Position Paper

November 2018

Safety rules necessary for the use of flammable refrigerants in establishments open to the public – French Order

EXECUTIVE SUMMARY

EPEE, representing the air-conditioning, refrigeration and heat pump industry in Europe, would like to comment on:

- the French Order amending the Order of 25 June 1980 approving general fire safety and anti-panic regulations in establishments open to the public (ERPs) (TRIS notification 2018/467/F); and
- Subsequent French Order amending the Order of 30 December 2011 regulating safety in the construction of high-rise buildings and their protection against the risks of fire and panic (TRIS notification 2018/469/F).

EPEE is committed to developing a better understanding of flammable refrigerants to ensure they are handled in a safe, compliant and efficient manner, and to work with national authorities to determine the minimum safety rules necessary for the use of flammable refrigerants in establishments open to the public.

EPEE considers that the Orders notified by France would be a barrier to the free movement of goods in the EU Single Market and would be in contradiction with the EU F-Gas Regulation.

EPEE therefore calls upon Member States to submit detailed opinions on the French Orders to ensure it is compatible with EU law and the Internal Market principles.

Introduction

France notified on 18 September 2018 an Amendment to the Order of 25 June 1980 approving general fire safety and anti-panic regulations in establishments open to the public (ERPs) (TRIS notification 2018/467/F).

On 20 September 2018, France also notified an Amendment to the Order of 30 December 2011 regulating safety in the construction of high-rise buildings and their protection against the risks of fire and panic (TRIS notification 2018/469/F). Indeed, as Article GH 37(2) of the 2011 Order refers to the provisions of Article CH 35 of the 1980 Order, France amended the 2011 Order to ensure consistency between the two texts.

However, the current version of the amendment to the Order of 25 June 1980 (and subsequent amendment of the Order of 30 December 2011), would be a barrier to the free movement of goods in

the EU as products would need to be specifically adapted to requirements applicable in France only – although they are in full compliance with EU safety directives and harmonised standards.

Besides distorting the level playing field and functioning of the EU Single Market, this would also be in contradiction with the objectives of the EU F-Gas Regulation (EU 517/2014) which has been supported by EPEE right from the start. Indeed, the EU F-Gas Regulation requires a transition towards lower Global Warming Potential (GWP) refrigerants which will result in an increased use of flammable refrigerants in air-conditioning, refrigeration and heat pump equipment. Building codes need to cater for these developments to support the safe implementation and objectives of the F-Gas Regulation rather than hampering them.

1. The French Orders constitute a barrier to the free movement of goods in the EU Single Market

Recommendation: Equipment bearing the CE mark has to be exempted from the provisions of the Orders to ensure that products can be traded in the EEA without restrictions. In addition, there is no justification based on health, safety, or environmental considerations to introduce specific provisions in France.

- The Blue Guide on the implementation of EU product rules states that Member States can introduce "national provisions regarding the putting into service, installation or use, of products which are intended for the protection of workers or other users, or other products" provided that these national provisions do "not require modifications of a product manufactured in accordance with the provisions of the applicable Union harmonisation legislation".

- The amended 1980 French Order would require modifications of a product manufactured in accordance with the provisions of the applicable Union harmonisation legislation, such as the Machinery Directive and the Low Voltage Directive. Furthermore, the amended 2011 French Order would not even allow products manufactured in accordance with the provisions of these two Directives. However, if products are manufactured in accordance with the provisions of the Machinery and Low Voltage Directives, they should be considered as safe to be used in high-rise buildings. As a conclusion, the provisions of the two Orders would differ from the use conditions of CE marked equipment thus representing a barrier to the free movement of goods in the EU Single Market. Examples include the following:

    - We strongly welcome the fact that hermetically sealed equipment has been excluded from the provisions of paragraph 3 of the amended 1980 French Order (Article 2) when it bears the CE mark but we recommend to extend this to all air conditioning and heat pump equipment bearing a CE mark. Indeed, EU safety directives supported by their harmonised standards and subsequent CE marking govern the trade and free movement of equipment in the EU. **It therefore makes perfect legal and common sense to refer to the CE marking in terms of the safety of products and to avoid conflicts between the French Order and the French Low Voltage Directive and Machinery Directive. This principle must thus be applied for all product types**. However, rather than applying this principle across the board, the current version of paragraph 3 only refers to specific product types which is not in line

with the rules of the free movement of goods in the EU Single market, leading to trade barriers and market distortion.

- The amended 1980 Order requires that "the materials used to insulate interior units containing flammable refrigerants shall be made of M1 or B-s3, d0 rated materials" volume (Article 2. §2). In practice this would mean that manufacturers would have to modify their products specifically for French buildings although they are CE marked and thus in compliance with EU safety directives and harmonised standards. Such provisions therefore create a barrier to trade.

- The requirements on the maximum permitted charge volume (Article 2. §3, b)) are extremely prescriptive and would require manufacturers to put specific products on the French market to comply with these additional requirements.

2. The French Orders contradict the objectives of the F-Gas Regulation

Recommendation: To ensure the smooth and, most importantly, safe transition towards lower GWP refrigerants according to the EU F-Gas Regulation, the amended 1980 French Order needs to clearly distinguish between different categories of flammability – as laid out in ISO standard 817 – and refer to the globally accepted principle of calculating charges sizes according to the flammability category.

- From 2018 onwards, the EU F-Gas Regulation [EU 517/2014] creates massive cuts in the consumption of HFCs in the EU and lower GWP refrigerants – many of which are flammable – will be increasingly used. The classification from the ISO 817 standard identifies different categories of flammability:
  - 1 = non-flammable
  - 2L = lower flammability ('mildly flammable')
  - 2 = flammable
  - 3 = higher flammability

- The French Orders introduce the totally new concept of "exclusion zone", whereby "a zone shall be created around the removable connections of units containing flammable refrigerants, in which all ignition sources are prohibited and especially any flame or appliance liable to produce a spark, to avoid any risk of ignition in the event of a leak" (Article 2. §3, a). However, it does not allow to distinguish between charge sizes for different categories of flammability as is the case in other EU countries and for example in current European standards (such as EN 60335-2-40).

  In other words: by introducing a physical "exclusion zone", the French Orders "replace" the European-wide and even global way of addressing the risk of using flammable refrigerants based on charge sizes according to flammability categories (as per ISO 817).

- Omitting the distinction between flammability categories – referring to ISO standard 817 – does not only jeopardize the safety of users and installers, particularly in the case of higher flammability

fluids, but also leads to confusion and to restrictions for lower flammability fluids (A2L) which are of critical importance to achieving the objectives of the EU F-Gas Regulation.

***

ABOUT EPEE:

The European Partnership for Energy and the Environment (EPEE) represents the refrigeration, air-conditioning and heat pump industry in Europe. Founded in the year 2000, EPEE's membership is composed of 48 member companies, national and international associations from three continents (Europe, North America, Asia).

EPEE member companies realize a turnover of over 30 billion Euros, employ more than 200,000 people in Europe and also create indirect employment through a vast network of small and medium-sized enterprises such as contractors who install, service and maintain equipment.

EPEE member companies have manufacturing sites and research and development facilities across the EU, which innovate for the global market.

As an expert association, EPEE is supporting safe, environmentally and economically viable technologies with the objective of promoting a better understanding of the sector in the EU and contributing to the development of effective European policies. Please see our website (www.epeeglobal.org) for further information.

EPEE – European Partnership for Energy and the Environment
Avenue des Arts, 46 · 1000 Brussels
Tel : +32 (0) 2 732 70 40
Fax : +32 (0) 2 732 71 76
Email: secretariat@epeeglobal.org
Website: www.epeeglobal.org
Follow us on Twitter @EPEESecretariat