

Environmental Protection Act
Loi sur la protection de l'environnement

R.R.O. 1990, REGULATION 356

Amended to O. Reg. 851/93

OZONE DEPLETING SUBSTANCES - GENERAL

Notice of Currency:* This document is up to date.

*This notice is usually current to within two business days of accessing this document. For more current amendment information, see the Table of Regulations (Legislative History).

This Regulation is made in English only.

Exemptions

1. (1) Section 58 of the Act and sections 4 and 5 of this Regulation do not apply in respect of the classes of things listed in Schedule 1.
- (2) This Regulation applies only in respect of the ozone depleting substances referred to in section 57 of the Act. R.R.O. 1990, Reg. 356, s. 1.
2. (1) The use, transport, storage and disposal of things containing an ozone depleting substance that acts as a propellant are exempt from section 58 of the Act.
- (2) The display for purposes other than sale or promotion of things containing an ozone depleting substance that acts as a propellant is exempt from section 58 of the Act. R.R.O. 1990, Reg. 356, s. 2.
3. (1) The use, display, transport, storage and disposal of packaging, wrapping and containers that are made in a manner that uses an ozone depleting substance are exempt from section 59 of the Act.
- (2) The transfer of packaging, wrapping and containers that are made in a manner that uses an ozone depleting substance and that are in existence in Ontario on the 30th day of September, 1989 is exempt from section 59 of the Act. R.R.O. 1990, Reg. 356, s. 3.

Pressurized Containers

4. No person shall make a pressurized container that contains an ozone depleting substance unless it contains more than 10 kilograms of the substance. R.R.O. 1990, Reg. 356, s. 4.
5. (1) No person shall transfer a pressurized container that contains an ozone depleting substance unless it contains more than 10 kilograms of the substance.
- (2) Subsection (1) does not prohibit,
 - (a) a transfer not made for profit; or
 - (b) a transfer made before the 31st day of December, 1990 of a container that was in Ontario on the 29th day of August, 1990. R.R.O. 1990, Reg. 356, s. 5.

Flexible Foams

6. (1) No person shall make flexible plastic foam, other than flexible polyurethane foam, in a manner that uses an ozone depleting substance.

(2) Subsection (1) does not prohibit the making of flexible plastic foam for the purposes of research and development. R.R.O. 1990, Reg. 356, s. 6.

7. (1) No person shall transfer flexible plastic foam, other than flexible polyurethane foam, that is made in a manner that uses an ozone depleting substance.

(2) Subsection (1) does not prohibit the transfer of flexible plastic foam if,

(a) the foam was in Ontario before the 29th day of August, 1990;

(b) the foam is at the time of the transfer incorporated into a manufactured product; or

(c) the transfer is for the purposes of research and development. R.R.O. 1990, Reg. 356, s. 7.

8. No person shall use an ozone depleting substance in making flexible polyurethane foam after the 31st day of December, 1993. R.R.O. 1990, Reg. 356, s. 8.

9. No person shall use an ozone depleting substance in making flexible polyurethane foam unless the person used an ozone depleting substance in making flexible polyurethane foam during the period beginning the 1st day of January, 1986 and ending the 29th day of August, 1990. R.R.O. 1990, Reg. 356, s. 9.

10. For the purposes of sections 11 to 14,

(a) a person's reference quantity for flexible polyurethane foam is the total of the weights of each ozone depleting substance used by the person in making flexible polyurethane foam in the person's reference year for flexible polyurethane foam;

(b) a person's reference year for flexible polyurethane foam is the twelve-month period beginning on the earlier of,

(i) the 29th day of August, 1989, and

(ii) the first day after the 31st day of December, 1985 on which the person made flexible polyurethane foam in a manner that uses an ozone depleting substance. R.R.O. 1990, Reg. 356, s. 10.

11. No person shall use a greater total amount by weight of ozone depleting substances in making flexible polyurethane foam during the period beginning the 29th day of August, 1990 and ending the 31st day of December, 1990 than 25 per cent of the person's reference quantity for flexible polyurethane foam. R.R.O. 1990, Reg. 356, s. 11.

12. No person shall use a greater total amount by weight of ozone depleting substances in making flexible polyurethane foam in a year than the amount that results from applying the percentage specified for the year to the person's reference quantity for flexible polyurethane foam:

1991
65%

1992
50%

1993
25%

R.R.O. 1990, Reg. 356, s. 12.

13. For the purposes of calculating a reference quantity under clause 10 (a) and for the purposes of calculating a total amount by weight of ozone depleting substances under sections 11 and 12, the weight of each ozone depleting substance shall be adjusted by multiplying it by the ozone depletion factor specified for the substance in Schedule 2 before a total of ozone depleting substances is taken. R.R.O. 1990, Reg. 356, s. 13.

14. No person shall use an ozone depleting substance in making flexible polyurethane foam after the 30th day of November, 1990 unless the person has submitted to the Director a report, in a form provided for the purpose by the Ministry, stating,

(a) the person's reference year for flexible polyurethane foam;

(b) the amount by weight of each ozone depleting substance used by the person in the reference year in making flexible polyurethane foam; and

(c) the person's reference quantity for flexible polyurethane foam. R.R.O. 1990, Reg. 356, s. 14.

15. A person who uses an ozone depleting substance in making flexible polyurethane foam in any year from 1990 to 1993 shall, by the 31st day of March of the following year, submit to the Director a report, in a form provided for the purpose by the Ministry, stating the amount by weight of each ozone depleting substance used by the person in the year in making the foam. R.R.O. 1990, Reg. 356, s. 15.

16. A person who, during the first ten months of 1990, imports flexible polyurethane foam into Ontario shall submit to the Director a list of the names and addresses of the makers of the foam, by the 30th day of November, 1990. R.R.O. 1990, Reg. 356, s. 16.

17. A person who imports into Ontario, in any year after 1989, flexible polyurethane foam shall, by the 31st day of March of the following year, submit to the Director a report, in a form provided for the purpose by the Ministry, stating the name and address of each source of the foam and the quantity imported from each source. R.R.O. 1990, Reg. 356, s. 17.

18. (1) The Director may give a notice of non-compliance with respect to a person who uses an ozone depleting substance in making flexible polyurethane foam outside Ontario, to any person who imports the foam into Ontario if,

(a) the maker of the foam has not, by the 30th day of November, 1990, submitted to the Director a report in accordance with section 14; or

(b) the Director reasonably believes that the maker has failed to comply with sections 8 to 15.

(2) The Director may rescind a notice of non-compliance given under subsection (1) if,

(a) the maker of the foam submits to the Director, after the 30th day of November, 1990, a report in accordance with section 14; or

(b) the Director is satisfied that he or she erred in believing that the maker failed to comply with sections 8 to 15.

(3) Where a person has received a notice under subsection (1) with respect to a maker of foam and the notice has not been rescinded, the person shall not transfer any flexible polyurethane foam made by the maker that is acquired by the person after receipt of the notice. R.R.O. 1990, Reg. 356, s. 18.

19. A person who did not import into Ontario, before the 29th day of August, 1990, flexible polyurethane foam made in a manner that uses an ozone depleting substance shall not transfer flexible polyurethane foam made in a manner that uses an ozone depleting substance that the person imports into Ontario. R.R.O. 1990, Reg. 356, s. 19.

20. Sections 16 to 19 do not apply in respect of flexible polyurethane foam that is incorporated into a manufactured product. R.R.O. 1990, Reg. 356, s. 20.

Rigid Insulation Foams

21. For the purposes of sections 22 to 33,

"rigid insulation foam" includes a formulation of chemicals designed to become rigid insulation foam when poured or sprayed in place. R.R.O. 1990, Reg. 356, s. 21.

22. (1) No person shall make rigid insulation foam in a manner that uses an ozone depleting substance unless the foam is of a type mentioned in Table 1. R.R.O. 1990, Reg. 356, s. 22 (1); O. Reg. 851/93, s. 1.

(2) Subsection (1) does not prohibit the making of rigid insulation foam for the purposes of research and development. R.R.O. 1990, Reg. 356, s. 22 (2).

23. (1) No person shall transfer rigid insulation foam that is made in a manner that uses an ozone depleting substance unless the foam is of a type mentioned in Table 1. R.R.O. 1990, Reg. 356, s. 23 (1); O. Reg. 851/93, s. 1.

(2) Subsection (1) does not prohibit the transfer of rigid insulation foam if,

(a) the foam was in Ontario on or before the 31st day of December, 1990, so long as the transfer occurs before the 1st day of July, 1991;

(b) the foam is at the time of the transfer incorporated into a manufactured product; or

(c) the transfer is for the purposes of research and development. R.R.O. 1990, Reg. 356, s. 23 (2).

24. (1) No person shall use an ozone depleting substance in making rigid insulation foam of a type mentioned in Table 1 after the 31st day of December, 1993. R.R.O. 1990, Reg. 356, s. 24 (1); O. Reg. 851/93, s. 1.

(2) No person shall use an ozone depleting substance in making rigid insulation foam of a type mentioned in Table 1 unless the person used an ozone depleting substance in making the type of foam during the period beginning the 1st day of January, 1989 and ending the 29th day of August, 1990. R.R.O. 1990, Reg. 356, s. 24 (2); O. Reg. 851/93, s. 1.

25. (1) A person's reference quantity for rigid insulation foam of a type mentioned in Table 1 is the total of the weights of each ozone depleting substance used by the person in making the type of foam in the person's reference year for the type of foam. R.R.O. 1990, Reg. 356, s. 25 (1); O. Reg. 851/93, s. 2 (1).

(2) A person's reference year for rigid insulation foam of a type mentioned in Table 1 is the twelve-month period beginning on the earlier of,

(a) the 29th day of August, 1989; and

(b) the first day in 1989 on which the person made the type of foam in a manner that uses an ozone depleting substance. R.R.O. 1990, Reg. 356, s. 25 (2); O. Reg. 851/93, s. 2 (1).

(3) No person shall use a greater total amount by weight of ozone depleting substances in making a type of rigid insulation foam in a year than the amount that results from applying the percentage specified in Table 1 for the year and type of foam, to the person's reference quantity for the type of foam.

(4) For the purposes of calculating a reference quantity under subsection (1) and for the purposes of calculating a total amount by weight of ozone depleting substances under subsection (3), the weight of each ozone depleting substance shall be adjusted by multiplying it by the ozone depletion factor specified for the substance in Schedule 2 before a total of ozone depleting substances is taken. R.R.O. 1990, Reg. 356, s. 25 (3, 4).

(5) Revoked: O. Reg. 851/93, s. 2 (2).

25.1 Subject to subsection 24 (2) and despite subsections 24 (1) and 25 (3), a person may use an ozone depleting substance in making rigid insulation foam of the type mentioned in item 5 of Table 1 in 1993, 1994 and 1995, if the ratio of the total amount by weight of ozone depleting substances used by the person in the year to the total amount by weight of that type of foam made by the person in the year does not exceed the ratio for the person's reference year. O. Reg. 851/93, s. 3.

26. (1) No maker of rigid insulation foam of the type mentioned in Item 5 of Table 1 that was made in a manner that uses an ozone depleting substance shall transfer the foam without giving notice in writing to the transferee that the foam is to be used only for the insulation of electrical appliances, hot water heaters, refrigerated vehicles or refrigerated mobile equipment.

(2) No person shall transfer rigid insulation foam in respect of which the person received a notice under this section without giving notice in writing to the subsequent transferee that the foam is to be used only for the insulation of electrical appliances, hot water heaters, refrigerated vehicles or refrigerated mobile equipment.

(3) No person shall use or permit the use of rigid insulation foam in a manner inconsistent with a notice given to the person under this section in respect of the foam. R.R.O. 1990, Reg. 356, s. 26.

(4) A reference to an amount or quantity in sections 27, 28 and 30 shall, with respect to rigid insulation foam of the type mentioned in Item 5 of Table 1, be deemed to mean a ratio of the quantity by weight of the ozone depleting substance to the quantity by weight of that type of foam produced by the use of the ozone depleting substance. O. Reg. 476/91, s. 2; O. Reg. 851/93, s. 4.

27. No person shall use an ozone depleting substance in making rigid insulation foam of a type mentioned in Table 1 after the 31st day of December, 1990 unless the person has, by the 30th day of November, 1990, submitted to the Director a report, in a form provided for the purpose by the Ministry, stating,

(a) the person's reference year for the type of foam;

(b) the amount by weight of each ozone depleting substance used by the person in the reference year in making the type of foam; and

(c) the person's reference quantity for the type of foam. R.R.O. 1990, Reg. 356, s. 27; O. Reg. 851/93, s. 1.

28. A person who uses an ozone depleting substance in making rigid insulation foam of a type mentioned in Table 1 in any year after 1989 shall, by the 31st day of March of the following year, submit to the Director a report, on a form provided for the purpose by the Ministry, stating the amount by weight of each ozone depleting substance used by the person in the year in making the type of foam. R.R.O. 1990, Reg. 356, s. 28; O. Reg. 851/93, s. 5.

29. A person who, during the first ten months of 1990, imports into Ontario rigid insulation foam of a type mentioned in Table 1 shall submit to the Director a list of the names and addresses of the makers of the type of foam, by the 30th day of November, 1990. R.R.O. 1990, Reg. 356, s. 29; O. Reg. 851/93, s. 1.

30. A person who imports into Ontario, in any year after 1989, rigid insulation foam of a type mentioned in Table 1 shall, by the 31st day of March of the following year, submit to the Director a report on a form provided for the purpose by the Ministry, stating the name and address of each source and the quantity imported from each source. R.R.O. 1990, Reg. 356, s. 30; O. Reg. 851/93, s. 1.

31. (1) The Director may, after the 31st day of December, 1990, give a notice of non-compliance with respect to a person who makes a type of rigid insulation foam mentioned in Table 1 outside Ontario, to any person who imports the foam into Ontario if,

(a) the maker of the foam has not, by the 30th day of November, 1990 submitted to the Director a report in accordance with section 27 with respect to the type of foam; or

(b) the Director reasonably believes that the maker has failed to comply with sections 24 to 28 with respect to the type of foam. R.R.O. 1990, Reg. 356, s. 31 (1); O. Reg. 851/93, s. 1.

(2) The Director may rescind a notice of non-compliance given under subsection (1) if,

(a) the maker of the foam submits to the Director, after the 30th day of November, 1990, a report in accordance with section 27 with respect to the type of foam; or

(b) the Director is satisfied that he or she erred in believing that the maker failed to comply with sections 24 to 28 with respect to the type of foam. R.R.O. 1990, Reg. 356, s. 31 (2).

(3) Where a person has received a notice under subsection (1) with respect to a maker of a type of rigid insulation foam mentioned in Table 1 and the notice has not been rescinded, the person shall not transfer any foam of that type made by the maker that is acquired by the person after receipt of the notice. R.R.O. 1990, Reg. 356, s. 31 (3); O. Reg. 851/93, s. 1.

32. A person who did not import into Ontario, before the 29th day of August, 1990, rigid insulation foam of a type mentioned in Table 1 made in a manner that uses an ozone depleting substance shall not thereafter transfer that type of foam made in a manner that uses an ozone depleting substance that the person imports into Ontario. R.R.O. 1990, Reg. 356, s. 32; O. Reg. 851/93, s. 1.

33. Sections 26 and 29 to 32 do not apply in respect of rigid insulation foam that is incorporated into a manufactured product. R.R.O. 1990, Reg. 356, s. 33.

TABLE 1

Item

Type of Rigid Insulation Foam

1991

1992

1993

1.

Polyurethane Boardstock

75%

50%

25%

2.

Polyisocyanurate Boardstock

100%

50%

25%

3.

Extruded polystyrene Boardstock

50%

50%

0%

4.

Phenolic Foam Boardstock

75%

50%

25%

5.

Polyurethane to be poured or sprayed in place - for the insulation of electrical appliances, hot water heaters, refrigerated vehicles or refrigerated mobile equipment

100%

100%

100%

6.

Polyurethane to be poured or sprayed in place - other than the type mentioned in Item 5

85%

70%

50%

R.R.O. 1990, Reg. 356, Table 1; O. Reg. 498/92, s. 1.

SCHEDULE 1

1. Bronchial dilators, topical anaesthetics, cytospray and veterinary powder wound sprays.
2. Spermicidal contraceptive foams.
3. Release agents for moulds used in the production of plastics and elastomer materials.
4. Cleaners and solvents for commercial use on electrical or electronic equipment.
5. Protective sprays for application on high quality photographs used in research.
6. Lubricants used in mining.
7. Products used during flight in the maintenance and operation of aircraft.
8. Fire extinguishers.

R.R.O. 1990, Reg. 356, Sched. 1.

SCHEDULE 2

Ozone Depleting Substance
Ozone Depletion Factor

CFC - 11
1.0

CFC - 12
1.0

CFC - 113
0.8

CFC - 114
1.0

CFC - 115
0.6

Halon - 1211
3.0

Halon - 1301
10.0

Halon - 2402
6.0

R.R.O. 1990, Reg. 356, Sched. 2.