

L.I. 1812

**MANAGEMENT OF OZONE DEPLETING SUBSTANCES
AND PRODUCTS REGULATIONS, 2005**

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IN exercise of the powers conferred on the Minister responsible for the Environment by section 28 of the Environmental Protection Agency Act, 1994 (Act 490) and on the advice of the Environmental Protection Board, these Regulations are made this 15th day of April 2005.

Scope of Application of Regulations

1. These Regulations do not apply to imports or exports of controlled substances or products that are intended to be used for medical purposes as may be prescribed by law.

Restrictions on trade

2. (1) A person shall not import or export a controlled substance or product
- (a) listed in Schedules I and IT except in accordance with a permit issued by the Executive Director;
 - (b) listed in Schedule IT on or after the prohibition date specified in the schedule;
 - (c) from or to a country that is not a party to the Montreal Protocol.

(2) A person who imports or exports a controlled substance or product in contravention of sub-regulation (1) commits an offence and is liable on conviction to a fine not exceeding 250 penalty units or to a term of imprisonment not exceeding one year or to both.

Application for a permit

3. (1) An application for a permit to import or export a controlled substance or product under sub-regulation (1)(a) shall be made to the Executive Director and shall be as set out in Form A and B of Schedule m.

(2) The application shall be signed by the applicant but where the applicant is a body corporate, the application shall be signed by an officer of the corporation authorised to do so.

(3) The Executive Director shall inform an applicant of the acceptance or refusal of the application for a permit to import or export a controlled substance or product not later than 30 days after the receipt of the application.

Issue of permit

4. (1) Where the Executive Director is satisfied that the applicant has adequate and appropriate facilities and equipment to handle a controlled substance or product without causing damage to the environment, the Executive Director shall issue the permit.

(2) A permit for export issued under sub-regulation (1) shall be as set out in Form C of Schedule m.

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Conditions of permit

5. (1) A permit issued by the Executive Director shall be subject to such conditions as may be specified in the permit or as the Executive Director may determine.

(2) Without prejudice to sub-regulation (1) a permit issued under this Regulations shall entitle only the permit holder to import or export a controlled substance or product through the customs port of entry and exit designated in Schedule IV.

(3) The permit holder shall provide a copy of the permit to a customs officer at the designated port of entry and exit.

Non-transferability of permit

6. A permit issued under this Regulation is not transferable except with the prior written approval of the Executive Director.

Duration and renewal of permit

7. (1) A permit issued under this Regulation shall cover a single importation.

(2) The Executive Director may, when renewing a permit vary the conditions attached to the permit and impose additional conditions.

Complaints by aggrieved persons

8. (1) A person aggrieved by a decision or action of the Agency may submit a complaint in writing to the Minister.

(2) The complaint shall be submitted to the Minister within 30 days of the complainant becoming aware of the decision or action to which the complaint relates.

(3) The complainant shall

(a) state the issues objected to:

(b) have attached a copy of the decision objected to; and

(c) have attached all documents relevant for considering and determining the complaint.

(4) The Minister shall within 14 days of receipt of a complaint appoint a panel composed of

(a) representatives from the following

(i) the Ministry of the Environment not below the rank of a Director;

(ii) the Attorney-General's Department not below the rank of a Senior State Attorney;

(iii) the Ministry with responsibility for the undertaking; and

(b) two persons with specialisation in the relevant field of the undertaking concerned. .

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(5) The Minister shall refer the complaint to the panel, which shall give a fair hearing to all parties and determine the issue as it considers appropriate.

(6) The panel after hearing all parties may

(a) uphold the decision of the Agency;

(b) alter the decision of the Agency;

(c) request the Agency to re-examine the application where applicable within a specified period; or

(d) give any other directives as it considers just.

(7) A panel appointed under this regulation shall determine the matter and report to the Minister within 60 days from the date of reference of any matter by the Minister to it.

(8) The proceedings of the panel shall be fully documented together with reasons for the panel's decision.

(9) The panel shall cause copies of the decision and proceedings to be sent

to (a) the Agency;

(b) the relevant Ministry; and

(c) the complainant

Register of permits

9. There shall be a register known as the Register of Permits in which shall be recorded by the Executive Director the names of all holders of permits issued under these Regulations.

Reporting Procedures

10. (1) The holder of a permit under these Regulations shall submit to the Executive

Director an annual report containing the information specified in Schedule V.

(2) Where special reporting procedures are made the condition of a permit issued under these Regulations, those procedures shall take precedence over the submission of the annual reports as required by sub-regulation (1).

(3) Where a person who submits a report requests that the information contained in the report be treated as confidential, the person shall include the reasons for that request in the report.

PART II--MISCELLANEOUS**Manufacturing of goods containing or designed to use a controlled substance**

11. (1) A person shall not manufacture goods that contain or is designed to use a controlled substance specified in Schedule II on or after the date of prohibition indicated in the Schedule.

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(2) A person who contravenes subregulation (1) commits an offence and is liable on conviction to a fine not exceeding 250 penalty units or to a term of imprisonment not exceeding one year or to both.

End-user Declaration

12. (1) A person who buys or receives a controlled substance or product shall sign the end-user declaration form as set out in Schedule VI.

(2) An end-user who sells or otherwise supplies or uses a controlled substance or product for a purpose other than the purpose declared in the end-user declaration, or sells or otherwise supplies a controlled substance or product to any other person commits an offence.

Duty to maintain records

13. A person who imports, exports, distributes or sells a controlled substance or product shall

- (a) maintain records containing the applicable information in Schedule VII; and
- (b) submit the records referred to in paragraph (a) to the Executive Director, every six months from the commencement of the activity.

Customs verification and labelling

14. (1) A person who imports or exports any goods into or from Ghana, shall, on request by a Customs Officer, tender the goods to the officer for verification as to whether they contain or are made with or designed to use a controlled substance.

(2) A person who imports, exports or sells any controlled substance or product shall cause the container to have conspicuous label bearing

- (a) the name of the controlled substance or product;
- (b) the name and address of the manufacturer, and the country of origin of the controlled substance or product;
- (c) the following statement in clearly legible letters

**"THIS SUBSTANCE/PRODUCT IS HARMFUL TO THE
OZONE LAYER",** and

- (d) a symbol indicating that the substance or product is harmful to the ozone layer.

Public awareness and training

15. (1) The Agency shall carry out public awareness activities and programmes relating to the elimination of ozone depleting substances and products.

(2) The Executive Director shall, once in each year, publish in the mass media and at the offices of the Agency, a list of controlled substances and products and persons permitted to import or manufacture controlled substances and products.

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Taxation

16. The Minister may recommend to the Minister responsible for Finance, that

- (a) tax exemptions be granted to importers of ozone friendly substances and products specified by the Minister;
- (b) pollution tax be levied on importers of controlled substances and products specified by the Minister.

Powers of Environmental Inspector

17. An Environmental Inspector appointed under section 15 of the Environmental Protection Agency Act, 1994 (Act 490) may, in the course of his or her duties, seize any equipment or any thing which the Inspector believes is a controlled product or contains a controlled substance.

Delegation of powers and functions

18. The Executive Director may delegate in writing, any of the functions and powers conferred on the Executive Director by these Regulations to any officer of the Agency.

Offences and penalties

19. (1) Any person who

- (a) fails or neglects to report data to the Executive Director contrary to regulation 10;
- (b) provides false or misleading information or neglects to keep records contrary to regulation 12 and 13; and
- (c) contravenes any other provision of these Regulations commits an offence and is liable, on conviction, to a fine of not less than 250 penalty units or to a term of imprisonment not exceeding one year or to both.

(2) A court convicting a person for an offence under these Regulations may in addition to the penalty prescribed in sub-regulation (1)

- (a) order that the permit be revoked;
- (b) order that the controlled substance or product, which is the subject of the offence, be confiscated, and direct the manner in which it should be disposed of at the cost of the importer; and
- (c) order that the controlled substance or product be re-exported to the country of origin at the cost of the importer.

Interpretation

20. In these Regulations, unless the context otherwise requires "Agency" means the Environmental Protection Agency;

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- "(CFC)" means a fully halogenated chlorofluorocarbon of which contains one, two or three carbon atoms;
- "**controlled product**" means a product that contains, is made up with or is dependent on, or designed to contain a controlled substance and includes the products in Schedule I;
- "**controlled substance**" means a substance specified in schedule II, whether existing alone or in a mixture, and includes that substance when reclaimed, recycled or recovered unless otherwise indicated;
- "**end-user**" means any person who purchases, receives or manages a controlled substance or product;
- "**Executive Director**" means the Executive Director of the Agency;
- "**mass media**" means publicly exhibited posters, newspapers, radio, television or other electronic media used for public communication;
- "**Minister**" means the Minister responsible for the Environment;
- "**Ozone**" means the natural gas O₃ that is found in the stratosphere;
- "**Ozone Layer**" means the layer of the atmospheric ozone the plenary boundary as defined in the Vienna Convention for the Protection of the Ozone Layer;
- "**party**" means a party to the Montreal Protocol, or any State not party to the Protocol but that State is determined, by a Meeting of the Parties, to be in full compliance with Article 2, 2A to 2E and 4 of the Protocol and has submitted data to that effect in accordance with Article 7 of the Protocol;
- "**Protocol**" means the Montreal Protocol on Substances that Deplete the Ozone Layer adopted in 1987, as amended from time to time;
- "**reclaimed**" in respect of a controlled substance, means recovered, re-processed and up-graded through a process such as filtering, drying, distillation and chemical treatment in order to restore the controlled substance to industry-accepted re-use standards;
- "**recovered**" in respect of a controlled substance means
- (a) collected after it has been used; or
 - (b) collected from machinery, equipment or a container during servicing or before the disposal of the machinery equipment or container;
- "**recycled**" in respect of a controlled substance, means recovered, cleaned by a process such as filtering, drying and re-used, including re-used to recharge equipment.

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SCHEDULE I

CONTROLLED PRODUCTS*

(Regulation 2(1))

1. Automobile and truck containing units (whether incorporated in vehicles or not).
2. Domestic and commercial refrigeration and air-conditioning, heat pump equipment when containing controlled substances as a refrigerant or in insulating material of the product. These include
 - Refrigerators
 - Freezers
 - Dehumidifiers
 - Water Coolers
 - Ice Machines
 - Air-conditioning and heat pump units
3. Aerosol products, except medical aerosols
4. Fire extinguishers
5. Insulation boards, panels and pipe covers
6. Pre-polymers

* This does not include products when transported in consignments of personal or household effects or in similar non-commercial situations normally exempted from customs attention.

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SCHEDULE II

CONTROLLED SUBSTANCES AND PROHIBITION DATES

(Regulation 2(1))

Item	Controlled Substance	Date of Prohibition Of Import/Export
1.	Hydrobromofluorocarbons (HBFCs)	Jan 1, 2002
2.	Chlorofluorocarbons (CFCs) CFC-11 CFC-113 CFC-12 CFC-114 CFC-114	Jan 1,2010
3.	Halons halon 1211 halon 1301 halon 2402	Jan 1, 2010
4.	Other fully halogenated Chlorofluorocarbons (CFCs).. CFC-13 CFC- 211 CFC-212 CFC-111 CFC-213 CFC-214 CFC-112 CFC-215 CFC-216 CFC-217	Jan 1,2010.
5.	Carbon tetrachloride	Jan 1,2010
6.	1,1,1,trichloroethane (methyl chloroform)	Jan 1,2015
7.	Hydrochlorofluorocarbons (HCFCs)	Jan 1,2040
8.	Methyl bromide	Jan 1,2015

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SCHEDULE III FORM A

**APPLICATION FOR A PERMIT TO IMPORT A CONTROLLED
SUBSTANCE/PRODUCT₁**

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(Regulation 3(1))

FOR OFFICE USE ONLY

APPLICATION	
FILE NUMBER	

APPLICATION DATA

Name of Company	
Postal Address	
Location/Residential Address	
Region	
Town/City	
Location of Warehouse	
Area	
Street (Nearest)	
House Number	
Telephone Number	
Facsimile Number	
E-mail	

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LIST OF CHEMICALS

No	Chemical Name & Trade Name in Brackets	MSDS Provided (Yes or No)	Quantity (Kg/lt/Mt)	End Use
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23.				
24.				
25.				

MSDS = Material Safety Data Sheet

We hereby declare the above particulars to be true

Dated the.....Day of20.....

NAME

SIGNATURE

STAMP.....

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FORM B

APPLICATION FOR A PERMIT TO IMPORT A CONTROLLED

SUBSTANCE/PRODUCT

(Regulation 3(1))

A: Information concerning the importer

1. Name or trade name of importer.....
2. (a) Address:
- (b) Telephone No:
- (c) Fax No:.....
- (d) E-mail address.....
3. "Number of import trade license and date obtained:.....
4. Name of person authorized to act on behalf of importer (where applicable):
.....
- (a) Designation:
- (b) Telephone No:.....
- (c) Fax No.:.....
- (d) E-mail address:.....
5. Controlled substance/product to be imported:
-
-
6. Customs tariff number and trade of controlled substance/product
.....

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7. Condition of origin of controlled substance/product.....
8. Name and address of manufacturer.
.....
9. Condition of controlled substance/product (tick whichever is applicable)
(a) new/virgin (b) already used/reconditioned (c) recycled/reclaimed
10. Quantity to be imported:.....
11. Request for confidentiality of information,(tick)
- Yes No
- Reasons
12. Purpose and use of controlled substance/product to be imported:..
.....
13. Handling procedures and storage plans including safety precautions to be observed by the importer:.....
.....
.....
14. Port of entry:
15. Mode of transport and intended carrier.....

B. Information concerning the recipient

1. Name or trade name of the recipient
2. Full address of recipient.....
3. Country to which substance/product is consigned:
4. Country (ies) of transit if applicable).....

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5. Facilities where controlled substance/product is to be used/recycled/de-
stroyed:

.....
.....

I declare that, the information stated in this application is correct.
I undertake to observe the conditions under which this permit is issued.

.....
Date

.....
Signature

C. FOR OFFICIAL USE ONLY

1. Application receive on:.....

2. Application approved/rejected:

3. Conditions of approval/reasons for rejection:.....
.....
.....

.....
Date

.....
Executive Director

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SCHEDULE III

FORM C PERMIT TO EXPORT A CONTROLLED
SUBSTANCE/PRODUCT (*Regulation 4(2)*)

Permit No./EPA/OC/.

Name:

Address:

You are hereby licensed to export from/import to.....

(Country)

to..... :

(Country)

the following controlled substances/products

1.....,

2.....

3.....

This permit is valid from.....20.....to.....20.....

This permit is granted subject to the following conditions:

1.

2.

3.

4.

Date:

.....

Executive Director
Environmental Protection Agency

To be filled in triplicate

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SCHEDULE IV

DESIGNATED PORTS OF ENTRY AND EXIT

(Regulation 5(2))

1. Tema
2. Elubo
3. Takoradi
4. Aflo
5. Kotoka International Airport

.....

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SCHEDULE V

**ANNUAL REPORTING FORMAT FOR CONTROLLED
SUBSTANCES AND PRODUCTS**

Regulation 10(1)

1. Name of Company
2. Full Address.....
Tel. No Fax No..... Email:
3. Name/Title of Contact Person
4. Type of business (Please circle)
(a) Retail (b) Manufacture (c) Service (d) Export
(e), Import (f) Other (Please state)

-
5. Please indicate which of the under-listed chemicals are imported and/or purchased locally (as applicable) by your Company. Fill the table below.

Chemical	Quantity Imported	Quantity Purchased Locally	Quantity Distributed Or Sold	Quantity in Stock
CFC-11				
CFC-12				
CFC-113				
CFC-114				
CFC-115				
CFC-500				
CFC-502				
HCFC-22				
Halon 1301				
Halon 1211				
Carbon Tetrachloride				
Methyl Bromide				
Methyl Chloroform				
HFC-134a				
HFC-404A				
HFC-507 A				

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6. Source of the above chemical used by your company:

(i) If imported, state origin/name/address of company;

.....
.....

(ii) If purchased locally, state name/address of company):

.....
.....

(iii) Other sources different from (i) & (ii), state name & address of
Company

.....
.....

1

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SCHEDULE VI

. DECLARATION BY END-USER OF CONTROLLED
SUBSTANCES/PRODUCTS

(Regulation 12(1))

I. Information concerning the vendor/supplier

Name of vendor/supplier:

.....

Address:

II. Information concerning the end-user

Name of end-user:

Address:

Name of controlled substance/product:

.....

End-use category/purpose:

.....

III. Declaration

I undertake not to sell or otherwise supply any quantity of the controlled substance/
product received by me to any person.

I further undertake not to use any quantity of the controlled substance/product
received for a purpose not set out in this declaration.

I declare that the information stated in this declaration form is correct.

.....

Date

.....

Signature

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SCHEDULE VII

**RECORDS TO BE MAINTAINED FOR CONTROLLED
SUBSTANCES AND PRODUCTS**

1

(Regulation 13(a))

I. Information relating to exports

Dated records of

- (a) the actual quantity of each controlled substance/product exported in each shipment;
- (b) the port through which the controlled substance/product was exported;
- (c) the purpose for which the controlled substance/product was exported and the name and address of the recipient;
- (d) the purpose for which the controlled substance/product was exported.

II. Information relating to imports

1. Dated records of

- (a) the actual quantity of each controlled substance/product imported in each shipment;
- (b) the port through which the controlled substance/product was imported;
- (c) the party from which the control substance/product was imported and the name and address of the supplier; and
- (d) the import number for the consignments of the controlled substance/product imported.

Copies of the bill offloading, the invoice and documents submitted to the

2. CEPS for each consignment.

III. Information relating to distribution, sale and use.

Dated records of

- (a) the actual quantity of each controlled substance/product purchased from a Ghanaian supplier, wholesaler or distributor;

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- (b) the actual quantity of each controlled substance/product used and the end use category or purpose;
- (c) the actual quantity of each controlled substance/product sold and the names and addresses of the end-users as set out in the declaration form in the Sixth Schedule and duly signed by the end-user.

HON. CHRISTINE CHURCHER
Minister Responsible For Environment And Science

Date of *Gazette* notification: 29th April 2005.

Entry into force: 30th June 2005.