



REGION 9

SAN FRANCISCO, CA 94105

ENFORCEMENT & COMPLIANCE
ASSURANCE DIVISION

TRANSMITTED VIA EMAIL
RETURN RECEIPT REQUESTED

Josaphat Medrano
1301 Florida Avenue
Apartment 206
Douglas, Arizona 85607
josaphatmedrano@icloud.com

RE: Finding of Violation (HFC Imports) of the American Innovation and Manufacturing Act and the Clean Air Act Docket Number R9-CAA-25-1018

Dear Josaphat Medrano:

The U.S. Environmental Protection Agency ("EPA") is issuing the enclosed Finding of Violation ("FOV") to you. The EPA alleges that you have violated the American Innovation and Manufacturing ("AIM") Act, 42 U.S.C. § 7675 and the regulations promulgated thereunder at 40 C.F.R. Part 84.

The EPA is issuing this FOV under Section 113(a) of the Clean Air Act ("the Act" or "CAA"), 42 U.S.C. § 7413(a)(3)¹ for violations of 40 C.F.R. Part 84. *See* 42 U.S.C. § 7675(k)(1)(C).

Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), gives the EPA several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, or bringing a judicial criminal action. The EPA is issuing this FOV based on information described in detail below that represents specific violations of applicable requirements relating to the importation of hydrofluorocarbons ("HFCs").

Without making a determination that your business or organization is a small business, the EPA is providing you with this Small Business Resources Information Sheet, which provides important information that may assist small businesses in identifying and complying with environmental

¹ The AIM Act provides that Sections 113 and 114 of the CAA, 42 U.S.C. § 7413 and 42 U.S.C. § 7414, apply to the AIM Act and any regulation promulgated thereunder "as though this section were expressly included in title VI of that Act." *See* 42 U.S.C. § 7675(k)(1)(C).

requirements: <https://www.epa.gov/compliance/small-business-resources-information-sheet>.

You may request a conference with the EPA to present information on the identified violations in the FOV, efforts you have taken to comply, and the steps you will take to prevent future violations within ten (10) calendar days following receipt of this FOV. You may have counsel represent you at this conference. Please direct such request to Catherine Schluter, Attorney-Advisor, at schluter.catherine@epa.gov or (415) 972-3911.

Sincerely,

Amy C. Miller-Bowen
Director
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region 9

Enclosure

cc (by email): Amelie Isin, HFC Program Lead, EPA
Janice Chan, EPA
Catherine Schluter, EPA

SAN FRANCISCO, CA

Proceedings Pursuant to
Section 113(a)(3) of the Clean Air Act,
42 U.S.C. § 7413(a)(3)

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FINDING OF VIOLATION

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Statutory and Regulatory Authority

The AIM Act

1. The American Innovation and Manufacturing (AIM) Act, 42 U.S.C. § 7675, provides the EPA with authority to regulate hydrofluorocarbons (HFCs), which are greenhouse gases, and requires the EPA to phase down HFC production and consumption.
2. The AIM Act provides that section 113 of the CAA, 42 U.S.C. § 7413, applies to the AIM Act and any regulation promulgated thereunder “as though this section were expressly included in title VI of that Act.” See 42 U.S.C. § 7675(k)(1)(C).
3. The regulations at 40 C.F.R. Part 84, Subpart A, implement the AIM Act requirement to phase down HFC production and consumption.
4. 40 C.F.R. § 84.1(b) states that Subpart A applies to “any person that produces, transforms, destroys, imports, exports, sells or distributes, offers for sale or distribution, recycles for fire suppression, or reclaims a regulated substance.”
5. 40 C.F.R. § 84.3 defines “person” as “any individual or legal entity, including an individual, corporation, partnership, association; state, municipality, political subdivision of a state, Indian tribe; any agency, department, or instrumentality of the United States; and any officer, agent, or employee thereof.”
6. 40 C.F.R. § 84.3 defines “regulated substance” as “a hydrofluorocarbon listed in the table contained in subsection (c)(1) of the AIM Act and a substance included as a regulated substance by the Administrator under the authority granted in subsection (c)(3). A current list of regulated

substances can be found in appendix A to this part.”

7. 40 C.F.R. § 84.3 defines “bulk” to mean “a regulated substance of any amount that is in a container for the transportation or storage of that substance such as cylinders, drums, ISO tanks, and small cans. A regulated substance that must first be transferred from a container to another container, vessel, or piece of equipment in order to realize its intended use is a bulk substance. A regulated substance contained in a manufactured product such as an appliance, an aerosol can, or a foam is not a bulk substance.”
8. 40 C.F.R. § 84.3 defines “consumption allowances” as “a limited authorization to produce and import regulated substances; however, consumption allowances may be used to produce regulated substances only in conjunction with production allowances. A person’s consumption allowances are the total of the allowances obtained under [40 C.F.R.] § 84.11 or § 84.15 and may be modified under [40 C.F.R.] §§ 84.17 (availability of additional consumption allowances), 84.19 (transfer of allowances), and 84.35 (administrative consequences).”
9. 40 C.F.R. § 84.3 defines “application-specific allowance” as “a limited authorization granted in accordance with subsection (e)(4)(B)(iv) of the AIM Act for the production or import of a regulated substance for use in the specifically identified applications that are listed in that subsection and in accordance with the restrictions contained at § 84.5(c).”
10. 40 C.F.R. § 84.3 defines “import” as “to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, regardless of whether that landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States. Offloading used regulated substances recovered from equipment aboard a marine vessel, aircraft, or other aerospace vehicle during servicing is not considered an import.”
11. 40 C.F.R. § 84.3 defines “importer” as “any person who imports a regulated substance into the United States. ‘Importer’ includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes: (1) [t]he consignee; (2) [t]he importer of record; (3) [t]he actual owner; or (4) [t]he transferee, if the right to draw merchandise in a bonded warehouse has been transferred.”
12. 40 C.F.R. § 84.3 defines “exchange value” as “the value assigned to a regulated substance in

accordance with AIM Act subsections (c) and (e), as applicable, and as provided in appendix A to this part.”

13. 40 C.F.R. § 84.3 defines “exchange value equivalents” (EVe) as “the exchange value-weighted amount of a regulated substance obtained by multiplying the mass of a regulated substance by the exchange value of that substance.”
14. Appendix A to 40 C.F.R. Part 84 lists the substances regulated by the AIM Act by HFC, chemical formula, and exchange value.
15. Appendix A to 40 C.F.R. Part 84 includes the compounds HFC-32 and HFC-125 (exchange value 2087.5).
16. 40 C.F.R. § 84.5(b)(1)(i) states, in relevant part, that “[n]o person may import bulk regulated substances, either as a single component or a multicomponent substance, except . . . [i]f the importer of record possesses at the time they are required to submit reports to EPA pursuant to § 84.31(c)(7), and expends at the time of ship berthing for vessel arrivals, border crossing for land arrivals such as trucks, rails, and autos, and first point of terminus in U.S. jurisdiction for arrivals via air, consumption or application-specific allowances in a quantity equal to the exchange-value weighted equivalent of the regulated substances imported, whether present as a single component or a multicomponent blend.”
17. 40 C.F.R. § 84.5(b)(3) states that “[e]ach person meeting the definition of importer for a particular regulated substance import transaction is jointly and severally liable for a violation of paragraph (b)(1) of this section, unless they can demonstrate that the importer of record possessed and expended allowances in accordance with the requirement outlined in paragraph (b)(1)(i) or (v) of this section or another party who meets the definition of an importer met one of the exceptions set forth in (b)(1)(ii) through (iv) of this section.”
18. 40 C.F.R. § 84.31(c)(7) provides that the importer of record is required to submit the information described in 40 C.F.R. § 84.31(c)(7)(i) - (xvi) for each shipment of regulated substances imported no later than 10 days if arriving by marine vessel or 5 days for non-marine vessel prior to the date of importation.
19. 40 C.F.R. § 84.31(c)(1) provides that within 45 days after the end of each quarter, an importer

of record of a regulated substance must submit to the relevant Agency official a report containing the requirements listed in 40 C.F.R. § 84.31(c)(1)(i) - (ix).

Facts

20. Josaphat Medrano (“Medrano”) is an individual located at 1301 Florida Avenue, Apartment 206 in Douglas, Arizona 85607.
21. Medrano is a “person” within the meaning of 40 C.F.R. § 84.3.
22. R-410A is a refrigerant blend that contains the following bulk regulated substances: HFC-32 and HFC-125.
23. On or about August 27, 2024, and September 5, 2024, Medrano “imported,” within the meaning of 40 C.F.R. § 84.3, approximately 226 kg of R-410A from Mexico without expending consumption or application-specific allowances or receiving a non-objection notice from the EPA.
24. The R-410A described in paragraph 23 is the “Subject HFCs.”
25. The EPA calculates metric tons of exchange value equivalent (MTEVe) by multiplying the mass of the regulated substance in kg by the exchange value of the bulk regulated substance and dividing the product by 1,000, pursuant to 40 C.F.R. § 84.3.
26. Two hundred twenty-six (226) kg of R-410A is equivalent to about 472 MTEVe. The total MTEVe for the Subject HFCs is approximately 472.
27. Medrano did not expend any consumption or application-specific allowances, provide adequate transshipment notice, or receive a non-objection notice from the EPA for the Subject HFCs.
28. Medrano did not timely report the information described in 40 C.F.R. § 84.31(c)(7)(i) - (xvi) for the import of the bulk regulated substances prior to importation on or about August 27, 2024, or September 5, 2024, and did not receive a non-objection notice from the EPA for the Subject HFCs.

29. Medrano did not submit a report described under 40 C.F.R. § 84.31(c)(1) to the EPA with information relating to the Subject HFCs, which the individual imported during the third quarter of 2024, within 45 days after the end of the third quarter of 2024.

Alleged Violations

Violations 1 and 2 – Illegal Importation of a Bulk Regulated Substance in Violation of the AIM Act

30. Based on the facts in the section above, the EPA alleges that the Subject HFCs are bulk regulated substances.
31. Based on the facts in the section above, the EPA alleges that the Subject HFCs are bulk regulated substances that were imported on or about August 27, 2024, without the importer expending consumption or application-specific allowances in a quantity equal to the exchange-value weighted equivalent of the regulated substances imported, a violation of 40 C.F.R. § 84.5(b)(1).
32. Based on the facts in the section above, the EPA alleges that the Subject HFCs are bulk regulated substances that were imported on or about September 5, 2024, without the importer expending consumption or application-specific allowances in a quantity equal to the exchange-value weighted equivalent of the regulated substances imported, a violation of 40 C.F.R. § 84.5(b)(1).

Violations 3 and 4 – Failure to Submit an Advance Notification Report in Violation of the AIM Act

33. Based on the facts in the section above, Medrano violated 40 C.F.R. § 84.31(c)(7) by failing to submit the information described in 40 C.F.R. § 84.31(c)(7)(i) - (xvi) for the Subject HFCs no later than 5 days prior to importation or about August 27, 2024.

34. Based on the facts in the section above, Medrano violated 40 C.F.R. § 84.31(c)(7) by failing to submit the information described in 40 C.F.R. § 84.31(c)(7)(i) - (xvi) for the Subject HFCs no later than 5 days prior to importation or about September 5, 2024.

*Violation 5 – Failure to Submit a Quarterly Report
in Violation of the AIM Act*

35. Based on the facts in the section above, Medrano violated 40 C.F.R. § 84.31(c)(1) by failing to submit a report to the EPA that describes the bulk regulated substances imported during the third quarter of 2024 within 45 days after the end of the third quarter.

Enforcement

The EPA's investigation into this matter is continuing. The above information represents specific violations that the EPA believes, at this point, are sufficiently supported by evidence to warrant the allegations in this FOV. The EPA may find additional violations as the investigation continues.

Section 113(a)(3) of the Act, 42 U.S.C § 7413(a)(3), provides the Administrator with several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action.

Amy C. Miller-Bowen
Director
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region 9