

Illegal HFC Trade

Needs and Outlook

The Alliance for Responsible Atmospheric Policy
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Workshop on Strengthening the Effective Implementation
and Enforcement of the Montreal Protocol

Montreal Protocol OEWG
Bangkok, Thailand



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Coordination under Montreal Protocol Secretariat and Enforcement Training and Tracking Funding under MLF

- ▶ Illegal Imports become a regular discussion topic with the Montreal Protocol Secretariat as part of its enforcement of the Kigali amendment
- ▶ Parties to adopt program in advance of compliance obligations in order to reinforce the focus on implementation and enforcement
- ▶ Stricter requirements should be implemented for Parties on monitoring and reporting on HFC trade
- ▶ Training of trade and border officials on reporting and enforcement should be funded as part of Kigali Implementation Plans to be funded by the Montreal Protocol's Multi-Lateral Fund (MLF)



Initiation of Domestic Activity to Train, Track and Trace Potential Illegal Imports

- ▶ Historically, Operations Cool Breeze and Catch-22 showed that it was possible to curtail the opportunistic illegal smuggling activity of ozone depleting substances through a combination of training, tracking, tracing, and aggressive enforcement
- ▶ Industry Participation in education and coordination with government officials is essential
- ▶ HFC trade enforcement task force allows the U.S. government to get ahead of the illegal HFC challenge before it becomes a problem in the United States
 - ▶ Implement training, tracking, and tracing regiment
 - ▶ Publicize intent to seek out illegal activity
 - ▶ Clarify penalties as deterrent
 - ▶ Coordinate with private sector to remain informed



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European Example: Coordination with E.U. Governments and Industry

- ▶ Alliance comments filed with the U.S. Trade Representative for the National Trade Estimate Report on Foreign Trade Barriers (NTE) urged:
 - ▶ The U.S. government to work with its European counterparts to strengthen their rules and procedures to prevent continued abuse of the T1 transit process, smuggling and other illicit trade
 - ▶ Penalties for the illegal importation of HFCs should be robust and better harmonized across the E.U.
 - ▶ Continued close cooperation between the United States and the E.U. on combating illegal trade



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Components to the System

- ▶ MLF should support education and implementation of data, and trade monitoring efforts, and training modules
- ▶ Ozone Officers should meet with Customs and trade officials to understand import and export of covered substances, including transshipments
- ▶ Appropriate Recordkeeping and reporting requirements
- ▶ Data transparency
- ▶ Know your import, export and distributor industries
- ▶ Administrative consequences for allowance allocations to deter noncompliance separate and in addition to traditional enforcement to address the impacts of noncompliance
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Examples: Addressing Illegal HFC Imports - Recommended Actions for Govt Task Team

Reasons to Address: attain environmental benefits of AIM Act, level playing field, avoid potential for dangerous (toxic/flammable) products to enter the market, reduce potential for low-quality (non-AHRI 700) products entering the market

Illegal Action	Example	Rationale	Solution - Action requested
Intentionally mis-coding bulk imports (ISOs) with lower EVe substances	Entity claims to import bulk R-32 (GWP=675) when actually importing bulk R-143a (GWP=4470) - using incorrect HTS code.	Increase HFC imports utilizing fewer allowances	CBP random testing of imported product - up to 100% of lower EVe ISO containers (need for refrigerant analyzers). Require COA on all imported products. Significant fines, jail-time, and loss of allowances for infractions.
Intentionally mis-labeling imports (cylinders) with lower EVe substances	Entity packages higher EVe HFC (e.g., R-410A, 404A) in packages labeled as lower EVe (e.g., R-134a, R-448A)	Increase HFC imports utilizing fewer allowances	CBP random testing of imported product - representative sample of lower EVe cylinders (need for refrigerant analyzers). Require COA on all imported products. Significant fines, jail-time, and loss of allowances for infractions.
Cross-land border smuggling (Mexico/Canada)	Entity smuggles cylinders across border without necessary allowances	HFC import without use of allowances	Education of CBP at land crossings. Hotline for downstream entities to report offers of HFCs at prices “too good to be true”. Regular review of imports into Mexico and Canada for reasonableness. HFC mfrs to monitor sales into Mex/Can (particularly to distributors near borders). Significant fines, jail-time, and loss of allowances for infractions.
Double-layering shipping containers	Importer puts lower GWP products near door of shipping container, concealing higher GWP HFCs in the rear of container.	Increase HFC imports utilizing fewer allowances	Educate CBP on possible approach. Significant fines, jail-time and loss of allowances for infractions.



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Smuggling HFC packages with unrelated products	Importer fails to disclose presence of HFC cylinders mixed in with and obscured by unrelated products.	HFC imports without use of allowances	Educate CBP on possible approach. Significant fines, jail-time and loss of allowances for infractions.
Import of alleged “reclaimed” HFCs	Entity imports HFCs that are mis-identified as “reclaimed product” (similar experience led to previous ban on imports of reclaimed CFCs)	Avoids payment of anti-dumping duties on HFC components and blends imported from China	EPA to maintain strict reporting requirements that accurately document lineage of “reclaimed HFCs”. Require “reclaimed” HFC import to meet AHRI 700 quality standard. Significant fines, jail-time, and loss of allowances for infractions.
Transshipment fraud	Consignments of HFCs ostensibly destined for legitimate end markets are diverted into U.S. black markets.	Increase HFC imports utilizing zero allowances	Educate CBP on possible approach. Significant fines, jail-time and loss of allowances for infractions.
Falsification of export origin	HFCs imported from China to EU, repackaged and imported into US without proper China duty.	Avoids payment of anti-dumping duties on HFC components and blends imported from China	EPA to maintain strict reporting requirements that accurately document lineage of imported HFCs
Importation of disposable cylinders after effective date of ban	Most of illegal trade in Europe has been in disposable cylinders (even though their use is banned)	Inexpensive, one-way logistics	Once single-use cylinders are banned, educate CBP (ocean and land borders) to identify and detain all suspect packages. Significant fines, jail-time, and loss of allowances for infractions.

Other actions recommended: Monitor sales of HFCs over the internet (unknown entities, below market prices, etc.), education and call to action for industry participants (HARDI, ACCA, etc.) to self-police and report suspicious activity (offer rewards?), advertise EPA hotline, ongoing EPA/CBP interactions with Alliance, use of 3rd party agencies to investigate suspicious activity, broadly publicize ongoing enforcement actions



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