

OZONE DEPLETING SUBSTANCE ACT 1998

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OZONE DEPLETING SUBSTANCES REGULATIONS 2010

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OZONE DEPLETING SUBSTANCES ACT 1998

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OZONE DEPLETING SUBSTANCES REGULATIONS 2010

IN exercise of the powers conferred upon me by section 25 of the Ozone Depleting Substances Act 1998, I hereby make the following Regulations-

PART I: PRELIMINARY

Citation and Commencement

1. - (1) These Regulations may be cited as the Ozone Depleting Substances Regulations 2010.
- (2) These Regulations come into force on a date declared by the Minister by notice in the *Gazette*.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires –

“accreditation certificate”, in relation to a subject, means a document certifying that a person has passed a course of study relating to the subject;

“Act” means the Ozone Depleting Substances Act 1998;

“approved institution or individual” means an institution or individual approved in writing by the Director for issuing accreditation certificates for the purposes of these Regulations;

“approved storage facility” means the Central Storage Facility established under section 11 of the Act or any facility approved by the Director for storing a controlled substance;

“authorised handler” means a person licensed under these Regulations to handle controlled substances;

“authorised exporter” means a person who holds a permit to export a controlled substance or equipment containing a controlled substance;

“authorised importer” means an authorised supplier whose permit includes importing as one of the licensed activities;

“authorised person” means –

- (a) an authorised handler, an authorised purchaser, an authorised importer or an

authorised supplier;

- (b) a person who holds a permit to use premises or a facility for any activity involving Controlled Substances;

“authorised purchaser” means a person who holds a permit to purchase a controlled substance;

“authorised supplier” means a person who holds a permit to import, sell, offer for sale or distribute controlled substances or equipment containing a controlled substance;

“CFC” means chlorofluorocarbons;

“code of practice” means a code of practice established under section 11 of the Act and includes any standards, guidelines or operational procedures to manage the use of controlled substances;

“Department” means the Department of Environment;

“equipment” includes apparatus;

“export” means to take out or cause to be taken out of Fiji;

“feedstock” means any controlled substance used for the manufacture or production of other substances;

“facility” means a building or place that provides a particular service or is used for a particular industry;

“halon” means a substance in group II of Part 1 of the Schedule to the Act;

“handling”, in respect of a controlled substance, means recovering, recycling, refilling, recharging or capturing the substance, and includes –

- (a) installing, servicing, or de-commissioning any equipment that uses or contains a controlled substance in its operation;
- (b) repossessing reclaimed controlled substances;

“HCFC” means hydro chlorofluorocarbons;

“inspector” means a person appointed by the Director under section 11(a) of the Act to carry out an inspection for the purposes of the Act;

“licensed” means issued with a licence under these Regulations;

“ODS officer” means an officer of the Department assigned to the ODS Unit;

“ODS Unit” means the unit in the Department responsible for administering the Act and these Regulations;

“official control” means control performed by, or authorised by, a national plant, animal or environmental protection or health authority;

“Part II substance” means any substance that is listed in Part II of the Schedule to the Act;

“permitted” means issued with a permit under these Regulations;

“premises” means land and the buildings on it;

“pre-shipment application” means a non-quarantine application of a controlled substance to plants or plant products within 21 days prior to export to meet the official requirements of the receiving country;

“quarantine application” means the application of controlled substances to prevent the introduction, establishment and/or spread of quarantine pests (including diseases), or to ensure their official control;

“quarantine pest” means a pest or disease of potential importance to an area endangered by it and not yet present there, or present but not widely distributed and under official control;

“supply” includes import, sell, offer for sale or distribute;

“technician” means a person who handles controlled substances in the course of employment.

- (2) In these Regulations, a reference to a period of days means working days if the number of days is less than 14.

PART II - SUPPLY, PURCHASE AND HANDLING OF CONTROLLED SUBSTANCES

Handling of controlled substances

3. - (1) A person who intends to handle controlled substances must obtain a licence as required by section 17 of the Act.
- (2) Any handling of controlled substances must be in accordance with the relevant code of practice.

Supply of controlled substances

4. - (1) A person who intends to sell, store, process or purchase for resale any controlled substance in any premises or facility must obtain a permit, as required by section 16(2) of the Act.
- (2) A person who intends to import any controlled substance or any equipment containing a controlled substance must obtain a permit for each shipment, as required by section 16(3) of the Act.
- (3) No person other than an authorised supplier may import, sell, offer for sale or distribute a controlled substance or equipment containing a controlled substance.
- (4) The authorised supplier may sell, offer for sale or distribute a controlled substance or any equipment containing a controlled substance only to an authorised purchaser.
- (5) An authorized supplier, buyer or user of controlled substances must ensure that any controlled substance is, in the course of importation, sale, supply or use, handled in a manner that prevents or minimizes its release into the atmosphere.
- (6) Any importation, sale, offer for sale or distribution of controlled substance or of equipment containing a controlled substance must be in accordance with the relevant code of practice.

Records of imports, sales etc.

5. - (1) For the purposes of section 16(12) of the Act, every authorised supplier must keep written records of all imports, sales, storage and processing of controlled substances (including sales invoices) showing –
- (a) all controlled substances held in stock on 1 October 2000;
 - (b) all controlled substances acquired on or after that date;

- (c) all controlled substances leaving the possession or control of the authorised supplier on or after that date;
 - (d) the stock of controlled substances held on 30 September in each year after 2000;
 - (e) the name, address and any identification number of the authorised purchaser doing business with the supplier and the name and amount of the controlled substance purchased.
- (2) The records must include –
- (a) any controlled substances used as feedstock;
 - (b) any controlled substances that have been destroyed; and
 - (c)) any equipment containing a controlled substance.
- (3) An authorised supplier must on or before 1 November in each year send a written report to the Director showing the matters referred to in sub-regulation (1) and (2).
- (4) The records required to be kept under this regulation must be kept for 5 years.
- (5) An authorised supplier must, upon request in writing by an inspector, produce the records kept under this Regulation for inspection, but must be given 10 working days notice before an inspection is carried out.

Purchase of controlled substances

6. - (1) No person other than an authorised purchaser may purchase a controlled substance.
- (2) No person may purchase a controlled substance or any equipment containing a controlled substance except from an authorised supplier.
- (3) Any purchase of controlled substances or of equipment containing a controlled substance must be in accordance with the relevant code of practice.

Records of purchase

7. - (1) An authorised purchaser must keep written records, showing in respect of every purchase on or after 1 October 2000 –
- (a) the controlled substance purchased and the name and address and place of business of the authorised supplier or authorised importer;
 - (b) the name and quantity of any reclaimed controlled substance returned and the name and address of the person who returns it;
 - (c) the name and quantity of any controlled substance that leaves the authorised purchaser's possession except –
 - i. by sale or distribution;
 - ii. for use in the servicing of equipment designed for the use of controlled substances;
 - iii. for return to an authorised supplier;
 - (d) the amount of controlled substances held in stock as at 30th September each year after 2000.
- (2) An authorised purchaser must on or before 1 November of every year send a written report to the Director showing the matters referred to in sub-regulation (1).
- (3) The records required to be kept under this Regulation must be kept for 5 years.

- (4) An authorised purchaser must, upon request in writing by an inspector, produce the records kept under this Regulation for inspection.
- (5) The records must include any equipment containing a controlled substance.

Export of Part II substances

- 8. - (1) No person other than an authorised exporter may export a Part II substance or any equipment containing a Part II substance.
- (2) A person who intends to export any controlled substance or any equipment containing a controlled substance must obtain a permit for each shipment.
- (3) Any export of Part II substances or of equipment containing a Part II substance must be in accordance with the relevant code of practice.

Records of exports

- 9. - (1) An authorised exporter must keep written records, showing in respect of every consignment on or after the commencement of these Regulations –
 - (a) the name and quantity of all Part II substances in the consignment;
 - (b) the date of the consignment;
 - (c) the destination country of the consignment;
 - (d) the purpose of the exportation; and
 - (e) the name and address of the consignee.
- (2) An authorised exporter must on or before 1 November in each year send a written report to the Director showing the matters referred to in sub-regulation (1).
- (3) The records required to be kept under this Regulation must be kept for 5 years.
- (4) An authorised exporter must, upon request in writing by an inspector, produce the records kept under this Regulation for inspection, but must be given 10 working days notice before an inspection is carried out.
- (5) The records must include any equipment containing a Part II substance.

PART III – LICENCES AND PERMITS

Licences and permits in respect of controlled substances, etc.

- 10 - (1) Pursuant to section 16(4) and 17(4), a person may apply to the Director for –
 - (a) a licence to handle controlled substances;
 - (b) a permit to use premises or a facility for any activity involving controlled substances;
 - (c) a permit to import or supply controlled substances or equipment containing a controlled substance;
 - (d) a permit to purchase controlled substances;
 - (e) a permit to export Part II substances or equipment containing such a substance.
- (2) A person that wishes to apply for a permit mentioned in sub-regulation (1) (b) to (e) must –
 - (a) be a body corporate or partnership registered in Fiji;
 - (b) provide fumigation or refrigeration or air conditioning services in the course of business;
 - (c) employ one or more technicians licensed to handle controlled substances;

- (d) have adequate storage facilities and capacity for controlled substances; and
 - (e) display appropriate signage relating to the storage and handling of controlled substances.
- (3) A person that wishes to obtain a licence or permit under these Regulations must apply to the Director on the appropriate forms in Schedule 2 to these Regulations.
- (4) An application made by a body corporate or partnership must be made by an individual acting through an authorised person who is an individual.
- (5) An application for a licence or permit must –
- (a) include details of any previous or other application for a licence or permit;
 - (b) include any other information or document that the Director indicates is needed to enable the Director to decide whether to issue a licence or permit and what conditions to attach, if any; and
 - (c) be accompanied by the application fee shown in Schedule 1.

Fees and forms

11. - (1) The Director may, if the public interest so requires, in any particular case and in writing waive the fee for a licence or permit for handling or storage of controlled substances.
- (2) The forms required for the purpose of the Act or these Regulations are as set out in Schedule 2 to these Regulations.
- (3) Subject to sub-regulation (1), the fees to be paid for the purpose of the Act or these Regulations are as set out in Schedule 1 of these Regulations

Issue of licences and permits

12. - (1) On receipt of an application for a licence or permit, the Director –
- (a) may require the applicant to provide further information relating to the application;
 - (b) must as soon as practicable inspect any premises to which the application relates and all vehicles and equipment proposed to be used in connection with controlled substances;
 - (c) may take samples, photographs and films and make drawings of the premises and any vehicles or equipment that will be so used.
- (2) The Director may issue, cancel, suspend or renew a licence or permit subject to conditions.
- (3) Before issuing a licence or permit, and without affecting section 16(6) of the Act, the Director must be satisfied that –
- (a) the applicant has –
 - (i) adequate knowledge of the environmental implications of controlled substances on the ozone layer;
 - (ii) adequate knowledge of the Act, these Regulations and any relevant codes of practice; and
 - (iii) appropriate qualifications and experience;
 - (b) any premises to which the application relates are suitable for the proposed use;
 - (c) the proposals for training of staff and maintenance of equipment are adequate;
 - (d) the handling and final disposal of controlled substances will be environmentally sound.

- (4) A licence or permit may be issued in respect of one or more activities and one or more premises.
- (5) A decision on the issue or refusal of a licence or permit must be made within 14 days of receipt of the application.
- (6) If an application is rejected –
 - (a) the Director must give written reasons to the applicant;
 - (b) the application fee is not refunded.
- (7) A licence or permit issued under these Regulations –
 - (a) is issued only on receipt of the prescribed fee;
 - (b) must be in the appropriate form in Schedule 2;
 - (c) is valid for 1 year from the date of issue or for a single shipment in the case of an import or export permit;
 - (d) is not transferable; and
 - (e) can only be used for the purposes for which the licence or permit is issued.

Renewal of a licence or permit

- 13. - (1) A licence or permit, other than an import or export permit, may be renewed upon application in the appropriate form and upon payment of the prescribed fee, but subject to regulation 12.
- (2) A licence or permit, other than an import or export permit, may be renewed for a period of 1 year at a time.
- (3) An application for renewal of a licence or permit must be made not less than 28 days before the licence or permit is due to expire, failing which –
 - (a) renewal may be refused; or
 - (b) renewal may be granted, if all other conditions for renewal are met, on payment of an additional fee as prescribed.
- (4) On renewal the terms of the licence or permit may be varied consistently with the Act and these Regulations.
- (5) Renewal may be refused if the Director is satisfied that –
 - (a) there has been a significant breach by the authorised person of the conditions of the licence or permit or of any requirement of the Act or these Regulations relating to controlled substances; or
 - (b) renewal would not be in the public interest for environmental reasons.
- (6) If a renewal is refused, the Director must within 10 days give written reasons to the applicant.

Qualifications for obtaining or renewing a licence

- 14. - (1) An individual who wishes to obtain a licence under these Regulations must have –
 - (a) at least 3 years of appropriate trade experience. In the case of a licence to handle methyl bromide must be 1 year of fumigation experience;
 - (b) a qualification in either or both of –

- i. the handling of CFC and HCFC; or
 - ii. refrigeration and air-conditioning; and
 - (c) an adequate knowledge of the relevant code of practice.
- (2) Documentation needed to support an application includes in respect of paragraph (1) (a)
- (a) an approval letter from an authority responsible for quarantine operations indicating an ability to fumigate;
 - (b) have undergone appropriate and relevant Codes of Practice training in fumigation. Good knowledge of and familiarity with the Fiji operating procedures and Codes of Practice and other regulations relating to fumigations in Fiji.
 - (c) On-job training from a reliable institute and/or an accredited trainer;
 - (d) 1 passport photo;
 - (e) a record of carrying out at least 5 safe and effective fumigations as a fumigators assistant, carried out under the direct supervision of a competent licensed fumigator;
 - (f) certification of satisfactory performance in carrying out the fumigations and in understanding of all aspects of fumigation. The certification to be given by the fumigator-in-charge supervising the training fumigations and to be subject to audit.
- (3) In respect of paragraph (1) (b), an accreditation certificate from an approved institution or individual showing that the person has –
- (a) obtained accreditation in the handling of HCFC and CFC; or
 - (b) obtained a Good Practices in Refrigeration (GPR) certificate;
 - (c) 1 passport photo
- (4) A licence to handle controlled substances may be issued only to a technician engaged in the relevant activity.
- (5) Before a licence or permit is renewed the applicant may be required to undertake a refresher course organised by the Department and to pass a practical examination conducted by the Department or by an examiner approved by the Director, at the expense of the applicant.
- (6) The Director may –
- (a) charge fees for examinations and refresher courses conducted by the Department;
 - (b) in writing waiver part or whole of the fee payable, or approve the payment of fees in instalments.

Obligations of authorised persons

15. - (1) A person who is licensed or permitted under these Regulations must display the licence or permit in a conspicuous place at the licensee's place of business.
- (2) It is a condition of every licence or permit issued under these Regulations that the authorised person will –
- (a) train and supervise any person employed or otherwise engaged by the authorised person to handle controlled substances;
 - (b) have available at all times sufficient trained staff who have been approved by the Director;
 - (c) keep the permitted premises safe and clear of debris;

- (d) receive controlled substances only from authorised persons and dispose of them only in accordance with the Act and these Regulations;
 - (e) comply with all codes of practice that relate to the activities covered by the licence or permit.
- (3) The conditions set out in this Regulation are in addition to –
- (a) any conditions attached to a licence or permit; and
 - (b) the obligations in section 16(13) of the Act in relation to a business or activity.

Cancellation of a licence or permit

16. (1) If the Director considers in respect of a licence or permit –
- (a) that any premises or facility to which it relates have failed to comply with any requirements of the Act or the conditions of a permit; or
 - (b) that the authorised person is in breach of the Act or these Regulations or a condition of the licence or permit.
- the Director may cancel the licence or permit permanently, or suspend it until any breach has been remedied to the satisfaction of the Director.
- (2) Before cancelling a licence or permit, the Director must give written reasons and must give the authorised person an opportunity to be heard, either orally or in writing.
- (3) This Regulation does not affect the powers conferred on the Director by section 16(10) of the Act in relation to permits.

PART V – MISCELLANEOUS OFFENCES

Labelling of controlled substances and equipment

17. - (1) Without affecting Regulation 20(1), no person may sell, offer for sale or distribute any controlled substance in a container unless the container bears a label showing the nature of the controlled substance.
- (2) No person may sell, offer for sale or distribute any equipment that uses any controlled substance unless the equipment bears a label showing the controlled substance used.
- (3) A person who –
- (a) services any equipment by charging it with a controlled substance; or
 - (b) replaces any equipment that contains a controlled substance.
- must attach a label on a prominent part of the equipment showing –
- (i) the name of the person or company that carried out the service or replacement;
 - (ii) the date of service or replacement;
 - (iii) the identity of the authorised purchaser;
 - (iv) every substance, whether a controlled substance or not, used in the service or replacement and to charge the equipment.
- (4) Any label required by this Regulation must –
- (a) be displayed on a conspicuous part of the container or equipment;

- (b) be of a size that is easy to read;
- (c) not be removed except with the approval of the Director.

Storage and disposal of controlled substances

18. - (1) A person who is in possession or control of a controlled substance must keep the controlled substance in an air-tight container, except when using it.
- (2) No person may dispose of a controlled substance except to –
- (a) deliver it to an authorised supplier or authorised purchaser or to an approved storage facility; or
 - (b) destroy it in a manner approved by the Director or in accordance with the relevant code of practice.
- (3) This Regulation –
- (a) does not apply to residual controlled substances in discarded domestic equipment; but
 - (b) does apply to residual controlled substances in discarded motor vehicle air-conditioning equipment.

Reclamation of controlled substances

19. - (1) A person licensed to handle controlled substances must ensure that any reclamation of controlled substances is done only in accordance with the relevant code of practice.
- (2) Every container used for reclaiming controlled substances must be clearly marked with –
- (a) the word “RECOVER”;
 - (b) the name of the authorised supplier;
 - (c) a warning that the container must only be used for the storage and return of a particular type of controlled substance; and
 - (d) the name and any colour code of the controlled substance.

Supply to be in containers

20. - (1) Without affecting regulation 17(1), no person may deliver a controlled substance to an authorised supplier unless the container is clearly marked with –
- (a) the name and any colour code of the controlled substance;
 - (b) if the controlled substance has been reclaimed - a warning label that the controlled substance is suspected of being adulterated.
- (2) An authorised supplier may charge for supplying or accepting delivery of a container of a controlled substance in accordance with a scale of charges set by the Director and published in the *Gazette*.

Prohibited goods other than methyl bromide

21. - (1) No person may import, sell or offer for sale –
- (a) a product that contains a controlled substance other than methyl bromide;
 - (b) with effect from 1 January 2009 - methyl bromide for any use other than quarantine or pre-shipment application;

- (2) No person may sell, offer for sale or distribute any product that contains methyl bromide unless the product is purchased by an authorised purchaser.
- (3) Methyl bromide may be imported for the purpose of quarantine and pre-shipment applications only.

Servicing of system etc.

- 22.-(1) Every motor-vehicle garage that undertakes the refilling of automotive air-conditioners, and every facility that undertakes the servicing of refrigeration or air-conditioning equipment must have access to and use a recovery and recycling unit approved by the Director, and such unit must only be operated by an authorised handler.
- (2) If any controlled substance is brought to an authorised handler for any reason, the handler must –
 - (a) recycle the controlled substance for re-use in an existing system;
 - (b) deposit it for storage in an approved storage facility; or
 - (c) destroy it in a manner approved by the Director.
 - (3) If an authorised handler is asked to handle a system that contains a controlled substance, the handler must –
 - (a) find a replacement for the system that uses a non-controlled substance;
 - (b) retrofit the system to enable it to accept a non-controlled substance; or
 - (c) require the owner of the system to undertake retrofitting.
 - (4) A person who dismantles a motor vehicle containing an air-conditioning unit that uses a controlled substance must ensure that the unit is de-commissioned in accordance with the relevant code of practice.

PART IV: ADMINISTRATION

Import and export declarations

23. - (1) Every importer of controlled substances or of equipment containing a controlled substance must before the goods are landed make a declaration to the Director in the appropriate form in Schedule 2 as to the quantity and description of each controlled substance that is to be imported, and its intended recipient in the Fiji Islands.
- (2) Every intending exporter of a Part II substance must before the goods are exported make a declaration to the Director in the appropriate form in Schedule 2 as to the quantity and description of such substance that is to be exported, and its intended destination.
 - (3) An import declaration is the responsibility of the authorised supplier who arranges the importation, but may be signed on the supplier's behalf by the master of a ship, captain of an aircraft or customs agent or similar person.
 - (4) An export declaration is the responsibility of the authorised exporter who arranges the exportation, but may be signed on the exporter's behalf by the master of a ship, captain of an aircraft or customs agent or similar person.
 - (5) The obligations under this Regulation on authorised importers and exporters are in addition to those in Parts II and III.

Inspection of premises, vessels and aircraft

24. - (1) An inspector may enter any premises to which the licence or permit relates and –

- (a) inspect any record that might relate to controlled substances;
- (b) inspect any equipment or container that might contain a controlled substance; and
- (c) take samples of any substance that might be a controlled substance,

in order to ascertain whether there has been in respect of the premises or any good in them any breach of the Act or these Regulations or of any condition of a licence or permit issued under these Regulations.

- (2) An inspector may board any vessel or aircraft that has arrived in or is about to depart from the Fiji and –
- (a) inspect any record relating to the shipment of goods; and
 - (b) inspect the cargo of the vessel or aircraft

in order to ascertain whether there has been in respect of the vessel or aircraft any breach of the Act or these Regulations or any condition of a licence or permit issued under these Regulations.

- (3) If upon the report of an inspector, the Director has reason to suspect that there has been, or might imminently be, a contravention of the Act or these Regulations by any person or in respect of any goods, the Director may –
- (a) issue a Stop Work Notice;
 - (b) authorise an inspector in writing to enter the premises where the goods are and confiscate any controlled substance or any equipment, tool, machine or refrigerant cylinder which is the cause of the contravention;
 - (c) request –
 - (i) the Director of Immigration to prohibit the person from departing from the Fiji Islands; or
 - (ii) the Director General of Customs to prevent the importation of specified goods,

until the purchaser or the owner or importer of the goods, as the case may be, can show to the satisfaction of the Director that there has been no contravention of the Act or these Regulations.

- (4) If after taking action under sub-regulation (3) the Director considers that there has been a contravention of the Act or these Regulations, the Director must initiate criminal proceedings pursuant to Part V of the Act as soon as practicable.
- (5) It is a condition of every licence or permit issued under these Regulations that the authorised person will –
- (a) facilitate entry, boarding and inspection under this regulation to the extent possible;
 - (b) make available any records for inspection by an inspector on request; and
 - (c) provide access to any equipment, machine or container that might contain or that is suspected to contain controlled substances.
- (6) This Regulation does not affect the powers of the Director under section 16(14) of the Act in relation to inspection, audits and spot checks.

Appeals

25. - (1) A person who is dissatisfied with a decision of the Director under these Regulations relating to the issue, renewal or cancellation of a licence or permit, or the conditions attached to a licence or permit, may, within 21 days of being notified of the decision, appeal in writing to the Minister, in accordance with section 16(5) of the Act.

- (2) The Minister when deciding an appeal must give the appellant and the Director the opportunity to be heard, in writing or in person, and to produce evidence and call witnesses, and must give reasons for the decision on the appeal.
- (3) If an appeal involves a technical issue, the Minister may obtain appropriate technical advice from a person, other than the Director or ODS Unit.

General penalty

26. - (1) A person, other than the Director or an ODS officer acting in the course of duty, who contravenes any of the following Regulations commits an offence and is liable on conviction to a fine of \$2,000, as prescribed by section 20(4) of the Act –
- (a) Regulation 4(3), (4) and (5) (Supply of controlled substances);
 - (b) Regulation 5(3) (Records of imports, sales etc.);
 - (c) Regulation 6(1) and (2) (Purchase of controlled substances);
 - (d) Regulation 7(1) to (4) (Records of purchase)
 - (e) Regulation 8(1) (Export of Part II substances);
 - (f) Regulation 9(1) to (4) (Records of exports);
 - (g) Regulation 15(2) (Display licence or permit);
 - (h) Regulation 17(1), (2) and (3) (Labelling of containers and equipment);
 - (i) Regulation 18(1) and (2) (Storage and disposal of controlled substances);
 - (j) Regulation 19(1) and (2) (Reclamation of controlled substances);
 - (k) Regulation 20(1) (Supply to be in containers);
 - (l) Regulation 21(1) and (2) (Prohibited goods);
 - (m) Regulation 22(1) to (4) (Servicing of system etc.);
 - (n) Regulation 23(1) and (2) (Import and export declarations).
- (2) A breach of an obligation imposed on an authorised person by or under these Regulations that is not listed as an offence under sub-regulation (1) is a breach of a condition of the relevant licence or permit and Regulation 16(1)(b), section 17(6) and section 16(11) of the Act applies, as the case may be.

Reference to controlled substances – Schedule 3

27. In any form, licence or permit or other document required for the purpose of these Regulations, a description of any controlled substance should be by reference to the names and numbers of such substances given in Schedule 3.

Repeal and savings

28. - (1) The Ozone Depleting Substances Regulations 2000 (“the 2000 Regulations”) are repealed.
- (2) Licences and permits issued under the 2000 Regulations continue in force until their expiry date as if issued under these Regulations and may then be renewed in accordance with these Regulations.
- (3) Applications pending under the 2000 Regulations may continue to be processed as if they were applications under these Regulations, but –
- (a) the qualifications required will be as prescribed by these Regulations;
 - (b) the Director may call for additional information as required by these Regulations.
- (4) Prosecutions commenced under the 2000 Regulations may be continued under those Regulations until they are determined or abandoned.

Made this day of 2010

.....

**Samuela Saumatua
Minister for Local Development,
Urban Development, Housing and
Environment.**

SCHEDULE 1
(Regulation 11(1))

FEES

	(VIP)	
1. Application for a licence or permit,		\$100
2. Licence to handle controlled substances		\$100
3. Permit to use premises or facility		\$400
4. Permit to supply controlled substances	\$100	
5. Clearance of import of controlled substances	\$1 per kg	
6. Administration fee for export of controlled substances	\$50	
7. Refresher course		\$50
8. Renewal of licence		\$12
9. Renewal of permit		\$10
10. Late renewal penalty for licence		\$20
11. Late renewal penalty for storage permit	\$30	
12. Replacement of lost Licences and Permits		\$20
13. Inspection fee		\$35
14. Analysis of any substance		At the client's cost

SCHEDULE 2
(Regulation 11(2))

FORMS

- Form 1 – Application for licence to handle controlled substances
 - Form 2 – Licence to handle controlled substances
 - Form 3 – Application for permit to use premises or a facility to store controlled substances
 - Form 4 – Permit to use premises or a facility to store controlled substances
 - Form 5 – Application for permit to import controlled substances
 - Form 6 – Permit to import controlled substances
 - Form 7 – Application for permit to supply controlled substances
 - Form 8 – Permit to supply controlled substances
 - Form 9 – Application for permit to export controlled substances or equipment containing controlled substance
 - Form 10 – Permit to export controlled substances or equipment containing controlled substance
 - Form 9 – Application to renew a licence or permit
 - Form 10 – Import declaration
 - Form 11 – Export declaration
-

If Yes, provide the following details:

Name of employee	Qualification
_____	_____
_____	_____
_____	_____
_____	_____

10. Are there any accredited or licensed staff employed in your business? YES/NO

If Yes, provide the following details:

Name of accredited or licensed person	Qualification
_____	_____
_____	_____
_____	_____

Part C – Conditions of application

1. The applicant must complete this Form and send a copy to the Department of Environment.
2. The application fee of \$100 must accompany this form otherwise it will not be processed.
3. The applicant must within 5 days of submitting the application, sit a 1-hour practical examination and a 30-minute written examination under the supervision of 2 ODS officers.
4. The applicant will be notified within 14 days of the result of the application. Upon payment of the licence fee of \$100, a successful applicant will be issued a licence.
5. The licence must be displayed in a conspicuous place at the licensee's place of business.
6. A licence is valid for 1 year and is renewable, subject to Regulation 13, on payment of the renewal fee of \$12.00.
7. A licence is not transferable and can only be used by the applicant to whom the licence is granted, and for the purposes for which it is issued.

Declaration

I, _____ (applicant) declare the information given in this application to be true and accurate and I fully understand the conditions of this application.

Signed
Applicant

Date

Part D (Official use only)

Date application received>
Receipt number:

If licence issued:
Receipt number
Licence Number
Date of issue
Date of expiry
Conditions of licence

Specify training (if required)

If licence not issued

Reason for not issuing licence

Recommendation to applicant (if any)

**Signed _____ (ODS Officer)
for Director of Environment**

Name

Date

Part C – Conditions of application

1. The applicant must complete this Form and send a copy to the Department of Environment.
2. The application fee of \$100 must accompany this form otherwise it will not be processed.
3. The applicant will be notified within 14 days of the result of the application. Upon payment of the permit fee of \$400, a successful applicant will be issued a permit.
4. The permit must be displayed in a conspicuous place at the premises or facility to which it relates.
5. A permit is valid for 1 year and is renewable, subject to regulation 13, on payment of the renewal fee of \$10.00.
6. A permit is not transferable and can only be used in respect of the premises or facility to which it relates and for the purposes for which it is issued.

Declaration

I, _____ (applicant) declare the information given in this application to be true and accurate and I fully understand the conditions of this application.

Signed.....
Applicant

Date

Part C (Official use only)

Application No.
Receipt number
Date application received

If permit issued

Receipt number
Permit number
Date of issue
Date of expiry

Conditions of the permit

If permit not issued

Reason for not issuing permit

Recommendation to applicant (if any)

Signed _____
Director of Environment

Date

OZONE DEPLETING SUBSTANCES REGULATIONS 2010

FORM 4

DEPARTMENT OF ENVIRONMENT

**PERMIT FOR USE OF PREMISES OR A FACILITY TO STORE
CONTROLLED SUBSTANCES**

(Section 16(2) and (4) of the Act and Regulation 12(2))

Permit No.

Pursuant to section 16(4) of the Act, and Regulation 12(2), I hereby issue a permit to
_____ (applicant) to use
_____ (premises/ facility) located at _____
for the purpose of _____

General conditions of permit:

1. A fee of \$400 is payable for issue of the permit. A fee of \$10 is payable upon renewal.
2. This permit is not transferable and is valid only for the use of the specified premises/facility for the specified purpose in relation to the specified controlled substances.
3. This permit is valid from _____ to _____

Special conditions (if any)

Signed: _____
Director of Environment

Date

	(% of each controlled substance)	quantities (kg)		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(*Use the code numbers in the Annex (if applicable) when completing this portion).

Part C – Other information

Provide any additional information which the applicant: considers necessary for this application

Part D – Conditions of application

1. The applicant must complete this Form and send 2 copies to the Department of Environment.
2. The applicant will be notified within 14 days of the result of the application. A fee of \$1 per kg. is also payable on lodgement of application.
3. The permit must be displayed in a conspicuous place at the place of business
4. A permit is not transferable and can only be used in respect of the shipment for which it is issued.

Declaration

I, _____ (the applicant) declare that the information provided in this application is true and accurate and I fully understand the conditions of this application.

Signed _____
Applicant

Date

Part E (Official use only)

Permit No:
Quota No:

The information provided in this application has been checked and found:
Accurate/Inaccurate

I recommend that a permit to import Controlled Substances be issued/not issued to _____ (applicant) for the shipment stated below.

Signed _____
Director of Environment

Date

Annex

The following code numbers are for the purposes of the intended use of controlled substances referred to in Part B:

1.0 Refrigeration

- 1.1 Industrial
- 1.2 Commercial
- 1.3 Domestic
- 1.4 Transport

2.0 Air-conditioning

- 2.1 Commercial
- 2.2 Industrial
- 2.3 Domestic
- 2.4 Transport (private and public)

3.0 Aerosols

- 3.1 Commercial products
- 3.2 Industrial use

4.0 Foam blowing

- 4.1 Flexible foams
- 4.2 Rigid foams
- 4.3 Semi-rigid foams
- 4.4 Others

5.0 Solvents

- 5.1 Electronics
- 5.2 Metal cleaning.
- 5.3 Dry cleaning
- 5.4 Other

6.0 Fire fighting

- 6.1 Portable
- 6.2 Fixed systems
- 6.3 Others

7.0 Fumigation

- 7.1 Quarantine application
- 7.2 Pre-shipment application
- 7.3 Soil fumigation
- 7.4 Other agricultural uses
- 7.5 Other

8.0 Miscellaneous (to be specified)

OZONE DEPLETING SUBSTANCES REGULATIONS 2010**FORM 6****DEPARTMENT OF ENVIRONMENT****PERMIT TO IMPORT CONTROLLED SUBSTANCES**

(Section 16(3) of the Act and Regulation 12(2))

Permit No:

Quota No:

Pursuant to section 16(3) of the Act and Regulation 12(2), I hereby issue a permit to _____ (applicant) to import quantities of controlled substances in the shipment specified below.

Conditions of permit:

- 1 This Permit is not transferable and is valid only for the shipment specified below.
2. This permit applies only to the following shipment:
 - Proposed date of importation:
 - Type of container:
 - Countries of origin:
 - Type of carrier – ship/aircraft
 - Name of vessel /agent:
 - Proposed destinations in Fiji:
3. Form 10 must be completed by every importer of controlled substances in respect of each consignment and a clearance fee of \$1 per kg is payable on each consignment.
4. The authorised person must keep records of all quantities of controlled substances imported as specified in the Annex to Form 5.
5. The records must be kept for 5 years, and –
 - (a) Made available upon request for inspection by an ODS Inspector/ Officer;
 - (b) Submitted to Director of Environment on or before 1st November of each year.

Signed _____
Director of Environment

Date

- Proposed recipient

Part C – Other information

Provide any additional information which the applicant: considers necessary for this application

Part D – Conditions of application

1. The applicant must complete this Form and send 2 copies to the Department of Environment.
2. The applicant will be notified within 14 days of the result of the application. If successful, and upon payment of the administration fee of \$50, the applicant will be issued a permit.
3. The permit must be displayed in a conspicuous place at the business premises of the holder.
4. The permit is not transferable and is valid for the specified shipment only.

Declaration

I, _____(the applicant) declare that the information provided in this application is true and accurate and I fully understand the conditions of this application.

Signed _____
Applicant

Date

OZONE DEPLETING SUBSTANCES REGULATIONS 2010**FORM 8****DEPARTMENT OF ENVIRONMENT****PERMIT TO EXPORT CONTROLLED SUBSTANCES OR EQUIPMENT CONTAINING
CONTROLLED SUBSTANCE**

(Regulation 8 and Regulation 12(2))

Permit No.

Pursuant to Regulations 8 and 12(2), I hereby issue a permit to _____ (applicant) to export (tick as applicable) controlled substances/equipment containing a controlled substance as specified below.

This Permit is valid for a shipment as mentioned below –
vessel or aircraft
on (date)
to (destination)

Conditions of permit:

1. This Permit is not transferable and is valid only for the shipment specified above.
2. An administration fee of \$50 is payable to the Director of Environment for the shipment.
3. Controlled Substance/s (specify)
4. Permitted equipment (specify)
5. Form 11 must be completed by every exporter of Controlled Substances in respect of each shipment.

Additional conditions in respect of exports

1. Clearance of the shipment must have prior approval of the Department of Environment before the goods leave the Fiji Islands. Goods intended for export which do not have prior clearance may be detained at the border at the exporter's expense.
2. Exported equipment containing controlled substances must be labelled with the name and address of the exporter and the nature of the controlled substance.
3. The authorised person must keep records of all controlled substances/equipment exported, including names and addresses of the recipients.
4. The records must be kept for 5 years, and –
 - (a) made available upon request for inspection by an ODS Inspector/Officer;
 - (b) submitted to Director of Environment on or before 1st November of each year.

Signed _____
Director of Environment

Date

Licence/Permit No.

Date renewal application received

Status of application: Rejected / Accepted

If application accepted

The licence/permit is renewed for a further period from _____ to _____

Conditions attached (if any):

If application rejected

Grounds for rejection:

Recommendation to applicant (if any):

Signed _____
Director of Environment

Date

OZONE DEPLETING SUBSTANCES REGULATIONS 2010

FORM 10

DEPARTMENT OF ENVIRONMENT

IMPORT DECLARATION

(Sections 16 and 17 of the Act and Regulation 23)

TO: Fiji Islands Revenue Customs Authority at _____port/airport
AND To:

Ozone Depleting Substances Unit,
 GPO Box 2109, Suva, Fiji

This is to declare that a quantity of controlled substances is due to arrive at the above port/airport from _____ (last port of call) at _____ (time) on _____ (date).

Flight no. or ship's name

Nature of the container/equipment/other
 (tick as applicable)

Controlled Substances

Name	Quantity	Place of origin	Destination
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Master/Captain/Customs agent/Authorised supplier
 (tick as applicable)

Contact details

Full name

Name of employer

Name and address of place of business

Residential address

Telephone Home
 Mobile

Work
 Fax

E-mail address

Identity of the authorised supplier who will receive the consignment (if not the Declarant)

Declaration

I declare the above particulars to be accurate to the best of my knowledge and belief
 I understand that a clearance fee of \$1 per kg is payable for the shipment.

Signed

Date

OZONE DEPLETING SUBSTANCES REGULATIONS 2010**FORM 11****DEPARTMENT OF ENVIRONMENT****EXPORT DECLARATION**

(Sections 16 and 17 of the Act and Regulation 23)

**TO: Fiji Islands Revenue & Customs Service at _____port/airport
AND To:**Ozone Depleting Substances Unit,
GPO Box 2109, Suva, Fiji
Phone (679) 3311069
Fax (679) 3318089This is to declare that a quantity of controlled substances is due to leave from the above port/airport at
_____ (time) on _____ (date) destined for _____

Flight no. or ship's name

Nature of the container/equipment/other
(tick as applicable)**Controlled Substance**

Name	Quantity	Place of origin	Recipient
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Master/Captain/Customs agent
(tick as applicable)**Contact details**

Full name

Name of employer

Name and address of place of business

Residential address

Telephone Home
 MobileWork
Fax

E-mail address

Identity of the authorised supplier who is exporting the consignment (if not the Declarant)**Declaration**

I declare the above particulars to be accurate to the best of my knowledge and belief

Signed**Date**

SCHEDULE 3
(Regulation 27)

CHEMICAL NAME, FORMULAE AND COMMONLY USED CODE NAME FOR CONTROLLED
SUBSTANCES

Chemicals Controlled by the Montreal Protocol

	Chemical code name	Chemical short formula	Chemical name
<i>Type A group I</i>			
01	CFC-11	CFCl ₃	Trichlorofluoromethane
02	CFC-12	CF ₂ Cl ₂	Dichlorodifluoromethane
03	CFC-113	C ₂ F ₃ Cl ₃	1, 1, 2- Trichlorotrifluoroethane
04	CFC-114	C ₂ F ₄ Cl ₂	Dichlorotetrafluoroethane
05	CFC-115	C ₂ F ₅ Cl	Monochloropentafluoroethane
<i>Type A group II</i>			
06	Halon-1211	CF ₂ BrCl	Bromochlorodifluoromethane
07	Halon-1301	CBrF ₃	Bromotrifluoromethane
08	Halon-2402	C ₂ F ₄ Br ₂	Dibromotetrafluoroethane
<i>Type B group I</i>			
09	CFC-13	CF ₃ Cl	Monochlorotrifluoromethane
10	CFC-111	C ₂ FCl ₅	Pentachlorofluoroethane
11	CFC-112	C ₂ F ₂ Cl ₄	Tetrachlorodifluoroethane
12	CFC-211	C ₃ FCl ₇	Heptachlorofluoropropane
13	CFC-212	C ₃ F ₂ Cl ₆	Hexachlorodifluoropropane
14	CFC-213	C ₃ F ₃ Cl ₅	Pentachlorotrifluoropropane
15	CFC-214	C ₃ F ₄ Cl ₄	Tetrachlorotetrafluoropropane
16	CFC-215	C ₃ F ₅ Cl ₃	Trichloropentafluoropropane
17	CFC-216	C ₃ F ₆ Cl ₂	Dichlorohexafluoropropane
18	CFC-217	C ₃ F ₇ Cl	Monochloroheptafluoropropane
<i>Type B group II</i>			
19	Halon-104	CCl ₄	Carbon tetrachloride

Type B group III

20	*	$C_2H_3Cl_3$	1,1,1-trichloroethane ¹ (also called methyl chloroform)
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Type C group I

21	HCFC-21	$CHCl_2$	Dichlorofluoromethane
22	HCFC-22	$CHClF_2$	Monochlorodifluoromethane
23	HCFC-31	CH_2FCl	Monochlorofluoromethane
24	HCFC-121	C_2HFCl_4	Tetrachlorofluoroethane
25	HCFC-122	$C_2HF_2Cl_3$	Trichlorodifluoroethane
26	HCFC-123	$C_2HF_3Cl_2$	2,2-Dichloro-1,1,1-trifluoroethane
27	HCFC-123b	$CHCl_2CF_3$	1,1-Dichloro-1,2,2-trifluoroethane
28	HCFC-124	C_2HF_4Cl	2-Chloro-1,1,1,2-tetrafluoroethane
29	HCFC-124a	$CHClClCF_3$	1-Chloro-1,2,2,2-tetrafluoroethane
30	HCFC-131	$C_2H_2FCl_3$	Trichlorofluoroethane
31	HCFC-132	$C_2H_2F_2Cl_2$	Dichlorodifluoroethane
32	HCFC-133	$C_2H_2F_3Cl$	Monochlorotrifluoroethane
33	HCFC-141	$C_2H_3FCl_2$	1,2-Dichloro-1-fluoroethane
34	HCFC-141b	CH_3CFCl_2	1,1-Dichloro-1-fluoroethane
35	HCFC-142	$C_2H_3F_2Cl$	Monochlorodifluoroethane
36	HCFC-142b	CH_3CF_2Cl	1-Chloro-1,1-difluoroethane
37	HCFC-151	C_2H_4FCl	Monochlorofluoroethane
38	HCFC-221	C_3HFCl_6	Hexachlorofluoropropane
39	HCFC-222	$C_3HF_2Cl_5$	Pentachlorodifluoropropane
40	HCFC-223	$C_3HF_3Cl_4$	Tetrachlorotrifluoropropane
41	HCFC-224	$C_3HF_4Cl_3$	Trichlorotetrafluoropropane
42	HCFC-225	$C_3HF_5Cl_2$	Dichloropentafluoropropane
43	HCFC-225ca	$C_3HF_5Cl_2$	3,3-Dichloro-1,1,1,2,2-pentafluoropropane
44	HCFC-225cb	$C_3HF_5Cl_2$	1,3-Dichloro-1,1,2,2,3-pentafluoropropane

Type C group I- continued

45	HCFC-226	C_3HF_6Cl	Monochlorohexafluoropropane
46	HCFC-231	$C_3H_2FCl_5$	Pentachlorofluoropropane
47	HCFC-232	$C_3H_2F_2Cl_4$	Tetrachlorodifluoropropane
48	HCFC-233	$C_3H_2F_3Cl_3$	Trichlorotrifluoropropane
49	HCFC-234	$C_3H_2F_4Cl_2$	Dichlorotetrafluoropropane

* Does not have a chemical code name

¹ This formula does not refer to 1,1,2-Trichloroethane

50	HCFC-235	$C_3H_2F_5Cl$	Monochloropentafluoropropane
51	HCFC-241	$C_3H_3FCl_4$	Tetrachlorofluoropropane
52	HCFC-242	$C_3H_3F_2Cl_3$	Trichlorodifluoropropane
53	HCFC-243	$C_3H_3F_3Cl_2$	Dichlorotrifluoropropane
54	HCFC-244	$C_3H_3F_4Cl$	Monochlorotetrafluoropropane
55	HCFC-251	$C_3H_4FCl_3$	Trichlorofluoropropane
56	HCFC-252	$C_3H_4F_2Cl_2$	Dichlorodifluoropropane
57	HCFC-253	$C_3H_4F_3Cl$	Monochlorotrifluoropropane
58	HCFC-261	$C_3H_5FCl_2$	Dichlorofluoropropane
59	HCFC-262	$C_3H_5F_2Cl$	Monochlorodifluoropropane
60	HCFC-271	C_3H_6FCl	Monochlorofluoropropane

Type C group II

61	*	$CHFBr_2$	Dibromofluoromethane
62	HBFC-22B1	CHF_2Br	Monobromodifluoromethane
63	*	CH_2FBr	Monobromofluoromethane
64	*	C_2HFBr_4	Tetrabromofluoroethane
65	*	$C_2HF_2Br_3$	Tribromodifluoroethane
66	*	$C_2HF_3Br_2$	Dibromotrifluoroethane
67	*	C_2HF_4Br	Monobromotetrafluoroethane
68	*	$C_2H_2FBr_3$	Tribromofluoroethane
69	HBFC-132bB2	$C_2H_2F_2Br_2$	1, 2-Dibromo-1,1-difluoroethane
70	*	$C_2H_2F_3Br$	Monobromotrifluoroethane
71	HBFC-142B2	$C_2H_3FBr_2$	1,2-Dibromo-1-fluoroethane
72	*	$C_2H_3F_2Br$	Monobromodifluoroethane

Type C group II- continued

73	*	C_2H_4FBr	Monobromofluoroethane
74	*	C_3HFBr_6	Hexabromofluoropropane

* Does not have a chemical code name – New addition

75	*	$C_3HF_2Br_5$	Pentabromodifluoropropane
76	*	$C_3HF_3Br_4$	Tetrabromotrifluoropropane
77	*	$C_3HF_4Br_3$	Tribromotetrafluoropropane
78	*	$C_3HF_5Br_2$	Dibromopentafluoropropane
79	*	C_3HF_6Br	Monobromohexafluoropropane
80	*	$C_3H_2FBr_5$	Pentabromofluoropropane
81	*	$C_3H_2F_2Br_4$	Tetrabromodifluoropropane
82	*	$C_3H_2F_3Br_3$	Tribromotrifluoropropane

83	*	$C_3H_2F_4Br_2$	Dibromotetrafluoropropane
84	*	$C_3H_2F_5Br$	Monobromopentafluoropropane
85	*	$C_3H_3FBr_4$	Tetrabromofluoropropane
86	*	$C_3H_3F_2Br_3$	Tribromodifluoropropane
87	*	$C_3H_3F_3Br_2$	Dibromotrifluoropropane
88	*	$C_3H_3F_4Br$	Monobromotetrafluoropropane
89	*	$C_3H_4FBr_3$	Tribromofluoropropane
90	*	$C_3H_4F_2Br_2$	Dibromodifluoropropane
91	*	$C_3H_4F_3Br$	Monofluorotrifluoropropane
92	*	$C_3H_5FBr_2$	Dibromofluoropropane
93	*	$C_3H_5F_2Br$	Monobromodifluoropropane
94	*	C_3H_6FBr	Monobromofluoropropane

Type C group III

95	*	CH_2BrCl	Monobromochloromethane
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Type E group I

96	Halon-1001	CH_3Br	Methyl bromide
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* Does not have a chemical code name

Any other chemicals that might be declared as ODS

OZONE DEPLETING SUBSTANCES REGULATIONS 2010

EXPLANATORY NOTE

These Regulations replace the Ozone Depleting Substances Regulations 2000 which have become outdated in a number of respects.

Clarify the nature of the qualifications for obtaining a licence or permit

Increase the period of a licence or permit to 3 years

Increase the fees. Provide for late renewal fee of \$50.

Provide for waiver of fees in public interest

Add provisions about appeals

Control export of controlled substances

Add several new forms to clarify the nature of each application and licence or permit

Create an import/export declaration

Repeal the exiting regulations, but with a saving for existing licences and permits.

Attorney General:

Date:
