

F-Gas Regulation: Briefing on the informal agreement reached among the EU Institutions

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F-GAS REGULATION – BRIEFING ON THE INFORMAL AGREEMENT REACHED AMONG THE EU INSTITUTIONS

Introduction

On 16 December 2013, following four rounds of negotiations between the Lithuanian Presidency of the Council of the EU and the European Parliament, an informal agreement on the new EU F-Gas Regulation was reached among the EU institutions. On 18 December 2013, the Committee of Permanent Representatives to the European Union (COREPER), representing the national governments of the EU Member States, endorsed this compromise deal. The informal agreement now has to be officially adopted by the European Parliament and the Council of the EU.

The compromise deal reached is substantially less ambitious than the draft Regulation voted by the European Parliament's ENVI Committee in June 2013, but slightly more ambitious than the original EC proposal. It maintains the HFC phase-down schedule as initially presented by the European Commission and includes some sub-sectorial bans, although with higher GWP values and later deadlines than proposed by the European Parliament. The pre-charge ban will be replaced with the so-called 'traceability system'.

This briefing provides an in-depth look on the main elements of the informal agreement on the new EU F-Gas Regulation, reached earlier in December 2013.

Bans on HFCs (Annex III)

Throughout the negotiation process the majority of EU Member States with the exception of Denmark and to a lesser extent few other Member States (e.g. the Netherlands) were not in support of expanding the list of HFC bans for new equipment in the area of AC&R. Due to the strong opposition by a number of Member States, the compromise reached is less ambitious than suggested by the European Parliament's ENVI Committee, which had introduced HFC bans in more subsectors.

Under the compromise deal, the Annex III covers the following refrigeration and air-conditioning sub-sectors:

Domestic refrigerators and freezers that contain HFCs [...] with GWP of 150 or more		1 January 2015
Refrigerators and freezers [...] for commercial use (hermetically sealed systems)	that contain HFCs with GWP of 2500 or more	1 January 2020
	that contain HFCs with GWP of 150 or more	1 January 2022
<u>Stationary refrigeration equipment, that contains, or that relies upon for its functioning HFCs with GWP of 2500 or more except equipment intended for application design to cool products to temperatures below -50°C</u>		1 January 2020
<u>Multipack centralised refrigeration systems for commercial use with capacity of 40kW or more that contain, or that rely upon their functioning, fluorinated greenhouse gases with GWP of 150 or</u>		1 January 2022

<u>more, except in the primary refrigerant circuit of cascade systems where fluorinated greenhouse gases with a GWP of less than 1500 may be used</u>	
Movable room air-conditioning appliances (hermetically sealed equipment which is movable between rooms by the end user) that contain HFCs with GWP of 150 or more	1 January 2020
<u>Single split air-conditioning systems containing less than 3kg fluorinated greenhouse gases, that contain, or that rely upon for their functioning, fluorinated greenhouse gases with GWP of 750 or more</u>	1 January 2025

(The underlined text marks the changes introduced in the compromise text as compared to the original EC proposal.)

The sub-sectors covered by the Annex III include the following sector **definitions**:

- **‘hermetically sealed equipment’**[...] means equipment in which all [...] fluorinated greenhouse gas [...] containing parts are made tight by welding, brazing or a similar permanent connection which may include capped valves and capped service ports that allow proper repair or disposal and which have a tested leakage rate of less than 3 grams per year under a pressure of at least a quarter of the maximum allowable pressure;
- **‘multipack centralised refrigeration systems’** means systems with a number of compressors operated in parallel, which are connected to one or more common condensers and to a number of cooling devices such as display cases, cabinets, freezers or to chilled store rooms.
- **‘primary refrigerant circuit of cascade systems’** means the primary circuit in indirect medium temperature systems where a combination of one or more separate refrigeration circuits are connected in series such that the upper system absorbs the condenser heat from the lower system.
- **‘single split air conditioning systems’** means systems for room air conditioning that consist of one outdoor unit and one indoor unit linked by refrigerant piping, needing installation at the site of use.

Adding a reference to the **EU Ecodesign requirements** creates a possible loophole within the Annex III. The provision foresees that the ban will not apply to equipment using HFCs, for which it has been established under the EU Ecodesign requirements (Directive 2009/125/EC) to have higher energy efficiency during its operation and lower lifecycle CO₂ emissions than an equivalent HFC-free equipment.

A provision has also been included for a **time-limited exemption of up to four years** to allow placing on the market of HFC products and equipment listed in Annex III in case it is demonstrated that “for a particular application, technically feasible alternatives are not available, or cannot be used for technical or safety reasons, or where the use of such alternatives would entail disproportionate costs”. Such exemption may be granted by the European Commission following a substantiated request by a competent authority of a Member State.

HFC phase-down schedule (Annex V)

In addition to the HFC bans in sub-sectors mentioned above, the key part of the F-Gas Regulation remains the HFC phase-down schedule, which foresees that the amount of HFCs (measured in tonnes of CO₂ equivalent) placed on the EU market will be reduced by 79% by 2030 (compared to the reference value based on annual average of the quantities reported to have been placed on the market from 2009 to 2012). Although the European Parliament had slightly tightened the steps of the HFC phase-down schedule in the June report, the compromise agreement reached in December 2013 includes a phase-down as initially proposed by the European Commission:

Years	
2015	100 %
2016-17	93 %
2018-20	63 %
2021-23	45 %
2024-26	31 %
2027-29	24 %
2030	21 %

Similar to the article on HFC bans, a provision has been added to allow for an exceptional **time-limited exemption (up to four years) from the phase-down** of specific products and equipment relying on HFCs, where it is “demonstrated that, for those particular applications, products or equipment technically feasible alternatives are not available, or cannot be used for technical or safety reasons, or where a sufficient supply of hydrofluorocarbons cannot be ensured without entailing disproportionate costs.”

HFC quota allocation system – review clause on pricing of quotas

To reach the gradual reduction of HFCs being placed on the EU market (phase-down), the European Commission will allocate quotas to individual HFC producers and importers. These quotas will be based on the annual average quantities of HFCs companies have produced or imported during the reference period from 2009 to 2012. An 11% share (an increase from 5% in the initial EC proposal) of the total quotas will be reserved for market newcomers. Furthermore, the companies will have the possibility to transfer the quotas to another producer or importer.

By 1 July 2017 the latest, the European Commission will review the quota system, assessing the allocation mechanism in place and the possibility to make HFC quotas available upon a fee. Furthermore, it will publish a report on the availability of HFCs on the EU Market by 2020 and a comprehensive review will be carried out by 2022.

Traceability system to replace the ban on pre-charged equipment

The pre-charged ban initially proposed by the European Commission and supported by the European Parliament, has been replaced by a so-called traceability system. From 1 January 2017, refrigeration, air conditioning and heat pump equipment charged with HFCs cannot be placed on the market unless the HFCs charged into this equipment are accounted for within

the HFC phase-down quota system. Manufacturers and importers of pre-charged equipment will have to draw up a declaration of conformity to ensure compliance with this provision, which will be verified on annual basis by an independent auditor.

Provision on training

With regards to the provision on training and certification, the compromise reached is in line with the training and certification requirements under the current F-Gas legislation. According to the compromise text, the certification programmes and training should cover information on relevant technologies to replace or to reduce the use of fluorinated greenhouse gases and their safe handling.

The new EU F-Gas Regulation also foresees that the existing certification and training attestations issued in accordance with the current F-Gas Regulation (842/2006) should remain valid in accordance with the conditions under which they were originally issued.

Paragraph 7 of the Article 8 on training, however, allows the possibility for the European Commission to update the minimum requirements as to the skills and knowledge to be covered in case it is necessary to provide more harmonised approach to the training and certification across the EU.

Specifically in relation to the training on alternative refrigerants, the compromise deal foresees that the Commission evaluates EU legislation in this respect by 2017 and if appropriate, shall publish a legislative proposal.

Consultation Forum to provide expertise to EC in implementation of the Regulation

A **Consultation Forum**, comprising of Member State representatives and representatives of civil society, including environmental organizations, representatives of manufacturers, operators and certified persons, will be established to further clarify certain definitions and provisions included in the Regulation that provide room for interpretation and ensure successful implementation of this Regulation. One of the first tasks of the Consultation Forum to be established in Q1 2014 will be to define whether the term 'single split air conditioning systems' would cover air-to-air and air-to-water heat pumps.

A key focus of the Consultation Forum will be to provide expertise to the European Commission in relation to the availability of alternatives to f-gases, including environmental, technical, economic and safety aspects. It is expected that among others, the Forum will be consulted regarding:

- Clarification of **definitions** of terms, such as the scope of sub-sectors, for example: does the term "small single split AC systems" cover small air-to-air heat pumps and/or small air-to-water heat pumps?
- Possible exemptions to Annex III (HFC bans) and phase-down schedule
- Availability of cost effective, technically feasible, energy efficient and reliable alternatives to **multipack centralised refrigeration systems** (EC shall assess the feasibility of the ban on HFCs in this sector by July 2017)
- Availability of cost effective, technically feasible, energy efficient and reliable alternatives to new **small single split AC systems** (EC shall assess the feasibility of the ban on HFCs in this sector by July 2020)

Next steps

According to the EU decision-making process, the informal agreement reached on the F-Gas Regulation now has to be adopted by the European Parliament in a plenary session. Only following the Parliament's approval of the compromise text, the Council of the EU will formally adopt the F-Gas Regulation. Furthermore, in the run-up to the Parliament plenary vote and after the F-Gas Regulation is adopted, the scope and applicability of several provisions will have to be defined by the European Commission, using the advice and expertise of the Consultation Forum.

Although informal agreement has been reached among the EU Member States and the representatives of the Parliament, the risk is still there that the Members of the European Parliament do not approve the compromise deal, which would lead to a second reading and the final Regulation being delayed for another 1-2 years.

The indicative date set for the plenary vote is 11 March 2014, during the Parliament's session in Strasbourg. Provided that the EU F-Gas Regulation is adopted in the first reading, the new EU F-Gas Regulation is expected to be published in the Official Journal of the EU in the summer of 2014, and enter into force on 1 January 2015.

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