



Australian Government

**Department of the Environment,
Water, Heritage and the Arts**

**Refrigeration and Air Conditioning aspects of
the
Ozone Protection and Synthetic Greenhouse
Gas Management Regulations 1995**

2008 Industry Consultation

Discussion Paper

March 2008

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This paper is intended as a basis for consultation with stakeholders. It should be regarded as a working document prepared by the Ozone Protection and Synthetic Gas Section of the Department of the Environment, Water, Heritage and the Arts.

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**RAC aspects of the
Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995
2008 Industry Consultation
Discussion Paper**

Introduction

The *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (the Regulations) establish a licensing and authorisation scheme for the Refrigeration and Air Conditioning (RAC) industry in Australia.

It is an offence to handle fluorocarbon refrigerants without a Refrigerant Handling Licence (RHL) and to acquire, possess or dispose of such refrigerants without a Refrigerant Trading Authorisation (RTA).

By listing standards and codes of practice with which permit holders must comply, the Regulations also mandate certain standards of practice and design.

The RAC permit scheme is administered by the Australian Refrigeration Council (ARC) on behalf of the Australian Government. The Department of the Environment, Water, Heritage and the Arts (the department) is the Australian Government agency responsible for administering the Regulations.

Purpose of this paper

The department communicates with the various sectors of the RAC industry to ensure that the Regulations and the RAC licensing scheme are working effectively both for the environment and for industry. While consultations with various sectors of the industry occur as issues arise that affect them, each year the department conducts a round of consultation that encompasses the entire industry. This paper is to inform the broad industry consultation round of 2008.

What is in this paper?

This round of industry consultation deals with the RAC aspects of the Regulations. It deals with issues such as the rules for licence and authorisation holders, industry standards, the operation of the ARC and potential amendments to the Regulations.

What is not in this paper?

This paper does not deal with broader policy issues on the future of fluorocarbon refrigerants in Australia. Policy issues such as emissions trading and phase-out schedules for hydrochlorofluorocarbons (HCFCs) are outside the scope of this paper and either are being or will be addressed through separate consultation processes.

Structure of this paper

This paper is divided into six sections.

1. Non-fluorocarbon refrigerants.
2. Refrigerant Trading Authorisations.
3. Refrigerant Handling Licences.
4. Illegal activity and offences.
5. Technical standards.
6. Administrative issues.

Each section is subdivided into a number of subsections that propose changes to the existing Regulations or permit arrangements.

Each subsection includes a suggested change. This should not be considered as the only possible solution to the problem outlined. Indeed, comment is welcome both on whether the problem is serious enough to warrant action and, if it is a problem that needs addressing, if the suggested change, a variation of that suggestion or something completely different is the best way to solve it.

Commenting on this paper

Although meetings will be held around the country, **comments on this paper must be made in writing.**

They should be received at the department by the 5pm Canberra time on **Friday, 16 May 2008.**

Comments can be sent via email to

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Section 1 – Non-fluorocarbon refrigerants

The department has received representations regarding non-fluorocarbon refrigerants (NFRs) such as carbon dioxide, ammonia and hydrocarbons. Some within the industry would like the federal licensing scheme expanded to cover all work on refrigeration and air conditioning systems, regardless of the type of refrigerant that is being used.

The Commonwealth has the power to regulate the fluorocarbon aspects of the RAC industry because Australia has signed the Montreal Protocol and the United Nations Framework Convention on Climate Change. Accordingly, existing legislation, which gives effect to these international agreements, does not cover NFRs.

Concerns have been raised that improper retrofitting of systems to NFRs, including failure to label the system as such, poses a risk to technicians asked to service units. Health and safety aspects of trades licensing are currently the purview of the state and territory governments.

The recently revised codes of practice, in both the stationary and automotive sectors, require clear labelling of systems that have been retrofitted. As compliance with the codes of practice listed in the Regulations is compulsory for all licence holders, the department may take action against any licensed technician that fails to appropriately label such systems.

Even if only removing a fluorocarbon refrigerant prior to retrofit, the technician must still hold a Refrigerant Handling Licence and, thus, they are subject to the codes of practice. The department and the ARC will be reminding the industry of the need to comply with this requirement throughout 2008.

Section 2 – Refrigerant Trading Authorisations (RTA)

2.1 Proposed new condition – record keeping

Rationale

Currently RTA holders are, amongst other conditions, required to do the following things:

1. Ensure equipment is maintained;
2. Leak test cylinders each quarter;
3. Check that cylinders are in test date; *and*
4. Ensure only appropriately licensed technicians handle refrigerant that is in the RTA holder's possession.

Many businesses keep records of these activities. However, the Regulations do not actually require that these records be kept or that they be produced to the relevant authority (currently the ARC is the relevant authority).

This disadvantages businesses which do the right thing. For example, unless an ARC auditor actually witnesses unlicensed persons handling refrigerant, it is very difficult to prove that the condition has been breached and thus take appropriate action against them.

A standard requirement to keep accurate and up to date quarterly records of these activities will level the playing field for all businesses and facilitate compliance and enforcement activities.

A record keeping requirement also:

- serves as a reminder to businesses to undertake these activities, helping them meet their compliance obligations; *and*
- in the case of licensed technicians, ensures that the ARC's records are up-to-date so that RTA holders are not held accountable for actions taken by technicians that no longer work for them.

Suggested change

That the following condition be added to all RTAs:

- (1) That the holder keep accurate and up to date quarterly records detailing:
 - checks and maintenance undertaken to comply with condition (c) and (d) which require the maintenance of equipment;
 - leak detection activities undertaken to comply with condition (e) which requires that cylinders of refrigerant be leak tested;
 - the names and Refrigerant Handling Licence numbers of each person that handled refrigerant in the holder's possession during the quarter; *and*
 - cylinder test date checks undertaken to comply with condition (g) which references an Australian Standard which requires that cylinders be within test date.

(2) That 14 days or less after receiving a request in writing by the relevant authority, sends to the authority copies of the records mentioned in condition (1).

Note these are the existing conditions of an RTA

141 Conditions on authorisations

(1) Subject to subregulations (1A) and (1B), a refrigerant trading authorisation or RAC equipment manufacturing authorisation is subject to the conditions that the holder:

(a) keeps up-to-date records showing the amounts of refrigerant bought, sold and recovered during each quarter; and

(b) 14 days or less after receiving a request in writing by the relevant authority, sends to the authority copies of the records mentioned in paragraph (a); and

(c) ensures that each item of the holder's equipment that is necessary to prevent avoidable emissions of refrigerant is operating correctly; and

(d) has, and maintains, equipment that is adequate for the holder's activities, including 1 or more of each of the following:

(i) leak detectors;

(ii) vacuum pumps;

(iii) recovery units; and

(e) at least every quarter, checks any refrigerant container in the holder's possession for leaks; and

(f) puts into effect a risk management plan relating to the handling and storage of refrigerant in the holder's business; and

(g) ensures that any refrigerant in the holder's possession is handled in accordance with each applicable standard set out in Table 135; and

(h) for an RAC equipment manufacturing authorisation — ensures that any refrigerant in its possession is handled only:

(i) by the holder of an appropriate licence granted under regulation 131, 133 or 134; or

(ii) under the supervision of the holder of an appropriate licence granted under regulation 131 or 133; and

(i) for a refrigerant trading authorisation — ensures that any refrigerant in the holder's possession is handled only by the holder of an appropriate licence granted under regulation 131, 133 or 134; and

Note Holders of a licence under regulation 134 must themselves be supervised: see regulation 134.

(j) ensures that destruction of any refrigerant is carried out only by the operator of a refrigerant destruction facility; and

(k) uses only refillable containers for storage of refrigerant.

2.2 Restricted classes of RTA

Rationale

Current RTAs allow the permit holder to acquire, possess and dispose of refrigerant. For certain classes of business, particularly those involved in decommissioning RAC systems (vehicle wreckers, building demolition companies etc), there is a need to possess and dispose of refrigerant but no need to purchase it. As a principle, the group of companies permitted by law to acquire bulk refrigerant should not be expanded further than is necessary.

From the administrative point of view, there is a need for businesses in these sectors to have a business level permit. This would enable the amounts of refrigerant reclaimed from equipment and surrendered for destruction to be monitored. The relevant authority could then conduct compliance and enforcement activities ensuring reclamation activities are being undertaken in accordance with the relevant standards and conditions.

Therefore, a restricted class of RTA is proposed. This restricted class would allow the holder to acquire refrigerant from systems but not to purchase bulk refrigerant from suppliers.

If a new class of RTA did not allow for purchase, it seems reasonable that the cost of the permit would be lower as the major privilege of an RTA has been removed. A cost of \$100 for a two year permit is suggested.

Suggested change

That the Regulations be amended to allow for the relevant authority to issue restricted classes of RTA that do not allow purchase of refrigerant but do allow for refrigerant to be reclaimed from equipment, possessed and disposed of.

The new restricted class of RTA would cost \$100 for two years.

The new class of RTA would be subject to the same conditions as existing RTAs (including the suggested amendments at item 2.1 of this paper).

2.3 New condition – publication of RTA number.

Rationale

One of the benefits of a licensing and authorisation scheme is that the public get the benefit of trained, qualified technicians who are obliged to work to certain standards.

This, of course, supposes that the public are able to tell the difference between licensed and unlicensed technicians and authorised and unauthorised businesses.

Equally, where the public have engaged an authorised business and licensed technician, they are entitled to assume that the business and the technician will be held accountable to the required standards.

Therefore, it is proposed that all RTA holders must publish their RTA number on all advertising material. Where a business is just single-operator and does not hold an RTA, the technician would be required to publish his/her refrigerant handling licence (RHL) number in advertising (see also 3.2 below).

This would allow the public and the regulator to readily identify legitimate businesses from others.

This would be supported by a new offence of offering RAC work without holding the required industry permits issued under the Regulations. It is proposed that this offence would be dealt with through infringement notices (tickets) being issued (see 4.1 below).

Similar conditions and offences exist in many states and territories.

Suggested change

That a new condition be added to all RTAs that the RTA number be included in all advertising undertaken by a business that offers RAC services.

Section 3 – Refrigerant Handling Licences (RHL)

3.1 Free licences for apprentices

Background

It has been suggested that apprentices should not have to pay the \$20 annual licensing fee as they are on very low wages and have many other bills to pay.

The level of licensing fees has been established on a cost-recovery basis. Therefore, if apprentices did not have to pay for their licences, other fees may have to increase to cover those costs.

The alternative argument is that \$20 per year is a modest amount and that people tend to value something that they have paid for.

Employers are, of course, free to pay the licence fee on behalf of their apprentices and expenditure on permits and licences is tax deductible.

Suggested change

Nil.

3.2 New condition – provision of RHL number on all job cards, invoices etc.

Background

One of the great benefits of a licensing and authorisation scheme is that the public get the benefit of trained, qualified technicians who are obliged to work to certain standards.

This, of course, supposes that the public know the difference between licensed and unlicensed technicians.

Equally, where the public have engaged a licensed technician, they are entitled to assume that the business and the technician will be held accountable to the required standards.

Manufacturers and importers that carry the responsibility for warranty repairs also want to be able to refer substandard work by technicians to the relevant authority.

If technicians were required to supply their RHL number on all receipts, job cards, invoices etc and the consumer were encouraged to look for that number, there would be increased accountability for technicians.

This does not mean that a company or person could take the licence number and find out from the ARC or the department, the name of the technician or company that installed the unit. The system would be designed to safeguard the privacy and security of the technician's personal information and would be consistent with the verification system discussed in Section 6.3.

Suggested change

That the conditions of an RHL be altered to require the licence holder to put their RHL number on all receipts, job cards, invoices and other paperwork provided to the customer once the job has been completed or while the job is in progress (progress payments etc).

This is already a condition of work in many states and territories.

3.3 Supervision of trainees

Background

The Regulations require that the holder of the Trainee category of RHL be supervised by a Qualified Persons licence holder¹. The concept of “supervision” is not defined in the Regulations.

Supervision of trainees can take many forms and depends upon the skill of the trainee, the nature of the job being undertaken and, in the case of apprentices, how far they are through their apprenticeship. It seems inappropriate to define exactly how supervision should be undertaken in the Regulations.

However, the common factor in all cases is that the supervisor should be responsible for the quality of the work that the trainee does. This responsibility ensures that the supervisor takes an active interest in the work that the trainee is doing and also gives the customer cause for confidence in the quality of the finished job.

Suggested change

That an applicant for a Trainee Licence be required to nominate the name and Refrigerant Handling Licence number of his/her supervisor(s) and be required to provide updated information to the relevant authority (currently the ARC) if that name or names changes.

That a Trainee Licence holder be required to list both his/her RHL number and that of his/her supervisor for that job on all invoices, job cards and other documentation provided to a customer after the completion of work.

That the conditions of a Qualified Persons RHL be amended to include a condition that they ensure that the work done by the holder of a Trainee Licence under their supervision is carried out in accordance with the standards set out in Table 135 of the Regulations.

There may be issues of liability and the Department is seeking advice on this.

¹ A “Qualified Persons licence” is a licence issued under s131 of the Regulations to those tradespeople that have demonstrated their qualifications. Holders of the appropriate Experienced Persons (EP) category of RHL can also supervise trainees but, as all EP RHLs expire in 2008 and are not renewable, they are not being discussed in this context.

Section 4 – Illegal activities and offences

4.1 New offences

- **advertising work without an RTA and/or RHL**
- **pretending to hold an RTA and/or RHL that is not held**

Background

As noted above, the success of the licensing and authorisation scheme depends partly on the consumer being able to choose appropriately qualified and licensed tradespeople. Businesses and individuals that support the Regulations, hold the relevant permits and comply with the conditions of those permits are often undercut by unlicensed operators who have not invested in necessary training and equipment.

As the Regulations currently stand, there are only two offences:

1. To handle refrigerant without an RHL (s111); *and*
2. To acquire, possess or dispose of refrigerant without an RTA (s112).

By the time a prosecution can be launched for these offences in the case of unlicensed operators, the damage is already done because the services of the unauthorised business or unlicensed technician have already been engaged.

Suggested change

That a new offence be introduced that advertising RAC work without holding an RTA is an offence. It would be a defence to the charge that, despite the fact that the business does not hold an RTA, that they employ a technician that holds a class of RHL appropriate to the work that they are advertising.

That a second new offence be introduced for a business or person to say they hold an RTA or RHL when they do not.

It is proposed that these offences would be punishable, in the first instance, by an infringement notice, a ticket similar to those issued by the police for traffic offences.

The proposed level of fine is \$550 (5 penalty units).

4.2 Issuing of infringement notices

Background

Currently, the two RAC offences under the Regulations require a charge to be brought in a court. The penalties for these offences are only 10 penalty units (currently \$1100). On this basis, it may be difficult to justify the resources to mount a prosecution for such cases.

Given the nature of the offence and the level of penalties, infringement notices (tickets) would be a more appropriate means of dealing with first offences. This method of enforcement would mean that a first offence would not attract a criminal conviction.

Second and subsequent offences should attract a much higher penalty and should, therefore, be dealt with by court action.

Suggested change

That the Regulations be amended to allow inspectors appointed under the Act (as distinct from the ARC's auditors) to issue infringement notices (tickets) for first offences.

That the penalty for second and subsequent offences be raised to 50 penalty units (\$5500) and be dealt with through court action.

4.3 Refining the definition of unlicensed work

Background

The offence for unlicensed work currently reads:

“(1) On or after 1 July 2005, a person must not handle a refrigerant unless he or she:

(a) holds a refrigerant handling licence;”

If, for example, the holder of an Automotive Refrigerant Handling Licence is installing split-systems, then they are doing work for which they are not licensed. However, if prosecuted for unlicensed work, it might be argued that they held a Refrigerant Handling Licence (albeit for automotive work) and, therefore, had not committed an offence.

Suggested change

Amend the definition of this offence to make it clear that doing work without a licence that covers that kind of work constitutes unlicensed work.

4.4 Refining the definition of when refrigerant is handled

Background

In response to allegations of unlicensed work, the defence has often been raised that the unlicensed person is not handling refrigerant at all; they are running the pipework, installing the ducts etc but not charging the system. The argument is that the handling of refrigerant only occurs when the system is commissioned.

Practically, while it is difficult to believe that a person has done almost the whole job and stepped back to allow someone else to commission the system, this is often difficult or impossible to disprove.

The environmental harm from refrigerants only occurs when they escape into the atmosphere. Leaking systems are often the cause of this. Thus the proper construction of the system is critical and much of the training provided to technicians focuses on doing this properly. The actual building and/or installation of the systems is what technicians are trained to do.

Suggested change

The definition of ‘handle a refrigerant’ currently includes:

“... manufacturing, installing, commissioning, servicing or maintaining RAC equipment ...”

This should be clarified to note that the installation, servicing or maintenance of any component designed to carry refrigerant, whether or not refrigerant is actually present, constitutes handling refrigerant.

4.5 Infringement notices for permit condition breaches

Background

Refrigerant Trading Authorisations (RTAs) and Refrigerant Handling Licences (RHLs) are issued subject to a number of conditions. These conditions are listed in the Regulations and are provided to each permit holder when the permit is issued.

At present, the only penalty for a breach of these conditions laid down in the Regulations is suspension or cancellation of permit. As RHLs and RTAs are necessary to conduct business, suspension or cancellation has ramifications that are disproportionate to the nature of many breaches.

Many state and territory licensing schemes provide infringement notices (tickets) to be issued to permit holders for breaching the conditions of their permit. This provides a more proportionate penalty for minor breaches.

Suggested change

That the Regulations be amended to allow inspectors appointed under the Act to issue infringement notices of two penalty units (currently \$220) for breaches of a condition of a permit. Second or subsequent breaches of the same condition within a two year period would attract a four penalty unit fine (currently \$440). It should be noted that inspectors under the Act are not and could not be the ARC's auditors.

Technicians and business owners that receive these notices could appeal them to the Minister (or his delegate) and then, if not satisfied with the result, to the Administrative Appeals Tribunal (AAT).

Section 5 – technical standards

5.1 Reducing leakage rates in commercial installations

Background

The environmental outcome that the Regulations are seeking to achieve is to minimise the emissions of fluorocarbon refrigerants to the atmosphere. This outcome is achieved through ensuring that only licensed technicians and authorised businesses acquire, possess, dispose of and handle these refrigerants. These are controls on the human sources of potential emissions.

The Regulations also incorporate a number of standards that seek to minimise emissions through equipment design and maintenance standards. The standards are listed in Table 135 of the Regulations. For example, one equipment standard is, cylinders must be within test date.

The recently revised codes of practice for stationary refrigeration incorporate a number of design requirements, particularly in Part II which deals with systems with a charge of over two kilograms.

One of the major sources of refrigerant emissions has been identified as large commercial installations especially large commercial refrigeration systems that incorporate long pipe runs.

There is no current requirement for systems to incorporate any kind of capacity to detect loss of refrigerant. Many systems include low pressure cut out devices to protect the compressor but these switches typically don't cut in until a significant amount of the refrigerant charge has been lost.

In systems with large refrigerant charges, leaks of significant amounts of refrigerant can cause significant environmental damage and are expensive for the system owner.

Some proposals have been made to mandate the inclusion of leak detection devices that detect leaks of refrigerant very early and alert the owner of the system that it requires maintenance.

This proposal may not be practical in all applications, particularly in systems with long pipe runs such as supermarket refrigeration equipment. In these cases the number of leak detectors required may make it impractical to implement.

In these cases other policy or technical solutions may be more effective. A number of solutions (set out below) have been proposed by the industry. The department is not necessarily recommending or endorsing any or all of the following options, and would welcome other suggestions.

1. Require receivers to be mounted vertically and to have sensors in their sides that detect a drop of more than a given percentage in the level of refrigerant. This fall would sound an alarm. A fall of a given number of centimeters in a vertically mounted receiver equates to a lower volume of refrigerant loss than in a horizontally mounted unit.
2. Prohibit the use of threaded joints in these applications. This joint type is notoriously leaky and, in practice - especially outside the plant room – leaks from these joints are difficult or impossible to get at, leak test and fix. Even inside the plant room, the modern design of expansion valves, for example, means that regular removal and adjustment is not required and, therefore, soldered joints could be used.
3. Require all systems to have pressure sensors in them that detect a fall of more than a given percentage in refrigerant pressure. If a pressure fall occurs, an alarm would sound.
4. Open drive compressors, if poorly maintained as many are, are notorious for leaks. Ban the installation of any new open-drive compressors in systems carrying more than 50kg of charge after 1 January 2010 and prohibit licensed technicians from adding refrigerant to such systems operating open-drive compressors after 1 January 2012.
5. Require that system owners have systems of more than a given size of refrigerant charge regularly inspected for leaks and have those leaks rectified.

Section 6 – Administrative issues

The following pages contain a number of amendments to the Regulations that are proposed to correct errors or to simplify administration. The rationale for each proposed change is included.

Section 6.1 - Acceptance of equivalent qualifications

Current position: Licences issued under s131 of the Regulations require the applicant to hold one of the qualifications listed in that table. There are qualifications which are the equivalent to listed qualifications (i.e. they incorporate all the competencies). Examples include Cert IV in RAC (which contains the Cert III) and Cert III in Domestic Appliance Servicing (which contains the Cert II).

Qualifications are also regularly updated and new course codes etc given. Without Regulation amendment, where a qualification is superseded, the relevant authority should be allowed to use the new version as a basis on which to issue licences. There are also old versions of existing qualifications which are held by many tradespeople. These qualifications should continue to be recognised.

Problem: Technicians with these qualifications may not be able to get licences and might have to wait for Regulation amendment before they could be licensed to work.

Solution: Amend 131(2) to allow

1. people who hold qualifications that contain a prescribed qualification to get a licence;
2. people who qualified under an old training package, when that package was valid, to get a licence; and
3. people who qualified under a new training package that replaced a prescribed package, to get a licence.

Section 6.2 - ARC publishing business names that contain a person's name (eg. John Smith Refrigeration Services)

Current position: The current regulations allow the Minister to (120(e)) publish information supplied by applicants for industry permits but it must be done in a way that (120(3)(i)) does not allow any person to be identified. This power has been delegated to the ARC as the relevant authority.

Problem: The sale of refrigerant only to authorised parties is supported by the ARC (using the Minister's powers as delegated) regularly publishing lists of all businesses that hold trading authorisations (RTAs).

Many business names contain the name of the owner of that business (eg John Smith Refrigeration Services) and it could be argued that publishing that business name allows a person to be identified.

It is preferable that the names of all business holding an RTA be publishable.

Solution: Amend 120(e)(i) to allow the publication of business or trading names that contain a natural person's name.

Section 6.3 - Verification of licence status

Current position: The current regulations allow the Minister to (120(e)) publish information supplied by applicants for industry permits but it must be done in a way that (120(3)(i)) does not allow any person to be identified. This power has been delegated to the ARC as the relevant authority.

Problem: Many consumers and manufacturers want to be able to verify that a person claiming to be licensed is, in fact, licensed. This service is offered by other regulators in other industries.

Solution: Amend the Regulations to allow the ARC to establish a web service that allows verification of entered licence details.

It is important that the personal details of the technician are protected for privacy and security reasons. Therefore it is proposed that this service allow details that are known to the user of the service to be verified but does not provide additional information. The proposed service will only return a yes/no answer to the following questions:

1. Where a person's name and/or licence number is given and a type of RAC work selected, that the person is or is not licensed for that kind of work.
2. Where a licence number is entered, that that is a valid and current licence number (i.e. that the licence exists and that it hasn't expired).
3. Where a name and licence number are entered, that the name matches the licence number.

This proposed service would be separate from the "Find an authorised business" search service currently available on www.arctick.org and www.lookforhetick.com.au. These services would continue unchanged.

Section 6.4 Incomplete applications that are never completed

Current position: Under s121(2), the ARC can ask for additional information and need not consider an application until the additional information is provided. There is no provision covering what to do if the additional information is never provided.

Problem: It is burdensome administratively and in terms of record keeping having applications open forever. These applications contain an amount of personal information and, if a permit is not required, there is no need to retain the information provided with the attendant risks of release, loss or misuse.

Solution: Include a provision that allows an applicant to cancel a permit application and, when it is cancelled, for the ARC to destroy any material provided with the cancelled application. Then include a deeming provision that means that, if an application is incomplete and the ARC has requested further information; if that information is not provided within six months of the request then the application is deemed to be cancelled and the hard-copy records can then be destroyed.

This provision would not apply in a situation where an applicant is re-applying for a permit and decides to withdraw or is deemed to have withdrawn. The records for that application could be destroyed but not those for previous applications as they are documents used to make a decision.

Section 6.5 - Permits issued in error

Current position: There is no clear position on what the relevant authority should do if it realises that it has issued a permit in error.

Problem: Under the current Regulations, the Minister would need to actually cancel the permit and a new one may need to be issued. This would be administratively cumbersome and not an appropriate use of the Minister's time.

Solution: Add a clause that allows the relevant authority, within 60 days of issuing a permit, if it realises that the permit was issued in error (their assessment of the applicant's suitability etc was wrong) to withdraw the permit and issue the appropriate permit (if any). After 60 days, withdrawal of a permit issued in error could only be done with the consent of the Minister. Appeals to these withdrawals could be lodged with the Minister (if the Board withdraws the permit) and with the AAT if the Minister authorises the withdrawal.

Note that this does not allow the ARC to reassess applications or the Department or the Minister to second guess the ARC; this is proposed just to cover clerical or administration errors.

Section 6.6 Requirement that a notice to produce records be received

Current position: Reg 141(1)(b) requires that an RTA holder “14 days or less after receiving a request in writing by the relevant authority, sends to the authority copies of the records mentioned in paragraph (a)”.

Problem: There may be a technicality in that an RTA holder could argue that they never received the request and, therefore, are not in breach of a condition of their RTA when they don't produce the records.

Solution: Add 141(5) to this effect:

“(5) For the purposes of 141(1)(b) and 141(1)(m), a request shall be deemed to have been received by the holder of a refrigerant trading authorisation on the fourth business day after it was sent by the relevant authority using the normal postal service.”

Section 6.7 Update to acceptable qualifications

Current position: Table 131 is already outdated.

Solution: References to UEE06 need to read UEE07.
MEM05 also needs to be included.