

Ozone Depleting Substances Consumption (Control) Rules, 2001

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In exercise of the power conferred by Section 24 of the Environment Protection Act, 1996, Government of Nepal has framed the following Rules:

1. **Short Title and Commencement:** (1) These Rules may be called the "Ozone Depleting Substances Consumption (Control) Rules, 2001".
(2) These Rules shall come into force immediately.
2. **Definitions:** Unless the subject or context otherwise requires, in these Rules;
 - (a) "Act" means the Environment Protection Act, 1996.
 - (b) "Convention" means Vienna Convention for the Protection of the Ozone Layer, 1985.
 - (c) "Protocol" means The Montreal Protocol on Substances that Deplete the Ozone Layer, 1987.
 - (d) "Substance" means any substance from among the controlled Ozone Depleting Substances as mentioned in the annexes A, B, C and E of the Protocol and as incorporated in the specifications pursuant to Rule 3 and this term also includes to any substance prescribed by the Ministry from time to time by a Notification published in the Nepal Gazette.
 - (e) "Importer" means any person, firm or enterprise possessing license in accordance with the existing law to import substance into Nepal from any foreign countries.
 - (f) "Dealer" means any person, firm or enterprise that conducts sales and distribution of the substance or agent of such person, firm or enterprise and this terms also includes to the importer of the substance which him/herself conducts sales and distribution of the substance.
 - (g) "Consumption" means consumption of the substance through trading and business in refrigeration, air conditioning, agriculture, health

including fire extinguishing or industrial uses and this term also includes to sales and distribution, storing or stocking of the substance.

(h) "Licensing Authority" means Director General of the Department of Commerce and this term also includes to any other official designated by Government of Nepal as export import controller.

3. **Specification, Quantity and Phase Out Rate of the Substance:** (1) Under these Rules specification of the substance to be consumed as well as sold and distributed within Nepal as prescribed in Schedule 1.

(2) The annual consumption, import quantity and phase out rate of the substance shall be as prescribed by the Ministry by a Notification published in the Nepal Gazette.

4. **License to be Issued:** Licensing authority for import of substance, pursuant to Rule 3 and existing law, shall issue the license for import of the substance under the procedure, conditions, specifications, quantitative norms and phase out rate set forth by the Ministry.

5. **Conditions to be Fulfilled by the Importer:** The Ministry, in accordance with the provision of the Protocol, may prescribe the following conditions to be fulfilled by the importer:

(a) The importer should possess the certificate issued by the producer confirming the quality in accordance with the specification of the substance,

(b) The importer must have in his/her possession the Load port certificate issued by the concerned agency confirming the specification, quality, quantity and container packaging of the substances during the dispatch of such substance from the country of export,

(c) For imported substance the load port certificate, regarding the specification, quality, quantity and container packaging, issued by the concerned agency shall have to be submitted while unloading every consignment of the imported substances at the concerned custom point.

- (d) While importing the substance into Nepal purchased from a foreign country such substance must be purchased from the person, firm or enterprise possessing license to export the substance.
- (e) Quantity of the substance permissible for import at a time shall be as prescribed.
- (f) The substance to be imported shall have to be purchased from the countries that are parties to the Convention or Protocol,
- (g) The imported substance shall not be re-exported to any other country,
- (h) No misdeclaration should be made regarding the specification, quantity, quality and relevant certificates etc. of the substance,
- (i) While importing the substance the following details obtained from the exporter of the concerned country shall have to be submitted to the concerned custom office:
 - (1) Name and address of the importer
 - (2) Specification and quantity of the substance (in Metric Tons)
 - (3) Exporter of the substance and the country
 - (4) Trade and scientific (chemical) name of the substance and harmonized system (H.S.) code as prescribed by the World Custom Organization.
 - (5) Date of production of the substance
 - (6) Country of production and the name of the producer of the substance
 - (7) Description of the substance whether it is newly produced or recycled or recovered
 - (8) Price of the substance (in US Dollars)

6. No Consumption and Trade of the Substance in Contradiction to These Rules: No person shall do or cause to do the consumption and sales and distribution of the substance in contradiction to these Rules.

7. **Functions, Duties and Rights of the Ministry:** The Ministry, for regulation and control of the consumption as well as sales and distribution of the substance and cause to do so will have the following functions, duties and rights:
- (a) The Ministry, based on the provision of the Protocol, shall prescribe necessary procedures and conditions for the import of the substance.
 - (b) To prescribe necessary specification, annual import and consumption quantity as well as the phase out rate of the substance for trade, business needed in refrigeration, air conditioning, agriculture, health including fire extinguishing services and in industrial uses.
 - (c) To take and cause to take necessary actions for gradual phasing out of the annual import and consumption quantity of the substance up to the zero limit within a scheduled period in accordance with the provision of the Protocol.
 - (d) To monitor and evaluate the status of the consumption as well as sales and distribution of the substance regularly.
 - (e) To carry out and cause to carry out any other activities as required for regulating and controlling of the consumption of the Ozone Depleting Substances in accordance with the objectives of the Act, these Rules, Convention and Protocol.
8. **Need to Notify the Ministry:** The licensing authority shall, after issuing the license for the import of the substance or its amendment or suspension or cancellation of such license in accordance with the prevailing laws, submit written information about the same to the Ministry within Ten days.
9. **Approved Payment System to be Adopted:** (1) The person, firm or enterprise holding license issued under the prevailing laws, may be allowed to import the substance only in accordance with the approved payment system by the *Nepal Rastra Bank* (Central Bank). For this purpose, the concerned license holding importer should apply in any commercial bank of Nepal within Fifteen days from the date of obtaining such license.

(2) The license holder person, firm or enterprise while applying to any commercial bank for the import of the substance pursuant to Sub-rule (1) above shall also submit a copy of application and other documents for the information of Ministry.

(3) The concerned commercial bank, upon the receipt of the application as per the Sub-rule (1) for the import of the substance in accordance with the license issued by the licensing authority should make necessary arrangements for the payment as per existing laws and inform the Ministry about the same immediately.

10. **Need to Notify about the Import:** Upon bringing in of the substance by the importer at the concerned custom point, the concerned custom office shall notify the Ministry with all the details about the same.
11. **Details to be Submitted by the Importer Regarding Import of the Substance and the Dealer:** The importer shall, on six monthly basis, submit the details of the specification, quantity and type of the substances imported as well as sold & distributed to the dealers as well as in his stock to the Ministry prepared indicated as in the format provided in Schedule-2. The importer, along with these details, shall also submit information about the name and addresses of the dealers in the format prescribed by the Ministry.
12. **Documentation and Details:** (1) The importer should maintain updated the following documentation and other details related to the imported substances and should submit it to the Ministry any time on its demand:-
 - (a) Details about the quantity, quality, type and price of the substance imported into the Kingdom of Nepal.
 - (b) Details about the quantity and type of the substance sold to the buyers directly or through the dealer.
 - (c) Quantity and type of the substance in stock.(2) Upon failure of the importer to submit the documentation and details on the demand of the Ministry as mentioned in sub-rule (1), the

Ministry may issue a written notice to the licensing authority for not issuing the license to such importer in future.

(3) It shall be the duty of any person, firm or enterprise having imported any substance before the commencement of these Rules to submit the details of the existing stock of the substance at his/her disposal and relevant documents and details to the Ministry on demand.

13. Inspection at the Custom Point: The Ministry, if deems necessary, may inspect the substance brought in by the importer at the custom point on intimation by the relevant custom office about the same in accordance with Rule 10.

14. The Dealer to Register its Name: (1) In accordance with these Rules, any dealer willing to purchase the substance from the importer and subsequently to sell it to the buyer, should get registered in the Ministry and secure Ministry's approval for trading of such substance.

(2) In connection with the trading of the substances any dealer must comply with the conditions set forth by the Ministry from time to time.

15. Submission of the Details by the Dealer on Purchase of Substance and the Sales of the Same to the Buyer: (1) The dealer shall, on Six monthly basis, submit the details of the specification, quantity and type of the substances purchased from the importer and sold to the buyers as well as existing stock of the substance at his disposal to the Ministry prepared in accordance with the format as provided in Schedule-3. Along with the above-mentioned details the dealer shall also submit details about the name and address of the importers who had sold the substance to him/her and the buyer to whom he/she has sold the substance as well as the details on for what purpose the buyer have purchased the substance from him/her the format as provided by the Ministry.

(2) The buyer of the substance, on demand of the Ministry, shall furnish to it, the details on specification, quantity, type bought by him/her as well as existing stock of the substance along with the information whether or not the substance has been consumed for the designated purpose.

- 16. Consumption as per the Designated Purpose:** (1) Any person, firm or enterprise shall not be allowed to consume the substance imported or bought by him/her for other than the designated purpose.
- (2) Action as per the prevailing laws shall be taken against the importer or the buyer consuming the substance for other than the designated purposes.
- 17. Necessary Instruction May be Given:** To carry out or cause to carry out the effective regulation and control of the consumption and trading of the substance, the Ministry may issue necessary orders and instructions. It shall be the duty of all the concerned to comply or cause to comply with such orders and instructions.
- 18. Ministry May Make Necessary Arrangements:** For the effective regulation and control of the consumption and trading of the substance, the Ministry may, as required, depute inspector, surveyor or other expert on the relevant subjects or make any other appropriate arrangements and also prescribe procedures to be adopted for the same.
- 19. Cooperation to be Extended:** In connection with the implementation of these Rules, concerned agency, person, firm or enterprise should extend necessary co-operation to the inspector, surveyor or the expert on the relevant subject deputed by the Ministry for the inspection, supervision or monitoring.
- 20. Sub-committee or Task Force May be Formed:** (1) For the effective regulation and control of the consumption and trading of the substance as well as for the implementation of the provision of these Rules, the Ministry may, from time to time, form sub-committee or task force as per necessity.
- (2) The function, duty, authority and procedure of the sub-committee or task force formed pursuant to Sub-rule (1) shall be as prescribed by the Ministry.
- 21. Authority to Frame Guidelines:** The Ministry may, subject to the Act and these Rules, frame and enforce necessary Guidelines regarding the consumption and trading of the substance and it shall be the duty of all concerned to comply with such Guidelines.

22. **Authority to Impose Penalties:** The authority to impose penalties to those consuming and trading the substance in contrary to these Rules shall be the Ministry.
23. **Applicability of These Rules:** For matters as provided for in these Rules, these very Rules shall prevail while for matter not provided in these Rules, the existing laws shall prevail.
24. **Changes or Alterations in Schedules:** The Ministry may make necessary changes or alternations in the Schedules by a Notification in the Nepal Gazette.

Nepal Law Commission

Schedule -1

(Relating to Rule 3)

Specification of the Substance

| Group: "A" S.N. | H.S. Code | Chemical Composition of ODS | Name of ODS | ODP |
|----------------------------|------------------|--|--------------------|------------|
| 1. | 2903.41 | Trichlorofluoromethane CFCl ₃ | CFC-11 | 1.0 |
| 2. | 2903.42 | Dichlorodifluoromethane CF ₂ Cl ₂ | CFC -12 | 1.0 |

Group: "B"

| S.N. | H.S. Code | Chemical Composition of ODS | Name of ODS | ODP |
|-------------|------------------|--|--------------------|------------|
| 1. | 2903.49 | Chlorodifluoromethane CHF ₂ Cl | HCFC-22 | 0.055 |

Group: "C"

| S.N. | H.S. Code | Chemical Composition of ODS | Name of ODS | ODP |
|-------------|------------------|---|--------------------|------------|
| 1. | 2903.46 | Bromochlorodifluoromethane CF ₂ BrCl | Halon-1211 | 3.0 |
| 2. | 2903.46 | Bromotrifluoromethane CF ₃ Br | Halon-1301 | 10.0 |
| 3. | 2903.46 | Dibromotetrafluoroethane C ₂ F ₄ Br ₂ | Halon-2402 | 6.0 |

Group: "D"

| S.N. | H.S. Code | Chemical Composition of ODS | Name of ODS | ODP |
|------|-----------|--|-------------------------|-----|
| 1. | 2903.14 | Tetrachloromethane CCl ₄ | Carbon Tetrachloride | 1.1 |

Group: "E"

| S.N. | H.S. Code | Chemical Composition of ODS | Name of ODS | ODP |
|------|-----------|--|-------------------|-----|
| 1. | 2903.13 | 1,1,1-Trichloroethane C ₂ H ₃ Cl ₃ | Methyl Chloroform | 0.1 |

Group: "F"

| S.N. | H.S. Code | Chemical Composition of ODS | Name of ODS | ODP |
|------|-----------|------------------------------------|----------------|-----|
| 1. | 2903.49 | Bromomethane CH ₃ Br | Methyl Bromide | 0.6 |

Explanation:

For the purpose of this Schedule,-

- (a) ODS means Ozone Depleting Substances.
- (b) ODP means Ozone Depleting Potential of the substance.

Note:

1. Group "A" is related with Group-1 of Annex-A of the Protocol.
2. Group "B" is related with Group-1 of Annex-C of the Protocol.
3. Group "C" is related with Group-2 of Annex-A of the Protocol.
4. Group "D" is related with Group-2 of Annex-B of the Protocol.
5. Group "E" is related with Group-3 of Annex-B of the Protocol.
6. Group "F" is related with Group-1 of Annex-E of the Protocol.

Schedule-2
(Relating to Rule 11)

Details on Import of Ozone Depleting Substances
by the Importer and it's Sales to the Dealer

To,
The Environment Division
Ministry of Population and Environment
Singhdurbar, Kathmandu, Nepal.

Importer should mention about the specification, total quantity and type of substance imported (whether it is newly produced, recycled or recovered?)

Date: From 200..... to 200.....

Name of the importer (person, firm or enterprise):

| S.N. | Substance | H.S.Code | Type and total quantity* of the imported substance | Type and quantity* of the substance sold to dealer | Remaining stock |
|---------|--|----------|--|--|-----------------|
| 1. | CFC-11 (CFC1 ₃) | 2903.41 | | | |
| 2. | CFC-12 (CF ₂ Cl ₂) | 2903.42 | | | |
| 3. | HCFC-22 (CHF ₂ Cl) | 2903.49 | | | |
| Total:- | | | | | |

*To be mentioned in Metric Tons

Date:-

Name, address and signature of importer:-

Schedule -3

(Relating to Rule 15)

Details on the Purchase of the
Ozone Depleting Substance by the Dealer and its Sales to the Buyer

To,

The Environment Division

Ministry of Population and Environment

Singhdurbar, Kathmandu, Nepal.

Dealer should mention about the specification, total quantity and type of substance purchased (whether it is newly produced, recycled or recovered?)

Date: From 200..... to 200.....

Name of Dealer (person, firm or enterprise):

| S.N. | Substance | H.S.Code | Type and total quantity* of the substance purchased from importer | Type and quantity* of the substance sold to buyer | Remaining stock |
|---------|--|----------|---|---|-----------------|
| 1. | CFC-11 (CFC1 ₃) | 2903.41 | | | |
| 2. | CFC-12 (CF ₂ Cl ₂) | 2903.42 | | | |
| 3. | HCFC-22 (CHF ₂ Cl) | 2903.49 | | | |
| Total:- | | | | | |

*To be mentioned in Metric Tons

Date:-

Name, address and signature of Dealer:-

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