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Commission Implementing Regulation (EU) 2016/879

of 2 June 2016

establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, detailed arrangements relating to the declaration of conformity when placing refrigeration, air conditioning and heat pump equipment charged with hydrofluorocarbons on the market and its verification by an independent auditor

(Text with EEA relevance)

Introductory Text

Article 1	Declaration of conformity
Article 2	Documentation
Article 3	Verification
Article 4	Submission of verification documents
Article 5	Entry into force and application
ANNEX	Declaration of conformity with Article 14 of Regulation (EU) No 517/2014 of the European Parliament and of the Council

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006, and in particular Article 14(4) thereof,

Whereas:

(1) Article 14(2) of Regulation (EU) No 517/2014 allows placing on the market of refrigeration, air conditioning and heat pump equipment charged with hydrofluorocarbons, if the hydrofluorocarbons contained in the equipment are accounted for within the quota system referred to in Chapter IV of that Regulation. When placing pre-charged equipment on the market, manufacturers and importers of the equipment are to document compliance with that requirement and to draw up a declaration of conformity in that respect.

(2) In drawing up the declarations of conformity and documentation, it is necessary to provide for the different options reflecting the different ways of ensuring compliance available to manufacturer and importers. These options refer to placing on the market equipment charged with hydrofluorocarbons subject to an authorisation pursuant to Article 18(2) of Regulation (EU) No 517/2014, equipment charged with hydrofluorocarbons that have previously been placed on the market as bulk and subsequently re-exported and charged into the equipment outside the Union and equipment charged with hydrofluorocarbons in the Union. Different type of documents are required from importers and manufacturers reflecting the different type of activities carried out by these undertakings.

(3) To ensure that declarations of conformity based on authorisations pursuant to Article 18(2) of Regulation (EU) No 517/2014 are credible, it is important to ensure that such authorisations can be traced. In this respect, these authorisations should be duly registered in the registry established pursuant to Article 17 of that Regulation.

(4) To provide guidance for the third party verification of the declaration of conformity and underlying documentation required by Article 14(2) of Regulation (EU) No 517/2014, the scope of this verification, as well as the modalities for the submission of the verification documents should be determined.

(5) For reasons of consistency, it is necessary that the relevant provisions laid down in this Regulation and the relevant provisions laid down in Regulation (EU) No 517/2014 apply from the same dates.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 24 of Regulation (EU) No 517/2014,

HAS ADOPTED THIS REGULATION:

Article 1

Declaration of conformity

1. Importers and manufacturers of refrigeration, air conditioning and heat pump equipment charged with hydrofluorocarbons ('equipment') shall draw up the declaration of conformity referred to in Article 14 of Regulation (EU) No 517/2014 using the template set out in Annex I to this Regulation. The declaration of conformity shall be signed by a legal representative of the manufacturer or importer of equipment.

2. In case of imports of equipment referred to in Article 1, the importer shall ensure that a copy of the declaration of conformity is available to the customs authorities at the time the customs declaration related to the release for free circulation in the Union is submitted.

3. A declaration of conformity may only refer to an authorisation referred to in Article 18 of Regulation (EU) No 517/2014 if the authorisation is duly registered in the registry established pursuant to Article 17 of that Regulation.

Article 2

Documentation

1. For any placing on the market, manufacturers of equipment charged with hydrofluorocarbons in the Union shall keep the following documentation referred to in Article 14 of Regulation (EU) No 517/2014:

(a) the declaration of conformity;

(b) a list identifying the equipment, and the type and total quantity in kilograms per type of hydrofluorocarbons contained in the equipment; this list is not required if the manufacturer can prove that the hydrofluorocarbons contained in the equipment were previously placed on the market prior to the charging;

(c) where the hydrofluorocarbons were supplied by another undertaking in the Union, the delivery note or invoice for the corresponding hydrofluorocarbons previously placed on the market in the Union;

(d) where hydrofluorocarbons contained in the equipment are imported and released for free circulation in the Union by the manufacturer of equipment prior to charging the equipment, the relevant customs documents showing that the quantity of hydrofluorocarbons contained in the equipment has been released for free circulation in the Union;

(e) where hydrofluorocarbons contained in the equipment are imported by the manufacturer, but are not released for free circulation in the Union prior to charging the equipment, proof that the relevant customs procedures for the release for free circulation of the relevant quantities of hydrofluorocarbons are complied with when that equipment is placed on the market;

(f) where the hydrofluorocarbons contained in the equipment are produced by the manufacturer of equipment and charged in its equipment in the Union, a document showing the quantity of the hydrofluorocarbons contained in the equipment.

2. Importers of equipment shall keep the following documentation referred to in Article 14 of Regulation (EU) No 517/2014 for any equipment covered by one customs declaration for release for free circulation in the Union:

(a) the declaration of conformity;

(b) a list identifying the equipment released for free circulation providing the following information:

  (i) the model information;

  (ii) the number of units per model;

  (iii) the identification of the type of hydrofluorocarbons contained in each model;

  (iv) the quantity of hydrofluorocarbons in each unit rounded to the nearest gram;

  (v) the total quantity of hydrofluorocarbons in kilograms and in tonnes of CO_2 equivalent;

(c) the customs declaration related to the release for free circulation of the equipment in the Union;

(d) where the hydrofluorocarbons contained in the equipment have been placed on the market in the Union, subsequently exported and charged into the equipment outside the Union, a delivery note or invoice, as well as a declaration by the undertaking that placed the hydrofluorocarbons on the market, stating that the quantity of hydrofluorocarbons has been or will be reported as placed on the market in the Union and that it has not been and will not be reported as direct supply for export in the meaning of Article 15(2)(c) of Regulation (EU) No 517/2014 pursuant to Article 19 of Regulation (EU) No 517/2014 and Section 5C of the Annex to Commission Implementing Regulation (EU) No 1191/2014.

Article 3

Verification

1. The independent auditor referred to in the second subparagraph of Article 14(2) of Regulation (EU) No 517/2014 shall verify the following documentation and declaration(s) of conformity of the importer of the equipment:

(a) consistency of the declaration(s) of conformity and the related documents with the reports submitted pursuant to Article 19 of Regulation (EU) No 517/2014 and Sections 11, 12 and 13 of the Annex to Implementing Regulation (EU) No 1191/2014;

(b) the accuracy and completeness of the information contained in the declarations of conformity and the related documents on the basis of the undertaking's records of relevant transactions;

(c) where an importer of equipment refers to an authorisation issued in accordance with Article 18(2) of Regulation (EU) No 517/2014, the availability of sufficient authorisations by comparing data in the registry referred to in Article 17 of Regulation (EU) No 517/2014 with documents evidencing the placing on the market;

(d) where the hydrofluorocarbons contained in the equipment have been placed on the market in the Union, subsequently exported and charged into the equipment outside the Union, the existence of a declaration by the undertaking placing the hydrofluorocarbons on the market in accordance with Article 2(2)(d), covering the relevant quantities.

2. The independent auditor shall issue a verification document containing its findings following the verification in accordance with paragraph 1. This shall include a statement on the level of accuracy of the relevant documentation and declarations.

Article 4

Submission of verification documents

The importer of equipment shall submit the verification document referred to in Article 3(2) of this Regulation using the reporting tool made available pursuant to Article 1 of Implementing Regulation (EU) No 1191/2014 by 31 March every year for the preceding calendar year and indicate in the tool the auditor's findings about the level of accuracy of the relevant documentation and declarations.

Article 5

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

However, Articles 1 and 2 shall apply from 1 January 2017 and Articles 3 and 4 shall apply from 1 January 2018.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 June 2016.

ANNEX

Declaration of conformity with Article 14 of Regulation (EU) No 517/2014 of the European Parliament and of the Council

We [*insert the name of company, the VAT identification number and for importers of equipment insert the F-gas Portal Registration ID*], declare under our sole responsibility that when placing on the market pre-charged equipment, which we import to or manufacture in the Union, the hydrofluorocarbons contained in that equipment are accounted for within the quota system referred to in Chapter IV of Regulation (EU) No 517/2014 as:

[please tick the relevant option(s); coverage by the quota system is achieved by one or more of the options below]

- we hold authorisation(s) issued in accordance with Article 18(2) of Regulation (EU) No 517/2014 and registered in the registry referred to in Article 17 of that Regulation, at the time of release for free circulation to use the quota of a producer or importer of hydrofluorocarbons subject to Article 15 of Regulation (EU) No 517/2014 that cover(s) the quantity of hydrofluorocarbons contained in the equipment.
- *[for importers of equipment only]* the hydrofluorocarbons contained in the equipment have been placed on the market in the Union, subsequently exported and charged into the equipment outside the Union, and the undertaking that placed the hydrofluorocarbons on the market made a declaration stating that the quantity of hydrofluorocarbons has been or will be reported as placed on the market in the Union and that it has not been and will not be reported as direct supply for export in the meaning of Article 15(2)(c) of Regulation (EU) No 517/2014 pursuant to Article 19 of Regulation (EU) No 517/2014 and Section 5C of the Annex to Commission Implementing Regulation (EU) No 1191/2014.
- [*for equipment manufactured in the Union only*] the hydrofluorocarbons charged into the equipment were placed on the market by a producer or importer of hydrofluorocarbons subject to Article 15 of Regulation (EU) No 517/2014.

[name and position of legal representative]

[signature of legal representative]

[date]