

Ozone Depleting Substances (Regulation and Control) Rules, 2000

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Ozone Depleting Substances (Regulation and Control) Rules, 2000

Ministry of Environment and Forests, Noti. No.S.O. 670(E), dated July 19, 2000, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 19th July, 2000, pp. 43-108, No. 471 [F. No. 16/1/96-OC] Whereas the draft Ozone Depleting Substances (Regulation) Rules, 2000 were published, under the notification of the Government of India in the Ministry of Environment and Forests, Number S.O. 69(E), dated the 25th January, 2000, in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) at pp. 39-96 on the same date, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of forty-five days from the date on which the copies of the Gazette containing the said notification are made available to

the public; And whereas copies of the said Gazette were made available to the public on 26-1-2000; And whereas the objections and suggestions received from the public in respect of the said draft rules have been duly considered by the Central Government; Now, therefore, in exercise of the powers conferred by Sections 6, 8 and 25 of the Environment (Protection) Act, 1986, the Central Government hereby makes the following rules for regulating ozone depleting substances, namely:

1. Short title and commencement :-

(1) These rules may be called the Ozone Depleting Substances (Regulation and Control) Rules, 2000.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions :-

In these rules unless the context otherwise requires,

(a) "Act" means the Environment (Protection) Act, 1986 (29 of 1986);

(b) "authority" means an authority mentioned in columns (4) and (6) of Schedule V;

(c) "base level" means the quantity of ozone depleting substance produced or consumed, as the case may be, in the year or average of the years listed in column (3) of Schedule II and Schedule III;

(d) "consumption" with respect to any ozone depleting substance means the amount of that substance produced in India in addition to the amount imported, less the amount exported¹ and the amount used as feedstock substance which is used entirely in the manufacture of other chemicals, with negligible emissions, if any" ;

(e) "calculated level of production, sale, import or export", as the case may be, means level determined by multiplying quantity of the ozone depleting substance by its ozone depleting potential specified in column (5) of Schedule I;

(f) "calculated level of consumption" shall be determined by adding together calculated levels of production and imports and subtracting calculated level of exports;

(g) "Group" means collection of one or more ozone depleting substances as specified in column (4) of Schedule I;

(h) "manufacture" in relation to any ozone depleting substance includes

(i) any process or part of a process for making, altering, finishing, packing, labelling, blending or otherwise ²[treating of any ozone depleting substance] with a view to sell, distribute or use but does not include the repacking or breaking up of any ozone depleting substance in the ordinary course of retail business; and

(ii) any process in which a preparation containing ozone depleting substance is formulated;

(i) "ozone depleting substance" means the ozone depleting substances specified in column (2) of Schedule I, whether existing by itself or in a mixture, excluding any such substance or mixture (blend) which is in a manufactured product other than a container used for the transportation or storage of such substance;

(j) "parties" means, unless the text otherwise indicates, parties to the protocol; ³ "and parties to the amendments thereof."

(k) "pre-shipment applications" are those treatments applied directly preceding and in relation to export, to meet the phytosanitary or sanitary requirements of the importing country or existing phytosanitary or sanitary requirements of the exporting country;

(1) "production" in relation to any ozone depleting substance means the manufacture of an ozone depleting substance from any raw material or feedstock chemicals, but does not include

(i) the manufacture of a substance that is used and entirely consumed (except for trace quantity) in the manufacture of other chemicals; or

(ii) quantities which are produced incidentally in the manufacture of other chemical substances; or

(iii) quantities which are recycled or reused; or

(iv) quantities which are destroyed by technologies to be specified by the Central Government;

(m) "protocol" means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted on 16th September 1987;

(n) "quarantine applications", with respect to Group VIII of

Schedule I ozone depleting substance, are treatments to prevent the introduction, establishment and or spread of quarantine pests (including diseases), or to ensure their control as specified by the Central Government;

(o) "recovery" means collection and storage of ozone depleting substances from machinery, equipment, or containment vessel during servicing or prior to disposal;

(p) "reclamation" means reprocessing and upgrading of a recovered ozone depleting substance through such methods as filtering, drying, distillation and, or chemical treatment in order to restore the substance to a specified standard of performance;

(q) "schedule" means a schedule annexed to these rules.

In Rule 2, in clause (d), after the words "the amount exported" , following shall be inserted, namely: "and the amount used as feedstock substance which is used entirely in the manufacture of other chemicals, with negligible emissions, if any"; by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No. R-13040/34/07-Homoeo, dt. 19.9.2007 Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1144, dt. 19.9.2007, p. 1.] = 2007 CCS/P. 771/H. 359.

Substituted for the words "treating or any ozone depleting substance" by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2003

In Rule 2, in clause (j), after the words "the protocol", the following shall be inserted, namely: "and parties to the amendments thereof.". by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No. R-13040/34/07-Homoeo, dt. 19.9.2007-Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1144, dt. 19.9.2007, p. 1.] = 2007 CCS/P. 771/H. 359.

3. Regulation of production and consumption of ozone depleting substances :-

(1) No person shall produce or cause to produce any ozone depleting substance after the date specified in column (5) of Schedule V unless he is registered with the authority specified in column (4) of that Schedule ¹"excluding the substances which is for the use of as feedstock in the manufacture of other chemicals, with negligible emissions, if any":

Provided that for the twelve month period commencing on the date specified in column (6) of Schedule II, and in each twelve month period thereafter, no person shall produce or cause to be produced any group of ozone depleting substances in excess of the

corresponding percentage of his calculated base level of production specified in column (4) of that Schedule:

Provided further that calculated level of consumption of such substances in India shall, as a percentage of calculated level of consumption in base years does not exceed the number specified in column (5) of Schedule II.

(2) No person shall produce or cause to produce ozone depleting substances specified as Group I and Group III in column (4) of Schedule I during the period from 1st August, 2000 to 1st January, 2010 in excess of the quantity specified in column (4) of Schedule III and the calculated level of consumption of such substances in India shall as a percentage of calculated level of consumption in base year does not exceed the number specified in column (5) of that Schedule.

²(3) A person having received financial assistance from the Multilateral Fund in accordance with Arts. 10 and 10-A of the Protocol to which the Central Government is a party for gradual reduction of production and consumption of ozone depleting substances

(i) specified as Group I and Group III in column (4) of Schedule I shall, limit the production of ozone depleting substance as specified in column (4) of Schedule III;

(ii) specified as Group IV in column (4) of Schedule I shall limit the production and consumption of ozone depleting substance specified in columns (4) and (5) of Schedule II;

(iii) specified as Group I and Group II in column (4) of Schedule I shall limit the consumption of ozone depleting substance as specified in column (5) of Schedule III, in each year from 1.8.2000 to 1.1.2010 to quantities specified in column (4) for each year given in column (6) of Schedule III as per the agreement approved by the Executive Committee of the Multilateral Fund.

³(4) In order to implement the agreement, referred to in sub-rule (3), the Central Government shall introduce implementation modalities, such as quota system for production and consumption of chlorofluorocarbons and carbon tetra-chloride for non-feedstock use and verification system for feedstock application, and non-compliance with such modalities shall result in consequential penalties laid down in the said agreement."

In Rule 3, in sub-rule (1), in the first proviso, after the words "column (4) of that Schedule", the following shall be inserted, namely: "excluding the substances which is for the use of as feedstock in the manufacture of other chemicals, with negligible emissions, if any"; by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No.R-13040/34/07-Homoeo, dt. 19.9.2007 Gaz. of India, Exty., Pt. II-Sec.3(ii), No. 1144, dt. 19.9.2007, p. 1.] = 2007 CCS/P. 771/H. 359.

In Rule 3, in sub-rule (3), shall be substituted, Old once are as follows : "(3) A person having received financial assistance from the Multilateral Fund in accordance with Articles 10 and 10-A of the protocol to which the Central Government is a party for gradual reduction of production of ozone depleting substances specified as Group I and Group III in column (4) of Schedule I shall, limit the production of ozone depleting substances as specified in Group I and Group III in column (4) of Schedule I in each year from 1st August, 2000 to January 1, 2010 to quantities specified in column (4) for each year given in column (6) of Schedule III as per the agreement approved, by the Executive Committee of the Multilateral Fund." by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No. R-13040/34/07-Homoeo, dt. 19.9.2007-Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1144, dt. 19.9.2007, p. 1.] = 2007 CCS/P. 771/H. 359.

In Rule 3, in sub-rule (4), shall be substituted, Old once are as follows : "(4) In order to implement the agreement, referred to in sub-rule (3), the Central Government shall introduce implementation modalities, such as, quota system for producing Chlorofluorocarbons and the non-compliance with such modalities shall result in consequential penalties laid out in the agreement." by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No. R-13040/34/07-Homoeo, dt. 19.9.2007-Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1144, dt. 19.9.2007, p. 1.] = 2007 CCS/P. 771/H. 359.

4. Prohibition on export to or import from countries not specified in Schedule VI :-

No person shall import or cause to import from or export or cause to export to any country not specified in Schedule VI any ozone depleting substance after the commencement of these rules.

5. Ozone depleting substances are to be exported to or imported from countries specified in Schedule VI under a licence :-

(1) No person shall import or cause to import from or export or cause to export to, any country specified in Schedule VI, any ozone depleting substance unless he obtains a licence issued by the authority.

(2) No licence shall be issued under sub-rule (1) unless the said authority is satisfied that the grant of licence shall not cause calculated level of consumption of that group of ozone depleting substances ¹[***] in the relevant twelve month period, as a percentage of corresponding calculated consumption in base years, to exceed the number specified in column (5) of Schedule II.

(3)² [***].

(4) The calculated base level of consumption and the calculated base level of production for India as a whole for each group of ozone depleting substances shall be notified by the Central Government.

In Rule 5 of the principal, rules, in sub-rule (2), the words, letters and numbers "except Group 1 and Group III given in column (4) of Schedule I" shall be omitted, by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No. R-13040/34/07-Homoeo, dt. 19.9.2007 Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1144, dt. 19.9.2007, p. 1.] = 2007 CCS/P. 771/H. 359.

In Rule 5 of the principal, rules, sub-rule (3) shall be omitted, old sub-rule are as follows :- "(3) No licence shall be issued under sub-rule (1) unless the said authority is satisfied that the grant of licence shall not cause calculated level of consumption of ozone depleting substance given in Group I and Group III in column (4) of Schedule I in the relevant twelve months period as specified in column (6) of Schedule III, as a percentage of calculated consumption in base years to exceed the number specified in column (5) of that Schedule." by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No. R-13040/34/07-Homoeo, dt. 19.9.2007-Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1144, dt. 19.9.2007, p. 1.] = 2007 CCS/P. 771/H. 359.

6. Regulation of the sale of ozone depleting substances :-

(1) No person shall either himself or by any other person on his behalf or enterprise sell, stock or exhibit for sale or distribute any ozone depleting substance after the date specified in column (5) of Schedule V unless he is registered with the authority specified in column (4) of that Schedule:

Provided that no person or enterprise shall sell ozone depleting substances specified in column (3) of Schedule IV for activities specified in column (2) of that Schedule unless the person engaged in that activity has got himself registered with the authority and has given a declaration in accordance with these rules and the

person selling ozone depleting substances has verified particulars of the registration given in the declaration with the certificate of registration as per procedure specified in Part II of Schedule XII:

Provided further that after the date specified in column (4) of Schedule IV, no person or enterprise shall sell, stock, distribute or exhibit or cause to be sold, stocked, distributed or exhibited ozone depleting substances specified in column (3) for activities specified in column (2) of that Schedule.

(2) No person shall either himself or by any person on his behalf, or enterprise sell, stock or exhibit for sale or distribute any ozone depleting substance to any person or enterprise who has informed the Central Government that he or that enterprise shall not use the specified ozone depleting substances in manufacturing or other activities after the date specified by such person or as the case may be, the enterprise.

(3) The Central Government shall notify the list of persons, ozone depleting substances and dates informed to it under sub-rule (2).

7. Regulation on the purchase of ozone depleting substances :-

No person shall either himself or by any person on his behalf or enterprise, purchase ozone depleting substances specified in column (3) of Schedule IV from any person for making stock or for using such ozone depleting substances for activities specified in column (2) of that Schedule unless he has given the declaration specified in Part I of Schedule XII to the seller of such substances within the time period specified in Serial Number 4 of column (5) of Schedule V

¹"Provided that in both the cases, the last date for registration with regard to the substances listed in Group-IV of Schedule-I shall be ²on or before 31st December, 2005; and for the substances listed in Group-IV of Schedule-I shall be on or before 19th July, 2007."

1. Schedule 5, Serial Number 4, in column (5), after shall be inserted, by the Ozone Depleting Substances (Regulations and Control; Amendment Rules, 2004.

2. in Sched-ule-V, against Serial Number 4, in column (5), for the words, figures and letters "on or before 31.12.2004", the words, figures and letters "on or before 31.12.2005" shall be substituted by the Ozone Depleting Substances (Regulations and Control) Amendment Rules, 2005.

8. Regulation on the use of ozone depleting substance :-

(1) No person or enterprise shall engage in any activity specified in column (2) of Schedule IV that uses ozone depleting substances specified in column (3) of that Schedule after the date specified in column (5) of Schedule V unless he is registered with the authority specified in column (4) of that Schedule.

(2) No person shall engage in any activity specified in column (2) of Schedule IV using ozone depleting substances specified in column (3) of that Schedule after the date specified in column (5) of Schedule V unless the products are labelled to indicate the ozone depleting substance they contain.

(3) No person shall engage in any activity specified in column (2) of Schedule IV using ozone depleting substances specified in column (3) after the date specified in column (4) of that Schedule.

(4) No person shall engage in any activity specified in column (2) of Schedule IV without using label indicating absence of use of ozone depleting substance mentioned in column (3) after the date specified in column (4) of that Schedule.

(5) A person, having received financial and technical assistance from the Multilateral Fund in accordance with the Articles 10 and 10-A of the Montreal Protocol on Substances that Deplete the Ozone Layer, to which the Central Government is a Party for phasing out of ozone depleting substances specified in column (2) of Schedule II used in activities specified in column (2) of Schedule IV, either himself or by any person on his behalf or through any enterprise, shall not engage in such activity as specified in column (2) of Schedule IV using ozone depleting substances specified in column (3) of the Schedule, after the date of completion of the conversion work or signing of the Handing Over Protocol, or the submission of the completion report to change from ozone depleting substance technology to non-ozone depleting substance technology and the said date be registered with the authority specified in column (4) of the Schedule V.

(6) Any person or enterprise having received, financial assistance from the Multilateral Fund in accordance with the Articles 10 and 10-A of the Montreal Protocol on Substances that Deplete the Ozone Layer shall submit an affidavit or declaration with the authority specified in column (4) of Schedule V stating that replaced equipment, resulted from completion of conversion process

from ozone depleting substance technology to non-ozone depleting substance technology, have been destroyed, dismantled, rendered unusable and that no ozone depleting substance should be used after the date of the completion of project and the said date be registered with the authority specified in the column (4) of the Schedule V.

9. Prohibition on new investments with ozone depleting substances :-

(1) No person shall establish or expand or cause to establish or expand any manufacturing facility for production of any ozone depleting substance after the date specified in column (7) of Schedule II and III.

(2) No person shall establish or expand or cause to establish or expand any manufacturing facility, with a view to manufacturing products which contain, or are made with, any ozone depleting substance after the date specified in column (8) of Schedule II and III.

¹ "(2-A) The provisions of sub-rules (1) and (2) of this rule shall not apply to any ozone depleting substance which is produced for the use of as feedstock in the manufacturing of other chemicals, with negligible emission, if any."

(3) A person having received financial and technical assistance from the Multilateral Fund in accordance with the Articles 10 and 10-A of the Montreal Protocol on Substances that Deplete the Ozone Layer for phasing out of ozone depleting substances specified in column (2) of Schedule II used in activities specified in column (2) of Schedule IV to which the Central Government is a Party, shall not establish or expand or cause to establish or expand the manufacturing facility for production of any ozone depleting substance or with a view to manufacturing products which contain or are made with any ozone depleting substances after the approval of the project for conversion and date of completion of the conversion work from the ozone depleting substance technology to non-ozone depleting substance technology.

After sub-rule (2) of Rule 9 of the principal rules the following sub-rule (2-A) shall be inserted, by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No. R-13040 /34/07-Homoeo, dt. 19.9.2007 Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1144, dt. 19.9.2007]

10. Regulation of import, export and sale of products made with or containing ozone depleting substances :-

(1) No person shall import or cause to import any product specified in column (2) of Schedule VII which are made with or contain ozone depleting substances specified in column (3) after the date specified in column (4) of that Schedule unless he obtains a license issued by the authority:

1 "Provided that no person shall import or cause to import any product specified in column (2) of Schedule VII which are made with or contain ozone depleting substances as listed in Group I, Group II and Group III in Schedule I from the date of commencement of the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007:

Provided further that such products" which do not contain such ozone depleting substances shall carry a label to that effect before its import is allowed after the date specified in Column 4 of Schedule VII.

(2) No person or enterprise shall export or cause to export any product specified in column (2) of Schedule VII unless such product carries a label specifying whether or not the product has been made with or contains, as the case may be, ozone depleting substances specified in column (3) of that Schedule, after the date specified in column (5) of that Schedule.

(3) No person shall either himself or by any other person or enterprise on his behalf sell, stock or exhibit for sale or distribute any product resulting out of activities, or provide services, specified in column (2) of Schedule IV using ozone depleting substances specified in column (3) after the date specified in column (4) of that Schedule.

In Rule 10 ,sub-rule (1),the words "Provided that such products", shall be substituted, by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No.R-13040 /34/07-Homoeo,dt. 19.9.2007-Gaz. of India, Exty., Pt. II-Sec.3(ii), No. 1144, dt. 19.9.2007]

11. Regulation on reclamation and destruction of ozone depleting substances :-

(1) No person shall reclaim or cause to reclaim any ozone depleting substance after the date specified in column (5) of Schedule V

unless he has registered with the authority specified in column (4) of that Schedule.

(2) No person shall destroy or cause to destroy any ozone depleting substance after the date specified in column (5) of Schedule V unless he has registered with the authority specified in column (4) of that Schedule.

12. Regulation on manufacture, import and export of compressors :-

(1) No person shall manufacture, import or export compressors after the date specified in column (5) of Schedule V unless he is registered with the authority specified in column (4) of that Schedule.

13. Procedure for registration, cancellation of registration and appeal against such orders :-

(1) The procedure for registration and conditions of registration under various provisions of these rules shall be as specified in Schedule IX.

(2) The registering authority shall not register if he is not satisfied that the procedure for registration or conditions of registration are fulfilled.

(3) The registering authority shall cancel the registration if he is satisfied that condition(s) of registration have been violated.

(4) The registering authority shall give the concerned person an opportunity of being heard before passing orders under sub-rules (2) and (3) and the orders shall be made in writing.

(5) An appeal against an order of the registering authority shall lie with the authority specified in column (6) of Schedule V within thirty days of communication of such order.

3(6) [***]

2(7) [***]

3(8) Every application for registration or renewal of registration under these rules shall be disposed of within sixty days from the date of receipt of such complete application by the authority specified in column (4) of Schedule V.

⁴ (9) The concerned registering authority specified in column (4) of Schedule V shall decide the issue of cancellation of any registration granted under these rules within sixty days from the date of service of the show-cause notice given by him to the registration holder.

In Rule 13 ,sub-rule (6) , shall be omitted, old clause shall as follows : " (6) The registration shall be valid for the period specified in Schedule IX and its renewal shall be necessary." by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No. R-13040 /34/07-Homoeo,dt. 19.9.2007-Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1144, dt. 19.9.2007]

In Rule 13 ,sub-rule (7), shall be omitted, old clause shall as follows : "(7) The procedure for and conditions of renewal of registration shall be the same as applicable to registration." by the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2007, [Noti. No. R-13040 /34/07-Homoeo,dt. 19.9.2007-Gaz. of India, Exty., Pt. II-Sec. 3(ii), No. 1144, dt. 19.9.2007]

INSERTED BY THE Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2003

14. Monitoring and reporting requirements :-

(1) Every person who produces, imports, exports or sells any ozone depleting substance shall maintain records and file reports in the manner specified in Part I of Schedule X.

(2) Every person stocking or purchasing any ozone depleting substance for use in activities specified in column (2) of Schedule IV shall maintain records and file reports in the manner specified in Part II of Schedule X.

(3) Every person who has received technical or financial assistance from any international organisation or any financial assistance, which includes concession or exemption from payment of duties, from the Central Government, shall maintain records and file reports in the manner specified in Part III of Schedule X and the list of such persons shall be notified by the Central Government.

(4) Every person who has facility to reclaim an ozone depleting substance shall maintain records and file reports in the manner specified in Part IV of Schedule X.

(5) Every person who has facility to destroy any ozone depleting substance shall maintain records and file reports in the manner specified in Part V of Schedule X.

(6) Every person who manufactures, imports, exports or sells compressors shall maintain records and file reports in the manner

specified in Part VI of Schedule X.

(7) The records maintained in accordance with the above sub-rules shall be made available for inspection as specified in Part VII of Schedule X.

15. Exemption :-

(1) Nothing contained in these rules shall apply to applications or circumstances specified in Schedule VIII.