



Brussels, **XXX**
[...] (2024) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

laying down rules for the application of Regulation (EU) 2024/573 of the European Parliament and of the Council as regards the registration in the F-gas Portal and repealing Commission Implementing Regulation (EU) 2019/661

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

COMMISSION IMPLEMENTING REGULATION (EU) .../...

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laying down rules for the application of Regulation (EU) 2024/573 of the European Parliament and of the Council as regards the registration in the F-gas Portal and repealing Commission Implementing Regulation (EU) 2019/661

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2024/573 of the European Parliament and of the Council of 7 February 2024 on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014¹, and in particular Article 20(6) thereof,

Whereas:

- (1) Regulation (EU) 2024/573 provides for an electronic system for the management of the quota system, licensing requirements of imports and exports, and reporting obligations on fluorinated greenhouse gases (the 'F-gas Portal').
- (2) In order to ensure the smooth functioning of the F-gas Portal, and the implementation of the necessary customs and market surveillance controls, it is important to specify the requirements for undertakings which need to have a valid registration in the portal prior to carrying out certain activities. The Commission should be able to request additional information from undertakings to ensure the accuracy and the completeness of the information included in the registry.
- (3) In order to ensure effective implementation of the quota and licensing system, avoid distortions of the quota system and prevent circumvention and abuses of applicable rules, undertakings should be required, to provide certain information, including information on their location, business activities and legal and financial status.
- (4) In accordance with Regulation (EU) 2024/573 the F-gas Portal is to be interconnected with the EU Single Window Environment for Customs through the European Union Customs Single Window – Certificates Exchange System (EU CSW-CERTEX). Undertakings should therefore provide certain information to allow customs controls provided for in that Regulation.
- (5) As Regulation (EU) 2024/573 requires undertakings established outside the Union to appoint an only representative with an establishment within the Union they should be required to provide certain data on the only representative.
- (6) Due to the different characteristics of their activities, auditors that verify the reports submitted by undertakings in accordance with Article 19(3) and Article 26(8) of

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¹ OJ L, 2024/573, 20.2.2024, ELI: <http://data.europa.eu/eli/reg/2024/573/oj>.

Regulation (EU) 2024/573 should be required to provide specific information for the purpose of registering in the F-gas Portal.

- (7) In order to enable the smooth functioning of the F-gas Portal, the carrying out of controls as well as the correct implementation of the quota system, undertakings should ensure that the information they provide are complete, accurate and up-to-date.
- (8) Taking into account national laws and rules regulating the establishment and operation of undertakings, the Commission needs the assistance of Member States in order to assess the completeness and accuracy of information provided by undertakings for registration purposes in the F-gas Portal. Member States should therefore be required to cooperate and exchange information with the Commission for such purposes.
- (9) Commission Implementing Regulation (EU) 2019/661² lays down the rules ensuring the smooth functioning of the electronic registry for quotas for placing hydrofluorocarbons on the market, established under Regulation (EU) No 517/2014 of the European Parliament and of the Council³. As Regulation (EU) 2024/573 replaced Regulation (EU) No 517/2014, Implementing Regulation (EU) 2019/661 should also be replaced.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the

committee on fluorinated greenhouse gases.
HAS ADOPTED THIS REGULATION:

DRAFT

Article 1 Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) ‘beneficial owner’ means a beneficial owner as defined in Article 3, point 6, of Directive (EU) 2015/849 of the European Parliament and of the Council⁴;
- (b) ‘physical address’ means the physical address of the permanent business establishment as defined in point 32 of Article 5 of Regulation (EU) 952/2013 of the European Parliament and of the Council⁵.

² Commission Implementing Regulation (EU) 2019/661 of 25 April 2019 ensuring the smooth functioning of the electronic registry for quotas for placing hydrofluorocarbons on the market (OJ L 112, 26.4.2019, p. 11, ELI: http://data.europa.eu/eli/reg_impl/2019/661/oj).

³ Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 (OJ L 150, 20.5.2014, p. 195, ELI: <http://data.europa.eu/eli/reg/2014/517/oj>).

⁴ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, OJ L 141, 5.6.2015, p. 73, ELI: <http://data.europa.eu/eli/dir/2015/849/oj>.

⁵ Regulation (EU) 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, OJ L 269 10.10.2013, p. 1, ELI: [EUR-Lex - 02013R0952-20221212 - EN - EUR-Lex \(europa.eu\)](http://eur-lex.europa.eu/eli/reg/2013/952/oj)

Article 2

Information requirements for registration in the F-gas Portal

1. Undertakings established in the Union, other than independent auditors referred to in Article 19(3) and Article 26(8) of Regulation (EU) 2024/573, shall provide the following information to the Commission for the purpose of registering in the electronic system for the purpose of management of the quota system, licensing requirements of imports and exports, and reporting obligations on fluorinated greenhouse gases (the 'F-gas Portal'):
 - (a) name and legal form of the undertaking as it appears in relevant official documents in line with national laws and practices;
 - (b) the undertaking's physical address, including street name and building number, postal code, name of city and country, as indicated in the Taxation and Customs Union (VIES) database and the Economic Operators Registration and Identification (EORI) database;
 - (c) the undertaking's telephone number, including the international dialling code;
 - (d) the undertaking's VAT number;
 - (e) the undertaking's EORI number, if applicable;
 - (f) name of the contact person who satisfies the following conditions, and its individual e-mail address used for professional purposes containing, if applicable, a clear link to the name of the undertaking:
 - (i) he or she is either a beneficial owner of, or is employed by, the undertaking;
 - (ii) he or she is authorised to perform all obligations and relevant activities relating to the F-gas Portal on behalf of the undertaking in a manner that they become legally binding on the undertaking;
 - (g) a description of the undertaking's business activities;
 - (h) a written confirmation of the undertaking's intention to register in the F-gas Portal dated and signed by a beneficial owner or employee of the undertaking who is authorised to make legally binding statements on behalf of the undertaking;
 - (i) the undertaking's bank account details in the Union that is used by the undertaking for its business activities validated either by means of a document stamped, dated and signed by a bank representative or an original official bank statement relating to that bank account in the Union dated within the last 3 months.
2. Undertakings established outside the Union that have mandated an only representative as referred to in Article 18(1) of Regulation (EU) 2024/573 shall provide the following information to the Commission for the purpose of registering in the F-gas Portal:
 - (a) name and legal form of the undertaking and of the only representative as it appears in relevant official documents in line with national laws and practices and an official document on which the name and legal form appears together with a certified translation of that document in English; the certified translation shall be dated and shall include the translator's name, stamp, signature and a statement that the translation is accurate and complete;

- (b) the physical address of the undertaking and of the only representative, including street name and building number, postal code, name of city and country;
 - (c) telephone number of the undertaking and of the only representative, including the international dialling code;
 - (d) the only representative's VAT number;
 - (e) the only representative's bank account details in the Union that is used by the only representative for its business activities validated either by means of a document stamped, dated and signed by a bank representative or an original official bank statement relating to that bank account dated within the last 3 months;
 - (f) name of the contact person of the only representative who satisfies the following conditions, and its individual e-mail address used for professional purposes containing, if applicable, a clear link to the name of the undertaking:
 - (i) he or she is either a beneficial owner of, or is employed by, the only representative;
 - (ii) he or she is authorised to perform all obligations and relevant activities relating to the F-gas Portal on behalf of the undertaking and the only representative in a manner that they become legally binding on both the undertaking and the only representative;
 - (g) an e-mail address of the only representative;
 - (h) a description of the undertaking's business activities;
 - (i) a written confirmation of the undertaking's intention to register in the F-gas Portal dated and signed by a beneficial owner or employee of the undertaking who is authorised to make legally binding statements on behalf of the undertaking and by a beneficial owner or employee of the only representative who is authorised to make legally binding statements on behalf of the only representative;
 - (j) the undertaking's EORI number, if applicable.
3. Independent auditors referred to in Article 19(3) and Article 26(8) of Regulation (EU) 2024/573 shall provide the following information to the Commission for the purpose of registering in the F-gas Portal:
- (a) name and legal form as it appears in relevant official documents in line with national laws and practices;
 - (b) name of the auditor(s), who signs the verification report, and an individual e-mail address used for professional purposes exclusively by that person;
 - (c) address, including street name and building number, postal code, name of city and country;
 - (d) telephone number, including the international dialling code;
 - (e) name of a contact person and an individual e-mail address used for professional purposes exclusively by that person;
 - (f) documentation proving the accreditation of the auditor as set out in Article 19(3), second subparagraph, of Regulation (EU) 2024/573;
 - (g) the list of Member States in which the auditor is authorised to perform the audit referred to in Article 19(3), first subparagraph, or Article 26(8), first subparagraph,

of Regulation (EU) 2024/573, as applicable, as well as the languages in which they are authorised to perform that audit.

4. In order to be eligible for submitting a declaration pursuant to Article 17(3) of Regulation (EU) 2024/573, importers and producers that are not registered in the F-gas Portal shall submit a registration request by 1 February of the same year in which the declaration will be submitted.

Article 3

Additional information requirements for registration in the F-gas Portal

1. The Commission may request an undertaking to provide information on the identity of the beneficial owners of the undertaking, and, where applicable, of the undertaking's only representative, including information as to the type of beneficial ownership and the type and level of control that each such owner is entitled to exercise.
2. The Commission may, where justified after a preliminary assessment of the information provided under Article 2 and, if applicable, under paragraph 1 of this Article request the undertaking to provide the following:
 - (a) additional information or supporting evidence demonstrating the accuracy and completeness of the information provided under Article 2 or, as the case may be, paragraph 1 of this Article either for the undertaking or the undertaking's only representative;
 - (b) the undertaking's business plan for future activities and an overview of previous business activities;
 - (c) a document providing proof of the management structure of the undertaking;
 - (d) information concerning the legal or financial status of the undertaking's or only representative's beneficial owner;
 - (e) information concerning any links, such as legal, economic or fiscal links, with other undertakings, or the beneficial owners of other undertakings, that have submitted a registration request or are already registered in the F-gas Portal;
 - (f) any information or supporting evidence that the importer or producer has experience in trading activities of chemicals or in servicing of refrigeration, air-conditioning equipment, heat pumps or fire protection equipment for 3 consecutive years;
 - (g) any information or supporting evidence which proves the accuracy of the physical address already provided.
 - (h) any additional information or supporting evidence which proves the accuracy of information already provided.
3. The Commission may request, where appropriate, that any additional information or supporting evidence requested under paragraph 2 from undertakings that have mandated an only representative be accompanied by a certified translation in English.
4. Undertakings shall submit any information or evidence requested under this Article within 10 working days following the date of the request or within such longer period as the Commission may agree following a duly justified request by the undertaking for an extension.

Article 4

Obligation to update information

Undertakings registered in the F-gas Portal shall ensure that the information provided by or on their behalf under this Regulation is kept up-to-date and shall provide the Commission with updated information as soon as any such information changes or ceases to be complete or accurate.

Article 5

Refusal, suspension and cancellation of registrations

1. The Commission may refuse to validate a registration of an undertaking in the F-gas Portal, or may suspend the registration of an undertaking in any of the following cases:
 - (a) if the requirements of this Regulation or Regulation (EU) 2024/573 in relation to that undertaking are not complied with;
 - (b) if any information or evidence provided under this Regulation by or on behalf of the undertaking is inaccurate or incomplete;
 - (c) if deliberately false information has been provided.

In addition to the circumstances referred to in the first subparagraph, the Commission may suspend the registration of an undertaking in the F-gas Portal if there is evidence of misconduct related to transactions in the F-gas Portal including where there is evidence that they are not responding to the Commission's, to the competent authorities of Member States, or other undertakings' registered in the F-gas Portal requests for information.

The concerned undertaking and the competent authority of the relevant Member State shall be informed, via the F-gas Portal, of the reasons for refusal to validate a registration or suspension of registration.

2. Where an undertaking's registration is suspended under paragraph 1, the Commission shall lift the suspension and restore the registration in the event that the requirements of this Regulation or Regulation (EU) 2024/573, as applicable, in relation to the undertaking are subsequently complied with or, as applicable, the information or evidence provided under this Regulation by or on behalf of the undertaking is subsequently updated so that it is accurate and complete.
3. The Commission shall cancel the registration of undertakings where deliberately false information has been provided or if an undertaking, following suspension, fails to provide the required information or evidence or to update its information under this Regulation. The concerned undertaking and the competent authority of the relevant Member State shall be informed, via the F-gas Portal, of the reasons for cancellation of the registration.

The Commission shall also cancel the registration of undertakings upon their request, including upon the request of the only representative in case of undertakings established outside the Union.

4. Where the registrations of undertakings do not satisfy the condition set out in Article 18(3) of the Regulation (EU) 2024/573 with regards to their physical address, the

Commission shall only retain the registration of the undertaking registered first, unless the undertaking which registered first has indicated that another undertaking should be retained and shall cancel the registration of the remaining ones.

Where the registration requests of undertakings do not satisfy the condition set out in Article 18(3) of the Regulation (EU) 2024/573 with regards to their physical address, the Commission shall only validate the registration request that was submitted first, unless the undertaking which submitted the first request has indicated that another registration request should be validated.

5. Where a registration in the F-gas Portal is cancelled any available quota and authorisations shall become void and any activity for which registration was required under Regulation (EU) 2024/573 shall not be performed as from the moment of cancellation. The undertaking in respect of which the registration in the F-gas Portal has been cancelled shall ensure that obligations to report on previous activities referred to in Article 26 of Regulation (EU) 2024/573 are fulfilled.

Article 6

Exchange of information

Upon request, Member States shall cooperate and exchange information with the Commission when it is necessary for the assessment of the completeness and accuracy of information provided by undertakings for registration purposes under this Regulation.

Article 7

Processing of personal data

1. The personal data of an undertaking processed in the F-gas Portal may be retained for a maximum period of 5 years after the cancellation of the registration in accordance with Article 5(3).
2. The Commission shall ensure by technical means the deletion of personal data in line with paragraph 1.

Article 8

Repeal of Implementing Regulation (EU) 2019/661

Implementing Regulation (EU) 2019/661 is repealed.

References to Implementing Regulation (EU) 2019/661 shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

Article 9

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

The President

[...]

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