs***

The Regulation stated that the import, placing on the market, any subsequent supply or making available to another person within the Union for payment or free of charge, use or export of **non-refillable containers** for ozone-depleting substances, empty, or fully or partially filled, will be prohibited, except for essential laboratory and analytical uses. Such containers may only be stored or transported for subsequent disposal.

To ensure that **refillable containers** for ozone-depleting substances are refilled and not discarded, undertakings will be required to produce a **declaration of conformity** that includes evidence of the arrangements for the return of refillable containers for the purpose of refilling, when placing them on the market.

***Penalties***

The penalties will be **effective, proportionate and dissuasive**, and will be determined while having due regard to the human population or the environment affected by the infringement. They will include administrative financial penalties; confiscation or seizure, or withdrawal or removal from the market, or taking possession by the competent authorities of Member States of illegally obtained goods; temporary prohibition from using, producing, importing, exporting or placing on the market the ozone- depleting substances or products and equipment containing ozone-depleting substances.

The maximum amount of the administrative financial penalty will be at least **five times** the market value of the ozone-depleting substances or products and equipment concerned. It will 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 will  publish a report on the effects of this Regulation. The report will include an assessment of the availability of alternatives to ozone-depleting substances for certain regulated uses.

ENTRY INTO FORCE: 11.3.2024