



OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

WASHINGTON, D.C. 20460

TRANSMITTED VIA EMAIL
RETURN RECEIPT REQUESTED

Dan Shinefield, President
The Max Henry Group, LLC dba Quantum Technology
409 Levering Mill Rd.
Bala Cynwyd, PA 19004-2702
Dan@quantumtechnology.net

RE: The Max Henry Group, LLC dba Quantum Technology – Notice of Violation HFC Imports

Dear Dan Shinefield:

The U.S. Environmental Protection Agency (“EPA”) is issuing the enclosed Notice of Violation (“NOV”) to The Max Henry Group, LLC dba Quantum Technology (“Max Henry” or “Company”) regarding its importation of hydrofluorocarbons (“HFCs”). Based on the information available, the EPA finds that Max Henry 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 EPA is issuing this NOV 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).

The EPA is issuing this NOV based on information described in detail below that represents specific violations of applicable requirements relating to the importation of hydrofluorocarbons (“HFCs”). 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 Max Henry 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>.

¹ 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).

The EPA is extending to Max Henry an opportunity to request a conference with the EPA to present any information the EPA should consider with respect to the alleged violations in the NOV, efforts Max Henry has taken to comply, and the steps Max Henry will take to prevent future violations. A conference should be requested within **fourteen (14) calendar days** following receipt of this NOV. Max Henry may have counsel represent it at this conference. Please direct any request to confer within 14 calendar days to Nathan Dancher, Environmental Engineer, at dancher.nathan@epa.gov and 202-564-0346 or have your legal counsel contact Conner Kingsley, Attorney-Advisor, at kingsley.conner@epa.gov or 202-564-9033.

Sincerely,

MARY GREENE Digitally signed by MARY
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Date: 2024.08.11 17:37:51 -04'00'

Mary E. Greene, Director
Air Enforcement Division
United States Environmental Protection Agency

Enclosure

cc (by email): Amelie Isin, HFC Program Lead, EPA
Nathan Dancher, EPA
Conner Kingsley, EPA

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.”

7. 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).”
8. 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).”
9. 40 C.F.R. § 84.3 defines “import” 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.”
10. 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.”
11. 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.”
12. Appendix A to 40 C.F.R. Part 84 lists the substances regulated by the AIM Act by HFC, chemical formula, and exchange value.
13. 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 [Part 84].”
14. 40 C.F.R. § 84.3 defines “exchange value equivalent” (“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.

15. 40 C.F.R. § 84.5(b)(l) (2022)² states that “[n]o person may import bulk regulated substances, except: (i) [b]y expending, at the time of the import, consumption or application-specific allowances in a quantity equal to the exchange-value weighted equivalent of the regulated substances imported with the required amount of allowances calculated to the tenth, but a minimum expenditure of 0.1 allowances is required for any import of regulated substances; (ii) [a]fter receipt of a non-objection notice for substances for use in a process resulting in their transformation or their destruction in accordance with § 84.25(a); (iii) [a]fter receipt of non-objection notices for used regulated substances imported for destruction in accordance with § 84.25(b); or (iv) [a]s a transshipment in accordance with § 84.31(c)(3) if all transhipped regulated substance is exported from the United States within six months of its import.”
16. 40 C.F.R. § 84.5(b)(2) (2022) 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 another party who meets the definition of an importer met one of the exceptions set forth in paragraph (b)(1).”
17. 40 C.F.R. § 84.31(c)(7) (2022)³ requires that a person importing a regulated substance, or their agent, must include the information described in 40 C.F.R. § 84.31(c)(7)(i) - (xvi) no later than 14 days before importation via a Customs and Border Protection-authorized electronic data interchange system, such as the Automated Broker Interface.
18. 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 information specified in 40 C.F.R. § 84.31(c)(1)(i) - (ix).

Facts

19. The Max Henry Group, LLC dba Quantum Technology (“Max Henry”) is a limited liability company incorporated in the Commonwealth of Pennsylvania and located at 409 Levering Mill Rd., Bala Cynwyd, PA 19004-2702. Max Henry tears down industrial buildings and salvages the building’s contents and equipment and sells them on the secondary market.
20. Max Henry is a “person” within the meaning of 40 C.F.R. § 84.3.
21. On or about December 21, 2022, Max Henry “imported,” within the meaning of 40 C.F.R. § 84.3, approximately 1,687 kg of HFC-227ea (“Subject HFCs”) from the Cayman Islands without expending consumption or application-specific allowances or receiving a non-objection notice from the EPA.

² The regulations at 40 C.F.R. Part 84, Subpart A were subsequently changed after the alleged violations in this Notice of Violation took place. If a version of the regulations was different in 2022 from the current version of the regulations, it is cited as “2022” in this Notice of Violation.

³ 40 C.F.R. § 84.31(c)(7) (and other sections) has since been modified to require that the importer of record submit an advance notification report “no later than 10 days if arriving by marine vessel or 5 days for non-marine vessel prior to the date of importation,” effective September 18, 2023 (See 88 Fed. Reg. 46,836, 46,897 (July 20, 2023)).

22. HFC-227ea is a “bulk” “regulated substance” within the meaning of 40 C.F.R. § 84.3 and has an exchange value of 3,220. See 40 C.F.R. Part 84 Appendix A.
23. On December 21, 2022, Max Henry was an “importer” of regulated substances within the meaning of 40 C.F.R. § 84.3.
24. Max Henry was an importer of record of 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. 1,687 kg of HFC-227ea is equivalent to about 5,432.1 MTEVe. The total MTEVe for the Subject HFCs is approximately 5,432.1.
27. To legally import the Subject HFCs under 40 C.F.R. § 84.5(b)(1) (2022), Max Henry was required to expend 5,432.1 consumption or application allowances, or provide a transshipment notice to, or receive a non-objection notice from the EPA, but none of these things occurred with respect to the Subject HFCs.
28. Max Henry did not timely report the information described in 40 C.F.R. § 84.31(c)(7)(i) - (xvi) for the import of the Subject HFCs prior to importation on or about December 21, 2022 and did not receive a non-objection notice from the EPA for the Subject HFCs.
29. Max Henry 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 company imported during the Fourth (4th) quarter of 2022, within 45 days after the end of the 4th quarter of 2022.

Alleged Violations

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

30. Based on the information available to the EPA, the EPA alleges that Max Henry violated 40 C.F.R. § 84.5(b)(1) (2022), by importing the Subject HFCs on or about December 21, 2022 without expending consumption or application-specific allowances in a quantity equal to the exchange-value weighted equivalent of the regulated substances imported, providing the requisite transshipment notice, or obtaining a non-objection notice from the EPA.

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

31. Based on the information available to EPA, Max Henry violated 40 C.F.R. § 84.31(c)(7) (2022) 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 14 days prior to importation.

*Violation 3 – Failure to Submit a Quarterly Report
in Violation of the AIM Act*

32. Based on information available to EPA, Max Henry 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 4th quarter of 2022 within 45 days after the end of the 4th quarter.

Enforcement

33. 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 NOV. The EPA may find additional violations as the investigation continues.
34. Section 113(a)(3) of the Clean Air 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.

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Mary E. Greene, Director
Air Enforcement Division
United States Environmental Protection Agency