
Substances that Deplete the Ozone Layer Regulation

(EU) proposal published on 5 April 2022 - to repeal 1005/2009)

The European Electronics Recyclers Association (EERA) is a non-profit trade organisation and is the voice of waste electrical and electronic equipment (WEEE) activities in the continent of Europe. Members represent the leading collection, re-use, recovery, recycling, and reprocessing industries of all WEEE streams, and of relevance to this statement, temperature exchange equipment (*WEEE Directive 2012 - category 1*).

EERA welcomes and supports **Option two** of the EU proposal, which from the perspective of our Members who have first-hand experience in the management of temperature exchange equipment across Europe, we consider that this option will have the greatest impact in reducing emissions, and it will address and validate the 'polluter pays' principal. Furthermore, we advocate this option will support the circular economy and industrial investment and developments within this ever-growing e-waste industry.

In order to authenticate our position, please note that our Members can deliver a treatment capacity of approximately **400,000 tonnes** for household refrigerators and over **130,000 tonnes** for commercial equipment **per year**. This equates to circa 50% of the waste temperature exchange equipment officially collected and treated in Europe.

Whilst these figures are substantial, it must be noted that we estimate that less than 20% of European specialist temperature exchange equipment treatment plants currently accept and can treat other foam equipment such as wall insulation panels, cold-room panels, and heating or cooling systems containing foam. The usual action today for building contractors, heating engineers etc. is for them to divert this end-of-life waste to car-shredders where the metals are recovered, and the consignor recompensed accordingly. Any foam recovered during the shredding process is consigned as a general waste, with no recovery and destruction of the gases. Small volumes of panels with less or no metals may be re-routed to landfill operations with D9-D5 permit conditions.

Economic and industrial issues:

The impact statement considers that there will be little economic change, at least in the short-term. Our highly experienced Members, many of whom have been in this industry in excess of thirty years, would strongly refute this for the following reasons:

- Waste operators of existing treatment facilities are likely to be required to apply for amendments to their license conditions to allow for the addition of this waste - as acceptance, handling, storage, and treatment criteria will need to be agreed with licensing authorities. This can involve a lead-in period of up to three years or longer in different Member States and will place a financial burden on those operators due to application fees, administration and legal costs imposed by Competent Authorities. These costs vary considerably across the Union, with little or no justification as to how they are calculated. These additional costs will need to be recovered by customers.

- In general, additional steps to the available and current household or commercial treatment lines would be required to downsize the larger sections of panels so that they can be fed into the aperture of existing treatment plants. This requires further tools, space, personnel, and time adding to the management pressures and costs to ensure that storage conditions are not exceeded, and that proper health and safety procedures and training is in place. These additional costs will need to be recovered by customers.
- Not only is there the increased foam content to manage and pay for during the treatment process and disposal activities, but the metal content can also be denser, which can negatively affect the shears or chains within the treatment plant. This will have to be factored in by each operator prior to considering if they want to expand their services.
- There is insufficient research to understand if existing treatment plants can properly remove the gases from insulating panels containing PIR (poly-isocyanate foam) and PF (phenolic foam). Furthermore, some insulating flooring panels contain non-expanded foam without the presence of gases or with very low volumes. Research will be required to see if treatment is feasible, which will delay the implementation and compliance routes and the reduced emissions envisaged by the European Commission.
- Building insulation foam contains flame retardants, which is not the case in household and commercial refrigerators. Some of these chemicals may be restricted or at least SVHC¹. This may lead to a different classification of the waste foam outputs from those a treatment plant can accept, again requiring waste licenses changes and costs as well as the availability of treatment and disposal options for these wastes.
- Currently the treatment of household and commercial refrigerators generates a polyurethane (PU) foam waste. This is commonly used in some countries as alternative fuel, mainly in cement kilns. If a larger amount of PU waste enters the market as a result of Option Two being implemented too soon, this may cause serious capacity and storage disturbances. The market will need time to develop extra outlet options.

Additional observations:

EERA would respectfully suggest that note should be taken of the mistakes made in the WEEE industry, where collection targets are still not being met and the quality of fridge recycling is very different from one Member State to another. Our Members are willing and able to step up to the challenges in the draft Regulation on the basis that:

- **Significant research, innovations and investment will be needed to increase the current capacity to correctly treat the additional volumes that will arise as a result of this draft Regulation.**
- **The Commission should recognise and support industry undertakings, as it is essential that mechanisms are put into place at the outset to ensure that enforcement procedures are robust and that polluters (e.g. the producers or the last commercial end-user; and/or the demolition and facility management companies) will be obligated to pay for the treatment operations and incineration of the gases and disposal costs of the foam.**

¹ SVHCs are defined in REACH as substances that have hazards with serious consequences. For example, they cause cancer, or they have other hazardous properties and/or remain in the environment for a long time

- EERA supports the Commission's objectives to double the emission savings at a moderate abatement cost but firmly maintain that this can only be achieved through better enforcement to prevent undocumented routes, and especially illegal activities.
- EERA strongly urges the Commission to allow a transition period of several years to allow the industry time to prepare.

Furthermore, we would like to comment on specific text within the proposed new Regulation:

- **Article 2:** We note and endorse that the Regulation will apply to all products and equipment, and parts thereof, containing ozone depleting substances, or whose functioning relies upon those substances.

For clarity, this will mean that other wastes which contain PU insulation including hot water boilers that are not electric; block insulation for buildings, cool boxes, refrigerated trucks, reefers etc. will fall into this classification, which should be clearly noted in **Chapter V** sub-paragraph (6).

If necessary, a phased approach should be implemented to ensure these other products and equipment are also controlled in the Regulation within a reasonable transition period.

- **Article 14:** We recognise that other waste policies being introduced² will assist with the objectives in Option Two but recommend that the Commission limit the export of equipment containing hydrochlorofluorocarbons (for extending the lifetime of a product) outside of the Union to be permissible only to countries where there is proven end-of-life treatment solutions and capacities.

This will support objectives in the European Green Deal as well as the Montreal Protocol and prevent a loophole for where it is being claimed that the so-called transit of equipment has not yet reached its end-of-life, where it is being sent to countries where no such solution is in place.

- **Article 20:** For clarity, the following amendments (in red) are recommended in order to ensure that the current route of these panels, which goes to general metal/waste shredder facilities for the most part, is excluded and to prevent leakage in the waste collection and management system:

(7) Ozone depleting substances listed in Annex I and products and equipment containing such substances **that are contained within metal-faced panels and laminate boards as referred to in sub-paragraphs (2) and (3), and other products and equipment referred to in sub-paragraph (6)** shall only be **delivered to permitted treatment facilities to be** destroyed by technologies approved by the Parties to the Protocol or by destruction technologies that are not yet approved, but are environmentally equivalent and comply with Union and national legislation on waste and with additional requirements under such legislation

² Amendments to Regulation (EC) No 1013/2006 on transboundary waste shipments, and the Waste Framework Directive (Directive 2008/98/EC).

In conclusion, EERA hope that our considerations and support of the draft Regulation and that our recommendations, and in particular our Member's experience of handling temperature exchange equipment for some thirty years, will be recognized.

EERA believes that through the implementation of harmonisation of rules within the Union, better controls for exports and enforcement of the regulations, there will be opportunities for our Members to invest in R&D to establish and innovate on the provision of compliant processes that maximise the reduction in emissions and provide legitimate routes for polluters. This innovation and investment however will only be assured if the obligations to pay for the treatment and recovery and destruction of ozone depleting substances and products and equipment that contains these substances is mandatory across the Union.

EERA remains open to questions regarding this statement, and to collaborative discussions to further the aims and objectives of the Union.

For and on behalf of the

European Electronics Recyclers Association



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