

Regulation (EC) No 1005/2009 of the European Parliament
and of the Council of 16 September 2009 on substances that
deplete the ozone layer (recast) (Text with EEA relevance)

CHAPTER VII

COMMITTEE, REPORTING, INSPECTION AND PENALTIES

Article 25

Committee

- 1 The Commission shall be assisted by a Committee.
- 2 Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 1 month.
- 3 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 26

Reporting by the Member States

- 1 Each year by 30 June Member States shall report the following information in an electronic format to the Commission, for the previous calendar year:
 - a the quantities of methyl bromide authorised, pursuant to Article 12(2) and (3), for different treatments for quarantine and pre-shipment purposes used in their territory, specifying the purposes for which methyl bromide was used, and the progress in evaluating and using alternatives;
 - b the quantities of halons installed, used and stored for critical uses, pursuant to Article 13(1), the measures taken to reduce their emissions and an estimate of such emissions, and progress in evaluating and using adequate alternatives;
 - c cases of illegal trade, in particular those detected during the inspections carried out pursuant to Article 28.
- 2 The Commission shall, in accordance with the management procedure referred to in Article 25(2), determine the format for the submission of the information referred to in paragraph 1.
- 3 The Commission may amend paragraph 1.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

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Article 27

Reporting by undertakings

1 Each year by 31 March, each undertaking shall communicate to the Commission, sending a copy to the competent authority of the Member State concerned, the data listed in paragraphs 2 to 6 for each controlled substance and each new substance listed in Annex II for the previous calendar year.

2 Each producer shall communicate the following data:

- a its total production of each substance referred to in paragraph 1;
- b any production placed on the market or used for the producer's own account within the Community, separately identifying production for feedstock, process agent and other uses;
- c any production to meet the essential laboratory and analytical uses in the Community, licensed in accordance with Article 10(6);
- d any production authorised under Article 10(8) to satisfy essential laboratory and analytical uses of Parties;
- e any increase in production authorised under Article 14(2), (3) and (4) in connection with industrial rationalisation;
- f any quantity recycled, reclaimed or destroyed and the technology used for the destruction, including amounts produced and destroyed as by-product as referred to in Article 3(14);
- g any stocks;
- h any purchases from and sales to other producers in the Community.

3 Each importer shall communicate for each substance referred to in paragraph 1 the following data:

- a any quantities released for free circulation in the Community, separately identifying imports for feedstock and process agent uses, for essential laboratory and analytical uses licensed in accordance with Article 10(6), for use in quarantine and pre-shipment applications and for destruction. Importers which imported controlled substances for destruction shall also communicate the actual final destination or destinations of each of the substances, providing separately for each destination the quantity of each of the substances and the name and address of destruction facility where the substance was delivered;
- b any quantities imported under other customs procedures, separately identifying the customs procedure and the designated uses;
- c any quantities of used substances referred to in paragraph 1 imported for recycling or reclamation;
- d any stocks;
- e any purchases from and sales to other undertakings in the Community;
- f the exporting country.

4 Each exporter shall communicate for each substances referred to in paragraph 1 the following data:

- a any quantities of such substances exported, separately identifying quantities exported to each country of destination and quantities exported for feedstock and process agent uses, essential laboratory and analytical uses, critical uses and for quarantine and pre-shipment applications;

- b any stocks;
- c any purchases from and sales to other undertakings in the Community;
- d the country of destination.

5 Each undertaking destroying controlled substances referred to in paragraph 1 and not covered by paragraph 2 shall communicate the following data:

- a any quantities of such substances destroyed, including quantities contained in products or equipment;
- b any stocks of such substances waiting to be destroyed, including quantities contained in products or equipment;
- c technology used for the destruction.

6 Each undertaking using controlled substances as feedstock or process agents shall communicate the following data:

- a any quantities of such substances used as feedstock or process agents;
- b any stocks of such substances;
- c the processes and emissions involved.

7 Each year before 31 March, each producer or importer which holds a licence under Article 10(6) shall, for each substance for which an authorisation has been received, report to the Commission, sending a copy to the competent authority of the Member State concerned, the nature of the use, the quantities used during the previous year, the quantities held in stock, any quantities recycled, reclaimed or destroyed, and the quantity of products and equipment containing or relying on those substances placed on the Community market and/or exported.

8 The Commission shall take appropriate steps to protect the confidentiality of the information submitted to it.

9 The format of the reports referred to in paragraphs 1 to 7 shall be established in accordance with the management procedure referred to in Article 25(2).

10 The Commission may amend the reporting requirements laid down in paragraphs 1 to 7.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 28

Inspection

1 Member States shall conduct inspections on the compliance of undertakings with this Regulation, following a risk-based approach, including inspections on imports and exports of controlled substances as well as of products and equipment containing or relying on those substances. The competent authorities of the Member States shall carry out the investigations which the Commission considers necessary under this Regulation.

2 Subject to the agreement of the Commission and of the competent authority of the Member State within the territory of which the investigations are to be made, the officials of the Commission shall assist the officials of that authority in the performance of their duties.

3 In carrying out the tasks assigned to it by this Regulation, the Commission may obtain all necessary information from the governments and competent authorities of the Member States

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and from undertakings. When requesting information from an undertaking the Commission shall at the same time forward a copy of the request to the competent authority of the Member State within the territory of which the undertaking's seat is situated.

4 The Commission shall take appropriate action to promote an adequate exchange of information and cooperation between national authorities and between national authorities and the Commission.

The Commission shall take appropriate steps to protect the confidentiality of information obtained under this Article.

5 At the request of another Member State, a Member State may conduct inspections of undertakings or investigations of undertakings suspected of being engaged in the illegal movement of controlled substances and which are operating on the territory of that Member State.

Article 29

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 30 June 2011 at the latest and shall also notify it without delay of any subsequent amendment affecting them.