



July, 2008

Subject: EFCTC position on REACH and Refrigerants

Virgin Refrigerants

REACH requires registration of individual substances (unless produced as a mixture), and this means that the components of blended refrigerants (400 and 500 series, eg R-410A) need to be registered. Under REACH a blended refrigerant is a preparation and these do not need to be registered, just the individual components.

Virgin HCFC refrigerants, including the drop-in service refrigerants, will be phased out by end 2009 under Regulation 2037/2000 on substances that deplete the ozone layer.

Purchase of Refrigerants from within the EU

Distributors who source refrigerant from companies that produce in the EU or import refrigerants do not need to pre-register and/or register their substances, but they will need to ensure that the companies they purchase from intend to pre-register/plan to register the refrigerant components. In these circumstances, distributors will be 'downstream users' under REACH.

Import of Refrigerants

Any importers of refrigerant (or refrigerant components) will need to comply with REACH. This requires pre-registration for existing commercial refrigerants (between 1 June – 30 November 2008) and, if importation continues at >1 tonne, registration according to the following timetable.

Registration: Deadlines for completing the dossier

Pre-registration	> 1000 t	100 – 1000 t	10 – 100 t 1- 10 t
1 June – 30 Nov 2008	November 2010	June 2013	June 2018

Note there are different deadlines applicable to some classified substances > 100 t N:R50-53, and > 1 t CMR require registration by November 2010 but no commercial fluorocarbon refrigerants are affected..

R50-53 : classified as very toxic to aquatic organisms and may cause long-term adverse effects in the aquatic environment in accordance with Directive 67/548/EEC.

CMR : classified as carcinogenic, mutagenic or toxic to reproduction, categories 1 and 2, in accordance with Directive 67/548/EEC.

Companies can participate in consortia to share in the preparation of the relevant information necessary. EFCTC has initiated the formation of a consortium for the registration of refrigerants and it is open to new members.

Recycled refrigerants

Recycled HCFCs can continue to be used under Regulation 2037/2000, currently until end 2014. It is expected that recycled HCFCs will continue to be produced in the EU and exported after 2014. It is anticipated that HCFC 22 will be the dominant recycled HCFC.

Recovery and recycle of HFCs is expected to increase, as the containment provisions of the F-Gas Regulation 842/2006 encourage and require recovery.

There are two issues to consider for recycled refrigerants in the context of REACH:

1. Recovered refrigerants as waste
2. Supply of recycled and reclaimed refrigerants

Recovered refrigerants as waste

The REACH Regulation does not exempt waste from its provisions, but clarifies that waste is not a substance, a preparation or an article within the meaning of REACH. This is because when the holder discards, intends to or is required to discard something, it loses its status as a substance, preparation or article.

RAC service and maintenance engineers recover and reuse refrigerants on site. These are not considered as waste as they are not discarded.

Once the recovered refrigerant is removed from the site and returned to a distributor or refrigerant recycler for recycle, reclaim or destruction then the refrigerant is classified as waste. Typically the refrigerant recycler will have a waste treatment license.

Suppliers of refrigerant are required under REACH to recommend waste management measures and these have to be communicated through the supply chain via SDSs.

Supply of recycled and reclaimed refrigerants

Recycled and reclaimed refrigerants that are supplied for use in RAC, are no longer considered as waste and therefore fall under the definition of substances under REACH.

The legal entity that carries out the recycling of the refrigerant and supplies the recycled refrigerant is a manufacturer of a substance(s) under REACH.

However the REACH Regulation exempts from registration substances, which are recovered in the Community, provided a number of conditions are met. Recycling is a form of recovery and therefore covered by this exemption.

Note recycling and reclaim of refrigerants is a form of recovery. Recovery is defined by the Waste Framework Directive, whereas the term 'recovery' for refrigerants as defined by Regulation 2037/2000 relates just to the collection and storage of recovered refrigerants.

The REACH Regulation sets the following conditions, which have to be respected in order to benefit from the exemption from registration (see REACH Guidance on Registration for further information):

- (1) The recovered substance must have been registered.
- (2) The substance already registered must be the same, i.e. have the same chemical identity and properties, as the substance being recovered.
- (3) The legal entity that did the recovery must ensure that information on the registered substance is available to it, and that information must comply with the rules on information provision in the supply chain.

This means that the legal entity who undertook the recovery must have obtained one of the following:

- a safety data sheet, as required by *Article 31 (1) or (3)*, on the registered substance,
- other information sufficient to enable users to take protection measures, as required by *Article 31 (4)*, for the registered substance, or
- the registration number, if available, and information necessary to allow appropriate risk management measures to be identified and applied, as required in accordance with *Article 32 (1)*.

Companies undertaking recovery operations (*ie recycling or reclaim of refrigerants*) and wishing to avail themselves from this exemption are advised to ensure as much as possible that the information on the registered substance which was put together to comply with the REACH Regulation, is available to them as well, as otherwise they may have to register the recovered substance.

It is worth noting that this exemption does not require that the substance has been registered by an actor in the same supply chain. Therefore, it is sufficient that a registration was filed for the substance, either by a registrant in the same supply chain or by a registrant in another supply chain.

Note that if the recycled substance is a phase-in substance, it is recommended that the recycler pre-registers that substance in order to benefit

from the transitional provisions laid down in Article 23 and eventually be later on exempted from the registration requirements if another pre-registrant registers the substance.

EFCTC members intend to pre-register and register commercial fluorocarbon refrigerants, which will support the recycling of refrigerants under REACH.

Companies carrying out refrigerant recycling should pre-register the relevant components of the refrigerants that they might recycle over the next few years, including HCFCs and HFCs.

It is recommended that companies recycling or intending to recycle refrigerants contact EFCTC or individual EFCTC member companies for further information.

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