



REGION 9

SAN FRANCISCO, CA 94105

ENFORCEMENT & COMPLIANCE
ASSURANCE DIVISION

TRANSMITTED VIA EMAIL
RETURN RECEIPT REQUESTED

Hector Suarez
President
Suarez Brokerage Company, Inc.
1485 N. Mariposa Ranch Road
Nogales, Arizona 85621
hector@suarezbrokers.com

RE: Finding of Violation (HFC Imports) of the American Innovation and Manufacturing Act
Docket Number R9-CAA-26-1012

Dear Hector Suarez:

The enclosed Finding of Violation (“FOV”) alleges that Suarez Brokerage Company, Inc. (“Suarez Brokerage” or “you”) has 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 U.S. Environmental Protection Agency (“EPA”) FOV sets forth the alleged violations of applicable reporting requirements relating to the importation of hydrofluorocarbons (“HFCs”) and the evidence supporting the EPA’s allegations.

The AIM Act provides that Section 113 of the Clean Air Act (“CAA”), 42 U.S.C. § 7413 applies to the AIM Act and any regulation promulgated thereunder. *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.

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

Suarez Brokerage may request a conference with the EPA to present information on the identified

violations in this FOV, efforts you have taken to comply, and the steps you will take to prevent future violations within twenty (20) calendar days following receipt of this FOV. You may have counsel represent you at this conference. Please direct such request to Janice Chan, Enforcement Officer, at chan.janice@epa.gov or (415) 972-3308 or if Suarez Brokerage is represented by counsel, please have Suarez Brokerage's counsel contact 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
Ernesto Suarez, Supervisor, Suarez Brokerage Company, Inc.,
ernesto@suarezbrokers.com
Kim Peralta, Manager, Suarez Brokerage Company, Inc.,
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION IX

SAN FRANCISCO, CA

IN THE MATTER OF:)
)
 Suarez Brokerage Company, Inc.)
 1485 N. Mariposa Ranch Road)
 Nogales, Arizona 85621)
) FINDING OF VIOLATION
 Proceedings Pursuant to)
 Section 113(a)(3) of the Clean Air Act,) R9-CAA-26-1012
 42 U.S.C. § 7413(a)(3))

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 U.S. Environmental Protection Agency (“EPA”) with authority to regulate hydrofluorocarbons (“HFCs”), which are greenhouse gases, and requires the EPA to phase down HFC production and consumption.
2. The regulations at 40 C.F.R. Part 84, Subpart A, implement the AIM Act requirement to phase down HFC production and consumption.
3. 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.”
4. The regulations at 40 C.F.R. Part 84, Subpart A, contain the following definitions:
 - a. An “allowance” is defined as a “limited authorization for the production or consumption of a regulated substance established under subsection (e) of Section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260) (the AIM Act). An allowance allocated under subsection (e) of Section 103 in Division S of the AIM Act does not constitute a property right.” 40 C.F.R. § 84.3.
 - b. An “application-specific allowance” is defined 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).” 40 C.F.R. § 84.3.

- c. “Bulk” is defined as “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.” 40 C.F.R. § 84.3.
- d. “Consumption allowances” are defined 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).” 40 C.F.R. § 84.3.
- e. “Exchange value” is defined 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.” 40 C.F.R. § 84.3.¹
- f. “Exchange value equivalent” (“EVe”) is defined 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.” 40 C.F.R. § 84.3.
- g. “Import” is defined as “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.” 40 C.F.R. § 84.3.
- h. “Importer” is defined 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

¹ The exchange values are the same as the 100-year Global Warming Potentials (“GWPs”) listed in the 2007 Intergovernmental Panel on Climate Change (“IPCC”) Fourth Assessment Report.

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.” 40 C.F.R. § 84.3.

- i. “Person” is defined 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.” 40 C.F.R. § 84.3.
- j. “Regulated substance” is defined 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).” 40 C.F.R. § 84.3.

- 5. Appendix A to 40 C.F.R. Part 84 lists the substances regulated by the AIM Act by HFC, chemical formula, and exchange value.
- 6. The exchange value of a blend is calculated by summing the exchange value of each constituent of the blend multiplied by the nominal mass fraction of that constituent within that blend. 40 C.F.R. § 84.64.
- 7. The HFCs at issue in this matter are assigned the following exchange values:

HFC	Chemical Formula	Exchange Value
HFC-32	CH ₂ F ₂	675.0
HFC-125	C ₂ HF ₅	3,500.0

40 C.F.R. Part 84, Appendix A

- 8. 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.”
- 9. 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.”

10. Any violation of the regulations under 40 C.F.R. Part 84 is subject to the enforcement provisions of Section 113 of the Clean Air Act (“CAA”), 42 U.S.C. § 7413. *See* 42 U.S.C. § 7675(k)(1)(C).
11. The CAA authorizes the Administrator of the EPA to assess a civil administrative penalty of not more than \$59,144 per day of violation. 40 C.F.R. § 19.4, Table 1; *see also* 42 U.S.C. § 7413(a)(3)(A), (d)(1); Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (set out as notes under 28 U.S.C. § 2461); 40 C.F.R. § Part 19 (Civil Monetary Penalty Adjustment Rule).

Facts

12. Suarez Brokerage Company, Inc. (“Suarez Brokerage”) is a corporation with headquarters located at 1485 N. Mariposa Ranch Road, Nogales, Arizona 85621 and incorporated under the laws of the State of Arizona.
13. Suarez Brokerage is a “person” within the meaning of 40 C.F.R. § 84.3.
14. Suarez Brokerage is an “importer.” *See id.*
15. Suarez Brokerage has a branch office located at 217 E. 3rd Street, Douglas, Arizona 85607.
16. R-410A is a refrigerant blend that contains the following bulk regulated substances: HFC-32 and HFC-125.
17. Suarez Brokerage is the listed consignee and Josaphat Medrano (“Medrano”) is the listed importer of record for Entry Number AE3-11328015, imported on or about September 5, 2024.
18. On or about September 5, 2024, Suarez Brokerage filed for entry and “imported,” within the meaning of 40 C.F.R. § 84.3, approximately 226 kg of R-410A from Mexico under Entry Number AE3-11328015 without the importer expending consumption or application-specific allowances or receiving a non-objection notice from the EPA.
19. The R-410A described in paragraph 18 is the “Subject HFCs.”

20. 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.
21. 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 MTEVe carbon dioxide-equivalent.
22. 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.

Alleged Violations

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

23. Based on the facts in the section above, the EPA alleges that the Subject HFCs are bulk regulated substances.
24. Based on the facts in the section above, Suarez Brokerage imported the Subject HFCs, which are bulk regulated substances, 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).

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