



EUROPEAN COMMISSION

DIRECTORATE-GENERAL

CLIMATE ACTION

Directorate C - Mainstreaming Adaptation and Low Carbon Technology

CLIMA.C.2 - Transport and Ozone

Licensing manual for Ozone Depleting Substances (ODS)

PART VIII

PRODUCERS AND UNDERTAKINGS HOLDING PRODUCTION QUOTA

Version 1.2

April 2010

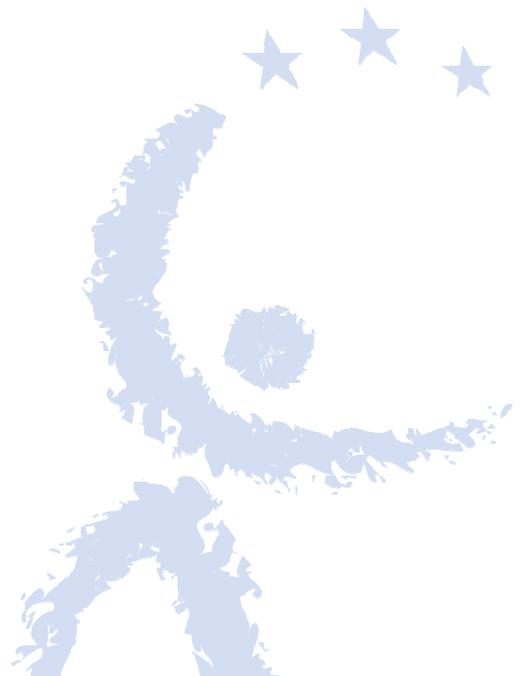


TABLE OF CONTENTS

Part VIII

| | |
|---|-----------|
| LICENSING MANUAL FOR OZONE DEPLETING SUBSTANCES (ODS) | 1 |
| 1. GENERAL INFORMATION FOR PRODUCERS | 3 |
| 1.1. INTRODUCTION | 3 |
| 1.2. BASIC RULES FOR THE PRODUCTION OF ODS | 3 |
| 1.2.1. <i>Definition of production</i> | 3 |
| 1.2.2. <i>Allowed production</i> | 3 |
| 1.2.3. <i>Products and equipment</i> | 4 |
| 2. PRODUCTION FOR ESSENTIAL LABORATORY AND ANALYTICAL USES | 4 |
| 2.1. ESSENTIAL LABORATORY AND ANALYTICAL USE QUOTA | 4 |
| 2.2. ESSENTIAL LABORATORY AND ANALYTICAL USE DECLARATION..... | 5 |
| 2.3. APPLICATION FOR PRODUCTION (APP) | 5 |
| 2.3.1. <i>Step 1: Submission of the application</i> | 5 |
| 2.3.2. <i>Step 2: Forwarding by the Commission</i> | 6 |
| 2.3.3. <i>Step 3: Acceptance by the producer</i> | 7 |
| 2.4. PRODUCERS' CHOICES | 8 |
| 2.4.1. <i>Authorisation for production (PRO)</i> | 8 |
| 2.4.2. <i>Import licence to replace production (LPR)</i> | 9 |
| 2.4.3. <i>Transfer of production quota (TRN)</i> | 9 |
| 3. OTHER ISSUES..... | 10 |
| 3.1. REPORTING | 10 |
| 3.2. CONTACT INFORMATION | 10 |
| 3.3. RECORD OF CHANGES TO THIS DOCUMENT | 11 |
| 3.3.1. <i>Revision 0.1</i> | 11 |

Important note:

The information given in this document is of a general nature and for information purposes only, and shall not be understood as being legally binding or as legal guidance. It is not necessarily comprehensive, complete or up to date. It may be subject to change without notice, in particular following revisions of the Montreal Protocol or other relevant legal acts. The user is responsible for ensuring compliance with existing legislation. The European Commission accepts no responsibility or liability whatsoever with regard to the information contained in this document.

1. GENERAL INFORMATION FOR PRODUCERS

1.1. Introduction

Under Regulation (EC) No 1005/2009 any production of ozone depleting substances¹ listed in Annex I and in Part A of Annex II to the Regulation is prohibited. This document provides information about the exemptions to this prohibition and the applicable authorisation procedures for the production of such substances.

For the purposes of this document the term ‘Producer’ also includes undertakings that hold a production quota but do not produce themselves.

For the purposes of this document the term ‘ozone depleting substances’ (ODS) includes the substances listed in Annex I and Part A of Annex II to Regulation No 1005/2009.

This part of the licensing manual will provide information about the production-related aspects. For general information about the licensing procedures, please refer to Part I of the licensing manual.

It should be noted that stricter rules on production may apply in some Member States.

1.2. Basic rules for the production of ODS

Information about the basic principles for the trade of ODS can be found in Part I of the licensing manual.

1.2.1. Definition of production

The Regulation defines production as follows:

‘production’ means the amount of controlled substances or new substances produced, including the amount produced, intentionally or inadvertently, as a by-product unless that by-product is destroyed as part of the manufacturing process or following a documented procedure ensuring compliance with this Regulation and the Community and national legislation on waste. No amount recovered, recycled or reclaimed shall be considered as ‘production’, nor shall any insignificant amount unavoidably incorporated in products in trace quantities or emitted during manufacturing

It should be noted that by-production of ODS nevertheless has to be reported under Article 27 to ensure compliance with the Montreal Protocol.

1.2.2. Allowed production

While the production of ODS is prohibited in general, there are some exemptions to this ban:

- Production for feedstock use
- Production for process agent use
- Production for essential laboratory and analytical uses

¹ A non exhaustive list of controlled and new substances with IUPAC names, CAS and EINECS numbers is available at following website: http://ec.europa.eu/environment/ozone/controlled_ods.htm

- Production of hydrochlorofluorocarbons (HCFC) for other uses

Production for use as feedstock and as a process agent is not subject to quantitative limits or prior authorisation.

The production for essential laboratory and analytical use is subject to quantitative limits and prior authorisation as described in this manual.

The production of hydrochlorofluorocarbons for uses other than those mentioned above (e.g. for refrigeration uses outside the EU) is subject to quantitative limits, but not to prior authorisation.

Any production must be reported.

1.2.3. Products and equipment

Since the placing on the market and the export of products and equipment containing or relying on ODS is prohibited, their production is also prohibited de facto. The following exemptions apply:

- Production of metered dose inhalers (MDI) using a CFC propellant
- Production of products and equipment containing or relying on halon for critical uses, as defined by Annex VI of the Regulation

The production of MDI is only possible using CFCs that have been produced and placed on the market for essential medical uses before 31 December 2009. Once these stocks are used up, it will no longer be possible to produce MDI propelled by CFC.

For the production of products and equipment containing halon, only the use of non-virgin halon is allowed.

2. PRODUCTION FOR ESSENTIAL LABORATORY AND ANALYTICAL USES

This chapter describes the process for authorisation of the production of ODS for essential laboratory and analytical uses (hereinafter referred to as laboratory uses).

2.1. Essential laboratory and analytical use quota

The placing on the market of ODS for laboratory uses is subject to quantitative limits. Undertakings that wish to place ODS on the market for laboratory use must apply annually for a corresponding essential laboratory and analytical use quota (hereinafter referred to as 'quota').

The quota gives the right to either import or produce ODS for laboratory uses. The procedure describing the import is included in Part VI of the licensing manual.

The need to have a quota applies to the undertaking that first places the ODS on the market ready to be used for laboratory purposes and in compliance with the specific requirements for laboratory chemicals under Article 10 of the Regulation.

Usually these are specialised undertakings and not necessarily the actual producers of the ODS. Instead the undertaking holding the quota will usually transfer its production rights to the actual producer.

Undertakings that only buy ODS off the shelf from producers or other suppliers in the European Union and that do not import ODS or have it produced on their account, do not need to hold a quota. These companies fall under the scope of the ID-Number regime as described in Part X of the licensing manual.

2.2. Essential laboratory and analytical use declaration

To request a quota, a producer must submit an essential laboratory and analytical use declaration. The declaration and quota allocation process is described in Part VI of the licensing manual.

2.3. Application for production (APP)

An undertaking holding an essential laboratory and analytical use quota can opt whether to import the ODS or to have it produced by a manufacturer in the European Union.

The import procedure is described in Part VI of the licensing manual.

Where the ODS has to be produced, the undertaking holding the quota must submit an application for production and thereby transfer its quota in part or in full.

2.3.1. Step 1: Submission of the application

Applications that are related to an essential use quota can be found in the essential use licence area (see picture XVIII/1) on the 'My Home' page. To obtain the application form for an application for production, click the button 'new' next to the text 'Application for Production (APP)'.

| Import licenses 2009 | | | | | |
|--------------------------------------|--|----------|------------|-------------|----------------------------|
| On Essential Use Quota (LAB) | | | | | |
| Group I (Chlorofluorocarbons) | | | | | Total Quota: 16,000.000 |
| <input type="button" value="New"/> | Import: ODS general license (LIC) | Status | Valid from | Valid until | ODP Used |
| <input type="button" value="New"/> | Application for Production (APP) | Status | Valid from | Valid until | ODP Used |
| <input type="button" value="Enter"/> | APP <input type="text" value="1 002"/> | Accepted | | | 0.400 |
| <input type="button" value="Enter"/> | APP <input type="text" value="1 003"/> | Accepted | | | 8,000.400 |
| <input type="button" value="Enter"/> | APP <input type="text" value="1 001"/> | Aborted | | | 0.000 |
| <input type="button" value="New"/> | Transfer of import quota (TRQ) | Status | Valid from | Valid until | ODP Used |
| <input type="button" value="New"/> | Application for Recycled Product | Status | Valid from | Valid until | ODP Used |
| | | | | | Licensed Quota: 8,000.800 |
| | | | | | Available Quota: 7,999.200 |

Picture XVIII/1: essential use licence area

The form to apply for production will then be displayed on the screen (see picture XVIII/2) and needs to be completed. All fields are mandatory except for the 'comments' fields.

| Application for Production | |
|---------------------------------------|---|
| Substance: | CFC 113 |
| Producer: | Phosphoric Fertilizers Industry SA (GREECE) |
| Application date: | 18/12/2009 |
| Application status: | <i>Editing</i> |
| Applicant: | |
| Use: | Analytical use - Carrier - Analytical equipment (spectroscopy, chromatography) |
| Total NET mass: | 0.000 NETTO-kgs (<i>do not use any comas</i>) Zero KILOGRAMS (NETTO) |
| Total ODP mass: | <i>Will be calculated automatically</i> 0.000 ODP-kgs Zero KILOGRAMS (ODP) |
| Comment/Reason from applicant: | |
| Action: | <input checked="" type="radio"/> Leave the Production Application in Editing Mode <input type="radio"/> Preview then submit the Licence request to the EC <input type="radio"/> Submit the Production Application |
| <input type="button" value="Submit"/> | |

Picture XVIII/2: Application for production form for quota holder

After completing the form, three different actions can be selected:

- 'Leave the application in editing mode' saves the work at this point for continuation at a later stage.
- 'Preview then submit the application to the EC' presents a preview of the final application before it is ultimately submitted.
- 'Submit the application to the European Commission' to submit the request directly without a preview step.

The selected action is executed by clicking on the button 'Submit'.

If 'Preview' or 'Submit directly' is selected, the ODS-database automatically checks the application for certain potential errors. Where an error is detected (e.g. declared amount exceeded, field not completed), the ODS-database will automatically return to the application form page, and a corresponding error message will be displayed at the top of the page. When data have been entered in a field that do not match the criteria set, a pop-up message will appear.

Upon submission, the status of the application will change from 'Editing' to 'Requested'.

Until such time as the application for production has been accepted by the producer, the applicant still has the possibility to cancel the application.

2.3.2. Step 2: Forwarding by the Commission

After the submission the Commission will forward the application for production to the producer. The status of the application will change from 'Requested' to 'Forwarded'. The applicant and the producer will be informed of the forwarding by e-mail.

2.3.3. Step 3: Acceptance by the producer

A producer can view related applications in the section 'Applications for production forwarded to your company' (see picture XVIII/2) on the 'My Home' page of the ODS-database. To open an application, click the button 'enter', which is next to the corresponding application.

| Applications for Production forwarded to your Company (year 2009) | | |
|---|-------------------------------|-----------|
| Origin | Number | Status |
| <input type="button" value="Enter"/> [Redacted] (BELGIUM) ---> Related Authorization for Production <input type="button" value="Enter"/> | APP [Redacted] 2009 SUP 4 001 | Accepted |
| <input type="button" value="Enter"/> [Redacted] (GERMANY) ---> Related Authorization for Production <input type="button" value="Enter"/> | PRO [Redacted] 2009 SUP 4 003 | Endorsed |
| <input type="button" value="Enter"/> [Redacted] (SPAIN) ---> Related Authorization for Production <input type="button" value="Enter"/> | APP [Redacted] 2009 SUP 4 003 | Accepted |
| | 15/12/2009 | Editing |
| <input type="button" value="Enter"/> [Redacted] (SPAIN) ---> Related Authorization for Production <input type="button" value="Enter"/> | APP [Redacted] 2009 EL1 4 005 | Accepted |
| | 02/10/2009 | Requested |

Picture XVIII/2: Application for production form for quota holder

| Application for Production | |
|---|---|
| Number: | APP TST 2010 EL13 1 001 |
| Substance: | CFC 11 |
| Producer choice: | <input checked="" type="radio"/> Produce the substance <input type="radio"/> Transfer the production to another producer <input type="radio"/> Import the substance |
| Producer: | 0 TEST PROD (BELGIUM) |
| Comments/Reason from producer: | <input type="text"/> |
| Application date: | 18/12/2009 |
| Application status: | Forwarded |
| Applicant: | 0 TEST ORG (BELGIUM) |
| Use: | Analytical use - Carrier - Analytical equipment (spectroscopy, chromatography) |
| Total NET mass: | 500.000 NETTO-kgs Five Hundred KILOGRAMS (NETTO) |
| Total ODP mass: | 500.000 ODP-kgs Five Hundred KILOGRAMS (ODP) |
| Comment/Reason from applicant: | |
| Comments/Reason from Commission: | |
| Action: | <input type="radio"/> Accept the Production Application <input type="radio"/> Reject (Abort) the Production Application <input checked="" type="radio"/> Leave the Production Application in Forwarded mode |
| <input type="button" value="Submit"/> | |

Picture VIII/3: Application for production form for producer

The producer may accept or reject the application for production. Furthermore, in the acceptance step of the application for production, the producer has the choice of whether to

produce the ODS, import the ODS or forward the quota to another producer in the European Union.

After completing the form, one of three different actions can be selected:

- ‘Accept the application for production’
- ‘Reject the application for production’.
- ‘Leave the application for production in forwarded mode’ in order to process it later

The selected action will be executed by clicking on the button ‘Submit’.

Upon acceptance, the status changes from 'Forwarded' to 'Accepted', which is the final status for an application for production.

Upon rejection, the status will change from 'Forwarded' to 'Rejected'.

The applicant and the Commission will be informed by e-mail as to whether the producer has accepted or rejected. The applicant will be able to see which option the producer has selected.

Any application for production that was not accepted by the producer at the end of the year will be closed by the Commission, since the quota can no longer be used in the following year.

2.4. Producers' choices

As described in the previous chapter,, the producer has to choose one of three possible courses of action once a quota has been transferred to him by the quota holder:

- Request an authorisation for production (PRO)
- Request an import licence to replace production (LPR)
- Transfer the production quota to another producer (TRN)

Once the application has been accepted, the ODS-database will automatically create the application form for the selected choice. It will appear on the ‘My Home’ page below the corresponding application for production and will have the status ‘Editing’. The information from the initial application will be taken over automatically. The producer will need only to submit the form.

It is not possible to split an application for production or to combine several applications for production during the further processing. Any subsequent application by the producer is always directly linked with the initial application for production.

2.4.1. Authorisation for production (PRO)

Once the authorisation for production form is completed, the application will be submitted to the competent authority in the Member State in which the producer is located. Unlike any other application in the ODS-database, this type of request will be authorised not by the Commission but by the Member State concerned.

The Commission has no influence on the processing of this application type in the Member State. In the event of problems with the application at this stage, producers are kindly requested to contact the competent authority directly. The contact address is available in the ODS-database in the option ‘MS administrations’.

| Authorization for Production | |
|------------------------------|---|
| Substance: | Carbon tetrachloride |
| Application date: | 15/12/2009 |
| Application status: | <i>Editing</i> |
| Producer: | XXXXXXXXXXXX (FRANCE) |
| Requested by: | XXXXXXXXXXXX (GERMANY) |
| Use: | Laboratory use - Research and development - reaction solvent or reaction feedstock |
| Total NET mass: | 15,000.000 NETTO-kgs |
| | <i>Fifteen Thousand KILOGRAMS (NETTO)</i> |
| Total ODP mass: | 16,500.000 ODP-kgs |
| | <i>Sixteen Thousand Five Hundred KILOGRAMS (ODP)</i> |
| Comments: | <div style="border: 1px solid gray; height: 40px;"></div> |
| Action: | <input checked="" type="radio"/> Leave the Authorisation for Production Request in Editing Mode <input type="radio"/> Preview then submit the Licence request to the EC <input type="radio"/> Submit the Authorisation for Production Request |

Picture VIII/4: Authorisation for production form in producer's account

Once the application has been submitted, the producer can no longer cancel the request. He would need to contact the competent authority in order to have the request rejected.

If the application is accepted by the competent authority, it will be given the status 'Accepted'.

The Commission is informed of the acceptance and will endorse the production authorisation to confirm that it has taken note of the Member State's decision. The status will change from 'Accepted' to 'Endorsed', which is the final stage of a production authorisation that is ready to be used.

2.4.2. *Import licence to replace production (LPR)*

The application procedure for an import licence to replace production is the same as for any other import licence. Please refer to Part VI of the licensing manual for details.

2.4.3. *Transfer of production quota (TRN)*

To transfer the production quota, the producer needs to select the beneficiary producer from the available list of producers. If the producer does not appear on the list, the Commission should be contacted in order to have the beneficiary producer added.

Once the application for transfer of production is submitted, the Commission will forward it to the beneficiary producer selected.

The beneficiary producer will then be presented again with the three options to proceed as described above.

| Transfer of Production | |
|---------------------------------------|---|
| Substance: | CFC 11 |
| Producer: | Arkema Quimica S.A. (SPAIN) |
| Application date: | 18/12/2009 |
| Application status: | <i>Editing</i> |
| Applicant: | 0 TEST PROD (BELGIUM) |
| Use: | Analytical use - Carrier - Analytical equipment (spectroscopy, chromatography) |
| Total NET mass: | 100.000 NETTO-kgs <i>One Hundred KILOGRAMS (NETTO)</i> |
| Total ODP mass: | 100.000 ODP-kgs <i>One Hundred KILOGRAMS (ODP)</i> |
| Comment/Reason from applicant: | <input type="text"/> |
| Action: | <input checked="" type="radio"/> Leave the Production Transfer in Editing Mode <input type="radio"/> Preview then submit the Licence request to the EC <input type="radio"/> Submit the Production Transfer |
| <input type="button" value="Submit"/> | |

Picture VIII/4: Transfer of production form

3. OTHER ISSUES

3.1. Reporting

Under Article 27 of the Regulation (EC) No 1005/2009 each producer is obliged to communicate the relevant data annually to the European Commission. This has to be done every year by 31 March of the year following the export. The reporting forms and further information about the reporting process are available from the following website: <http://ec.europa.eu/environment/ozone/ods.htm#report>.

3.2. Contact information

In case of any further questions, the following website with answers to frequently asked questions (FAQ) should be consulted: <http://ec.europa.eu/environment/ozone/faq.htm>.

A list of contact points in the competent authorities in the Member States is at: http://ec.europa.eu/environment/ozone/ods_documents/ms_contact_point.pdf

To contact the European Commission, an e-mail can be sent to env-ods@ec.europa.eu or the following contact information can be used:

European Commission
 DG Climate Action, Unit C.2
 Transport and Ozone
 Avenue de Beaulieu 5
 B - 1049 Brussels
 Belgium

Fax: +32 2 29-20692

E-mail: env-ods@ec.europa.eu

3.3. Record of changes to this document

3.3.1. Revision 0.1

Editorial and linguistic changes, and adaptations due to the change from DG Environment to DG Climate Action.