

SUBMISSION

review of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* and associated legislation

Submissions on the Terms of Reference for the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* and associated legislation are being sought by the Department of the Environment. Submissions are due by 18 July 2014. Further information, including the Terms of Reference and how to submit a submission is provided on the Department's website.

Important information on privacy and confidentiality is provided in this document. Please read this information prior to completing your submission.

Overview of submission	
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Submission responses	
[ISSUE]	
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Submission on Review of the Ozone Protection and Synthetic Greenhouse Gas Management Act

Refrigerants Australia is pleased that the Government has decided to review the Ozone Protection and Synthetic Greenhouse Gas Management Act (the Act). It is our belief that the Act has performed well, but given changes in the market and the experience of recent policy decisions that it is timely and appropriate to review this legislation.

The refrigerants industry has a long and proud history of responding to environmental issues as they have emerged. We have taken positive steps to both recognize and reduce our environmental footprint and have worked creatively to develop approaches that deliver environmental benefits to Australia and the global community. This approach has been possible, in part, because Governments have addressed the issue of ozone depleting substances, and their replacements, in a bipartisan fashion, in close consultation with industry and in a manner that provided long-term certainty.

The experience of carbon pricing over the past five years, however, has been exceptionally damaging to the refrigerant industry. Not only have we needed to respond to an ever changing landscape, the approaches delivered by carbon pricing were economy-wide solutions that did not meet the needs of this industry nor – in relation to reducing refrigerant emissions – the environment as well.

Building on the current approach for ozone depleting substances by agreeing to a phase-down for HFCs coupled with end use controls to prevent leakage can provide industry with certainty and the environment with guaranteed emission savings. Refrigerants Australia stands ready to work closely with the Government and others to bring these outcomes to fruition.

Import Controls

Refrigerants Australia supports a phasedown in the carbon dioxide equivalent of HFC refrigerant imports along the lines as described by the North American Proposal currently being considered in the Montreal Protocol negotiations. That said, Refrigerants Australia looks forward to working with the Government on the details of the international agreement as it begins to take more shape over the coming months. We believe that the revised Act should incorporate a phasedown of high GWP gases as agreed internationally. Such a phasedown would provide industry with the certainty necessary to support innovation and investment in new lower global warming technologies.

Refrigerants Australia understands that one of the consequences of an international agreement phasing down the import of high GWP HFCs in carbon dioxide equivalent terms may include the development of a system where imports into Australia will need to be controlled, most likely through a quota system. Refrigerants Australia has not yet developed its position on how this could work given the ongoing state of negotiations. Refrigerants Australia will be considering the issues around how imports might be managed over the coming months and will provide it advice to the Government in a subsequent submission.

One aspect of how import controls should work is already clear. Given that many of the substances being developed and introduced into the market are new, there remains some initial uncertainty about the global warming potential of these new substances. Given the significance of the global warming potential on any phasedown approach, it is therefore imperative that the most up to date information is used. It is therefore proposed that the any high GWP HFC phasedown scheme be based on the IPCC's Fifth Assessment Report¹ and that a mechanism is developed where global warming potentials can be revised – with appropriate transition arrangements - as new information comes to hand.

Refrigerants Australia supports consideration of complementary bans and restriction on GWP as are being implemented in other jurisdictions, such as the ban on R134a in automotive. This could coincide with the closure of the Australian OEM industry and the ban on high GWP HFCs as covered by F Gas and foreshadowed by the delisting of ODS replacements in the USA.

Finally, Refrigerants Australia believes it is worth closely looking at current reporting requirements with an eye to seeing how these can be simplified and whether associated costs can be reduced.

¹ Refrigerants Australia contends that any HFC phasedown proposal should use 100 year GWPs (as opposed to 20 or 500 year) to ensure consistency with UNFCCC reporting and policy.

End-Use Controls²

Refrigerants Australia is of the view that the end-use controls in the Act have worked reasonably well. We have two sets of proposals about how this regime – which includes aspects defined by both legislation and regulation – could be improved. The first deals with addressing some of the gaps that exist in current legislation, whereas the second set requires an expansion of the Acts provisions to address additional issues.

Addressing Gaps

Refrigerants Australia proposes a number of smaller amendments to the legislation to strengthen the effectiveness of the Act. These include:

- More visible and public involvement of Australian Federal Police in enforcement activities to demonstrate the significance of violations.
- Significant increase in enforcement and compliance efforts through ARC. Elements of this could include:
 - Right of entry for ARC auditors in performing their duty
 - Capacity for the ARC to suspend or cancel licences at any time
 - Capacity for ARC to issue on-the-spot fines
 - Publication of details of those who breach the legislation
- Ensure consistent and strong alignment between the Act and Codes of Practice;
- Strengthen the licensing provisions including shifting to a competency based licensing scheme and revising categories of licences.
- Require licenses under ARC for all refrigerants used in air conditioning and refrigeration both mobile and stationary.
- Exclude use of any refrigerant in equipment or vehicles not approved by the OEM. The use of alternative refrigerants not approved by the manufacturer increases the risk of premature failure of the equipment leading to increased direct emissions, higher energy use and potential safety issues.
- Implement a refrigerant labelling system/log book for equipment. The use of not-approved replacements or poor quality refrigerants leads to a variety of negative outcomes such as equipment degradation, increased energy use, safety risks and direct emissions. By requiring the tradesperson to detail what refrigerant is in a system non-compliance can be tracked and there will be an increased hesitation to refill equipment with non-approved or poor quality refrigerant.

New areas for end-use controls

Since the previous amendment to the legislation over a decade ago, industry generally has identified a suite of inter-linked issues that provide the industry with difficulty. The issues involved include direct emissions from refrigerants, indirect emissions from energy use, and safety. The challenge with these issues is that they emerge not strictly from the control of refrigerant, which is the how the current Act is focused, but rather from consideration of refrigeration and air conditioning equipment. These issues were raised in the development of the current Act, but at that time it was thought that a process that managed HFC refrigerants from cradle to grave would be a sufficient basis for legislation and would provide a sufficiently broad legislative regime. This analysis was incorrect.

Refrigerants Australia proposes that the objectives of the Act be slightly amended in order to consider the range of issues industry seeks to have addressed. One of the objectives of the Act (3(d)) currently reads, “to provide controls on the manufacture, import, export and use of SGGs, for the purposes of giving effect to Australia’s obligations under the Framework

² End use controls refer to controls on refrigerants from import through to, but not including, end of life.

Convention on Climate Change and the Kyoto Protocol.” Refrigerants Australia suggests that the objective of the Act be simplified and amended to read, “to give effect to certain obligations that Australia has under the Climate Change Convention.” This objective is the same as the first objectives (4(a)) of the *Greenhouse and Energy Minimum Standards Act (GEMS)*. This objective remains consistent with the purpose of the Act being reviewed now, but would allow the legislation to also cover issues linked with energy efficiency of installed equipment.

To be clear, Refrigerants Australia is not looking to have this Act replace or cover the same issues as GEMS, which focuses on minimum energy standards for new equipment. Instead, Refrigerants Australia notes that the requirements of the current Act and GEMS largely do not influence any control on the installation or maintenance of equipment. With a changed objective, the Act would be able to ensure a number of important outcomes, including:

- Requirements for equipment owners to have specified maintenance if charge size above a threshold (perhaps 5kg). This amendment will benefit to the consumer by reducing energy use and extending equipment life. It will benefit the environment by reducing the risk for increased and/or premature direct and indirect emissions.
- Requirement that installations of equipment above a given size be inspected and a compliance certificate issued.³ The benefits of this proposal would be the same as requiring maintenance as listed above.
- Coverage of all tradespeople who work on HVAC systems regardless of the refrigerant used. This would help ensure better equipment performance, reductions in energy use and costs and reductions in direct emissions of refrigerants.
- Coverage of all refrigerants. This would help ensure better equipment performance, reductions in energy use and costs and reductions in direct emissions of refrigerants – additionally it would dramatically improve safety across the industry, particularly as it is likely that flammable refrigerants will increasingly be used in a range of sectors across Australia.

³ Refrigerants Australia is of the belief that this system is in place in Victoria for split system air conditioners. It might be worth further investigating this activity to more clearly quantify the benefits.

End of life – product stewardship

Refrigerants Australia refers you to the submission from Refrigerant Reclaim Australia for input into the end of life issues under the Act.

We do propose that owners of equipment with total capacity of more than a total of 50kg of refrigerant should have responsibility for ensuring that the refrigerant in their equipment is recovered at the end of its life. It is important for the definition to include refrigerant held over a year to ensure that insurance companies and repair shops that deal with automobiles at the end of their lives are included in this responsibility.

Refrigerants Australia also believes that the current consideration of a product stewardship scheme for domestic refrigeration and air conditioning equipment should be considered as part of this review and not as a separate exercise. Lastly, we propose that there be a thorough consideration of policy issues and options around the recovery, recycling and reuse of refrigerant. While we do not have a specific proposal to make on this issue at this time, we believe that the current treatment of these activities need further consideration, but as of yet are unclear as what the specific problems and solutions are.

Risks from reviewing the Act

Refrigerants Australia is also aware that in any review of legislation there is the chance for improvement, as well as the chance for perverse outcomes. Our assessment of the greatest risks to this legislation is that in the attempt to pursue its deregulation agenda, the Government accidentally removes essential provision from the current legislation. In Refrigerants Australia's view the concept of a phasedown does not enable dilution of the current regulations.

Additionally, we are concerned that licensing of tradespeople, current product stewardship requirements, reduction in safety standards (such as allowing hydrocarbon refrigerants to be used as a retrofit in cars without manufacturers approval) will be weakened.