



Australian Government
**Department of the Environment
and Water Resources**



AUSTRALIAN REFRIGERATION COUNCIL LTD

Dear

Proposed New Condition for Refrigerant Trading Authorisation holders

I am writing to advise you of a new condition on your Refrigerant Trading Authorisation (RTA), effective from 1 January 2008.

Under subregulation 141(3) of the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*, the ‘relevant authority [ARC] may specify that an authorisation is subject to a condition and must set out the condition on: (a) the authorisation document; or (b) a written notice given by the authority to the holder.’

This letter constitutes a written notice under paragraph 141(3)(b) that your authorisation is, from 1 January 2008, subject to the new condition which is detailed in the attachment to this letter.

The reason for the new condition.

From discussion with the industry, many businesses are not sure how to handle requests for refrigerant from foreign flagged vessels and/or from those using refrigerants but not using them in the fire protection or RAC industry.

Foreign flagged vessels are boats that are registered (flagged) to a country other than Australia. Under international law, activities on board a foreign flagged vessel in Australian waters are subject to the laws of their flag state, not necessarily those of Australia. The maintenance of RAC equipment on board the vessel is one such activity. Therefore, it is not appropriate for the Department of the Environment and Water Resources (DEW) to apply Australia’s ozone protection legislation to these vessels and their officers. However, it is important that Australian RTA holders have certainty that, when they supply refrigerant to these vessels, that they are acting legally and not endangering their own permits.

Refrigerants have uses outside the RAC and fire protection industry. Such uses include foam blowing, aerosols and as solvents. These uses are not currently regulated by the ozone legislation and people purchasing and handling refrigerants for these uses do not require permits. (Note. A licence is required to import, export or manufacture these substances.) Once again, it is important that RTA holders have some certainty that they are acting legally and not endangering their permits when they supply these substances for unregulated purposes.

The current administrative arrangements are cumbersome. Many purchases are, case-by-case, referred to DEW for approval which imposes an unnecessary burden on business and on the government. The new administrative arrangements are simpler and more efficient. Also, the approved forms set out the checks that an RTA holder should make with the purchaser to ensure that they fall into one of the exempt groups. If those checks have been diligently carried out, DEW does not propose to treat as a breach of a permit condition, a situation where a purchaser declares that they are exempt but, in fact, uses the refrigerants in a regulated industry, provided the RTA holder has no cause to suspect that such use might in fact be contemplated.

The new condition is attached to this letter and will:

- clarify the rules about to whom refrigerant can be supplied;
- provide some certainty to RTA holders that they are acting legally when supplying refrigerant to foreign flagged shipping vessels and for non-RAC purposes; and
- establish simple administrative procedures for those sales.

Using the approved forms and keeping records

Included with this letter are the two forms that are approved for use by the new condition.

Each transaction covered by the new condition should be recorded on a separate form and you should file the completed forms with your other refrigerant trading records.

If your point of sale system requires an AU number to be entered to complete the sale, the AU number at the top of each form has been established in the ARC's database for this purpose.

To get more copies of the form, either photocopy the ones contained here or download them from the ARC's website www.arctick.org. There are electronic versions of the form on the ARC's website that will allow you to type your organisation's details into the appropriate place to save time at the point of sale.

For more information

Please contact Chris Young at DEW on (02) 6274 2512 if you require any further information.

Yours sincerely

Alan Woodhouse
CEO
December 2007

New Refrigerant Handling Authorisation condition

This condition takes effect from 1 January 2008

The holder must not supply substances controlled by this authorisation to any person or organisation unless:

- 1. The substance is being supplied to a person or organisation that has provided evidence that they hold a Refrigerant Trading Authorisation that permits them to acquire the substance; or*
- 2. The substance is being supplied (in accordance with the conditions explained below) to a foreign flagged shipping vessel in an Australian port for the purposes of the maintenance of the RAC equipment on board that vessel; or*
- 3. The substance is being supplied (in accordance with the conditions below) to a person or organisation that has provided evidence that they do not intend to use the substance in the refrigeration, air conditioning or fire protection industries, or export the substance.*

The following activities are not considered to be 'supply':

- a. Providing refrigerant to an employee (that holds a refrigerant handling licence) for use in the installation or maintenance of RAC equipment. Note that this does not apply to sub-contractors;*
- b. Charging refrigerant into installed RAC equipment;*
- c. Providing refrigerant in bulk form to a courier or transport company for immediate delivery to a member of one of the three groups described in (1), (2) or (3) above;*

Conditions

Supply to a foreign flagged shipping vessel is allowed subject to the following conditions

- i. The request for supply is made in the approved form;*
- ii. The type and quantity of substance supplied is reasonable for maintenance of RAC equipment on board the vessel;*
- iii. Records are kept in the approved manner; and*
- iv. Records so kept are made available for inspection on request by the Department or relevant authority.*

Supply to a person or organisation for use other than in the RAC or fire protection industries is subject to the following conditions

- i. The request for supply is made in the approved form;*
- ii. The type and quantity of substance supplied is reasonable for the intended use nominated on the approved form;*
- iii. Records are kept in the approved manner; and*
- iv. Records so kept are made available for inspection on request by the Department or relevant authority.*