

# ENDING THE ILLEGAL TRADE IN HFCS BY ENFORCING THE F-GAS REGULATION: WHAT CAN MEMBER STATES DO?



The F-gas regulation was adopted in 2014. One of its aims, to gradually phase down the use of hydrofluorocarbons (HFCs) in the EU, has faltered due to the illegal trade in HFCs entering Europe.

The legal basis of the regulation, Article 191(1) of the Treaty on the Functioning of the European Union, allows member states to take additional measures to enforce the Regulation as long as these do not interfere with the fundamental principles of the EU, in particular the free circulation of goods and persons.

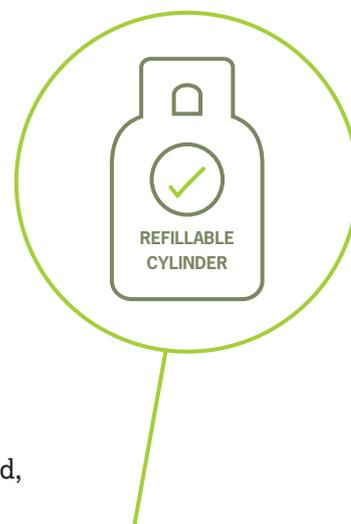
**To address the rise of illegal out-of-quota HFC imports, EFCTC sets out 5 steps that member states can take immediately without an amendment to the F-gas regulation.**

## PROHIBIT THE SUPPLY AND USE OF HFCS IN NON-REFILLABLE CYLINDERS

The F-gas regulation prohibits placing HFCs in non-refillable cylinders on the EU market. But their subsequent resale and use in the supply chain is not regulated or explicitly prohibited. Non-refillable HFC cylinders are still widely available in Europe, indicating a far-reaching black-market supply.

EFCTC recommends that member states:

- Amend the national implementation of the F-gas regulation to prohibit the use and sale of non-refillable HFC cylinders
- Give holders of non-refillable cylinders a short transition period (a maximum of 3 months) to comply with the regulation
- Permit the use of non-refillable cylinders for export purposes (already permitted, since the HFCs are not placed on the EU Market), or internal laboratory (quality assurance) purposes only



## CARRY OUT TARGETED AND RANDOM CHECKS OF HFC SUPPLY

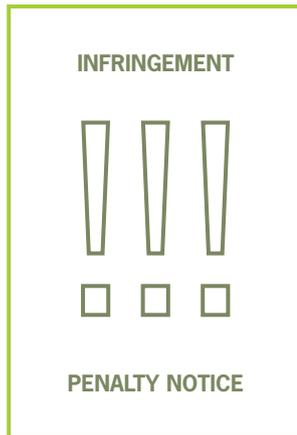
Under Article 6 of the F-gas regulation, operators or owners and suppliers of equipment must keep records of the HFCs they use and supply. To more effectively enforce this obligation, EFCTC recommends that member states:

- Apply the obligation to keep records to the whole F-gas supply chain
- Conduct both targeted and random checks of these records across the entire supply chain. Targeted checks should focus on especially vulnerable users such as car air-conditioning repair shops, dairy farms and small retail outlets
- Apply fines reflecting the CO<sub>2</sub> equivalent of the HFC purchase under the EU Emissions Trading System (approx. €25/T CO<sub>2</sub>-eq)
- Revoke the licenses of repeat offenders

## ENHANCE VAT CHECKS ON HFC PURCHASES

Many transactions involving illegal HFCs are cash-only. To improve the traceability of these transactions, EFCTC recommends member states enhance checks under VAT rules of the following:

- Certified servicing companies under Article 11.4 of the F-gas Regulation, as the risk of non-compliance is considered higher for this category
- The logbooks of operators or owners of equipment and vulnerable users of HFCs (e.g. automotive repair shops)



## SET MORE STRINGENT, DISSUASIVE FINES AND PENALTIES FOR OFFENDERS

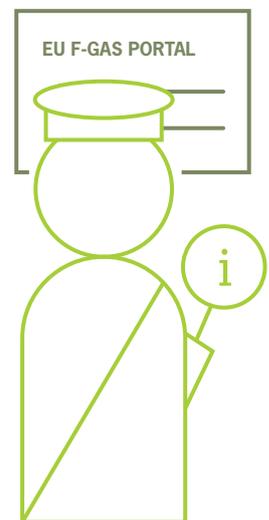
Today, the possibility of incurring a fine for infringement of the F-gas regulation, considered marginal compared to the profits that can be made, is simply factored in as a business cost by criminal organisations. Higher and stricter fines will help deter these organisations. EFCTC therefore recommends that any intentional breach of obligations under the F-gas regulation relating to HFCs should become subject to:

- A fine no less than the EU Emissions Trading System value of the HFCs imported or used illegally (approx. € 25 T CO<sub>2</sub>-eq)
- The cost of handling, storage and destruction in case of confiscation

## EMPOWER CUSTOMS AUTHORITIES WITH THE NECESSARY INFORMATION AND TOOLS

Customs authorities have complex responsibilities with many different imports competing for their attention and low awareness of the restrictions under the F-gas regulation. To improve customs enforcement and increase the instance of illegally-imported HFC seizures, EFCTC has developed a decision tree to help front-line customs agents determine that HFCs declared for import are legitimate. This is based on the following recommendations for Member States to:

- Provide access to the EU F-gas portal where customs can check whether the importer is registered in the F-gas registry System and their allocated quota
- Require importer registration ID in customs declarations (e.g. in Box 44 of the Import Declaration)
- Require a security for the CO<sub>2</sub>-eq value of the shipment (at €25/T CO<sub>2</sub>-eq), as substantial quantities of HFCs are also entering the EU under T-1 transit rules
- Create lists in cooperation with the European Commission to monitor companies that are:
  - Exceeding quota, for example by claiming to re-export;
  - Claiming their cargo 'in transit', to track that it exits the EU;
  - Importing HFCs under the 100 TCO<sub>2</sub>eq threshold but, who may repeatedly import



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