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## GENERAL NOTICE

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### NOTICE 850 OF 2013

#### DEPARTMENT OF ENVIRONMENTAL AFFAIRS

#### NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004 (ACT NO. 39 OF 2004)

#### PROPOSED REGULATIONS REGARDING THE PHASING-OUT AND MANAGEMENT OF OZONE-DEPLETING SUBSTANCES

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby give notice of my intention to make regulations under section 53(a) and (e), read with sections 55(1)(a), 55(2), 56 and 57, of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), as set out in the Schedule hereto.

Members of the public are invited to submit to the Minister, within sixty (60) days of publication of this Notice in the *Gazette*, written representations or objections to the following addresses:

By post to:     The Director-General: Department of Environmental Affairs  
                  Attention: Ms Amanda Dana  
                  Private Bag X447  
                  Pretoria, 0001

By hand at:     2<sup>nd</sup> Floor, Fedsure Forum Building, 315 Pretorius Street, Pretoria, 0001

By email: [adana@environment.gov.za](mailto:adana@environment.gov.za), or by fax: (012) 322-2309 / 086 272 0048 or Tel (012) 310-3495.

The draft Regulations can also be accessed at [www.sawic.org.za](http://www.sawic.org.za) under “**Documents for Comment**” or obtained at the Department’s offices.

**Comments received after the closing date may not be considered.**



**BOMO EDITH EDNA MOLEWA**  
**MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS**

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## CHAPTER 1

### DEFINITIONS AND PURPOSE OF REGULATIONS

#### Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), has that meaning, and unless the context indicates otherwise—

“**critical use**” means the use of a phased out ozone depleting substance for uses that do not have feasible alternatives;

“**destruction**” means a process, when applied to ozone depleting substances, resulting in the permanent transformation or decomposition of all or a significant portion of such substances;

“**destruction facility**” means an authorised facility that is capable of destructing ozone depleting substances;

“**export**” has the meaning assigned to it in section 1 of the International Trade Administration Act, 2002 (Act No. 71 of 2002);

“**feedstock**” means any ozone depleting substance that undergoes chemical transformation in a process in which it is entirely converted from its original composition and whose emissions are insignificant;

“**import**” has the meaning assigned to it in section 1 of the International Trade Administration Act, 2002 (Act No. 71 of 2002);

“**processing agent**” means an ozone depleting substance used as chemical processing agent and where emissions are insignificant;

“**recovery**” has the meaning assigned to it in section 1 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

#### Purpose of Regulations

2. The purpose of these Regulations is to regulate the management and phasing out of the ozone depleting substances.

## CHAPTER 2

### PROHIBITIONS AND PHASE OUT SCHEDULES

#### Prohibition of production, importation, exportation, use or placing on market of ozone-depleting substances

3. (1) A person is prohibited from producing, importing, exporting, using or placing on the market any of the following ozone-depleting substances including equipment or products containing such substances:
- (a) Chlorofluorocarbons;
  - (b) halogenated chlorofluorocarbons;
  - (c) halons;
  - (d) carbon tetrachloride;
  - (e) 1,1,1 trichloroethane;
  - (f) hydrobromofluorocarbons; and
  - (g) bromochloromethane.
- (2) Sub-regulation (1) shall not apply to the placing on the market and use of halons that have been recovered in existing fire protection systems until 31 December 2013 or to the placing on the market and use of halons for critical uses.
- (3) A person wanting to use recovered halons in existing fire protection systems, after the date of coming effect of these Regulations, must apply for approval to the Director-General.
- (4) The application contemplated in sub-regulation (3) must be done in a letter format and include the following information—
- (a) applicant's name and contact details;
  - (b) brief description of applicant business activity in relation to the use of halons;
  - (c) quantities of halons requested for use in existing fire protection systems;
  - (d) measures in place to reduce the emissions; and
  - (e) activities underway or in place to identify and use adequate alternatives.
- (5) The Director General may upon receipt of the application contemplated in subregulation (4) in writing—
- (a) grant approval and indicate any conditions or requirements which must be adhered to;
  - (b) refuse the application and provide reasons for the decision; or
  - (c) require the applicant to provide additional information within a specified timeframe.
- (6) The provisions of these Regulations are not applicable to the use of products or equipment containing the ozone depleting substances contemplated in sub-regulation (1) which were manufactured or imported before the coming into effect of these Regulations.
- (7) No person is allowed to import, place on the market or use for their own account methyl bromide after 1 January 2015, unless it is for critical use.

### General prohibition of stockpiling

4. (1) The stockpiling of the ozone-depleting substances, listed in Appendix A to these Regulations, is prohibited.
- (2) A person who is in possession of a stockpile of ozone-depleting substances contemplated in sub-regulation (1) must, within 12 months of coming into effect of these Regulations, submit to the Director-General a stockpile abatement plan which must at least contain the following information:
  - (a) the name of the stockpile owner;
  - (b) the physical address where the stockpile is located;
  - (c) the legal persona's registration number;
  - (d) the type of the substances stockpiled;
  - (e) the quantity;
  - (f) a proposal on how the owner intends to eliminate the stockpile; and
  - (g) time frames for complete elimination of the stockpile.
- (3) The Director-General may, upon receipt of the stockpile abatement plan, in writing—
  - (a) approve the plan and notify the applicant of the approval; or
  - (b) require additional information to be furnished or amendments to be effected on the plan and a revised plan to be resubmitted within a specified time frame.
- (4) A person whose stockpile abatement plan has been approved in accordance with sub-regulation 3(a) must:
  - (a) adhere to the stockpile abatement plan; and
  - (b) notify the Director-General of any changes in any material detail which has been provided as part of the plan, within 30 days of such change taking place.

### Phase out schedule for hydrochlorofluorocarbons

5. (1) The following, read with Appendix-B, is the phase out schedule for hydrochlorofluorocarbons—
  - (a) the hydrochlorofluorocarbons which an importer place on the market or use, in the period from 1 January 2016 to 31 December 2019, must not exceed 90% of the calculated level of hydrochlorofluorocarbons which an importer placed on the market or used in 2009/10;
  - (b) the hydrochlorofluorocarbons which an importer place on the market or use, in the period 1 January 2020 to 31 December 2024, must not exceed 65% of the calculated level of hydrochlorofluorocarbons which an importer placed on the market or used in 2009/10;
  - (c) the hydrochlorofluorocarbons which an importer place on the market or use, in the period from 1 January 2025 to 31 December 2029, must not exceed 32.5% of the calculated level of hydrochlorofluorocarbons which an importer placed on the market or used in 2009/10;
  - (d) the hydrochlorofluorocarbons which an importer place on the market or use, in the period from 1 January 2030 to 31 December 2039, must not exceed 2.5% of the

- calculated level of hydrochlorofluorocarbons which an importer placed on the market or used in 2009/10 financial year; and
- (e) no person is allowed to import, place on the market or use hydrochlorofluorocarbons after 1 January 2040.

### CHAPTER 3

#### RECOVERY, DISCHARGE OR RELEASE OF CONTROLLED SUBSTANCES

##### Recovery of ozone depleting substances

6. A person who recovers or destroys any ozone depleting substances must do so at an authorised recovery or destruction facility.

##### Discharge or release of ozone depleting substances

7. A person must not discharge or release a ozone depleting substances into the atmosphere.

### CHAPTER 4

#### INFORMATION MANAGEMENT

##### Importers or exporters of ozone depleting substances

8. (1) An importer or exporter of ozone depleting substances must, annually, at the end of January every year, report to the Department the total quantities imported or exported for the previous year.
- (2) The report contemplated in sub-regulation (1) must be in a table format, containing the following information:
- (a) the name of the importer or exporter;
  - (b) the physical address of the importer or exporter;
  - (c) the name, surname and contact details of the person in charge of the import or export;
  - (d) the import or export permit number, issued in terms of the International Trade Administration Commission Act, 2002 (Act No. 71 of 2002);
  - (e) the total quantities of methyl bromide or ozone depleting substances imported or exported for the reporting period in question;
  - (f) any quantities of used ozone depleting substances imported for recycling or recovery;
  - (g) any quantities of ozone depleting substances imported for feedstock and processing agent uses, for essential or critical uses; and
  - (h) any quantities held in stocks.
- (3) Before the end of January every year, every user who has been granted approval for a critical use must, for each ozone depleting substance, report to the Department annually the nature of the use, the quantities used during the previous year and the quantities held in stock.
- (4) An importer and exporter contemplated in sub-regulation (1) must keep a copy of the annual report for 5 years after submission to the Department.

## CHAPTER 5 GENERAL MATTERS

### Offences and penalties

9. (1) A person is guilty of an offence if that person—
- (a) contravenes regulations 3(1), 3(3) or 3(7), 4(1),(2) or (4), or 5 ,6 ,7 or 8 of these Regulations;
  - (b) supplies false or misleading information in any application contemplated under these regulations;
  - (c) contravenes or fails to comply with a condition or requirement of an approval issued in terms of these Regulations.
- (2) A person convicted of an offence contemplated in sub-regulation (1) is liable on conviction to—
- (a) imprisonment for a period not exceeding five years;
  - (b) an appropriate fine; or
  - (c) both fine and imprisonment.

### 10. Short title and commencement

These Regulations are called the Ozone-Depleting Substances Regulations, 2013.

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**APPENDIX-A: OZONE DEPLETING SUBSTANCES**


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<b>LIST OF OZONE DEPLETING SUBSTANCES</b>
1,1,1- Trichloroethane (methyl chloroform)
Bromomethane (Methyl Bromide)
Carbon Tetrachloride
Trichlorofluoromethane (CFC 11)
Dichlorodifluoromethane (CFC 12)
Trichlorotrifluoroethanes (CFC 113)
Dichlorotetrafluoroethanes (CFC 114)
Chlorotrifluoromethane
Pentachlorofluoroethane
Tetrachlorodifluoroethanes
Heptachlorofluoropropanes
Hexachlorodifluoropropanes
Pentachlorotrifluoropropanes
Tetrachlorotrifluoropropanes
Trichloropentafluoropropanes
Dichlorohexafluoropropanes
Chloroheptafluoropropanes
Other derivatives perhalogenated only with fluorine and chlorine
Bromochlorodifluoromethane (Halon 1211), bromotrifluoromethane (Halon 1301) and dibromotetrafluoroethanes (Halon 2402)
Chlorodifluoromethane (HCFC 22)
Dichlorotrifluoroethanes
Chlorotetrafluoroethanes
Dichlorofluoroethanes
Dichlorodifluoroethanes
Dichloropentafluoropropanes
Other derivatives of methane, ethane or propane, halogenated only with fluorine and chlorine
Derivatives of methane, ethane or propane, halogenated only with fluorine and bromine
Insecticides, containing bromomethane (methyl bromide) or bromochloromethane
Fungicides, other, containing bromomethane (methyl bromide) or bromochloromethane
Herbicides, anti-sprouting products and plant-growth regulators, other, containing bromomethane (methyl bromide) or bromochloromethane



Disinfectants, other, containing bromomethane (methyl bromide) or bromochloromethane
Other: containing bromomethane (methyl bromide) or bromochloromethane
Preparations and charges for fire-extinguishers; charged fire extinguishing grenades: other, containing bromochlorodifluoromethane, bromotrichloromethane or dibromotetrafluoroethanes
Other, containing methane, ethane or propane hydrobromofluorocarbons (HBFCs)
Other, containing methane, ethane or propane hydrochlorofluorocarbons (HCFCs)
Other, containing bromochloromethane
Organic composite solvents and thinners, not elsewhere specified or included; prepared plant or varnish removers: Containing methane, ethane or propane chlorofluorocarbons (CFCs), whether or not containing hydrochlorofluorocarbons (HCFCs)
Containing methane, ethane or propane hydrochlorofluorocarbons (HCFCs), but not containing chlorofluorocarbons (CFCs)
Containing carbon tetrachloride, bromochloromethane or 1,1,1-trichloroethane (methyl chloroform)
Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products, not elsewhere specified or included); Containing chlorofluorocarbons (CFCs), whether or not containing hydrochlorofluorocarbons (HCFCs), perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs)
Containing bromochlorodifluoromethane, bromotrifluoromethane or dibromotetrafluoroethanes
Containing hydrobromofluorocarbons (HBFCs)
Containing hydrochlorofluorocarbons (HCFCs), whether or not containing perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs), but not containing chlorofluorocarbons (CFCs)
Containing carbon tetrachloride
Containing 1,1,1-trichloroethane (methyl chloroform)
Containing bromomethane (methyl bromide) or bromochloromethane
Containing perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs), but not containing chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs)

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**APPENDIX-B: PHASE OUT SCHEDULE FOR HYDROCHLOROFLUOROCARBONS (HCFCs)**


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<b>DEADLINE</b>	<b>REDUCTION</b>
2008	Monitor consumption
2009/2010	Baseline consumption established (average of 2 years)
2013	Consumption Freeze at baseline level
2015	10% reduction from baseline
2020	35% reduction from baseline
2025	67.5% reduction from baseline
2030	97.5% reduction from baseline
2030-2039	Maximum consumption 2.5% servicing only
2040	Full phase out

**Maximum Annual Consumption of HCFCs 2008 – 2040**

<b>Year</b>	<b>Maximum Annual Consumption</b>
2008-2012	Not applicable
2013-2014	Baseline
2015-2019	90% of baseline
2020-2024	65% of baseline
2025-2029	32.5% of baseline
2030-2039	2.5% of baseline
2040	Zero

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