



BRIEF REVIEW OF EU LEGISLATION ON ODS

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Regulation (EC) 1005/2009



Regulation (EC) 1005/2009 (together with related Commission regulations and decisions) is mandatory for direct implementation by the concerned entities in all MSs and its provisions may be strengthened by individual MSs



**Objective for candidate and potential candidate countries →
to make the industry and administration fully prepared for
following the EU legislation since the date of actual accession**

Regulation (EC) 1005/2009











• Regulation (EC) 1005/2009 concerns :

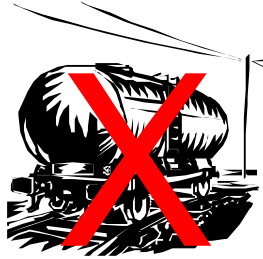
→ ODS controlled by the Montreal Protocol → „controlled substances” → Annex I

→ ODS not controlled by the Montreal Protocol → „new substances” → Annex II (A and B)

→ Products and equipment containing or relying on controlled substances

ODS AND F-GAS LEGISLATION IN THE EU

	Measure	ODS Regulation (EC)1005/2009 + COM Regulations	F-Gas Regulation (EC)842/2006 (and the revised regulation) + COM Regulations
	Production controls	V	-
	Imp/exp controls	V	-
	POM/use controls	V	V
	Labeling	V	V
	Emission controls	V	V
	Records keeping	V	V
	Reporting	V	V
	Training/certification	V	V



Restrictions on ODS production

REGULATION (EC) 1005/2009 ON ODS Restrictions on ODS production

- **Should be no problem for candidate or potential candidate countries, but - if not done yet - it is recommended to establish :**
 - **Ban on production of all controlled ODS**
 - Ban on production of new substances contained in Annex II, specifically in part A



ODS import-export controls

REGULATION (EC) 1005/2009 ON ODS ODS import-export controls (I)

- **Ban on imports and exports of controlled ODS except for:**
 - Imp/exp for lab&analyt/feedstock/process agent uses → quotas for release for free circulation
 - Import for destruction (export for destruction is prohibited)
 - HCFCs – import for re-packaging and re-export (by the end of next year) – until 31 Dec 2019
 - HCFCs → export for uses other than destruction and if importing country allows for such uses
 - MB → import for emergency use
 - MB → import for re-packaging and subsequent re-export for QPS (by the end of the same year) – until 31 Dec 2014
 - Recovered, recycled or reclaimed halons → imp/exp for critical uses (allowed only to be made by authorized facilities)

Challenges for candidate and potential candidate countries:

- introduce quotas for HCFC importers and per shipment licensing
- require detailed description of intended use in application for import license
- allow import/export of halons (recovered, recycled or reclaimed) only for critical uses listed in Regulation (EC) 744/2010 and only by entities authorized to store halons
- separate import of MB for QPS and for other uses

REGULATION (EC) 1005/2009 ON ODS

ODS import-export controls (II)

- **Ban on imports and exports of products and equipment containing or relying on controlled ODS except for:**
 - Imp/exp as personal effects
 - Import for destruction
 - Import of pr/equ containing/relying on halons for critical uses
 - Import of pr/equ containing/ relying on HCFCs for which POM has been authorized by COM based on MS request - art. 11(5)
 - Export of pr/equ containing/ relying on HCFCs if authorized by the COM based on MS request
 - Export of pr/equ containing ODS produced for lab/analyt uses or
 - Export of MDIs containing CFCs – authorized based on 2037/2000

Challenges for candidate and potential candidate countries:

- ➔ Introduce ban on import of used pr/equ containing/relying on HCFCs and on (specific types of) new pr/equ containing/relying on HCFCs
- ➔ Introduce licenses for import and export of pr/equ containing/relying on HCFC or halons (or at least mandatory registration of importers and exporters)
- ➔ Introduce ban on import and export of pr/equ containing/relying on CFCs (including MDIs!! ➔ COM will require non-essentiality declaration)

REGULATION (EC) 1005/2009 ON ODS

ODS import-export controls (III)

- **Both import AND export licenses issued by the COM are required both for controlled ODS AND products and equipment containing or relying on controlled ODS except for;**
 - Import under transit, customs warehousing and temporary storage or free zone procedures – up to 45 days ➔ but only if not subsequently released for free circulation!!
 - Re-export subsequent to above – up to 45 days after import
 - Imp/exp of products and equipment containing/relying on ODS – as personal effects

Challenges for candidate and potential candidate countries:

- ➔ Introduce the same restrictions in your current ODS import/export licensing system

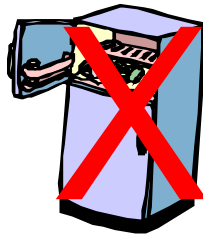
REGULATION (EC) 1005/2009 ON ODS

ODS import-export controls (IV)

- Ban on imp/exp of new substances in Annex II, part A except for feedstock and lab/analyt uses and import for transit, temporary storage and customs warehousing
 - At present concerns only **Dibromodifluoromethane (halon 1202)**
 - Candidate new substances to Annex II, part A (now contained in Annex II, part B, implying reporting requirements only):
 - n-propyl bromide, ethyl bromide, trifluoromethyl iodide and methyl chloride

Challenges for candidate and potential candidate countries:

→ Introduce ban on imp/exp of substance in Annex II part A (halon 1202) and mandatory registration of importers/exporters of substances listed in Annex II part B



Placing on the market and use
bans and restrictions for ODS

REGULATION (EC) 1005/2009 ON ODS

Placing on the market/use bans/restrictions for ODS (I)

- **Understanding „placing on the market” („POM”) and „USE” definitions contained in Regulation (EC)1005/2009**
 - POM with regard to ODS = each supply of ODS to the third person
 - POM with regard to pr/equ containing/relying on ODS = each supply of ODS to the third person
 - unless pr/equ is part of immovable property or part of means of transport for which POM = supplying for the first time
 - USE = any use of ODS (e.g. filling of equipment, use in manufacturing of products or in the other processes, but not the „use” of products or equipment containing ODS

Challenges for candidate and potential candidate countries:

➔ Introduce POM and USE definitions in your national legislations on ODS exactly as they stand in Regulation (EC)1005/2009

REGULATION (EC) 1005/2009 ON ODS

Placing on the market/use bans/restrictions for ODS (II)

- **Placing on the market and use of controlled ODS ➔ prohibited except for:**
 - laboratory and analytical uses (subject to quantitative limits, some uses prohibited)
 - feedstock and process agent uses (process agent uses ➔ subject to quantitative limits for each installation, regarding make-up and emissions)
 - destruction or reclamation ➔ placing on the market of ODS (including HCFCs) for recycling is banned though use of recycled HCFCs is allowed under specific conditions
 - reclaimed HCFCs for servicing refrigeration, air-conditioning and heat pump equipment (until 31 Dec 2014) ➔ but only in refillable containers!!
 - HCFCs for re-packaging and subsequent re-export (until 31 Dec 2019)
 - HCFCs ➔ based on exemption granted by the COM based on request of MS
 - Recycled and reclaimed halons for critical uses

Challenges for candidate and potential candidate countries:

➔ Introduce ban on POM and use of all controlled ODS (with exemptions as above) + allow POM and use of virgin HCFCs for servicing and for foams/pre-blended polyol production (if necessary), but only until certain dates and introduce ban on POM of ODS in non-refillable containers

➔ Identify any remaining non-critical halon equipment and establish decommissioning dates – preceding the expected accession date

REGULATION (EC) 1005/2009 ON ODS

Placing on the market/use bans/restrictions for ODS (III)

- **Understanding „reclamation” definition contained in Regulation (EC)1005/2009**
 - „reclamation” = reprocessing of a recovered controlled substance in order to meet the equivalent properties of a virgin substance, taking into account its intended use

Challenges for candidate and potential candidate countries:

➔ Introduce in your national legislation „reclamation” definition, exactly as it stands in Regulation (EC)1005/2009, and add definition of „equivalent properties of a virgin substance” with regard to servicing RAC&HP equipment with HCFCs ➔ ARI 700 requirements for HCFCs (purity + water and acids content)

REGULATION (EC) 1005/2009 ON ODS

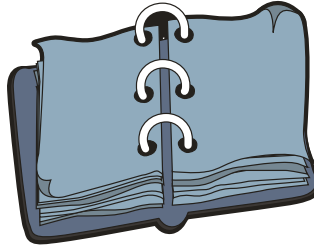
Placing on the market/use bans/restrictions for ODS (IV)

- **Placing on the market of products and equipment containing/relying on controlled ODS ➔ prohibited except for:**
 - laboratory and analytical uses
 - destruction
 - pr/equ containing halons for critical uses
 - pr/equ containing HCFCs – if authorized by the COM on request by MS
- **Placing on the market and use of new substance from Annex II, part A ➔ prohibited except for :**
 - feedstock and lab/analyt use

Challenges for candidate and potential candidate countries:

➔ Introduce general ban on POM of pr/equ containing/relying on ODS with exemptions listed in Regulation (EC)1005/2009 + exemption for those pr/equ which you exempted from import ban

➔ Introduce ban on POM and use of new substance part A – with exemptions as in Regulation (EC)1005/2009



Registration and records keeping with regard to ODS

REGULATION (EC) 1005/2009 ON ODS Registration and records keeping (I)

- **Registration of the following entities in the interactive ODS website:**
<http://ec.europa.eu/clima/policies/ozone/ods> **is mandatory:**
 - importers and exporters → list of eligible importers/exporters is published each year in Official Journal of the EU
 - importers who import MB/HCFCs for re-packaging and subsequent re-export
 - laboratories/dealers → if they wish to use/sell controlled ODS for lab/analyt purposes
 - customs offices where import/export is taking place
 - users of controlled ODS as process agents

COM invites MSs to provide information on users of ODS as feedstock and on ODS destruction facilities

Challenges for candidate and potential candidate countries:

→ Introduce mandatory registration of laboratories which use ODS for lab/analyt purposes and for dealers of ODS for such uses, **and restrict allowed uses to those listed in the Commission Regulation 291/2011**

→ Introduce mandatory registration of ODS destruction facilities and entities using ODS as feedstock (there are no process agent uses in in candidate countries ??)

REGULATION (EC) 1005/2009 ON ODS

Registration and records keeping (II)

- **Logbooks keeping** → mandatory for operators of stationary RAC&HP equipment and fire protection systems, containing 3 kg or more of ODS
- **Logbooks keeping** → also mandatory for companies which use reclaimed or recycled HCFCs for servicing RAC&HP equipment

Challenges for candidate and potential candidate countries:

- Introduce mandatory logbooks keeping for:
 - Operators of RAC&HP equipment and fire protection systems – as above
 - Servicing companies in RAC&HP and fire protection sector
 - Any other ODS users (e.g. producers of foams or pre-blended polyols, producers of equipment containing ODS)
 - Entities which destroy, recover, recycle or reclaim ODS



Reporting requirements with regard to ODS

REGULATION (EC) 1005/2009 ON ODS

Reporting requirements - companies

- **Annual reporting (concerns both controlled and new ODS) → mandatory for :**
 - producers
 - importers/exporters
 - process agent/feedstock users
 - destruction facilities
- **Information to be provided by producers and importers/exporters contains, *inter alia*:**
 - quantities and type of ODS produced, released for free circulation in the EU or brought to the EU → specifying the countries of origin/destination (in case of import/export) and purposes for which ODS were produced or imported/exported
 - if ODS was imported for destruction the name and address of destruction facility must be reported
 - all ODS selling/buying transactions made on EU territory
 - all ODS stocks

Challenges for candidate and potential candidate countries:

→ Introduce mandatory reporting to the NOU for all entities which will be obliged to keep logbooks

REGULATION (EC) 1005/2009 ON ODS

Reporting requirements – Member States

- **Reporting by 30 June each year on :**
 - Halons for critical uses
 - Illegal trade
 - MB for QPS (last report → for 2010)
- **Formats of the reports are provided by the COM**

Challenges for candidate and potential candidate countries:

→ Introduce mandatory reporting by critical halon users to the NOU according to the format referred to above → organize workshops for military/police and civil aviation to explain how to report

→ Introduce mandatory reporting to the NOU by Customs Authorities (and possibly also by Environmental Inspection) on illegal trade according to the format referred to above



Labeling provisions with regard to ODS

REGULATION (EC) 1005/2009 ON ODS Labeling provisions

- **Labels on controlled ODS containers must, *inter alia*:**
 - reflect their intended use, e.g. as process agent, as feedstock etc.
 - contain information that ODS from this particular container may be applied **ONLY** for that particular use
- **Labels on reclaimed HCFC containers must, in addition:**
 - contain information on name and address of reclamation facility
- **Labels on RAC&HP equipment where recycled or reclaimed HCFC was used for maintenance or servicing:**
 - contain information on type and quantity of substance

Challenges for candidate and potential candidate countries:

➔ Introduce labeling requirements as above taking into account other requirements regarding ODS labeling contained in Regulation (EC)1272/2008



ODS emission controls

REGULATION (EC) 1005/2009 ON ODS ODS emission controls (I)

- **Leakage checking requirements for stationary RAC&HP equipment and fire protection systems containing controlled ODS**
 - 3 kg or more → once every 12 months
 - 30 kg or more → once every 6 months
 - 300 kg or more → once every 3 months
- **Any detected leakage** → to be repaired within 14 days
- **After repair** → equipment shall be checked for leakage again within 1 month

**Emission controls result in diminished emissions → i.e.
lead to diminished demand for ODS**

Challenges for candidate and potential candidate countries:

- ➔ Introduce leakage checking requirements as above for both ODS and F-gases

REGULATION (EC) 1005/2009 ON ODS ODS emission controls (II)

- **Recovery of controlled ODS for destruction, recycling or reclamation from equipment (RAC&HP, fire-fighting and containing ODS as solvents) → mandatory**
- **Recovery of controlled ODS for destruction, recycling or reclamation from other products or equipment → mandatory if technically and economically feasible**

List of such products and equipment has not yet been established

Challenges for candidate and potential candidate countries:

→ Introduce obligation to recover ODS from RAC&HP equipment and fire protection systems (and from containers before their end of life) for destruction, recycling or reclamation

→ The obligation referred to above should include insulating foams in RAC&HP equipment



Training/certification with regard to ODS

REGULATION (EC) 1005/2009 ON ODS

Training/certification

- Customs training and technicians training → **so far Member States competence**
 - Commission published Licensing Manual designated for Customs
- Minimum qualifications for technicians in RAC&HP and fire protection sector → **to be established by Member States**
 - Commission may establish minimum requirements → possibly harmonized with minimum requirements resulting from F-gas Regulation

Challenges for candidate and potential candidate countries:

- Establish joint ODS-F-gas certification system for technicians in RAC&HP and fire protection sectors
 - a minimum qualification requirement with regard to ODS may be holding a certificate relevant to the conducted activity – as required by Regulation (EC) 842/2006 on F-gases



Penalties with regard to ODS

REGULATION (EC) 1005/2009 ON ODS

Penalties

- MSs to introduce penalties for infringement of the provisions of Regulation 1005/2009
- Penalties Directive 2008/99/EC
 - Intentional production, export, import, POM or use of ODS against provisions of the EU legislation (= Regulation 1005/2009) → is considered unlawful and a criminal offence
 - Infringement of other provisions → is considered unlawful

Challenges for candidate and potential candidate countries:

- In national legislation consider infringement of bans or restrictions related to import, export, POM or use of ODS as criminal offence and establish adequate severe penalties
- Establish weaker penalties for infringement of other provisions

The Commission will require report on the penalties established in your legislation

REGULATION (EC) 1005/2009 ON ODS

Current and future amendments/additions

- Change of Annex VI – critical uses of halons
 - agreed in the Committee in March 2010
 - relevant Commission Regulation (EU) 744/2010 published in August 2010
- COM decisions and regulations:
 - decision on process agents (2010/372/EU) → amended in Jan 2013
 - regulations on lab/analyt uses (EU) 291/2011 (list of allowed and prohibited uses) and (EU) 537/2011 (mechanism of quota allocation to importers and producers)
- List of goods which may contain ODS (based on Art. 21)
 - already published and recently amended
- Commission may propose:
 - extension of list of new substances in Annexes II A and II B or moving certain substances from Annex II A to Annex I or from Annex II B to Annex II A
 - minimum qualification requirements for technicians in RAC and fire protection sector → rather unlikely
 - list of products and equipment (other than RAC, fire fighting, containing solvents) for which recovery of ODS or destruction of products/equipment without recovery will become mandatory → COM is obliged to propose such list
 - form and contents of labels on containers with ODS intended for exempted uses
 - further review of Annex VI on critical uses of halons → very much likely

**USEFUL EU COMMISSION WEBSITE
RELATED TO ODS**

ODS website :

<http://ec.europa.eu/clima/policies/ozone/ods>

**Thank you for your
attention !**