Position Paper

UEAPME[1] position on the Proposal for a Regulation on Fluorinated Greenhouse Gases

Introductory remarks

UEAPME is the employer's organisation representing the interests of European crafts, trades and SMEs. In reference to the Proposal for a Regulation on fluorinated greenhouse gases (hereinafter the Proposal), UEAPME represents a wide range of SMEs, from those active in maintenance and instalment services to retailers using cooling systems as well as SMEs in the cold storage and temperature controlled logistics.

In general, UEAPME supports the aim of the Proposal to reduce the emissions of fluorinated greenhouse gases (F-gases) and gradually replace them with safe and energy efficient alternatives with no or very low impact on the climate.

In spite of this, UEAPME calls for applying the vision of the EU Sustainable Development Strategy, which combines a dynamic economy with social cohesion and high environmental standards. In this line, UEAPME calls on the EU institutions to keep also in mind internal market relevance when regulating the use of F-gases, and hence to consider shifting the legal basis of the Regulation to Article 114.1 and 114.3 of the Treaty on the Functioning of the European Union (TFEU) instead of article 191 as stated in the Proposal.

Specific Considerations

Ban and restrictions

UEAPME regards the ban of article 11.3 of the Proposal on "the use of F-gases or of mixtures that contain F-gases, with a global warming potential of 2500 or more to service or maintain refrigeration equipment with a charge size equivalent to 5 tonnes of CO2 or more..." as of 1st January 2020 as too premature. UEAPME understands the environmental concerns but calls for a more flexible approach. As a matter of fact, refrigerants should only be prohibited when appropriate substitutes are not only available on the market but also compatible with the technical specifications of existing cooling systems, originally designed for the use of F-gases and lastly, economically feasible. For many, especially SMEs this will surely not be feasible by 2020.

Article 11.3 of the Proposal as it stands would represent a huge financial burden for operators of refrigeration systems, particularly operators of cold storage facilities since well-functioning systems would need to be replaced or upgraded significantly. Moreover, UEAPME asks the EU institutions to bear in mind that that cooling facilities have a lifetime of more than 25 years. In addition to this and as stipulated by the "Montreal Protocol on Substances that Deplete the Ozone Layer" many companies have in the last years replaced their HFCF (hydrochlorofluorocarbon) with HFCs (hydrofluorocarbons) according to existing national laws with the perspective to use the refrigerants in the existing cooling facilities until at least the time when the facilities are amortized (25 years).

[1] UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is 55820581197-35.

MAISON DE L'ECONOMIE EUROPEENNE - RUE JACQUES DE LALAINGSTRAAT 4 - B-1040 BRUXELLES
TEL +32 (0)2 230 75 99 - FAX +32 (0)2 230 78 61 - E-MAIL info@ueapme.com

As an alternative, UEAPME proposes a more long-term timeline for the reduction of the use of F-gases. A ban of existing facilities shall only apply after a commercially reasonable transition period of at least 10 years. The use of recycled refrigerants should be allowed at least 5 years after a ban as it was the case with R22.

Furthermore, such a general ban of the Proposal does not go in line with the system to ban substances from the market foreseen by the EU Chemicals legislation. The REACH Regulation follows a modern risk-approach, which strictly controls problematic substances but at the same time takes into account socio-economic aspects resulting in balanced and transparent decisions regarding the ban of chemicals.

On the other hand, UEAPME appreciates the reference to the Ecodesign Directive in whereas (9) of the Proposal in terms of not applying the ban to equipment containing F-gases whose overall greenhouse gas emissions are less than the emissions resulting from an equivalent equipment without F-gases and subject to implementing measures under the Ecodesign Directive. In UEAPME's view prevalence has to be granted to energy efficiency as it is relevant for the whole time of operation of the equipment, while F-gases are only relevant in case of leakages and after the end of operation.

Reduction of the placing on the market of Hydrofluorocarbons (HFC)

Although, UEAPME is in principle in favour of the phase down of F-gases it does not support the reduction schedule of Annex V of the Proposal. Even though, UEAPME does not represent producers or importers, SMEs are end-users of such gases and the abrupt phase down will definitely affect them.

Moreover, the baseline proposed of 2008-2011 is not appropriate. It should be extended at least until the year of entry into force of the current Proposal. Cooling facilities and cold stores in particular have a long amortization period and the phase down should reflect that. With reference to Annex V, UEAPME proposes that until 2020 the use of HFC remains 100% and not 63% as proposed by the Commission for the period 2018-2020. UEAPME suggests to begin as of 2021 and to end around 2035 so as to avoid a too sudden phase down.

Training and certification

The F-gas Regulation currently in force foresees a certification system for personnel handling F-gases. Based on the regulation and implementing acts, Member States have introduced national certification systems over the past years. Therefore, the current system should only be modified when absolutely necessary Moreover, UEAPME calls on the EU institutions not to introduce stricter certification requirements as far as the existing certification requirements according to Regulation (EC) No 842/2006 have not been fully implemented. Efforts should be put to monitor the implementation of the current system before introducing new requirements.

Continuing training of personnel handling F-gases is indeed important. However, given the existing differences in training systems in the EU, it should be up to Member States to decide how continuing training is implemented. The regulation should neither demand a specific form of "re-certification" nor call into question the validity of certificates after a certain period of time.

On article 8.1.b) on electrical switchgear that contains SF6 (sulphur hexafluoride), it does not make sense from an economic and technical point of view to require certified personal for operations on electrical switchgear that do not imply the handling of such substance. Certification should only be necessary for operations handling SF6.

The certification requirement for undertakings creates a system of double certification, which is in UEAPME's view, totally unnecessary. Certifying the company does not bring any added value as personnel dealing with F-gases in the company are already certified. Even for self-employers this scheme is applied both as a worker and as an enterprise, it is thus applied twice on a single person with double fees.

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Last but not least, the certification of personnel handling alternative refrigerants such as CO2, NH3 or others refrigerants is appropriate. However, UEAPME believes it is not pertinent to include it in the current Proposal.

Record keeping

In environment-related areas, the costs related to record keeping and reporting requirements are considerably high. Besides, in some cases, requirements related to record keeping do not have an added value and they can be further red tape for SMEs. Therefore, UEAPME would like to see record keeping simplified in the Proposal.

Article 5.2 foresees that installers and servicing companies have to keep the records of their clients if the competent authorities have not established an official database where the data have been registered. The record keeping obligation cannot be extended to all players. In UEAPME's opinion, the record keeping by the operators of equipment containing F-gases is more sensible as it guarantees records are complete in the case that the operator has contracted different servicing companies over time.

Furthermore, the keeping of records for each element of an electrical switchgear device is too detailed, since only the switchgear element itself is relevant in the framework of this Proposal. Given the complex structure of high and medium voltage switchgear, the keeping of records for each element of electrical switchgear is not necessary.

Checking for leakages

Article 3.1 changes the reference value from kg to Co2-equivalent. This can pose problems for existing installations, for instance for heat pumps. If those installations are filled with a gas with high greenhouse-gas-potential they would need more frequent leakage checks in the future. Either the producer or the maintenance person/enterprise would have to inform all clients of their duties under the new Regulation and this would be very difficult in practical terms.

Commission's power to adopt delegated acts

The recurrence to delegated acts throughout the Proposal is excessive. UEAPME is concerned about the extended power the Proposal grants to the Commission. Taking into account reasons of legal certainty and predictability for businesses, UEAPME asks the European Parliament and Council to limit the references to delegated acts to the strict minimum.

Conclusion

Legislation is a reflection of the socio-economic context. This is why the revision of the F-gases Regulation currently ongoing cannot ignore the difficulties many SMEs are facing. UEAPME therefore calls on the EU institutions to apply the "Think Small First" principle in the current revision and make sure that the ban and phase down of the F-gases neither put EU SMEs in a competitive disadvantage compared to other operators outside the EU market nor force them out of business altogether. We trust the EU institutions will take the SMEs concerns into consideration and agree on a sensible outcome.

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