

Chapter 2: Producers & Importers

I. HFC Quota Allocation

Each year, the European Commission allocates HFC quotas to producers and importers for the following calendar year. HFC quotas shall only be allocated to producers or importers that are established within the EU or which have mandated an “only representative” established within the EU for the purpose of compliance with the requirements of the EU F-Gas Regulation.⁽⁴⁸⁾ The only representative may be the same as the one mandated pursuant to Article 8 of Regulation (EC) No 1907/2006.⁽⁴⁹⁾

Producers and importers that reported placing HFCs on the market during the previous reporting period (referred to as “incumbents”) receive HFC quotas at no cost via grandfathering.⁽⁵⁰⁾ Producers and importers which did not report during the previous reporting period (referred to as “new entrants”) may secure HFC quotas at no cost from the new-entrants reserve.⁽⁵¹⁾ In addition, incumbents seeking additional quantities to their grandfathered amounts may also seek additional HFC quotas from the new-entrants reserve.⁽⁵²⁾ Incumbents and new entrants *cannot* carry over unused HFC quotas from one year to the next.⁽⁵³⁾ It is illegal for producers and importers to place more than their allocated HFC quota on the market, and the penalty for doing so is 200% of the amount by which the quota was exceeded.⁽⁵⁴⁾

A. Allocation via Grandfathering

Each year, 89% of HFC quotas are grandfathered to incumbents.⁽⁵⁵⁾ Grandfathering occurs in three-year allocation periods.

For the 2015-2017 allocation period, incumbents received HFC quotas based on the CO₂e of the HFCs they reported placing on the market during the 2009-2012 period. This is referred to as their “reference value” (importers of HFCs in pre-charged equipment are not given a reference value).

For future allocation periods, reference values will be recalculated based on what producers and importers *actually* reported placing on the market from 1 January 2015 onwards. Incumbents carry over any unused quotas into the next three-year allocation period and new entrants become incumbents.

Eleven per cent of the reference value for each producer and importer is placed in the new-entrants reserve, therefore over time the percentage of HFC quotas allocated to the original set of incumbents, as a percentage of their 2015 reference value, decreases more quickly than the reduction schedule in the HFC phase-down, as shown in Table 5.

Table 5:
Decrease in HFC Quotas
Allocated to Original List
of Incumbents Due to
New Entrants

Calendar Year	HFC Phase-Down Schedule	Grandfathered HFC Quotas
	% of 2015 Baseline	% of 2015 Reference Value
2015	100%	89%
2016-17	93%	82%
2018-20	63%	52%
2021-23	45%	30%
2024-26	31%	17%
2027-29	24%	11%
2030	21%	8%

Incumbents may seek to offset this decrease by securing additional HFC quotas via the new-entrants reserve, however there will be competition for HFC quotas from new entrants.

For the 2015-2017 allocation period, 79 incumbents received HFC quotas.⁽⁵⁶⁾

B. Allocation via the New-Entrants Reserve

Each year, 11 per cent of available HFC quotas are allocated via the new-entrants reserve.⁽⁵⁷⁾ New entrants must submit a declaration to the European Commission requesting HFC quotas via the new-entrants reserve within the time limit identified by the European Commission.⁽⁵⁸⁾ Before submitting a declaration, new entrants must also register in the electronic registry.⁽⁵⁹⁾

Allocation via the new-entrants reserve is a multi-step process, according to the steps in Table 6.⁽⁶⁰⁾

Step 1	The European Commission solicits declarations from interested parties on the quantities of HFC quotas sought for the next calendar year.
Step 2	The European Commission calculates the pro-rata share for each declarant and awards that amount of HFC quotas.
Step 3	If any HFC quotas remain and some declarants have not received the full amount requested under step 1, the European Commission again calculates the pro-rata share from the remaining HFC quotas and awards that amount. Step 2 is repeated until quotas equivalent to less than 500 tonnes of CO ₂ e remain.

Table 6:
Allocation Under
New-Entrants Reserve

In 2015, 334 new entrants were awarded HFC quotas via the new-entrants reserve.⁽⁶¹⁾

C. Transferring HFC Quotas

Producers and importers may transfer their HFC quotas at no cost or for a price to other producers, importers, or undertakings (undertaking here means a third party that is not the producer or importer transferring the HFC quota).⁽⁶²⁾ Special rules may apply when transferring HFC quotas to undertakings, depending on whether the producer or importer making the transfer is an incumbent or a new entrant:

- Incumbents may authorise an undertaking to use their HFC quotas without conditions.⁽⁶³⁾
- New entrants may *only* authorise an undertaking to use their HFC quotas upon the condition that the HFCs are physically supplied to them.⁽⁶⁴⁾

When an incumbent or new entrant authorises an undertaking to use their HFC quotas, those count against the total HFC quotas available to that incumbent or new entrant from the moment of authorisation.⁽⁶⁵⁾

D. Mandatory Registration in the Electronic Registry

The European Commission administers an electronic registry for tracking placement on the market, allocations and transfers. The electronic registry is a database that tracks the following activities:⁽⁶⁶⁾

- allocation of the HFC quotas;
- transfer of HFC quotas to producers, importers or undertakings;
- declarations to the new-entrants reserve;
- producers, importers and undertakings supplying HFCs for exempt uses; and
- importers of pre-charged products and equipment.

All producers, importers and undertakings must register for the electronic registry with the sole exception being producers and importers placing less than 100 CO₂e tonnes of HFCs or blends on the European marketplace in a calendar year.

To register with the electronic registry producers, importers and undertakings must contact the European Commission.

II. Labelling

In order to facilitate its implementation, the HFC phase-down is supported by robust labelling requirements for producers and importers.

A. Exempt Uses

For quantities of HFCs exempt from the HFC phase-down, producers and importers must identify the specific purpose of the HFCs in question and indicate that the contents of the container may only be used for that purpose, in particular whether for destruction,⁽⁶⁷⁾ export,⁽⁶⁸⁾ use in military equipment,⁽⁶⁹⁾ use in certain semiconductor applications,⁽⁷⁰⁾ use as feedstock,⁽⁷¹⁾ and use in metered dose inhalers.⁽⁷²⁾

B. Recycled and Reclaimed HFCs

Producers and importers must label recycled and reclaimed HFCs as such with information on the batch number and the name and address of the recycling and reclamation facility.⁽⁷³⁾

III. Reporting

A. Annual Reporting

Annual reporting is required by 31 March each year on production, importation, exportation, destruction and feedstock use during the previous calendar year from:

- Producers, importers and exporters of more than 100 metric CO₂e tonnes or more;
- Undertakings authorised to use HFC quotas;
- Undertakings using 1,000 CO₂e tonnes or more of HFCs as feedstock;
- Undertakings destroying 1,000 CO₂e tonnes or more of HFCs; and
- Undertakings that placed 500 CO₂e tonnes or more of unsaturated HFCs, i.e. HFC-1234yf, HFC-1234ze and HFC-1336mzz, on the market.

This information is reported to the European Commission.

B. Independent Audit

Producers and importers placing 10,000 CO₂e tonnes of HFCs on the market the previous calendar year must ensure the accuracy of their data is verified by an independent auditor accredited pursuant to Directive 2003/87/EC or accredited to verify financial statements in accordance with the legislation of the EU Member State concerned.⁽⁷⁴⁾

IV. HFC Production

A. HFC Emissions during Production, Transport and Storage

Producers must take all necessary precautions to limit HFC emissions to the greatest extent possible during production, transport and storage, including HFCs produced as by-products.⁽⁷⁵⁾

B. Destruction or Recovery of HFC-23 By-Product

From 11 June 2015 onwards, producers and importers are prohibited from placing HFCs on the market unless evidence is provided that HFC-23 produced as a by-product during the manufacturing process has been destroyed or recovered for subsequent use in line with best available techniques, including during the manufacture of feedstocks and other inputs.⁽⁷⁶⁾ This requirement applies regardless of the quantity or intended use of the HFCs. The evidence must be provided, upon request, at the time of placing HFCs on the market.⁽⁷⁷⁾

Note: The European Commission will publish guidelines, not available at the time of publication, defining what evidence producers and importers need to provide to show HFC-23 by-product destruction or recovery for subsequent use. HFC-23, which has a GWP of 14,800, is a known by-product of HCFC-22 which is used as a feedstock or other input during the manufacturing process of many fluorinated gases, including HFC-1234yf, HFC-32 and HFC-125, all of which are key components in many new blends and should therefore be avoided.