

Regulation Impact Statement – Shortages of some species of synthetic greenhouse gases

This Regulation Impact Statement is for the Government's response to potential shortages of some species of synthetic greenhouse gases in the period prior to the repeal of the carbon tax, including the equivalent carbon tax on synthetic greenhouse gases, on 1 July 2014.

The agency has prepared a single-stage Regulation Impact Statement. As no decision has been previously announced, an options-stage Regulation Impact Statement is not required.

Problem

There is a risk that there may be a shortage of some species of synthetic greenhouse gases prior to the repeal of the equivalent carbon tax on 1 July 2014. The likelihood of a shortage is considered low. However the consequences are high as gas is required to maintain essential refrigeration and air conditioning plant, fire protection systems and electricity distribution equipment in critical infrastructure such as hospitals, computer servers and for electricity distribution.

Industry stakeholders have identified that there may be potential shortages of synthetic greenhouse gases prior to the repeal of the equivalent carbon tax on 1 July 2014. Shortages may occur as participants in the synthetic greenhouse gas supply chain seek to minimise their inventories prior to repeal of the equivalent carbon tax. In particular, synthetic greenhouse gas importers may reduce or stop imports prior to 1 July 2014. Importers and wholesalers may also reduce their stocks of synthetic greenhouse gases until after the repeal of the carbon tax. This behaviour could have been expected due to any significant drop in the level of the carbon tax.

The equivalent carbon tax is applied when synthetic greenhouse gases enter the economy, either at the point of import or manufacture. No synthetic greenhouse gases are manufactured in Australia. The gases are imported by ship in bulk form in gas tanks (ISOtainers) which generally contain around 18 tonnes of gas. It takes around 8 weeks from the time an order is placed with a manufacturer for synthetic greenhouse gases to arrive in Australia.

The equivalent carbon tax is a significant percentage of the price of synthetic greenhouse gases at the time they enter the economy due to the high global warming potential (GWP) of these gases. To calculate the equivalent carbon tax, the GWP of the species of synthetic greenhouse gas is multiplied by the carbon tax for the given metric weight of the gas. There is a significant financial incentive for importers and others participants in the gas supply chain to minimise their stocks of gas which have been priced to account for the equivalent carbon tax prior to the equivalent carbon tax being repealed on 1 July 2014.

For example, the most common synthetic greenhouse gas, HFC134a, has a global warming potential of 1300 (1300 times that of carbon dioxide). The equivalent carbon tax on HFC134a is \$30.40 per kilogram in 2013-14. In comparison the cost to purchase and transport HFC134a from overseas without the equivalent carbon tax is less than \$10 per kilogram.

Imports of synthetic greenhouse gases in bulk form are generally to meet equipment servicing requirements. Servicing requirements are unpredictable and are usually not discretionary. The synthetic greenhouse gas charge in a refrigeration/air conditioning system, fire protection

system or electrical distribution equipment may be discharged to atmosphere for a number of reasons including for its intended use (e.g. fire protection system is discharged) or critical equipment failure (e.g. compressor failure in an air conditioner), or may become contaminated through its use (e.g. electrical distribution equipment).

Objective

The objective of Government action is to reduce the likelihood of shortages of synthetic greenhouse gases arising in the period prior to the repeal of the equivalent carbon tax.

Options

Three options have been considered to address the problem:

1. Legislation that provides for an exemption from the equivalent carbon tax where synthetic greenhouse gases are imported but not released onto the Australian market before repeal of the equivalent carbon tax on 1 July 2014.
2. A grant programme where the equivalent carbon tax can be reimbursed where synthetic greenhouse gases are imported but not released onto the Australian market before repeal of the equivalent carbon tax on 1 July 2014.
3. Retain existing arrangements.

Option 1

Provision would be made in legislation for imports of synthetic greenhouse gases to be exempted from the equivalent carbon tax where the importer decides to:

- import of bulk gas occurs in the period between 1 April 2014 to 30 June 2014;
- enter the gas into a Customs warehouse, licensed under the *Customs Act 1901*; and
- not remove the gas from the Customs warehouse until 1 July 2014.

This option will assist importers manage stocks of synthetic greenhouse gases. Importers would be able to remove synthetic greenhouse gases from a Customs warehouse prior to 1 July 2014. If this occurs the equivalent carbon tax would become payable on the gas.

This option will provide legislative certainty for industry participants and can be implemented with minimum administrative cost for industry and government. There are no additional mandatory costs applied through this option.

Option 2

A grant or rebate programme would be developed that provides for payments equal to the equivalent carbon tax paid where the importer decides to:

- import of bulk gas occurs in the period between 1 April 2014 to 30 June 2014;
- enter the gas into a Customs warehouse, licensed under the *Customs Act 1901*; and
- not remove the gas from the Customs warehouse until 1 July 2014.

Importers would be able to apply for a grant or rebate equivalent to their equivalent carbon tax liability on the gas that was stored in the Customs warehouse until 1 July 2014.

This option does not provide the same level of financial or legal certainty for industry as Option 1 as a grant or rebate will be subject to approval by the Minister. While the risk of an application not being approved is low, industry will prefer a more certain option. The financial risk to an importer is high as the equivalent carbon tax comprises a significant majority component of the total cost of synthetic greenhouse gases. Import licence holders may not use this option to manage gas supplies if they assess the legal and financial risk as too high.

A grant or rebate programme will have a moderate administrative impost for industry and the government. There are no additional mandatory costs applied through this option.

Option 3

Retain the existing arrangements where industry would continue to assess and provide for gas demand, while managing its financial risk.

Impact

The risk of supplies of synthetic greenhouse gases being exhausted is considered low. However gas shortages may impact on critical infrastructure such as hospitals, electricity distribution and computer server facilities.

Providing a legislative or grant framework will assist importers of synthetic greenhouse gases manage stocks so that a contingency supply of gas species that might be in short supply can be kept in secure storage. The equivalent carbon tax would only become payable on these gas supplies if there are removed from a Customs warehouse before 1 July 2014.

The proposed options will impact up to forty-seven Controlled Substance Licence holders. A Controlled Substance Licence allows the import of bulk synthetic greenhouse gases under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

Importers who wish to use the facility provided under either Options 1 or 2 would incur higher storage costs through using a Customs warehouse. The increased costs would be around \$10 per day per ISOtainer (around 18 tonnes), plus a one-off fee of \$250. However there are no costs being imposed as a result of this proposal as participation is voluntary. Import licence holders can continue to operate without using this facility and will not be subject to any financial impact from the regulatory or rebate proposal.

Finance Impact of the Regulatory / Rebate Option

Regulatory Burden and Cost Offset (RBCO) Estimate Table

Average Annual Compliance Costs (from Business as usual)				
Sector/Cost Categories	Business	Not-for-profit	Individuals	Total by cost category
Administrative Costs	\$0	\$0	\$0	\$0
Substantive Compliance Costs	\$0	\$0	\$0	\$0
Delay Costs	\$0	\$0	\$0	\$0
Total by Sector	\$0	\$0	\$0	\$0
Annual Cost Offset				
	Agency	Within portfolio	Outside portfolio	Total
Business	\$0	\$0	\$0	\$0
Not-for-profit	\$0	\$0	\$0	\$0
Individuals	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0
Proposal is cost neutral? <input type="checkbox"/> yes Proposal is deregulatory <input type="checkbox"/> no Balance of cost offsets \$0_____				

There is a potential loss to revenue of \$10.0 million in 2013-14 from the legislation option. This loss would accrue where importers continue their existing business practice of maintaining a stock of gas that is above minimum, or just in time, requirements, and the gas is put on the market after 1 July 2014. Under a legislative or rebate option the equivalent carbon tax would not be paid on imports made during the last quarter of 2013-14 that may have occurred as part of ordinary business.

The actual impact on revenue may be less than \$10.0 million as importers may, in the absence of a legislative or rebate option, delay imports until non-taxed gas supplies are available after 1 July 2014. Such a delay will reduce equivalent carbon tax revenue in 2013-14. This behaviour may substantially offset the revenue impact of a legislative or rebate option.

Gas that is imported prior to 1 July 2014 and kept in a Customs warehouse until after 1 July 2014 will have a considerable price advantage compared with gas that has been subject to the equivalent carbon tax. The benefits of this advantage might be received by any, or all,

participants in the supply chain, from gas importers to consumers. A grant or rebate programme would carry a similar cost to the legislative option, as well as add to business costs for importers, as the equivalent carbon tax would need to be paid to the Government and then, after being held for a period of time, returned to the importer in the form of a financial benefit.

Consultation

The draft legislation to repeal the carbon tax was released for public consultation by the Government on 15 October 2013. The consultation period closed at 5 pm on 4 November 2013. The Department of the Environment held a meeting with synthetic greenhouse gas importers, suppliers and end users on 17 October 2013.

During the course of the consultation period the Department of the Environment received several submissions relating to the equivalent carbon tax repeal and the impact that this may have on the industry. Refrigerants Australia proposed an approach where importers could import and then store synthetic greenhouse gases in a bonded warehouse in advance of 1 July 2014. Importers would be able to withdraw synthetic greenhouse gases from the bonded warehouse before 1 July 2014 and pay the equivalent carbon tax. Any withdrawals after 1 July 2014 would not attract the equivalent carbon tax.

The other key issue raised by the industry through the consultation period was that the need for clear, early and industry-specific communications.

Recommended option

The recommended option is to make legislation to allow for a transitional exemption from the carbon charge component of the levy imposed by the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* on the import of bulk synthetic greenhouse gas. The exemption would only be available for imports during the quarter starting 1 April 2014, where the synthetic greenhouse gas is entered into a warehouse licensed under the *Customs Act 1901* and is not removed from the warehouse before 1 July 2014.

The exemption would be supported by additional reporting requirements in the legislation. Currently, importers of synthetic greenhouse gases are required to provide reports on their import activity during each quarter to the Department of the Environment. Under the Bill importers claiming the exemption from the equivalent carbon tax will be required to provide reports on the quantity and kind of synthetic greenhouse gas that is covered by the exemption.

A refund provision would also be required in the event that importers pay equivalent carbon tax to the Department of the Environment where they should instead be exempted from paying it at all.

Implementation and review

The Bill will be introduced in November 2013. The Bill provides a temporary exemption from equivalent carbon tax liability. The Department of the Environment will implement the Bill. Implementation is supported by the current operational requirements imposed by the *Customs Act 1901*.

As this is a temporary exemption lasting only three months, a review provision is not required.