

【Title】 Regulation on the Administration of Ozone Depleting Substances[现行有效]
【法规标题】 消耗臭氧层物质管理条例 [Effective]

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中华人民共和国国务院令
(第 573 号)

Order of the State Council of the People's Republic of China
(No.573)
The Regulation on the Administration of Ozone Depleting Substances, which was adopted at the 104th executive meeting of the State Council on March 24, 2010, is hereby promulgated, and shall come into force on June 1, 2010.
Premier: Wen Jiabao
April 8, 2010
Regulation on the Administration of Ozone Depleting Substances

《消耗臭氧层物质管理条例》已经 2010 年 3 月 24 日国务院第 104 次常务会议通过, 现予公布, 自 2010 年 6 月 1 日起施行。

总 理 温家宝
二〇一〇年四月八日

消耗臭氧层物质管理条例

Chapter I General Provisions

第一章 总则

Article 1 To strengthen the administration of ozone depleting substances, fulfill the obligations of the [Vienna Convention for the Protection of the Ozone Layer](#) and the [Montreal Protocol on Substances that Deplete the Ozone Layer](#), protect the ozone layer and eco-environment, and maintain people's health, this Regulation is formulated pursuant to the [Air Pollution Prevention and Control Law of the People's Republic of China](#).

第一条 为了加强对消耗臭氧层物质的管理, 履行《[保护臭氧层维也纳公约](#)》和《[关于消耗臭氧层物质的蒙特利尔议定书](#)》规定的义务, 保护臭氧层和生态环境, 保障人体健康, 根据《[中华人民共和国大气污染防治法](#)》, 制定本条例。

Article 2 The term “ozone depleting substances” as mentioned in this Regulation refers to chemicals which damage the ozone layer and are in the Checklist of Ozone Depleting Substances under National Control. The Checklist of Ozone Depleting Substances under National Control shall be made, adjusted and published by the environmental protection department under the State Council together with other competent departments under the State Council.

第二条 本条例所称消耗臭氧层物质, 是指对臭氧层有破坏作用并列入《中国受控消耗臭氧层物质清单》的化学品。

《中国受控消耗臭氧层物质清单》由国务院环境保护主管部门会同国务院有关部门制定、调整和公布。

Article 3 This Regulation shall apply to the production, sales, consumption and import/export of ozone depleting substances inside the People's Republic of China.

第三条 在中华人民共和国境内从事消耗臭氧层物质的生产、销售、使用和进出口等活动, 适用本条例。

The term “production” as mentioned in the preceding paragraph refers to the producing activities of ozone depleting substances. The term “consumption” as mentioned in the preceding paragraph refers to the use

前款所称生产, 是指制造消耗臭氧层物质的活动。前款所称使用, 是指利用消耗臭氧层物质进行的生产经营等活动,

of ozone depleting substances for productions and business operations, excluding the use of products containing ozone depleting substances.

Article 4 The environmental protection department under the State Council is in charge of the supervision and administration of ozone depleting substances around the whole nation.

The commerce department under the State Council, the General Administration of Customs and other relevant departments shall, under this Regulation, take charge of the supervision and administration of ozone depleting substances within their respective scope of functions and duties.

The environmental protection departments and commerce departments of the local people's governments at or above the county level shall, under this Regulation, take charge of the supervision and administration of ozone depleting substances in their respective administrative regions within their respective scope of functions and duties.

Article 5 The state will gradually reduce ozone depleting substances used as refrigerants, foaming agents, extinguishing agents, solvents, detergents, processing agents, pesticides, aerosols and expansion agents till they are finally eliminated.

The environmental protection department under the State Council shall, together with other relevant departments under the State Council, draft a National Plan for Gradually Eliminating Ozone Depleting Substances (hereinafter referred to as the National Plan) and implement it upon the approval of the State Council.

Article 6 The environmental protection department under the State Council shall, together with other relevant departments under the State Council, based on the National Plan and the elimination progress of ozone depleting substances, determine and publish a category of construction projects producing or consuming ozone depleting substances whose building, rebuilding or expansion is restricted or prohibited, and make and publish a category of ozone depleting substances whose production, consumption or import/export is restricted or prohibited. Any party that needs to produce or consume for special purposes any ozone depleting substances whose production or consumption is prohibited under the preceding paragraph shall submit an application to the environmental protection department under the State Council and other relevant departments under the State Council for approval pursuant to the special purpose provisions of the [Montreal Protocol on Substances that Deplete the Ozone Layer](#).

Article 7 The state exercises total quantity control and quota management to the production, consumption and import/export of ozone depleting substances. The environmental protection department under the State

does not include the use of products containing ozone depleting substances.

Article 4 The State Environmental Protection Administration is uniformly responsible for the supervision and administration of ozone depleting substances nationwide.

The State Administration of Commerce, the General Administration of Customs and other relevant departments shall, in accordance with the provisions of this Regulation and their respective responsibilities, be responsible for the supervision and administration of ozone depleting substances.

At the county level and above, the environmental protection departments and commerce departments of the local people's governments shall, in accordance with the provisions of this Regulation and their respective responsibilities, be responsible for the supervision and administration of ozone depleting substances within their respective administrative regions.

Article 5 The state will gradually reduce and eventually eliminate as refrigerants, foaming agents, fire extinguishers, solvents, cleaning agents, processing aids, pesticides, aerosols, expansion agents and other uses of ozone depleting substances.

The State Environmental Protection Administration shall, in conjunction with the State Administration of Commerce, draft a National Plan for Gradually Eliminating Ozone Depleting Substances (hereinafter referred to as the National Plan), and implement it upon the approval of the State Council.

Article 6 The State Environmental Protection Administration shall, in accordance with the National Plan and the progress of the elimination of ozone depleting substances, determine and publish a category of construction projects producing or consuming ozone depleting substances whose building, rebuilding or expansion is restricted or prohibited, and make and publish a category of ozone depleting substances whose production, consumption or import/export is restricted or prohibited. Any party that needs to produce or consume for special purposes any ozone depleting substances whose production or consumption is prohibited under the preceding paragraph shall submit an application to the environmental protection department under the State Council and other relevant departments under the State Council for approval pursuant to the special purpose provisions of the [Montreal Protocol on Substances that Deplete the Ozone Layer](#).

Article 7 The state exercises total quantity control and quota management to the production, consumption and import/export of ozone depleting substances. The State Environmental Protection Administration shall, in accordance with the provisions of this Regulation and its respective responsibilities, be responsible for the supervision and administration of ozone depleting substances.

Council shall, based on the National Plan and the elimination progress of ozone depleting substances, decide and announce the national annual production, consumption and import/export quota of ozone depleting substances together with other relevant departments under the State Council

Article 8 The state encourages and supports the scientific research, technological development, promotion and application of substitutes and substitution technologies of ozone depleting substances.

The environmental protection department under the State Council shall, together with other relevant departments under the State Council, make, adjust and publish the National Catalogue of Recommended Substitutes for Ozone Depleting Substances.

The development, production and consumption of the substitutes for ozone depleting substances shall conform to the national industrial policies, and enjoy preferential policies according to the relevant state provisions. The state will give rewards to entities and individuals that make extraordinary achievements in the elimination of ozone depleting substances.

Article 9 Entities and individuals have the right to report violations of this Regulation to the environmental protection departments or other relevant departments of the local people's governments at or above the county level. These departments shall, immediately after receiving tip-offs, investigate and handle them, keep confidential the tipsters' information, and give rewards to them if the reported violations are verified as true.

Chapter II Production, Distribution and Consumption

Article 10 Entities producing or consuming ozone depleting substances shall obtain a production or consumption quota permit under this Regulation. However, if a consumer is under any of the following circumstances, it is not required to get a consumption quota permit:

1. A maintenance entity needs to use ozone depleting substances to maintain the cooling devices, cooling systems or extinguishing systems;
2. A lab needs to use a small quantity of ozone depleting substances for experimental analysis;
3. An entry/exit inspection and quarantine body needs to use ozone depleting substances for quarantine purposes to prevent the entry or exit of harmful organisms; or
4. Any other circumstances under which the party concerned is not required to get a consumption quota permit as specified by the environmental protection department under the State Council.

方案和消耗臭氧层物质淘汰进展情况，商国务院有关部门确定国家消耗臭氧层物质的年度生产、使用和进出口配额总量，并予以公告。

第八条 国家鼓励、支持消耗臭氧层物质替代品和替代技术的科学研究、技术开发和推广应用。

国务院环境保护主管部门会同国务院有关部门制定、调整和公布《中国消耗臭氧层物质替代品推荐名录》。

开发、生产、使用消耗臭氧层物质替代品，应当符合国家产业政策，并按照国家有关规定享受优惠政策。国家对在消耗臭氧层物质淘汰工作中做出突出成绩的单位和个人给予奖励。

第九条 任何单位和个人对违反本条例规定的行为，有权向县级以上人民政府环境保护主管部门或者其他有关部门举报。接到举报的部门应当及时调查处理，并为举报人保密；经调查情况属实的，对举报人给予奖励。

第二章 生产、销售和使用

第十条 消耗臭氧层物质的生产、使用单位，应当依照本条例的规定申请领取生产或者使用配额许可证。但是，使用单位有下列情形之一的，不需要申请领取使用配额许可证：

（一）维修单位为了维修制冷设备、制冷系统或者灭火系统使用消耗臭氧层物质的；

（二）实验室为了实验分析少量使用消耗臭氧层物质的；

（三）出入境检验检疫机构为了防止有害生物传入传出使用消耗臭氧层物质实施检疫的；

（四）国务院环境保护主管部门规定的不需要申请领取使用配额许可证的其他情形。

Article 11 Entities producing or consuming ozone depleting substances shall meet the conditions prescribed by laws and administrative regulations and also:

1. Have made achievements in the legal production or consumption of the ozone depleting substances in question;
2. Have sites, facilities, equipment and professional technicians for the production or consumption of the ozone depleting substances in question;
3. Have environmental protection devices that pass the check of the competent environmental protection department; and
4. Have sound management rules for production and business operations.

Item 1 of the preceding paragraph is not applicable to entities which use ozone depleting substances for the special purposes as mentioned in Article 6 of this Regulation.

Article 12 An entity producing or consuming ozone depleting substances shall submit a written application to the environmental protection department under the State Council for the production or consumption quota of the next year before October 31 of each year, and submit evidentiary materials to prove that it meets the conditions prescribed in Article 11 of this Regulation.

The environmental protection department under the State Council shall, based on the annual total quota of the state for the production or consumption of ozone depleting substances and the applicant's achievements made in the production or consumption of the ozone depleting substances in question, decide the applicant's production or consumption quota of the next year, and finish the examination before December 20 of each year. If the applicant meets the prescribed conditions, it shall issue a production or consumption quota permit for the next year to the applicant, publish an announcement and make a copy to other relevant departments under the State Council and the environmental protection department of the people's government of the province, autonomous region or municipality directly under the Central Government at the locality of the applicant; if not, it shall notify the applicant in writing and give reasons.

Article 13 A production or consumption quota permit shall contain:

1. The name, address, legal representative or person in charge of the producer or consumer;
2. The variety, use and quantity of the ozone depleting substances permitted to be used or consumed;
3. Term of validity; and
4. The organ issuing the permit, the date of issuance, and the serial number of the permit.

第十一条 消耗臭氧层物质的生产、使用单位除具备法律、行政法规规定的条件外，还应当具备下列条件：

（一）有合法生产或者使用相应消耗臭氧层物质的业绩；

（二）有生产或者使用相应消耗臭氧层物质的场所、设施、设备和专业技术人员；

（三）有经环境保护主管部门验收合格的环境保护设施；

（四）有健全完善的生产经营管理制度。

将消耗臭氧层物质用于本条例第六条规定的特殊用途的单位，不适用前款第

（一）项的规定。

第十二条 消耗臭氧层物质的生产、使用单位应当于每年 10 月 31 日前向国务院环境保护主管部门书面申请下一年度的生产配额或者使用配额，并提交其符合本条例第十一条规定条件的证明材料。国务院环境保护主管部门根据国家消耗臭氧层物质的年度生产、使用配额总量和申请单位生产、使用相应消耗臭氧层物质的业绩情况，核定申请单位下一年度的生产配额或者使用配额，并于每年 12 月 20 日前完成审查，符合条件的，核发下一年度的生产或者使用配额许可证，予以公告，并抄送国务院有关部门和申请单位所在地省、自治区、直辖市人民政府环境保护主管部门；不符合条件的，书面通知申请单位并说明理由。

第十三条 消耗臭氧层物质的生产或者使用配额许可证应当载明下列内容：

（一）生产或者使用单位的名称、地址、法定代表人或者负责人；

（二）准予生产或者使用的消耗臭氧层物质的品种、用途及其数量；

（三）有效期限；

（四）发证机关、发证日期和证书编号。

Article 14 Where an entity producing or using ozone depleting substances needs to adjust its quota, it shall apply to the environmental protection department under the State Council for handling the change of quota. The environmental protection department under the State Council shall examine the application according to the conditions and basis prescribed in Articles 11 and 12 of this Regulation and finish examination within 20 workdays after accepting the application. If the applicant meets the prescribed conditions, it shall adjust the applicant's quota and make an announcement thereon; if not, it shall notify the applicant in writing and give reasons.

Article 15 A producer of ozone depleting substances may not produce ozone depleting substances beyond the variety, quantity or term indicated in its production quota permit, or produce or sell ozone depleting substances beyond the uses indicated in its production quota permit. It is prohibited to produce ozone depleting substances without a production quota permit.

Article 16 An entity which has obtained a consumption quota permit under this Regulation may not use ozone depleting substances beyond the variety, uses, quantity and term indicated in its consumption quota permit. Except for the circumstances under which a consumption quota permit is not required as prescribed in Article 10 of this Regulation, it is prohibited to consume ozone depleting substances without a consumption quota permit.

Article 17 An entity which sells ozone depleting substances shall go through the archive-filing formalities as required by the environmental protection department under the State Council. The environmental protection department under the State Council shall make an announcement on sales entities of ozone depleting substances which have gone through the archive-filing formalities.

Article 18 Unless for import/export under this Regulation, ozone depleting substances can only be purchased or sold between entities producing, selling or consuming ozone depleting substances which meet the prescribed conditions of this Regulation.

Article 19 Entities engaging in the maintenance and discard of the cooling devices, cooling systems or extinguishing systems which contain ozone depleting substances shall go through the archive-filing formalities at the environmental protection departments of the local people's governments at or above the county level. Entities that engage in the recycling, reutilization or destruction of ozone

第十四条 消耗臭氧层物质的生产、使用单位需要调整其配额的，应当向国务院环境保护主管部门申请办理配额变更手续。国务院环境保护主管部门应当依照本条例第十一条、第十二条规定的条件和依据进行审查，并在受理申请之日起 20 个工作日内完成审查，符合条件的，对申请单位的配额进行调整，并予以公告；不符合条件的，书面通知申请单位并说明理由。

第十五条 消耗臭氧层物质的生产单位不得超出生产配额许可证规定的品种、数量、期限生产消耗臭氧层物质，不得超出生产配额许可证规定的用途生产、销售消耗臭氧层物质。禁止无生产配额许可证生产消耗臭氧层物质。

第十六条 依照本条例规定领取使用配额许可证的单位，不得超出使用配额许可证规定的品种、用途、数量、期限使用消耗臭氧层物质。除本条例第十条规定的不需要申请领取使用配额许可证的情形外，禁止无使用配额许可证使用消耗臭氧层物质。

第十七条 消耗臭氧层物质的销售单位，应当按照国务院环境保护主管部门的规定办理备案手续。国务院环境保护主管部门应当将备案的消耗臭氧层物质销售单位的名单进行公告。

第十八条 除依照本条例规定进出口外，消耗臭氧层物质的购买和销售行为只能在符合本条例规定的消耗臭氧层物质的生产、销售和使用单位之间进行。

第十九条 从事含消耗臭氧层物质的制冷设备、制冷系统或者灭火系统的维修、报废处理等经营活动的单位，应当向所在地县级人民政府环境保护主管部门备案。专门从事消耗臭氧层物质回收、再生利

depleting substances shall go through the archive-filing formalities at the environmental protection departments of the people's governments of provinces, autonomous regions or municipalities directly under the Central Government at the places where they are located.

Article 20 Entities producing or consuming ozone depleting substances shall take necessary measures as required by the environmental protection department under the State Council to prevent or reduce the leakage or discharge of ozone depleting substances.

Entities engaging in the maintenance and discard of the cooling devices, cooling systems or extinguishing systems which contain ozone depleting substances shall recycle or reutilize ozone depleting substances or hire entities engaging in the recycling, reutilization or destruction of ozone depleting substances for the harmless treatment of ozone depleting substances according to the provisions of the environmental protection department under the State Council.

Entities engaging in the recycling, reutilization or destruction of ozone depleting substances shall subject ozone depleting substances to harmless treatment according to the provisions of the environmental protection department under the State Council, and may not directly discharge them to the air.

Article 21 Entities engaging in the production, sales, consumption, recycling, reutilization or destruction of ozone depleting substances and entities engaging in the maintenance or discard of the cooling devices, cooling systems or extinguishing systems which contain ozone depleting substances shall keep integrity of the source materials about their production and operation activities for at least three years, and file the relevant data according to the requirements of the environmental protection department under the State Council.

Chapter III Import and Export

Article 22 The state exercises control over the import and export of ozone depleting substances, and subjects them to directory management. The environmental protection department under the State Council shall, together with the commerce department under the State Council and the General Administration of Customs, make, adjust and publish the Directory of Ozone Depleting Substances Whose Import and Export Are under National Control.

An entity importing or exporting ozone depleting substances which is listed in the Directory of Ozone Depleting Substances Whose Import and Export Are under National Control shall apply to the national ozone depleting substance import/export administration for an import/export quota, obtain an import/export examination and approval form, and submit

用或者销毁等经营活动的单位，应当向所在地省、自治区、直辖市人民政府环境保护主管部门备案。

第二十条 消耗臭氧层物质的生产、使用单位，应当按照国务院环境保护主管部门的规定采取必要的措施，防止或者减少消耗臭氧层物质的泄漏和排放。

从事含消耗臭氧层物质的制冷设备、制冷系统或者灭火系统的维修、报废处理等经营活动的单位，应当按照国务院环境保护主管部门的规定对消耗臭氧层物质进行回收、循环利用或者交由从事消耗臭氧层物质回收、再生利用、销毁等经营活动的单位进行无害化处置。

从事消耗臭氧层物质回收、再生利用、销毁等经营活动的单位，应当按照国务院环境保护主管部门的规定对消耗臭氧层物质进行无害化处置，不得直接排放。

第二十一条 从事消耗臭氧层物质的生产、销售、使用、回收、再生利用、销毁等经营活动的单位，以及从事含消耗臭氧层物质的制冷设备、制冷系统或者灭火系统的维修、报废处理等经营活动的单位，应当完整保存有关生产经营活动的原始资料至少 3 年，并按照国务院环境保护主管部门的规定报送相关数据。

第三章 进出口

第二十二条 国家对进出口消耗臭氧层物质予以控制，并实行名录管理。国务院环境保护主管部门会同国务院商务主管部门、海关总署制定、调整和公布《中国进出口受控消耗臭氧层物质名录》。进出口列入《中国进出口受控消耗臭氧层物质名录》的消耗臭氧层物质的单位，应当依照本条例的规定向国家消耗臭氧层物质进出口管理机构申请进出口配额，领取进出口审批单，并提交拟进出口的消耗臭氧层物质的品种、数量、来源、用途等情况的材料。

materials about the variety, quantity, source and uses of the ozone depleting substances to be imported/exported.

Article 23 The national ozone depleting substance import/export administration shall, within 20 workdays after accepting an application, finish examination and make a decision of approval or disapproval. In the case of approval, it shall issue an import/export examination and approval form to the applicant; in the case of disapproval, it shall notify the applicant in writing and give reasons.

An import/export examination and approval form shall be valid for at most 90 days, and can be used only in the valid period and in the year when it is issued.

Article 24 An entity which obtains an import/export examination and approval form shall apply for an import/export license according to the provisions of the commerce department under the State Council and handle the customs formalities upon the strength of the import/export license. For ozone depleting substances in the Catalogue of Import and Export Commodities Subject to Inspection and Quarantine by the Entry-Exit Inspection and Quarantine Institutions, the entry-exit inspection and quarantine institutions shall make inspections by law.

To import/export ozone depleting substances between a zone under special customs supervision or a bonded area under the customs supervision inside the People's Republic of China and an overseas area, the importer/exporter shall apply for an import/export examination and approval form and an import/export license under this Regulation. It is not required to get these documents if ozone depleting substances are to be circulated between a zone under special customs supervision or a bonded area under the customs supervision inside the People's Republic of China and another area inside China or between zones under special customs supervision or/and bonded areas under the customs supervision.

Chapter IV Supervision and Inspection

Article 25 The environmental protection departments and other relevant departments of the people's governments at or above the county level shall, pursuant to this Regulation, supervise and inspect the production, sales, consumption and import/export of ozone depleting substances within their respective functions and duties.

Article 26 The environmental protection departments and other relevant departments of the people's governments at or above the county level can take the following measures in the process of supervision and inspection:

1. Asking the inspectee to provide the relevant materials;
2. Asking the inspectee to make an explanation on matters concerning the implementation of this Regulation;

第二十三条 国家消耗臭氧层物质进出口管理机构应当自受理申请之日起 20 个工作日内完成审查，作出是否批准的决定。予以批准的，向申请单位核发进出口审批单；未予批准的，书面通知申请单位并说明理由。

进出口审批单的有效期限最长为 90 日，不得超期或者跨年度使用。

第二十四条 取得消耗臭氧层物质进出口审批单的单位，应当按照国务院商务主管部门的规定申请领取进出口许可证，持进出口许可证向海关办理通关手续。列入《出入境检验检疫机构实施检验检疫的进出境商品目录》的消耗臭氧层物质，由出入境检验检疫机构依法实施检验。

消耗臭氧层物质在中华人民共和国境内的海关特殊监管区域、保税监管场所与境外之间进出的，进出口单位应当依照本条例的规定申请领取进出口审批单、进出口许可证；消耗臭氧层物质在中华人民共和国境内的海关特殊监管区域、保税监管场所与境内其他区域之间进出的，或者在上述海关特殊监管区域、保税监管场所之间进出的，不需要申请领取进出口审批单、进出口许可证。

第四章 监督检查

第二十五条 县级以上人民政府环境保护主管部门和其他有关部门，依照本条例的规定和各自的职责对消耗臭氧层物质的生产、销售、使用 and 进出口等活动进行监督检查。

第二十六条 县级以上人民政府环境保护主管部门和其他有关部门进行监督检查，有权采取下列措施：

- （一）要求被检查单位提供有关资料；
- （二）要求被检查单位就执行本条例规定的有关情况作出说明；

3. Entering the inspectee's production, operation or storage premise for investigation and evidence collection;

4. Ordering the inspectee to stop its violation of this Regulation and to fulfill the statutory obligations; and

5. Detaining or seizing the illegally produced, sold, consumed or imported/exported ozone depleting substances and the facilities, equipment, raw materials and products used to produce ozone depleting substances.

The inspectee shall be cooperative, truthfully report the relevant information and provide the required materials, and may not refuse or impede the inspection.

Article 27 The environmental protection departments and other relevant departments of the people's governments at or above the county level shall assign at least two supervisors or inspectors for a supervision or inspection activity. The supervisors or inspectors shall produce their valid certificates for administrative law enforcement.

The functionaries of the environmental protection departments and other relevant departments of the people's governments at or above the county level shall be obliged to keep confidential the trade secrets they know from supervision and inspection activities.

Article 28 The environmental protection department under the State Council shall set up an ozone depleting substance information management system to collect, summarize and release data about the production, consumption and import/export of ozone depleting substances.

The environmental protection departments of the local people's governments at or above the county level shall report the violations of this Regulation as discovered in the process of supervision and inspection and the handling results thereof to the environmental protection department under the State Council level by level.

The other relevant departments of the local people's governments at or above the county level shall report the violations of this Regulation as discovered in the process of supervision and inspection and the handling results thereof to the competent departments under the State Council level by level, and the competent departments under the State Council shall make a copy of the said reports to the environmental protection department under the State Council in a timely manner.

Article 29 Where the environmental protection department or any other relevant department of a local people's government at or above the county level fails to investigate any violation of this Regulation, its superior authorities can order it to investigate or directly investigate the violation.

(三) 进入被检查单位的生产、经营、储存场所进行调查和取证;

(四) 责令被检查单位停止违反本条例规定的行为, 履行法定义务;

(五) 扣押、查封违法生产、销售、使用、进出口的消耗臭氧层物质及其生产设备、设施、原料及产品。

被检查单位应当予以配合, 如实反映情况, 提供必要资料, 不得拒绝和阻碍。

第二十七条 县级以上人民政府环境保护主管部门和其他有关部门进行监督检查, 监督检查人员不得少于 2 人, 并应当出示有效的行政执法证件。

县级以上人民政府环境保护主管部门和其他有关部门的工作人员, 对监督检查中知悉的商业秘密负有保密义务。

第二十八条 国务院环境保护主管部门应当建立健全消耗臭氧层物质的数据信息管理系统, 收集、汇总和发布消耗臭氧层物质的生产、使用、进出口等数据信息。

县级以上地方人民政府环境保护主管部门应当将监督检查中发现的违反本条例规定的行为及处理情况逐级上报至国务院环境保护主管部门。

县级以上地方人民政府其他有关部门应当将监督检查中发现的违反本条例规定的行为及处理情况逐级上报至国务院有关部门, 国务院有关部门应当及时抄送国务院环境保护主管部门。

第二十九条 县级以上地方人民政府环境保护主管部门或者其他有关部门对违反本条例规定的行为不查处的, 其上级主管部门有权责令其依法查处或者直接进行查处。

Article 30 Where any department responsible for the supervision and administration of ozone depleting substances or any staff member thereof commits any of the following acts, the directly responsible person in charge and other directly liable persons shall be given a sanction and, if any crime is constituted, shall be subject to criminal liability:

1. Issuing any ozone depleting substances production or consumption quota permit in violation of this Regulation;
2. Issuing any import/export examination and approval form or any import/export license of ozone depleting substances in violation of this Regulation;
3. Failing to investigate and punish any violation of this Regulation after discovering it;
4. Asking for and taking money or goods from the relevant persons or seeking for other benefits in the process of handling the administrative licensing issues for the production, consumption or import/export of ozone depleting substances or in the process of supervision and inspection; or
5. Any other act of engaging in malpractice for illegal gains, abusing powers or neglecting duties.

Article 31 Where any entity produces ozone depleting substances without a production quota permit, the environmental protection department of the local people's government at or above the county level shall order it to stop the illegal act, confiscate its raw materials to be used for the illegal production of ozone depleting substances, illegally produced ozone depleting substances and illegal gains, demolish or destroy its equipment and facilities used for the illegal production of ozone depleting substances, and impose a fine of 1 million yuan.

Article 32 Where an entity which is required to apply for a consumption quota permit under this Regulation consumes ozone depleting substances without one, the environmental protection department of the local people's government at or above the county level shall order it to stop the illegal act, confiscate the illegally used ozone depleting substances, the products produced with the illegally used ozone depleting substances and the illegal gains, and impose a fine of 200,000 yuan; if the circumstances are serious, the department shall impose a fine of 500,000 yuan and demolish or destroy its equipment and facilities used for the illegal consumption of ozone depleting substances.

Article 33 Where any producer or consumer of ozone depleting substances commits any of the following acts, the environmental protection department of the people's government of the province, autonomous region or municipality directly under the Central Government

第三十条 负有消耗臭氧层物质监督管理职责的部门及其工作人员有下列行为之一的，对直接负责的主管人员和其他直接责任人员，依法给予处分；直接负责的主管人员和其他直接责任人员构成犯罪的，依法追究刑事责任：

（一）违反本条例规定核发消耗臭氧层物质生产、使用配额许可证的；

（二）违反本条例规定核发消耗臭氧层物质进出口审批单或者进出口许可证的；

（三）对发现的违反本条例的行为不依法查处的；

（四）在办理消耗臭氧层物质生产、使用、进出口等行政许可以及实施监督检查的过程中，索取、收受他人财物或者谋取其他利益的；

（五）有其他徇私舞弊、滥用职权、玩忽职守行为的。

第三十一条 无生产配额许可证生产消耗臭氧层物质的，由所在地县级以上地方人民政府环境保护主管部门责令停止违法行为，没收用于违法生产消耗臭氧层物质的原料、违法生产的消耗臭氧层物质和违法所得，拆除、销毁用于违法生产消耗臭氧层物质的设备、设施，并处 100 万元的罚款。

第三十二条 依照本条例规定应当申请领取使用配额许可证的单位无使用配额许可证使用消耗臭氧层物质的，由所在地县级以上地方人民政府环境保护主管部门责令停止违法行为，没收违法使用的消耗臭氧层物质、违法使用消耗臭氧层物质生产的产品和违法所得，并处 20 万元的罚款；情节严重的，并处 50 万元的罚款，拆除、销毁用于违法使用消耗臭氧层物质的设备、设施。

第三十三条 消耗臭氧层物质的生产、使用单位有下列行为之一的，由所在地省、自治区、直辖市人民政府环境保护主管部门责令停止违法行为，没收违法

at the locality of the entity shall order it to stop the illegal act, confiscate the illegally produced or consumed ozone depleting substances, the products produced with the illegally consumed ozone depleting substances and the illegal gains, concurrently impose a fine of 20,000 yuan up to 100,000 yuan, and apply to the environmental protection department under the State Council for cutting its production or consumption quota; if the circumstances are serious, the department shall impose a fine of 100,000 yuan up to 200,000 yuan and apply to the environmental protection department under the State Council for revoking its production or consumption quota permit:

1. Producing ozone depleting substances beyond the variety, quantity or term indicated in the production quota permit;
2. Producing or selling ozone depleting substances beyond the uses indicated in the production quota permit; or
3. Consuming ozone depleting substances beyond the variety, quantity, uses or term indicated in the consumption quota permit.

Article 34 Where an entity producing, selling or consuming ozone depleting substances sells/purchases ozone depleting substances to/from any entity which fails to meet the requirements of this Regulation, the environmental protection department of the local people's government at or above the county level shall order it to correct, confiscate the illegally sold or purchased ozone depleting substances and the illegal gains, impose a fine of three times the total market price of the sold or purchased ozone depleting substances. If the entity has obtained a production or consumption quota permit, the department shall apply to the environmental protection department under the State Council for cutting its production or consumption quota.

Article 35 Where an entity producing or consuming ozone depleting substances fails to take necessary measures to prevent or reduce the leakage or discharge of ozone depleting substances as required, the environmental protection department of the local people's government at or above the county level shall order it to correct within a certain time limit and impose a fine of 50,000 yuan; if it fails to correct within the said time limit, the department shall impose a fine of 100,000 yuan and apply to the environmental protection department under the State Council for cutting its production or consumption quota.

Article 36 Where an entity engaging in the maintenance and discard of the cooling devices, cooling systems or extinguishing systems which contain ozone depleting substances fails to recycle or reutilize ozone depleting substances or hire an entity which engages in the recycling, reutilization or destruction of ozone depleting substances for the harmless treatment of ozone depleting substances, the environmental protection department of the local people's government at or above the county level shall order it

生产、使用的消耗臭氧层物质、违法使用消耗臭氧层物质生产的产品和违法所得，并处 2 万元以上 10 万元以下的罚款，报国务院环境保护主管部门核减其生产、使用配额数量；情节严重的，并处 10 万元以上 20 万元以下的罚款，报国务院环境保护主管部门吊销其生产、使用配额许可证：

- （一）超出生产配额许可证规定的品种、数量、期限生产消耗臭氧层物质的；
- （二）超出生产配额许可证规定的用途生产或者销售消耗臭氧层物质的；
- （三）超出使用配额许可证规定的品种、数量、用途、期限使用消耗臭氧层物质的。

第三十四条 消耗臭氧层物质的生产、销售、使用单位向不符合本条例规定的单位销售或者购买消耗臭氧层物质的，由所在地县级以上地方人民政府环境保护主管部门责令改正，没收违法销售或者购买的消耗臭氧层物质和违法所得，处以所销售或者购买的消耗臭氧层物质市场总价 3 倍的罚款；对取得生产、使用配额许可证的单位，报国务院环境保护主管部门核减其生产、使用配额数量。

第三十五条 消耗臭氧层物质的生产、使用单位，未按照规定采取必要的措施防止或者减少消耗臭氧层物质的泄漏和排放的，由所在地县级以上地方人民政府环境保护主管部门责令限期改正，处 5 万元的罚款；逾期不改正的，处 10 万元的罚款，报国务院环境保护主管部门核减其生产、使用配额数量。

第三十六条 从事含消耗臭氧层物质的制冷设备、制冷系统或者灭火系统的维修、报废处理等经营活动的单位，未按照规定对消耗臭氧层物质进行回收、循环利用或者交由从事消耗臭氧层物质回收、再生利用、销毁等经营活动的单位进行无害化处置的，由所在地县级以上

to correct and impose a fine of three times the harmless treatment cost.

Article 37 Where an entity which engages in the recycling, reutilization or destruction of ozone depleting substances directly discharges ozone depleting substances to the atmosphere instead of subjecting them to harmless treatment as required, the environmental protection department of the local people's government at or above the county level shall order it to correct and impose a fine of three times the harmless treatment cost.

Article 38 Where any entity engaging in the production, sale, consumption, import/export, recycling, reutilization or destruction of ozone depleting substances or any entity engaging in the maintenance or discard of the cooling devices, cooling systems or extinguishing systems which contain ozone depleting substances commits any of the following acts, the environmental protection department of the local people's government at or above the county level shall order it to correct and impose a fine of 5,000 yuan up to 20,000 yuan upon it:

1. Failing to go through the archive-filing formalities at the competent environmental protection department when it is required to do so under this Regulation;
2. Failing to keep integrity of the source materials about its production and operation activities as required;
3. Failing to report in time, making false reports about or hiding the truth in making reports about data on its business operations; or
4. Failing to provide necessary materials according to the requirements of supervisors and inspectors.

Article 39 Where anyone refuses or impedes the supervision or inspection of the competent environmental protection department or any other relevant department or practices fraud in the process of supervision or inspection, the supervision or inspection department shall order the violator to correct and impose a fine of 10,000 yuan up to 20,000 yuan; if it is a violation against public security administration, the public security organ shall impose a public security administration punishment; if it constitutes a crime, the liable party shall be subject to criminal liability.

Article 40 Where any importer/exporter imports/exports ozone depleting substances without an import/export license or beyond the scope of the import/export license, the customs shall impose a punishment pursuant to the relevant laws or administrative regulations; if any crime is constituted, the liable party shall be subject to criminal liability.

地方人民政府环境保护主管部门责令改正，处进行无害化处置所需费用 3 倍的罚款。

第三十七条 从事消耗臭氧层物质回收、再生利用、销毁等经营活动的单位，未按照规定对消耗臭氧层物质进行无害化处置而直接向大气排放的，由所在地县级以上地方人民政府环境保护主管部门责令改正，处进行无害化处置所需费用 3 倍的罚款。

第三十八条 从事消耗臭氧层物质生产、销售、使用、进出口、回收、再生利用、销毁等经营活动的单位，以及从事含消耗臭氧层物质的制冷设备、制冷系统或者灭火系统的维修、报废处理等经营活动的单位有下列行为之一的，由所在地县级以上地方人民政府环境保护主管部门责令改正，处 5000 元以上 2 万元以下的罚款：

（一）依照本条例规定应当向环境保护主管部门备案而未备案的；

（二）未按照规定完整保存有关生产经营活动的原始资料的；

（三）未按时申报或者谎报、瞒报有关经营活动的数据资料的；

（四）未按照监督检查人员的要求提供必要的资料的。

第三十九条 拒绝、阻碍环境保护主管部门或者其他有关部门的监督检查，或者在接受监督检查时弄虚作假的，由监督检查部门责令改正，处 1 万元以上 2 万元以下的罚款；构成违反治安管理行为的，由公安机关依法给予治安管理处罚；构成犯罪的，依法追究刑事责任。

第四十条 进出口单位无进出口许可证或者超出进出口许可证的规定进出口消耗臭氧层物质的，由海关依照有关法律、行政法规的规定予以处罚；构成犯罪的，依法追究刑事责任。

Article 41 This Regulation shall come into force on June 1, 2010.

第四十一条 本条例自 2010 年 6 月 1 日起施行。

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