

DEPARTMENT OF THE AIR FORCE
OFFICE OF THE CHIEF OF STAFF
UNITED STATES AIR FORCE
WASHINGTON DC 20330

FROM: HQ USAF/CVA
1670 Air Force Pentagon
Washington, DC 203301670

SUBJ: Air Force Ozone Depleting Chemical (ODC) Interim Waiver Application,
Approval Procedures, and Reporting Requirements

TO: ALMAJCOM/CV/CE/LG/PK/JA HQ USAF/RE NGB/CF

14 JUL 1993

1. The attached interim Ozone Depleting Chemical (ODC) waiver application and approval procedures fulfill the requirements set forth in the National Defense Authorization Act for FY 1993, the Department of Defense ODC Procurement Guidance, and Air Force ODC policy. Effective 1 Jun 93, waivers are required prior to award of any contract that requires the use of a Class I ODC, to purchase new or recycled ODCs, or obtain ODCs from the Defense Logistics Agency ODC bank for mission critical applications. Waivers permitted under these procedures are for the purpose of granting time to develop and implement ODC alternatives, and not to allow "business as usual." Waivers are not required for Government use of ODCs currently in stock on Air Force facilities; however, waivers will be required to purchase replacement stock locally or draw replacement stock from the ODC bank. These procedures will also be outlined in the forthcoming Air Force Instruction 327080, Pollution Prevention Programs.

2. ODC availability will be greatly reduced by the end of 1994 when the largest United States producer stops production and will disappear by 1995 when the remaining production ends. If your program/mission is dependent upon a continued supply of ODCs after this date, it is in jeopardy. It is important to find alternatives to ODCs to avoid mission impact when ODCs are no longer available and to minimize the depletion of the Earth's ozone layer. Any questions regarding the implementation of this portion of the Air Force's ODC policy should be addressed to Air Staff representative for your functional area. Please ensure widest possible distribution of these procedures.

1 Atch

THOMAS G. McInerney (AF ODC Waiver Application)
Lt General, USAF Approval Procedures, and Reporting
Assistant Vice Chief of Staff Requirements (Interim) w/4 Atch
cc: HQ USAF Distribution C

United States Air Force Ozone Depleting Chemicals (ODCs)

Waiver Application, Approval Procedures, and Reporting Requirements (Interim)

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ATTACHMENTS

1. National Defense Authorization Act for FY 1993 (Sec. 325 & 326)
2. Department of Defense ODC Policy, 20 May 93

3. Air Force ODC Policy, 7 Jan 93

4. AFAC 9229, 26 May 93

TERMS AND DEFINITIONS

1. **Appropriate Technical Representative (ATR)** The approved representative of the Waiver Approval Authority. The ATR is HQ AFMC/EN or their designated representative (outside the Single Manager chain of command) for all Air Force applications. By law, the ATR is a government official assigned responsibility for performing an independent technical review of the ODC requirement by considering available options for substituting chemicals or alternate technology. The ATR signs the Certification Statement in the waiver application.

2. **Waiver Approval Authority (WAA)** This official has the authority to approve waivers to allow the purchase or use of ODCs. The three WAAs for these interim procedures are SAF/AQ, AF/LG and AF/CE.

3. **ODC Waiver Focal Point (WFP)**. The WFP (AFMC/EN) has three responsibilities:

a. **Central Repository** Maintaining information on waivers and producing ODC waiver reports as required by law and DoD/AF policy.

b. **Technical Information Exchange** Crossfeed waiver information and technical alternatives, and identify R&D Technology needs to the AFMC/ST Master Process.

c. **Appropriate Technical Representative (ATR)** Perform the independent technical review as requested.

4. **Certification Statement** The certification is a statement that a suitable substitute for the Class I ODC is not currently available. This is required for waiver applications on defense contracts or interagency agreements such as procurement from DLA (see Waiver Application).

5. **Suitable Substitute** An alternative to ODC use through elimination, process modification or material substitution that is technically, economically and legally feasible.

6. **Statement of no ODC requirement** In accordance with AFFARS 5310.002-71(90)(c), the requiring activity must furnish either a written statement that the Air Force does not require the contractor to deliver or use Class I ODCs in the performance of the contract or an approved waiver to the contracting officer. Although the Air Force policy is to discourage the use of Class I ODCs, the contractor may elect to use an ODC. If the user did not specify that an ODC must be used, has not phrased the requirement in such a way that it can only be met through the use of a Class I ODC, or did not require the contractor to deliver a separately identifiable Class I ODC under the contract, the user

complies with Air Force policy. If the using activity provides a statement of no ODC requirement to the contracting officer, then a waiver is not needed.

The definition of "require" the contractor to deliver or use Class I ODCs in the performance of the contract is: compel the contractor to use a Class I ODC by (1) placing a specification, standard, or technical order that requires the use of an ODC in a process or service on contract as a compliance document, or (2) stating the requirement in such a way that the contractor can only satisfy it through the use of a Class I ODC.

TERMS AND DEFINITIONS (continued)

A waiver may not be required for some offtheshelf consumable materials, even if they include Class I ODCs in their formulation. These items were developed and are used commercially. They were not developed from military specifications, but may be used for military applications and therefore meet the test that the requesting agency did not require the use of ODCs in the product. This is consistent with the Administration's policy of relying on commercial specifications. An example of this type of product is hand soap, which may contain a Class I ODC as part of its formula.

ODC containing products will be reformulated by producers as the ODCs are phased out of production in accordance with the provisions of the Montreal Protocol. If the requesting agency has not specified the use of a particular ODC, will accept a nonODC formulation, and has not required the delivery of a separately identifiable Class I ODC, then the requesting agency may sign the statement of no ODC requirement.

The written statement of no ODC requirement is as follows:

"I have reviewed the requirement, including available technical documentation, and believe that it does not require the contractor to use Class I Ozone Depleting Chemicals (ODCs) in performance of the contract, nor does it require delivery of a separately identifiable Class I ODC as an item of supply or as a part of any service."

7. Ozone Depleting Chemicals (ODC) and Ozone Depleting Substances (ODS) -

These terms are used interchangeably. A list of Class I ODCs is provided in the Air Force ODC policy.

8. Class Waivers Interim waiver approval from SAF/AQ, AF/LG or AF/CE to procure specific ODCs for MAJCOM or Air Force wide applications, which have potential for immediate mission or health and safety impact. This will minimize the volume of waiver requests and allow waiver requesters additional time to review alternatives. A Class waiver will allow the purchase of specific materials, services or equipment involving applications where transition to alternative materials or technologies have not been completed. Some examples of areas where approval will be considered are solvent cleaning of electronics or precision equipment, medical supplies/services, laboratory uses for the purpose of validating performance of ODC alternatives, or refrigeration service contracts. Requesters must be able to provide detailed plans as described in the waiver application instructions to include dates when ODCs will no longer be required.

9. Evaluation Process Statute requires review of the requirements on contracts awarded before 1 Jun 93 after issuance of a qualifying modification to the contract. The evaluation process is considered complete when the contract requirement has been reviewed and: 1) it has been determined that the contractor is not required to use or deliver a separately identifiable ODC, 2) a completed waiver application has been submitted in accordance with this policy, or 3) the requiring activity has initiated action to remove the Class I ODC requirement(s) from the contract.

BACKGROUND

INTRODUCTION

The production phase out for ozone depleting chemicals is imminent. Although waivers may be granted to continue obtaining ODCs until the phase out, 42 U.S.C. section 7671c(f) provides that waivers for production beyond the mandated production phaseout dates of certain Class I ODCs can be granted only by the President, to the extent such action is consistent with the Montreal Protocol Effective January 1, 1994 Halon production will cease and January 1, 1996 Chlorofluorocarbon production will cease. Our dependence on these chemicals must be eliminated or missions dependent on a continued supply of these substances might be jeopardized.

To fulfill the requirements outlined in laws and polices identified below, a need existed for the development of waiver application, approval procedures, and reporting requirements for ODCs. These interim ODC procedures were created by Air Staff and HQ AFMC environmental,

logistics, and acquisition representatives.

1. On November 15, 1990 the Clean Air Act Amendments were signed into law. Title VI of the Amendments implemented the 1990 revised Montreal Protocol and established venting restrictions, training and certification requirements, phase out of certain non essential uses, labeling requirements, production restriction and requirements for requesting production exemptions.

2. Major results of the Copenhagen amended Montreal Protocol (1992) included an accelerated production phase out schedule with production to cease for:

Halon by 1 January 1994

CFCs, Carbon Tetrachloride, and Methyl Chloroform by 1 January 1996.

3. On August 11, 1992, the Under Secretary of Defense directed the Defense Logistics Agency to establish and manage a Defense Reserve of ODCs to ensure that supplies for mission critical uses are available.

4. National Defense Authorization Act for FY 1993 (Public Law 102484) established legal requirements that must be met prior to the award of any contract. Section 326 of this law is the driving force behind why all contracts awarded after 1 Jun 93 which call for the

use of or depend on the use of ODCs require an approved waiver. The Act also established reporting and banking requirements. An excerpt of Section 325 & 326 of P.L. 102484 is attached (atch 1).

5. On January 7, 1993 the Secretary of the Air Force and the Chief of Staff of the Air Force cosigned the Air Force Policy on Ozone Depleting Chemicals (ODCs). The Air Force policy incorporated all the laws and policies prior to this date and outlined an aggressive approach to eliminating the AF's dependence on ODCs. The AF ODC policy is shown at attachment 3).

6. On 20 May 1993, the Under Secretary of Defense (Acquisition) established Department of Defense Policy on Ozone Depleting Chemicals. This memorandum implemented the requirements set forth in the National Defense Authorization Act for FY 1993. The DoD policy established more detailed reporting requirements than P.L. 102-484 and allows the Services to designate approval authority ". . . at a level no lower than a general or flag officer or Senior Executive Service member of the requiring activity." (NOTE: The interim Air Force waiver procedures require that this approval authority remain at Secretariat/Air Staff level.). The DoD policy is shown at attachment 2.

7. On 26 May 1993 the Air Force Deputy Assistant Secretary (Contracting) forwarded to the field for action the interim Air Force Contracting Policy for Elimination of Class I Ozone Depleting Substances. This document included the AFFARS language needed to implement Section 326 of the FY 93 National Defense Authorization Act and asks that the requiring activity provide an approved waiver or a statement of ODC nonuse to the contracting officer for ALL contracts awarded after 1 Jun 93. AFAC 9229 is shown attachment 4.

WAIVER POLICY PROCEDURES

No contract may be awarded that requires the contractor to use a Class I ODC during contract performance, that contains a requirement that can only be met through the use of Class I ODCs, or that requires delivery of a separately identifiable Class I ODC without an approved waiver from SAF/AQ, AF/LG, or AF/CE, as appropriate. Waivers are for the purpose of awarding contracts when a suitable substitute is not currently available. Waivers are not to allow "business as usual". Waivers are not required for government use of ODCs currently in Air Force stock, or when no future requirement to purchase ODCs exists. Waivers are required to obtain ODCs from the Defense Logistics Agency ODC bank for mission critical applications. This waiver package considers all the current laws and policies governing ODCs. Use the attached interim procedures for waiver requests until final procedures are established.

If it is determined that the contract does NOT require the use of a Class I ODC, then in accordance with AFFARS 5310.00271(90)(c), the requiring activity must furnish a written statement to the contracting officer. This statement of ODC nonuse must declare that the Air Force does not require the contractor to deliver a separately identifiable Class I ODC or use Class I ODCs in the performance of the contract. The written statement is shown in the TERMS and DEFINITIONS Section of these interim procedures.

If it is determined that a waiver is needed, then an AF ODC Waiver Application must be completed by the originating office. Once the application is completed, the process covered in this package must be followed to separately procure ODCs and to obtain ODCs from the DLA bank.

Because of the potential volume of waivers that could be submitted as a result of the National Defense Authorization Act for FY 1993, the Air Force will approve for a short period, class waivers. The purpose of class waivers is to address immediate requirements to award contracts in areas where MAJCOM or Air Forcewide needs exist or potential for immediate impact to aircraft missions or personnel are possible. Waiver requests shall be submitted by organizations designated by AF/CE, AF/LG, or SAF/AQ as the OPR for determining needs. Approval will be contingent upon information provided in the waiver application which demonstrates an aggressive attempt to find and implement alternatives to the use of ODCs.

Waivers to procure ODCs through contracts or from the DLA bank for supporting weapon systems and nonweapon systems will be submitted in accordance with the attached procedures for waiver applications. If approved, the waiver will be returned to the originating office with copies to the central repository.

AF ODC WAIVER APPLICATION

(Interim)

WAIVER REQUEST #:./_(Base or Center Name/Waiver # Starting with 00001)

DATE OF REQUEST:

1) Program (system or operation) requiring ODC.

a. For existing contracts, provide the DoD contract number and the contractor's name.

2) Name of ODC (1 ODC per waiver application).

3) Provide the estimated amount of class I ODC to be used. List separately the estimated amount required for the contract or maintenance and operation for each year this waiver is requested.

(This is the total ODC required less the amount recycled inhouse from this operation annually.)

4) Is the continued use of the ODC mission critical to the Air Force (Check one)?

Mission Critical NonMission Critical

5) Explain the purpose of the waiver (i.e., to award a contract that requires the use of a class I ODC, to purchase ODCs, or obtain from Defense Logistics Agency ODC bank for mission critical applications).

- 6) The time period for which this waiver is requested (Not to exceed 31 Dec 94).
- 7) Describe the specific use of the ODC (Material NSN, T.O./MILSPEC/MILSTD, Process Use, etc.).
- 8) Discuss ODC alternatives considered and explain why they are technically, economically or legally unacceptable. List the technical, economic or legal experts consulted. The discussion could include a technical and economic comparison between the continued use of the ODC and use of a substitute chemical or process.
- 9) Describe the actions taken to reduce the use or loss of ODCs such as, recycling or procedure/process change.
- 10) Describe future actions planned to develop, evaluate, and implement nonODC alternatives and the programming & budgeting efforts taken for these nonODC alternatives. Include milestone dates and an estimate of when ODCs will no longer be required.
- 11) If the ODC waiver is approved, what source can supply the ODC requirement?
- 12) If the ODC waiver is disapproved, what is the alternate plan of action?
- 13) FOREIGN MILITARY SALES ONLY: The unique nature of FMS contracts requires additional questions. These are:
 - a. Have the FMS customers been made aware that the system includes ODCs which are being phased out under the Montreal Protocol?
 - b. What arrangements have been made to ensure availability of the ODC for the expected life cycle of the system? Explain what commitments, if any, the USAF will have to support the system.
 - c. Will the FMS customers pay for the redesign to eliminate the use of Class I ODCs in the manufacturing, maintenance and operation of the system?
 - d. Is it feasible to deliver the system without the ODC and have the FMS customer supply the ODC upon receipt?
 - e. Is the FMS customer willing to supply the ODC requirement for production?
- 14) Signature Block of the requesting official. Include the name, office symbol, address, telephone number, organization and command.
- 15) Sample Certification Statements The ATR shall sign a certification statement similar to one of the following samples:

"As an appropriate technical representative, I have reviewed the requirement and certify, to the best of my knowledge and belief, that a suitable technical

alternative for replacing the Class I ozone depleting chemical is not currently available".

"As an appropriate technical representative, I have reviewed the requirement and certify, to the best of my knowledge and belief, that a technical substitute is available for replacing the Class I ozone depleting chemical but that it is the position of the requesting official that the substitute is not currently economically feasible."

ODC WAIVER PROCESS

FOR WEAPON SYSTEMS (Interim)

STEP 1. The Single Manager (SM) responsible for the system or subsystem identifies the need for a waiver. The SM, with assistance of the Center Environmental Office and AFMC/EN, fills out the waiver application. The SM responsible for a weapon system should combine, if possible, all the waiver applications for that weapon system and forward the applications in one consolidated package (NOTE: Only one ODC per application). Examples are:

- a) operational weapon systems or subsystems where ODC use is required by the technical orders (e.g. Halon 1301 for F16 fuel cell inerting),
- b) new production or modification contracts where specifications require ODCs, or can be met only through the use of ODCs (e.g. CFC113 to clean fuel cell control relays on the F16),
- c) test systems, Aerospace Ground Equipment (AGE), support equipment, etc. which require ODCs (CFC12 for AGE equipment).

STEP 2. The Center Environmental Office (e.g. ASC/EM) or the equivalent supports the development of the waiver request. This office is responsible for:

- a) reviewing the waiver for format and accuracy,
- b) assigning a waiver request number (Center Name/waiver number starting with 0001).

STEP 3. The Single Manager signs and forwards the waiver request to the ATR.

STEP 4. The ATR, AFMC/EN or their designated representative (outside the Single Manager chain of command), reviews the application and recommends approval or disapproval. The ATR signs the certification statement, returns the application to the Single Manager for forwarding to the Program Executive Officer (PEO) or Designated Acquisition Commander (DAC).

STEP 5. The PEO or DAC reviews the waiver request and if it concurs, the request is endorsed and forwarded to SAF/AQ. Waiver requests should be mailed to:

SAF/AQXM (EPC Pollution Prevention Subcommittee)
1060 Air Force Pentagon
Washington DC 203301060
Facsimile Number DSN 2274936

STEP 6. The waiver request is approved/disapproved by the appropriate Waiver Approval Authority and is returned to the originating office with copies to the PEO or DAC and the central repository.

ODC WAIVER PROCESS FOR NONWEAPON SYSTEM

(Interim)

STEP 1. The office responsible for facilities or nonweapon system specific requirement identifies the need for a waiver. This office, with assistance of the Base Environmental Office, fills out the waiver application.

STEP 2. The Base Environmental Office or the equivalent supports the development of the waiver request. This office is responsible for:

- a) reviewing the waiver for format and accuracy,
- b) assigning a waiver request number (Center Name/waiver number starting with 0001).

STEP 3. The installation commander signs and forwards the waiver request to the appropriate MAJCOM office (MAJCOM/CE or MAJCOM/LG).

STEP 4. The MAJCOM reviews the waiver request and if it concurs, the request is routed to AFMC/EN.

STEP 5. The ATR, AFMC/EN or their designated representative, reviews the application and recommends approval or disapproval. For approved waivers, the ATR signs the certification statement and returns it to the MAJCOM.

STEP 6. The MAJCOM forwards the application to the Air Staff. When possible, the MAJCOMs should combine waiver applications and forward the waiver applications in one consolidated package to HQ USAF. The HQ USAF mailing address for waiver requests is:

SAF/AQXM (EPC Pollution Prevention Subcommittee)
1060 Air Force Pentagon
Washington DC 203301060
Facsimile Number DSN 2274936

STEP 7. The waiver request is approved/disapproved by the appropriate Waiver Approval Authority and is returned to the originating office with copies to the MAJCOM and the central repository

ODC REPORTING REQUIREMENTS

REPORTING

The Central Repository, AFMC/EN, shall prepare and provide the Air Force's ODC reports on approved waivers, and determinations [see paragraphs (2)(B) and (4) of Section 326 of the National Defense Authorization Act for FY 93]. These reports will be coordinated through the waiver approval authorities by SAF/AQXM and submitted to SAF/MIQ for final Air Force approval. SAF/MIQ shall provide these reports to the Deputy Under Secretary of Defense (Environmental Security). DoD has the requirement under Section 326 to submit the reports to the Committees on Armed Services of the Senate and House of Representatives. The reports shall be transmitted in classified and unclassified forms. The reports will contain the following:

a. FOR NEW CONTRACTS

- (1) the program for each case in which Class I ODC use is approved;
- (2) the Class I ODC specified for the case; and
- (3) the estimated amount of Class I ODC to be used under each case.

b. FOR EXISTING CONTRACTS

- (1) The contractor's name and the number of each contract evaluated where economically feasible chemicals or alternative technologies are available.
 - (a) substance used in each substitution or alternative technology selected,
 - (b) estimated amount of Class I ODC saved over the life of the contract by each substitution or alternative technology,
 - (c) programs for which Class I ODC were procured or used.
- (2) The contractor's name and the number of each contract evaluated where economically feasible substance or alternative technology were not available.
 - (a) the Class I ODC used for each application under the contract,
 - (b) substitutes evaluated for each application under the contract,
 - (c) estimated amount of Class I ODC used for each application under the contract.

REPORTING FREQUENCY

Reports are due 30 days after the end of each quarter with the first report due July 30, 1993, for the month of June 1993, then continuing quarterly through the end of the calendar year 1995. Beginning in 1996 and continuing through the year 2000, reports will be submitted on an annual basis and are due by January 30 each year.