

DENR ADMINISTRATIVE ORDER
NO. _____

Subject: AMENDING CERTAIN PROVISIONS OF DAO 2004-08, OTHERWISE KNOWN AS THE “REVISED CHEMICAL CONTROL ORDER FOR OZONE DEPLETING SUBSTANCES (ODS)”

Pursuant to the provisions of *Executive Order No. 192, Republic Act No. 6969* (Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990), *Section 30 of Republic Act No. 8749* (The Philippine Clean Air Act of 1999), *Resolution No. 25 dated March 10, 1993* of the Senate of the Republic of the Philippines ratifying the *Montreal Protocol on Substances that Deplete the Ozone Layer*, *Resolution No. 86 dated March 19, 2001* of the Senate of the Philippines ratifying the Copenhagen Amendments, the Department hereby amends certain provisions of DAO 2004-08 for the guidance of all concerned:

Section 1. Declaration of Policy. It is the policy of the State to abate or minimize their risks and hazards of the stratospheric ozone, public health and the environment. Towards this end, the state shall regulate, control, restrict or prohibit the import, export, use, manufacture, distribution, processing, storage, possession and sale of Ozone Depleting Substances.

Section 2. Coverage. This Order amends prohibited acts and penal provisions of Department Administrative Order No. 2004-08.

Section 3. Definition of Terms. For the purpose of this Order, the following terms are hereby defined as follows:

- a. CCO for ODS - refers to the Revised Chemical Order for Ozone Depleting Substances (ODS) provided under Department Administrative Order No. 2004-08.
- b. DAO No. 29, s. 1994 – the “Implementing Rules and Regulations of RA 6969”.
- c. Ex-Parte Confiscation – the immediate/outright seizure of ODS by the Secretary or his duly authorized representative under circumstances mentioned in Sections 11 and 23 of DAO 29, s. 1994.¹
- d. Illegal Possession of ODS – the keeping or holding in one’s custody or control, in whatever capacity, cylinder/s and/or container/s storing ODS, which are mislabeled or procured in a manner not provided for by the CCO.

- e. Illegally Imported ODS – the importation of ODS which did not comply with the pre-shipment importation requirements of the DENR
- f. Importation - the entry of an equipment, substance, or product into the country that is intended for direct consumption, warehousing, sale or distribution.
- g. Mislabeled ODS - the cylinder or container does not contain purported ODS.
- h. Pre-importation requirements - the requirements, as enumerated in Section 6 of CCO for ODS, to be complied with by the importer before a Pre-shipment Importation Clearance may be issued by the DENR.
- i. Placing in the market – the possession of product or equipment containing ODS for purposes of either selling, trading, leasing or for whatever economic pursuit.
- j. Refrigerant Identifiers - the equipment designed to determine the purity of refrigerants used in Refrigeration and Air Conditioning (RAC) and Mobile Air Conditioning (MAC) equipment.

Section 4. Section 11 of the DAO 2004-08 is hereby amended to read as follows:

“Section 11. Prohibited Acts. Aside from the relevant provisions in sections 4 to 10, the following acts shall constitute a violation of this CCO:

- (a) Back conversion;
- (b) Installation of CFC-using systems;
- (c) Sale and use of small disposable containers (less than 1 kg) with CFCs;
- (d) Illegal possession of ODS and/or its alternative substances;
- (e) Importation or manufacturing or placing in the market of products or equipment containing Halons or CFCs, except metered dose inhalers;
- (f) Importation of ODS without compliance with the pre-importation requirements of the Environmental Management Bureau;
- (g) Use of CFCs in Mobile Air Conditioners (MACs) starting 2006 in motor vehicles manufactured and/or initially registered from 1999 onwards, and starting 2012 in all motor vehicles;
- (h) Use of CFC-11 as blowing agent for foam manufacturing;
- (i) Intentional release/venting of ODS when servicing equipment;
- (j) Flushing with ODSs; and

- (k) Any of the acts or omissions mentioned in Section 41 of DAO No. 29, series of 1992. ⁱⁱ

Section 5. Section 12 of DAO 2004-08 is hereby amended to read as follows:

“Section 12. Penalties. Any person, natural or juridical, who violates Section 11 of this CCO shall be penalized in accordance with the following schedule of fines and other related sanctions:

Offense	First Infraction	Second Infraction	Third Infraction
1. Importation of ODS without compliance with pre-importation requirements of the Environmental Management Bureau	Ex-parte confiscation and fine of P50,000		
2. Illegal possession of ODS and alternative substances	Ex-parte confiscation and a fine of P20,000.	Ex-parte confiscation and a fine of P30,000.	Ex-parte confiscation and a fine P50,000.
3. Sale and use of small disposable containers (less than 1kg) with CFCs	Ex-parte confiscation and a fine of P20,000.	Ex-parte confiscation and a fine of P30,000.	Ex-parte confiscation and a fine of P50,000.
4. Importation or manufacturing or placing in the market of products/equipment containing Halons or CFCs, except metered dose inhalers	Ex-parte confiscation and a fine of P20,000.	Ex-parte confiscation and a fine of P30,000.	Ex-parte confiscation and a fine of P50,000.
5. Intentional release/venting of ODS when servicing equipment	A fine of P20,000.	a fine of P30,000.	a fine of P50,000.
6. Flushing with ODS	A fine of P20,000.	a fine of P30,000.	a fine of P50,000.
7. Installation of CFC-using systems	A fine of P15,000.	a fine of P30,000.	a fine of P50,000.
8. Back Conversion	A fine of P10,000.	a fine of P30,000	a fine of P50,000.
9. Use of CFCs in Mobile Air Conditioners (MACs) starting 2006 in motor vehicles manufactured and/or initially registered from 1999 onwards, and starting 2012 in all motor vehicles	A fine of P10,000.	a fine of P30,000.	A fine of P50,000.

Offense	First Infraction	Second Infraction	Third Infraction
10. Use of CFC-11 as blowing agent for foam manufacturing	A fine of P10,000.	a fine of P30,000.	A fine of P50,000.
11. Refusing, obstructing or hampering the entry of authorized representatives of the Secretary into any establishment in which ODSs stored or held before or after their commercial distribution during reasonable hours for the purpose of conducting inspection	A fine of P10,000.	a fine of P20,000.	a fine of P30,000.
12. Failure or refusal to comply with subpoena or subpoena duces tecum issued by the Secretary or his duly authorized representative.	A fine of P10,000.	a fine of P20,000.	a fine of P30,000.

Violations of any provision of this CCO will also constitute grounds for cancellation of certificates of: a) registration of importers, dealers, retailers and resellers, b) accreditation of service shops, and c) competency of technicians.

Subsequent infractions (fourth, etc.) shall be sanctioned with the appropriate highest imposable penalty thereof. Furthermore, said infractions shall automatically cause the cancellation of the certificates mentioned in the immediately preceding paragraph.

In addition to the foregoing penalties, a person, natural or juridical, who violates any of the provisions of this DAO and the Revised CCO shall be criminally liable pursuant to Section 44 of DAO 29, s. 1992 and Section 13 and 14 of RA No. 6969 and other applicable laws.

Failure of the DENR-EMB to exercise its rights, whether expressed, implied or incidental in this DAO and the Revised CCO, shall not be construed as its waiver thereof.

Section 6. Separability Clause. In case any portion or provision of this Order is declared unconstitutional or invalid, the other portions or provisions hereof which are not affected shall continue in full force and effect.

Section 7. Repealing Clause. All existing rules, regulations, circulars, instructions, memoranda or portion/s thereof which are inconsistent hereby repealed or amended accordingly.

Section 8. Effectivity. This Order shall take effect immediately fifteen (15) days after its publication in a newspaper of general circulation and acknowledgement by the Office of the National Administrative Registry (ONAR).

JOSE L. ATIENZA

Secretary

ⁱ **Section 11. Ex-Parte Order of Confiscation Or Impoundment.** Whenever the Secretary or his duly authorized representative finds a prima facie evidence that the violation presents unreasonable risk and/or injury to health or the environment, the Secretary or his duly authorized representative may issue an Ex-Parte Order of Confiscation or impoundment, provided that the respondent files his Motion for Reconsideration within ten (10) days from the date of confiscation or impoundment which Motion for Reconsideration shall be resolved within fifteen (15) days from receipt of the same.

Section 23. Confiscation

1. The Secretary **or his duly authorized representative** may cause the impoundment or confiscation of any chemical substance and its conveyance and container if there is reasonable ground to believe that:
 - a. the sale, storage, possession, use, manufacture, transport, import, or export for a chemical substance does not comply with the Chemical Control Order; or
 - b. the sale, storage, possession, use, manufacture, transport, import or export of chemical substance poses an immediate threat or hazard to public health and safety or the environment.
2. Any costs incurred by the Department under Section 23 (1) shall be reimbursed by the occupier of the premises from which the Environmental Protection Officer impounded or confiscated the chemical substance.

ⁱⁱ **Section 41. Administrative Violations.** The following acts and omissions shall be considered as administrative violations:

1. All acts and omissions mentioned under Section (a to c) of Republic Act 6969.
2. Failure or refusal to subject for testing chemical substances and mixtures that present unreasonable risk or injury to health or to environment before said chemical substances and mixtures are manufactured or imported for the first time;
3. Failure or refusal to subject for testing chemical substances and mixtures which are presently being manufactured or processed if there is a reason to believe that said chemical substances and mixtures pose unreasonable risk or injury to health and the environment;
4. Refusing, obstructing or hampering the entry of authorized representatives of the Secretary into any establishment in which chemicals are processed, manufactured,

stored or held before or after their commercial distribution during reasonable hours for the purpose of conducting inspection;

5. Failure or refusal to notify the Department with the type and quantity of hazardous wastes generated and to provide quarterly report of waste generation as provided for under Section 26 of these Rules and Regulations;
6. Failure or refusal to secure permit or authorization from the Department prior to transport, storage, or disposal of hazardous wastes as provided for in Section 27, 28 and 30 of these Rules and Regulations;
7. Failure or refusal to secure approval from the Department prior to conduct of any importation or exportation of hazardous wastes as provided for in Section 31 of these Rules and Regulations;
8. Failure or refusal to provide proper labeling as provided for under Section 29 of these Rules and Regulations regarding hazardous waste storage and labeling;
9. Failure or refusal to comply with subpoena or subpoena duces tecum issued by the Secretary or his duly authorized representative.