



Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Reserve HFC Quotas) Regulations 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 11 November 2021

David Hurley
Governor-General

By His Excellency's Command

Trevor Evans
Assistant Minister for Waste Reduction and Environmental Management
Parliamentary Secretary to the Minister for the Environment

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1 Name

This instrument is the *Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Reserve HFC Quotas) Regulations 2021*.

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.	17 November 2021

Note: This table relates only to the provisions of this instrument as originally made.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 the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

1 Regulation 40 (before the paragraph beginning “HFC quotas”)

Insert:

This Part provides in relation to HFC quotas and reserve HFC quotas.

2 At the end of regulation 40

Add:

Reserve HFC quotas may be allocated for 2022. A person may apply for a reserve HFC quota for 2022 if the person:

- (a) holds SGG licences for 2021 and 2022; and
- (b) has been allocated an HFC quota for 2021.

The Minister may allocate a person a reserve HFC quota for 2022 if:

- (a) the person applies for the quota; and
- (b) the person ordered one or more consignments of HFCs before 1 October 2021; and
- (c) at the time the order was placed, it was reasonable to expect that the consignments would be imported in 2021; and
- (d) the delivery of the consignments was delayed, or is likely to be delayed, until 2022 for reasons beyond the person’s control; and
- (e) the sum of the quantity of HFCs involved in the person’s regulated HFC activities for 2021 and the quantity of HFCs in the consignments will not be more than the person’s HFC quota for 2021.

The size of any reserve HFC quota allocated by the Minister must not exceed the size of the delayed consignments.

3 At the end of subregulation 50(4)

Add:

Annual amount of licensed activities—effect of allocation of reserve HFC quota for 2022

- (5) For the purposes of paragraph (4)(b), if:
 - (a) the person is allocated reserve HFC quota for the 2022 calendar year in respect of a consignment of HFCs ordered before 1 October 2021 (see paragraph 62(1)(b)); and
 - (b) the consignment is imported in the 2022 calendar year;then the consignment is taken to have been imported in the 2021 calendar year rather than the 2022 calendar year.

Note: This subregulation is only relevant for the HFC quota allocation period starting on 1 January 2024.

4 At the end of Part 4A

Add:

Division 4A.4—Reserve HFC Quotas

Subdivision 4A.4.1—Purpose of this Division

60 Purpose of this Division

- (1) For the purposes of subsection 36G(2) of the Act, this Division provides in relation to:
 - (a) a process for applying for reserve HFC quotas for the 2022 calendar year, including who may apply; and
 - (b) a process for the Minister to allocate reserve HFC quotas for that year to SGG licensees; and
 - (c) a process for the Minister to:
 - (i) vary the size of reserve HFC quotas; or
 - (ii) cancel reserve HFC quotas; and
 - (d) the method for working out the size of reserve HFC quotas for that year.
- (2) For the purposes of subsection 36G(3) of the Act, this Division also prescribes the reserve HFC quota limit.

Subdivision 4A.4.2—Applications and allocation

61 Applying for reserve HFC quota

- (1) A person may apply for a reserve HFC quota for the 2022 calendar year if:
 - (a) the person holds SGG licences that cover the 2021 and 2022 calendar years; and
 - (b) the person has been allocated an HFC quota for the 2021 calendar year.
- (2) The application must:
 - (a) be in the approved form; and
 - (b) be given to the Minister on or before:
 - (i) if, at the time the application is made, the person has not been allocated an HFC quota for the 2022 calendar year—1 December 2021; or
 - (ii) otherwise—31 January 2022.

62 Allocating reserve HFC quotas

- (1) The Minister may allocate a reserve HFC quota to a person for the 2022 calendar year if:
 - (a) the person applies in accordance with regulation 61 for a reserve HFC quota for that year; and
 - (b) the Minister is satisfied that there are one or more consignments of HFCs in relation to which the following conditions are satisfied:

- (i) the person ordered the consignments before 1 October 2021;
 - (ii) at the time the order was placed, it was reasonable to expect that the consignments would be imported before the end of the 2021 calendar year;
 - (iii) the importation of the consignments was, or is likely to be, delayed until the 2022 calendar year, for reasons outside of the person's control; and
- (c) the Minister is satisfied that the sum of the following will not be more than the person's HFC quota for the 2021 calendar year:
- (i) the total quantity of HFCs, expressed in CO₂e megatonnes, involved in regulated HFC activities engaged in by the person during the 2021 calendar year;
 - (ii) the total quantity of HFCs, expressed in CO₂e megatonnes, in the consignments covered by paragraph (1)(b) in relation to the person.
- (2) The size of a reserve HFC quota allocated to a person for the 2022 calendar year is the amount determined by the Minister, which must not exceed the quantity of HFCs, expressed in CO₂e megatonnes, in the consignments covered by paragraph (1)(b) in relation to the person.
- Note: Subsection 36G(4) of the Act provides that the sum of the amounts of all reserve HFC quotas allocated for a calendar year (including any part of that year) must not be more than the reserve HFC quota limit for that year.
- (3) A reserve HFC quota is allocated by written notice given to the person.
- (4) The notice must:
- (a) specify the size of the reserve HFC quota; and
 - (b) specify that the quota is allocated for the 2022 calendar year.

Subdivision 4A.4.3—Correcting reserve HFC quotas

63 Correcting reserve HFC quotas

Varying size of reserve HFC quotas

- (1) If, after a reserve HFC quota is allocated to a person for the 2022 calendar year, the Minister becomes satisfied that the size of the quota is inappropriate, the Minister must, by written notice given to the person, vary the size of the reserve HFC quota.

Note: For the size of a reserve HFC quota, see subregulation 62(2) and subsection 36G(4) of the Act.

- (2) A variation of a reserve HFC quota under subregulation (1) has effect from the start of the 2022 calendar year.

Cancelling reserve HFC quotas

- (3) The Minister may, by written notice given to a person, cancel a reserve HFC quota allocated to the person for the 2022 calendar year if:
- (a) all of the consignments referred to in paragraph 62(1)(b), in respect of which the quota was allocated, were imported in the 2021 calendar year; or

- (b) the total quantity of HFCs, expressed in CO₂e megatonnes, involved in regulated HFC activities engaged in by the person during the 2021 calendar year equals or exceeds the person's HFC quota for the 2021 calendar year.
- (4) A reserve HFC quota cancelled under subregulation (3) is taken never to have been in force and never to have been allocated.

Subdivision 4A.4.4—Reserve HFC quota limit

64 Reserve HFC quota limit

For the purposes of paragraph 36G(3)(a) of the Act, the *reserve HFC quota limit* for the 2022 calendar year is 3.482119 CO₂e megatonnes.