April 7, 2017 FRIDAY **Official Gazette** Number: 30031

**REGULATION**

From the Ministry of Environment and Urbanization:

**REGULATION REGARDING OZONE-DEPLETING SUBSTANCES**

**CHAPTER ONE**

**Aim, Scope, Basis, Alignment with the European Union Acquis,**

**Definitions and Abbreviations**

**Aim**

**ARTICLE 1 -** (1) The aim of this Regulation is to identify rules and procedures regarding the use and termination of substances that are controlled by the Montreal Protocol on Substances that Deplete the Ozone Layer, to which our country is a party.

**Scope**

**ARTICLE 2 -** (1) This Regulation covers reporting and informing the public of any and all information regarding the production, foreign trade, use, placement on the market, recovery, recycling, reclamation and destruction of controlled substances, new substances, products or equipment that contain or function with these substances.

**Basis**

**ARTICLE 3 -** (1) This Regulation was prepared based on;

1. Articles 3, 12, 20 and Additional Article 7 of the Environment Law No. 2872 of 9/8/1983,
2. Articles 2 and 8 of the Decree in the Force of Law on Organization and Duties of the Ministry of Environment and Urbanization No. 644 of 29/6/2011,
3. The provisions of the Vienna Convention for the Protection of the Ozone Layer, which our country signed on 20/9/1991, and the Montreal Protocol on Substances that Deplete the Ozone Layer, to which our country became a party on 19/12/1991.

**Alignment with the European Union Acquis**

**ARTICLE 4 -** (1) This Regulation has been drafted within the framework of alignment with the European Union Acquis, by taking into consideration the Regulation No. 1005/2009 (EC) of the European Parliament and of the Council on Substances that Deplete the Ozone Layer of 16/9/ 2009.

**Definitions and abbreviations**

**ARTICLE 5 -** (1) For the purposes of this Regulation the following definitions shall apply;

1. Ministry: The Ministry of Environment and Urbanization,
2. Destruction: Transforming controlled substances by means of methods stated in Annex-9 into one or more non-ozone-depleting substances,
3. CFC: Controlled substances and all isomers thereof listed under Group-II and Group-III in Annex-5, called chlorofluorocarbons,

ç) Environment license: The license that includes temporary certificate of activity/environment permission and license, which are drafted in line with the Regulation on Environment Permissions and Licenses published in the Official Gazette No. 29115 of 10/9/2014,

1. Distributor: Person or institution that is registered in the Ministry and sells the controlled substances within the country to the end-user, or exports them abroad,
2. Fluorinated greenhouse gas: Hydrochlorofluorocarbons, perfluorocarbons, sulphur hexafluoride or mixtures containing one of these substances, which are listed in Annex-1 of the Kyoto Protocol,
3. Recycling: Reusing the recovered controlled substance following a basic cleaning process such as filtering or drying,
4. Recovery: Collecting and storing products, equipment and controlled substances in containers during servicing, maintenance, and putting into service or prior to the disposal thereof,

ğ) Halon: Controlled substances and all isomers thereof listed under Group-IV and Group-X in Annex-5,

1. HBFC: Substances and isomers thereof listed under Group-VIII in Annex-5, which are called hydrobromofluorocarbons,

ı) HCFC: Substances and isomers thereof listed under Group-I and Group-IX in Annex-5, which are called hydrochlorofluorocarbons,

1. Heat pump: A device or equipment that energizes the system to lower or increase the heat, which contains, or whose functioning relies upon, controlled substances,
2. Reclamation: In order to meet the equivalent performance of a virgin substance; filtering, drying, distilling and processing, and increasing the functionality through chemical treatment of a recovered controlled substance, taking into account its intended use,

1. Reclamation facility: Facilities with environment license that are built to have the recovered controlled substance meet the equivalent performance of a virgin substance and re-place it on the market,
2. Export: Extracting substance, product or equipment outside the country's customs area, which are within the scope of this Regulation,
3. Inhaler: A medical device that enables one to intake medicine through the lungs,
4. Process active agent: Controlled substances used as active agents for activities listed in Annex-7 in facilities built before 1/1/1997,
5. Operator: Real or legal entity that uses controlled substances; recovers, recycles and reclaims these substances to place them on the market; puts these substances on sale, or imports, exports or produces them for industrial or commercial purposes,

ö) Import: Entry of substances, products or equipment that are within the scope of this Regulation into free movement,

1. Importer: Real or legal entity that puts substance, product or equipment that are within the scope of this Regulation into free movement,
2. Isomer: Compounds of the same molecular formulas with different chemical features,
3. Carbon tetrachloride: Controlled substances and all isomers thereof listed under Group-V in Annex-5,

ş) Controlled substances: Ozone-depleting substances and isomers thereof that are controlled by the Montreal Protocol, which may be alone or in a mixture, virgin, recovered, reprocessed or reclaimed,

1. Products and equipment that function with controlled substances: Products and equipment that cannot function without controlled substances, except for products and equipment that are used for the production, processing, recovery, recycling, reclamation or destruction of controlled substances,
2. Critical use: The fields of use with no alternatives for controlled substances, which are used by human health and Turkish Armed Forces institutions and in the field of national security,

ü) Use: The utilization of controlled substances or new substances in the production, maintenance or in servicing processes such as refilling of the product or equipment or in other processes,

1. Methyl bromide: Controlled substances and all isomers thereof listed under Group-VII in Annex-5,
2. Ozone-depleting potential (ODP): The figure of potential impacts to ozone layer by controlled substances listed in Annex-5 and new substances listed in Annex-8,
3. ODS: Ozone-depleting substances,
4. Placing on the market: Procurement or consumption of controlled substances or products and equipment that contain these substances by third parties in exchange for payment or free of charge; supplying for the first time the product or equipment that is a component of immovable property or transportation,
5. Protocol: The Montreal Protocol on Substances that Deplete the Ozone Layer,
6. Non-party state to the Protocol: A state that does not approve of becoming a party to the Protocol or a regional economic cooperation organization,

çç) Virgin substance: Substances which have not previously been used,

1. Industrialist: Real or legal entity that produces product or equipment using controlled substances,
2. Industrial processing raw material: Controlled substances or new substances whose virgin compound have fully changed due to chemical conversion in a process and whose emission levels are negligible,
3. End-user: A real or legal entity that prepares product by using a controlled substance, alone or in a mixture; or that uses this substance for filling, maintenance and repair and for servicing; or that is registered in the Ministry, which uses this substance in production activity,
4. Party: A state or a regional economic cooperation organization that is party to the Protocol,

ğğ) Non-refillable pressurized container: A container that is designed not to be refilled,

1. Facility: Production premises that contain all units, machinery, tools and other stationary equipment and use controlled substances in production,

ıı) TÜHAB: Turkey's Halon Bank (Türkiye Halon Gazı Bankası),

1. Production: Production of a controlled substance or new substance, except for recovered, recycled and reclaimed substances,
2. Products and equipment: All products and equipment, except for containers used to transport and store controlled substances in virgin or mixture states,
3. New substance: Recovered, recycled or reclaimed ozone-depleting new substances,

alone or in a mixture, that are listed in Annex-8,

1. 1-1 Trichloroethane: Controlled substances and all isomers thereof listed under Group-VI in Annex-5.

**CHAPTER TWO**

**General Principles**

**Restrictions regarding controlled substances**

**ARTICLE 6 -** (1) For substances whose production, consumption and trade are controlled;

1. Import of the substance listed under Group-I in Annex-5 shall be prohibited as of 1/1/2015. However, use of this substance for servicing purposes and import of the substance for export to countries that are covered under Article 5 of the Protocol, without placing on the domestic market, for use in domestic air conditioning systems. Procedures and principles regarding the import for servicing purposes are set by the Ministry.
2. The import and export, containing in products or equipment, refilling devices after recovery, storage, use and releasing to the atmosphere are prohibited for the substances, listed mixtures and mixtures that contain substances listed under Group-II, III, V, VI, VIII, IX and X in Annex-5 and the ones in Annex-8. However, the import of these substances shall be allowed in the event that the Ministry approves the laboratory and analytical uses listed in Annex-1.
3. Import of the substance Methyl bromide, listed under Group-VII in Annex-5, is prohibited, except for purposes of agricultural quarantine, pre-transport and laboratory use. Import and control of the said substance for purposes of agricultural quarantine, pre-transport and laboratory use are subject to the approval of the Ministry of Food, Agriculture and Livestock. Annual inventory data shall be submitted by the Ministry of Food, Agriculture and Livestock to the Ministry by the end of March of the following year.

(2) Production by using the controlled substances listed in Annex-5 for fields of use stated in Annex-3 is prohibited, barring the exception stated in sub-paragraph (a) of paragraph 1.

(3) Import of products that contain or rely on controlled substances and other mixtures that contain these substances listed in Annex-4 is prohibited.

(4) Except for mandatory laboratory and analytical purposes and fields of critical use listed in Annex-1;

1. The use of controlled substances within the scope of sub-paragraph (b) of paragraph 1 as of the date of this Regulation's publication,
2. and sub-paragraph (a) of paragraph 1 as of 1/1/2025, is prohibited.
3. Import of controlled substances stated in the Regulation in non-refillable pressurized containers shall be prohibited as of 1 (one) year following the publication date of this Regulation; except for import for laboratory purposes.
4. Placing the controlled substances in non-refillable pressurized containers on the market shall be prohibited, as of 1/1/2020.
5. Importing substances listed in Annex-5 as industrial processing raw material or for process active agent purposes, for use in fields listed in Annex-7, shall be allowed, provided that the Ministry approves.

**Principles regarding the use of halons**

**ARTICLE 7-** (1) Import of the substances listed under Group-IV and Group-X in Annex-5 is prohibited. It is prohibited to use these substances with stationary fire extinguisher systems and mobile fire extinguishers to be built. However, if found appropriate by the Ministry, the import of halons that are used in the critical use fields and that are not reclaimed may be allowed. Halons that are allowed to be imported must be sent to TÜHAB for reclamation.

1. Used and non-reclaimed halons that are listed under Group-IV and Group-X in Annex-5 and that are on the domestic market, must be sent to TÜHAB for reclamation. The use of halons reclaimed by TÜHAB is allowed by the Ministry for the areas of use and durations stated in Annex-6, in the event that there are no technical and economic alternatives thereto or they are not feasible. TÜHAB prepares a draft and submits reports on an annual basis to the Ministry regarding requested amounts for halons supplied to institutions and organizations.

**CHAPTER THREE**

**Foreign Trade of Controlled Substances and Liabilities**

**Control document, registration and notification liabilities of Importers**

**ARTICLE 8 -** (1) Importers of controlled substances listed in Annex-5, for servicing and production purposes, must get the control document from the Ministry within the framework of the Communiqué on Import Inspection of Chemicals that are under control Relating to Protection of Environment (Product Safety and Inspection: 2017/6), published in the repeated issue of the Official Gazette No. 29934 of 30/12/2016.

1. The Ministry of Customs and Trade determines the customs offices that are authorized to operate the import activities of controlled substances.
2. Importers are liable for recording any and all information regarding the controlled substances they import, such as the amount, origin, name and address of the buyer, amount sold to each buyer, areas of end-use, stock and price; for keeping this information ready for audit and for submitting them to the Ministry, in the event it is requested.

**Registration and notification liabilities for distributors and industrialists**

**ARTICLE 9 -** (1) Distributors of the controlled substances are liable for recording the sales, keeping these records for 5 (five) years, keeping them ready for audit and submitting them to the Ministry in the event that they are requested.

1. Distributors that export controlled substances and industrial companies that export products and equipment that contain these substances, are liable for recording any and all information regarding the substances, products and equipment they export; such as the amount, origin, buyer and amount sold to each buyer and name and address of the buyer; for keeping this information ready for audit and for submitting them to the Ministry, in the event that they are requested.
2. Other procedures and principles the distributors and industrial companies should conform to shall be determined by the Ministry.

**Import of recovered, recycled, reclaimed and controlled substances**

**ARTICLE 10 -** (1) The Ministry determines the procedures and principles regarding the import of recovered, recycled, reclaimed or used controlled substances.

**Export of controlled substances**

**ARTICLE 11 -** (1) The Ministry of Economy drafts regulations regarding the export of controlled substances, by considering remarks of the Ministry.

1. Companies that wish to export controlled substances, must be registered in the Ministry.
2. Companies that wish to export controlled substances must get an export document via the Ministry’s electronic monitoring software, in order to submit it to exporter's association prior to the actual export.

**Import of controlled substances for use in production of products or equipment to be exported**

**ARTICLE 12 -** (1) The Ministry allows the import of the necessary amount of controlled substances for purposes of producing domestic air conditioning systems, in order to export to the countries within the scope of the Article 5 of the Protocol, as of 1/1/2015.

1. During the import of necessary controlled substances for the production of products and equipment that are to be exported to the countries within the scope of Article 5 of the Protocol, a control document must be obtained from the Ministry as per the Communiqué on Import Inspection of Chemicals that are under control Relating to Protection of Environment (Product Safety and Inspection: 2017/6).
2. Following the export phase of the products and equipment that contain controlled substances that are imported for production purposes, the form in Annex-11, approved by the public accountant that is to be filled out in line with the customs declarations regarding the exports conducted in the year the export shall take place, must be submitted to the Ministry.
3. It is mandatory to state that the products and equipment to be exported contain HCFC-22, on the invoices and customs declaration forms thereof.

(4) In the event that the import of the controlled substances for production purposes is not conducted by the producing companies of the products or equipment, the importer must sell the entirety of the imported amount to the domestic production company and submit the invoice to the Ministry.

**CHAPTER FOUR**

**Prohibitions Regarding Production of Controlled Substances Prohibition regarding aerosol products**

**ARTICLE 13 -** (1) The use of controlled substances listed in Annex-5 and Annex-8 in any aerosol products, except for inhalers, is prohibited.

**Prohibition regarding solvent products**

**ARTICLE 14 -** (1) Use of controlled substances listed in Annex-5 and Annex-8 in production sites for adhesive or mould detachment purposes, including solvent and cleaning purposes in any and all open systems, is prohibited.

**Prohibition regarding production of controlled substances and facilities that use these substances for production**

**ARTICLE 15 -** (1) It is prohibited to produce controlled substances listed in Annex-5 and Annex-8,

to establish a production facility by using these substances and to establish a facility or a unit in order to increase capacity.

1. In the event that it is documented to the Ministry that the use is necessary, the Ministry shall allow the use of controlled substances as industrial processing raw material or as active agent in areas of use in Annex-7.

**CHAPTER FIVE**

**Recovery, Recycling and Reclamation of Controlled Substances**

**Recovery of controlled substances**

**ARTICLE 16 -** (1) In relation to the recovery of controlled substances, the recovery of substances in;

1. Domestic refrigerators and freezers, air conditioners, cooling and heat pump equipment,
2. Equipment that contains solvents,
3. Fire extinguishers and fire protection systems,

shall be conducted by the technical personnel, whose qualifications are stated in Article 21, prior to maintenance of the equipment, dismantling and disposal.

1. Reuse, recovery, recycling or destruction of domestic refrigerators and freezers, air conditioners cooling and heat pump equipment shall be conducted in line with the Regulation on Control of Waste Electrical and Electronic Equipments, published in the Official Gazette No. 28300 of 22/5/2012.

**Temporary storage, transfer, interim storage, recycling and reclamation of waste controlled substances**

**ARTICLE 17 -** (1) Temporary storage, transfer and interim storage of waste controlled substances shall be conducted in line with the provisions of the Regulation on Waste Management, published in the Official Gazette No. 29314 of 2/4/2015.

1. Facilities to conduct interim storage, recycling and reclamation of waste controlled substances must obtain the environment license from the Ministry within the framework of the Regulation on Environment Permissions and Licenses.

**Destruction of waste controlled substances**

**ARTICLE 18 -** (1) Only controlled substances that cannot be reclaimed shall be destructed.

1. Necessary measures for the destruction of the waste controlled substances shall be taken by the waste owner within the scope of the Regulation on Waste Management. Those who own this type of waste are liable for reporting to the related units of the Ministry within the framework of the Regulation on Waste Management.
2. It is mandatory to deliver waste controlled substances to interim storage facilities or destruction facilities with environment license, in line with the Regulation on Environment Permissions and Licenses from the Ministry.
3. Destruction of the waste controlled substances shall be done with destruction technologies stated in Annex-9.

**Sales of reclaimed controlled substances**

**ARTICLE 19 -** (1) It is mandatory to deliver controlled substances listed under Group-I and Group-IX in Annex-5 that are recovered from within products or equipment and can be re-used to reclamation facilities. In these facilities, controlled substances are recycled and reclaimed in order to match the equivalent performance standard of a virgin substance and then be sold.

1. Reclamation facilities take the controlled substances without claiming any compensation from the owners.
2. The sales of the reclaimed controlled substances to the market are made by regarding the market conditions.
3. Waste controlled substances that cannot be reclaimed are destructed in line with Article 18.

**CHAPTER SIX**

**Provisions on the Use of Controlled Substances and the End-Users**

**Use for laboratory and analytical uses**

**ARTICLE 20 -** (1) Areas of use regarding controlled substances for laboratory and analytical uses are listed in Annex-1; and purity levels needed for controlled substances used for laboratory and analytical purposes listed in Annex-2.

1. The related institutions and organizations must detect their need for laboratory and analytical uses, without including recovered substance amount, and report to the Ministry.
2. The Ministry annually determines the total amount of substances to be imported for laboratory and analytical uses. In the event that the demand exceeds the determined annual amount, the request shall be evaluated by the Ministry.
3. Substances that are to be imported for laboratory and analytical uses may only be used

for these purposes. Containers of these substances must be labeled to state that the substance is for laboratory and analytical uses only.

**Competence principles of end-users**

**ARTICLE 21 -** (1) End-user or technical personnel that work under the end-user must;

1. Be graduated from a university or college that provides classes on cooling and air conditioning in the curriculum or,
2. Complete a program (semi-skilled, mastership and diploma) that contains cooling and air conditioning training in it, within the scope of the Vocational Education Law No. 3308 of 5/6/1986 or,
3. Successfully complete a minimum 25-hour course training as of 1/1/2010, with the subject of the Use of Ozone-Depleting Gases that is approved by the Ministry of National Education and delivered by the graduates of vocational college, vocational high school, college or university, without regard to the department.

(2) The Ministry of National Education evaluates the certificates, except for the ones stated under paragraph 1, via accreditation.

(3) End-users must employ technical personnel with the qualifications stated in paragraph 1 and register in electronic monitoring software of the Ministry.

(4) Controlled substances cannot be sold to the end-users that are not registered in the Ministry.

**Use of fire extinguishers containing halons in test and personnel training**

**ARTICLE 22 -**(1) It is prohibited to use controlled substances listed in Annex-5 in

testing of mobile fire extinguishers or stationary fire-extinguishing systems and personnel training.

**CHAPTER SEVEN**

**Leakage and Periodical Checks**

**Leakage checks**

**ARTICLE 23 -** (1) Technical personnel that is authorized in line with Article 21 is liable for taking any and all measures against any leakages that may occur during all types of uses such as manufacturing products containing controlled substances, including industrial processing raw material or process active agent uses of the substances.

**Periodical checks of stationary equipment**

**ARTICLE 24 -** (1) It is obligatory to check stationary equipment that contains 3 (three) kilograms of or more controlled substance at least once a year by technical personnel, whose qualifications are stated in Article 21; and annual checks must be documented during inspections.

(2) Cooling, air conditioning, heat pump and fire protection systems must be checked;

1. At least once every 12 (twelve) months if they contain 3 (three) kilograms or more of controlled substances,
2. At least once every 6 (six) months if they contain 30 (thirty) kilograms or more controlled substances,
3. At least once every 3 (three) months if they contain 300 (three hundred) kilograms or more controlled substances, for leakage.

 Periodical checks must be documented during inspections.

1. Equipment that contains 6 (six) kilograms or less of controlled substances that are hermetically sealed and labeled with "Hermetically sealed" statement shall not be checked for leakage.
2. Enterprises with equipment stated under paragraph 1 must keep records of the type and amount of the controlled substance added during the maintenance and servicing processes and of controlled substances amount recovered prior to maintenance, servicing and destruction of the equipment.

**CHAPTER EIGHT**

**Miscellaneous and Final Provisions**

**Import of products containing controlled substances**

**ARTICLE 25 -** (1) Import of the products containing controlled substances is prohibited.

1. In the event of the import of products listed in Annex-4, the customs administrations shall request a document that is issued as per Annex-10 and approved by the Ministry, stating that the product does not contain substances listed in Annex-5.
2. If the document proving these products do not contain controlled substances is not submitted to the Ministry, analysis shall be conducted prior to the actual import at customs laboratory in order to determine if the products contain substances listed in Annex-5. If such laboratories are not available, analysis shall be conducted at university laboratories or public institutions specified by the Ministry of Customs and Trade, provided that all fees are covered by the importer. Results of the analysis are presented to the Ministry in the annex of the document in Annex-10.

**Labeling**

**ARTICLE 26 -** (1) Containers, pressurized containers or packaging in which controlled substances are transferred must have a visible warning label, stating "Hazardous to the Ozone Layer". Procedures and principles regarding labeling are set pursuant to the Regulation on Classification, Labeling and Packaging of Substances and Mixtures published in the repeated issue of Official Gazette No. 28848 of 11/12/2013.

1. In the event that the information on the label contradicts with the control document issued by the Ministry, technical survey shall be conducted at customs laboratories. If such laboratories are not available, surveys shall be conducted at university laboratories or public institutions specified by the Ministry of Customs and Trade, provided that all fees are covered by the importer. After the technical survey conducted to determine whether the imported pressurized containers contain controlled substances, if the control document of the product is in compliance with the product, the container shall be allowed into the country. In the event that the information on control document and imported product do not coincide, criminal actions shall be taken as per the related legislation.

**Liabilities, restrictions and exemptions for companies active in free zones**

**ARTICLE 27 -** (1) Companies that are active in free zones shall be subject to paragraphs 1, 3, 4 and 7 of Article 6; and provided that they do not enter controlled substances in non-refillable pressurized containers into free movement in the country, they shall exempt from paragraphs 5 and 6 of the same article.

1. Companies that use, store, purchase and sell or provide servicing for controlled substances in free zones must be registered in the Ministry's electronic monitoring software.
2. Companies that conduct any and all activities or recover and recycle by using controlled substances in free zones must employ technical personnel, pursuant to Article 21.
3. Said companies exempt from paragraphs 1 and 2 of Article 8.

**Informing the public and industrialists**

**ARTICLE 28 -** (1) The Ministry or institutions appointed thereby inform the public, enterprises and industrialists on the controlled substances and their alternatives.

**Administrative sanctions**

**ARTICLE 29 -** (1) Administrative sanctions assumed in Article 20 of the Law No. 2872 shall be imposed on real or legal entities that act contrary to the provisions of this Regulation and that do not fulfill their liabilities within the context of the provisions of this Regulation.

**ARTICLE 30 -** (1) The Regulation on Control of Ozone-Depleting Substances, published in the Official Gazette No. 27052 of 12/11/2008 is annulled.

**Competence to interfere with the equipment containing fluorinated greenhouse gases**

**PROVISIONAL ARTICLE 1 -** (1) Technical personnel that is authorized to interfere with the products or equipment that function with controlled substances and that possess documents stated in Article 21 may interfere with the products or equipment that contain and function with fluorinated greenhouse gases for 1 (one) year following this Regulation's entry into force.

1. At the end of 1 (one) year, technical personnel that interferes with products or equipment containing and functioning with fluorinated greenhouse gases, conducts servicing, maintenance or repair of these products or equipment must comply with the provisions of the legislation regarding fluorinated gases.

**Entry Into Force**

**ARTICLE 31 -** (1) This regulation shall enter into force on the date of its publication.

**Enforcement**

**ARTICLE 32 -** (1) The provisions of this Regulation shall be enforced by the Minister of Environment and Urbanization.

[**Click for the Annexes.**](http://www.resmigazete.gov.tr/eskiler/2017/04/20170407-2-1.pdf)

**List of Annexes**

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Annex-2 Purity Characteristics

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