



Ozone Protection and Synthetic Greenhouse Gas Management (Non-grandfathered Quota—2018-19) Determination 2017

I, Josh Frydenberg, Minister for the Environment and Energy, make the following determination.

Dated 1 September 2017

Josh Frydenberg
Minister for the Environment and Energy

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1 Name

This instrument is the *Ozone Protection and Synthetic Greenhouse Gas Management (Non-grandfathered Quota—2018-19) Determination 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	6 September 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subregulation 51(4) of the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*.

4 Simplified outline of this instrument

This instrument specifies who is entitled to non-grandfathered quota for the first HFC quota allocation period and the amount of the non-grandfathered quota.

If the number of eligible applicants for non-grandfathered quota is equal to or less than 100:

- (a) each applicant is entitled to non-grandfathered quota; and
- (b) the non-grandfathered HFC industry limit is divided evenly between the applicants.

If there are more than 100 applicants:

- (a) a ballot must be conducted under section 8 to select 100 applicants; and
- (b) each selected applicant is entitled to 8,000 CO₂e tonnes of non-grandfathered quota.

5 Definitions

Note 1: A number of expressions used in this instrument are defined in the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*, including the following:

- (a) CO₂e megatonnes;
- (b) HFC quota;
- (c) Secretary.

Note 2: A number of expressions used in this instrument are defined in the Regulations, including the following:

- (a) non-grandfathered quota;
- (b) first HFC quota allocation period.

In this instrument:

CO₂e tonne means ¹/1,000,000 of a CO₂e megatonne.

eligible applicant means a person who is entitled to non-grandfathered quota for the years in the first HFC quota allocation period (disregarding the requirement prescribed by section 6).

Note: For entitlement to non-grandfathered quota, see subregulation 51(1) of the Regulations.

non-grandfathered HFC industry limit means 0.8 CO₂e megatonnes.

Note: The non-grandfathered HFC industry limit is the non-grandfathered percentage (10%) of the HFC industry limit (8.0 CO₂e megatonnes) for the years in the first HFC quota allocation period.

Regulations means the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*.

6 Entitlement

For the purposes of paragraph 51(4)(a) of the Regulations, it is a requirement for a person to be entitled to an amount of non-grandfathered quota for each of the calendar years in the first HFC quota allocation period that:

- (a) a ballot is not required under subsection 8(1) of this instrument; or
- (b) a ballot is required and the person is selected under subsection 8(2).

7 Amount

For the purposes of paragraph 51(4)(b) of the Regulations, the amount of non-grandfathered quota to which a person is entitled for each of the years in the first HFC quota allocation period is:

- (a) if a ballot is not required under subsection 8(1) of this instrument—the amount, rounded down to the nearest CO₂e tonne, worked out by dividing the non-grandfathered industry limit by the number of eligible applicants; or
- (b) if a ballot is required—8,000 CO₂e tonnes.

8 Ballots

- (1) A ballot is required if the number of eligible applicants is greater than 100.

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- (2) If a ballot is required, the Secretary must conduct the ballot in accordance with the following paragraphs:
- (a) not less than 7 days before the drawing of lots under paragraph (f), the Secretary gives written notice of the time and place of the draw to each eligible applicant;
 - (b) each eligible applicant is entitled to be present at the draw;
 - (c) the name of each eligible applicant is written on a separate paper of the same kind as the paper on which the name of each other eligible applicant is written;
 - (d) the papers and writing may be examined by each person present at the draw;
 - (e) the papers are folded in the same manner and are placed in an otherwise empty receptacle the interior surface of which will not snag the papers;
 - (f) subject to subsection (3), a person draws 100 of the papers from the receptacle without looking into the receptacle;
 - (g) for the purposes of paragraph 6(b), the eligible applicants whose names are on those 100 papers are selected.
- (3) The person who draws the papers from the receptacle under paragraph (2)(f) must not be:
- (a) the Secretary; or
 - (b) an eligible applicant; or
 - (c) an officer, employee or agent of an eligible applicant.
- (4) To avoid doubt, the ballot must not be conducted before the earliest time that, in accordance with subregulation 44(4) of the Regulations (if applicable), the Minister may allocate HFC quotas for the calendar years in the first HFC quota allocation period.

9 Delegation by Secretary

- (1) The Secretary may, in writing, delegate all or any of his or her functions or powers under this instrument to:
- (a) an SES employee or acting SES employee in the Department; or
 - (b) an APS employee who holds, or is acting in, an Executive Level 2, or equivalent, position in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Secretary.