Fluorinated gases regulation

2022/0099(COD) - 05/04/2022 - Legislative proposal

PURPOSE: to review the current fluorinated greenhouse gas (F-gas) Regulation with a view to further cutting emissions of these potent greenhouse gases.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: fluorinated greenhouse gases are human-made chemicals that are very strong greenhouse gases (GHG), often several thousand times stronger than carbon dioxide (CO2). Together with CO2, methane and nitrous oxide, they belong to the group of GHG emissions covered by the Paris Agreement.

Regulation (EU) No 517/2014 of the European Parliament and of the Council was adopted to reverse the increase in fluorinated greenhouse gas emissions. The Regulation has resulted in an annual decrease in F-gas emissions from 2015. The supply of hydrofluorocarbons (HFCs) has decreased by 37% in metric tonnes and 47% in tonnes of CO2 equivalent between 2015 and 2019.

The adoption of this Regulation has led to a year-on-year decrease of fluorinated greenhouse gas emissions.

Moreover, since the adoption of the Regulation a number of important developments (notably the European Green Deal, and a changed international policy environment with the Paris Agreement and the Kigali Amendment to the 1987 Montreal Protocol) have changed the relevant policy framework, implying that **the EU F-gas Regulation is not fully fit-for-purpose**, in terms of both exploiting the unused potential for achieving additional emission reductions and ensuring future compliance with the Montreal Protocol on ozone depleting substances.

Therefore, a **revision of the current F-gas Regulation** is needed in order to further reduce emissions of these potent greenhouse gases.

According to the Commission, the revised Regulation will save the equivalent of 40 million tonnes of carbon dioxide (CO2) emissions by 2030, over and above the reduction expected under the current legislation, reaching total additional savings equivalent to **310 million tonnes of CO2 by 2050**.

The proposed Regulation (as well as the current F-gas Regulation) has many similarities with the proposed Regulation on substances that deplete the ozone layer (the ODS Regulation), which is being revised in parallel. These two Regulations must jointly ensure that the Union complies with its obligations relating to hydrofluorocarbons and ozone depleting substances under the Montreal Protocol.

PURPOSE: overall, the proposed Regulation aims to **prevent F-gas emissions**, thereby contributing to EU climate objectives and ensure compliance regarding obligations related to hydrofluorocarbons (HFCs) under the Montreal Protocol on substances that deplete the ozone layer.

Its specific objectives seek to:

- achieve additional F-gas emission reductions to contribute more to reaching the at least minus **55% target by 2030** and carbon neutrality by 2050;

- **fully align** EU rules on F-gases with the Montreal Protocol to prevent non-compliance;

- facilitate enhanced implementation and enforcement, the functioning of the quota system and promote training on F-gas alternatives;

- improve **monitoring** and reporting to fill existing gaps and improve process and data quality for compliance;

- improve clarity and internal coherence to support better implementation and understanding of the rules.

The proposal:

- includes rules on **containment** (prevention of emissions, leakage checks, leakage detection system and rules on recovery). Recovery obligations of fluorinated greenhouse gases is extended to also cover foams in sandwich panels and laminated boards when removed from buildings;

- establishes **training and certification** obligations that also include tasks in relation to equipment that contain gases used as substitutes to fluorinated greenhouse gases (alternative gases) to promote their safe use and handling;

- includes **restrictions and prohibitions** on the placing on the market of F-gases and the concerned products and equipment. It clarifies that products and equipment placed unlawfully on the market cannot be used or further supplied. For products and equipment lawfully placed on the market, their further supply as of two years following the prohibition deadline is allowed only if evidence is provided of their (initial) lawful placing on the market. Non-refillable containers shall be prohibited from entering the customs territory and further used or supplied;

- includes **labelling requirements** for the placing on the market of F-gases in containers and in certain equipment;

- establishes a **reduction schedule** for the placing on the market of HFCs by establishing individual quantitative limits (quotas) for producers and importers;

- envisages the operation of the **F-gas Portal** for the implementation of the quota allocation system, licensing and reporting obligations and its inter-connection with the EU Single Window for Customs. Registered importers and producers have access to their individual quota allocations, penalties, quantities placed on the market as reported, as well as transfers and authorisations to use quota recorded by these undertakings;

- imposes as a condition to trade, a **valid license** to be presented to customs authorities in cases of import and export;

- clarifies the role of customs authorities and market surveillance authorities in enforcing the controls on trade envisaged therein. Non-refillable containers should be confiscated or seized or taken out of the market. Re-export of unlawful gases or products covered under the Regulation should be prohibited. Only designated or approved places and customs offices should be allowed to handle cases of imports and exports of F-gases;

- imposes a ban on the trade of HFCs with non-Parties to the Protocol, in line with the obligations set out in the Protocol as from 2028;

- establishes **reporting obligations** in particular for producers, importers of gases in bulk as well as charged in products and equipment, exporters, feedstock users, destruction and reclamation facilities and undertakings that received hydrofluorocarbons that fall under the exemptions from the quota rules. The reporting is done electronically via the **F-gas Portal**;

- establishes that the level and type of administrative penalties for infringements of the Regulation must be effective, dissuasive and proportionate and should also take into account relevant criteria (such as the nature and gravity of the infringement). In particular, it proposes an administrative fine to be imposed in cases of illegal production, use or trade of gases and of the products and equipment covered under this Regulation.