



OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

WASHINGTON, D.C. 20460

MEMORANDUM

SUBJECT: No Action Assurance for Using Hydrofluorocarbons with a Global Warming Potential at or Below 2140 in the Manufacture, Import, or Installation of New Refrigerated Transport-Intermodal Containers Designed to Operate at Temperatures Between -50° Celsius and -35° Celsius

FROM: Cecil Rodrigues, Acting Assistant Administrator

TO: Joseph Goffman, Assistant Administrator
Office of Air and Radiation

In response to the Office of Air and Radiation's (OAR) January 15, 2025, request, I am issuing this No Action Assurance (NAA) regarding the restrictions on the manufacture, import, and installation of refrigerated transport-intermodal containers contained at 40 C.F.R. § 84.52(a)(6), (c)(7). Specifically, the EPA will exercise its discretion to not enforce violations of the prohibition on the manufacture, import, and installation of refrigerated transport-intermodal containers using hydrofluorocarbons (HFCs) with a global warming potential (GWP) above 700 in certain situations as detailed below. As your request explains, this NAA is necessary to assure the adequate supply of critical life-science and medical goods, including blood, blood plasma, and specialty pharmaceuticals, and will have minimal negative environmental impact.

The Technology Transitions Rule's prohibition on the manufacture, import, and installation of new refrigerated intermodal transport equipment using HFC refrigerants with a GWP at or above 700, currently exempts refrigerated transport-intermodal containers operating below -50 degrees Celsius because there is no known technologically achievable substitute. OAR's request explained that it had received information after the issuance of the Technology Transitions Rule indicating there is currently no technologically achievable substitute for the HFC refrigerants being used in new refrigerated transport-intermodal containers designed to operate at temperatures below -35 degrees Celsius that could meet the 700 GWP limit. Due to this technological limitation, a manufacturer in this small niche subsector of intermodal transport equipment informed OAR it will be using R-452A as the refrigerant for this equipment. R-452A has a GWP of 2140¹ and is, in its estimation, the refrigerant with the lowest GWP that is technologically suitable for this use case. This information was not known by the Agency until after finalization of the Technology Transitions Rule.

¹ This GWP is calculated using the values given in the IPCC's 2007 Fourth Assessment Report (AR4).

As discussed in OAR's request, the EPA issued a letter dated June 20, 2024, stating that the Agency will reconsider the -50 degrees Celsius temperature threshold and evaluate whether there is a need to revise the restrictions for this niche equipment within this subsector. The letter also indicated the EPA's intent to initiate reconsideration of this issue and to develop a proposed action on this matter. Consistent with that letter, the EPA intends to issue a Notice of Proposed Rulemaking in 2025 that would propose to exempt refrigerated transport-intermodal containers designed to operate at temperatures below -35 degrees Celsius.

As raised in OAR's request, we understand that the January 1, 2025, effective date for the restrictions at issue would prevent the delivery of new refrigerated transport-intermodal containers used to transport critical life-science and medical cargo including blood, blood plasma, and specialty pharmaceuticals but does not impact the continued use of existing intermodal containers. While the number of new refrigerated transport-intermodal containers designed to operate between -35 degrees and -50 degrees Celsius introduced each year is small, their continued availability is imperative to serve the transport needs of critical life-science and medical cargo, as most units are necessarily designed to meet the particular demands of each order. As a result, disruption in the introduction of new containers could present risks to human health that the EPA believes must be prevented. OAR has further explained that exercising discretion not to enforce violations of the prohibition on the manufacture, import, or installation of equipment designed to operate between -35 degrees and -50 degrees Celsius would not jeopardize the EPA's efforts to both ensure the protection of health and the environment and achieve the goals of the AIM Act.

This NAA applies only to the requirements of 40 C.F.R. § 84.58(a)(6), (c)(7), and only for the manufacture, import, or installation of new refrigerated transport-intermodal containers using refrigerants with a GWP at or below 2140 and designed to operate between -35 degrees and -50 degrees Celsius. The NAA does not cover the existing prohibition on other new refrigerated transport-intermodal containers designed to operate at or above -35° Celsius or other requirements of the rule. In fact, the EPA's NAA is conditioned on compliance with all other aspects of the Technology Transitions Rule, including – and in addition to – the following:

- Labeling: Refrigerated transport-intermodal containers must be labeled in accordance with 40 C.F.R. § 84.58, effective January 1, 2025.
- Reporting: Reports required under 40 C.F.R. § 84.60(a) must contain a statement that the refrigerated transport-intermodal containers are complying either with 40 C.F.R. § 84.60(a)(2)(iv) or are consistent with this No Action Assurance.
- Records: Records are required to be kept under 40 C.F.R. § 84.60(b), effective January 1, 2025.

This NAA will remain in effect until either January 1, 2026, or the date when a proposed rule addressing the prohibition on the manufacture, import, and installation of new refrigerated transport-intermodal containers designed to operate at temperatures below -35 degrees Celsius is finalized, whichever occurs earlier. The EPA reserves the right to revoke or modify this NAA at any time.

If you have any further questions regarding this matter, please contact Mary E. Greene, Director, Air Enforcement Division at (202) 564-0254 or greene.mary.e@epa.gov.

cc: Mary E. Greene, OECA
Paul Gunning, OAR
Cindy Newberg, OAR