



OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

WASHINGTON, D.C. 20460

VIA EMAIL

Chris Peel, CEO
Rheem Manufacturing Company
1100 Abernathy Rd NE #1700
Atlanta, GA 30328
corporate.office@rheem.com
ATTN: Jeremy Lindsey (Jeremy.Lindsey@Rheem.com)

RE: Rheem Manufacturing Company – Notice of Violation

Dear Mr. Chris Peel:

The U.S. Environmental Protection Agency (EPA) is issuing this enclosed Notice of Violation (NOV) to Rheem Manufacturing Company (you). The EPA alleges that you have violated Section 114 of the Clean Air Act (CAA), 42 U.S.C. § 7414, and the regulations promulgated thereunder at 40 C.F.R. Part 98, Subparts A and OO.

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), for violations of 40 C.F.R. Part 98 (Subparts A and OO). The regulations require subject suppliers (which include importers and exporters) to submit an annual report if their greenhouse gas quantities are equivalent to 25,000 metric tons CO₂e or more, no later than March 31 of each calendar year for GHG emissions in the previous calendar year. See 40 C.F.R. § 98.2(a)(4), 40 C.F.R. § 98.3(b), and 40 C.F.R. § 98.411.

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 NOV based on information described in detail below that represents specific violations of applicable requirements for the mandatory greenhouse gas reporting rules.

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>.

Rheem Manufacturing Company may request a conference with the EPA to present information on the identified violations in this NOV, 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 NOV. You may have counsel represent you at this conference. Please direct such request to Justin Valentino, Attorney-Advisor, at valentino.justin@epa.gov or (202) 564-3224.

Sincerely,

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

Enclosure

cc (by email):

Amelie Isin, HFC Team Lead

Mark J. Palermo, Chief, Vehicle and Engine Enforcement Branch

Jared Crittenden, Rheem Legal Counsel

(Jared.Crittenden@Rheem.com)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, DC

IN THE MATTER OF:)
)
Rheem Manufacturing Company)
Atlanta, GA)
) NOTICE OF VIOLATION
Proceedings Pursuant to)
Section 113(a)(3) of the Clean Air Act,)
42 U.S.C. § 7413(a)(3))

NOTICE OF VIOLATION

Statutory and Regulatory Authority

1. Section 114 of the Clean Air Act (CAA) provides the EPA with broad authority to require information that will inform the EPA’s implementation of various CAA provisions and programs. 42 U.S.C. § 7414. Under CAA Section 114(a)(1), the EPA may require emission sources, persons subject to the CAA, manufacturers of emission control or process equipment, or persons whom the EPA believes may have necessary information, to monitor and report emissions and to provide such other information as the EPA requests for the purposes of carrying out any provision of the CAA (except for a provision of title II with respect to motor vehicles).
2. Pursuant to this legal authority, the EPA established the Greenhouse Gas Reporting in 2009. 40 C.F.R. Part 98.
3. The Greenhouse Gas Reporting Rule, at 40 C.F.R. § 98.1(a), establishes greenhouse gas reporting requirements for owners and operators of certain facilities that directly emit greenhouse gases as well as for certain suppliers. For suppliers, the greenhouse gases reported are the quantity that would be emitted from combustion or use of the products supplied.
4. 40 C.F.R. § 98.6 defines “owner” as any person who has legal or equitable title to, has a leasehold interest in, or control of a facility or supplier, except a person whose legal or equitable title to or leasehold interest in the facility or supplier arises solely because the person is a limited partner in a partnership that has legal or equitable title to, has a leasehold interest in, or control of the facility or supplier shall not be considered an “owner” of the facility or supplier.
5. 40 C.F.R. § 98.6 defines “operator” as any person who operates or supervises a facility or a supplier.
6. 40 C.F.R. § 98.6 defines “supplier” as “a producer, importer, or exporter in any supply category included in Table A-5 to this subpart, as defined by the corresponding subpart of this part.”

7. 40 C.F.R. § 98.6 defines “importer” as any person, company, or organization of record that for any reason brings a product into the United States from a foreign country, excluding introduction into U.S. jurisdiction exclusively for United States military purposes. An importer is the person, company, or organization primarily liable for the payment of any duties on the merchandise or an authorized agent acting on their behalf. The term includes, as appropriate: (1) the consignee, (2) the importer of record, (3) the actual owner, and (4) the transferee, if the right to draw merchandise in a bonded warehouse has been transferred.
8. 40 C.F.R. § 98.6 defines “exporter” as any person, company or organization of record that transfers for sale or for other benefit, domestic products from the United States to another country or to an affiliate in another country, excluding any such transfers on behalf of the United States military or military purposes including foreign military sales under the Arms Export Control Act. An exporter is not the entity merely transporting the domestic products, rather an exporter is the entity deriving the principal benefit from the transaction.
9. 40 C.F.R. § 98.1(b) prescribes that owners, operators and suppliers subject to Part 98 must follow the requirements of Subpart A and all applicable subparts, and if a conflict exists between a provision in Subpart A and any other applicable subpart, the requirements of the applicable subpart shall take precedence.
10. 40 C.F.R. § 98.2(a) provides that the greenhouse gas reporting requirements and related monitoring, recordkeeping, and reporting requirements of Subpart A apply to the owners and operators of any supplier that meets the requirements of paragraph (a)(4) of this section.
11. 40 C.F.R. § 98.2(a)(4) provides that a supplier listed in Table A-5 of Part 98, Subpart A, must submit an annual report that covers all applicable products for which calculation methodologies are provided in the applicable subpart and Subpart A.
12. Table A-5 of Part 98, Subpart A lists supplier categories for industrial greenhouse gas suppliers subject to Part 98, Subpart OO, including the supplier categories for producers of industrial greenhouse gases, and importers of industrial greenhouse gases with annual bulk imports of nitrous oxide (“N₂O”) fluorinated greenhouse gas, and carbon dioxide (“CO₂”) that in combination have greenhouse gas quantities equivalent to 25,000 metric tons carbon dioxide equivalent (“CO₂e”) or more. Table A-5 also states that suppliers are defined in each applicable subpart.
13. 40 C.F.R. § 98.6 defines “industrial greenhouse gases” as N₂O or any fluorinated greenhouse gas.
14. Subpart OO at 40 C.F.R. § 98.410(a) provides that the industrial gas supplier source category subject to Subpart OO consists of any facility that produces fluorinated greenhouse gases or N₂O; any bulk importer of fluorinated greenhouse gases or N₂O; and any bulk exporter of fluorinated greenhouse gases or N₂O. Starting with reporting year 2018, this source category also consists of any facility that produces fluorinated heat transfer fluids (“HTFs”); any bulk

importer of fluorinated HTFs; any bulk exporter of fluorinated HTFs; and any facility that destroys fluorinated greenhouse gases or fluorinated HTFs.

15. 40 C.F.R. § 98.418 provides that all of the terms used in Subpart OO have the same meaning given in the CAA and Subpart A, except the terms “isolated intermediate” and “low-concentration constituent,” which are defined in § 98.418. 40 C.F.R. § 98.418 further provides that if a conflict exists between a definition provided in Subpart OO and a definition provided in Subpart A, the definition in Subpart OO shall take precedence for the reporting requirements in Subpart OO. *Id.*
16. 40 C.F.R. § 98.411 specifies the applicable reporting threshold for Subpart OO and requires any supplier of industrial greenhouse gases who meets the applicability criteria of 40 C.F.R. §§ 98.2(a)(4) and 98.410 to report greenhouse gas emissions pursuant to Subpart OO (40 C.F.R. §§ 98.410 - C.F.R. 98.418).
17. 40 C.F.R. § 98.2(f) provides the methodology to calculate industrial greenhouse gas quantities for comparison to the 25,000 metric ton CO₂e per year threshold under 40 C.F.R. § 98.2(a)(4) for importers and exporters of industrial greenhouse gases, and states that the imported quantities and the exported quantities must be compared separately to the 25,000 metric ton CO₂ per year threshold.
18. With certain exceptions not applicable here, 40 C.F.R. § 98.2(i) provides that once a supplier is subject to the requirements of Part 98, the supplier must for each year thereafter comply with all requirements of Part 98, including the requirement to submit annual greenhouse gas reports, even if the supplier does not meet the applicability requirements in 40 C.F.R. § 98.2(a) in a future year.
19. 40 C.F.R. § 98.3(b) requires the owner or operator of suppliers subject to Part 98 to submit annual reports to the EPA no later than March 31 of each calendar year for greenhouse gas emissions in the previous calendar year, with the exception of the report for calendar year 2010, which was due no later than September 30, 2011.
20. 40 C.F.R. § 98.3(c) specifies the content of each annual report, other than as provided in 40 C.F.R. § 98.3(d) for reporting year 2010, and includes any other data specified in the “Data reporting requirements” section of each applicable subpart of Part 98.
21. 40 C.F.R. § 98.416 provides a list of information, in addition to the information required by § 98.3(c)(1)–(3) and (5)–(13), that must be included in each annual report.
22. 40 C.F.R. § 98.412 requires reporting of greenhouse gas emissions that would result from the release of the N₂O and each fluorinated greenhouse gas that is produced, imported, exported, transformed, or destroyed during the calendar year. Starting with reporting year 2018, this section of the regulations also requires reporting of the emissions that would result from the release of each fluorinated HTF that is not also a fluorinated greenhouse gas and produced, imported, exported, transformed, or destroyed during the calendar year.

23. Except for certain special exceptions for reporting year 2010, 40 C.F.R. § 98.3(e) requires use of the calculation methodologies specified in the relevant subparts, in preparing the annual report. “For each source category, you must use the same calculation methodology throughout a reporting period unless you provide a written explanation of why a change in methodology was required.” 40 C.F.R. § 98.3(e).
24. 40 C.F.R. § 98.413 prescribes the methodology to calculate the industrial greenhouse gas emissions set forth in 40 C.F.R. § 98.412.
25. 40 C.F.R. § 98.5 requires each annual report to be submitted electronically through the “Electronic Greenhouse Gas Reporting Tool” (e-GGRT). Each report must be submitted by a designated representative. See 40 C.F.R. § 98.4.
26. 40 C.F.R. § 98.8 states that any violation of 40 C.F.R. Part 98 is a violation of the CAA, including Section 114, 42 U.S.C. § 7414. 40 C.F.R. § 98.8 further states that a violation includes but is not limited to failure to report greenhouse gas emissions, failure to collect data needed to calculate greenhouse gas emissions, failure to continuously monitor and test, failure to retain records needed to verify the amount of greenhouse gas emissions, and failure to calculate greenhouse gas emissions following the methodologies specified in this part.
27. Each day of a violation of Part 98 constitutes a separate violation. 40 C.F.R. § 98.8.

Factual Background

28. Rheem Manufacturing Company is a “supplier” of “industrial greenhouse gases” as those terms are defined in 40 C.F.R. Part 98.
29. Rheem Manufacturing Company did not submit a report of the quantities of greenhouse gases it supplied, imported, and exported in 2021 to the EPA by the March 31, 2022 reporting deadline.
30. On February 1, 2023, members of the EPA’s Office of Air and Radiation provided a courtesy notification to Rheem Manufacturing Company that Rheem had failed to submit the annual report for Reporting year 2021. This information was copied to Rheem’s legal department and newly designated representative for Greenhouse Gas Reporting.
31. Rheem Manufacturing Company did not submit a report of the quantities of greenhouse gases it supplied, imported, and exported in 2022 to the EPA by the March 31, 2023 reporting deadline.
32. On or about August 17, 2023, Rheem Manufacturing Company indicated in e-mail correspondence to the EPA that they were not yet ready to file the overdue annual reports.

33. On or about January 26, 2024, Rheem Manufacturing Company submitted reports for calendar years 2021 and 2022. Each report stated quantities of greenhouse gases of 25,000 metric tons CO₂e per year or more.

Alleged Violations

34. Rheem Manufacturing Company is subject to the industrial greenhouse gas supplier reporting requirements of 40 C.F.R. Part 98, Subparts A and OO.
35. Rheem Manufacturing Company's supplied, imported, or exported greenhouse gas quantities in excess of the mandatory greenhouse gas reporting threshold of 25,000 metric tons CO₂e per year or more in one or more calendar years from 2010 to 2022.
36. Rheem Manufacturing Company was required under 40 C.F.R. § 98.3(b) to submit annual greenhouse gas reports to the EPA no later than March 31 of each calendar year for greenhouse gas emissions in the previous calendar year.
37. Rheem did not submit reports required under 40 C.F.R. § 98.3(b) for the years 2021 and 2022 until on or about January 26, 2024.
38. Rheem Manufacturing Company did not timely report to the EPA the quantity of greenhouse gas it supplied, imported, or exported for calendar year 2021 and 2022, in violation of Section 114 of the CAA, 42 U.S.C. § 7414, and 40 C.F.R. § 98.8.

Enforcement

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.

Effective Date

This Notice shall become effective immediately upon issuance.

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