



# **Ozone Protection and Synthetic Greenhouse Gas Management (Non-grandfathered Quota—2020-2021) Determination 2019**

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I, Sussan Ley, Minister for the Environment, make the following determination.

Dated 1 July 2019

SUSSAN LEY  
Minister for the Environment

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## Section 1

### 1 Name

This instrument is the *Ozone Protection and Synthetic Greenhouse Gas Management (Non-grandfathered Quota—2020-2021) Determination 2019*.

### 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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 second 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 47:

- (a) each applicant is entitled to non-grandfathered quota; and
- (b) the Department of the Environment and Energy, on behalf of the Commonwealth, is entitled to 130 CO<sub>2</sub>e tonnes; and
- (c) the remaining non-grandfathered HFC industry limit is divided evenly between the applicants.

If there are more than 47 applicants:

- (a) a ballot must be conducted under section 8 to select 47 applicants; and
- (b) the Department of the Environment and Energy, on behalf of the Commonwealth, is entitled to 130 CO<sub>2</sub>e tonnes for niche uses as required; and
- (c) each selected applicant is entitled to 7,710 CO<sub>2</sub>e 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) CO<sub>2</sub>e 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:

**CO<sub>2</sub>e** means carbon dioxide equivalent

**CO<sub>2</sub>e tonne** means  $\frac{1}{1,000,000}$  of a CO<sub>2</sub>e megatonne.

**eligible applicant** means a person who is entitled to non-grandfathered quota for the years in the second 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 0.3625 CO<sub>2</sub>e megatonnes.

Note: The non-grandfathered HFC industry limit is the non-grandfathered percentage (5%) of the HFC industry limit (7.25 CO<sub>2</sub>e megatonnes) for the years in the second 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 second 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); or
- (c) the person is the Department of the Environment and Energy, on behalf of the Commonwealth.

## Section 7

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### **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 second HFC quota allocation period is:

- (a) If the person is the Department of the Environment and Energy, on behalf of the Commonwealth – 130 CO<sub>2</sub>e tonnes.
- (b) For a person other than the Department of the Environment and Energy on behalf of the Commonwealth:
  - i. if a ballot is not required under subsection 8(1) of this instrument—the amount, rounded down to the nearest CO<sub>2</sub>e tonne, worked out by subtracting 130 CO<sub>2</sub>e tonnes from the non-grandfathered industry limit and dividing the result by the number of eligible applicants; or
  - ii. if a ballot is required—7,710 CO<sub>2</sub>e tonnes.

## 8 Ballots

- (1) A ballot is required if the number of eligible applicants, other than the Department of the Environment and Energy on behalf of the Commonwealth, is greater than 47.
- (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 47 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 47 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 second 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.