EUROPEAN COMMISSION
DIRECTORATE-GENERAL
CLIMATE ACTION
Directorate C - Mainstreaming Adaptation and Low Carbon Technology
CLIMA.C.2 - Transport and Ozone

ODS Licensing System

Information Document

REPACKAGING OF HCFC UNDER REGULATION (EC) NO 1005/2009

Version 1.0

January 2015

ODS Licensing System (v 1.8)

Important note:

The information provided in this document is prepared by European Commission services for information purposes only. It is not legally binding. It may be subject to change without notice, in particular following revisions of the Montreal Protocol or other relevant acts. The user is responsible for ensuring compliance with existing legislation and should keep in mind that this document might not be current. The European Commission does not assume responsibility or liability for the content or use of this document.

Contents

1. INTRODUCTION

Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer[1] (the Regulation) includes requirements for the import and export of controlled substances. In this document controlled substances are referred to as ozone-depleting substances (ODS). Hydrochlorofluorocarbons (HCFC) are one of the most common ODS.

The Regulation prohibits the import and the placing on the market of HCFC in the European Union (EU). However, in Articles 11(5) and 15(2)(e) the Regulation provides exemptions for repackagers.

The purpose of these derogations is to allow traders to purchase large volumes of HCFC from producers and to repackage them into containers of a size suitable for the end-user market.

This document aims to inform repackagers about related conditions and procedures. The information provided in this document does not apply to HCFC for feedstock uses or for the placing of the market of non-virgin HCFC.

Additional national legislative requirements may apply in some Member States.

2. TERMINOLOGY

2.1. Repackaging

For the purpose of Regulation (EC) No 1005/2009 repackaging is defined as the transfer of controlled substances from one container to another, whether or not the controlled substances are blended during the repackaging.

2.1.1. Examples of processes considered as repackaging:

- The transfer of controlled substances delivered in a large volume container or a tank into smaller containers suitable for retail[2];
- The transfer of controlled substances from non-refillable containers to refillable containers of similar size.

2.1.2. Examples of processes generally not considered as repackaging

- Re-labelling of containers without the transfer of controlled substances between containers;

[1] Regulation (EC) No 1005/2009 is available at EUR-Lex http://eur-lex.europa.eu/

[2] Large volume containers typically are larger than 1000 litres while small volume containers typically have a volume of less than 100 litres.

- Change of outer packaging such as card-boxes without the actual transfer of controlled substances from one inner containment to another.

2.1.3. Examples of processes that should be verified with the competent authorities on a case by cases basis

- The transfer of controlled substances delivered in a small volume container into large volume containers or tanks;

- Transfer of controlled substances between containers of a similar size and nature (e.g. repackaging from non-refillable containers to another non-refillable container of the same size).

2.2. Repackager

The repackager is the undertaking that obtains the controlled substance from the producer or imports it, next repackages it and performs the export. Subcontracting or outsourcing the repackaging is possible under the condition that no placing on the market is involved and the responsibility for the HCFC remains with the HCFC producer or importer.

2.3. Subsequent export

Subsequent export means that the export following the repackaging must be performed by the repackager directly. It would be prohibited to place the repackaged goods on the market, e.g. it is prohibited to sell the HCFC to another undertaking that will eventually perform the export.

2.4. Undertaking

Any natural or legal person which:

- produces, recovers, recycles, reclaims, uses or destroys controlled substances or new substances;

- imports such substances;

- exports such substances;

- places such substances on the market; or

- operates refrigeration, air conditioning or heat pump equipment, or fire protection systems, which contain controlled substances (Art 3 (26) of the Regulation).

3. PROCEDURES FOR REPACKAGERS UNDER ARTICLE 11(5)

An exporter can obtain the HCFC from a producer. Under Article 11(5) producers in the European Union can place HCFC on the EU market for repackaging and subsequent export. Any undertaking obtaining HCFC from an EU producer, carrying out the repackaging and subsequent export must register with the Commission.

3.1. HCFC form in the ODS Licensing System

If an undertaking purchases HCFC from an EU producer for repackaging and subsequent export then the undertaking must complete an HCFC form in the ODS Licensing System. The HCFC form is a declaration of the intention to obtain the HCFC from the EU market required under Article 11(5). In the form the repackager has to indicate the HCFC concerned, the annual demand and the suppliers of the HCFC. See the manual for importers, exporters and producers[3] for information on how to fill in the form.

Additionally the undertaking has to provide evidence that it is technically capable to perform repackaging of HCFC (see chapter 5). The Commission will ask the competent authority in the Member State concerned to verify the information submitted by the undertaking.

Once the registration is completed the Commission will inform all relevant producers of HCFC in the European Union about the new registration. This ensures that the producers know the names of the undertakings in the European Union which are entitled to purchase HCFC.

4. PROCEDURES FOR REPACKAGERS UNDER ARTICLE 15(E)

An exporter can obtain the HCFC from import. Undertakings that are importing HCFC for repackaging and subsequent export do not need to complete the HCFC form. In such case the registration as importer and exporter in the ODS Licensing System is sufficient.

Upon registration in the ODS Licensing System the undertaking has to provide evidence that it is technically capable to perform repackaging of HCFC (see chapter 5). The Commission will ask the competent authority in the Member State concerned to verify this information.

HCFC imported under Article 15(e) must be re-exported no later than 31 December of the calendar year following the import and no later than 31 December 2019. When exceeding this timeframe the relevant import will be considered as a violation of the Regulation and is subject to penalties in accordance with the national legislation in the Member State concerned.

5. TECHNICAL CAPABILITY TO REPACKAGE

The Commission and competent authority in the Member State will verify the technical capability of the undertaking to perform the repackaging. This information is requested in

[3] https://circabc.europa.eu/w/browse/d514949d-f5cf-484c-b274-fdafeeb87ae4
Also available at CIRCABC online forum. Go to tab 'Library' and next to folder '1. Manuals' and '3. Importers, Exporters and Producers'

line with Article 28(3) of the Regulation which entitles the Commission to request additional information in order to carry out its tasks.

Repackagers need to demonstrate that they have the technical capability to perform repackaging without placing any controlled substances on the market. Usually this means that the undertaking has to own relevant facilities or has contractual arrangements with a third entity having such facilities under the condition that these arrangements do not constitute a placing on the market.

Repackagers intending to engage in corresponding activates should provide the following documents:

- A confirmation that they own equipment to perform re-packaging which is in line with the applicable legislation in the Member State concerned;
- A brief description of the equipment;
- A brief description of the precautionary measures undertaken under Article 23(1) to prevent and minimise any leakages and emissions of controlled substances;
- In case a third party is performing the repackaging an explanation on how it is ensured that this activity does not constitute a placing on the market and that all volumes are returned.

6. CONTACT INFORMATION

A list of contact points at the Commission and of the competent authorities in the Member States is available at CIRCABC online forum, in library in folder '4. Contact Information'[4].

[4] https://circabc.europa.eu/w/browse/91661b30-3bd7-4b25-b083-dbc64092175c

ANNEX 1 RECORD OF CHANGES TO THE DOCUMENT

Version	Date	Description
1.0	01/2015	First version of the information document for the purpose of the ODS Licensing System.