

EXPLANATORY STATEMENT

Issued by authority of the Minister for the Environment and Energy

Determination of Day Applications for HFC Quotas for the First HFC Quota Allocation Period Must Be Given 2017

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (OPSGGM Act) implements Australia's international obligations under the Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol on Substances that Deplete the Ozone Layer and the United Nations Framework Convention on Climate Change and its Kyoto Protocol. It does so through the control of the import, export, manufacture and use of ozone depleting substances and synthetic greenhouse gases (SGGs). The import and manufacture of certain products containing, or designed to contain, some of these controlled substances is also prohibited under the OPSGGM Act unless the correct licence or exemption is held.

Hydrofluorocarbons (HFCs) are a type of SGG, mostly used in refrigeration and air conditioning equipment. HFCs generally have a high global warming potential, meaning they have a greater ability to trap heat in the atmosphere compared to a similar mass of carbon dioxide.

Part IVA of the OPSGGM Act and Part 4A of the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (OPSGGM Regulations) provide for the phase-down of HFCs through a reducing import quota system over 18 years. From 1 January 2018, a person must have been allocated a HFC quota to be able to import bulk HFCs into Australia.

Pursuant to paragraph 44(2)(b) of the OPSGGM Regulations, applications for HFC quotas for the first HFC quota allocation period (1 January 2018 – 31 December 2019) must be given to the Minister on or before the day determined under subregulation 44(3). Subregulation 44(3) of the OPSGGM Regulations provides that the Minister must, by legislative instrument, determine the day on or before which applications for HFC quotas for the calendar years in the first HFC quota allocation period must be given.

The purpose of the *Determination of Day Applications for HFC Quotas for the First HFC Quota Allocation Period Must Be Given 2017* (the Determination) is to specify 22 September 2017 as the day on or before which applications for HFC quotas for the calendar years in the first HFC quota allocation period must be given to the Minister.

The public and industry stakeholders (including HFC importers, equipment manufacturers, end users, state and territory governments, and non-government organisations) were consulted on proposed methods for allocating non-grandfathered quota in the first HFC quota period between 27 July and 9 August 2017. Consultation was undertaken by publishing the proposed methods for allocating non-grandfathered quota on the Department of Environment and Energy's website and inviting comments. Stakeholders were also contacted directly and invited to comment. As part of this consultation, stakeholders and the public were able to provide comments on their preferred due date for applications for HFC quota for the first HFC quota period. All stakeholder comments that addressed this issue requested that applications be due as soon as practically possible. The date of 22 September 2017 was decided upon in response to these comments, as it was the soonest that applications could be due, whilst still providing sufficient time for potential applicants to familiarise themselves with the methods for allocating HFC quota and prepare and submit applications.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Determination commences the day after it is registered.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011
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Must Be Given 2017

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* and the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (OPSGGM Regulations) implement the Australian Government's commitment to phase-down the import of HFCs from 1 January 2018. From 1 January 2018, a person must have been allocated a HFC quota to be able to import bulk HFCs into Australia.

Pursuant to paragraph 44(2)(b) of the OPSGGM Regulations, applications for HFC quotas for the first HFC quota allocation period (1 January 2018 – 31 December 2019) must be given to the Minister on or before the day determined under subregulation 44(3). Subregulation 44(3) of the OPSGGM Regulations provides that the Minister must, by legislative instrument, determine the day on or before which applications for HFC quotas for the calendar years in the first HFC quota allocation period must be given.

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Human rights implications

The Determination does not engage with any of the applicable rights or freedoms.

Conclusion

The Determination is compatible with human rights as it does not raise any human rights issues.