

本译文仅供学习交流，不得用于任何商业用途

**The English translation below is for information only  
and may not be reproduced or otherwise used for any  
commercial purpose.**

## **Regulations on Administration of Ozone Depleting Substances**

(Adopted at the 104<sup>th</sup> Executive Meeting of the State Council on March 24, 2010, promulgated by Decree No. 573 of the State Council of the People's Republic of China on April 8, 2010, and effective as of June 1, 2010)

### **Chapter I General Provisions**

**Article 1** These Regulations are formulated in accordance with the Law of the People's Republic of China on the Prevention and Control of Atmospheric Pollution for the purpose of strengthening administration of ozone depleting substances, fulfilling the obligations specified in the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer, protecting the ozone layer and the ecological environment, and safeguarding human health.

**Article 2** The term "ozone depleting substances" in these Regulations means the chemicals that damage the ozone layer and are included in the Catalogue of Controlled Ozone Depleting Substances in China.

The Catalogue of Controlled Ozone Depleting Substances in China shall be compiled, adjusted and published by the competent environmental protection department of the State Council in conjunction with the relevant departments of the State Council.

**Article 3** These Regulations apply to such activities as production, sale, use, import and export of ozone depleting substances within the territory of the People's Republic of China.

The term "production" in the preceding paragraph means the activities of manufacturing ozone depleting substances. The term "use" in the preceding paragraph means the production and business activities conducted by using ozone depleting substances, excluding the use of products that contain ozone depleting substances.

**Article 4** The competent environmental protection department of the State

Council shall be responsible for unified supervision and administration of ozone depleting substances throughout the country.

The competent commerce department of the State Council, the General Administration of Customs and other relevant departments shall, in accordance with the provisions of these Regulations and in compliance with their functions and duties, be responsible for relevant supervision and administration of ozone depleting substances.

The competent environmental protection departments, the competent commerce departments and other relevant departments of local people's governments at or above the county level shall, in accordance with the provisions of these Regulations and in compliance with their functions and duties, be responsible for relevant supervision and administration of ozone depleting substances within their respective administrative areas.

**Article 5** The State shall gradually reduce and finally phase out ozone depleting substances used as refrigerants, blowing agents, extinguishing agents, solvents, cleaning agents, process agents, pesticides, aerosols, expansion agents, etc.

The competent environmental protection department of the State Council shall, in conjunction with the relevant departments of the State Council, draft the China's Country Program for Ozone Depleting Substances Phase-out (hereinafter referred to as the Country Program) and submit the same to the State Council for approval before implementation.

**Article 6** The competent environmental protection department of the State Council shall, based on the Country Program and the progress in the phase-out of ozone depleting substances and in conjunction with the relevant departments of the State Council, decide on and make public the types of construction, alteration or expansion projects for producing or using ozone depleting substances, which are subject to restriction or prohibition, and shall compile and make public the catalogue of ozone depleting substances the production, use, import or export of which is subject to restriction or prohibition.

Where, for special purposes, there is a real need to produce or use ozone

depleting substances the production or use of which is subject to restriction or prohibition as specified in the preceding paragraph, the matter shall be subject to approval by the competent environmental protection department of the State Council in conjunction with the relevant departments of the State Council in accordance with the provisions of the Montreal Protocol on Substances that Deplete the Ozone Layer on permitting the use of ozone depleting substances for special purposes.

**Article 7** The State exercises control over the total amounts and quotas in respect of ozone depleting substances to be produced, used, imported and exported. Based on the Country Program and the progress in the phase-out of ozone depleting substances, the competent environmental protection department of the State Council shall, in consultation with the relevant departments of the State Council, decide on and make public the national total annual amounts of quotas for production, use, import and export of ozone depleting substances.

**Article 8** The State encourages and supports scientific research, technological development, and wide use of alternatives to ozone depleting substances and alternative technologies.

The competent environmental protection department of the State Council shall, in conjunction with the relevant departments of the State Council, compile, adjust and make public the Catalogue of Recommended Alternatives to Ozone Depleting Substances in China.

Development, production and use of alternatives to ozone depleting substances shall comply with industrial policies of the State and enjoy preferential policies in accordance with the relevant provisions of the State. The State shall reward the units and individuals that have made outstanding achievements in phasing out ozone depleting substances.

**Article 9** All units and individuals have the right to report violations of these Regulations to the competent environmental protection departments or other relevant departments of people's governments at or above the county level. The department receiving the report shall investigate and handle such a violation in a timely manner and maintain the confidentiality of the reporting person, and shall reward him if the

reported violation is ascertained through investigation.

## **Chapter II Production, Sale and Use**

**Article 10** A unit that is to produce or use ozone depleting substances shall, in accordance with the provisions of these Regulations, apply for a quota permit for the production or use. However, any of the following units that use ozone depleting substances is not required to apply for a quota permit for the use:

(1) maintenance shops that use ozone depleting substances for maintenance and repair of refrigeration equipment or a refrigeration system or fire extinguishing system;

(2) laboratories that use a small amount of ozone depleting substances for experimental analysis;

(3) entry-exit inspection and quarantine agencies that use ozone depleting substances for quarantine purposes to prevent the in- or out-flow of harmful organisms; or

(4) other units that are not required to apply for a quota permit for the use, as is specified by the competent environmental protection department of the State Council.

**Article 11** A unit that produces or uses ozone depleting substances shall meet the following requirements, apart from those specified by laws and administrative regulations:

(1) having a record of lawful production or use of the relevant ozone depleting substances;

(2) having the premises, facilities, equipment and professional technicians for production or use of the relevant ozone depleting substances;

(3) having the environmental protection facilities that pass the acceptance check by the competent environmental protection department; and

(4) having a sound management system for production and business operations.

The provisions of subparagraph (1) of the preceding paragraph shall not apply to units that use ozone depleting substances for special purposes specified in Article 6 of

these Regulations.

**Article 12** A unit that produces or uses ozone depleting substances shall, prior to October 31 of each year, apply in writing to the competent environmental protection department of the State Council for a production or use quota for the following year, and submit documentary evidence of its compliance with the requirements specified in Article 11 of these Regulations.

The competent environmental protection department of the State Council shall, based on the national total annual quotas for production and use of ozone depleting substances and the applicant's record of production or use of the relevant ozone depleting substances, determine the production or use quota to be allocated to the applicant for the following year and complete the examination of the application prior to December 20 of each year. The said department shall issue a quota permit for production or use for the following year to an applicant that complies with the requirements, which shall be announced and copies of which shall be sent to the relevant departments of the State Council and to the competent environmental protection department of the people's government of the province, autonomous region or municipality directly under the Central Government where the applicant is located; if an applicant fails to comply with the requirements, the said department shall inform the applicant of the fact and the reasons in writing.

**Article 13** A quota permit for production or use of ozone depleting substances shall specify the following particulars:

- (1) name, address, and legal representative or responsible person of the unit that produces or uses ozone depleting substances;
- (2) type, purpose and amount of ozone depleting substances permitted to be produced or used;
- (3) term of validity; and
- (4) permit-issuing authority, date of issue and serial number of the permit.

**Article 14** Where a unit that produces or uses ozone depleting substances needs adjustment in its quota, it shall apply to the competent environmental protection department of the State Council for quota alteration.

The competent environmental protection department of the State Council shall examine the application in accordance with the requirements and on the basis specified in Articles 11 and 12 of these Regulations and complete the examination within 20 working days from the date of acceptance of the application. If the applicant complies with the requirements, the said department shall make adjustment to its quota and announce such adjustment; if the applicant fails to comply with the requirements, the said department shall inform the applicant of the fact and the reasons in writing.

**Article 15** A unit that produces ozone depleting substances shall not produce ozone depleting substances beyond the type, amount or term of validity specified in its quota permit for the production, and shall not produce or sell ozone depleting substances beyond the purpose specified in the said permit.

Producing ozone depleting substances without a quota permit for the production is prohibited.

**Article 16** A unit that has obtained a quota permit for use in accordance with the provisions of these Regulations shall not use ozone depleting substances beyond the type, purpose, amount or term of validity specified in the said permit.

Using ozone depleting substances without a quota permit for the use is prohibited, with the exception of the units that are not required to apply for a quota permit for use, as specified in Article 10 of these Regulations.

**Article 17** A unit that sells ozone depleting substances shall go through the formalities for the record as prescribed by the competent environmental protection department of the State Council.

The competent environmental protection department of the State Council shall announce the name list of the units that have been kept on record for selling ozone depleting substances.

**Article 18** Purchasing and selling of ozone depleting substances shall only be conducted between the units that meet the requirements of these Regulations for producing, selling or using ozone depleting substances, with the exception of import and export of ozone depleting substances in accordance with the provisions of these

Regulations.

**Article 19** A unit engaged in such business activities as maintenance, repair or scrapping treatment of refrigeration equipment or a refrigeration system or fire extinguishing system that contains ozone depleting substances shall apply for the record with the competent environmental protection department of the people's government at the county level of the place where it is located.

A unit specially engaged in such business activities as recovery, reclamation or destruction of ozone depleting substances shall apply for the record with the competent environmental protection department of the people's government of the province, autonomous region or municipality directly under the Central Government where it is located.

**Article 20** A unit that produces or uses ozone depleting substances shall take the necessary measures to prevent or reduce the leakage and discharge of ozone depleting substances as prescribed by the competent environmental protection department of the State Council.

A unit engaged in such business activities as maintenance, repair or scrapping treatment of refrigeration equipment or a refrigeration system or fire extinguishing system that contains ozone depleting substances shall, as prescribed by the competent environmental protection department of the State Council, recover or recycle ozone depleting substances or hand them over to a unit engaged in such business activities as recovery, reclamation or destruction of ozone depleting substances for environmentally sound disposal.

A unit engaged in such business activities as recovery, reclamation or destruction of ozone depleting substances shall carry out environmentally sound disposal of ozone depleting substances as prescribed by the competent environmental protection department of the State Council and shall not discharge them directly.

**Article 21** A unit engaged in such business activities as production, sale, use, recovery, reclamation or destruction of ozone depleting substances, or maintenance, repair or scrapping treatment of refrigeration equipment or a refrigeration system or fire extinguishing system that contains ozone depleting substances shall keep intact



the original materials about its production and business activities for at least three years and submit the relevant data as prescribed by the competent environmental protection department of the State Council.

### **Chapter III Import and Export**

**Article 22** The State exercises control over import and export of ozone depleting substances and carry out catalogue management. The competent environmental protection department of the State Council shall, in conjunction with the competent commerce department of the State Council and the General Administration of Customs, formulate, adjust and make public the Catalogue of Ozone Depleting Substances Under Import and Export Control in China.

A unit that imports or exports ozone depleting substances included in the Catalogue of Ozone Depleting Substances Under Import and Export Control in China shall, in accordance with the provisions of these Regulations, apply to the national authority in charge of import and export of ozone depleting substances for quotas and the approval certificate for import or export of ozone depleting substances, and submit the materials about the type, amount, source and purpose of ozone depleting substances to be imported or exported.

**Article 23** The national authority in charge of import and export of ozone depleting substances shall complete the examination of an application within 20 working days from the date of acceptance of the application and make a decision to approve or not to approve the application. If it decides to approve the application, it shall issue to the applicant an approval certificate for import or export; if it decides not to approve the application, it shall inform the applicant of the fact and the reasons in writing.

An approval certificate for import or export shall be valid for a term of not longer than 90 days, and shall not be used after the expiry date or carried over to the following year.

**Article 24** A unit that has obtained an approval certificate for import or

export of ozone depleting substances shall, as prescribed by the competent commerce department of the State Council, apply for an import or export license and go through customs clearance formalities on the basis of the license. Ozone depleting substances included in the Catalogue of Entry-Exit Goods Under Inspection and Quarantine by Entry-Exit Inspection and Quarantine Agencies shall be subject to inspection conducted by the entry-exit inspection and quarantine agency in accordance with law.

Where ozone depleting substances are to be brought in from abroad to special customs surveillance zones or bonded facilities under surveillance within the territory of the People's Republic of China or vice versa, the import and export unit shall, in accordance with the provisions of these Regulations, apply for an approval certificate for import or export and an import or export license; where ozone depleting substances are to be brought in to special customs surveillance zones or bonded facilities under surveillance within the territory of the People's Republic of China from other places within the Chinese territory or vice versa, or move between the said zones and facilities, an approval certificate for import or export and an import or export license are not required.

#### **Chapter IV Supervision and Inspection**

**Article 25** The competent environmental protection departments and other relevant departments of people's governments at or above the county level shall, in accordance with the provisions of these Regulations and in compliance with their functions and duties, supervise and inspect such activities as production, sale, use, import and export of ozone depleting substances.

**Article 26** When conducting supervision and inspection, the competent environmental protection departments and other relevant departments of people's governments at or above the county level have the power to take the following measures:

- (1) to require the unit under inspection to provide relevant materials;
- (2) to require the unit under inspection to give an account of its implementation

of these Regulations;

(3) to enter the production, operation and storage premises of the unit under inspection to conduct investigation and collect evidence;

(4) to order the unit under inspection to cease and desist from violating these Regulations and fulfill its statutory obligations; and

(5) to impound or seal up ozone depleting substances that are illegally produced, sold, used, imported or exported, as well as the production equipment, facilities, raw materials and products.

The unit under inspection shall render cooperation, give truthful information and provide the necessary materials, and shall not reject or obstruct the inspection.

**Article 27** When conducting supervision and inspection, the competent environmental protection departments and other relevant departments of people's governments at or above the county level shall send not less than two inspectors, who shall show their valid law enforcement credentials.

Staff members of the competent environmental protection departments and other relevant departments of people's governments at or above the county level are obligated to keep confidential the commercial secrets that they come to know in the course of supervision and inspection.

**Article 28** The competent environmental protection department of the State Council shall establish a sound management system for data and information concerning ozone depleting substances, in order to collect, pool and make public the data and information about production, use, import and export of ozone depleting substances.

The competent environmental protection departments of local people's governments at or above the county level shall report on violations of these Regulations discovered in the course of supervision and inspection and their handling of the same, level by level, up to the competent environmental protection department of the State Council.

Other relevant departments of local people's governments at or above the county level shall report on violations of these Regulations discovered in the course of

supervision and inspection and their handling of the same, level by level, up to the relevant departments of the State Council, which shall send a copy of the reports to the competent environmental protection department of the State Council in a timely manner.

**Article 29** Where the competent environmental protection department or any other relevant department of a local people's government at or above the county level fails to investigate and handle a violation of these Regulations, the competent department at a higher level has the power to order the former department to investigate and handle the violation in accordance with law, or directly investigate and handle the violation itself.

## **Chapter V Legal Liability**

**Article 30** Where a department responsible for supervision and administration of ozone depleting substances or a staff member thereof commits one of the following acts, the person in charge with competent accountability and other persons with competent accountability shall be given a sanction in accordance with law, and if their acts constitute crimes, they shall be investigated for criminal liability in accordance with law:

(1) issuing a quota permit for production or use of ozone depleting substances in violation of the provisions of these Regulations;

(2) issuing an approval certificate or license for import or export of ozone depleting substances in violation of the provisions of these Regulations;

(3) failing to investigate and handle discovered violations of these Regulations in accordance with law;

(4) extorting or accepting money or things of value from another person or seeking other benefits when handling procedures for granting administrative licensing for production, use, import or export of ozone depleting substances or when conducting supervision and inspection; or

(5) otherwise committing illegalities for personal gain, abusing its/his power or

neglecting its/his duty.

**Article 31** Where a unit produces ozone depleting substances without a quota permit for the production, the competent environmental protection department of the local people's government at or above the county level of the place where it is located shall order it to cease and desist from such illegal production, confiscate the raw materials used therefor, ozone depleting substances illegally produced and the illegal income thereof, dismantle and destroy the equipment and facilities for illegal production, and concurrently impose on it a fine of 1,000,000 yuan.

**Article 32** Where a unit that is required to apply for a quota permit for use in accordance with the provisions of these Regulations uses ozone depleting substances without such a permit, the competent environmental protection department of the local people's government at or above the county level of the place where it is located shall order it to cease and desist from such illegal use, confiscate ozone depleting substances in illegal use, the products resulting from such illegal use and the illegal income thereof, and concurrently impose on it a fine of 200,000 yuan; if the circumstances are serious, a fine of 500,000 yuan shall be imposed concurrently and the equipment and facilities for illegal use shall be dismantled or destroyed.

**Article 33** Where a unit that produces or uses ozone depleting substances commits one of the following acts, the competent environmental protection department of the people's government of the province, autonomous region or municipality directly under the Central Government where it is located shall order it to cease and desist from such illegal act, confiscate ozone depleting substances illegally produced or in illegal use, the products resulting from such illegal use and the illegal income thereof, concurrently impose on it a fine of not less than 20,000 yuan but not more than 100,000 yuan, and report the matter to the competent environmental protection department of the State Council, which shall reduce the unit's production or use quota; if the circumstances are serious, a fine of not less than 100,000 yuan but not more than 200,000 yuan shall be imposed concurrently and the matter shall be reported to the competent environmental protection department of the State Council, which shall revoke the unit's quota permit for the production or use:

(1) producing ozone depleting substances beyond the type, amount or term of validity specified in its quota permit for the production;

(2) producing or selling ozone depleting substances beyond the purpose specified in its quota permit for the production; or

(3) using ozone depleting substances beyond the type, amount, purpose or term of validity specified in its quota permit for the use.

**Article 34** Where a unit that produces, sells or uses ozone depleting substances sells or purchases ozone depleting substances to or from a unit that does not comply with the requirements of these Regulations, the competent environmental protection department of the local people's government at or above the county level of the place where it is located shall order it to make corrections, confiscate ozone depleting substances for illegal sale or illegally purchased and the illegal income thereof, and impose on it a fine three times the total market value of ozone depleting substances sold or purchased; in the case of a unit that has obtained a quota permit for the production or use, the matter shall be reported to the competent environmental protection department of the State Council, which shall reduce its production or use quota.

**Article 35** Where a unit that produces or uses ozone depleting substances fails to take the necessary measures to prevent or reduce the leakage or discharge of ozone depleting substances as required, the competent environmental protection department of the local people's government at or above the county level of the place where it is located shall order it to make corrections within a specified time limit and impose on it a fine of 50,000 yuan; if the unit fails to make corrections within the specified time limit, a fine of 100,000 yuan shall be imposed, and the matter shall be reported to the competent environmental protection department of the State Council, which shall reduce its production or use quota.

**Article 36** Where a unit engaged in such business activities as maintenance, repair or scrapping treatment of refrigeration equipment or a refrigeration system or fire extinguishing system that contains ozone depleting substances fails to recover or recycle ozone depleting substances or hand them over to a unit engaged in such

business activities as recovery, reclamation or destruction of ozone depleting substances for environmentally sound disposal as required, the competent environmental protection department of the local people's government at or above the county level of the place where it is located shall order it to make corrections and impose on it a fine three times the costs of environmentally sound disposal.

**Article 37** Where a unit engaged in such business activities as recovery, reclamation or destruction of ozone depleting substances fails to conduct environmentally sound disposal of ozone depleting substances as required but discharges them directly into the air, the competent environmental protection department of the local people's government at or above the county level of the place where it is located shall order it to make corrections and impose on it a fine three times the costs of environmentally sound disposal.

**Article 38** Where a unit engaged in such business activities as production, sale, use, import, export, recovery, reclamation or destruction of ozone depleting substances, or maintenance, repair or scrapping treatment of refrigeration equipment or a refrigeration system or fire extinguishing system that contains ozone depleting substances, commits one of the following acts, the competent environmental protection department of the local people's government at or above the county level of the place where it is located shall order it to make corrections and impose on it a fine of not less than 5,000 yuan but not more than 20,000 yuan:

(1) failing to apply for the record with the competent environmental protection department as required by these Regulations;

(2) failing to keep intact the original materials about its production and business activities as required;

(3) failing to submit in time the data about its business activities, or making a false report or concealing the facts thereon; or

(4) failing to provide the necessary materials as required by supervisors and inspectors.

**Article 39** Where a unit rejects or obstructs supervision and inspection conducted by the competent environmental protection department or other relevant

departments, or practices fraud when under supervision and inspection, the supervision and inspection department shall order it to make corrections and impose on it a fine of not less than 10,000 yuan but not more than 20,000 yuan; if such act constitutes a violation against public security administration, the public security organ shall impose a public security administration penalty in accordance with law; if such act constitutes a crime, criminal liability shall be investigated for in accordance with law.

**Article 40** Where an import or export unit imports or exports ozone depleting substances without an import or export license or does so beyond the requirements specified in the import or export license, the customs shall impose on it a penalty in accordance with the provisions of the relevant laws and administrative regulations; if a crime is constituted, criminal liability shall be investigated for in accordance with law.

#### **Chapter VI Supplementary Provision**

**Article 41** These Regulations shall be effective as of June 1, 2010.



本译本仅供参考，若有歧义，请以中文版本为准。

**The English version is for reference only. In case of any discrepancy or ambiguity of meaning between this English translation and the Chinese version, the latter shall prevail.**