



## REGION 9

SAN FRANCISCO, CA 94105

ENFORCEMENT & COMPLIANCE  
ASSURANCE DIVISION

TRANSMITTED VIA EMAIL  
RETURN RECEIPT REQUESTED

Carlos Barrera  
Barrera Imports & Exports, LLC  
13857 N Silvercreek Pl  
Oro Valley, AZ 85737  
[Barreracarlos@hotmail.com](mailto:Barreracarlos@hotmail.com)

RE: Barrera Import & Export, LLC – Finding of Violation R9-CAA-25-1017

Dear Carlos Barrera:

The U.S. Environmental Protection Agency ("EPA") is issuing the enclosed Finding of Violation ("FOV") to Barrera Import & Export, LLC ("Barrera" or "you"). The EPA alleges that Barrera 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 in the FOV 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 also providing you with this Small Business Resources Information Sheet, which provides important information that may assist small businesses in identifying and complying with environmental requirements: <https://www.epa.gov/compliance/small-business-resources-information-sheet>.

Barrera may request a conference with the EPA to present information on the identified violations in the FOV, efforts Barrera has taken to comply, and the steps Barrera will take to prevent future violations. A conference should be requested within fourteen (14) calendar days following receipt of this FOV. Barrera may have counsel represent you at this conference. Please direct such request to Janice Chan at [chan.janice@epa.gov](mailto:chan.janice@epa.gov) and 415-972-3308 or have your legal counsel contact Ivan Lieben, EPA attorney, at [lieben.ivan@epa.gov](mailto:lieben.ivan@epa.gov) or 415-972-3914.

Sincerely,

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

Enclosure

cc: Amelie Isin, HFC Program Lead, EPA  
Roshni Brahmbhatt, EPA  
Janice Chan, EPA  
Ivan Lieben, EPA  
Kayla Owens, counsel for Barrera Import & Export, LLC, Stein Shostak  
Shostak Pollack & O'Hara, [kowens@steinshostak.com](mailto:kowens@steinshostak.com)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**SAN FRANCISCO, CA**

**IN THE MATTER OF:**

Barrera Imports & Exports, LLC  
Oro Valley, AZ

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

**FINDING OF VIOLATION**

**R9-CAA-25-1017**

**FINDING OF VIOLATION**

**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 compound HFC-134a.
16. Appendix A of 40 C.F.R. Part 84 lists the exchange value as 1,430 for HFC-134a.
17. 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.”
18. 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.”
19. 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) in an “advance notification report” 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.

#### **FINDINGS OF FACT**

20. Barrera Import & Export, LLC (“Barrera”) is a limited liability company registered to conduct business in the State of Arizona.
21. Barrera is a “person” within the meaning of 40 C.F.R. § 84.3.
22. HFC-134a is listed as a regulated substance in Appendix A to 40 C.F.R. Part 84.
23. On or about July 1, 2024, Barrera “imported,” within the meaning of 40 C.F.R. § 84.3, approximately 15,232 kg of HFC-134a from Mexico without expending consumption or application-specific allowances or receiving a non-objection notice from the EPA.
24. On or about July 9, 2024, EPA inspected the shipment (Entry Number BDJ-1044079-9) of HFCs with the U.S. Bureau of Customs and Border Protection (“CBP”) and identified 1,120 cylinders of HFC-134a weighing approximately 13.6 kg per cylinder.
25. The HFC-134a described in paragraph 23 are the “Subject HFCs.”

26. Barrera was the Importer of Record for the Subject HFCs and therefore was an “importer” of the Subject HFCs, as that term is defined in 40 C.F.R. § 84.3
27. 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.
28. Based upon the methodology identified in Paragraph 27, 15,232 kg of HFC-134a is equivalent to about 21,781.8 MTEVe. The total MTEVe for the Subject HFCs is approximately 21,781.8 MTEVe.
29. Barrera did not file an advance notification report for the import of the bulk regulated substances, identified in Paragraph 24, 10 days prior to the importation on July 1, 2024. The date of filing in the Automated Commercial Environment<sup>1</sup> was July 1, 2024.
30. Barrera also 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.

### **ALLEGED VIOLATIONS**

#### *Violation 1 – Illegal Importation of a Bulk Regulated Substance in Violation of the AIM Act*

31. Based on the facts in the section above, the EPA alleges that the Subject HFCs are bulk regulated substances.
32. Based on the facts in the section above, Barrera imported the Subject HFCs, which are bulk regulated substances, on July 1, 2024 (Entry Number BDJ-1044079-9) without expending consumption or application-specific allowances in a quantity equal to the exchange-value weighted equivalent of the regulated substances imported, in violation of 40 C.F.R. § 84.5(b)(1).

#### *Violation 2 – Failure to Submit an Advance Notification Report in Violation of the AIM Act*

33. Based on the facts in the section above, Barrera violated 40 C.F.R. § 84.31(c)(7) by failing to submit an advance notification report for the importation of the bulk regulated substances imported on July 1, 2024 (Entry Number BDJ-1044079-9) no later than 10 days prior to importation.

### **ENFORCEMENT**

34. 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

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<sup>1</sup> U.S. Customs and Border Patrol Automated system – Automated Commercial Environment Automated Broker Interface.

warrant the allegations in this Finding of Violation (“FOV”). The EPA may find additional violations as the investigation continues.

35. 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/or bringing a judicial criminal action.

#### **PENALTY ASSESSMENT CRITERIA**

36. Section 113(e)(1) of the Act states that, in determining the amount of any penalty to be assessed, the Administrator will take into consideration (in addition to such other factors as justice may require) the size of the violator, the economic impact of the penalty on the violator, the violator’s full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator for penalties previously assessed for the same violation, the economic benefit of non-compliance, and the seriousness of the violation.
37. Section 113(e)(2) of the Act allows the Administrator to assess a penalty for each day of violation. For the purposes of determining the number of days of violation, where EPA makes a prima facie showing that the conduct or events giving rise to this violation likely to have continued or recurred past the date of this FOV, the days of violation shall be presumed to include the date of this FOV and each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

#### **OPPORTUNITY FOR CONFERENCE**

38. Barrera may, upon request, confer with EPA. The conference will enable Barrera to present evidence bearing upon the Finding of Violation, on the nature of the violations, and on any efforts, Barrera has taken or may have taken or proposes to take to achieve compliance. A request for conference with EPA must be made within fourteen (14) working days from receipt of this FOV. Barrera may have counsel represent you at this conference. Please direct any request to confer or other inquiries concerning this FOV in writing to Janice Chan of the

Enforcement and Compliance Assurance Division at [chan.janice@epa.gov](mailto:chan.janice@epa.gov) and 415-972-3308 or have your legal counsel contact Ivan Lieben, Deputy Regional Counsel, at [lieben.ivan@epa.gov](mailto:lieben.ivan@epa.gov) or 415-972-3914.

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