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CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

Ozone-depleting Substances and Halocarbon Alternatives Regulations

P.C. 2016-477 June 10, 2016

Whereas, pursuant to subsection 332(1) (see footnote a) of the *Canadian Environmental Protection Act, 1999* (see footnote b), the Minister of the Environment published in the *Canada Gazette*, Part I, on March 21, 2015, a copy of the proposed *Ozone-depleting Substances and Halocarbon Alternatives Regulations*, substantially in the annexed form, and persons were given an opportunity to file comments with respect to the proposed Regulations or to file a notice of objection requesting that a board of review be established and stating the reasons for the objection;

Whereas, pursuant to subsection 93(3) of that Act, the National Advisory Committee has been given an opportunity to provide its advice under section 6 (see footnote c) of that Act;

And whereas, in accordance with subsection 93(4) of that Act, the Governor in Council is of the opinion that the proposed Regulations do not regulate an aspect of a substance that is regulated by or under any other Act of Parliament in a manner that provides, in the opinion of the Governor in Council, sufficient protection to the environment and human health;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of the Environment and the Minister of Health, pursuant to subsection 93(1) of the *Canadian Environmental Protection Act, 1999* (see footnote d), makes the annexed *Ozone-depleting Substances and Halocarbon Alternatives Regulations*.

Ozone-depleting Substances and Halocarbon Alternatives Regulations

Interpretation

Definitions

1 The following definitions apply in these Regulations.

Act means the *Canadian Environmental Protection Act, 1999*. (*Loi*)

CFC means a chlorofluorocarbon. (*CFC*)

critical use means a use of methyl bromide that conforms to Decision IX/6 set out in the document entitled *Report of the Ninth Meeting of the Parties to the Montreal Protocol on*

Substances that Deplete the Ozone Layer, published by the Ozone Secretariat, United Nations Environment Programme. (*utilisation critique*)

Decision means a decision adopted at a meeting of the Parties held under Article 11 of the Protocol. (*Décision*)

emergency use means a use of up to 20 tonnes of methyl bromide, in response to an emergency event, that conforms to Decision IX/6 set out in the document entitled *Report of the Ninth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer*, published by the Ozone Secretariat, United Nations Environment Programme. (*utilisation d'urgence*)

essential use means a use, other than a laboratory or analytical use, that conforms to Decision IV/25 set out in the document entitled *Report of the Fourth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer*, published by the Ozone Secretariat, United Nations Environment Programme. (*utilisation essentielle*)

feedstock means a substance that is used — and the molecular structure of which is transformed — in the manufacture of a chemical substance. (*matière première*)

foaming agent means a chemical that is added to a plastic during the process of manufacturing plastic foam so that gas cells are formed throughout the plastic. (*agent de gonflement*)

HBFC means a hydrobromofluorocarbon. (*HBFC*)

HCFC means a hydrochlorofluorocarbon. (*HCFC*)

HFC means a hydrofluorocarbon. (*HFC*)

laboratory or analytical use means a use that is agreed to be a laboratory or analytical use through a Decision of the Parties. (*utilisation en laboratoire ou à des fins d'analyse*)

Party means a State that has ratified the Protocol or that meets the conditions referred to in paragraph 8 of Article 4 of the Protocol. (*Partie*)

plastic foam means a plastic the weight per unit of volume of which is decreased substantially by the use of a foaming agent during the manufacturing process. (*mousse plastique*)

pre-shipment application means the treatment with methyl bromide, within 21 days prior to export, of a commodity or a product that is to be entirely exported to another country, or of a means of conveyance, in order to meet a requirement of the importing country or a requirement of Canadian law. (*traitement préalable à l'expédition*)

Protocol means the *Montreal Protocol on Substances that Deplete the Ozone Layer*, published by the United Nations Environment Programme and signed by Canada on September 16, 1987, in its most recent version. (*Protocole*)

quarantine application means the treatment with methyl bromide of a commodity, product, facility or means of conveyance, when the treatment is intended to prevent the spread of, or to control or eradicate, pests of quarantine significance in order to meet a requirement of the importing country or a requirement of Canadian law. (*traitement en quarantaine*)

reclaimed means, in respect of a substance, recovered and then reprocessed and upgraded through a process such as filtering, drying, distillation or chemical treatment to restore the substance to industry-accepted reuse standards. (*régénérée*)

recovered means, in respect of a substance used and subsequently collected. (*récupérée*)

recycled means, in respect of a substance, recovered, cleaned through a process such as filtering or drying and reused, including reused to recharge equipment. (*recyclée*)

rigid foam product means a product containing or consisting of any of the following types of foam:

- **(a)** closed-cell rigid polyurethane foam, including one- and two-component froth, pour, spray, injected or bead-applied foam and polyisocyanurate foam;
- **(b)** closed-cell rigid polystyrene boardstock foam;
- **(c)** closed-cell rigid phenolic foam;
- **(d)** closed-cell rigid polyethylene foam that is suitable in shape, thickness and design to be used as a product that provides thermal insulation in heating, plumbing or refrigeration systems or industrial processes. (*produit en mousse rigide*)

Purpose

Implementation of Canada's obligations

2 The purpose of these Regulations is to implement Canada's obligations under the Protocol by setting out rules concerning certain ozone-depleting substances and certain products containing or designed to contain ozone-depleting substances. These Regulations also set out rules concerning halocarbon alternatives.

Application

Application

3 These Regulations apply to

- **(a)** substances — including their isomers — whether existing alone or in a mixture, that are set out in Schedule 1 and specified on the List of Toxic Substances in Schedule 1 to the Act; and
- **(b)** products containing or designed to contain those substances.

Non-application

4 These Regulations do not apply to

- **(a)** a substance if
    - **(i)** it is produced incidentally in the manufacture of substances that are not regulated under these Regulations, or
    - **(ii)** it is incidentally present in a mixture, product or equipment;

- **(b)** the quantity of a substance that is left in a container after it has been emptied and that does not exceed 10% of the total capacity in weight of the container for that substance; or
- **(c)** a substance that is in transit through Canada from a place outside Canada to another place outside Canada, or a substance that is in transit through another country from a place in Canada to another place in Canada, if
    - **(i)** the address of the destination is known on the date of entry into Canada or on the date of exit from Canada, and
    - (ii) while in transit, the substance is not stored — other than in the normal course of transport — repackaged, sorted, altered in any manner or sold.

PART 1

CFCs, Bromofluorocarbons, Bromochlorodifluoromethane, Tetrachloromethane, 1,1,1-Trichloroethane, HBFCs and Bromochloromethane

Exporting Substances

Prohibition — exporting substance without permit

5 It is prohibited for any person to export a substance set out in Table 1 of Schedule 1 without a permit issued under these Regulations.

Purpose of exporting

6 (1) The permit may only be issued to export the substance to a Party for one of the following purposes:

- **(a)** its destruction;
- **(b)** its disposal if the substance was imported by mistake;
- **(c)** a use set out in column 3 of Table 1 of Schedule 1 if the substance was manufactured or imported for a use set out in that column;
- **(d)** its reclamation, if the substance is a CFC, a bromofluorocarbon or bromochlorodifluoromethane that is recovered, recycled or reclaimed;
- **(e)** any other purpose that complies with the laws of the importing Party, if the substance is a CFC, a bromofluorocarbon or bromochlorodifluoromethane.

Exporting — regardless of purpose

(2) A permit may also be issued to export, regardless of purpose, any of the following substances, if they are recovered, recycled or reclaimed:

- **(a)** bromochloromethane;
- **(b)** an HBFC;
- **(c)** any reclaimed CFC, tetrachloromethane or 1,1,1-trichloroethane.

Obligation with respect to paragraph 6(2)(c)

7 The holder of a permit issued under subsection 6(2) must export any substance set out in paragraph 6(2)(c) to the country of origin of the substance within six months after its importation date.

Refilling or servicing — foreign ship

8 Section 5 does not apply to a substance set out in Table 1 of Schedule 1 that is sold to a foreign ship for the refilling or servicing of its refrigeration, air-conditioning or fire-extinguishing equipment in a quantity that does not exceed the total capacity of that equipment.

Exporting Products

Prohibition — exporting product without permit

9 (1) It is prohibited for any person to export to a Party referred to in paragraph 1 of Article 5 of the Protocol a product containing or designed to contain any CFC, bromofluorocarbon, bromochlorodifluoromethane, tetrachloromethane or 1,1,1-trichloroethane set out in Table 1 of Schedule 1 without a permit issued under these Regulations.

Exception — fire-extinguishing equipment

(2) Subsection (1) does not apply to fire-extinguishing equipment for use in aircraft, military ships or military vehicles.

Importing Substances

Prohibition — importing substance without permit

10 It is prohibited for any person to import a substance set out in Table 1 of Schedule 1 without a permit issued under these Regulations.

Purpose of importing

11 (1) The permit may only be issued to import the substance from a Party for one of the following purposes:

- **(a)** its destruction;
- **(b)** a use set out in column 3 of Table 1 of Schedule 1;
- **(c)** its reclamation, if the substance is a CFC, tetrachloromethane, 1,1,1-trichloroethane, an HBFC or bromochloromethane that is recovered, recycled or reclaimed.

Importing — regardless of purpose

(2) A permit may also be issued to import, regardless of purpose, a bromofluorocarbon or bromochlorodifluoromethane that is recovered, recycled or reclaimed.

Obligation to re-export in certain circumstances

12 The holder of the permit must ensure

- **(a)** if the permit is for a substance set out in paragraph 11(1)(c), that the substance is reclaimed and re-exported to its country of origin within six months after its importation date;
- **(b)** if the permit is for a substance set out in subsection 11(2), that the substance is re-exported to a Party, for any use that complies with the laws of that Party, within six months after its importation date; or
- **(c)** if the holder is unable to comply with paragraph (a) or (b), that the substance is sent for destruction, no later than three months after the end of the six-month period following the importation date, to a facility that is operated in accordance with the *Handbook for the Montreal Protocol on Substances that Deplete the Ozone Layer*, published by the Ozone Secretariat, United Nations Environment Programme, or that the substance is exported for destruction within that time.

Importing Products

Prohibition — importing product

13 (1) It is prohibited for any person to import a product containing or designed to contain a substance set out in Table 1 of Schedule 1.

Exception — miscellaneous products

(2) Subsection 1 does not apply to

- **(a)** fire-extinguishing equipment containing or designed to contain a bromofluorocarbon or bromochlorodifluoromethane for use in aircraft, military ships or military vehicles if the equipment is imported from a Party;
- **(b)** an aircraft, ship or vehicle manufactured before January 1, 1999;
- **(c)** a personal or household effect for the person's personal use; or
- **(d)** a product that contains a CFC supplied in a container of 3 L or less and that is used for a laboratory or analytical use.

Manufacture, Use and Sale of a Substance or a Product

Prohibition — manufacturing substance

14 It is prohibited for any person to manufacture a substance set out in Table 1 of Schedule 1.

Prohibition — manufacturing product

15 It is prohibited for any person to manufacture a product containing or designed to contain a substance set out in Table 1 of Schedule 1.

Prohibition — using or selling substance

16 It is prohibited for any person to use or sell a substance set out in Table 1 of Schedule 1, unless

- **(a)** the substance is recovered, recycled or reclaimed;
- **(b)** the substance is sold to be destroyed;
- **(c)** the substance was manufactured or imported before the following date, whichever applies:
    - **(i)** in the case of tetrachloromethane, January 1, 1995,
    - **(ii)** in the case of 1,1,1-trichloroethane, January 1, 1996,
    - **(iii)** in the case of a CFC, January 1, 1996,
    - **(iv)** in the case of bromochlorodifluoromethane, bromotrifluoromethane and dibromotetrafluoroethane, July 1, 1994,
    - **(v)** in the case of bromofluorocarbons other than those set out in subparagraph (iv), January 1, 1994,
    - **(vi)** in the case of an HBFC, January 1, 1996, and
    - **(vii)** in the case of bromochloromethane, January 1, 2002;
- **(d)** the substance was manufactured or imported for one of the uses set out in column 3 of that Table and it is used or sold for that same use; or
- **(e)** the substance is tetrachloromethane that was manufactured or imported in 1995 and it is used
    - **(i)** in chlor-alkali plants as a diluent for nitrogen trichloride to prevent explosions, or
    - **(ii)** as feedstock or for a laboratory or analytical use.

CFCs, bromofluorocarbons, bromochlorodifluoromethane, tetrachloromethane or 1,1,1-trichloroethane

17 It is prohibited for any person to use, for any other use, a CFC, a bromofluorocarbon, bromochlorodifluoromethane, tetrachloromethane or 1,1,1-trichloroethane that is recovered from a product in which that substance was used for one of the uses set out in column 3 of Table 1 of Schedule 1, or to sell that substance for any other use.

Substance no longer needed

18 A person in possession of a substance set out in Table 1 of Schedule 1 that was imported under a permit issued under these Regulations and that is no longer needed for the use set out in that permit must, within six months after the day on which it is no longer needed,

- **(a)** ensure that it is sent for destruction to a facility referred to in paragraph 12(c); or
- **(b)** ensure that it is exported for destruction or for a use set out in column 3 of that Table.

Products, containers and packaging material containing CFCs

19 (1) It is prohibited for any person to sell

- **(a)** a pressurized container that contains 10 kg or less of a CFC set out in Table 1 of Schedule 1; or
- **(b)** a container or packaging material for food or beverages that is made of a plastic foam in which a CFC set out in Table 1 of Schedule 1 is used as a foaming agent.

Exception — metered-dose inhalers and products containing a CFC

(2) Paragraph (1)(a) does not apply to

- **(a)** metered-dose inhalers — including those containing a mixture of active ingredients — other than nasal sprays and metered-dose inhalers whose active ingredient is salbutamol; or
- **(b)** products containing a CFC set out in Table 1 of Schedule 1 that is supplied in a container of 3 L or less for a laboratory or analytical use.

PART 2

Methyl Bromide

Definition

20 For the purposes of this Part, *methyl bromide* includes products containing or designed to contain methyl bromide.

Exporting Methyl Bromide

Prohibition — exporting methyl bromide without permit

21 It is prohibited for any person to export methyl bromide without a permit issued under these Regulations.

Purpose of exporting

22 The permit may only be issued to export methyl bromide to a Party for one of the following purposes:

- **(a)** its destruction;
- **(b)** its disposal if the methyl bromide was imported by mistake; or
- **(c)** a use set out in column 3 of Table 2 of Schedule 1 if the methyl bromide was manufactured or imported for a use set out in that column.

Importing Methyl Bromide

Prohibition — importing methyl bromide without permit

23 It is prohibited for any person to import methyl bromide without a permit issued under these Regulations.

Purpose of importing

24 The permit may only be issued to import methyl bromide from a Party for one of the following purposes:

- **(a)** its destruction; or
- **(b)** a use set out in column 3 of Table 2 of Schedule 1.

Manufacture, Use and Sale of Methyl Bromide

Prohibition — manufacturing methyl bromide

25 It is prohibited for any person to manufacture methyl bromide.

Prohibition — using or selling methyl bromide

26 It is prohibited for any person to use or sell methyl bromide, unless

- **(a)** it is sold for destruction;
- **(b)** it was manufactured or imported before January 1, 2005;
- **(c)** it was imported, and it is sold, for use as feedstock;
- **(d)** it was imported, and it is sold, for a laboratory or analytical use; or
- **(e)** it was imported, and it is sold, for use as a quarantine application or a pre-shipment application.

Emergency use or critical use permit

27 It is prohibited for any person to use methyl bromide for an emergency use or a critical use without a permit issued under these Regulations.

Information required by Protocol

28 Every person who anticipates using methyl bromide for a critical use in a given year must, by no later than July 29 of the year that is two years preceding the given year, submit — or cause to be submitted on their behalf — to the Minister the information required by the *Handbook on Critical Use Nominations for Methyl Bromide*, published by the Ozone Secretariat, United Nations Environment Programme.

Critical use permit

29 (1) The Minister may issue a critical use permit for methyl bromide if a quantity of methyl bromide was granted to Canada by a Decision for the critical use category set out in the application.

Calculation of annual quantity of methyl bromide

(2) The annual quantity of methyl bromide for which a critical use permit may be issued is determined by the formula

A × B / C

where

- **A** is the total quantity of methyl bromide granted to Canada by a Decision for a critical use category;
- **B** is the lesser of the quantity of methyl bromide requested by the applicant in the permit application, and the quantity of methyl bromide set out in the information submitted by or on behalf of the applicant under section 28; and
- **C** is the total quantity of methyl bromide requested by Canada in the nomination under the Protocol.

Prohibition — transferring without authorization

30 (1) It is prohibited for any person to transfer their critical use permit for methyl bromide or a portion of the quantity of methyl bromide set out in the permit unless the Minister allows the transfer under subsection (3).

Application to Minister

(2) The transferor and transferee must submit an application to the Minister for the transfer containing the information required by Schedule 3.

Conditions

(3) The Minister must allow the transfer if

- **(a)** the transferor has an unused quantity that is not less than the quantity of the proposed transfer;
- **(b)** the transferee has submitted, or caused to be submitted on their behalf, the information referred to in section 28 for a critical use of the same category as that set out in the permit; and
- **(c)** the transferee undertakes to use the quantity for a critical use of the same category as that set out in the permit.

Written notice

(4) The Minister must inform the transferor and transferee in writing of the decision concerning the application for a transfer.

Breach of conditions of transfer

(5) If the Minister has allowed a transfer and subsequently discovers that the transferee breached the undertaking referred to in paragraph (3)(c), the Minister must inform the transferee of the breach and the transferee must, without delay, transfer back to the transferor the unused portion of the quantity of methyl bromide.

Grounds for refusal or cancellation

31 (1) The Minister may refuse to allow or may cancel a transfer if the Minister has reasonable grounds to believe that the transferee is not able to use the methyl bromide in compliance with Canadian law.

Effect of cancellation

(2) If the Minister cancels a transfer, the transferee must, without delay, transfer back to the transferor the unused portion of the quantity of methyl bromide.

Substance no longer needed

32 A person in possession of a quantity of methyl bromide that was imported under a permit issued under these Regulations and that is no longer needed for the use set out in that permit must, within six months after the day on which the methyl bromide is no longer needed,

- **(a)** ensure that it is sent for destruction to a facility referred to in paragraph 12(c);
- **(b)** ensure that it is exported for destruction or for a use set out in column 3 of Table 2 of Schedule 1;
- **(c)** if it was imported for use as a quarantine application or a pre-shipment application or for an emergency use or a critical use, transfer it for any one of those uses;
- **(d)** if it was imported for use as feedstock, transfer it for that same use; or
- **(e)** if it was imported for a laboratory or analytical use, transfer it for that same use.

PART 3

HCFCs

Exporting HCFCs

Prohibition — exporting HCFCs without permit

33 It is prohibited for any person to export an HCFC set out in Table 3 of Schedule 1 without a permit issued under these Regulations.

Purpose of exporting

34 (1) The permit may only be issued to export an HCFC to a Party and, on or after January 1, 2020 — or, in the case of HCFC-123, on or after January 1, 2030 — for one of the following purposes:

- **(a)** its destruction;
- **(b)** its disposal if the HCFC was imported by mistake; or
- **(c)** a use set out in column 3 of Table 3 of Schedule 1 if the HCFC was manufactured or imported for a use set out in that column.

Exporting — regardless of purpose

(2) A permit may also be issued to export, regardless of purpose and at any time, an HCFC that is recovered, recycled or reclaimed.

Refilling or servicing — foreign ship

35 Section 33 does not apply to an HCFC set out in Table 3 of Schedule 1 that is sold to a foreign ship for the refilling or servicing of its refrigeration, air-conditioning or fire-extinguishing equipment in a quantity that does not exceed the total capacity of that equipment.

Importing HCFCs

Prohibition — importing HCFCs without permit

36 It is prohibited for any person to import an HCFC set out in Table 3 of Schedule 1 without a permit issued under these Regulations.

37 HCFC Purpose of importing

(1) The permit may only be issued to import an HCFC from a Party for one of the following purposes:

- **(a)** its destruction; or
- **(b)** a use set out in column 3 of Table 3 of Schedule 1.

Importing — regardless of purpose

(2) A permit may also be issued to import, regardless of purpose, an HCFC that is recovered, recycled or reclaimed until January 1, 2020 — or until January 1, 2030 in the case of HCFC-123.

Exception — consumption allowance

38 (1) Section 36 does not apply to a person who is granted a consumption allowance for an HCFC or a transferee of a consumption allowance for an HCFC that is used or sold as a refrigerant or as a fire-extinguishing agent or that is to be exported.

Ceases to have effect

(2) Subsection (1) ceases to have effect on January 1, 2020 — or, in the case of HCFC-123, if it is used or sold as a refrigerant or if it is to be exported, on January 1, 2030.

Refillable container

39 Any HCFC that is imported for use as a refrigerant must be stored in a refillable container.

Importing Products Containing HCFCs

Prohibition — importing products containing or designed to contain HCFC-22, HCFC-141b or HCFC-142b

40 It is prohibited for any person to import a product containing or designed to contain HCFC-22, HCFC-141b or HCFC-142b, unless

- **(a)** the product is a personal or household effect for the person's personal use; or
- **(b)** the product will be used in a military ship before January 1, 2017.

Plastic foam

41 It is prohibited for any person to import a plastic foam in which an HCFC set out in Table 3 of Schedule 1 is used as a foaming agent.

Products containing 2 kg or less of HCFCs

42 (1) It is prohibited for any person to import a pressurized container that contains 2 kg or less of an HCFC set out in Table 3 of Schedule 1.

Exception — miscellaneous products

(2) Subsection (1) does not apply to pressurized containers containing:

- **(a)** a mould release agent used in the manufacture of plastic and elastomeric materials;
- **(b)** a spinneret lubricant or cleaning agent used in the manufacture of synthetic fibres;
- **(c)** a document preservation agent;
- **(d)** a fire-extinguishing agent used in equipment for non-residential applications;
- **(e)** a wasp or hornet agent;
- **(f)** a rigid foam product;
- **(g)** refrigerant 412A (HCFC-22/HCFC-142b/octafluoropropane); or
- **(h)** refrigerant 509A (HCFC-22/octafluoropropane).

Exception — health care products and laboratory or analytical use

(3) Subsection (1) does not apply to a pressurized container containing a product that is intended

- **(a)** for use in animal or human health care, including a bronchial dilator, inhalable steroid, topical anaesthetic and veterinary wound powder spray; or
- **(b)** for a laboratory or analytical use.

Prohibition for products containing HCFCs — January 1, 2020

43 (1) On or after January 1, 2020, it is prohibited for any person to import a product containing or designed to contain an HCFC set out in Table 3 of Schedule 1.

Exception — personal or household effects

(2) Subsection (1) does not apply to a product that is a personal or household effect for the person's personal use.

Manufacture, Use and Sale of HCFCs

Prohibition — manufacturing of HCFCs without permit

44 It is prohibited for any person to manufacture an HCFC set out in Table 3 of Schedule 1 without a permit issued under these Regulations.

Purpose of the manufacture

45 The permit may only be issued to manufacture an HCFC if the holder of the permit intends to manufacture the HCFC for a use set out in column 3 of Table 3 of Schedule 1.

Exception — manufacturing allowance

46 (1) Section 44 does not apply to a person who is granted a manufacturing allowance for an HCFC that is used or sold as a refrigerant or as a fire-extinguishing agent or that is to be exported.

Ceases to have effect

(2) Subsection (1) ceases to have effect on January 1, 2020 — or , in the case of HCFC-123, if it is used or sold as a refrigerant or if it is to be exported, on January 1, 2030.

Refillable container

47 Any HCFC that is manufactured for use as a refrigerant must be stored in a refillable container.

Prohibition — manufacturing products containing or designed to contain HCFC-22, HCFC-141b or HCFC-142b

48 It is prohibited for any person to manufacture a product containing or designed to contain HCFC-22, HCFC-141b or HCFC-142b.

Plastic foam

49 It is prohibited for any person to manufacture a plastic foam in which an HCFC set out in Table 3 of Schedule 1 is used as a foaming agent.

Products containing 2 kg or less of HCFCs

50 (1) It is prohibited for any person to manufacture a pressurized container that contains 2 kg or less of an HCFC set out in Table 3 of Schedule 1.

Exception — miscellaneous products

(2) Subsection (1) does not apply to the pressurized containers referred to in subsections 42(2) and (3).

Prohibition for products containing HCFCs — January 1, 2020

51 On or after January 1, 2020, it is prohibited for any person to manufacture a product containing or designed to contain an HCFC set out in Table 3 of Schedule 1.

Prohibition — using or selling HCFCs

52 It is prohibited for any person to use or sell an HCFC set out in Table 3 of Schedule 1, unless

- **(a)** it is sold for destruction;
- **(b)** it is used or sold as a refrigerant or as a fire-extinguishing agent or is to be exported; or
- **(c)** it was imported or manufactured under a permit issued under these Regulations and is to be used for one of the uses set out in column 3 of that Table.

Products containing 2 kg or less of HCFCs

53 (1) It is prohibited for any person to sell a pressurized container that contains 2 kg or less of an HCFC set out in Table 3 of Schedule 1.

Exception — miscellaneous products

(2) Subsection (1) does not apply to the pressurized containers referred to in subsections 42(2) and (3).

Destruction of HCFCs

HCFC no longer needed

54 (1) A person in possession of an HCFC set out in Table 3 of Schedule 1 that was imported or manufactured under a permit issued under these Regulations and that is no longer needed for the use set out in that permit must, within six months after the day on which it is no longer needed,

- **(a)** ensure that it is sent for destruction to a facility referred to in paragraph 12(c);
- **(b)** ensure that it is exported for destruction, for use as a feedstock or for a laboratory or analytical use; or
- **(c)** in the case of a recovered, recycled or reclaimed HCFC, ensure that it is sent to a recycling or reclamation facility.

Exception — consumption or manufacturing allowance

(2) Any person who is granted a consumption or manufacturing allowance under section 55 or 61 may either comply with subsection (1) or include the quantity of HCFCs that is no longer

needed for the use set out in the permit in their calculated level of consumption or manufacture, only if doing so does not result in the allowance being exceeded.

Consumption Allowances

Calculation of consumption allowance

55 (1) The annual consumption allowance for an HCFC set out in Table 3 of Schedule 1 for use as a refrigerant or as a fire-extinguishing agent to which each person who was entitled to the allowance under the *Ozone-Depleting Substances Regulations, 1998* is entitled is determined as follows:

- **(a)** for each calendar year that falls within the period that begins on January 1, 2015 and ends on December 31, 2019, in accordance with the following formula:

A × B

where

- **A** is the consumption allowance, expressed in ODP tonnes, that was granted for 2014 for the cooling sector; and
- **B** is 28.57 %; and
    - **(b)** for each calendar year that falls within the period that begins on January 1, 2020 and ends on December 31, 2029, by multiplying the consumption allowance granted for 2019 by 5%.

Transfer

(2) If a transfer of a portion of the consumption allowance is approved in accordance with subsection 57(4), the transferred portion is substracted or added to the person's annual consumption allowance, as the case may be,

- **(a)** in the case of a permanent transfer, for every calendar year following the year of the transfer; or
- **(b)** in the case of a temporary transfer, for the calendar year of the transfer.

Written notice

(3) The Minister must inform the person in writing of their consumption allowance.

Consumption allowance not to be exceeded

56 (1) A person who is granted an annual consumption allowance must ensure that it is not exceeded by determining their calculated level of consumption for each HCFC for a calendar year, and then adding together all of their calculated levels of consumption.

Calculated level of consumption

(2) The calculated level of consumption for each HCFC — excluding HCFCs that were recovered, recycled or reclaimed when they were imported or exported — that is manufactured, imported or exported during a calendar year must be determined using the following formula:

$[(M \times ODP) + (I \times ODP) - (E \times ODP) - (D_i \times ODP) - (FS_i \times ODP)]$

where

- **M** is the quantity manufactured during the calendar year;
- **ODP** is the ozone-depleting potential set out in column 2 of Table 3 of Schedule 1 for the HCFC in question;
- **I** is the quantity imported during the calendar year;
- **E** is the quantity exported during the calendar year;
- **D_i** is the quantity imported during the calendar year for destruction under paragraph 54(1)(a); and
- **FS_i** is the quantity imported during the calendar year to be used as feedstock.

Prohibition to transfer without authorization

57 (1) It is prohibited for any person to transfer all or a portion of their annual consumption allowance unless the Minister allows the transfer under subsection (4).

Transfer may be temporary or permanent

(2) A transfer is temporary if it applies to only one calendar year, and it is permanent if it applies to all calendar years up to and including 2029.

Application to Minister

(3) The transferor and transferee must submit an application to the Minister for the transfer containing the information required by Schedule 4 and specifying whether the proposed transfer is temporary or permanent.

Conditions

(4) The Minister must allow the transfer if the transferor has an unused consumption allowance that is not less than the quantity of the proposed transfer.

Written notice

(5) The Minister must inform the transferor and transferee in writing of the decision concerning the application for a transfer and of their consumption allowances.

Grounds for refusal and cancellation

58 (1) The Minister may refuse to allow or may cancel a transfer if the Minister has reasonable grounds to believe that the transferee is not able to manufacture, use, sell, import or export an HCFC in compliance with Canadian law.

Effect of cancellation

(2) If the Minister cancels a transfer, the transferee must, without delay, transfer back to the transferor any unused portion of the consumption allowance.

Retirement of consumption allowances

59 (1) A person may retire their consumption allowance by providing the Minister with a notice in writing to that effect containing the information required by Schedule 4.

Effect of retirement

(2) A person who has retired their consumption allowance is not entitled to any further consumption allowance.

Manufacturing Allowance

Calculation of manufacturing allowance

60 (1) The annual manufacturing allowance for an HCFC set out in Table 3 of Schedule 1 to which each person is entitled is determined as follows:

- **(a)** for each calendar year that falls within the period that begins on January 1, 2015 and ends on December 31, 2019, in accordance with the following formula:

A × B / C

where

- **A** is 81.9 ODP tonnes,
- **B** is the quantity manufactured by a person for 2013, expressed in ODP tonnes, and
- **C** is the quantity manufactured in Canada, expressed in ODP tonnes; and
    - **(b)** for each calendar year that falls within the period that begins on January 1, 2020 and ends on December 31, 2029, by multiplying the manufacturing allowance granted for 2019 by 5%.

Written notice

(2) The Minister must inform the person in writing of their manufacturing allowance.

Manufacturing allowance not to be exceeded

61 (1) A person who is granted an annual manufacturing allowance must ensure that it is not exceeded by determining their calculated level of manufacture for each HCFC for a calendar year, and then adding together all of their calculated levels of manufacture.

Calculated level of manufacture

(2) The calculated level of manufacture for an HCFC must be determined using the following formula:

$[(M \times ODP) - (D_m \times ODP) - (FS \times ODP)]$

where

- **M** is the quantity manufactured during the calendar year;
- **ODP** is the ozone-depleting potential set out in column 2 of Table 3 of Schedule 1 for the HCFC in question;
- **D_m** is the quantity manufactured during the calendar year for destruction under paragraph 54(1)(a); and
- **FS** is the quantity manufactured during the calendar year to be used as feedstock.

PART 4

HFCs

Application

62 Despite paragraph 3(b), this Part does not apply to products containing or designed to contain HFCs.

Exporting HFCs

Prohibition — exporting HFCs without permit

63 It is prohibited for any person to export an HFC set out in Table 4 of Schedule 1 without a permit issued under these Regulations.

Importing HFCs

Prohibition — importing HFCs without permit

64 (1) It is prohibited for any person to import an HFC set out in Table 4 of Schedule 1 without a permit issued under these Regulations.

Authorized importation

(2) Any imported HFC must be intended for a use for which a substance set out in Tables 1 to 3 of Schedule 1 has been used in Canada.

Refillable container

(3) Any HFC that is imported for use as a refrigerant must be stored in a refillable container.

Manufacture and Use of HFCs

Prohibition — manufacturing HFC without permit

65 (1) It is prohibited for any person to manufacture an HFC set out in Table 4 of Schedule 1 without a permit issued under these Regulations.

Authorized manufacture

(2) Any manufactured HFC must be intended for a use for which a substance set out in Tables 1 to 3 of Schedule 1 has been used in Canada.

Refillable container

(3) Any HFC that is manufactured for use as a refrigerant must be stored in a refillable container.

PART 5

Essential Purpose

Exceptions — essential purpose

66 (1) Despite subsection 13(1), sections 15 and 17, subsection 19(1), sections 40 and 41, subsections 42(1) and 43(1), sections 48 and 49, subsection 50(1), section 51 and subsection 53(1), a person may import, manufacture, use or sell a substance set out in Table 1 or 3 of Schedule 1 or a product containing or designed to contain that substance if the substance or product will be used for an essential purpose and if a permit is specifically issued under these Regulations for that purpose.

Essential purpose

(2) An essential purpose is a purpose requiring the use of a substance or a product containing or designed to contain a substance, when that use is necessary for the health and safety or the good functioning of society, encompassing its cultural and intellectual aspects, and when there are no technically or economically feasible alternatives to that use that are acceptable from the standpoint of the environment and of health.

PART 6

Notice and Application for Permit

Notice

Notice to Minister

67 (1) A person who proposes to ship a substance into or out of Canada for the purpose of transit must provide a notice of shipment in transit to the Minister containing the information

required by Schedule 2 at least 15 days prior to the date of entry into Canada or the date of exit from Canada.

Acknowledgement

(2) The Minister must acknowledge receipt of the notice in writing.

Application for Permit

Required information

68 An application for a permit must be submitted to the Minister and contain the information and documents required by the following sections of Schedule 5:

- **(a)** in the case of exportation, section 1 or 2;
- **(b)** in the case of importation, section 3;
- **(c)** in the case of manufacture, section 4;
- **(d)** in the case of an emergency use or a critical use of methyl bromide, section 5; and
- **(e)** in the case of use for an essential purpose, section 6.

Conditions

69 The Minister may issue a permit if

- **(a)** its issuance is in accordance with the Protocol or a Decision;
- **(b)** all of the information required under section 68 has been provided; and
- **(c)** the purpose of the permit has been established and is in accordance with these Regulations.

Duration

70 A permit is effective for the period beginning on the date of its issuance and ending on December 31 of the year in which it is issued.

Revocation

71 (1) The Minister must revoke a permit if any of the conditions set out in section 69 has not been met or if he or she has reasonable grounds to believe that the permit holder has provided false or misleading information to him or her.

Conditions for revocation

(2) The Minister must not revoke a permit unless he or she has provided the permit holder with written reasons for the revocation and an opportunity to be heard, by written representation, in respect of the revocation.

PART 7

Miscellaneous Provisions

Annual Report and Other Information

Annual report

72 Every person who, in a given calendar year, has a consumption allowance, a manufacturing allowance or a permit issued under these Regulations must submit to the Minister a report that contains the information required by Schedule 6, no later than January 31 following that year.

Information to be submitted to Minister

73 Every person who manufactures, uses, sells, imports or exports a substance must, on written request by the Minister, provide to the Minister any information required by the Minister for the purpose of fulfilling Canada's obligations under the Protocol.

Certification

74 (1) Any notice of shipment in transit, any application for a permit or any document containing information required to be submitted to the Minister under these Regulations must bear the signature of the interested person or the person authorized to act on their behalf and be accompanied by a certification dated and signed by the interested person or the authorized person, stating that the information is accurate and complete.

Writing or electronic format

(2) The notice of shipment in transit, information, application for a permit and certification may be submitted either in writing or in an electronic format that is compatible with the one that is used by the Minister.

Importing and exporting — documents to be submitted to customs office

(3) Every person who imports or exports a substance or a product containing or designed to contain a substance must provide to the customs office where the substance or product is required to be reported under section 12 or 95 of the *Customs Act* a copy of their permit or the Minister's written confirmation of their consumption allowance.

Substances in transit — information to be provided

(4) Every person who ships a substance into or out of Canada for the purpose of transit must provide to the customs office where the substance is required to be reported under section 12 or 95 of the *Customs Act* a copy of the acknowledgement of their notice of shipment in transit referred to in subsection 67(2).

Record Keeping

Export, import or manufacture

75 (1) Every person who exports, imports or manufactures a substance must

- **(a)** maintain records containing the information and documents required by Schedule 7; and
- **(b)** keep the records at their principal place of business in Canada for a period of five years after the records are made.

Use or sale

(2) If a substance was manufactured or imported for a use set out in column 3 of Table 1, 2 or 3 of Schedule 1, every person who uses or sells that substance for that use must

- **(a)** maintain records containing the information and documents required by Schedule 7; and
- **(b)** keep the records at their principal place of business in Canada for a period of five years after the records are made.

- **Where records may be kept**
- **(3)** The records may be kept at any place in Canada other than the principal place of business if the person notifies the Minister in writing of the civic address of the place where the records are kept.

Submission of information

(4) The person must, on written request by the Minister, submit to the Minister the information and documents required by Schedule 7.

Transitional Provision

Permits granted under *Ozone-Depleting Substances Regulations, 1998*

76 A substance or a product containing or designed to contain a substance, if the substance or product is exported, imported, manufactured or used under a permit or authorization issued under the *Ozone-Depleting Substances Regulations, 1998*, is deemed to be exported, imported, manufactured or used under a permit or authorization issued under these Regulations.

Repeal

***77 The Ozone-Depleting Substances Regulations, 1998* are repealed.**

Coming into Force

Six months after publication

78 These Regulations come into force six months after the day on which they are published in the *Canada Gazette*, Part II.

SCHEDULE 1

(Paragraph 3(a), section 5, paragraph 6(1)(c), section 8, subsection 9(1), section 10, paragraph 11(1)(b), subsection 13(1), sections 14 to 18, subsection 19(1), paragraphs 19(2)(b), 22(c), 24(b) and 32(b), section 33, paragraph 34(1)(c), sections 35 and 36, paragraph 37(1)(b), section 41, subsections 42(1) and 43(1), sections 44, 45 and 49, subsection 50(1), sections 51 and 52, subsections 53(1), 54(1) and 55(1), section 56, subsection 60(1), sections 61 and 63 and subsections 64(1), 64(2), 65(1), 65(2),66(1) and 75(2))

List of Substances and Data for the Determination of Calculated Levels

Table 1 — Part 1 Substances

Item	Column 1 Substance	Column 2 Ozone-depleting Potential	Column Uses
1	Tetrachloromethane (carbon tetrachloride)	1.1	**(a)**Es use **(b)**Fe **(c)**La or analytical us
2	1,1,1-trichloroethane (methyl chloroform), not including 1,1,2-trichloroethane	0.1	**(a)**Es use **(b)**Fe **(c)**La or analytical us
3	Trichlorofluoromethane (CFC-11)	1.0	**(a)**Es use **(b)**Fe **(c)**La or analytical us
4	Dichlorodifluoromethane (CFC-12)	1.0	**(a)**Es use **(b)**Fe **(c)**La or analytical us
5	Trichlorotrifluoroethane (CFC-113)	0.8	**(a)**Es use **(b)**Fe

			(c) La or analytical us
6	Dichlorotetrafluoroethane (CFC-114)	1.0	**(a)**Es use **(b)**Fe **(c)**La or analytical us
7	Chloropentafluoroethane (CFC-115)	0.6	**(a)**Es use **(b)**Fe **(c)**La or analytical us
8	CFCs other than those set out in items 3 to 7	1.0	**(a)**Es use **(b)**Fe **(c)**La or analytical us
9	Bromochlorodifluoromethane (Halon 1211)	3.0	**(a)**Es use **(b)**La or analytical us
10	Bromotrifluoromethane (Halon 1301)	10.0	**(a)**Es use **(b)**La or analytical us
11	Dibromotetrafluoroethane (Halon 2402)	6.0	**(a)**Es use **(b)**La or analytical us
12	Bromofluorocarbons other than those set out in items 9 to 11	N/A	**(a)**Es use **(b)**La or analytical us
13	HBFCs	The ozone-depleting potential of each HBFC is the value indicated for it in Annex C of the Protocol or, if a range of values is indicated, the highest value in the range.	**(a)**La or analytical us

14	Bromochloromethane (Halon 1011)	0.12	**(a)**Es use **(b)**La or analytical us

Table 2 — Part 2 Substance

Item	Column 1 Substance	Column 2 Ozone-depleting Potential	Column Uses
1	Methyl bromide	0.6	**(a)** Quarantine application **(b)** Pre-shipment application **(c)** Feedstock **(d)** Laboratory or analytical use **(e)** Critical use **(f)** Emergency use

Table 3 — Part 3 Substances

Item	Column 1 Substance	Column 2 Ozone-depleting Potential	Column Uses
1.	HCFCs:		**(a)** Feedstock
	(a) Dichlorofluoromethane (HCFC-21)	0.04	**(b)** Laboratory or use
	(b) Chlorodifluoromethane (HCFC-22)	0.055	
	(c) Chlorofluoromethane (HCFC-31)	0.02	
	(d) Tetrachlorofluoroethane (HCFC-121)	0.04	
	(e) Trichlorodifluoroethane (HCFC-122)	0.08	
	(f) 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)	0.02	

(g) 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)	0.06
(h) 1,1-dichloro-1,2,2-trifluoroethane (HCFC-123b)	0.06
(i) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)	0.022
(j) 1-chloro-1,1,2,2-tetrafluoroethane (HCFC-124a)	0.04
(k) Trichlorofluoroethane (HCFC-131)	0.05
(l) Dichlorodifluoroethane (HCFC-132)	0.05
(m) Chlorotrifluoroethane (HCFC-133)	0.06
(n) Dichlorofluoroethane (HCFC-141), not including HCFC-141b	0.07
(o) 1,1-dichloro-1-fluoroethane (HCFC-141b)	0.11
(p) Chlorodifluoroethane (HCFC-142), not including HCFC-142b	0.07
(q) 1-chloro-1,1-difluoroethane (HCFC-142b)	0.065
(r) Chlorofluoroethane (HCFC-151)	0.005
(s) Hexachlorofluoropropane (HCFC-221)	0.07
(t) Pentachlorodifluoropropane (HCFC-222)	0.09
(u) Tetrachlorotrifluoropropane (HCFC-223)	0.08
(v) Trichlorotetrafluoropropane (HCFC-224)	0.09
(w) Dichloropentafluoropropane (HCFC-225), not including HCFC-225ca and HCFC-225cb	0.07
(x) 1,1-dichloro-2,2,3,3,3-pentafluoropropane (HCFC-225ca)	0.025
(y) 1,3-dichloro-1,2,2,3,3-pentafluoropropane (HCFC-225cb)	0.033

(z) Chlorohexafluoropropane (HCFC-226)	0.10
(z.1) Pentachlorofluoropropane (HCFC-231)	0.09
(z.2) Tetrachlorodifluoropropane (HCFC-232)	0.10
(z.3) Trichlorotrifluoropropane (HCFC-233)	0.23
(z.4) Dichlorotetrafluoropropane (HCFC-234)	0.28
(z.5) Chloropentafluoropropane (HCFC-235)	0.52
(z.6) Tetrachlorofluoropropane (HCFC-241)	0.09
(z.7) Trichlorodifluoropropane (HCFC-242)	0.13
(z.8) Dichlorotrifluoropropane (HCFC-243)	0.12
(z.9) Chlorotetrafluoropropane (HCFC-244)	0.14
(z.10) Trichlorofluoropropane (HCFC-251)	0.01
(z.11) Dichlorodifluoropropane (HCFC-252)	0.04
(z.12) Chlorotrifluoropropane (HCFC-253)	0.03
(z.13) Dichlorofluoropropane (HCFC-261)	0.02
(z.14) Chlorodifluoropropane (HCFC-262)	0.02
(z.15) Chlorofluoropropane (HCFC-271)	0.03

Table 4 — Part 4 Substances

Item	Column Substances
1	HFCs:

(a) Trifluoromethane (HFC-23)

(b) Difluoromethane (HFC-32)

(c) Fluoromethane (HFC-41)

(d) 1,1,1,2,2-pentafluoroethane (HFC-125)

(e) 1,1,2,2-tetrafluoroethane (HFC-134)

(f) 1,1,1,2-tetrafluoroethane (HFC-134a)

(g) 1,1,2-trifluoroethane (HFC-143)

(h) 1,1,1-trifluoroethane (HFC-143a)

(i) 1,2-difluoroethane (HFC-152)

(j) 1,1-difluoroethane (HFC-152a)

(k) Fluoroethane (HFC-161)

(l) 1,1,2,2,3,3,3-heptafluoropropane (HFC-227ca)

(m) 1,1,1,2,3,3,3-heptafluoropropane (HFC-227ea)

(n) 1,1,1,2,2,3-hexafluoropropane (HFC-236cb)

(o) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea)

(p) 1,1,1,3,3,3-hexafluoropropane (HFC-236fa)

(q) 1,1,2,2,3-pentafluoropropane (HFC-245ca)

(r) 1,1,1,3,3-pentafluoropropane (HFC-245fa)

(s) 1,1,1,3,3-pentafluorobutane (HFC-365mfc)

(t) 1,1,1,2,2,3,4,5,5,5-decafluoropentane (HFC-43-10mee)

SCHEDULE 2
(Subsection 67(1))

Notice of Shipment in Transit — Information Required

1 Information respecting the person providing the notice:

- **(a)** their name, civic and postal addresses, telephone number and, if any, email address and fax number;
- **(b)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on their behalf; and
- **(c)** if applicable, their business number assigned by the Minister of National Revenue.

2 Information respecting the substance:

- **(a)** its name;
- **(b)** its CAS registry number, if such a number can be assigned;
- **(c)** the quantity in transit;
- **(d)** the estimated date of entry into Canada;
- **(e)** the estimated date of exit from Canada; and
- **(f)** information as to whether it is recovered, recycled or reclaimed.

3 The name, civic and postal addresses, telephone number and, if any, email address and fax number of each carrier of the substance.

4 The name, civic and postal addresses, telephone number and, if any, email address and fax number of the customs broker in Canada.

5 Information respecting the source of the substance:

- **(a)** the country of origin;
- **(b)** the countries through which it has transited;
- **(c)** the port of entry into Canada; and
- **(d)** the name, civic and postal addresses, telephone number and, if any, email address and fax number of the sender.

6 Information respecting the destination of the substance:

- **(a)** the port of exit from Canada;
- **(b)** the country of destination; and
- **(c)** the name, civic and postal addresses, telephone number and, if any, email address and fax number of the recipient.

7 If known at the time the notice is provided, information respecting the storage in Canada of the substance:

- **(a)** the civic address of the location of the storage;
- **(b)** the name, civic and postal addresses, telephone number and, if any, email address and fax number of the person responsible for the storage; and
- **(c)** the expected duration of the storage.

SCHEDULE 3

(Subsection 30(2))

Application for a Transfer of a Permit To Use Methyl Bromide — Information Required

1 Information respecting the transferor and transferee:

- **(a)** their names, civic and postal addresses, telephone numbers and, if any, email addresses and fax numbers; and
- **(b)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on the transferor's or transferee's behalf.

2 The quantity of methyl bromide to be transferred.

SCHEDULE 4

(Subsections 57(3) and 59(1))

Application for a Transfer of a Consumption Allowance of HCFCs and of a Notice Retiring an Allowance — Information Required

1 Application for a transfer of a consumption allowance:

- **(a)** information respecting the transferor and transferee:
    - **(i)** their names, civic and postal addresses, telephone numbers and, if any, email addresses and fax numbers;
    - **(ii)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on the transferor's or transferee's behalf; and
    - **(iii)** if applicable, their business number assigned by the Minister of National Revenue; and
- **(b)** information respecting the transfer:
    - **(i)** the portion of the transferor's unused consumption allowance to be transferred, and
    - **(ii)** the quantity of HCFCs to be transferred.

2 Notice of retirement of a consumption allowance:

- **(a)** the name, civic and postal addresses, telephone number and, if any, email address and fax number of the person retiring their allowance;
- **(b)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on their behalf; and
- **(c)** if applicable, the business number assigned by the Minister of National Revenue to the person retiring their allowance.

SCHEDULE 5
(Section 68)

Application for a Permit — Information Required

Exportation

Permit To Export a Substance

1 Application for a permit to export a substance:

- **(a)** information respecting the applicant:
  - **(i)** their name, civic and postal addresses, telephone number and, if any, email address and fax number,
  - **(ii)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on their behalf, and
  - **(iii)** if applicable, their business number assigned by the Minister of National Revenue;
- **(b)** information respecting the substance:
  - **(i)** its name,
  - **(ii)** its CAS registry number, if such a number can be assigned, and
  - **(iii)** the quantity to be exported;
- **(c)** information respecting the source of the substance:
  - **(i)** the name, civic and postal addresses, telephone number and, if any, email address and fax number of the manufacturer, and
  - **(ii)** if the substance is recovered, recycled or reclaimed, the name of any person who participated in any of these steps, as well as their civic and postal addresses, telephone number and, if any, email address and fax number;
- **(d)** information respecting the destination of the substance:
  - **(i)** the importing country,
  - **(ii)** the name, civic and postal addresses, telephone number and, if any, email address and fax number of the importer of each shipment, and

- **(iii)** evidence that the exportation complies with the laws of the importing Party;

- **(e)** information respecting the purpose of the exportation of the substance, if applicable:
  - **(i)** if it is exported for its destruction, the name and civic and postal addresses of the destruction facility as well as the technology used,
  - **(ii)** if it is exported for its disposal, evidence that it was imported by mistake,
  - **(iii)** if it is exported for one of the uses set out in column 3 of Table 1, 2 or 3 of Schedule 1, the intended use and, if known at the time of the application, the name, civic and postal addresses, telephone number and, if any, email address and fax number of the user and the quantity that will be sold, and
  - **(iv)** if it is a substance that is recovered, recycled or reclaimed and that is exported for the purpose of being reclaimed, the name and civic and postal addresses of the reclamation facility as well as the technology used; and
- **(f)** an authorization by the applicant for the release of information to the importing Party.

Permit To Export a Product Containing or Designed To Contain CFCs, Bromofluorocarbons, Bromochlorodifluoromethane, Tetrachloromethane or 1,1,1-Trichloroethane

2 Application for a permit to export a product containing or designed to contain CFCs, bromofluorocarbons, bromochlorodifluoromethane, tetrachloromethane or 1,1,1-trichloroethane:

- **(a)** information respecting the applicant:
  - **(i)** their name, civic and postal addresses, telephone number and, if any, email address and fax number,
  - **(ii)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on their behalf, and
  - **(iii)** if applicable, their business number assigned by the Minister of National Revenue;
- **(b)** information respecting the product:
  - **(i)** its name and the substance that it contains,
  - **(ii)** the CAS registry number, if such a number can be assigned to the substance that it contains,
  - **(iii)** the quantity to be exported, and
  - **(iv)** its total capacity and the quantity of substance that it contains;
- **(c)** information respecting the source of the substance: the name, civic and postal addresses, telephone number and, if any, email address and fax number of the manufacturer;
- **(d)** information respecting the destination of the substance:
  - **(i)** the importing country,

- **(ii)** the name, civic and postal addresses, telephone number and, if any, email address and fax number of the importer of each shipment, and

- **(e)** a certification confirming that the exportation complies with the laws of the importing Party; and
- **(f)** an authorization by the applicant for the release of information to the importing Party.

Importation

Permit To Import a Substance

3 Application for a permit to import a substance:

- **(a)** information respecting the applicant:
  - **(i)** their name, civic and postal addresses, telephone number and, if any, email address and fax number,
  - **(ii)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on their behalf, and
  - **(iii)** if applicable, their business number assigned by the Minister of National Revenue;
- **(b)** information respecting the substance:
  - **(i)** its name,
  - **(ii)** its CAS registry number, if such a number can be assigned,
  - **(iii)** the quantity to be imported, and
  - **(iv)** in the case of methyl bromide, the applicant's quantity in stock for an emergency use or a critical use before importation;
- **(c)** information respecting the source of the substance:
  - **(i)** the exporting country,
  - **(ii)** the name, civic and postal addresses, telephone number and, if any, email address and fax number of the exporter of each shipment, and
  - **(iii)** if the substance is recovered, recycled or reclaimed, the name of any person who participated in any of these steps, as well as their civic and postal addresses, telephone number and, if any, email address and fax number;
- **(d)** information respecting the purpose of the importation of the substance, if applicable:
  - **(i)** if it is imported for its destruction, the name and civic and postal addresses of the destruction facility as well as the technology used,
  - **(ii)** if it is imported for one of the uses set out in column 3 of Table 1, 2 or 3 of Schedule 1, the intended use and, if known at the time of the application, the name, civic and postal addresses, telephone number and, if any, email address and fax number of the user and the quantity that will be sold, and

- **(iii)** if it is a substance that is recovered, recycled or reclaimed and that is imported for the purpose of being reclaimed, the name and civic and postal addresses of the reclamation facility as well as the technology used;

- **(e)** the applicant's declaration that the substance will be used or sold for the use for which it was imported if applicable; and
- **(f)** an authorization by the applicant for the release of information to the exporting Party.

Manufacture

4 Application for a permit to manufacture an HCFC or an HFC:

- **(a)** information respecting the applicant:
  - **(i)** their name, civic and postal addresses, telephone number and, if any, email address and fax number,
  - **(ii)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on their behalf, and
  - **(iii)** their business number assigned by the Minister of National Revenue, if applicable;
- **(b)** information respecting the substance:
  - **(i)** its name,
  - **(ii)** its CAS registry number, if such a number can be assigned,
  - **(iii)** the quantity to be manufactured, and
  - **(iv)** the use for which it is manufactured;
- **(c)** information respecting the purchaser of the substance:
  - **(i)** their name, civic and postal addresses, telephone number and, if any, email address and fax number in Canada, and
  - **(ii)** the quantity sold to each purchaser in Canada; and
- **(d)** if it is an HCFC, the manufacturer's declaration that it will be used or sold for the use for which it was manufactured.

Use of Methyl Bromide

5 Application for a permit to use methyl bromide for an emergency use or a critical use:

- **(a)** information respecting the applicant:
  - **(i)** their name, civic and postal addresses, telephone number and, if any, email address and fax number,
  - **(ii)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on their behalf, and

- **(iii)** if applicable, their business number assigned by the Minister of National Revenue;

- **(b)** information respecting the methyl bromide:
  - **(i)** information on how the lack of its availability for the use would result in a significant market disruption,
  - **(ii)** any alternatives to its use and the reasons they are not technically, economically or otherwise feasible,
  - **(iii)** the steps taken to minimize its use,
  - **(iv)** the steps taken to minimize its emissions,
  - **(v)** information that explains the research undertaken to find alternatives or to minimize its use or emissions,
  - **(vi)** the quantities that are in stock,
  - **(vii)** the quantity necessary for an emergency use or the annual quantity necessary for a critical use, and
  - **(viii)** the civic address of the location where it will be used.

Essential Purpose

6 Additional information in the case of an application for a permit respecting a substance, or a product containing or designed to contain such a substance, that is to be used for an essential purpose:

- **(a)** information respecting the applicant:
  - **(i)** their name, civic and postal addresses, telephone number and, if any, email address and fax number,
  - **(ii)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on their behalf, and
  - **(iii)** if applicable, their business number assigned by the Minister of National Revenue;
- **(b)** information respecting the substance or the product:
  - **(i)** the name of the substance or the product,
  - **(ii)** the CAS registry number of the substance, if such a number can be assigned,
  - **(iii)** the quantity to be manufactured, used, sold, imported or exported, and
  - **(iv)** the use for which the substance or the product is required and information on how the intended use meets the definition of *essential purpose* in subsection 66(2); and
- **(c)** information respecting the source and the destination of the substance or the product:
  - **(i)** the importing country,

- **(ii)** the exporting country, and
- **(iii)** the country in which the substance or the product was manufactured.

SCHEDULE **6**
(Section 72)

Annual Report — Information Required

1 Information respecting the person submitting the report:

- **(a)** their name, civic and postal addresses, telephone number and, if any, email address and fax number;
- **(b)** if applicable, the name, title, civic and postal addresses, telephone number and, if any, email address and fax number of the person authorized to act on their behalf; and
- **(c)** if applicable, their business number assigned by the Minister of National Revenue.

2 Information respecting the substance or the product containing or designed to contain the substance:

- **(a)** the quantity manufactured, destroyed, used as feedstock, imported or exported;
- **(b)** the quantity in stock;
- **(c)** the classification and formulation of the substance;
- **(d)** the CAS registry number of the substance, if such a number can be assigned;
- **(e)** the use of the substance; and
- **(f)** information as to whether the substance is recovered, recycled or reclaimed.

3 The consumption allowance granted for HCFCs.

4 The manufacturing allowance granted for HCFCs.

5 Information respecting the reclamation or destruction facility:

- **(a)** its name, civic and postal addresses; and
- **(b)** the technology used.

6 The name and civic and postal addresses of the facility where the substance is used as feedstock.

7 Information respecting the exportation or importation of the substance or the product containing or designed to contain the substance:

- **(a)** the importing country or the destination of each shipment in Canada;
- **(b)** the date of importation or exportation and the transaction number of customs documents; and
- **(c)** the Harmonized Commodity Description and Coding System classification number for the substance, as set out in the*Customs Tariff*.

8 Information respecting the recipient of the substance or of the product containing or designed to contain the substance:

- **(a)** their name and civic and postal addresses; and
- **(b)** the quantity that is sold to the recipient.

9 Information respecting the methyl bromide:

- **(a)** the quantity used for an emergency use or a critical use; and
- **(b)** a declaration by the fumigator specifying the quantity, the civic address of the location of use and the date of each application for the holder of the emergency use or the critical use permit for methyl bromide.

SCHEDULE 7

(Paragraphs 75(1)(a) and (2)(a) and subsection 75(4)

Information and Documents to be Maintained

Exportation

1 Dated records of

- **(a)** the quantity of each substance exported in each shipment, expressed in kilograms and as a calculated level, and information as to whether it is a recovered, recycled or reclaimed substance;
- **(b)** if the substance is sent for destruction, the name, civic and postal addresses, telephone number and, if any, email address and fax number of the carrier;
- **(c)** the CAS registry number of the substance, if such a number can be assigned;
- **(d)** the port of exit through which the substance was exported;
- **(e)** the importing Party and the name and civic address of the recipient;
- **(f)** if applicable, the business number assigned by the Minister of National Revenue to the person who is exporting; and
- **(g)** the Harmonized Commodity Description and Coding System classification number for the substance, as set out in the*Customs Tariff*.

2 Copies of the bill of lading, the invoice and all documents submitted to the Canada Border Services Agency for each shipment of the substance.

Importation

3 Dated records of

- **(a)** the quantity of each substance imported in each shipment, expressed in kilograms and as a calculated level, and information as to whether it is a recovered, recycled or reclaimed substance;

- **(b)** if the substance is sent for destruction, the name, civic and postal addresses, telephone number and, if any, email address and fax number of the carrier;
- **(c)** the CAS registry number of the substance, if such a number can be assigned;
- **(d)** if the substance is shipped to a recipient in Canada, the quantity of each substance shipped, expressed in kilograms and as a calculated level, and the name, civic and postal addresses, telephone number and, if any, email address and fax number of the recipient of each shipment;
- **(e)** when the substance is recovered, recycled or reclaimed, the country of origin of the substance, and the name and civic address of the recovering, recycling or reclamation facility;
- **(f)** the port of entry through which the substance was imported;
- **(g)** the exporting Party and the name and civic address of the sender;
- **(h)** if applicable, the business number assigned by the Minister of National Revenue to the person who is importing; and
- **(i)** the Harmonized Commodity Description and Coding System classification number for the substance, as set out in the*Customs Tariff*.

4 Copies of the bill of lading, the invoice and all documents submitted to the Canada Border Services Agency for each shipment of the substance.

Manufacture

5 Dated records of

- **(a)** the quantity of each substance manufactured at each manufacturing plant, expressed in kilograms and as a calculated level;
- **(b)** the CAS registry number of the substance, if such a number can be assigned;
- **(c)** the quantity, expressed in kilograms and as a calculated level, of each substance used as feedstock;
- **(d)** the quantity, expressed in kilograms and as a calculated level, of each substance shipped from each manufacturing plant, and the name and civic address of the recipient of each shipment;
- **(e)** the quantity, expressed in kilograms and as a calculated level, of each substance recovered for reclamation at each manufacturing plant, the name and civic address of the individual or business from which the substance is recovered and, if different, the name and civic address of the site from which the substance is recovered; and
- **(f)** if the substance is sent for destruction, the name, civic and postal addresses, telephone number and, if any, email address and fax number of the carrier.

Use and Sale

6 Dated records of

- **(a)** the quantity of each substance that was purchased from Canadian suppliers, expressed in kilograms and as a calculated level, and the names and civic addresses of the Canadian suppliers;
- **(b)** the CAS registry number of the substance, if such a number can be assigned;
- **(c)** the quantity, expressed in kilograms and as a calculated level, of each substance that was used, and a description of its use;
- **(d)** the quantity, expressed in kilograms and as a calculated level, of each substance that was sold for one of the uses set out in column 3 of Table 1, 2 or 3 of Schedule 1 and the names and civic addresses of the purchasers; and
- **(e)** if the substance is sold for destruction, the name, civic and postal addresses, telephone number and, if any, email address and fax number of the purchaser and the carrier.

REGULATORY IMPACT ANALYSIS STATEMENT

(*This statement is not part of the regulations.*)

Issues

Severe depletion of the ozone layer over the Antarctic has been occurring since 1979 and a general downturn in global ozone levels has been observed since the early 1980s. In 1987, Canada signed the *Montreal Protocol on Substances that Deplete the Ozone Layer* (the Montreal Protocol). This agreement has been signed and ratified by 197 countries. To date, the Montreal Protocol has enabled reductions of over 97% of all global consumption of controlled ozone-depleting substances (ODSs), (see footnote 1)including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), halons and methyl bromide.

At the 19th meeting of the Parties to the Montreal Protocol in September 2007, new commitments were made to accelerate the phase-out of the consumption of HCFCs and to introduce controls on the production of HCFCs. These new obligations are not yet reflected in the *Ozone-Depleting Substances Regulations, 1998* (ODSR). To ensure that Canada's international obligations under the Montreal Protocol continue to be met, these new commitments, which took effect on January 1, 2015, must be reflected in Canada's ODS regulations. In addition, to inform the potential establishment of future controls that would be aligned with possible new obligations under the Montreal Protocol relating to hydrofluorocarbons (HFCs), which are alternatives to HCFCs, data on HFC activity in Canada is required.

Background

CFCs, HCFCs and HFCs are all classified as halocarbons and are included in the fluorocarbons niche market. CFCs and HCFCs are also ODSs, while HFCs are powerful greenhouse gases (GHGs) and are alternatives to CFCs and HCFCs for use in applications such as refrigeration and air conditioning. Based on the North American Industry Classification System (NAICS), firms involved in the manufacture of these substances in Canada are in the industrial gases manufacturing segment (NAICS 325120). The refrigeration and air conditioner manufacturing sector is the largest consumer of fluorocarbons; other industrial sectors that consume

fluorocarbons include the industry sectors producing polymer precursors, foam blowing agents, aerosol propellants and solvent cleaning agents.

Ozone depletion is the term commonly used to describe the thinning of the ozone layer in the stratosphere. The ozone layer acts as a natural filter, absorbing most of the sun's ultraviolet (UV) rays. Stratospheric ozone depletion leads to an increase in UV rays that reach the Earth's surface, which in turn can disrupt biological processes and damage a number of materials, such as synthetic polymer products, wood, paper, wool and cotton. Human activity is the major factor causing ozone depletion, mostly from releasing ODSs to the atmosphere. Exposure to UV radiation has been linked to many human health problems, including skin cancer and eye cataracts. Scientific research also indicates that increased exposure to UVB rays affects the human immune system and causes premature aging of the skin.

Under the Montreal Protocol, Parties must phase out the production and consumption of a wide range of substances known to contribute to ozone depletion, including CFCs, HCFCs, halons and methyl bromide. Since 1999, Canada's obligations under the Montreal Protocol have been met through the implementation of the ODSR. Over the years, the Montreal Protocol has been amended or adjusted several times by the international community. Consequently, the ODSR have been amended five times to ensure that Canada continues to meet its obligations under the Montreal Protocol. Controls in Canada have resulted in an overall phase-out of over 99% of ODSs from baseline levels. Canada has successfully phased out the production and consumption of 94% of HCFCs from baseline levels and 100% of production and consumption of all other controlled ODSs from baseline levels.

Hydrochlorofluorocarbons (HCFCs)

At the 19th meeting of the Parties to the Montreal Protocol in September 2007, the Parties agreed to an accelerated phase-out of HCFCs that included, for the first time, controls on the production of HCFCs. HCFCs are the only fluorocarbons produced in Canada. Canada produces approximately 5 300 tonnes of HCFCs annually, predominantly for export to the United States (U.S.). A phase-out of HCFC production was not previously part of the obligations under the Montreal Protocol; therefore, domestic controls on production were not previously required.

To ensure that Canada would meet its production phase-out obligations between 2010 and 2015, the Department of the Environment (the Department) entered into a performance agreement with Canada's only producer to control its production of HCFCs in Canada. To date, this performance agreement has been an effective tool. However, this agreement is temporary, and it does not prevent other companies from producing HCFCs in the future.

Hydrofluorocarbons (HFCs)

HFCs are not currently controlled under the Montreal Protocol. They are substitutes for HCFCs that do not deplete the ozone layer, but they are GHGs and some HFCs have global warming potentials thousands of times higher than that of carbon dioxide (CO_2).

HFCs are included in the basket of GHGs controlled under the United Nations Framework Convention on Climate Change (UNFCCC), although they are not subject to specific measures

under this convention. Taking into consideration GHG global warming potentials, HFC emissions currently represent only 1 to 2% of total GHG emissions covered under the UNFCCC, but these emissions are rising by about 8 to 9% per year. (see footnote 2) The global consumption and emissions of HFCs are projected to increase substantially in the coming decades, according to the UNFCCC, making HFCs an emerging concern because of their immediate and future impact on the climate.

Canada has partnered with the U.S. and Mexico in submitting a North American proposal to amend the Montreal Protocol and gradually phase down the use of HFCs. Canada has also made commitments in relation to the Climate and Clean Air Coalition to Reduce Short-Lived Climate Pollutants. (see footnote 3) Also, at the 2014 North American Leaders' Summit, Canada agreed to further intensify its efforts to promote an amendment to the Montreal Protocol to phase down HFCs; and during the 2014 Group of Seven (G7) Summit, Canada agreed to promote low global warming potential alternatives to HFCs.

Import and manufacture in non-refillable containers

The use of refillable containers for halocarbon refrigerants, which include ODSs and HFCs, is more desirable than the use of non-refillable containers. Refillable containers are more suitable for storing and transporting controlled substances as they are less likely to leak. Reusing these containers avoids having to dispose of them in landfill sites.

All Canadian provincial and territorial governments have introduced control measures on the use of halocarbon refrigerants in non-refillable containers, and some provinces have introduced controls on their sale or offer for sale. However, halocarbon refrigerants in non-refillable containers can still be legally manufactured and imported, and there is evidence that they are still being used, notwithstanding the provincial and territorial government controls.

Methyl bromide

The import and manufacture of methyl bromide in Canada have been phased out since 2005. However, there are exemptions for quarantine application, pre-shipment application, critical use, emergency use, feedstock, and laboratory and analytical use. The ODSR currently prohibit the transfer of methyl bromide between these exempt uses. The demand for methyl bromide is diminishing as alternatives are introduced into the market, leaving users with inventories that are no longer needed.

Stakeholders have previously expressed concern over the lack of flexibility in the ODSR to allow them to transfer methyl bromide to another authorized user where a need has been identified. As the demand for this substance decreases, the lack of flexibility has resulted in growing inventories of methyl bromide with regard to some exempt uses, while imports of this substance have continued for other exempt uses.

Objectives

The objectives of the *Ozone-depleting Substances and Halocarbon Alternatives Regulations* (the Regulations) are to repeal and replace the ODSR and introduce new regulatory requirements to

continue to ensure that Canada's international obligations under the Montreal Protocol are met, and to introduce a permitting and reporting system for the import, manufacture and export of HFCs.

The Regulations also aim to achieve the following objectives:

- to support provincial and territorial government controls by introducing a prohibition on the manufacture and import of HCFC and HFC refrigerants in non-refillable containers;
- to allow the transfer of methyl bromide between exempt uses, thereby reducing inventories and the demand for imports of this substance;
- to improve the clarity of the regulatory text, make necessary administrative changes and address other administrative issues raised by the Standing Joint Committee for the Scrutiny of Regulations (SJCSR); and
- to allow for consequential amendments to the *Regulations Designating Regulatory Provisions for Purposes of Enforcement (Canadian Environmental Protection Act, 1999)* [the Designation Regulations].

Description

The Regulations repeal and replace the ODSR. They add new regulatory requirements to allow Canada to meet its international commitments, and they consolidate the five previous amendments to the ODSR.

HCFCs

The Regulations implement the phase-out schedule for consumption and production of HCFCs in accordance with the Montreal Protocol.

Given the lack of alternatives to HCFCs for use in fire-extinguishing applications, the Regulations expand the allowable uses of HCFCs until 2020 to include these applications, while respecting the applicable phase-out schedule.

The Regulations also prohibit the import and manufacture of HCFC refrigerants in non-refillable containers.

HFCs

The regulatory provisions concerning HFCs introduce a permitting and reporting system to monitor quantities of HFCs that are imported, manufactured and exported. This will allow for more accurate projections of activities involving HFCs to inform the possible establishment of future controls. No restrictions on quantities are being introduced at this time. The monitoring measures introduced in the Regulations are coherent with Canada's participation in the North American proposal to phase down the production and consumption of HFCs under the Montreal Protocol.

The Regulations also prohibit the import and manufacture of HFC refrigerants in non-refillable containers.

Methyl bromide

The Regulations allow for the transfer of methyl bromide between exempt uses and thus help users better manage the overall decreasing domestic demand for methyl bromide, thereby reducing inventories and the demand for imports of this substance.

Other modifications

A number of other changes have been made, including the integration of the ODSR and past regulatory amendments, removal of obsolete provisions, and corrections to improve the clarity of the regulatory text.

The Regulations also address issues raised by the SJCSR; some wording changes have been made to improve the clarity of the regulatory text and to establish conformity and consistency between the English and French versions.

Finally, the submission of quarterly reports that was required of persons with a permit for the import or export of substances under specific conditions is removed. The Regulations require the submission of an annual report rather than quarterly reports. The Regulations also eliminate the declaration of use, which users are currently required to complete and retain when transferring substances that are exempt for specific uses.

Designation Regulations

The repeal and replacement of the ODSR by the Regulations also require consequential amendments to the Designation Regulations. The Designation Regulations designate the various provisions of regulations made under the *Canadian Environmental Protection Act, 1999* (CEPA) that are linked to a fine regime following a successful prosecution of an offence involving harm or risk of harm to the environment, or obstruction of authority. (see footnote 4) The ODSR are listed in the Designation Regulations, which must now be amended to reflect the new title and structure of the Regulations, as well as the addition of new permitting offences pertaining to the import, manufacture and export of HFCs.

"One-for-One" Rule

Under the Regulations, the requirement for quarterly reports is being replaced with a requirement for an annual report, which is expected to save up to three hours per stakeholder on an annual basis. In addition, the declaration of use is eliminated, which is estimated to save stakeholders 5 hours per year, assuming 10 declarations per company per year.

However, the permitting and reporting measures regarding the import, manufacture and export of HFCs impose a new administrative burden on affected businesses. It is estimated that these businesses will be required to submit an average of three permits per year (up to two hours per year). Also, all regulated parties will need to learn about the administrative requirements (one hour).

Overall, it is projected that the regulatory changes will result in a net decrease in annualized average administrative burden costs of around $2,200, or $35 per business, over a 10-year time

frame (2012 Canadian dollars; discounting base year of 2012; 7% discount rate). (see footnote 5) The Regulations are therefore considered to be an "OUT" under the Government of Canada's "One-for-One" Rule.

Small business lens

The small business lens does not apply to the Regulations since the estimated annual cost impacts are below $1 million; further, the cost impacts incurred by small businesses are expected to be negligible and are not considered disproportionate.

There are approximately 61 companies that will be impacted by the Regulations, including 12 small businesses. For these small businesses, the Regulations are expected to result in a net reduction in total annualized average costs of about $550, or $45 per small business, over a 10-year time frame (2012 Canadian dollars; discounting base year of 2012; 7% discount rate).

Consultation

Consultations prior to the publication of the proposed Regulations in the *Canada Gazette*, Part I

Consultations were conducted on several occasions, providing opportunities for interested parties to review and comment on the proposed regulatory provisions. The consultations addressed the nature of the proposed provisions and any ancillary concerns related to their implementation (e.g. administrative practices or policy interpretation). The consultations involved the dissemination of a discussion document by email and its posting on the Department's Web site, face-to-face discussions, and the solicitation of written comments and submissions.

Participants in consultation sessions included regulated parties, namely, companies exporting, importing, manufacturing, using and selling ODSs; representatives of provincial and territorial governments; environmental non-governmental organizations; and public advocacy groups.

HCFCs

In 2008, the Department consulted stakeholders on the Government of Canada's plan to implement the commitments made in the Montreal Protocol to accelerate the HCFC phase-out, simplify the HCFC consumption allowance system, prohibit the import, manufacture and export of refrigerants in non-refillable containers, and clarify and streamline administrative requirements. The Department presented various options on ways to implement the accelerated HCFC phase-out, including a more aggressive phase-out schedule than that agreed to by the Parties to the Montreal Protocol.

Stakeholders believed that by maintaining the provisions in the ODSR related to the use of HCFCs after 2015 and adhering to the phase-out schedule as agreed upon by the Parties, Canada would be ahead of the phase-out schedule without having to adopt a more aggressive schedule domestically. Stakeholders supported the proposed regulatory provisions related to the simplified allowance system, as well as the proposed provisions related to non-refillable containers and administrative requirements. Stakeholders requested an opportunity to review the proposal prior to its publication in the *Canada Gazette*, Part I.

In 2013, stakeholders were given the opportunity to review the proposal. A consultation document was provided to stakeholders in advance of a meeting in June 2013, explaining the proposed provisions and how the Department had addressed stakeholder feedback obtained during the consultations in 2008.

During the multi-stakeholder consultation meeting held in June 2013, stakeholders expressed concerns regarding the regulatory provisions limiting the use of HCFCs only to refrigerants, and prohibiting their use in other applications such as fire extinguishing, after 2015. Given the lack of alternatives to HCFCs for use in fire-extinguishing applications, stakeholders requested that this use be allowed to continue after 2015. Provisions to allow the continued use of HCFCs in fire-extinguishing applications are included in the Regulations.

HFCs

In June 2013, the Department consulted stakeholders with respect to adding HFCs to the list of substances controlled under the proposed Regulations, introducing a permitting and reporting system for the import, manufacture and export of HFCs, and prohibiting the import and manufacture of HFCs in non-refillable containers.

During this consultation session, stakeholders expressed support for the proposed regulatory provisions. One stakeholder, while supportive of the proposal, suggested that Canada should adopt more stringent measures in addition to the permitting and reporting system being proposed for HFCs, such as introducing a phase-down approach for these substances. The Department responded that one of the objectives of the permitting and reporting system is to inform potential future controls on HFCs.

Methyl bromide

During a consultation session on methyl bromide held in 2008, stakeholders requested that provisions be added to the ODSR to allow the transfer of methyl bromide between exempt uses among authorized users. The proposed Regulations included provisions that would allow more flexibility for users and help reduce inventories and imports of methyl bromide.

In addition, the 2008 consultation document provided to stakeholders included a proposal to add reporting requirements for the use of methyl bromide in quarantine and pre-shipment applications. Stakeholders expressed concern with this proposal given that this information was already being collected by the Canadian Food Inspection Agency (CFIA). After further analysis and consultation with the CFIA, the Department decided not to proceed with this proposal. Updates were provided to stakeholders on the provisions included in the proposed Regulations.

Consultations following the publication of the proposed Regulations in the *Canada Gazette*, Part I

The publication of the proposed Regulations in the *Canada Gazette*, Part I, on March 21, 2015, initiated a 75-day comment period during which interested parties were invited to submit their written comments. Various stakeholders requested changes to some elements of the proposed Regulations to modify the regulatory text for improved clarity concerning definitions or other administrative provisions. As well, some stakeholders requested clarifications regarding the

applicability of the regulatory provisions. The Department has addressed most of these concerns by providing explanations to stakeholders or by making modifications to the regulatory text. The following paragraphs summarize the key issues raised by interested parties with respect to the proposed Regulations and the Department's consideration of these issues in finalizing the Regulations.

Applicability of the permitting and reporting system for HFCs

Comment: Several stakeholders sought clarification with respect to the applicability of the permitting and reporting system for the import, manufacture and export of HFCs and questioned whether HFCs in manufactured products such as vehicles and domestic appliances would be targeted by this system.

Response: The permitting and reporting system only applies to bulk HFCs manufactured in, imported into or exported out of Canada. Therefore, HFCs in manufactured products such as vehicles and domestic appliances are not included in the scope of the permitting and reporting system. Modifications to the Regulations have been made in order to accurately convey the Department's intention in this regard. Additional information and clarification on the permitting and reporting system for HFCs will be made available to stakeholders through compliance promotion material.

Permit application system for HFCs

Comment: A stakeholder sought clarification on whether a company could request a permit containing its estimated quantities of bulk HFCs to be imported or exported in numerous shipments over the course of a year.

Response: There are currently no limits on the quantity of HFCs that may be imported into or exported out of Canada. Instead of the Department requiring that a company submit a permit application for each import or export of bulk HFCs, the Regulations allow a company to submit an initial permit application containing its estimated quantity of bulk HFCs to be imported or exported for a given year. If a company chooses to surpass the estimated quantity in the initial permit, it may import or export additional quantities of bulk HFCs at any time throughout the year by applying for additional permits.

Restrictions on the import and manufacture of HFCs

Comment: Several stakeholders presented submissions on the provision in the proposed Regulations prohibiting the import or manufacture of an HFC intended for a use for which the substance has never been used in Canada. (see footnote 6) They indicated that their interpretation of this proposed provision was that it would prohibit companies from importing or manufacturing technically innovative products containing HFCs, even if the HFCs in question are already being used in Canada for other purposes.

Response: The intended purpose of the proposed provision was to prohibit the import or manufacture of HFCs for uses for which ODSs have never before been used in Canada, not to prohibit the import or manufacture of HFCs contained in technically innovative products. It is

recognized that section 67 of the proposed Regulations, as published in the *Canada Gazette*, Part I, may not have accurately conveyed the intended purpose of this provision and, as a result, the text of the Regulations has been revised accordingly. (see footnote 7)

Continued use of HCFCs in certain applications

Comment: A stakeholder requested modifications to the proposed Regulations to allow for the long-term use of HCFC-123 for fire protection purposes until 2030 given the uncertainties relating to other alternatives. However, another stakeholder argued that the changes introduced by the proposed Regulations, to extend the use of HCFC-123 for fire protection purposes until 2020, were not necessary. This stakeholder stated that suitable and effective alternatives, such as fire-extinguishing agents containing HFCs, are available.

Response: The Regulations, which repeal and replace the ODSR, aim to ensure that Canada's international obligations under the Montreal Protocol are respected. The decision XIX/6 of the Parties to the Montreal Protocol limits the production and consumption of HCFCs in bulk between 2020 and 2030 to the servicing of existing refrigeration and air-conditioning equipment. While alternatives are expected to be readily available before 2020, in accordance with the Montreal Protocol, the Regulations extend the permitted use of HCFCs for use as a fire-extinguishing agent until December 31, 2019. Between 2020 and 2030, as per the decision XIX/6, the production and consumption of HCFCs in bulk will be limited to the servicing of existing refrigeration and air-conditioning equipment, and the Department will limit the use of HCFCs to the use of HCFC-123 during this time period. Impacted stakeholders are not expected to have issues with switching away from HCFCs for fire protection purposes after 2019.

Confidentiality regarding information submitted in the annual report

Comment: Several stakeholders expressed that some of the information to be submitted in the annual report should not be required as it represents confidential business information.

Response: The information requested in the annual report is necessary to ensure that Canada fulfills its reporting obligations under the Montreal Protocol. The Department's usual business practice is to treat the information in the annual report submitted under the Regulations in a confidential manner. In addition, the Department recommends that regulated parties requiring that the information they submit under CEPA be treated as confidential submit a formal request for confidentiality in accordance with section 313 of CEPA.

Rationale

The Regulations address Canada's commitments under international agreements by phasing out the consumption and production of substances known to contribute to ozone depletion. The Regulations are expected to result in benefits to Canadians and to the Government of Canada, while reducing costs to industry.

Canadians

The Regulations benefit Canadians by supporting Canada's international commitments pertaining to ODSs in the Montreal Protocol. Complying with these international commitments to accelerate the phase-out of HCFCs will provide benefits to Canadians by gradually eliminating these substances from the marketplace, as well as by prohibiting their import in non-refillable containers.

In addition, the Regulations demonstrate Canada's actions to address harm to the environment and human health resulting from the use of ODSs, and other issues linked to the export, import, manufacture, use and sale of these substances. For example, the HFC permitting and reporting system is expected to provide benefits to Canadians by helping to address the illegal importation into Canada of ODSs through false labelling. (see footnote 8)

Government of Canada

Government costs due to the Regulations are expected to be negligible. It is anticipated that costs related to enforcement, compliance promotion and administration of the Regulations will either remain unchanged or decrease slightly, as the notification process (declaration of use) will be eliminated and the current reporting requirements will be reduced. Also, as the HCFC phase-out progresses and reduction steps are achieved, administrative costs associated with the management of HCFCs will decrease.

Although there is no permitting and reporting system currently in place for HFCs, it is anticipated that costs for administering such a system will be negligible. The permitting and reporting system will be similar to the one already in place for ODSs. Therefore, the Department will simply introduce HFCs into its existing system.

The establishment of HFC monitoring controls will serve as a preliminary measure to track the importation, domestic production and consumption of HFCs. Information collected relating to HFCs will inform the potential establishment of future controls on HFCs and contribute to more robust data for reporting of GHG inventories in the National Inventory Report on GHG sources and sinks in Canada, which is submitted to the UNFCCC.

The Regulations also complement provincial and territorial government controls on the use of non-refillable containers by prohibiting the import and manufacture of such containers.

Industry

The impacts to industry of prohibiting the production of HCFCs are expected to be minimal as the substance is being phased out according to the terms of the existing performance agreement. Likewise, costs to regulated parties due to the provisions in the Regulations related to the import and manufacture of refrigerants in non-refillable containers are expected to be negligible. Many regulated parties already use refillable containers, and the use and sale of refrigerants in these containers are tightly controlled at the provincial and territorial level. Further, the transfer of methyl bromide between exempt uses will reduce inventories of methyl bromide, which could result in benefits to businesses by reducing storage and insurance costs.

The new permitting and reporting system for HFCs will increase administrative costs to businesses. These costs are expected to be more than offset by reductions in administrative

costs that will be realized by businesses regulated under the ODSR. Specifically, notifications regarding declaration of use will be eliminated and the obligation to submit quarterly reports will be removed. Stakeholders will instead be required to submit an annual report.

Designation Regulations

Consequential amendments to the Designation Regulations are required to allow for the effective enforcement of the Regulations as well as to promote compliance. These consequential amendments are also necessary to consistently and accurately designate provisions of the Regulations for the purposes of enforcement.

Strategic environmental assessment

As required by the *Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals*, a preliminary review was conducted which concluded that there would be no expected important environmental effects, either positive or negative; accordingly, a strategic environmental assessment is not required. (see footnote 9)

Implementation, enforcement and service standards

The service standard relating to the issuance of permits for the import, manufacture, export and use of ODSs, including permits required for products containing or designed to contain these substances, has been in place since April 1, 2014. (see footnote 10)Once the Department receives all of the information that is required for a permit to be approved, the permit is issued within 10 working days. This standard will be extended to the issuance of permits for the import, manufacture and export of HFCs.

The Regulations come into force six months following the date on which they are published in the *Canada Gazette*, Part II. Implementation and enforcement of the Regulations will be undertaken by the Department in accordance with the Compliance and Enforcement Policy for CEPA. (see footnote 11)

The compliance promotion approach for the Regulations will be similar to that taken for the ODSR, which includes maintaining a presence on the Department's Web site and responding to inquiries from stakeholders. As well, the Department will undertake outreach activities to raise stakeholder awareness of the new regulatory requirements, including the implementation of the permitting and reporting system for HFCs.

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- Footnote a
  S.C. 2004, c. 15, s. 31
- Footnote b
  S.C. 1999, c. 33
- Footnote c
  S.C. 2002, c. 7, s. 124
- Footnote d
  S.C. 1999, c. 33
- Footnote 1
  http://ozone.unep.org/en
- Footnote 2
  United Nations Environment Programme (2011). HFCs: A Critical Link in Protecting Climate and the Ozone Layer: A UNEP Synthesis Report. Chapter 3, section 3.2.
- Footnote 3
  Short-lived climate pollutants include HFCs.
- Footnote 4
  http://www.ec.gc.ca/lcpe-cepa/eng/regulations/detailReg.cfm?intReg=206
- Footnote 5
  The non-rounded decrease in annualized average administrative burden costs was estimated to be $2,222, or $36 per business. The wage rate was assumed to be around $45 per hour in all cost calculations (weighted hourly average).
- Footnote 6
  See section 67 of the proposed Regulations: http://gazette.gc.ca/rp-pr/p1/2015/2015-03-21/html/reg1-eng.php.
- Footnote 7
  See sections 64 and 65 of the Regulations.
- Footnote 8
  Cases of unlawful imports containing controlled ODSs have been identified in which imported ODSs were falsely labelled as HFCs.

- Footnote 9
  Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals: http://www.ceaa.gc.ca/default.asp?lang=En&n=B3186435-1.
- Footnote 10
  http://www.ec.gc.ca/default.asp?lang=En&n=2019647B-1
- Footnote 11
  http://www.ec.gc.ca/lcpe-cepa/default.asp?lang=En&n=5082BFBE-1

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