



Ozone Layer Protection Amendment Regulations 2020

No. 2020/06

Contents

1	Title	1
2	Commencement	1
3	Principal regulations	1
4	Regulation 2 amended (Interpretation)	2
5	Regulation 3 amended (Objectives)	2
6	Regulation 4 amended (Prohibitions on importation)	2
7	Regulation 5 amended (Prohibitions on the importation of certain goods)	2
8	Regulation 6 replaced (Prohibitions on manufacture or sale)	3
9	Regulation 8 replaced (Permits)	3
10	Regulation 9 amended (General provisions in relation to permits)	4
11	Regulation 10 amended (General principles for consideration of permit applications)	4
12	Schedule 2 amended	5
13	New Schedule inserted	6
14	Transitional provisions	6

Schedule

Pursuant to sections 53 and 56 of the Environment Act 2015, Cabinet makes the following regulations –

- 1 Title**
These regulations are the Ozone Layer Protection Amendment Regulations 2020.
- 2 Commencement**
These regulations come into force on the day after the date on which they are made in accordance with Article 13 of the Constitution.
- 3 Principal regulations**
These regulations amend the Ozone Layer Protection Regulations 2007 (the **principal regulations**).

4 Regulation 2 amended (Interpretation)

- (1) Revoke the definition of "other CFC".
- (2) In regulation 2, insert in their appropriate alphabetical order, the following definitions:

"**bromochloromethane** means the substance specified in Part IX of Schedule 2

"**bulk**, in relation to any controlled substance, —

"(a) means any controlled substance that is acquired in a non-processed form whether alone or in a mixture, including where the substance has been recovered, cleaned, or reclaimed:

"(b) excludes any controlled substance that is in a manufactured product other than a container used for the transportation or storage of the substance

"**carbon tetrachloride** means the substance specified in Part IV of Schedule 2

"**CFC** means any substance specified in Part I or Part III of Schedule 2

"**controlled substance** means any substance specified in Schedule 2

"**halon** means any substance specified in Part II of Schedule 2

"**HBFC** means any substance specified in Part VI of Schedule 2

"**HCFC** means any substance specified in Part VII of Schedule 2

"**HFC** means any substance specified in Part X of Schedule 2

"**methyl bromide** means the substance specified in Part VIII of Schedule 2

"**methyl chloroform** means the substance specified in Part V of Schedule 2".

5 Regulation 3 amended (Objectives)

Replace regulation 3(b) with:

"(b) provide controls on the import and use of controlled substances in accordance with Niue's obligations under the Montreal Protocol; and"

6 Regulation 4 amended (Prohibitions on importation)

Replace regulation 4(c) with:

"(c) any bulk HCFCs, whether alone or in a mixture; and

"(d) any bulk HFCs, whether alone or in a mixture."

7 Regulation 5 amended (Prohibitions on the importation of certain goods)

- (1) Replace regulation 5(1)(e) and (f) with:

"(e) any dehumidifier, refrigerator, freezer, air-conditioner, supermarket display case, heat pump, or water cooler

that contains or is designed to use any controlled substance:

- “(f) any air-conditioning or refrigeration unit, whether fitted to a vehicle or as mechanical components intended for use in or on a vehicle and which contains any controlled substance.”

- (2) In regulation 5(2), replace “containing any controlled substance (other than any HCFC or methyl bromide)” with “containing or designed to use any controlled substance”.

8 Regulation 6 replaced (Prohibitions on manufacture or sale)

Replace regulation 6 with:

“6 Prohibitions on manufacture or sale

- “(1) The manufacture of any good that contains or is designed to use any controlled substance is prohibited.
- “(2) It is prohibited to sell the following items:
 - “(a) bulk controlled substances:
 - “(b) goods described in regulation 5(1)(e) or (f).
- “(3) This regulation is subject to regulation 8.”

9 Regulation 8 replaced (Permits)

Replace regulation 8 with:

“8 Permits

- “(1) The following permits may be granted in accordance with these regulations:
 - “(a) exemption permits:
 - “(b) human health or safety permits:
 - “(c) bulk HFC permits:
 - “(d) permits for essential use, critical use, or emergency use.

Exemption permit

- “(2) An exemption permit entitles the holder to import, export, and sell—
 - “(a) HFC; or
 - “(b) a good described in regulation 5(1)(f) or 5(f) that contains or relies on HFCs.

Human health or safety permit

- “(3) A human health or safety permit entitles the holder to import, export, or sell a controlled substance, or goods containing or relying on any CFC, halon, methyl chloroform, or carbon tetrachloride, where it is found necessary for the preservation of human health or safety.

Bulk HFC permit

- “(4) A bulk HFC permit entitles the holder to import and export bulk HFC whether alone or in a mixture subject to the quota system and the import reduction levels for Niue prescribed under the Montreal Protocol, and any future commitments made by Niue under the Protocol.

Permit for essential use, critical use, or emergency use

- “(5) A permit for essential use, critical use, or emergency use entitles the holder to use a controlled substance for a use determined by the Parties to the Montreal Protocol to be an essential use, critical use, or emergency use.”

10 Regulation 9 amended (General provisions in relation to permits)

- (1) Replace regulation 9(1)(d) with:

“(d) the permit holder must submit a report to the Director by 30 January of each year about the controlled substances imported in the previous year and the report must be in the form set out in Schedule 3 and be accompanied by any other relevant information that the Minister requires; and”

- (2) Replace regulation 9(1)(g) with:

“(g) subject to regulation 13 and paragraph (h), a bulk HFC permit is valid for 12 months from the date of issue; and

“(h) a bulk HFC permit—

“(i) must specify the shipment to which it applies and the permit is only valid for that shipment; and

“(ii) expires 45 days after its issue or the end of the calendar year (whichever comes first) even if it has not been used; and

“(i) a holder of a bulk HFC permit must, within 15 days after using the permit (or its expiry without use), submit to the Director the following documents:

“(i) the permit:

“(ii) the customs declaration form in respect of the substances imported together with invoices and bills of lading necessary to show the exact quantity of substances imported, the date of import, exporting country, and port of entry.”

11 Regulation 10 amended (General principles for consideration of permit applications)

In regulation 10, replace “grant a permit on application” with “grant a permit or a renewal of permit on application”

12 Schedule 2 amended

In Schedule 2, replace Part VIII with the following parts:

**“Part VIII
“Methyl bromide**

Chemical formula	Substance	Ozone-depleting potential
CH ₃ Br	(Mono) bromomethane	0.6

**“Part IX
“Bromochloromethane**

Substance	Number of isomers	Ozone-depleting potential*
CH ₂ BrCl	1	0.12

***Notes**

Ozone-depleting potential is determined in accordance with the relevant Annexes to the Montreal Protocol.

Where a range of ODPs is indicated, the highest ODP value in that range shall be used for the purposes of the Protocol and for the purpose of calculating ODP tonnage under these regulations. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are based on estimates and are less certain. The range pertains to an isomeric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.

**“Part X
“HFCs (hydrofluorocarbons)**

Chemical formula	Substance	100-year global warming potential
CHF ₂ CHF ₂	HFC-134	1,100
CH ₂ FCF ₃	HFC-134a	1,430
CH ₂ FCHF ₂	HFC-143	353
CHF ₂ CH ₂ CF ₃	HFC-245fa	1,030
CF ₃ CH ₂ CF ₂ CH ₃	HFC-365mfc	794
CF ₃ CHF ₂ CF ₃	HFC-227ea	3,220
CH ₂ FCF ₂ CF ₃	HFC-236cb	1,340
CHF ₂ CHF ₂ CF ₃	HFC-236ea	1,370
CF ₃ CH ₂ CF ₃	HFC-236fa	9,810
CH ₂ FCF ₂ CHF ₂	HFC-245ca	693
CF ₃ CHF ₂ CHF ₂ CF ₃	HFC-43-10mee	1,640

Ozone Layer Protection Amendment Regulations 2020

Chemical formula	Substance	100-year global warming potential
CH ₂ F ₂	HFC-32	675
CHF ₂ CF ₃	HFC-125	3,500
CH ₃ CF ₃	HFC-143a	4,470
CH ₃ F	HFC-41	92
CH ₂ FCH ₂ F	HFC-152	53
CH ₃ CHF ₂	HFC-152a	124
CHF ₃	HFC-23	14,800"

13 New Schedule inserted

After Schedule 2, insert as Schedule 3, the Schedule of these regulations.

14 Transitional provisions

- (1) This regulation applies to items, including bulk controlled substances, that are lawfully in Niue at the time that these regulations come into force.
- (2) The items may continue to be used and sold in accordance with the principal regulations as if these regulations had not come into force.

Part E - Receipt (Official use only)

Permit No.: _____

Date Annual Report
received: _____

Received by: _____

Date

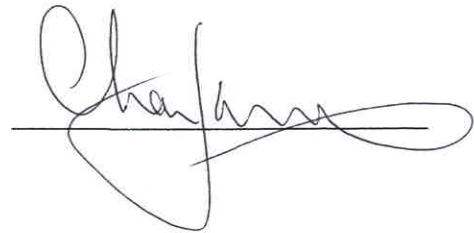
Approved by the Cabinet of Ministers at the Cabinet Chambers, Fale Fono,
Alofi, this

22nd day of December 2020

Signed by Hon. Dalton Tagelagi
Premier

A blue ink signature of Dalton Tagelagi, consisting of stylized loops and a horizontal line at the end.

Countersigned by Charlene Funaki
Clerk to Cabinet

A black ink signature of Charlene Funaki, featuring a large loop at the start and a horizontal line at the end.

These regulations are administered by the Ministry of Natural Resources.

These regulations were made on the 22nd day of December 2020.
