**F-gas Regulation- Implementation Q&A**

***(After Committee meeting in June 2024)***

**Articles 1 & 2 – subject-matter and scope**

**Article 3 - definitions**

*Does* *the assembling and putting into operation of a self-contained equipment entail “installation” and is certification required in order to assemble a self-contained equipment? Also is proof of certification required in accordance with Article 11(7) when selling self-contained equipment, that is not hermetically sealed?*

No to all. Based on the definitions of ‘self-contained’ and ‘installation’, the assembling and putting into operation of a self-contained equipment is not installation. Consequently, it does not require certification in Article 10, and it follows that evidence related to installation is not relevant when buying the equipment.

*Article 3(42): Safety requirements - Are safety requirements set by plant operators covered by the definition of safety requirements definition?*

No, Article 3(42) states that safety requirements need to be established either i) in legislation or ii) in an act which contains the applicable documentation or standards that must be applied to ensure safety in the specific location provided they are in line with EU or national law.

**Article 4 – Prevention of emissions**

*Article 4(6) Does the requirement to present a conformity declaration providing evidence for the destruction or recovery of trifluoromethane apply to the placing on the market of pre-charged equipment?*

No, it only applies to placing on the market of bulk fluorinated greenhouse gases.

**Article 5 - Leak checks**

*Article 5(1) Who is responsible for ensuring leak checks of privately-owned equipment? Are the obligations also directly affecting individual citizens (as a house owner with certain products/ equipment) with obligations? Additionally, when would it be relevant for a Member State to explicitly designate an owner as stated in Article 3(5)?*

The definition of an operator in Article 3(5) applies and undertaking that in Article 3(27) include natural persons, i.e. including homeowners. The operator is whomever exercising actual power. The addition of ‘or where MS designate such an owner’ was added to reflect current MS practices.

*Article 5(1) How can operators and manufacturers determine whether they are required to check for leaks for equipment that contains gases listed in Annex I and gases listed in Annex II Section 1? Is the intention that for HFC/HFO blends (consisting of a mix of Annex I and Annex II Section 1 gases), the operator is to consider both the amount of HFO in kg and the amount of refrigerant in tCO2eq?*

If at least one of the limits is reached, leak checks are required. In cases of mixtures of substances listed in Annex I and Annex II Section 1, the leak checks are obligatory if:

* the total GWP of that mixture exceeds the GWP limit taking into the GWP of all components count, as required in Annex VI); or
* the mixture contains more than 1 metric kg of Annex II Section 1 substances, i.e. the kg limit refers to the HFO component only, not the whole mixture).

**Article 6 - Leakage detection systems**

**Article 7 – Record keeping**

**Article 8 - Recovery and destruction**

*Article 8(6) What is the meaning of “used for filling or refilling equipment”?*

It means shall not be used for filling or refilling of equipment unless the gas has been recycled or reclaimed. It is not directed towards equipment used for filling or refilling of other equipment.

*Article 8 (8), (9) + Article 20 (2), (3) of ODS Regulation (EU) 2024/590 refer to recovery or destruction of F-gases (ODS) from certain insulation materials used in buildings. Which technologies are available?*

Destruction is always possible (burning as a whole) or previous shredding/ breaking with capturing of the gas. Re-use is also possible.

**Article 9 -Extended producer responsibility schemes**

*Does Article 9 apply to manufactures of switchgears and to SF6?*

No, switchgears are not listed among the electrical equipment in the WEEE Directive.

**Article 10 – Certification**

*Article 10(1): Is certification required for persons that exclusively install equipment with non-F-gases?*

Yes, Article 10 requires certification for relevant alternatives to F-gases, where relevant. The implementing acts on certification or training attestations will show where this is considered relevant. For instance, in Commission Implementing Regulation (EU) 2024/2215 for RACHP it was considered relevant for hydrocarbons, ammonia and CO2 and deemed disproportionate for leak checks if there is no breaking into the circuit. Member States may, however, allow the certification body to waive (partly) the examination and issue a certificate, if it is clear that the minimum skills and knowledge are already (partly) proven.

*Article 10(9): What should refresher courses include?*

Member States shall ensure that the refresher training courses provide proof or evaluation processes of the certified natural persons’ practical skills and theoretical knowledge that are required in the Annex of the updated implementing acts specifying the detailed knowledge and skills needed (Implementing Regulation (EU) 2024/2215).

*Article 10(9): Will existing certificates remain valid also for those issued under Regulation (EC) No 842/2006?*

Yes, however since MS have an obligation to ensure that persons are required to participate in refresher training or an evaluation at least every 7 years by 12 March 2027, and since no certificates could have been issued under the 2006 Regulation during the previous 7 years, the validity will expire by 12 March 2027 unless the persons have completed the refresher requirement.

**Article 11 - Restrictions on placing on the market and sale –**

*Article 11(1) what is military equipment? Is it sufficient that the military is the owner?*

Article 3(32) states that: “military equipment means arms, munitions and material intended specifically for military purposes which are necessary for the protection of the essential interests of the security of Member States”. Thus, it needs to fulfil those conditions and it not sufficient that it is merely owned by the military.

*Article 11(1): How could customs authorities know whether a specific item that is declared is really part of specific equipment and will meet the requirements specified in points (a), (b) and (c)?*

Some TARIC measures are available for main parts. Some items cannot be considered as parts, e.g. a complete refrigeration circuit or units of a split system. For the rest, this is to be considered on a case-by-case basis. The conditions a to c in Article 11(1) depend on the site of installation and cannot be verified at the time of placing on the market. However, prohibited equipment and parts may not be subsequently supplied. Thus, it would be illegal for an undertaking to supply the parts for a site where the conditions in a to c are not met. It should be noted that there are no labelling requirements reflecting this.

*Article 11(1): what is the meaning of ‘existing equipment’?*

It is considered to cover equipment currently in operation or equipment that was in operation before.

*Article 11(4): Does the obligation to issue a declaration of conformity with regard to return of refillable containers concern also suppliers of recycled or reclaimed gases in the EU? Is there an example of a DOC and the binding arrangements for which the distributor must provide evidence?*

The DOC obligation concerns undertakings placing the container on the market (for the first time) and it should be made binding on distributors until end users. There is currently no standard DOC, however, Article 11(4) is already quite explicit by requiring evidence confirming binding arrangements ALREADY made, for refilling, identifying the relevant actors, their precise obligations, and other logistical arrangements. The Commission may adopt an implementing act with a standard DOC.

*Article 11(6): Does the requirement to have proof of certification apply to paid delivery of F-gases?*

The restriction applies to the seller and the purchaser of the F-gases for the purpose of installation etc. If the gas is paid at the time of delivery, the delivery company would normally not be considered as the seller but a third party delivering and collecting the payment. The seller may of course ask the delivering company to verify the certificate on his behalf.

**Article 12 – labelling requirements**

*Article 12(1): Does the labelling requirement apply to mobile air conditioning equipment such as car air conditioners? If yes, do they differ?*

Yes. The same labelling requirements apply to both stationary and mobile.

### *Article 12(1) Is it necessary to update the labelling for products and equipment that have already been placed on the market under the previous F-Gas Regulation if they are passed on in the supply chain after 1 January 2025 on?*

Yes, if the labelling requirements differ, e.g. due to adapted GWP values and the need to also label gases in Annes II and III, as well as metered dose inhalers. In the enforcement it would be proportionate to take into account the efforts needed to relabel products and equipment that were not subject to F-gas labelling under the 2014 F-gas Regulation.

### *Article 12(3)(c) How should a mixture be labelled?*

The label has to have the weight in kg/grams of the F-gases and the GWP in tCO2eq of the mixture.

**Article 13 - Control of use**

*Article 13(3): Does the service ban apply on ships and does it cover air-conditioning equipment and heatpumps?*

The GWP limit of 2500 applies to ships because it relates to any refrigeration equipment, and from 2026 also any air-conditioning equipment and heat pump, so both stationary and mobile. However, the GWP limit of 750 from 2032 only applies to stationary refrigeration, so not to ships. Moreover, where ships are covered it is applicable to both EU vessels and vessels under non-EU flag.

*Article 13(9) “Putting into operation”, when we can say the switchgear is put into operation?*

Putting into operation of switchgear is considered to be the moment of handover of the equipment to the operator for use/exploitation, after completion of any necessary tests of functionality, performance or other, and any required inspections.

If the putting into operation is postponed beyond the prohibition date, even if it is not the fault of the operator, it would still be illegal. Thus, the operator is well advised to contractually bind the supplier to the dates of delivery, so that the latter would bear the costs. The level of sanctions, if applicable, will need to be decided by the authorities considering the level of fault of the operator for the delay.

*Article 13(9)(c) relates to the voltage of equipment, not to the voltage of the electrical grid. Is then installation of equipment of voltage exceeding 145 kV (eg. 170 kV) allowed in the 110 kV electrical grid?*

The voltage level is the one for which the equipment is intended to be used.

*Article 13(11): ‘following a procurement procedure’ what point in time precisely is that referring to?*

It is referring to when the bids are received. The derogation allows the putting into operation up to 2 years later than the original ban dates in 11(9). As regards the timing for the submission of the bids, they would have to be submitted sufficiently early before the original ban date+2 to ensure that the equipment can also be put into operation before the original ban date+2. There are no restrictions on how early the bids may be submitted.

*Article 13(11): Can the derogation be transferred from one procurement procedure to the other, i.e. refer to that no offers were supplied in another procedure?*

No, a separate tender must be made where the conditions are fulfilled.

*Article 13(12): Can the exemption be used if an "F-gas free" offer has been submitted for medium voltage or < 1 GWP for high voltage?*

It is important to keep the cascade principle. The 13 (12) derogation is the last resort which should be allowed when the conditions in 13(11) cannot be met, see separate charts giving an overview.

*Article 13(13): Can the LCA clause be applied given that switchgear is not (yet?) included in 2009/125/EC directive ?*

No, as long as there are no eco-design requirements for switchgear under the Eco-design rules, the exemption cannot be applied.

*Article 13(14): How should the phrase „placing the order” be understood? Is it signing the agreement with the supplier, completion of procurement procedure or ordering the equipment within the framework agreement with the supplier and does the exemption apply if the procurement started before 11 March 2024?*

The relevant date is the date when order of the specific equipment was signed. It could be considered to be the date of signing a framework agreement if for instance it is specifically determining the equipment and its delivery.

*Article 13(16): who is obliged to keep documentation if the third Party (e.g. the company that implements the whole turn-key investment project) is conducting the procurement procedure on behalf of the operator?*

It is the operator.

*Article 13(17 and 20): What must a user submit to the authorities upon request to put an installation into service using SF6 after the ban date?*

It depends on the derogation:

* If the HV equipment was ordered before 11 March 2024: The order itself.
* If there were no/limited bids, documentation that this is the case.
* If an extension is infeasible without using SF6 of an existing HV switchgear, technical evidence (report).

*Art. 13(19): Jak należałoby zdefiniować “putting into operation” („wprowadzanie do użytku”) urządzeń innych niż rozdzielnice elektryczne i „utilization” („wykorzystywanie”) produktów ?*

Odpowiedź Komisji:

- odnośnie „wprowadzania do użytku” urządzeń innych niż rozdzielnice elektryczne – definicja powinna być taka sama, jak dla rozdzielnic elektrycznych – patrz odpowiedź na pytanie do Art. 13(9)

- odnośnie „wykorzystywania” produktów - nie jest konieczne zdefiniowanie tego terminu. Należy do tego podchodzić odpowiednio w zależności od rodzaju produktu i jego zastosowania.

*Art. 13(19) : Dlaczego istnieje możliwość odstępstwa od zakazu wprowadzania do użytku urządzeń (punkty (a) i (b) Art. 13(19), a nie ma takiej możliwości w odniesieniu do zakazu wykorzystywania produktów – czy to jest błąd w Rozporządzeniu ?*

Odpowiedź Komisji : Prawdopodobnie jest to błąd, ale będzie to wyjaśniane z prawnikami-lingwistami.

**Article 14: Production of hydrofluorocarbons**

**Article 15: Transfer and authorisation of production rights for industrial rationalisation**

**Article 16 Reduction of the quantity of hydrofluorocarbons placed on the market**

*Article 16(1): From which point in time does the obligations for importers of bulk HFCs to have quota no matter what the quantity is placed on the market and for importers of equipment precharged with HFCs to have authorization for use of quota starting form imports of 10 t CO2 eq HFC in equipment in the given calendar year enter into force?*

There are two separate issues:

one is when should an undertaking have the sufficient quota/authorisations under the new thresholds: The obligation starts on 11 March (see transitional article), so as from that date undertakings need to have sufficient quota/authorisations at the time of POM.

Another issue are the thresholds themselves, and these are annual. We would suggest that:

If there is only POM before 11 March: if it less than 100 t, quota/quota authorisations are not required.

If there is (also) POM after 11 March, quota is required for any bulk POM after 11 March and also for HFCs imported before 11 March if the total HFCs becomes above 100 t. Quota autorisations are required for any amount POM in equipment after 11 March if the total exceeds 10 t and also for amount POM before 11 March if the total becomes above 100 t.

Moreover, sufficient quota is required at the time of placing on the market. That means that all POM requires quota unless specifically exempted from the phase-down. In other words, importers cannot reduce their quota need by subsequently exporting the gas. It is exempted from the quota requirement if at the time of placing on the market is intended for direct export in accordance with Article 16(2)(c) and labelled as such.

**Article 17 – determination of reference values and quota allocations for placing on the market of hydrofluorocarbons**

**Article 18 – conditions for registration and receiving quota allocations**

**Article 19 – products or equipment pre-charged with HFCs**

*Article 19(3) – when is the verification report obligatory?*

Verification report is obligatory above 10 tCO2eq in pre-charged equipment, but undertakings must submit that to the COM if above 1000 tCO2eq.

*Article 19(6) For which year does the threshold of 10 tons CO2eq refer?*

The threshold applies to the ongoing calendar year from 1 January to 31 December.

**Article 20 – the F-gas Portal**

*Article 20(4) When is registration licensing required?*

A license is obligatory for import or export of ANY quantity of ANY F-gas either in the bulk or in product or equipment.

*Article 20(4)(a): Do exporters need to present a licence if they export goods after temporary storage?*

Yes, while import under temporary storage does not require registration and a licence, it would be a re-export which is covered by the export definition.

**Article 21 – transfers/authorisations**

**Article 22 – imports and exports**

*Article 22(1); Meaning of personal effects?*

Customs authorities need to decide on such cases. Personal effect appears to cover second-hand products that are part of a person’s household and are moved into another country. Thus, it would not cover the case of a person buying/importing a new car in the Union. It appears unlikely that cross-border traffic/service vehicles are released for free circulation.

*Article 22(1): Does the personal effects exemption apply to the gases contained in products and equipment?*

yes

*Article 22(3): If there is a safety requirement/standard exemptions in Annex IV do they also apply in relation to the export ban? For instance, if the US legislation does not allow the systems with natural refrigerants would the systems be exempted from the export prohibition? The term "safety requirements" does mention "national law", but it seems to be implied that the intention is national law of a union member country.*

If there are safety requirement exemptions in Annex IV they apply in the same way in relation to the export ban. Thus, where there is a safety requirement in the country of destination that would prohibit the use of the equipment on a specific location, the export ban would not apply. If the safety requirements in the prohibitions in Annex IV would only allow solutions up to GWP 750 (e.g. for self-contained AC equipment), the safety requirement derogation is not relevant for export, since the limit for export is GWP 1000.

*Article 22(1) What are the requirements for the re-import of pre-charged equipment produced in the EU, e.g. for repair?*

- Registration requirement of Art. 20 (4) (a)

- Requirement of Art. 19 (2) to present a declaration of conformity that states that the HFC is re-imported, currently by using the template of Regulation 2016/879. (unless HFCs has be charge outside the union)

**Article 23 – Trade controls**

*Article 23; Which obligations apply for the import of already used, but not completely emptied refillable containers with F-gases?*

* the quota obligation according to Art. 16 (1) for the remaining HFC residual quantities- the obligation to submit a declaration of conformity in accordance with Art. 23 (6) and Art. 11 (4)
* the obligation to register or obtain a license in accordance with Art. 22 (1) and Art. 20 (4)
* labelling

**Article 24 – Measures to monitor illegal trade**

**Article 25 – Trade with States non Parties**

**Article 26 – Reporting**

*Article 26(1): Will importers of cars that do not exceed the 100 tCO2eq have a NIL report.*

Yes, they do not have to report. They are not obliged to submit a nil report unless they have HFC quota.

*Article 26(1): is there inconsistency with Article 26(8)? According to Art. 26(1) producers report on quantities “produced, imported and exported” while Art. 26(8) refers to reporting on placing on the market by each undertaking, i.e. also by the producer.*

There is no issue, para 1 is on ALL not just POM, while verification should be on POM only.