

April 27, 2021

This statement is issued in accordance with the Agency of Natural Resources COVID – 19 State of Emergency Enforcement and Compliance Guidance Document, dated March 31, 2020 (Guidance Document). The Guidance Document is available at [https://anr.vermont.gov/about\\_us/emergency-information](https://anr.vermont.gov/about_us/emergency-information). The exercise of enforcement discretion described in the following statement is contingent on affected activities meeting all applicable criteria of the Guidance Document.

Under § 38-301 and Table 1 of the Rule regarding phase-down of the use of Hydrofluorocarbons, the sale of certain products containing listed HFCs is prohibited in Vermont. Manufacturers (OEMs) of commercial refrigeration equipment have reported limited or no supply of low GWP foam blowing agents for use in their products to comply with the current HFC prohibitions in Vermont. This supply issue is reported to be due, in part, to delays in the customs process related to the COVID-19 pandemic which have been exacerbated by the ice storms in the southern United States. Due to the ongoing state of emergency and pandemic related delays, the Agency recognizes that availability of compliant foam blowing agents and associated products may be delayed.

In light of these conditions, the Agency is hereby exercising enforcement discretion pursuant to the Guidance Document for any instance of non-compliance among OEMs of commercial refrigeration equipment relating to the prohibitions listed in §38-301 of the rule. This enforcement discretion is limited to the following end-use and HFC substances (see §38-301, Table 1):

End Use:	Rigid Polyurethane Commercial Refrigeration and Sandwich Panels
Prohibited Substances:	HFC-134a, HFC-245fa, HFC-365mfc, and blends thereof; Formacel T1, Formacel Z-6.

This exercise of enforcement discretion shall expire two months from the date of issuance of this statement. OEMs that engage in noncompliance pursuant to this letter must submit monthly reports to the Agency containing:

1. The status of operations pursuant to this enforcement discretion, including the extent and use of any prohibited substance in the end-use;
2. Updates regarding resolution to the delay in supply of compliance substances; and
3. Number of products delivered for sale in Vermont that contain the non-compliant substances during the reporting period.

The first report will be due to the Agency 30 days from the date of issuance of this statement.



**Vermont Department of Environmental Conservation**

Air Quality and Climate Division  
Davis Building, 3<sup>rd</sup> Floor  
One National Life Drive  
Montpelier, VT 05602, 3802  
(802) 828-1288

*Agency of Natural Resources*

No later than 15 days before the expiration of this enforcement discretion, an OEM may submit a request to the Agency for an extension of the enforcement discretion statement. Such a request must include a demonstration that the circumstances causing non-compliance are on-going and remain related to the COVID-19 pandemic.

If you have any question about this enforcement discretion statement, please contact Megan O'Toole at [megan.otoole@vermont.gov](mailto:megan.otoole@vermont.gov) or 802-249-9882.