

Using and trading in fluorinated gases and ozone depleting substances if there's no Brexit deal

Summary

How businesses dealing with fluorinated gases (F-Gases) and ozone depleting substances (ODS) would be affected if the UK leaves the EU with no deal.

Detail

If the UK leaves the EU in March 2019 without a deal, find out how this would affect those involved in using or trading in fluorinated gases (F-Gases) and ozone depleting substances (ODS), or servicing equipment which uses them. These gases are used as refrigerants, feedstocks for the manufacture of other chemicals, in medical inhalers, fire extinguishers and in a range of other applications.

A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an [overarching framing notice] (<https://www.gov.uk/government/publications/uk-governments-preparations-for-a-no-deal-scenario/>) explaining the government's overarching approach to preparing the

UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

Purpose

This notice sets out how the UK would continue to regulate the trade and use of fluorinated gases (F gases) and Ozone Depleting Substances (ODS) if the UK leaves the EU in March 2019 without a deal.

These gases are used as refrigerants, feedstocks for the manufacture of other chemicals, in medical inhalers, fire extinguishers and in a range of other applications.

Before 29 March 2019

The EU Ozone Depleting Substances Regulation (1005/2009) restricts the use of chemicals which damage the ozone layer. It implements the Montreal Protocol, an international treaty that aims to phase out Ozone Depleting Substances (ODS) and restrict use to very specific circumstances.

Under the Regulation, the European Commission allocates quotas to companies allowing them to place limited quantities of ODS on the market for certain permitted activities. It also bans certain products containing ODS and requires companies to control leakages, report on their usage and apply for a licence to import or export ODS.

The EU Fluorinated Greenhouse Gases Regulation (517/2014) is phasing down the use of the main group of fluorinated gases (F gas), known as hydrofluorocarbons (HFCs), to help address climate change. It implements international obligations under the Montreal Protocol to phase down HFCs globally by 2036. The EU F gas Regulation goes further than the Montreal Protocol, requiring a faster rate of phasedown and extending controls to a larger number of F gases.

The European Commission allocates quota to businesses which allows them to place certain quantities of HFCs on the EU market each year. Under the Regulation, this quota will be reduced every few years until a 79% cut against 2009-12 levels is achieved by 2030.

To receive an HFC quota, businesses must have an office or Only Representative - an organisation which acts as a legal representative for another organisation - within

the EU. The Regulation also bans certain uses, requires leakage checks and requires handlers of F gas to be trained and certified. F gas training certificates are mutually recognised by EU countries, meaning someone certified in one country can work in another.

The requirements of the ODS and F gas Regulations are enforced across the whole of the UK. Most enforcement is devolved.

In England most enforcement activity is undertaken by the Environment Agency, while the Scottish Environment Protection Agency enforce the Regulations in Scotland.

In Wales enforcement is undertaken by the Natural Resources Body for Wales, Welsh local authorities, port health authority or Welsh Ministers, and in Northern Ireland by the Department of Agriculture and Rural Affairs (DAERA) and District Councils of Northern Ireland.

For offshore hydrocarbon installations, enforcement is undertaken by BEIS's Offshore Petroleum Regulator for Environment and Decommissioning (OPRED). Controls on imports and exports are enforced across the UK by HMRC and Border Force. The greenhouse gas emissions savings delivered by the F gas Regulations are counted as a contribution to the savings required to meet UK carbon budgets under the Climate Change Act.

After March 2019 if there's no deal

In the event of a 'no deal', the UK would maintain the same high standards. The majority of the requirements in the EU ODS and F gas Regulations will continue to apply in the same way after the UK leaves the EU, including in the unlikely event of no deal. This will ensure the UK can continue to phase down the use of F gases and maintain controls on ODS to meet climate change goals and fulfil legal obligations under the Montreal Protocol.

The current quota systems for controlling the quantities of ODS and HFCs operate at EU level, are applied to companies not countries, and are administered by the European Commission. In a 'no deal' scenario, the UK would set up its own quota systems.

The current EU-wide HFC quota which companies receive would be split into two parts: one quota for placing on the UK market issued by the UK Government and another for placing on the EU market, issued by the EU Commission.

New UK IT systems would be established and administered by the Environment Agency (EA). The reporting requirements upon businesses would not change, only the IT systems they use.

Businesses that produce, import, or export HFCs or ODS or products and equipment pre-charged with HFCs or ODS would need to apply for UK quota to place them on the UK market. Businesses would also use the new UK systems to report on their use of ODS and F-gases.

Implications

Fluorinated greenhouse gases

The UK would continue using the same quota method and schedule to phase down HFCs by 79% against 2009-12 levels by 2030, but would administer this through a separate UK system run by the EA. The current EU total HFC quota would be split into UK and EU portions. Companies would be notified by the EA before the end of 2018 of their UK reference value (the baseline for calculating annual UK quota values) and UK HFC quota for the period from 30 March 2019 to 31 December 2019.

To determine these quantities for each company, the EA and Defra have already written to each EU quota holder asking for evidence of the quantity of HFCs they placed on the UK market in 2015, 2016 and 2017. Updates on this process will be published in due course.

The European Commission is running a parallel exercise to determine the allocation of EU quota for UK companies that currently place HFCs on the EU market. This would enable these companies to continue to get a quota from the European Commission in the unlikely event of no deal, but their quota would be adjusted to deduct their UK market share.

UK companies would need to set up an office in the EU or appoint an Only Representative there to remain eligible for EU quota. UK companies can set up an Only Representative in the EU before March 29 if they wish.

Businesses not based in the UK would need to appoint an Only Representative in the UK in order to be eligible for a UK quota.

A new UK quota system would also require a new UK HFC registry and reporting system, to capture the same type of information as is currently recorded on the EU HFC registry and F gas reporting tool. The development of a tool is underway and

further information about the mechanics of a UK quota system, and how to use the new IT systems, will be communicated later this year.

Ozone Depleting Substances

The UK would continue to use a quota system to restrict the use of Ozone Depleting Substances. Where companies currently apply to the European Commission for an ODS quota, they would instead apply to the EA. Businesses would also need to use new UK systems to report to the EA on their use of ODS and apply to the EA for import and export licences on a new electronic licensing system.

The requirements to receive an ODS license will not change, only the IT system used to apply for a license. Further information on how to use the new IT systems will be communicated later this year. From 29 March, businesses would need to hold a license to import or export ODS between the UK and EU.

Certification

Certificates issued by EU bodies will continue to be valid in the UK, enabling technicians holding those certificates to continue working here. Technicians certified by UK bodies to service F gas equipment may need to be re-certified by a body in an EU country if they wished to work in the EU, unless the EU decides to continue recognising such certificates. A [complete list of UK certification, evaluation and attestation

bodies](<https://www.gov.uk/guidance/certification-for-companies-working-on-equipment-containing-f-gas>) is available on GOV.UK.

More information

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.

The UK government is clear that in this scenario we must respect our unique relationship with Ireland, with whom we share a land border and who are co-signatories of the Belfast Agreement. The UK government has consistently placed upholding the Agreement and its successors at the heart of our approach. It enshrines the consent principle on which Northern Ireland's constitutional status rests. We recognise the basis it has provided for the deep economic and social cooperation on the island of Ireland. This includes North-South cooperation between

Northern Ireland and Ireland, which we're committed to protecting in line with the letter and spirit of Strand two of the Agreement.

The Irish government have indicated they would need to discuss arrangements in the event of no deal with the European Commission and EU countries. The UK would stand ready in this scenario to engage constructively to meet our commitments and act in the best interests of the people of Northern Ireland, recognising the very significant challenges that the lack of a UK-EU legal agreement would pose in this unique and highly sensitive context.

It remains, though, the responsibility of the UK government, as the sovereign government in Northern Ireland, to continue preparations for the full range of potential outcomes, including no deal. As we do, and as decisions are made, we'll take full account of the unique circumstances of Northern Ireland.