

INT Lee County 014° and Lakeland, FL, 154° radials; Lakeland; Cross City, FL; INT Cross City 287° and Marianna, FL, 141° radials; Marianna; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; INT Montgomery 357° and Vulcan, AL, 139° radials; Vulcan.

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V-599 (Revised)

From Lee County, FL; INT Lee County 083° and Dolphin, FL, 331° radials; Dolphin.

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V-601 (New)

From Pahoee, FL; INT Pahoee 211° and Key West, FL, 020° radials; Key West.

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Issued in Washington, DC, on October 4, 1995.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 52 and 602

[TD 8622]

RIN 1545-AQ23

Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilants or propellants in metered-dose inhalers, and floor stocks taxes on ODCs. The regulations reflect changes to the law made by the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, and the Energy Policy Act of 1992 and affect persons who manufacture, import, export, sell, or use ODCs.

EFFECTIVE DATE: These regulations are effective January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the

Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-1361.

Estimated average annual burden per recordkeeper: 0.2 hour.

Estimated average annual burden per respondent: 0.1 hour.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

This document contains amendments to the Environmental Tax Regulations (26 CFR part 52) relating to exports of ODCs under sections 4681 and 4682. Sections 4681 and 4682 were enacted as part of the Omnibus Budget Reconciliation Act of 1989, and amended by the Omnibus Budget Reconciliation Act of 1990 and the Energy Policy Act of 1992 (Energy Act).

Section 4682(d)(3) provides a limited exemption from tax for ODCs that are exported. Although final regulations (TD 8370) under sections 4681 and 4682 were published in the *Federal Register* on November 4, 1991 (56 FR 56303), the section relating to exports of ODCs was reserved.

The Energy Act increased and made uniform the base tax amounts for all ODCs and extended the floor stocks tax to calendar years after 1994. The Energy Act also provides a reduced rate of tax for (1) ODCs used as propellants in metered-dose inhalers (for years after 1992), (2) ODCs used as medical sterilants (for 1993 only), and (3) methyl chloroform (for 1993 only).

On January 15, 1993, proposed regulations (PS-89-91) relating to exports of ODCs and the Energy Act changes were published in the *Federal Register* (58 FR 4625). Written comments responding to the notice of proposed rulemaking were received. A public hearing was not held. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision. The comments and revisions are discussed below.

Explanation of Revisions and Summary of Comments

Mixtures

Under the 1991 final regulations, the creation of a mixture is treated as a

taxable use of the ODCs contained in the mixture unless a person elects other treatment (the mixture election). The proposed regulations provided, however, that the creation of a mixture for export is not a taxable use of the ODCs contained in the mixture. Commenters supported the proposed rule and suggested that it also apply to mixtures created for feedstock use. These final regulations adopt the proposed rule and extend its application to include the creation of a mixture for feedstock use. However, these regulations do not adopt the suggestion that the rule be further extended to apply to sales of ODCs for the creation of a mixture.

Metered-Dose Inhalers

Several commenters pointed out that the proposed definition of a metered-dose inhaler, by including the phrase directly to the lungs, excluded two of the eight types of inhalers. They suggested that we modify the definition to remove this phrase. The final regulations adopt this suggestion.

Exemption Amount

One commenter pointed out that the provisions of the proposed regulations describing exemption amounts should refer to exceptions from tax under section 4682(d) rather than under section 4682(d)(3). The final regulations adopt the suggested reference.

One commenter suggested that we add an example illustrating the calculation of the exemption amount when a person is both a manufacturer and an importer. The final regulations provide such an example.

Registration

One commenter suggested that we specify how to register with the IRS. The final regulations explain the registration procedure.

Credit or Refund for Exports

One commenter thought that the wording of the proposed rule relating to a claim for credit or refund of tax paid on ODCs that are exported was ambiguous as to which year's exemption limitation applies to such a claim. The final regulations clarify that the applicable limitation is the limitation for the calendar year during which the ODCs were sold.

The same commenter raised questions about the documentation to be submitted with a claim and suggested that the regulations provide more information. Documentation needs to be submitted with a claim only if specifically required. Neither the proposed nor the final regulations

require documentation to be submitted with the claim.

Another commenter suggested that for periods before 1993 we accept export documentation similar to that required by the Environmental Protection Agency. These final regulations provide that such documentation is acceptable.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 52

Chemicals, Excise taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 52 and 602 are amended as follows:

PART 52—ENVIRONMENTAL TAXES

Paragraph 1. The authority citation for part 52 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 52.4682-5 also issued under 26 U.S.C. 4662(e)(4).

§ 52.4681-0 [Removed]

Par. 2. Section 52.4681-0 is removed.

Par. 3. Section 52.4681-1 is amended by:

1. Revising paragraph (a)(3)(ii).
2. Revising paragraph (c)(7)(iii)(A).
3. Revising paragraph (d)(3).

The revisions read as follows:

§ 52.4681-1 Taxes imposed with respect to ozone-depleting chemicals.

(a) * * *

(3) * * *

(ii) Dates on which tax imposed. The floor stocks tax is imposed on January 1 of each calendar year after 1989.

* * * * *

(c) * * *

(7) * * *

(iii) * * *

(A) Section 52.4682-1(b)(2)(iii) (relating to mixture elections), § 52.4682-1(b)(2)(iv) (relating to mixtures for export), and § 52.4682-1(b)(2)(v) (relating to mixtures for use as a feedstock);

* * * * *

(d) * * *

(3) Post-1989 ODCs held for sale or for use in further manufacture by any person other than the manufacturer or importer thereof on January 1, 1990, and post-1989 and post-1990 ODCs that are so held on January 1 of each calendar year after 1990.

Par. 4. Section 52.4682-1 is amended by:

1. Revising paragraph (a).
2. Revising the introductory text of paragraph (b)(2)(ii).
3. Adding paragraphs (b)(2)(iv) and (b)(2)(v).
4. Revising paragraphs (f) and (g).
5. Adding paragraph (h).
6. Adding and reserving paragraph (i).
7. Adding paragraph (j).
8. Adding and reserving paragraph (k).

The revisions and additions read as follows:

§ 52.4682-1 Ozone-depleting chemicals.

(a) *Overview.* This section provides rules relating to the tax imposed on ozone-depleting chemicals (ODCs) under section 4681, including rules for identifying taxable ODCs and determining when the tax is imposed, and rules prescribing special treatment for certain ODCs. See § 52.4681-1(a)(1) and (c) for general rules and definitions relating to the tax on ODCs.

(b) * * *

(2) * * *

(ii) *Mixtures.* Except as provided in paragraphs (b)(2)(iii), (iv), and (v) of this section, the creation of a mixture containing two or more ingredients is treated as a taxable use of the ODCs contained in the mixture. For this purpose, a mixture cannot be represented by a chemical formula, and an ODC is contained in a mixture only if the chemical identity of the ODC is not changed. Thus, except as provided

in paragraphs (b)(2)(iii), (iv), and (v) of this section—

* * * * *

(iv) *Special rule for exports.* The creation of a mixture for export is not a taxable use of the ODCs contained in the mixture. If a manufacturer or importer sells a mixture for export, § 52.4682-5 applies to the ODCs contained in the mixture. See § 52.4682-5(e) for rules relating to liability of a purchaser for tax if the mixture is not exported.

(v) *Special rule for use as a feedstock.* The creation of a mixture for use as a feedstock (within the meaning of paragraph (c) of this section) is not a taxable use of the ODCs contained in the mixture.

* * * * *

(f) *Methyl chloroform; reduced rate of tax in 1993.* The amount of tax imposed on methyl chloroform is determined under section 4682(g)(5) if the manufacturer or importer of the methyl chloroform sells or uses it during 1993.

(g) *ODCs used as medical sterilants—*
(1) *Phase-in of tax.* The amount of tax imposed on an ODC is determined under section 4682(g)(4) if the manufacturer or importer of the ODC—
(i) Uses the ODC during 1993 as a medical sterilant; or
(ii) Sells the ODC in a qualifying sale (within the meaning of paragraph (g)(4) of this section) during 1993.

(2) *Excess payments—*(i) *In general.* Under section 4682(g)(4)(B), a credit against income tax (without interest) or a refund of tax (without interest) is allowed to a person if—

(A) The person uses an ODC during 1993 as a medical sterilant; and

(B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 exceeds the amount that would have been determined under section 4682(g)(4).

(ii) *Amount of credit or refund.* The amount of credit or refund of tax is equal to the excess of—

(A) The tax that was paid with respect to the ODCs under sections 4681 and 4682; over

(B) The tax that would have been imposed under section 4682(g)(4).

(iii) *Procedural rules.* (A) The amount determined under section 4682(g)(4)(B) and paragraph (g)(2)(ii) of this section is treated as a credit described in section 34(a) (relating to credits for gasoline and special fuels) unless a claim for refund has been filed.

(B) See section 6402 and the regulations under that section for procedural rules relating to claiming a credit or refund of tax.

(3) *Definition of use as a medical sterilant.* An ODC is used as a medical

sterilant if it is used in the manufacture of sterilant gas.

(4) *Qualifying sale.* A sale of an ODC for use as a medical sterilant is a qualifying sale if the requirements of § 52.4682-2(b)(3) are satisfied with respect to the sale.

(h) *ODCs used as propellants in metered-dose inhalers—(1) Reduced rate of tax.* The amount of tax imposed on an ODC is determined under section 4682(g)(4) if the manufacturer or importer of the ODC—

- (i) Uses the ODC after 1992 as a propellant in a metered-dose inhaler; or
- (ii) Sells the ODC in a qualifying sale (within the meaning of paragraph (h)(4) of this section) after 1992.

(2) *Excess payments—(i) In general.* Under section 4682(g)(4)(B), a credit against income tax (without interest) or a refund of tax (without interest) is allowed to a person if—

- (A) The person uses an ODC after 1992 as a propellant in a metered-dose inhaler; and
- (B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 exceeds the amount that would have been determined under section 4682(g)(4).

(ii) *Amount of credit or refund.* The amount of credit or refund of tax is equal to the excess of—

- (A) The tax that was paid with respect to the ODCs under sections 4681 and 4682; over
- (B) The tax that would have been imposed under section 4682(g)(4).

(iii) *Procedural rules—(A)* The amount determined under section 4682(g)(4)(B) and paragraph (h)(2)(ii) of this section is treated as a credit described in section 34(a) (relating to credits for gasoline and special fuels) unless a claim for refund has been filed.

(B) See section 6402 and the regulations under that section for procedural rules relating to claiming a credit or refund of tax.

(3) *Definition of metered-dose inhaler.* A metered-dose inhaler is an aerosol device that delivers a precisely-measured dose of a therapeutic drug.

(4) *Qualifying sale.* A sale of an ODC for use as a propellant for a metered-dose inhaler is a qualifying sale if the requirements of § 52.4682-2(b)(4) are satisfied with respect to the sale.

(i) [Reserved]

(j) *Exports; cross-reference.* For the treatment of exports of ODCs, see § 52.4682-5.

(k) *Recycling.* [Reserved]

Par. 5. Section 52.4682-2 is amended by:

1. Adding paragraphs (a)(1)(iii) and (a)(1)(iv).
2. Amending the second sentence of paragraph (a)(2) by:

a. Removing the language "submission of a document to" and adding "registration with" in its place.

b. Removing the language "registration certificates" and adding "certificates" in its place.

3. Removing the language "registration" from paragraphs (b)(1)(i) and (b)(2)(i).

4. Adding paragraphs (b)(3) and (b)(4).

5. Revising the heading for paragraph (d).

6. Revising paragraph (d)(1)(i).

7. Adding paragraphs (d)(4) and (d)(5).

The additions and revisions read as follows:

§ 52.4682-2 Qualifying sales.

(a) * * *

(1) * * *

(iii) Under section 4682(g)(4) and § 52.4682-1(g) (relating to ODCs used as medical sterilants), ODCs sold in qualifying sales are taxed at a reduced rate in 1993.

(iv) Under section 4682(g)(4) and § 52.4682-1(h) (relating to ODCs used as propellants in metered-dose inhalers), ODCs sold in qualifying sales are taxed at a reduced rate in years after 1992.

* * * * *

(b) * * *

(3) *Use as medical sterilants.* A sale of ODCs is a qualifying sale for purposes of § 52.4682-1(g) if the manufacturer or importer of the ODCs—

- (i) Obtains a certificate in substantially the form set forth in paragraph (d)(4) of this section from the purchaser of the ODCs; and
- (ii) Relies on the certificate in good faith.

(4) *Use as propellants in metered-dose inhalers.* A sale of ODCs is a qualifying sale for purposes of §§ 52.4682-1(h) and 52.4682-4(b)(2)(vii) if the manufacturer or importer of the ODCs—

- (i) Obtains a certificate in substantially the form set forth in paragraph (d)(5) of this section from the purchaser of the ODCs; and
- (ii) Relies on the certificate in good faith.

* * * * *

(d) *Certificate—(1) * * * (i) Rules relating to all certificates.* This paragraph (d) sets forth certificates that satisfy the requirements of paragraphs (b)(1) through (4) of this section. The certificate shall consist of a statement executed and signed under penalties of perjury by a person with authority to bind the purchaser. A certificate provided under paragraph (d)(2) or (5) of this section may apply to a single purchase or to multiple purchases and need not specify an expiration date. A

certificate provided under paragraph (d)(3) or (4) of this section may apply to a single purchase or multiple purchases, and will expire as of December 31, 1993, unless an earlier expiration date is specified in the certificate. A new certificate must be given to the supplier if any information on the current certificate changes. The certificate may be included as part of any business records normally used to document a sale.

* * * * *

(4) *Certificate relating to ODCs used as medical sterilants—(i) ODCs that will be resold for use by the second purchaser as medical sterilants.* If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser as medical sterilants, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER AS MEDICAL STERILANTS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Effective Date
Expiration Date

(not after 12/31/93)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller)

(Address of seller)

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are purchasing the ozone-depleting chemicals for use as medical sterilants (as defined in § 52.4682-1(g)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-12	

This certificate applies to (check and complete as applicable):

All shipments to Purchaser at the following location(s):

All shipments to Purchaser under the following Purchaser account number(s):

All shipments to Purchaser under the following purchase order(s):

One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than for the purpose set forth in this certificate may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the sales covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Purchaser that the right to provide a certificate has been withdrawn from any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser

Address of Purchaser

Taxpayer Identifying Number of Purchaser

Title of person signing

Printed or typed name of person signing

Signature

(ii) ODCs that will be used by the purchaser as medical sterilants. If the purchaser will use the ODCs as medical sterilants, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE USED BY THE PURCHASER AS MEDICAL STERILANTS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Effective Date

Expiration Date

(not after 12/31/93)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller)

(Address of seller)

will be used by Purchaser as medical sterilants (as defined in § 52.4682-1(g)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-12	

This certificate applies to (check and complete as applicable):

All shipments to Purchaser at the following location(s):

All shipments to Purchaser under the following Purchaser account number(s):

All shipments to Purchaser under the following purchase order(s):

One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than as medical sterilants may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use as medical sterilants of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser

Address of Purchaser

Taxpayer Identifying Number of Purchaser

Title of person signing

Printed or typed name of person signing

Signature

(5) Certificate relating to ODCs used as propellants in metered-dose inhalers—(i) ODCs that will be resold for use by the second purchaser as propellants in metered-dose inhalers. If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser as propellants in

metered-dose inhalers, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER AS PROPELLANTS IN METERED-DOSE INHALERS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Date

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller)

(Address of seller)

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are purchasing the ozone-depleting chemicals for use as propellants in metered-dose inhalers (as defined in § 52.4682-1(h)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-11	
CFC-12	
CFC-114	

This certificate applies to (check and complete as applicable):

All shipments to Purchaser at the following location(s):

All shipments to Purchaser under the following Purchaser account number(s):

All shipments to Purchaser under the following purchase order(s):

One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than for the purpose set forth in this certificate may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the sales covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government

officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Purchaser that the right to provide a certificate has been withdrawn from any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser

Address of Purchaser

Taxpayer Identifying Number of Purchaser

Title of person signing

Printed or typed name of person signing

Signature

(ii) ODCs that will be used by the purchaser as propellants in metered-dose inhalers. If the purchaser will use the ODCs as propellants in metered-dose inhalers, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE USED BY THE PURCHASER AS PROPELLANTS IN METERED-DOSE INHALERS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Date

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller)

(Address of seller)

will be used by Purchaser as propellants in metered-dose inhalers (as defined in § 52.4682-1(h)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC-11	
CFC-12	
CFC-114	

This certificate applies to (check and complete as applicable):

All shipments to Purchaser at the following location(s):

All shipments to Purchaser under the following Purchaser account number(s):

All shipments to Purchaser under the following purchase order(s):

One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than as propellants in metered-dose inhalers may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use as propellants in metered-dose inhalers of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser

Address of Purchaser

Taxpayer Identifying Number of Purchaser

Title of person signing

Printed or typed name of person signing

Signature

Par. 6. Section 52.4682-4 is amended by:

1. Removing the introductory text of paragraph (b)(2).
2. Revising the first sentence of paragraph (b)(2)(i)(B)(1).
3. Adding paragraphs (b)(2)(vi) through (b)(2)(viii).
4. Adding a sentence at the end of paragraph (d)(1)(i).
5. Revising paragraph (d)(1)(iv)(A)(1).
6. Adding paragraph (d)(4).
7. Revising paragraph (e)(4)(i).
8. Redesignating paragraph (e)(5) as paragraph (e)(6) and adding a new paragraph (e)(5).
9. Revising *Example 5* of newly designated paragraph (e)(6).

The revisions and additions read as follows:

§ 52.4682-4 Floor stocks tax.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) * * * (1) *In general.* In the case of the floor stocks tax imposed on January 1 of a calendar year after 1990, the tax is not imposed on an ODC that has been mixed with any other ingredients, but only if it is established that such ingredients contribute to the accomplishment of the purpose for which the mixture will be used. * * *

* * * * *

(vi) *ODCs to be exported—(A) In general.* The floor stocks tax is not imposed on any ODC that was sold in a qualifying sale for export (as defined in § 52.4682-5(d)(1)).

(B) *ODCs sold before January 1, 1993.* An ODC that was sold by its manufacturer or importer before January 1, 1993, is treated, for purposes of this paragraph (b)(2)(vi), as an ODC that was sold in a qualifying sale for export for purposes of § 52.4682-5(d)(1) if the ODC will be exported.

(vii) *ODCs used as propellants in metered-dose inhalers; years after 1992—(A) In general.* The floor stocks tax is not imposed on January 1 of calendar years after 1992 on any ODC that was sold in a qualifying sale for use as a propellant in a metered-dose inhaler (as defined in § 52.4682-1(h)).

(B) *ODCs sold before January 1, 1993.* An ODC that was sold by its manufacturer or importer before January 1, 1993, is treated, for purposes of this paragraph (b)(2)(vii), as an ODC that was sold in a qualifying sale for purposes of § 52.4682-1(h) if the ODC will be used as a propellant in a metered-dose inhaler (within the meaning of § 52.4682-1(h)).

(viii) *ODCs used as medical sterilants; 1993.* The floor stocks tax is not imposed in 1993 on any ODC held for use as a medical sterilant (as defined in § 52.4682-1(g)).

* * * * *

(d) * * *

(1) * * *

(i) * * * The amount of the floor stocks tax imposed on the ODCs contained in a nonexempt mixture is computed on the basis of the weight of the ODCs in that mixture.

* * * * *

(iv) * * *

(A) * * *

(1) The tentative tax amount is determined, except as provided in paragraph (d)(2), (3), or (4) of this section, by reference to the rate of tax prescribed in section 4681(b)(1)(B) and the ozone-depletion factors prescribed in section 4682(b).

* * * * *

(4) *Methyl chloroform; 1993.* In the case of methyl chloroform, the tentative tax amount is determined under section 4682(g)(5) for purposes of computing the floor stocks tax imposed on January 1, 1993.

(e) * * *

(4) * * *

(i) At least 400 pounds of ODCs that are not described in paragraph (d)(2) or (d)(3) of this section and are otherwise subject to tax;

* * * * *

(5) *Calendar years after 1994.* In the case of the floor stocks tax imposed on January 1 of 1995 and each following calendar year, a person is liable for the tax only if, on such date, the person holds—

(i) At least 400 pounds of ODCs that are not described in paragraph (d)(3) or (d)(4) of this section and are otherwise subject to tax;

(ii) At least 50 pounds of ODCs that are described in paragraph (d)(3) of this section and are otherwise subject to tax; or

(iii) At least 1000 pounds of ODCs that are described in paragraph (d)(4) of this section and are otherwise subject to tax.

(6) * * *

Example 5. (a) On January 1, 1994, D holds for sale 300 pounds of CFC-113 (an ODC not described in paragraph (d)(2) or (d)(3) of this section) and 25 pounds of Halon-1301 (an ODC described in paragraph (d)(3) of this section). D is liable for the floor stocks tax imposed on January 1, 1994, because 25 pounds of Halon-1301 exceeds the de minimis amount specified in paragraph (e)(4)(iii) of this section. The 300 pounds of CFC-113 is less than the amount specified in paragraph (e)(4)(i) of this section. Nevertheless, tax is imposed on both the 25 pounds of Halon-1301 and the 300 pounds of CFC-113.

(b) The amount of the floor stocks tax is determined separately for the 300 pounds of CFC-113 and the 25 pounds of Halon-1301 and is equal to the difference between the tentative tax amount and the amount of tax previously imposed on those ODCs. For Halon-1301, for example, the tax is determined as follows. The tentative tax amount is \$1,087.50 ($\4.35 (the base tax amount in 1994) $\times 10$ (the ozone-depletion factor for Halon-1301) $\times 25$ (the number of pounds held)). The tax previously imposed on the Halon-1301 is \$6.28 ($\3.35 (the base tax amount in 1993) $\times 10$ (the ozone-depletion factor for Halon-1301) $\times 0.75$ percent (the applicable percentage determined under section 4682(g)(2)(A)) $\times 25$ (the number of pounds held)). Thus, the floor stocks tax imposed on the 25 pounds of Halon-1301 in 1994 is \$1,081.22, the difference between \$1,087.50 (the tentative tax amount) and \$6.28 (the tax previously imposed).

* * * * *

Par. 7. Section 52.4682-5 is added to read as follows:

§ 52.4682-5 Exports.

(a) *Overview.* This section provides rules relating to the tax imposed under section 4681 on ozone-depleting chemicals (ODCs) that are exported. In general, tax is not imposed on ODCs that a manufacturer or importer sells for export, or for resale by the purchaser to a second purchaser for export, if the procedural requirements set forth in paragraph (d) of this section are met. The tax benefit of this exemption is limited, however, to the manufacturer's or importer's exemption amount. Thus, if the tax that would otherwise be imposed under section 4681 on ODCs that a manufacturer or importer sells for export exceeds this exemption amount, a tax equal to the excess is imposed on the ODCs. The exemption amount, which is determined separately for post-1989 ODCs and post-1990 ODCs, is calculated for each calendar year in accordance with the rules of paragraph (c) of this section. This section also provides rules under which a tax imposed under section 4681 on exported ODCs may be credited or refunded, subject to the same limit on tax benefits, if the procedural requirements set forth in paragraph (f) of this section are met. See § 52.4681-1(c) for definitions relating to the tax on ODCs.

(b) *Exemption or partial exemption from tax—(1) In general.* Except as provided in paragraph (b)(2) of this section, no tax is imposed on an ODC if the manufacturer or importer of the ODC sells the ODC in a qualifying sale for export (within the meaning of paragraph (d)(1) of this section).

(2) *Tax imposed if exemption amount exceeded—(i) Post-1989 ODCs.* The tax imposed on post-1989 ODCs that a manufacturer or importer sells in qualifying sales for export during a calendar year is equal to the excess (if any) of—

(A) The tax that would be imposed on the ODCs but for section 4682(d)(3) and this section; over

(B) The post-1989 ODC exemption amount for the calendar year determined under paragraph (c)(1) of this section.

(ii) *Post-1990 ODCs.* The tax imposed on post-1990 ODCs that a manufacturer or importer sells in qualifying sales for export during a calendar year is equal to the excess (if any) of—

(A) The tax that would be imposed on the ODCs but for section 4682(d)(3) and this section; over

(B) The post-1990 ODC exemption amount for the calendar year

determined under paragraph (c)(2) of this section.

(iii) *Allocation of tax—(A) Post-1989 ODCs.* The tax (if any) determined under paragraph (b)(2)(i) of this section may be allocated among the post-1989 ODCs on which it is imposed in any manner, provided that the amount allocated to any post-1989 ODC does not exceed the tax that would be imposed on such ODC but for section 4682(d)(3) and this section.

(B) *Post-1990 ODCs.* The tax (if any) determined under paragraph (b)(2)(ii) of this section may be allocated among the post-1990 ODCs on which it is imposed in any manner, provided that the amount allocated to any post-1990 ODC does not exceed the tax that would be imposed on such ODC but for section 4682(d)(3) and this section.

(c) *Exemption amount—(1) Post-1989 ODC exemption amount.* A manufacturer's or importer's post-1989 ODC exemption amount for a calendar year is the sum of the following amounts:

(i) The 1986 export percentage of the aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on the maximum quantity, determined without regard to additional production allowances, of post-1989 ODCs that the person is permitted to manufacture during the calendar year under rules prescribed by the Environmental Protection Agency (40 CFR part 82).

(ii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1989 ODCs that the person manufactures during the calendar year under any additional production allowance granted by the Environmental Protection Agency.

(iii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1989 ODCs imported by the person during the calendar year.

(2) *Post-1990 ODC exemption amount.* A manufacturer's or importer's post-1990 ODC exemption amount for a calendar year is the sum of the following amounts:

(i) The 1989 export percentage of the aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on the maximum quantity, determined without regard to additional production allowances, of post-1990 ODCs that the person is permitted to manufacture during the calendar year under rules prescribed by the Environmental Protection Agency.

(ii) The aggregate tax that would (but for section 4682(d), section 4682(g), and

this section) be imposed under section 4681 on post-1990 ODCs that the person manufactures during the calendar year under any additional production allowance granted by the Environmental Protection Agency.

(iii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post-1990 ODCs imported by the person during the calendar year.

(3) *Definitions*—(i) *1986 export percentage*. See section 4682(d)(3)(B)(ii) for the meaning of the term *1986 export percentage*.

(ii) *1989 export percentage*. See section 4682(d)(3)(C) for the meaning of the term *1989 export percentage*.

(d) *Procedural requirements relating to tax-free sales for export*—(1) *Qualifying sales*—(i) *In general*. A sale of ODCs is a qualifying sale for export if—

(A) The seller is the manufacturer or importer of the ODCs and the purchaser is a purchaser for export or for resale to a second purchaser for export;

(B) At the time of the sale, the seller and the purchaser are registered with the Internal Revenue Service; and

(C) At the time of the sale, the seller—
(1) Has an unexpired certificate in substantially the form set forth in paragraph (d)(3)(ii) of this section from the purchaser; and

(2) Relies on the certificate in good faith.

(ii) *Qualifying resale*. A sale of ODCs is a qualifying resale for export if—

(A) The seller acquired the ODCs in a qualifying sale for export and the purchaser is a second purchaser for export;

(B) At the time of the sale, the seller and the purchaser are registered with the Internal Revenue Service; and

(C) At the time of the sale, the seller—
(1) Has an unexpired certificate in substantially the form set forth in paragraph (d)(3)(ii)(A) of this section from the purchaser of the ODCs; and
(2) Relies on the certificate in good faith.

(iii) *Special rule relating to sales made before July 1, 1993*. If a sale for export made before July 1, 1993, satisfies all the requirements of paragraph (d)(1)(i) or (ii) of this section other than those relating to registration, the sale will be treated as a qualifying sale (or resale) for export. Thus, a sale made before July 1, 1993, may be a qualifying sale (or resale) even if the parties to the sale are not registered and the required certificate does not contain statements regarding registration.

(iv) *Registration*. Application for registration is made on Form 637 (or any other form designated for the same use

by the Commissioner) according to the instructions applicable to the form. A person is registered only if the district director has issued that person a letter of registration and it has not been revoked or suspended. The effective date of the registration must be no earlier than the date on which the district director signs the letter of registration. Each business unit that has, or is required to have, a separate employer identification number is treated as a separate person.

(2) *Good faith reliance*. The requirements of paragraph (d)(1) of this section are not satisfied with respect to a sale of ODCs and the sale is not a qualifying sale (or resale) if, at the time of the sale—

(i) The seller has reason to believe that the ODCs are not purchased for export; or

(ii) The Internal Revenue Service has notified the seller that the purchaser's registration has been revoked or suspended.

(3) *Certificate*—(i) *In general*. The certificate required under paragraph (d)(1) of this section consists of a statement executed and signed under penalties of perjury by a person with authority to bind the purchaser, in substantially the same form as model certificates provided in paragraph (d)(3)(ii) of this section, and containing all information necessary to complete such model certificate. A new certificate must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earliest of the following dates—

(A) The date one year after the effective date of the certificate;

(B) The date the purchaser provides a new certificate to the seller; or

(C) The date the seller is notified by the Internal Revenue Service or the purchaser that the purchaser's registration has been revoked or suspended.

(ii) *Model certificates*—(A) *ODCs sold for export by the purchaser*. If the purchaser will export the ODCs, the certificate must be in substantially the following form:

CERTIFICATE OF PURCHASER OF
CHEMICALS FOR EXPORT BY THE
PURCHASER

(To support tax-free sales under section 4682(d)(3) of the Internal Revenue Code.)

Effective Date
Expiration Date

(not more than one year
after effective date)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

Purchaser is registered with the Internal Revenue Service as a purchaser of ozone-depleting chemicals for export under registration number . Purchaser's registration has not been suspended or revoked by the Internal Revenue Service.

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller)

(Address of seller)

(Taxpayer identifying number of seller) are purchased for export by Purchaser.

Product	Percentage
CFC-11	
CFC-12	
CFC-113	
CFC-114	
CFC-115	
Halon-1211	
Halon-1301	
Halon-2402	
Carbon tetrachloride	
Methyl chloroform	
Other (specify)	

This certificate applies to (check and complete as applicable):

All shipments to Purchaser at the following location(s):

All shipments to Purchaser under the following Purchaser account number(s):

All shipments to Purchaser under the following purchase order(s):

One or more shipments to Purchaser identified as follows:

Purchaser understands that Purchaser will be liable for tax imposed under section 4681 if Purchaser does not export the ODCs to which this certificate applies.

Purchaser understands that any use of the ODCs to which this certificate applies other than for export may result in the revocation of Purchaser's registration.

Purchaser will retain the business records needed to document the export of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its registration has been revoked or suspended.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser
 1
 Address of Purchaser
 Taxpayer Identifying Number of Purchaser
 Title of person signing
 Printed or typed name of person signing
 Signature

All shipments to Purchaser under the following Purchaser account number(s):

All shipments to Purchaser under the following purchase order(s):

One or more shipments to Purchaser identified as follows:

(B) ODCs sold by the purchaser for resale for export by the second purchaser. If the purchaser will resell the ODCs to a second purchaser for export by the second purchaser, the certificate must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS FOR RESALE FOR EXPORT BY THE SECOND PURCHASER

(To support tax-free sales under section 4682(d)(3) of the Internal Revenue Code.)

Effective Date
 Expiration Date

(not more than one year after effective date)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

Purchaser is registered with the Internal Revenue Service as a purchaser of ozone-depleting chemicals for export under registration number . Purchaser's registration has not been suspended or revoked by the Internal Revenue Service.

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller)

(Address of seller)

(Taxpayer identifying number of seller) will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are (1) registered with the Internal Revenue Service as purchasers of ozone-depleting chemicals for export and (2) purchasing the ozone-depleting chemicals for export.

Product	Percentage
CFC-11	
CFC-12	
CFC-113	
CFC-114	
CFC-115	
Halon-1211	
Halon-1301	
Halon-2402	
Carbon tetrachloride	
Methyl chloroform	
Other (specify)	

This certificate applies to (check and complete as applicable):

All shipments to Purchaser at the following location(s):

Purchaser understands that Purchaser will be liable for tax imposed under section 4681 if Purchaser does not resell the ODCs to which this certificate applies to a Second Purchaser for export or export those ODCs.

Purchaser understands that any use of the ODCs to which this certificate applies other than for resale to Second Purchasers for export may result in the revocation of Purchaser's registration.

Purchaser will retain the business records needed to document the sales to Second Purchasers for export covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its registration has been revoked or suspended. In addition, the Internal Revenue Service has not notified Purchaser of the revocation or suspension of the registration of any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser

Address of Purchaser

Taxpayer Identifying Number of Purchaser

Title of person signing

Printed or typed name of person signing

Signature

(4) Documentation of export—(i) After December 31, 1992. After December 31, 1992, to document the exportation of any ODCs, a person must have the evidence required by the Environmental Protection Agency as proof that the ODCs were exported.

(ii) Before January 1, 1993. Before January 1, 1993, to document the exportation of any ODCs, a person must have evidence substantially similar to that required by the Environmental

Protection Agency as proof that the ODCs were exported.

(e) Purchaser liable for tax—(1) Purchaser in qualifying sale. The purchaser of ODCs in a qualifying sale for export is treated as the manufacturer of the ODC and is liable for any tax imposed under section 4681 (determined without regard to exemptions for qualifying sales under this section or § 52.4682-1) when it sells or uses the ODCs if that purchaser does not—

(i) Export the ODCs and document the exportation of the ODCs in accordance with paragraph (d)(4) of this section; or

(ii) Sell the ODCs in a qualifying resale for export.

(2) Purchaser in qualifying resale. The purchaser of ODCs in a qualifying resale for export is treated as the manufacturer of the ODC and is liable for any tax imposed under section 4681 (determined without regard to exemptions for qualifying sales under this section or § 52.4682-1) when it sells or uses the ODCs if that purchaser does not export the ODCs and document the exportation of the ODCs in accordance with paragraph (d)(4) of this section.

(f) Credit or refund—(1) In general. Except as provided in paragraph (f)(2) of this section, a manufacturer or importer that meets the conditions of paragraph (f)(3) of this section is allowed a credit or refund (without interest) of the tax it paid to the government under section 4681 on ODCs that are exported. Persons other than manufacturers and importers of ODCs cannot file claims for credit or refund of tax imposed under section 4681 on ODCs that are exported.

(2) Limitation. The amount of credits or refunds of tax under this paragraph (f) is limited—

(i) In the case of tax paid on post-1989 ODCs sold during a calendar year, to the amount (if any) by which the post-1989 exemption amount for the year exceeds the tax benefit provided to such post-1989 ODCs under paragraph (b) of this section; and

(ii) In the case of tax paid on post-1990 ODCs sold during a calendar year, to the amount (if any) by which the post-1990 exemption amount for the year exceeds the tax benefit provided to such post-1990 ODCs under paragraph (b) of this section.

(3) Conditions to allowance of credit or refund. The conditions of this paragraph (f)(3) are met if the manufacturer or importer—

(i) Documents the exportation of the ODCs in accordance with paragraph (d)(4) of this section; and

(ii) Establishes that it has—

(A) Repaid or agreed to repay the amount of the tax to the person that exported the ODC; or

(B) Obtained the written consent of the exporter to the allowance of the credit or the making of the refund.

(4) *Procedural rules.* See section 6402 and the regulations under that section for procedural rules relating to filing a claim for credit or refund of tax.

(g) *Examples.* The following examples illustrate the provisions of this section. In each example, the sales are qualifying sales for export (within the meaning of paragraph (d)(1) of this section), all registration, certification, and documentation requirements of this section are met, and the ODCs sold for export are exported:

Example 1. (i) Facts. D, a corporation, manufactures CFC-11, a post-1989 ODC, and does not manufacture or import any other ODCs. In 1993, D manufactures 100,000 pounds of CFC-11, the maximum quantity D is allowed to manufacture in 1993 under EPA regulations. D has no additional production allowance from EPA for 1993. In 1993, the tax on CFC-11 is \$3.35 per pound. D's 1986 export percentage for post-1989 ODCs is 50%. In 1993, D sells 80,000 pounds of CFC-11 in qualifying sales for export. The remainder of D's production is not exported.

(ii) *Components of limit on tax benefit.* Under paragraph (c)(1) of this section, D's exemption amount for 1993 is equal to the sum of—

(A) D's 1986 export percentage multiplied by the aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682-5) be imposed under section 4681 on the maximum quantity of post-1989 ODCs D is permitted to manufacture during 1993;

(B) The aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682-5) be imposed under section 4681 on post-1989 ODCs that D manufactures during 1993 under an additional production allowance; and

(C) The aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682-5) be imposed under section 4681 on post-1989 ODCs imported by D during 1993.

(iii) *Limit on tax benefit.* The amounts described in paragraphs (ii)(B) and (C) of this Example 1 are equal to zero. Thus, D's 1993 exemption amount is \$167,500 (50% of \$335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC-11 in 1993)).

(iv) *Application of limit on tax benefit.* Under paragraph (b)(2) of this section, the tax imposed on the CFC-11 D sells for export is equal to the excess of the tax that would have been imposed on those ODCs but for section 4682(d) and § 52.4682-5, over D's 1993 exemption amount. But for § 52.4682-5, \$268,000 (\$3.35 x 80,000) of tax would have been imposed on the CFC-11 sold for export. Thus, \$100,500 (\$268,000 - \$167,500) of tax is imposed on the CFC-11 sold for export.

Example 2. (i) Facts. E, a corporation, manufactures CFC-11, a post-1989 ODC, and does not manufacture or import any other

ODCs. In 1993, E manufactures 100,000 pounds of CFC-11, the maximum quantity E is allowed to manufacture in 1993 under EPA regulations. E has no additional production allowance from EPA for 1993. In 1993, the tax on CFC-11 is \$3.35 per pound. E's 1986 export percentage for post-1989 ODCs is 50%. In 1993, E sells 45,000 pounds of CFC-11 tax free in qualifying sales for export and pays tax under section 4681 on an additional 35,000 pounds of exported CFC-11. The remainder of E's production is not exported.

(ii) *Limit on tax benefit.* E's 1993 exemption amount is \$167,500, (50% of \$335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC-11 in 1993)). The credit or refund allowed to E under paragraph (f) of this section is limited under paragraph (f)(2) of this section to the amount by which E's 1993 exemption amount exceeds E's 1993 tax benefit under paragraph (b) of this section.

(iii) *Application of limit on tax benefit.* Because E sold 45,000 pounds of CFC-11 tax free in qualifying sales for export in 1993, E's 1993 tax benefit under paragraph (b) of this section is \$150,750 (\$3.35 x 45,000). Thus, the credit or refund allowed to E under paragraph (f) of this section is limited to \$16,750 (\$167,500 - \$150,750).

Example 3. (i) Facts. F, a corporation, manufactures CFC-11, a post-1989 ODC, and does not manufacture any other ODCs. F also imports CFC-11. In 1993, F manufactures 60,000 pounds of CFC-11 (100,000 pounds is the maximum quantity F is allowed to manufacture in 1993 under EPA regulations) and imports 40,000 pounds. F has no additional production allowance from EPA for 1993. In 1993, the tax on CFC-11 is \$3.35 per pound. F's 1986 export percentage for post-1989 ODCs is 50%. In 1993, F sells 45,000 pounds of CFC-11 tax free in qualifying sales for export and pays tax under section 4681 on an additional 35,000 pounds of exported CFC-11. The remainder of F's production is not exported.

(ii) *Limit on tax benefit.* F's 1993 exemption amount is \$301,500, (\$167,500 (50% of \$335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC-11 in 1993) plus \$134,000 (the tax that would otherwise be imposed on the 40,000 pounds imported)). The credit or refund allowed to F under paragraph (f) of this section is limited under paragraph (f)(2) of this section to the amount by which F's 1993 exemption amount exceeds F's 1993 tax benefit under paragraph (b) of this section.

(iii) *Application of limit on tax benefit.* Because F sold 45,000 pounds of CFC-11 tax free in qualifying sales for export in 1993, F's 1993 tax benefit under paragraph (b) of this section is \$150,750 (\$3.35 x 45,000). Thus, the credit or refund allowed to F under paragraph (f) of this section is limited to \$150,750 (\$301,500 - \$150,750). The limitation does not affect F's credit or refund because the tax F paid on exported ODCs is only \$117,250 (\$3.35 x 35,000).

(h) *Effective date.* This section is effective January 1, 1993.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 8. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 9. In § 602.101, paragraph (c) is amended by revising the entries for 52.4682-2(b) and 52.4682-2(d) and adding entries in numerical order to the table to read as follows:

§ 602.601 OMB Control numbers.

* * * * *
(c) ***

CFR part or section where identified and described	Current OMB control No.
* * * * *	
52.4682-2(b)	1545-1153 1545-1361
52.4682-2(d)	1545-1153 1545-1361
* * * * *	
52.4682-5(d)	1545-1361
52.4682-5(f)	1545-1361
* * * * *	

Approved: August 31, 1995.
Margaret Milner Richardson,
Commissioner of Internal Revenue.
Cynthia G. Beerbower,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 95-24603 Filed 10-10-95; 8:45 am]
BILLING CODE 4830-01-J

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-004 E, F, G, H, I, and J]

Occupational Exposure to Lead

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.
ACTION: Amendments to final rule.

SUMMARY: This document embodies a determination by OSHA that it is economically feasible for the brass and bronze ingot manufacturing industry as a whole to achieve an air lead limit of 75 µg/m³ within six years by means of engineering and work practice controls. It amends Table I of paragraph (e)(1), the compliance Implementation Schedule, of the final rule on occupational exposure to lead, 29 CFR 1910.1025, to reflect that determination. This document also amends that Table based

EXCISE TAXES

FORMAL AND STATUTORY NOTES

Reports
No. 101-247 and
No. 101-384, and
19 U.S. Code Cong.

No. 101-94, 101-99
No. 101-653. See
News p. 722.

Pub.L.
members of the
section
0 percent shall be

as 1 taxpayer" for "Amounts may be transferred from the Trans-Alaska Pipeline Liability Fund into the Oil Spill Liability Trust Fund only to the extent the administrators of the Trans-Alaska Pipeline Liability Fund determine that such amounts are not needed to satisfy claims against such Fund" in the provisions following par. (2).

1989 Amendment, Subsec. (d). Pub.L. 101-239, § 7505(c), added material providing for tax credit for amounts paid into the Trans-Alaska Pipeline Liability Fund to extent funds can be transferred into Oil Spill Liability Trust and only to extent administrators determine funds are not needed to satisfy claims against Fund.

CHAPTER B—TAX ON CERTAIN CHEMICALS

tax

LIBRARY REFERENCES

mental law. Mar.
L.Rev. 897 (1990).

—TAX ON CERTAIN IMPORTED SUBSTANCES

special rules

For purposes of this subchapter—

the term "taxable substance" means any substance which, use by the importer, is listed as a taxable substance by the regulations of this subchapter.

of substances on list—A substance shall be listed under

if such substance is contained in the list under paragraph (3), or if the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that such substances constitute more than 50 percent of the weight (or 10 percent of the value) of the materials used to produce such substances as determined on the basis of the predominant method of production.

If an importer of any substance requests that the Secretary list such substance as a taxable substance under this subchapter, the Secretary shall make such listing within 180 days after the date the request was filed.

taxable substances.—

- Methylene chloride
- Polypropylene
- Propylene glycol
- Formaldehyde
- Acetone
- Acrylonitrile
- Methanol
- Propylene oxide
- Polypropylene resins
- Ethylene oxide
- Ethylene dichloride
- Retaining fillers
- Cyclohexane
- Isophthalic acid
- Maleic anhydride

EXCISE TAXES

- Ferrochromium not over 3 pct
- Ferrochrome or 3 pct. carbon
- Unwrought nickel
- Nickel waste and scrap
- Wrought nickel rods and wire
- Nickel powders
- Phenolic resins
- Polyvinylchloride resins
- Polystyrene resins and copolymers
- Ethyl alcohol for nonbeverage use
- Ethylbenzene

- Phthalic anhydride
- Ethyl methyl ketone
- Chloroform
- Carbon tetrachloride
- Chromic acid
- Hydrogen peroxide
- Polystyrene homopolymer resins
- Melamine
- Acrylic and methacrylic acid resins
- Vinyl resins
- Vinyl resins, NSPF.

(4) Modifications to list.—The Secretary shall add to the list under paragraph (3) substances which meet either the weight or value tests of paragraph (2)(B) and may remove from such list only substances which meet neither of such tests.

(b) Other definitions.—For purposes of this subchapter—

(1) Importer.—The term "importer" means the person entering the taxable substance for consumption, use, or warehousing.

(2) Taxable chemicals; United States.—The terms "taxable chemical" and "United States" have the respective meanings given such terms by section 4662(a).

(c) Disposition of revenues from Puerto Rico and the Virgin Islands.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4671.

(Added Pub.L. 99-499, Title V, § 515(a), Oct. 17, 1986, 100 Stat. 1768, and amended Pub.L. 100-647, Title II, § 2001(b), Nov. 10, 1988, 102 Stat. 3584.)

SUBCHAPTER D—OZONE-DEPLETING CHEMICALS, ETC.

Section

- 4681. Imposition of tax.
- 4682. Definitions and special rules.

§ 4681. Imposition of tax

(a) General rule.—There is hereby imposed a tax on—

- (1) any ozone-depleting chemical sold or used by the manufacturer, producer, or importer thereof, and
- (2) any imported taxable product sold or used by the importer thereof.

(b) Amount of tax.—

(1) Ozone-depleting chemicals.—

(A) In general.—The amount of the tax imposed by subsection (a) on each pound of ozone-depleting chemical shall be an amount equal to—

- (i) the base tax amount, multiplied by
- (ii) the ozone-depletion factor for such chemical.

(B) Base tax amount.—

(i) Initially listed chemicals.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C)) is the amount determined under the following table for such calendar year:

Calendar Year	Base Tax Amount
1990 or 1991	\$1.37
1992	1.67
1993 or 1994	2.65

(ii) Newly listed chemicals.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1994 with respect to any ozone-depleting chemical which is a

newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

Calendar Year	Base Tax Amount
1991 or 1992	\$1.37
1993	1.67
1994	3.00
1995	3.10.

(C) Base tax amount for later years.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year.

(2) Imported taxable product.—

(A) In general.—The amount of the tax imposed by subsection (a) on any imported taxable product shall be the amount of tax which would have been imposed by subsection (a) on the ozone-depleting chemicals used as materials in the manufacture or production of such product if such ozone-depleting chemicals had been sold in the United States on the date of the sale of such imported taxable product.

(B) Certain rules to apply.—Rules similar to the rules of paragraphs (2) and (3) of section 4671(b) shall apply.

(Added Pub.L. 101-239, Title VII, § 7606(a), Dec. 19, 1990, 108 Stat. 2364 and amended Pub.L. 101-508, Title XI, § 11203(c), Nov. 8, 1990, 104 Stat. 1888-422.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1989 Act. House Report No. 101-247 and House Conference Report No. 101-384, and Statement by President, see 1989 U.S. Code Cong. and Adm. News, p. 1906.

1990 Act. House Report No. 101-831 and House Conference Report No. 101-964, see 1990 U.S. Code Cong. and Adm. News, p. 2017.

Amendments

1990 Amendment. Subsec. (b)(1)(B). Pub.L. 101-508, § 11203(c), substituted par. (B) heading "Base tax amount" for "Base tax amount for years before 1993", designated existing provision as cl. (i) "Initially listed chemicals", inserted therein "with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C))", and enacted cl. (ii).

Subsec. (b)(1)(C). Pub.L. 101-508, § 11203(c), substituted "Base tax amount for later years.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year." for "Base tax amount for years after 1994.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year after 1994 shall be the base tax amount for 1994 increased by 45 cents for each year after 1994."

§ 4682. Definitions and special rules

(a) Ozone-depleting chemical.—For purposes of this subchapter—

Effective Dates

1990 Act. Section 11203(e) of Pub.L. 101-508 provided that: "The amendments made by this section (amending this section and section 4682 of this title, and enacting provisions set out as a note under section 4682 of this title) shall take effect on January 1, 1991".

1989 Act. Section 7306(c) of Pub.L. 101-239 provided that:

"(i) In general.—The amendments made by this section (amending this section and section 4682 of this title) shall take effect on January 1, 1990.

"(ii) No deposits required before April 1, 1990.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986, as added by this section [this subchapter], shall be required to be made before April 1, 1990.

"(iii) Notification of changes in international agreements.—The Secretary of the Treasury or his delegate shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of changes in the Montreal Protocol and of other international agreements to which the United States is a signatory relating to ozone-depleting chemicals."

Prior Provisions

A prior section 4681, added Pub.L. 96-510, Title II, § 231(a), Dec. 11, 1980, 94 Stat. 2804, which imposed a tax on receipt of hazardous waste, was set out in subchapter C of this chapter prior to the repeal of that section by Pub.L. 99-499, Title V, § 514(a)(1), Oct. 17, 1986, 100 Stat. 1767.

(1) In General.—The term "ozone-depleting substance—

(A) which, at the time of the sale or use by or importer, is listed as an ozone-depleting chemical in paragraph (2), and

(B) which is manufactured or produced in the United States for consumption, use, or

(2) Ozone-depleting chemicals.—

Common name:	Chemical name:
CFC-11	trichlorofluoromethane
CFC-12	dichlorodifluoromethane
CFC-113	trichlorotrifluoroethane
CFC-114	1,2-dichloro-1,1,2,2-tetrafluoroethane
CFC-115	chloropentafluoroethane
Halon-1211	bromochlorodifluoromethane
Halon-1301	bromotrifluoromethane
Halon-2402	1,1-dibromo-1,1-difluoroethane
Carbon tetrachloride	tetrachloroethane
Methyl chloroform	1,1,1-trichloro-2,2,2-trifluoroethane
CFC-18	CF3C1
CFC-111	C2FC16
CFC-112	C2F2C14
CFC-211	C3FC17
CFC-212	C3F2C16
CFC-213	C3F3C15
CFC-214	C3F4C14
CFC-215	C3F5C13
CFC-216	C3F6C12
CFC-217	C3F7C11

(b) Ozone-depletion factor.—For purposes of this section the term "ozone-depletion factor" means, with respect to an ozone-depleting chemical, the factor assigned to such chemical under the following table:

Ozone-depleting chemical:

CFC-11	1.00
CFC-12	1.00
CFC-113	1.00
CFC-114	1.00
CFC-115	1.00
Halon-1211	1.00
Halon-1301	1.00
Halon-2402	1.00
Carbon tetrachloride	1.00
Methyl chloroform	1.00
CFC-18	1.00
CFC-111	1.00
CFC-112	1.00
CFC-211	1.00
CFC-212	1.00
CFC-213	1.00
CFC-214	1.00
CFC-215	1.00
CFC-216	1.00
CFC-217	1.00

(c) Imported taxable product.—For purposes of this section

(1) In general.—The term "imported taxable product" means any ozone-depleting chemical entered into the United States for consumption, use or warehousing if any ozone-depleting material in the manufacture or production of such product is an ozone-depleting chemical.

(2) De minimis exception.—The term "imported taxable product" does not include any product specified in regulations prescribed by the Secretary of the Treasury.

de minimis amount of ozone-depleting chemicals as materials in the manufacture or production thereof. The preceding sentence shall not apply to any product in which any ozone-depleting chemical (other than methyl chloroform) is used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.

Exceptions.—

(1) Recycling.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is diverted or recovered in the United States as part of recycling process (and not as part of the original manufacturing or production process).

(2) Use in further manufacture.—

(A) In general.—No tax shall be imposed by section 4681—

(i) on the use of any ozone-depleting chemical in the manufacture or production of any other chemical if the ozone-depleting chemical is entirely consumed in such use,

(ii) on the sale by the manufacturer, producer, or importer of any ozone-depleting chemical—

(I) for a use by the purchaser which meets the requirements of clause (i), or

(II) for resale by the purchaser to a second purchaser for a use by the second purchaser which meets the requirements of clause (i).

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any), meet such registration requirements as may be prescribed by the Secretary.

(B) Credit or refund.—Under regulations prescribed by the Secretary, if—

(i) a tax under this subchapter was paid with respect to any ozone-depleting chemical, and

(ii) such chemical was used (and entirely consumed) by any person in the manufacture or production of any other chemical,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

3) Exports.—

(A) In general.—Except as provided in subparagraph (B), rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply for purposes of this subchapter.

(B) Limit on benefit.—

(i) In general.—The aggregate tax benefit allowable under subparagraph (A) with respect to ozone-depleting chemicals manufactured, produced, or imported by any person during a calendar year shall not exceed the sum of—

(I) the amount equal to the 1986 export percentage of the aggregate tax which would (but for this subsection and subsection (g)) be imposed by this subchapter with respect to the maximum quantity of ozone-depleting chemicals permitted to be manufactured or produced by such person during such calendar year under regulations prescribed by the Environmental Protection Agency (other than chemicals with respect to which subclause (II) applies),

(II) the aggregate tax which would (but for this subsection and subsection (g)) be imposed by this subchapter with respect to any additional production allowance granted to such person with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year by the Environmental Protection Agency under 40 CFR Part 82 (as in effect on September 14, 1989, and

(III) the aggregate tax which was imposed by this subchapter with respect to ozone-depleting chemicals imported by such person during the calendar year.

(ii) 1986 export percentage.—A percent the percentage equal to the ozone-depleting chemicals manufactured during 1986 which were exported during the depletion factor adjusted pounds of all ozone-depleting chemicals manufactured or produced by such person as determined under the preceding sentence into account the sum of such person's consumption determined by the Environmental Protection Agency with respect to indirect 1986 exports (as allocated to such person's consumption of ozone-depleting chemicals).

(C) Separate application of limit for new

(i) In general.—Subparagraph (B) shall apply with respect to newly listed chemicals and other chemicals.

(ii) Application to newly listed chemicals.—

(I) subparagraph (B) shall be applied with respect to each place it appears, and

(II) clause (i)(II) thereof shall be a regulation referred to therein any regulation prescribed by the Secretary which is comparable to the regulations referred to in clause (i)(II).

(iii) Newly listed chemical.—For purposes of this subsection the term "newly listed chemical" means any chemical listed in the table contained in subsection (a)(2) below.

(e) Other definitions.—For purposes of this subchapter—

(1) Importer.—The term "importer" means the person who consumes, uses, or warehouses.

(2) United States.—The term "United States" means the United States as defined in section 4612(a)(4).

(f) Special rules.—

(1) Fractional parts of a pound.—In the case of a tax imposed by this subchapter shall be the same fraction of the tax imposed on a whole pound.

(2) Disposition of revenues from Puerto Rico.—The provisions of subsections (a)(3) and (b)(3) of section 4681 shall apply to the tax imposed by this subchapter.

(g) Phase-in of tax on certain substances.—

(1) Treatment for 1990.—

(A) Halons.—The term "ozone-depleting chemical" shall include halon-1211, halon-1301, or halon-2402 with respect to 1990.

(B) Chemicals used in rigid foam insulation.—

(i) on the use during 1990 of any substance used in rigid foam insulation,

(ii) on the sale during 1990 by the importer of any substance—

(I) for use by the purchaser in the insulation, or

(II) for resale by the purchaser to a second purchaser, or

(iii) on the sale or use during 1990 by the importer.

Clause (ii) shall apply only if the manufacturer, the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

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[§ 10,340]

RULES AND REGULATIONS

SEC. 7805 [1986 Code]. (a) AUTHORIZATION.—Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) RETROACTIVITY OF REGULATIONS OR RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

(c) PREPARATION AND DISTRIBUTION OF REGULATIONS, FORMS, STAMPS, AND OTHER MATTERS.—The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

(d) MANNER OF MAKING ELECTIONS PRESCRIBED BY SECRETARY.—Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall by regulations or forms prescribe.

(e) TEMPORARY REGULATIONS.—

(1) ISSUANCE.—Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

(2) 3-YEAR DURATION.—Any temporary regulation shall expire within 3 years after the date of issuance of such regulation.

purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used during the applicable period by any person to sterilize medical instruments or as propellants in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.

"(C) APPLICABLE PERIOD.—For purposes of this paragraph, the term 'applicable period' means—

"(i) 1993 in the case of substances to sterilize medical instruments, and

"(ii) any period after 1992 in the case of propellants in metered-dose inhalers."

(c) TREATMENT OF METHYL CHLOROFORM.—Subsection (g) of section 4682, as amended by subsection (b), is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF METHYL CHLOROFORM.—The tax imposed by section 4681 during 1993 by reason of the treatment of methyl chloroform as an ozone-depleting chemical shall be 63.02 percent of the amount of such tax which would (but for this paragraph) be imposed."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after January 1, 1993.

SEC. 1932. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

"(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of an-

ozone-depleting chemical is the amount determined under the following table for such calendar year:

Calendar year:	Base tax amount:
1993	3.35
1994	4.35
1995	5.35

(b) **RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.**—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended by striking "10" and inserting "7.46".

(c) **FLOOR STOCKS.**—Subparagraph (C) of section 4682(h)(2) (relating to tax-increase dates) is amended by striking "of 1991, 1992, 1993, and 1994" and inserting "of any calendar year after 1991".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable chemicals sold or used on or after January 1, 1993.

SEC. 1932. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) **TREATMENT OF CERTAIN HALONS.**—The table contained in subparagraph (A) of section 4682(g)(2) (relating to halons) is amended to read as follows:

"In the case of:

The applicable percentage in the case of sales or use during 1993 is:

Halon-1211	2.49
Halon-1301	0.75
Halon-2402	1.24

(b) **CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS AND AS PROPELLANTS IN METERED-DOSE INHALERS.**—Subsection (g) of section 4682 (relating to phase-in of tax on certain substances) is amended by adding at the end thereof the following new paragraph:

"(4) **CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS AND AS PROPELLANTS IN METERED-DOSE INHALERS.**—

"(A) **RATE OF TAX.**—

"(i) **IN GENERAL.**—In the case of—

"(I) any use during the applicable period of any substance to sterilize medical instruments or as propellants in metered-dose inhalers, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be equal to \$1.67 per pound.

"(ii) **QUALIFIED SALE.**—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical instruments or as propellants in metered-dose inhalers, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d

purchasers (if any) as may be prescribed.

"(B) **OVERPAYMENT.**—Amounts paid under this subtitle period by any person as propellants in meters without interest shall amount equal to the excise

"(i) the tax paid substance, or

"(ii) the tax (if section 4681 if such by the manufacture the date of its use by. Amounts payable under to uses during the taxable in section 34(a) for such timely filed under this subtitle.

"(C) **APPLICABLE PERIOD.**—In the case of any instrument, and

"(i) 1993 in the case of any instrument, and

"(ii) any period of time in metered-dose

(c) **TREATMENT OF METHYL CHLOROFORM.**—Section 4682, as amended by subsection (b), shall apply to the end thereof the following new paragraph:

"(5) **TREATMENT OF METHYL CHLOROFORM.**—The tax imposed by section 4681 during the taxable period shall be 63.02 percent of the amount of the tax imposed by this paragraph) be imposed.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to sales and uses on or after January 1, 1993.

SEC. 1933. INFORMATION REPORTING AND SELLER-PROVIDED FINANCING.

(a) **GENERAL RULE.**—Section 4681 (relating to information reporting) is amended by adding at the end thereof the following new subsection:

"(h) **IDENTIFYING INFORMATION.**—In the case of any sale of certain seller-provided financing,

"(1) **PAYOR.**—If any tax is imposed by section 163 for qualified resident financing, such taxpayer shall such deduction the name, whom such interest is paid.

"(2) **RECIPIENT.**—If any tax is referred to in paragraph (1) return for the taxable year or accrued the name, address, and such interest.

"(3) **FURNISHING OF INFORMATION.**—If any person is

"(B) LIMITATION.—

"(i) IN GENERAL.—The amount of the credit determined under this subsection for any taxable year with respect to any taxpayer shall not exceed the excess of—

"(I) the amount determined under clause (ii),
over

"(II) the aggregate amount of the credit determined under this subsection for prior taxable years with respect to such taxpayer.

"(ii) OVERALL LIMITATION.—The amount determined under this clause with respect to any taxpayer is the excess of—

"(I) the aggregate amount of credit which would have been allowed under subsection (d) to the taxpayer for periods before the termination date specified in section 4611(f)(1), if amounts in the Trans-Alaska Pipeline Liability Fund which are actually transferred into the Oil Spill Liability Fund were transferred on January 1, 1990, and the Oil Spill Liability Trust Fund financing rate did not terminate before such termination date, over

"(II) the aggregate amount of the credit allowed under subsection (d) to the taxpayer.

"(3) COST OF INCOME TAX CREDIT BORNE BY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall from time to time transfer from the Oil Spill Liability Trust Fund to the general fund of the Treasury amounts equal to the credits allowed by reason of this subsection.

"(B) TRUST FUND BALANCE MAY NOT BE REDUCED BELOW \$1,000,000,000.—Transfers may be made under subparagraph (A) only to the extent that the unobligated balance of the Oil Spill Liability Trust Fund exceeds \$1,000,000,000. If any transfer is not made by reason of the preceding sentence, such transfer shall be made as soon as permitted under such sentence.

"(4) NO CARRYBACK.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under this subsection may be carried to a taxable year beginning on or before the date of the enactment of this paragraph."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle B—Revenue Increases, Etc.

SEC. 1931. INCREASED BASE TAX AMOUNT ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Subparagraph (B) of section 4681(b)(1) (relating to amount of tax) is amended to read as follows:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any

ENERGY POLICY ACT OF 1992

OCTOBER 5, 1992.—Ordered to be printed

Mr. DINGELL, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 776]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 776), to provide for improved energy efficiency, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION I. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Energy Policy Act of 1992".

(b) *TABLE OF CONTENTS.*—

TITLE I—ENERGY EFFICIENCY

Subtitle A—Buildings

- Sec. 101. Building energy efficiency standards.
- Sec. 102. Residential energy efficiency ratings.
- Sec. 103. Energy efficient lighting and building centers.
- Sec. 104. Manufactured housing energy efficiency.
- Sec. 105. Energy efficient mortgages.
- Sec. 106. Energy efficient mortgages pilot program.

Subtitle B—Utilities

- Sec. 111. Encouragement of investments in conservation and energy efficiency by electric utilities.
- Sec. 112. Energy efficiency grants to State regulatory authorities.
- Sec. 113. Tennessee Valley Authority least-cost planning program.
- Sec. 114. Amendment of Hoover Power Plant Act.

for 1991, 1992, and 1993.—

The tax imposed by section 4681 during 1991, 1992, or 1993 on the treatment of halon-1211, halon-1301, and halon-2402 as chemicals shall be the applicable percentage (determined in the following table) of the amount of such tax which would (but for this paragraph) be imposed.

Use of:	The applicable percentage is:		
	For sales or use during 1991	For sales or use during 1992	For sales or use during 1993
.....	6.0	5.0	3.3
.....	1.8	1.5	1.0
.....	3.0	2.5	1.6

is used in rigid foam insulation.—In the case of a sale or use during 1992, or 1993 on which no tax would have been imposed by section 4681 had such sale or use occurred during 1990, the section 4681 shall be the applicable percentage (determined in the following table) of the amount of such tax which this subparagraph) be imposed.

Use of:	The applicable percentage is:
.....	18
.....	15
.....	10

with respect to chemicals used in rigid foam insulation on which tax was paid under this subchapter is used during 1992, or 1993 by any person in the manufacture of rigid foam insulation, a refund (without interest) shall be allowed to such person an amount in excess of—

paid under this subchapter on such substance, over the amount (if any) which would be imposed by section 4681 if such tax had been used for such use by the manufacturer, producer, or importer on the date of its use by such person.

Under the preceding sentence with respect to uses during the year treated as described in section 34(a) for such year unless such use has been timely filed under this paragraph.

or stocks taxes.—

90. tax.—On any ozone-depleting chemical which on January 1, 1991, was in the possession of any person (other than the manufacturer, producer, or importer) for sale or for use in further manufacture, there is hereby imposed an excise tax in an amount equal to the tax which would be imposed by section 4681 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred during 1990.

increase dates.—

1. If, on any tax-increase date, any ozone-depleting chemical is in the possession of any person (other than the manufacturer, producer, or importer) for sale or for use in further manufacture, there is hereby imposed an excise tax.

2. The amount of the tax imposed by subparagraph (1) in excess (if any) of—

the amount of tax which would be imposed under section 4681 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred on the tax-increase date, over the amount of any prior tax (if any) imposed by this subchapter on such sub-

(C) Tax-increase date.—For purposes of this paragraph, the term "tax-increase date" means January 1 of 1991, 1992, 1993, and 1994.

(3) Due date.—The taxes imposed by this subsection on January 1 of any calendar year shall be paid on or before June 30 of such year.

(4) Application of other laws.—All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4681 shall apply to the floor stocks taxes imposed by this subsection.

(Added Pub.L. 101-239, Title VII, § 7506(a), Dec. 19, 1989, 103 Stat. 2365 and amended Pub.L. 101-508, Title XI, §§ 11203(a), (b), (d), 11701(g), Nov. 5, 1990, 104 Stat. 1388-421, 1388-422, 1388-508.)

HISTORICAL AND STATUTORY NOTES

Revisions Notes and Legislative Reports
1989 Act. House Report No. 101-247 and House Conference Report No. 101-346, and Statement by President, see 1989 U.S. Code Cong. and Adm. News, p. 1906.

1990 Act. House Report No. 101-881 and House Conference Report No. 101-964, see 1990 U.S. Code Cong. and Adm. News, p. 2017.

Amendments
1990 Amendment, Subsec. (a)(2). Pub.L. 101-508, § 11203(a)(1), added following items to table listing ozone-depleting chemicals under their common names and corresponding chemical acronyms:

"Carbon tetrachloride	Tetrachloromethane
Methyl chloroform	1,1,1-trichloroethane
CFC-13	CFCl ₃
CFC-111	CF ₂ Cl ₂
CFC-112	CF ₂ Cl ₂
CFC-211	CF ₃ Cl
CFC-212	CF ₂ Cl ₂
CFC-213	CF ₃ Cl
CFC-214	CF ₂ Cl ₂
CFC-215	CF ₃ Cl
CFC-216	CF ₂ Cl ₂
CFC-217	CF ₃ Cl

Subsec. (b). Pub.L. 101-508, § 11203(a)(2), added following items to table listing ozone-depleting chemicals and corresponding ozone-depletion factors:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0

Subsec. (c)(1). Pub.L. 101-508, § 11203(d)(1), inserted in last sentence after "ozone-depleting chemical" parenthetical phrase "(other than methyl chloroform)".

Subsec. (d)(3)(B)(i). Pub.L. 101-508, § 11701(g)(3), substituted "produced, or imported" for "or produced" in the provisions preceding subcl. (i).

Subsec. (d)(3)(B)(ii). Pub.L. 101-508, § 11701(g)(3), substituted "the amount equal to

the 1984 export percentage of the aggregate tax which would (but for this subsection and subsection (g)) be imposed by this subchapter with respect to the maximum quantity of ozone-depleting chemicals permitted to be manufactured or produced by such person during such calendar year under regulations prescribed by the Environmental Protection Agency (other than chemicals with respect to which subclass (II) applies)." for "the amount equal to the 1984 export percentage of the aggregate tax imposed by this subchapter with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year (other than chemicals with respect to which subclass (II) applies), and."

Subsec. (d)(3)(B)(iii). Pub.L. 101-508, § 11701(g)(3), substituted "tax which would (but for this subsection and subsection (g)) be imposed" for "tax imposed".

Subsec. (d)(3)(B)(iii). Pub.L. 101-508, § 11701(g)(4), added subcl. (iii).

Subsec. (d)(3)(B)(ii). Pub.L. 101-508, § 11701(g)(5), substituted "The percentage determined under the preceding sentence shall be computed by taking into account the sum of such person's direct 1984 exports (as determined by the Environmental Protection Agency) and such person's indirect 1984 exports (as allocated to such person by such Agency in determining such person's consumption and production rights for ozone-depleting chemicals)" for "The percentage determined under the preceding sentence shall be based on data published by the Environmental Protection Agency."

Subsec. (d)(3)(C). Pub.L. 101-508, § 11203(b), added subpar. (C).

Subsec. (b)(3). Pub.L. 101-508, § 11203(d)(2), substituted "June 30" for "April 1".

Effective Dates

1990 Act. Amendment by section 11701 of Pub.L. 101-508 effective as if included in the provision of the Revenue Reconciliation Act of 1989 [Title VII of Pub.L. 101-239] in which such amendment relates, see section 11701(a) of Pub.L. 101-508, set out as a note under section 42 of this title.

Amendment by section 11203(a), (b), and (d) of Pub.L. 101-508 effective Jan. 1, 1991, see section 11203(e) of Pub.L. 101-508, set out as a note under section 4681 of this title.

1989 Act. Section to take effect on Jan. 1, 1990, but with no deposit of any tax imposed by this subchapter required to be made before Apr. 1, 1990, see section 7506(e)(1), (2) of Pub.L.

(2) Treatment for 1991, 1992, and 1993.—

(A) Halons.—The tax imposed by section 4681 during 1991, 1992, or 1993 by reason of the treatment of halon-1211, halon-1301, and halon-2402 as ozone-depleting chemicals shall be the applicable percentage (determined under the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

In the case of:	The applicable percentage is:		
	For sales or use during	For sales or use during	For sales or use during
Halon-1211	1991	1992	1993
Halon-1301	6.0	5.0	3.3
Halon-2402	1.8	1.5	1.0
	3.0	2.5	1.6

(B) Chemicals used in rigid foam insulation.—In the case of a sale or use during 1991, 1992, or 1993 on which no tax would have been imposed by reason of paragraph (1)(B) had such sale or use occurred during 1990, the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

In the case of sale or use during:	The applicable percentage is:
1991.....	18
1992.....	15
1993.....	10.

(3) Overpayments with respect to chemicals used in rigid foam insulation.—If any substance on which tax was paid under this subchapter is used during 1990, 1991, 1992, or 1993 by any person in the manufacture of rigid foam insulation, credit or refund (without interest) shall be allowed to such person an amount equal to the excess of—

- (A) the tax paid under this subchapter on such substance, over
- (B) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim therefor has been timely filed under this paragraph.

(h) Imposition of floor stocks taxes.—

(1) January 1, 1990, tax.—On any ozone-depleting chemical which on January 1, 1990, is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax in an amount equal to the tax which would be imposed by section 4681 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred during 1990.

(2) Other tax-increase dates.—

(A) In general.—If, on any tax-increase date, any ozone-depleting chemical is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax.

(B) Amount of tax.—The amount of the tax imposed by subparagraph (A) shall be the excess (if any) of—

- (i) the tax which would be imposed under section 4681 on such substance if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred on the tax-increase date, over
- (ii) the prior tax (if any) imposed by this subchapter on such substance.

(C) Tax-increase date.—For purposes of this paragraph "tax-increase date" means January 1 of 1991, 1992, 1993, or 1994.

(3) Due date.—The taxes imposed by this subsection shall be paid on or before June 30 of such calendar year.

(4) Application of other laws.—All other provisions of law, applicable with respect to the taxes imposed by the floor stocks taxes imposed by this subsection.

(Added Pub.L. 101-239, Title VII, § 7506(a), Dec. 19, 1989, 103 Stat. 101-508, Title XI, §§ 11203(a), (b), (d), 11701(g), Nov. 5, 1990, 10-1888-508.)

HISTORICAL AND STATUTORY NOTES

Revisions Notes and Legislative Reports

1989 Act. House Report No. 101-247 and House Conference Report No. 101-384, and Statement by President, see 1989 U.S. Code Cong. and Adm. News, p. 1906.

1990 Act. House Report No. 101-441 and House Conference Report No. 101-964, see 1990 U.S. Code Cong. and Adm. News, p. 2017.

Amendments

1990 Amendment. Subsec. (a)(2). Pub.L. 101-508, § 11203(a)(1), added following items to table listing ozone-depleting chemicals under their common name and corresponding chemical nomenclature:

"Carbon tetrachloride	Tetrachloroethane
Methyl chloroform	1,1,1-trichloroethane
CFC-13	CF3Cl
CFC-111	CF2Cl15
CFC-112	CF2Cl14
CFC-211	CF3Cl17
CFC-212	CF2Cl16
CFC-213	CF3Cl15
CFC-214	CF3Cl14
CFC-215	CF3Cl13
CFC-216	CF3Cl12
CFC-217	CF3Cl11

Subsec. (b). Pub.L. 101-508, § 11203(a)(2), added following items to table listing ozone-depleting chemicals and corresponding ozone-depletion factors:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0

Subsec. (c)(2). Pub.L. 101-508, § 11203(d)(1), inserted in last sentence after "ozone-depleting chemical" parenthetical phrase "(other than methyl chloroform)".

Subsec. (d)(3)(B)(i). Pub.L. 101-508, § 11701(g)(1), substituted "produced, or imported" for "or produced" in the provisions preceding subcl. (i).

Subsec. (d)(3)(B)(i)(I). Pub.L. 101-508, § 11701(g)(2), substituted "the amount equal to

the 1986 export which would (but for this subsection (g)) be imposed with respect to the maximum amount of such year under regulatory provisions of the Environmental Protection Act with respect to which "the amount equal to of the aggregate tax with respect to ozone factored or produced calendar year (other to which subclause (

Subsec. (d)(3)(B) § 11701(g)(3), substituted "tax imposed" for "tax imposed

Subsec. (d)(3)(B) § 11701(g)(4), added

Subsec. (d)(3)(E) § 11701(g)(5), substituted under the preceding by taking into account the person's direct 1986 Environmental Protection Act's indirect 1986 person by such Agency's consumption of ozone-depleting chemicals determined under the based on data public Protection Agency."

Subsec. (d)(3)(C). added subpar. (C).

Subsec. (h)(3). Part substituted "June 30"

Effective Dates

1990 Act. Amended Pub.L. 101-508 effect provision of the Rev-1989 (Title VII of Pub.L. 101-508, see also as a title.

Amendment by section Pub.L. 101-508 effect 11203(e) of Pub.L. 1 under section 4681 of

1989 Act. Section 1990, but with no effect this subchapter require 1990, see section

of ozone-depleting chemicals as materials in the manufacture thereof. The preceding sentence shall not apply to any ozone-depleting chemical (other than methyl chloroform) in use for refrigeration or air conditioning, creating an aerosol or other electronic components.

No tax shall be imposed by section 4681 on any ozone-depleting chemical which is diverted or recovered in the United States as part of (and not as part of the original manufacturing or production

of manufacture.—

(a) No tax shall be imposed by section 4681—

(1) on the use of any ozone-depleting chemical in the manufacture or use of any other chemical if the ozone-depleting chemical is consumed in such use,

(2) on the sale by the manufacturer, producer, or importer of any ozone-depleting chemical—

(i) for use by the purchaser which meets the requirements of clause (i), or

(ii) for resale by the purchaser to a second purchaser for use by the second purchaser which meets the requirements of clause (i).

Such provisions shall apply only if the manufacturer, producer, and importer, and the second purchasers (if any), meet such registration requirements as may be prescribed by the Secretary.

(b) refund.—Under regulations prescribed by the Secretary,

no refund under this subchapter shall be allowed with respect to any ozone-depleting chemical, and

no refund shall be allowed if the ozone-depleting chemical was used (and entirely consumed) by any person in the manufacture or production of any other chemical,

and the amount of tax so paid shall be allowed as a credit or refund (with interest) to such person in the same manner as if it were an amount of tax imposed by section 4681.

(c) Except as provided in subparagraph (B), rules similar to those in section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply in the case of this subchapter.

(d) benefit.—

(1) The aggregate tax benefit allowable under subparagraph (B) with respect to ozone-depleting chemicals manufactured or imported by any person during a calendar year shall not exceed the amount of—

(i) the amount equal to the 1986 export percentage of the tax which would (but for this subsection and subsection (g)) be imposed by this subchapter with respect to the maximum amount of ozone-depleting chemicals permitted to be manufactured or produced by such person during such calendar year under the provisions prescribed by the Environmental Protection Agency with respect to which subclass (II) applies,

(ii) the aggregate tax which would (but for this subsection and subsection (g)) be imposed by this subchapter with respect to any additional production allowance granted to such person with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year by the Environmental Protection Agency under 40 CFR Part 82 (as in effect on September 1989), and

(iii) the aggregate tax which was imposed by this subchapter with respect to ozone-depleting chemicals imported by such person during such calendar year.

(ii) 1986 export percentage.—A person's 1986 export percentage is the percentage equal to the ozone-depletion factor adjusted pounds of ozone-depleting chemicals manufactured or produced by such person during 1986 which were exported during 1986, divided by the ozone-depletion factor adjusted pounds of all ozone-depleting chemicals manufactured or produced by such person during 1986. The percentage determined under the preceding sentence shall be computed by taking into account the sum of such person's direct 1986 exports (as determined by the Environmental Protection Agency) and such person's indirect 1986 exports (as allocated to such person by such Agency in determining such person's consumption and production rights for ozone-depleting chemicals).

(C) Separate application of limit for newly listed chemicals.—

(i) In general.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

(ii) Application to newly listed chemicals.—In applying subparagraph (B) to newly listed chemicals—

(I) subparagraph (B) shall be applied by substituting "1989" for "1986" each place it appears, and

(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

(iii) Newly listed chemical.—For purposes of this subparagraph, the term "newly listed chemical" means any substance which appears in the table contained in subsection (a)(2) below Halon-2402.

(e) Other definitions.—For purposes of this subchapter—

(1) Importer.—The term "importer" means the person entering the article for consumption, use, or warehousing.

(2) United States.—The term "United States" has the meaning given such term by section 4612(a)(4).

(f) Special rules.—

(1) Fractional parts of a pound.—In the case of a fraction of a pound, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole pound.

(2) Disposition of revenues from Puerto Rico and the Virgin Islands.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

(g) Phase-in of tax on certain substances.—

(1) Treatment for 1990.—

(A) Halons.—The term "ozone-depleting chemical" shall not include halon-1211, halon-1301, or halon-2402 with respect to any sale or use during 1990.

(B) Chemicals used in rigid foam insulation.—No tax shall be imposed by section 4681—

(i) on the use during 1990 of any substance in the manufacture of rigid foam insulation,

(ii) on the sale during 1990 by the manufacturer, producer, or importer of any substance—

(I) for use by the purchaser in the manufacture of rigid foam insulation, or

(II) for resale by the purchaser to a second purchaser for such use by the second purchaser, or

(iii) on the sale or use during 1990 by the importer of any rigid foam insulation.

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the first and second purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.