UK Progress on reducing F-gas Emissions: Government’s Response to the Committee’s Fifth Report

Eighth Special Report of Session 2017–19

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Environmental Audit Committee

The Environmental Audit Committee is appointed by the House of Commons to consider to what extent the policies and programmes of government departments and non-departmental public bodies contribute to environmental protection and sustainable development; to audit their performance against such targets as may be set for them by Her Majesty’s Ministers; and to report thereon to the House.

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Eighth Special Report

The Environmental Audit Committee published its Fifth Report of Session 2017–19, *UK Progress on reducing F-gas Emissions* (HC 469) on 25 April 2018. The Government’s response was received on 25 July 2018 and is appended to this report.

Appendix: Government Response

**EAC recommendation 1**

We welcome the fact that the EU overachieved the 2015 and 2016 HFC Quota targets and that there is evidence of price rises for higher GWP refrigerants as their availability is restricted. However, the targets were fairly unambitious and it remains to be seen whether UK companies, especially SMEs, are prepared for the big cuts required in 2018 and 2021. There is a danger this year that some businesses will find that they will not be able to access the refrigerants that they need and may be tempted to acquire them illegally. This would pose a challenge for the Environment Agency in monitoring and enforcing compliance. We are concerned that the Environment Agency may lack the resources it will need to police and enforce F-gas regulations, especially when it is also preparing to take on new responsibilities as the UK leaves the EU. *If the UK can meet the steeper cuts in 2018 and 2021, the Government should find ways to cut F-gas emissions even further.* (Paragraph 19)

**Government response**

The HFC phase down under the EU F-gas Regulation is amongst the most ambitious in world. The recent substantial price rises in the cost of high GWP refrigerants show that the Regulation is proving effective in reducing supply. As a result, many businesses are making the transition to low GWP alternatives.

A review of the Regulation is required in 2022, which will provide an opportunity to consider the feasibility of going further.

In the meantime:

- NICE and the NHS will work with clinicians and industry on ways of promoting greater use of low GWP medical inhalers and Government will discuss with industry ways of increasing recycling rates for metered dose inhalers;
- Government will continue to work with industry to address barriers to the uptake of low GWP refrigerants in heat pumps;
- Defra will explore how the Greening Government Commitments can set early targets for phasing out products containing high GWP F-gases;
- Defra will consider whether and on what timeframe restrictions are needed on high GWP top up kits for car air-conditioning;
- Defra will work with industry to publicise options for training in alternative refrigerants.
Recommendation 2

We recommend that low GWP inhalers should be promoted within the NHS unless there are specific medical reasons for not doing so. Promotion should include raising awareness of low GWP inhalers and training amongst NICE, the medical community and patients. The NHS should set a target that by 2022 at least 50% of prescribed inhalers are low GWP. It should publish annual progress reports. We were disappointed to find that so few MDIs are disposed of responsibly. We therefore recommend that the Government should work with medical professionals, pharmacists, the pharmaceutical industry and patients to significantly improve the recycling of MDIs; this makes both environmental and economic sense. The Government should ensure that by 2020, at least 50% of MDIs are recycled. The Government should publish annual data showing progress in reaching and exceeding this target. It should also consider medical waste, such as MDIs, in its waste strategy. (Paragraph 27)

Government response

The Government agrees that low GWP inhalers should be promoted within the NHS. Whilst propellant based metered dose inhalers (MDIs) are in some cases the only appropriate delivery mechanism, dry powder inhalers (DPIs) are equally effective for many patients.

NICE is working with the NHS and the Public Health England Sustainable Development Unit (SDU) to provide information about the relative environmental impacts of inhalers to patients and those prescribing inhalers, enabling patients to make an informed choice when they are offered a prescription. Industry is also developing lower GWP propellants to replace the high GWP gases currently used in MDIs.

Currently around 26% of prescribed inhalers have a low GWP. The SDU is consulting stakeholders, including clinicians, specialists and pharmaceutical and product manufacturers, in order to evaluate the potential for increasing this proportion. Any further measures will need to take account of the clinical and economic implications as well as environmental benefits.

The SDU publishes an annual sustainability ‘Health check’ scorecard which includes the proportion of MDIs and DPIs prescribed, and will continue to do so.

Industry currently runs a recycling scheme whereby the public can deposit MDIs with participating pharmacies, hospitals and dispensing doctors. Government will discuss with industry how the current recycling rate can be increased.

Under the Government’s forthcoming Resources and Waste Strategy, various policy options will be considered to tackle problematic waste streams. Depending on suitability, some waste streams will be considered for the implementation of future Extended Producer Responsibility schemes. These will be prioritised based on the environmental benefits and other impacts.
Recommendation 3

The Government should ensure that heat pumps use low GWP refrigerants. The Government should reform the Renewable Heat Incentive schemes so that they encourage the deployment of heat pumps that use low GWP refrigerants, and that by 2020 all publicly-funded heat pump projects use low GWP refrigerants. It should publish annual data indicating which gases are being used in heat pumps so that Parliament and the Committee on Climate Change can track performance in this area. (Paragraph 29)

Government response

Heat pumps play an increasingly important role in decarbonising the heating sector and addressing climate change. A Government study of the impact of high GWP refrigerants in heat pumps concluded that the carbon benefit of displacing fossil fuels was around 17 times higher than the impact of refrigerant leakage. That means that even where high GWP refrigerants are used, there is still a very significant net climate benefit from using heat pumps.

The F-gas quota cuts are already driving industry to look for low GWP alternatives for heat pumps. Any additional measures to reduce the use of high GWP refrigerants must not hinder heat pump uptake as that would be counter-productive for the environment.

Around 20,000 heat pumps are currently installed each year in the UK, of which around 20–25% are supported by the Government’s Renewable Heat Incentive (RHI). The current RHI scheme runs until 2020/21. Any changes to its terms could not be applied retrospectively and so would only capture a small number of heat pump installations.

The most promising alternative refrigerants tend to be flammable to some degree, which can present barriers to their use. Government will continue to work with industry to address such barriers in order to enable the transition to lower GWP alternatives without slowing the pace of heat pump uptake.

Recommendation 4

Government departments should lead from the front on reducing their environmental impact. The Greening Commitments set targets and measures for GHG emission: We recommend that they should be amended include targets for departments to reduce their consumption of products containing high GWP F-gases. (Paragraph 31)

Government response

Government buying standards for refrigeration equipment already make reference to the need to phase down the use of HFCs.

The Greening Government Commitments (GGC) set targets for departments to reduce their greenhouse gas emissions, waste and water. Departments are also required to report publicly on actions to improve their sustainable procurement and other key issues such as biodiversity and sustainable construction. Current targets run to 2020.

Defra is in the process of reviewing the scope of the next set of commitments, which will cover the period 2020 to 2025. We are discussing across government what policy priorities should be incorporated. We will explore how the GGC programme can set early targets for phasing out products containing high GWP F-gases in Government, and report on the process.

**Recommendation 5**

We were disturbed to hear from industry and others that they suspect large levels of non-compliance. We are concerned that the Environment Agency does not have the adequate resources to tackle this problem. The low number of investigations and the single prosecution for a self-reported breach since the beginning of 2015, when the current F-gas Regulation came into effect, do not inspire confidence. This is especially concerning with deeper cuts in HFCs due in 2018 and 2021 and if the Environment Agency is to take on additional responsibilities as result of leaving the EU’s HFC Quota system in addition to the range of EU exit-related work it is already undertaking. DEFRA and the Environment Agency should publish plans for monitoring non-compliance, especially on social media sites, and how they will ensure with HMRC that there are no weaknesses in the F-gas regime now and after the UK leaves the EU. Online sellers have the tools to end environmental criminality on their platforms. They should use them. (Paragraph 34)

**Government response**

The Environment Agency (EA) monitors sales on online marketplaces such as eBay and Amazon. Daily searches are carried out for products being sold in breach of the regulations and EA then works with these online platforms to remove those products from sale, prevent them being sold in future and to gather evidence about those involved. EA also reviews its search criteria to ensure illegal sales continue to be identified.

In addition, EA carries out intelligence led investigations into non-compliance, whether that be at physical locations or via the internet.

The Fluorinated Greenhouse Gases (Amendment) Regulations 2018 give HMRC the ability to share information with the Environment Agency about imports. EA will use this data to target products from outside the EU that breach the Regulations.

It would be inappropriate to publish detailed plans for how EA monitors and investigates non-compliance as publicising these techniques could undermine their effectiveness, making it harder to enforce the Regulation.

**Recommendation 6**

The introduction of civil penalties may increase the number of prosecutions and deter non-compliance. However, without a properly resourced regime, prosecutions will be difficult. We question the Government’s decision not to retain more criminal sanctions, which would have added to the deterrence effect for non-compliance, especially for the worst offences. We recommend that the Government reviews the effectiveness of the
**F-gas compliance regime annually, indicating the actions it is taking, the resource it is assigning to such activities, the number of investigations carried out and the number of successful prosecutions achieved.** (Paragraph 36)

**Government response**

In order to maximise the environmental effectiveness of the Regulation, the Environment Agency (EA) focuses on bringing organisations into compliance and deploys a range of tools such as enforcement notices, advice, awareness campaigns and guidance to make businesses aware of their obligations. The number of prosecutions is not, therefore, necessarily a good indicator of the effectiveness of compliance work.

The EA routinely publishes details of civil penalties it has issued in England, in accordance with its Enforcement and Sanctions Policy. This will now include any such sanctions issued under the Fluorinated Greenhouse Gases (Amendment) Regulations 2018.

A study commissioned by the European Commission\(^2\) concluded that large scale illegal trade in HFCs has not taken place, which indicates that compliance with the HFC phase down is generally good and the main environmental outcomes are being achieved.

**Recommendation 7**

The Government must ensure that [...] only qualified persons handle F-gases. For instance, the legal availability of high GWP HFCs for the unsupervised top-up of car air conditioning units risks undermining the system, and illegal activities put responsible businesses at a disadvantage and endanger consumers if refrigerants are used inappropriately, such as flammable HFCs being applied to systems designed for low flammable HFCs.

It is essential that anybody who handles top-up refrigerants for car air conditioning units should be trained, certificated and monitored. Otherwise there is a real danger that high GWP HFCs will be discharged into the atmosphere. This appears in part a result of the wording of the Mobile Air Conditioning (MAC) Directive. The Government should set out how it will correct this deficiency and ensure that only qualified mechanics handle refrigerants for car air conditioning units. (Paragraph 38)

**Government response**

EU legislation does not prohibit members of the public from topping up their car air conditioning with high GWP refrigerants as long as they use refillable and returnable containers and do not remove refrigerant from the system. Now that all new cars must use low GWP refrigerants the use of high GWP top up kits will decline over time. The Government will continue to monitor the situation and consider whether new restrictions are needed as part of scheduled future reviews of F-gas legislation and taking account of the environmental and economic implications.

The safety of consumer goods is regulated and enforced by local authority Trading Standards services, with the support of the Office for Product Safety and Standards.

Recommendation 8

The fact that thousands of qualified engineers are not trained in relation to low GWP refrigerants is inhibiting the switch to low GWP alternatives. The Government should consult with industry and bring forward proposals to ensure that all those who handle refrigerants have up-to-date training. (Paragraph 40)

Government response

Industry is already responding to the increased demand for training in alternative refrigerants. The Air Conditioning and Refrigeration Industry Board has published a training specification for flammable refrigerant courses to provide guidance on the content of courses and assessments for training organisations.

City and Guilds currently offer courses on hydrocarbon refrigerants and the Building Engineering Services Association expect to have an updated qualification available from July 2018. Equipment manufacturers also run courses for their technicians and installers. Defra will work with industry to publicise the need for training and the options available.

Recommendation 9

We are pleased that technical aerosols using high GWP refrigerants will now be banned. However, we do not believe the Environment Agency has the resources to ensure compliance in this area while it is preparing to take on additional responsibilities as the UK leaves the EU. The Government should provide more detail in response to this report, on how it will police these banned products and how this will be resourced. (Paragraph 42)

Government response

The Environment Agency (EA) routinely monitors market places and takes action to remove banned products, such as technical aerosols with high GWP propellants, from sale. In addition, the EA will run a specific campaign by contacting manufacturers and suppliers of technical aerosols to inform them of the ban.

Recommendation 10

There does not appear to be any appetite for the UK to leave the EU’s F-gas regulatory regime. The Government have said that they are planning for several scenarios, including the UK establishing its own F-gas system based on the EU’s regime. We welcome the Government’s commitment that it has no intention of lowering current emission targets. However, we do not believe that it would be a good deal for the UK if it were to replicate the EU system without a say on the rules that govern it, whilst businesses would be subject to the additional costs that two regulatory systems would impose. Businesses need certainty about whether the UK will remain in the EU system during the transitional period. We therefore recommend that the UK should seek to remain part of the EU’s quota system. This will not prevent the UK Government from being more ambitious in its efforts to reduce F-gas emissions through the measures
outlined above. If, however, the Government decides to leave the EU system, it must set out concrete proposals showing how it will be able to achieve more progress on F-gases. (Paragraph 48)

**Government response**

It is the intention of both the UK and EU that the UK stays part of the EU F-gas system during the withdrawal implementation period. What happens after that is subject to negotiations on the UK’s long term relationship with the EU where we are seeking a close partnership. We are exploring all options including staying in the EU system.

Regardless of the outcome of the negotiations, the Government intends to maintain the current pace of HFC phase down in order to maintain the high level of environmental ambition and provide certainty for businesses which have already invested on the basis of the current phase down schedule.

**Recommendation 11**

*Setting up a UK-based system may represent poor value for money for the UK taxpayer. In its response to this report, the Government should set out its assessment of how much funding would be required to run and police a UK-based system. The Government should publish a fully costed proposal for a UK scheme, including its assessment of the expected additional costs to taxpayers, businesses and the NHS of setting up a UK-based own system. We note that the track record of government IT projects staying within budget is not good, so we have little confidence that the £250K allocated to run a UK system will be sufficient.* (Paragraph 50)

**Government response**

Although it remains possible that the UK will stay in the EU quota system, it is important that the Government prepares for the possibility of a separate UK system, should that be the eventual outcome of negotiations. Defra is in the process of developing such a system as cost-effectively as possible.

We are working closely with industry to ensure as smooth a transition as possible, whatever the outcome.

**Recommendation 12**

It is essential that there is independent oversight of Government policy to ensure the UK meets its obligations, for instance hitting HFC reduction targets agreed under the EU’s quota and under the Kigali Amendment to the Montreal Protocol. We have separately called for evidence on the Government’s proposals for the structures and principles which will underpin the governance of environmental policy across a range of areas, including F-gases. We welcome the Environment Secretary’s promised consultation on a new statutory body to enforce environmental law after exit day but we are concerned by its delay. *We reiterate our previous recommendation for an Environmental Protection Act before the UK leaves the EU to ensure that EU environmental law does not end up as*
‘zombie legislation’, whereby EU legislation transposed into UK law is not monitored, updated or enforced because it relies on EU policies and institutions. The Government’s approach to the EU (Withdrawal) Bill should recognise this risk. (Paragraph 53)

**Government response**

Defra launched a consultation on 10 May about the creation of a new, independent, statutory body to scrutinise and advise on environmental policy, investigate complaints and take action to ensure the proper delivery of environmental law by Government once we have left the EU.

The Government will also publish a new, comprehensive policy statement setting out the environmental principles which will guide policy and legislation post exit and underpin our commitment that environmental protection will be enhanced, not diluted, as we leave the EU.

We aim to publish a draft Environmental Principles and Governance Bill in the autumn and introduce it in the second session of this Parliament with the aim of enacting it before the end of the EU exit implementation period in December 2020.

**Recommendation 13**

*Though we recommend that the UK should remain within the EU’s HFC Quota system, if the Government decides to leave the EU’s HFC Quota system it must set out how UK businesses will manage their HFC quotas and not be put at a commercial disadvantage in relation to their European counterparts.* (Paragraph 58)

**Government response**

Whatever the outcome of EU exit negotiations, the Government’s objective is to maintain environmental standards and minimise disruption for businesses. Should the UK leave the EU quota system, Defra will work closely with businesses to enable a smooth transition to a new UK system.

**Recommendation 14**

The Government and the devolved administrations need to be pro-active in developing UK systems of future environmental enforcement as the UK leaves the EU. The ongoing uncertainty, along with the challenges that withdrawal from the EU Quota system pose, creates uncertainty for industry. We agree with the Minister that it would be best to have an overarching body to set and monitor UK-wide F-gas targets, based on a consensual agreement between the devolved legislatures and Westminster. The Government should publish in its response to this report a timetable for negotiating with the devolved Administrations on how F-gas emissions will be managed after the UK leaves the EU. (Paragraph 60)

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3 The consultation can be found here: https://consult.defra.gov.uk/eu/environmental-principles-and-governance
Government response

Ministers and officials in the UK Government hold regular discussions with counterparts in the Devolved Administrations on the operation of environment policy post exit. This includes consideration of common frameworks and appropriate operational arrangements. Discussions on the operation of the F-gas system have been underway for some months and will continue in order to ensure an agreed solution is in place at the point we leave the EU.

Recommendation 15

We are concerned that, if UK and EU policies diverge in the future, Northern Ireland could become a back door for appliances containing F-gases which have been restricted or banned on only one side of the border. (Paragraph 62)

Government response

There are no plans to reduce environmental standards on HFCs on either side of the border. The Government is making preparations to ensure the current F-gas restrictions continue to apply after we leave the EU.

Recommendation 16

Whilst it seems unlikely that the UK will drop out of the Montreal Protocol and similar international multilateral mixed environmental agreements when it leaves the EU, there is nevertheless uncertainty as to what will happen after exit day. Some complex international agreements, such as the Kyoto Protocol, will present significant challenge. The Government should undertake and publish legal analysis on the status of the UK’s international environmental treaties after it leaves the EU within two months of this Report being published. The Government should also give serious consideration to issuing a joint statement with the EU to provide clarity that the UK will fully assume its obligations under these treaties. (Paragraph 64)

Government response

We were one of the first 20 countries to ratify the Kigali Amendment last year, ensuring that it will come into force in 2019. We will remain bound by all Montreal Protocol obligations, which will continue to apply after exit because the UK is a Party in its own right.

In respect of the legal position, obligations fall on each Party individually. Being part of the EU allows Parties, after notifying the UN Secretariat, to meet obligations collectively, but that does not displace the fact that all the underlying obligations also remain in place for each individual Party.