



# Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

**Statutory Rules 1995 No. 389 as amended**

made under the

*Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*

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## **Part 1 Preliminary**

*Note* The numbers of the Parts in these Regulations correspond to those in the Act.

### **1 Name of regulations** [see Note 1]

These regulations are the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*.

### **2 Definition**

In these Regulations:

*Act* means the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

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**Part 3 Licences**

*Note 1* The numbers of the Parts in these Regulations correspond to those in the Act.

*Note 2* Part 2 is intentionally not used.

**3 Exemption (Act s 13)**

For subsection 13 (1A) of the Act, the following circumstances are prescribed:

- (a) in the case of the manufacture or import of an SGG by a person — that a permit for the manufacture or import of the quantity and kind of the SGG has been granted to the person under regulation 3A;
- (b) in the case of the manufacture of an SGG — that the manufacture consists of the formation of the SGG as a by-product of the manufacture of aluminium.

**3A Permit for use of SGG in production or casting of magnesium**

- (1) The Minister may grant a permit for a specified quantity of a specified SGG to be manufactured or imported for use in the production or casting of magnesium if the person proposing to manufacture or import it produces:
  - (a) if the SGG will be supplied to another person — a purchase order or similar document from the person to whom the SGG will be supplied; and
  - (b) a statement from the person intending to use the SGG that it will be used in the production or casting of magnesium.

*Note* See the *Criminal Code*, section 136.1, in relation to the making of false statements in applications for a licence, authority or benefit.
- (2) The permit must specify the period for which it remains valid.
- (3) The Minister may revoke the permit if:
  - (a) because of an event occurring before the SGG is manufactured or imported, the SGG is not able to be used for the purpose for which the permit was granted; or

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- (b) there is reason to believe that a quantity of the SGG has been diverted to another purpose.

**3B Review of decisions under regulation 3A**

Application may be made to the Administrative Appeals Tribunal for review of a decision of the Minister:

- (a) to refuse to grant a permit under subregulation 3A (1); or
- (b) to grant a permit with a particular period of validity; or
- (c) to revoke a permit.

**3C Application fee for licence (Act s 14)**

- (1) For paragraph 14 (1) (aa) of the Act, the following application fees are prescribed:
  - (a) for a controlled substances licence — \$15 000;
  - (b) for an essential uses licence — \$3 000;
  - (c) for a used substances licence — \$15 000;
  - (d) for a pre-charged equipment licence — \$3 000.
- (2) The Minister may waive the application fee for a controlled substances licence or a used substances licence if:
  - (a) the purpose of the licence is to allow the manufacture, import or export of less than half a tonne of scheduled substances; and
  - (b) the Minister is satisfied that the manufacture, import or export is for test purposes.
- (3) The Minister may waive the application fee for an essential uses licence if the Minister is satisfied that the manufacture, import or export of the scheduled substance to which the licence relates is for test purposes.
- (4) The Minister may waive the application fee for a controlled substances licence, a used substances licence or an essential uses licence if the Minister is satisfied that:
  - (a) the scheduled substance to which the licence relates will be imported or exported for the purpose of the disposal of the substance; and

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- (b) the disposal will be carried out by a technology approved by the parties to the Montreal Protocol.

**4 Publication of information about licences (Act s 22)**

- (1) For section 22 of the Act, the Secretary may publish on the Department's website details of licences granted, cancelled and surrendered.
- (2) The details that may be published about a licence are:
  - (a) the kind of licence; and
  - (b) the name of the licensee; and
  - (c) the date on which the licence was granted, cancelled or surrendered.
- (3) The Secretary must ensure that the published details are updated as soon as practicable after any change and, in any event, at least every 6 months.

**5 Records to be kept by licensees**

- (1) A person who is, at any time in a month, a licensee must keep a record in writing of:
  - (a) the quantities of each scheduled substance manufactured, imported and exported by the person in the month; and
  - (b) in respect of each quantity of a scheduled substance that has been imported by the person in the month:
    - (i) the date of importation; and
    - (ii) the country of origin of the scheduled substance; and
    - (iii) the full name and address of the person from whom the scheduled substance was imported; and
    - (iv) the place at which the scheduled substance was discharged from the ship or aircraft on which the scheduled substance was carried; and
    - (v) if the scheduled substance was imported on a ship — the name of the ship; and
    - (vi) if the scheduled substance was imported on an aircraft — the flight number of the aircraft on which the scheduled substance was carried; and

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- (vii) whether the schedule substance was imported for use as feedstock; and
- (c) in respect of each quantity of a scheduled substance that has been exported by the person in the month:
  - (i) the date of exportation; and
  - (ii) the country of destination of the scheduled substance; and
  - (iii) the full name and address of the person to whom the scheduled substance was exported; and
  - (iv) the place at which the scheduled substance was loaded on the ship or aircraft on which the scheduled substance was carried; and
  - (v) if the scheduled substance was exported on a ship — the name of the ship; and
  - (vi) if the scheduled substance was exported on an aircraft — the flight number of the flight on which the scheduled substance was carried; and
- (d) in respect of each quantity of a scheduled substance that has been manufactured by the person in the month — whether the scheduled substance was manufactured for use as feedstock; and
- (e) the quantity of each scheduled substance destroyed by the person in the month.

Penalty: 10 penalty units.

- (2) Records must be retained for 5 years from the last day of the month to which the records relate.

Penalty: 10 penalty units.

- (3) An offence under subregulation (1) or (2) is an offence of strict liability.

*Note 1* For *strict liability*, see section 6.1 of the *Criminal Code*.

*Note 2* Section 65 of the Act (which relates to the conduct of directors, servants and agents) applies to offences under these Regulations (see subsection 65 (9) of the Act).

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**6 Licence numbers to be shown on records**

A record kept by a licensee must:

- (a) show the licence number of the licensee; and
- (b) if the record consists of more than 1 page:
  - (i) be numbered in a regular arithmetic series beginning with the number 1; and
  - (ii) show the licence number of the licensee on each page.

**6A Review of decision**

Subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for review of a decision of the Minister to refuse to waive the payment of the application fee for the grant of a licence under subregulation 3C (2), (3) or (4).

## **Part 5**                      **Manufacture of products using scheduled substances**

*Note 1* The numbers of the Parts in these Regulations correspond to those in the Act.

*Note 2* Part 4 is intentionally not used and regulation numbers 7 to 79 (inclusive) are reserved for future use.

### **80**                      **Application fee for exemption (Act s 40)**

- (1) For paragraph 40 (2) (b) of the Act, the fee is \$3 000.
- (2) The Minister may waive the fee if the Minister is satisfied that the exemption is to enable the import of a product for its disposal.
- (3) Subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for review of a decision of the Minister to refuse to waive the fee under subregulation (2).

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## **Part 6A Disposal and use of scheduled substances**

*Note 1* The numbers of the Parts in these Regulations correspond to those in the Act.

*Note 2* Part 6 is intentionally not used and regulation numbers 81 to 99 (inclusive) are reserved for future use.

### **Division 6A.1 Preliminary**

#### **100 Purpose of Part 6A**

For section 45A of the Act, Part 6A imposes controls on:

- (a) the sale, purchase, and other acquisition or disposal of:
  - (i) scheduled substances for refrigeration and air conditioning, and fire protection; and
  - (ii) methyl bromide; and
- (b) the storage, use and handling of:
  - (i) scheduled substances for refrigeration and air conditioning, and fire protection; and
  - (ii) methyl bromide.

#### **101 Definitions for Part 6A**

In Part 6A:

*National Quality Council* has the same meaning as in the *Skilling Australia's Workforce Act 2005*.

*NQC-endorsed qualification* means a qualification that is endorsed by the National Quality Council.

## Division 6A.2 Refrigeration and air conditioning

### Subdivision 6A.2.1 Preliminary

#### 110 Definitions for Division 6A.2

In this Division:

**domestic refrigeration or air conditioning equipment** means refrigeration or air conditioning equipment that:

- (a) is designed primarily for household use; and
- (b) is designed not to be permanently connected to the power supply of the premises where it is installed; and
- (c) does not require the installation of pipework to enable the movement of refrigerant.

*Note* This definition does not cover split system air conditioners.

**halon special permit** means a permit granted under regulation 150.

**RAC equipment** (or **refrigeration and air conditioning equipment**) means equipment, used for the cooling or heating of anything, that uses a refrigerant.

**RAC equipment manufacturing authorisation** means an authorisation granted under paragraph 140 (1) (b).

**RAC Industry Board** means a body appointed under paragraph 120 (2) (a).

**RAC industry permit** means any of the following:

- (a) a refrigerant handling licence;
- (b) a refrigerant trading authorisation;
- (c) an RAC equipment manufacturing authorisation;
- (d) a halon special permit;
- (e) a restricted refrigerant trading authorisation.

**RAC industry powers and functions** means the powers and functions given to the Minister by subregulation 120 (1).

**refrigerant** means any or all of CFC, HCFC, HFC, PFC and halon that is, or has been, used in RAC equipment.

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**refrigerant destruction facility** means a facility approved under regulation 114.

**refrigerant handling licence** means a licence granted under Subdivision 6A.2.2.

**refrigerant trading authorisation** means an authorisation granted under paragraph 140 (1) (a).

**registered training organisation** has the same meaning as in the *Skilling Australia's Workforce Act 2005*.

**relevant authority**, in relation to an RAC industry permit, or an application for a permit, means:

- (a) the relevant Board; or
- (b) if no relevant Board has been appointed — the Minister.

**relevant Board** means:

- (a) in relation to an RAC industry permit — the RAC Industry Board that granted the permit; or
- (b) in relation to an application for a permit — the Board to which the application is made.

**restricted refrigerant trading authorisation** means an authorisation granted under paragraph 140 (1) (c).

**temporary licence** means a licence granted under regulation 138.

**111 Offence — handling refrigerant**

- (1) A person commits an offence if the person handles a refrigerant and the person is not:
  - (a) both:
    - (i) the holder of a refrigerant handling licence; and
    - (ii) entitled under the licence to handle the refrigerant in the way in which it was handled; or
  - (b) both:
    - (i) engaged in a phase of the manufacture of RAC equipment; and
    - (ii) supervised by the holder of a licence granted under regulation 131 or 133 that entitles the holder to manufacture RAC equipment; or

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- (c) both:
  - (i) decommissioning RAC equipment; and
  - (ii) supervised by the holder of a licence granted under regulation 131 or 133 that entitles the holder to decommission RAC equipment.

Penalty: 10 penalty units.

- (2) For subregulation (1), *handle a refrigerant* means doing anything with the refrigerant, or a component of RAC equipment, that carries the risk of refrigerant being emitted, including:
  - (a) decanting the refrigerant; or
  - (b) manufacturing, installing, commissioning, servicing or maintaining RAC equipment, irrespective of whether or not refrigerant is present; or
  - (c) decommissioning RAC equipment where refrigerant is present.
- (3) An offence against subregulation (1) is an offence of strict liability.

**112 Offence — possessing or trading in refrigerant**

- (1) In this regulation:  
*bulk refrigerant* means refrigerant other than halon, but does not include refrigerant that is contained in RAC equipment.
- (2) On or after 1 July 2005, a person must not acquire, possess, or dispose of bulk refrigerant unless the person is:
  - (a) the holder of a refrigerant trading authorisation or an RAC equipment manufacturing authorisation; or
  - (b) the operator of a refrigerant destruction facility.

Penalty: 10 penalty units.

- (3) It is a defence to a charge of contravening subregulation (2) that the defendant, as soon as practicable after becoming aware that he or she possessed bulk refrigerant, gave it to:
  - (a) the holder of a refrigerant trading authorisation; or

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- (b) the operator of a refrigerant destruction facility.

*Note* For guidance on the Internet for locating the holders of refrigerant trading authorisations, see [www.deh.gov.au/atmosphere/ozone/legislation/refrigeration.html](http://www.deh.gov.au/atmosphere/ozone/legislation/refrigeration.html).

- (4) An offence against subregulation (2) is an offence of strict liability.

**113 Offence — possessing halon**

- (1) On or after 1 January 2005, a person must not possess halon that is, or has been, for use in RAC equipment, unless the person is:
- (a) the holder of a halon special permit; or
  - (b) the operator of a refrigerant destruction facility.

Penalty: 10 penalty units.

- (2) It is a defence to a charge of contravening subregulation (1) that the defendant:
- (a) in the case of a defendant who is the holder of an extinguishing agent trading authorisation — acquired the halon for transfer to an extinguishing agent destruction facility; or
  - (b) as soon as practicable after becoming aware that he or she possessed halon, gave it to the operator of a refrigerant destruction facility.

- (3) An offence against subregulation (1) is an offence of strict liability.

*Note* The use of halon for most purposes was phased out from 1990 under State and Territory legislation. Halon was not normally used for refrigeration or air conditioning.

**113A Offence — false representations**

- (1) A person commits an offence if:
- (a) the person makes a representation that the person can provide a service that involves the acquisition, disposal, storage, use or handling of refrigerant; and

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- (b) at the time of making the representation, the person does not hold an RAC industry permit that entitles the person to provide the service; and
- (c) at the time of making the representation, the person does not employ a person who holds a refrigerant handling licence for work of the kind that is necessary to provide the service.

Penalty: 10 penalty units.

- (2) A person commits an offence if:
  - (a) the person makes a representation that the person is the holder of a kind of RAC industry permit; and
  - (b) at the time of making the representation, the person is not the holder of an RAC industry permit of that kind.

Penalty: 10 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

**114 Refrigerant destruction facilities**

- (1) The Minister may, on application, give approval in writing for a person to operate a refrigerant destruction facility.
- (2) An application must be in writing and must include:
  - (a) the name and address of the applicant; and
  - (b) the address of the facility; and
  - (c) enough information about the facility to enable the Minister to decide the application.
- (3) The Minister may approve a facility only if he or she is satisfied that the facility is able to operate in a way that is consistent with Australia's obligations under the Montreal Protocol.

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**Subdivision 6A.2.1A RAC industry permits**

*Note* Regulation numbers 115 to 119 (inclusive) are intentionally not used.

**120 Relevant authority's powers and functions**

- (1) The Minister has the following powers and functions:
  - (a) to receive applications for RAC industry permits;
  - (b) to collect, on behalf of the Commonwealth, the fees that are payable for those applications;
  - (c) to grant RAC industry permits;
  - (d) to collect information:
    - (i) supplied by applicants for industry permits; and
    - (ii) supplied in response to any request made under paragraph 141 (1) (b);
  - (e) to publish the information mentioned in paragraph (d) in a way that does not:
    - (i) allow any person to be identified, except as provided for in paragraph (ea); or
    - (ii) disclose confidential information;
  - (ea) to keep and make available to the public by electronic means a register that includes the following details for the holder of an RAC industry permit:
    - (i) the name of the holder of the permit;
    - (ii) the type of permit held;
    - (iii) the number allocated to the permit by the relevant authority;
    - (iv) except for the holder of a refrigerant handling licence — the address and phone number of the holder of the permit;
  - (f) to inspect, with the occupier's permission, premises used for activities conducted under an RAC industry permit.
- (2) The Minister may, in writing:
  - (a) appoint 1 or more bodies that are incorporated under the *Corporations Act 2001*, as **RAC Industry Boards**; and
  - (b) specify that an appointment is subject to a condition or conditions set out in the instrument of appointment; and

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- (c) authorise the Board or Boards to exercise any or all of the Minister's RAC industry powers and functions in relation to:
  - (i) the refrigeration and air conditioning industry; or
  - (ii) 1 or more specified sectors of the industry.

**121 Applications for RAC industry permits — general**

- (1) An application for an RAC industry permit must:
  - (a) be made to an appropriate relevant authority under regulation 121A; and
  - (b) be in a form approved by the Minister; and
  - (c) be accompanied by the fee prescribed for the particular kind of permit; and
  - (d) include the information needed by the authority to decide the application, including:
    - (i) details about the applicant's relevant training and experience; and
    - (ii) in the case of an application by an individual — evidence about the applicant's knowledge about this Division, the Act and any standard that is relevant to the work to be carried out under the permit; and

*Note* Relevant standards are set out in Table 135.

- (iii) evidence that the applicant is a fit and proper person to hold the permit.
- (2) If an applicant has not:
  - (a) provided all the information mentioned in paragraph (1) (d); or
  - (b) given any consent that has been requested for the disclosure to the relevant authority or the Minister of personal information that is relevant to whether the applicant is a fit and proper person to hold the permit;  
the relevant authority:
    - (c) may ask the applicant for the information or consent; and
    - (d) need not consider the application until the applicant provides the information or gives the consent.

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- (3) If the relevant authority has not made a decision about an application within 30 days after:
  - (a) if paragraph (b) does not apply — the application was made; or
  - (b) if the authority has asked the applicant for any information or consent — the information or consent was provided;  
the authority is taken to have refused the application.

**121A Appropriate relevant authority for applications for RAC industry permits**

- (1) This regulation sets out the appropriate relevant authority to which to make an application for an RAC industry permit.
- (2) If the Minister has appointed 1 or more RAC Industry Boards to exercise his or her RAC industry powers and functions in relation to the whole refrigeration and air conditioning industry, the appropriate relevant authority is:
  - (a) if 1 Board has been appointed — that Board; or
  - (b) if more than 1 Board has been appointed — any of those Boards.
- (3) If the Minister has appointed 1 or more RAC Industry Boards to exercise his or her RAC industry powers and functions in relation to a sector of the refrigeration and air conditioning industry, the appropriate relevant authority is:
  - (a) if 1 Board grants the kind of permit sought by the applicant — that Board; or
  - (b) if more than 1 Board grants that kind of permit — any of those Boards; or
  - (c) if no Board grants that kind of permit — the Minister.
- (4) An applicant is taken to have withdrawn an application if:
  - (a) the relevant authority asks the applicant for information or consent; and
  - (b) the applicant does not provide the information or consent within 6 months of the authority's request.
- (5) An applicant may withdraw an application at any time before the relevant authority decides the application.

- (6) The fee for an application is not refundable if the applicant withdraws the application or the application is taken to have been withdrawn.

**122 Decision whether applicant or permit holder is a fit and proper person**

When a relevant authority is deciding whether a person who holds, or is applying for, an RAC industry permit is a fit and proper person to hold the permit, the authority must take into account matters including the following:

- (a) any conviction of the person for an offence against the Act or these Regulations;
- (b) in the case of an individual:
  - (i) any conviction of the person for an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by imprisonment for a period of one year or longer; and
  - (ii) whether the person is bankrupt;
- (c) in the case of a corporation:
  - (i) any conviction of the corporation for an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by a fine of 50 penalty units or more, being an offence committed at a time when a person who is a director, officer or shareholder of the corporation was a director, officer or shareholder of the corporation; and
  - (ii) whether the corporation is an externally administered body corporate (within the meaning of the *Corporations Act 2001*);
- (d) if any statement by the person in an application was false or misleading in a material particular — whether the person knew that the statement was false or misleading;
- (e) whether the person has contravened a condition of an RAC industry permit;
- (f) whether the person held an RAC industry permit that was cancelled.

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**123 Powers of Minister**

- (1) The Minister may cancel or suspend an RAC industry permit if he or she is satisfied that the holder:
  - (a) is no longer a fit and proper person to hold the permit; or
  - (b) has contravened a condition to which the permit was subject; or
  - (c) does not have the knowledge, ability and experience necessary to competently carry out the work covered by the licence; or
  - (d) for an authorisation — does not meet the requirements set out in subregulation 140 (3); or
  - (e) for a halon special permit — does not meet the requirements set out in subregulation 150 (3).
- (2) The Minister cancels or suspends an RAC industry permit by giving the holder a notice:
  - (a) stating that the permit has been cancelled or suspended; and
  - (b) setting out the reasons for the cancellation or suspension; and
  - (c) in the case of a suspension — stating the period of the suspension.
- (3) The Minister may delegate his or her powers under this regulation to an SES employee or acting SES employee in the Department.
- (4) In exercising powers under a delegation, the delegate must comply with any directions of the Minister.

**124 Reconsideration of decisions**

- (1) Application may be made:
  - (a) to the relevant authority for reconsideration of any of the following decisions of the authority:
    - (i) a refusal of an application for an RAC industry permit;
    - (ii) a decision about the period for which a permit is in force;

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- (iii) a decision imposing a condition on a permit; or
  - (b) to the Minister for reconsideration of a decision to suspend or cancel a permit.
- (2) An application for reconsideration of a decision must:
- (a) be made within 21 days of the day on which the person received notice of the decision; and
  - (b) set out the reasons why the person wants the decision reconsidered.
- (3) If the Board or Minister receives an application, the Board or Minister may:
- (a) confirm the decision; or
  - (b) vary or reverse the decision.
- (4) If the Board or Minister does not confirm, vary or reverse a decision within 30 days after the application for reconsideration of the decision was received, the Board or Minister is taken to have confirmed the decision.

**125 Review of decisions**

Application may be made to the Administrative Appeals Tribunal for the review of a decision that was confirmed or varied by the relevant Board or the Minister under subregulation 124 (3).

**126 Permit not in force if suspended**

An RAC industry permit is not in force during any period of suspension.

**127 Powers of inspectors**

An inspector appointed under section 49 of the Act may exercise the powers given to him or her under Part VIII of the Act, at premises used by the holder of an RAC industry permit for:

- (a) activities permitted by the permit; or
- (b) storage of records relating to activities permitted by the permit.

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**Subdivision 6A.2.2 Refrigerant handling licences**

*Note* Regulation numbers 128 and 129 are intentionally not used.

**130 Grant of refrigerant handling licences — general**

- (1) The application fee for any number of licences under this Subdivision is \$100.
  - (2) However:
    - (a) if the application is for a trainee licence only, the fee is \$20; and
    - (b) if the application is for 1 licence only, other than a trainee licence, that is to be in force for 12 months or less, the fee is \$50; and
    - (c) if the licence granted is a temporary licence, there is no fee.
  - (3) A licence granted under this Subdivision, other than a temporary licence, is in force:
    - (a) from the day on which it is granted, or another day specified by the relevant authority in writing; and
    - (b) for a period of no more than:
      - (i) 24 months; or
      - (ii) if it is granted under regulation 132 or 134 — 12 months;  
specified, in writing, by the authority.
- Note* The holder of an existing State or Territory authorisation, or a certification issued by the National Refrigeration and Air Conditioning Council, is taken to hold an appropriate refrigerant handling licence for up to 24 months after the commencement of this Division: see regulations 136 and 137.
- (4) If the authority grants 1 or more licences to a person it must give the person a document setting out the details of each licence granted.
  - (5) If the authority grants a licence it must:
    - (a) allocate a unique number to the licence; and
    - (b) set out the number on the licence.

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**131 Refrigerant handling licences — qualified persons**

- (1) A relevant authority may, on application, grant to a person a licence mentioned in an item in column 2 of Table 131, entitling him or her to engage in the work described in column 3 of the item.

*Note 1* Regulation 121 also applies to an application.

*Note 2* A person is entitled to apply for any number of licences.

- (2) A relevant authority may grant a licence to an applicant only if the authority is satisfied that the applicant holds:
- (a) a qualification mentioned in column 4 of an item in Table 131 that corresponds to the licence mentioned in column 2 of the item (a *relevant qualification*); or
  - (b) a certificate (however described) granted by a registered training organisation, certifying that:
    - (i) the organisation recognises that the applicant's prior learning is equivalent to a relevant qualification; or
    - (ii) the applicant has demonstrated to the organisation that his or her current competencies are equivalent to a relevant qualification; or
  - (c) a qualification that previously entitled the applicant to hold a licence of the kind to which the application relates.
- (3) The authority may grant a licence to an applicant if the authority is satisfied that the applicant has the knowledge, ability and experience necessary to competently carry out the work covered by the licence.

**Table 131 Licences and entitlements**

Item	Licence	Entitlement of licensee	NQC-endorsed qualification
1	Full refrigeration and air conditioning licence	To handle a refrigerant for any work in the refrigeration and air conditioning industry, other than the automotive industry	Any of the following: (a) MEM 30298 Certificate III in Engineering (Mechanical Refrigeration and Air Conditioning);

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Item	Licence	Entitlement of licensee	NQC-endorsed qualification
			(b) MEM 30205 Certificate III in Engineering Mechanical Trade (Refrigeration and Air Conditioning);
			(c) UTE 30999 Certificate III in Electrotechnology Refrigeration and Air Conditioning;
			(d) UEE 31307 Certificate III in Refrigeration and Air Conditioning
2	Automotive air conditioning licence	To handle a refrigerant for any work on air conditioning equipment fitted to the cabin of a motor vehicle	Either: (a) AUR 20799 Certificate II in Automotive (Mechanical Air Conditioning); or (b) AUR 20705 Certificate II in Automotive Mechanical (Air Conditioning)
3	Restricted split system air conditioning installation and de-commissioning licence	To handle a refrigerant for the installation and de-commissioning of a single-head split system of less than 18kW	Any of the following: (a) MEM 20198 Certificate II in Engineering Production (Air Conditioning); (b) 40488SA Certificate II in Split Systems Air Conditioning; (c) UEE 20107 Certificate II in Air Conditioning Split Systems

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<b>Item</b>	<b>Licence</b>	<b>Entitlement of licensee</b>	<b>NQC-endorsed qualification</b>
4	Restricted domestic refrigeration and air conditioning appliances licence	To handle a refrigerant for any work on domestic refrigeration or air conditioning equipment	Any of the following: (a) MEM 20198 Certificate II in Engineering Production (Domestic); (b) UTE 20599 Certificate II in Electrotechnology Servicing (Appliances — Refrigeration); (c) UTE 20504 Certificate II in Electrotechnology Servicing (Appliances — Refrigeration); (d) UEE 21807 Certificate II in Appliance Servicing — Refrigerants; (e) UEE 30507 Certificate III in Appliance Servicing

**132 Refrigerant handling licences — experienced persons**

Despite regulation 131, a relevant authority may grant a refrigerant handling licence of a kind mentioned in Table 131 to an applicant if:

- (a) the application is made before 1 July 2006; and
- (b) the authority is satisfied that the applicant is qualified to hold a licence by having engaged in, or supervised, work of the kind to be permitted by the licence, although:

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- (i) when the application is made, he or she does not hold a certificate of a kind mentioned in paragraph 131 (2) (b); or
- (ii) he or she needs further training to meet the standard necessary for him or her to work indefinitely in the refrigeration and air conditioning industry.

**133 Restricted refrigeration and air conditioning licence**

A relevant authority may, on application, grant a refrigerant handling licence (called a *restricted refrigeration and air conditioning licence*) to a person, entitling him or her to carry out work:

- (a) at a specified kind of place (for example, an RAC equipment manufacturing plant or an off-shore oil drilling platform); or
  - (b) on specified RAC equipment (for example, aviation, maritime or transport refrigeration equipment); or
  - (c) both at a specified kind of place and on specified equipment;
- if:
- (d) the work to be covered by the licence requires skills or knowledge (or both skills and knowledge) that are outside the scope of those required for a licence mentioned in Table 131; and
  - (e) the person provides evidence that he or she is able to carry out the work in a way that is appropriate for the grant of the licence.

**134 Refrigeration and air conditioning trainee licence**

- (1) A relevant authority may, on application, grant a refrigerant handling licence (called a *refrigeration and air conditioning trainee licence*) to:
  - (a) a person who is undertaking a course leading to a NQC-endorsed qualification mentioned in column 4 of an item in Table 131; or
  - (b) a person who is recognised by the relevant authority as seeking assessment that, if successful, would lead to the

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- granting of a certificate mentioned in regulation 131 (2) (b); or
- (c) a person who is recognised by the relevant authority as undertaking training or seeking assessment that, if successful, would lead to the granting of a licence under subregulation 131 (3); or
  - (d) a person who is undertaking training or assessment that the relevant authority is satisfied is designed to qualify the person for a licence under regulation 133.
- (2) A licensee is entitled to handle refrigerant while undertaking the training or assessment for which the licence was granted while under the supervision of the holder of a licence that entitles the holder to engage in the work for which the licensee is being trained or assessed.

**135 Licence conditions**

- (1) A licence granted under this Subdivision is subject to the condition that the licensee:
  - (a) carries out the work to which the licence relates in accordance with any standard set out in an item in column 2 of Table 135 that relates to the work; and
  - (aa) for licensees that are supervising a refrigeration and air conditioning trainee licensee — ensures that any work carried out by the trainee licensee is in accordance with the standard set out in an item in column 2 of Table 135 that relates to the work; and
  - (b) uses only refillable containers for the storage of refrigerant; and
  - (c) gives any refrigerant recovered from RAC equipment to:
    - (i) except for recovered halon — the holder of a refrigerant trading authorisation; or
    - (ii) the operator of a refrigerant destruction facility; and
  - (d) in handling refrigerants, only carries out refrigerant handling work that the licensee is entitled to carry out under the item in column 3 of Table 131 that corresponds to the item in column 2 of Table 131 that describes the kind of refrigerant handling licence held by the licensee; and

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- (e) for the holder of a refrigerant handling licence who is not employed or hired by the holder of a refrigerant trading authorisation — includes the number allocated to the licence by the relevant authority on any invoices, receipts and quotes for work carried out under the licence.
- (2) The relevant authority may specify that a licence is subject to a condition and must set out the condition on:
  - (a) the licence document; or
  - (b) a written notice given by the authority to the licensee.
- (3) The authority may impose a condition on a licence at any time.
- (4) A licensee must not contravene a condition of his or her licence.

**Table 135 Standards**

Item	Standard	Title of standard
1	AS/NZS 1571:1995	Copper – Seamless tubes for air-conditioning and refrigeration
2	AS 3864-1997	Medical refrigeration equipment – For the storage of blood and blood products
3	AS 3864-1997/Amdt 1-1998	Medical refrigeration equipment – For the storage of blood and blood products
4	AS 4211.1-1996	Gas recovery or combined recovery and recycling equipment – Fluorocarbon refrigerants from automotive air conditioning systems
5	AS 4211.3-1996	Gas recovery or combined recovery and recycling equipment – Fluorocarbon refrigerants from commercial/domestic refrigeration and airconditioning systems
6	AS 4484-2004	Gas cylinders for industrial, scientific, medical and refrigerant use – Labelling and colour coding
8	AS 1210-1997	Pressure vessels

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<b>Item</b>	<b>Standard</b>	<b>Title of standard</b>
9	AS 1210-1997/Amdt 1-1998	Pressure vessels
10	AS 1210-1997/Amdt 2-1998	Pressure vessels
11	AS 1210-1997/Amdt 3-2002	Pressure vessels
12	AS 2030.1-1999	The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases – Cylinders for compressed gases other than acetylene
13	AS 2030.1-1999/Amdt 1-2002	The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases – Cylinders for compressed gases other than acetylene
13A	AS 2030.2-1996	The verification, filling, inspection, testing and maintenance of cylinders for the storage and transport of compressed gases – Cylinders for dissolved acetylene
13B	AS 2030.2-1996/Amdt 1-1999	The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases – Cylinders for dissolved acetylene
13C	AS 2030.2-1996/Amdt 2-2000	The verification, filling, inspection, testing and maintenance of cylinders for the storage and transport of compressed gases – Cylinders for dissolved acetylene
14	AS 4332-2004	The storage and handling of gases in cylinders
15	AS 4041-1998	Pressure piping
16	AS 4041-1998/Amdt 1-2001	Pressure piping
17	AS/NZS 1677.1:1998	Refrigerating systems – Refrigerant classification

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<b>Item</b>	<b>Standard</b>	<b>Title of standard</b>
17A	AS/NZS 1677.1:1998/ Amdt 1:2002	Refrigerating systems – Refrigerant classification
18	AS/NZS 1677.2:1998	Refrigerating systems – Safety requirements for fixed applications
19	AS/NZS 1677.2:1998/ Amdt 1:1999	Refrigerating systems – Safety requirements for fixed applications
20	AS/NZS 1677.2:1998/ Amdt 2:2000	Refrigerating systems – Safety requirements for fixed applications
21	AS/NZS 3350.2.40:2001	Safety of household and similar electrical appliances – Particular requirements for electrical heat pumps, air-conditioners and dehumidifiers (IEC 60335-2-40:1995,MOD)
22	AS/NZS 3823.1.1:1998	Performance of household electrical appliances – Air conditioners and heat pumps – Test methods – Non-ducted airconditioners and heat pumps – Testing and rating for performance
23	AS/NZS 3823.1.1:1998/Amdt 1:2001	Performance of household electrical appliances – Air conditioners and heat pumps – Test methods – Non-ducted airconditioners and heat pumps – Testing and rating for performance
24	AS/NZS 3823.1.1:1998/ Amdt 2:2002	Performance of household electrical appliances – Air conditioners and heat pumps – Test methods – Non-ducted airconditioners and heat pumps – Testing and rating for performance
25	AS/NZS 3823.1.2:2001	Performance of electrical appliances – Airconditioners and heat pumps – Test methods – Ducted airconditioners and air-to-air heat pumps – Testing and rating for performance
26	AS/NZS 3823.1.2:2001/ Amdt 1:2002	Performance of electrical appliances – Airconditioners and heat pumps – Test methods – Ducted airconditioners and air-to-air heat pumps – Testing and rating for performance

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<b>Item</b>	<b>Standard</b>	<b>Title of standard</b>
27	AS/NZS 3823.1.2:2001/ Amdt 2:2003	Performance of electrical appliances – Airconditioners and heat pumps – Test methods – Ducted airconditioners and air-to-air heat pumps – Testing and rating for performance
28	AS 2823-1985	Agricultural tractors and self propelled machines – Test procedure for performance of air-conditioning systems
29	AS 1167.1-1993	Welding and brazing – Filler metals – Filler metal for brazing and braze welding
30	AS 1167.2:1999	Welding and brazing – Filler metals – Filler metal for welding
31		The Australia and New Zealand Refrigerant Handling Code of Practice 2007, Part 1 — Self-contained low charge systems, published by the Australian Institute of Refrigeration, Air Conditioning and Heating and the Institute of Refrigeration, Heating and Air Conditioning Engineers New Zealand, as in force on 1 January 2008
32		The Australia and New Zealand Refrigerant Handling Code of Practice 2007, Part 2 — Systems other than self-contained low charge systems, published by the Australian Institute of Refrigeration, Air Conditioning and Heating and the Institute of Refrigeration, Heating and Air Conditioning Engineers New Zealand, as in force on 1 January 2008
34		The Australian Automotive Code of Practice for the Control of Refrigerant Gases during Manufacture, Installation, Servicing or Decommissioning of Motor Vehicle Air Conditioners

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**136 Offence — contravention of licence condition**

- (1) A person commits an offence if the person:
- (a) holds a licence granted under this Subdivision; and
  - (b) engages in conduct; and
  - (c) that conduct contravenes a condition of the licence.

Penalty: 10 penalty units.

- (2) An offence under subregulation (1) is an offence of strict liability.

**Subdivision 6A.2.3 Refrigerant authorisations**

*Note* Regulation number 139 is intentionally not used.

**140 Grant of authorisations**

- (1) A relevant authority may, on application:
- (a) grant a refrigerant trading authorisation to a person, permitting the person to acquire, store or dispose of a refrigerant other than halon; or
  - (b) grant an RAC equipment manufacturing authorisation to a corporation, permitting the corporation to acquire refrigerant other than halon for use in the manufacture of RAC equipment; or

*Note* Regulation 121 also applies to an application.

- (c) grant a restricted refrigerant trading authorisation to a person, permitting the person to:
- (i) recover refrigerant from RAC equipment; and
  - (ii) store the refrigerant; and
  - (iii) dispose of the refrigerant by causing it to be given to the operator of a refrigerant destruction facility.
- (2) The application fee for an authorisation under paragraph (1) (a) or (b) or both is:
- (a) \$320; or
  - (b) if an authorisation applied for is to be in force for 12 months or less — \$160.

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- (2A) The application fee for an authorisation under paragraph (1) (c) is \$100.
- (3) The authority must not grant an authorisation unless it is satisfied that:
- (a) the applicant has business premises that are equipped and operating so as to be able to handle, and prevent avoidable emissions of, a refrigerant; and
  - (b) if the application is for a refrigerant trading authorisation — the applicant is able to ensure that a refrigerant is handled only by persons who are licensed to do so; and
  - (c) if the application is for an RAC equipment manufacturing authorisation — the applicant is able to ensure that, at all times, persons engaged in a phase of manufacture that could result in the emission of a refrigerant are supervised by the holder of an appropriate licence granted under regulation 131 or 133; and
  - (d) if the application is for a restricted refrigerant trading authorisation — the applicant is able to ensure that, at all times, persons engaged in removing refrigerant from RAC equipment are supervised by the holder of a licence granted under regulation 131 or 133 that entitles the holder to remove refrigerant from RAC equipment.
- Note* An applicant who conducts business from a vehicle is eligible for an authorisation under paragraph (3) (a): see definition of *premises* in subsection 7 (1) of the Act.
- (4) An authorisation is in force:
- (a) from the day on which it is granted, or another day specified by the authority in writing; and
  - (b) for a period of no more than:
    - (i) 24 months; or
    - (ii) if it is granted under subregulation (4) — 12 months; specified, in writing, by the authority.
- (5) If the authority grants an authorisation to a person, it must give the person a document setting out the details of the authorisation.

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- (6) If the authority grants an authorisation, it must:
  - (a) allocate a unique number to the authorisation; and
  - (b) set out the number on the authorisation.

**141 Conditions on authorisations**

- (1) Subject to subregulations (1A) and (1B), an authorisation granted under this Subdivision is subject to the conditions that the holder:
  - (a) keeps up-to-date records showing the amounts, if any, of refrigerant bought, recovered, sold and otherwise disposed of during each quarter; and
  - (b) 14 days or less after receiving a request in writing by the relevant authority, sends to the authority copies of the records mentioned in paragraph (a); and
  - (c) ensures that each item of the holder's equipment that is necessary to prevent avoidable emissions of refrigerant is operating correctly; and
  - (d) has, and maintains, equipment that is adequate for the holder's activities, including 1 or more of each of the following:
    - (i) leak detectors;
    - (ii) vacuum pumps;
    - (iii) recovery units; and
  - (e) at least every quarter, checks any refrigerant container in the holder's possession for leaks; and
  - (f) puts into effect a risk management plan relating to the handling and storage of refrigerant in the holder's business; and
  - (g) ensures that any refrigerant in the holder's possession is handled in accordance with each applicable standard set out in Table 135; and
  - (h) for an RAC equipment manufacturing authorisation — ensures that any refrigerant in its possession is handled only:
    - (i) by the holder of an appropriate licence granted under regulation 131, 133 or 134; or

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- (ii) under the supervision of the holder of an appropriate licence granted under regulation 131 or 133; and
- (i) for a refrigerant trading authorisation — ensures that any refrigerant in the holder's possession is handled only by the holder of an appropriate licence granted under regulation 131, 133 or 134; and

*Note* Holders of a licence under regulation 134 must themselves be supervised: see regulation 134.

- (j) ensures that destruction of any refrigerant is carried out only by the operator of a refrigerant destruction facility; and
- (k) uses only refillable containers for storage of refrigerant; and
- (l) for a restricted refrigerant trading authorisation — ensures that any refrigerant in the holder's possession is handled only by:
  - (i) the holder of a licence granted under regulation 131, 133 or 134 that entitles the holder to handle the refrigerant in the way in which it is being handled; or
  - (ii) if refrigerant is being removed from RAC equipment — a person who is supervised by the holder of a licence granted under regulation 131 or 133 that entitles the holder to remove refrigerant from RAC equipment; and
- (m) keeps records for each quarter that set out the following:
  - (i) details of any checks, any maintenance and any other action undertaken for paragraphs (c), (d) and (e);
  - (ii) for each licensee who handles refrigerant that is in the possession of the holder — the licensee's name and the number allocated to the licensee's licence by the relevant authority;
  - (iii) the dates on which cylinders for the storage and transport of compressed gases were tested for paragraph (g); and

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- (n) if requested by written notice from the relevant authority, sends to the authority, no more than 14 days after receiving the request, a copy of a report that contains the records for the previous quarter; and
- (o) for a refrigerant trading authorisation or a restricted refrigerant trading authorisation — includes the number allocated to the authorisation by the relevant authority on:
  - (i) any advertising placed after 1 July 2009 for services the provision of which would not be permitted without the authorisation; and
  - (ii) any invoices, receipts and quotes for work carried out under the authorisation.

*Note* A number of terms included in these Regulations are defined in the Act, including *quarter*.

- (1A) The relevant authority may, on application, determine that a condition mentioned in subregulation (1) does not apply to the authorisation.
- (1B) A determination has effect according to its terms.
- (2) It is also a condition of a refrigerant trading authorisation that the holder accepts any surrendered refrigerant or scheduled substance that appears to be intended for use in RAC equipment.
- (3) The relevant authority may specify that an authorisation is subject to a condition and must set out the condition on:
  - (a) the authorisation document; or
  - (b) a written notice given by the authority to the holder.
- (4) A notice for paragraph (3) (b) may be given at any time.

**142 Offence — contravention of condition on authorisation**

- (1) A person commits an offence if the person:
  - (a) holds an authorisation granted under this Subdivision; and
  - (b) engages in conduct; and

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(c) that conduct contravenes a condition of the authorisation.

Penalty: 10 penalty units.

(2) An offence under subregulation (1) is an offence of strict liability.

**Subdivision 6A.2.4 Halon special permit**

*Note* Regulation numbers 144 to 149 (inclusive) are intentionally not used.

**150 Application for halon special permit**

(1) The Minister may, on application, grant to a person a permit, in writing, entitling him or her to possess halon that is, or is to be, used in RAC equipment.

*Note* Regulation 121 also applies to an application.

(2) The application fee for a halon special permit is \$200.

(3) The Minister may grant a halon special permit to a person only if the Minister is satisfied that:

(a) the applicant, because of his or her training and experience, is able to competently carry out the activities covered by the permit; and

(b) the applicant's use of the halon is for a purpose that is necessary to protect human life or operate equipment that is critical to the community; and

(c) there is no alternative to the halon's use that is:

(i) practicable; and

(ii) available at a reasonable cost; and

(iii) safe; and

(iv) likely to result in less damage to the environment.

(4) A permit granted under this regulation remains in force for 24 months from the date of the grant.

(5) If the Minister grants a permit under this regulation, he or she must:

(a) allocate a unique number to the permit; and

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- (b) set out the number on the permit.

*Note* Regulation numbers 151 to 199 (inclusive) are reserved for future use.

## **Division 6A.3 Methyl bromide**

### **Subdivision 6A.3.1 Preliminary**

#### **200 Definitions for Division 6A.3**

In this Division:

*allocated amount* has the meaning given by regulation 211.

*approved form* means a form approved by the Minister for the purposes of the provision in which the expression is used.

*exempt person*, for a year, means a person who is shown as an exempt person on the Non-QPS Exemption List for the year.

*exempt use*, in relation to an exempt person and a year, means the use that is shown for the exempt person on the Non-QPS Exemption List for the year.

*feedstock permit* means a permit granted under regulation 242.

*nominated supplier* means:

- (a) in relation to an exempt person for a year — a person that is shown as a nominated supplier for the exempt person on the Non-QPS Exemption List for the year; and
- (b) in relation to the holder of a feedstock permit — a person that is shown as a nominated supplier on the holder's permit.

*Non-QPS Exemption List* means:

- (a) for the year 2005 — the document called Exemption List for Non-QPS Applications of Methyl Bromide in 2005, published by the Department, as in force on 1 May 2005; and
- (b) for the year 2006 — the document called Exemption List for Non-QPS Applications of Methyl Bromide in 2006, published by the Department, as in force on 15 September 2006; and

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- (c) for the year 2007 — the document called Exemption List for Non-QPS Applications of Methyl Bromide in 2007, published by the Department, as in force on 1 January 2007; and
- (d) for the year 2008 — the document called Exemption List for Non-QPS Applications of Methyl Bromide in 2008, published by the Department, as in force on 1 January 2008; and
- (e) for the year 2009 — the document called Exemption List for Non-QPS Applications of Methyl Bromide in 2009, published by the Department, as in force on 1 January 2009.

*Note* The Non-QPS Exemption Lists can be viewed at the Department's website:

<http://www.environment.gov.au/atmosphere/ozone/publications/exemption-list.html>

## **201 Uses of methyl bromide**

- (1) For this Division, the uses of methyl bromide are:
  - (a) for QPS applications; and
  - (b) for non-QPS applications; and
  - (c) as a feedstock.

*Note* Section 7 of the Act provides that *feedstock* means an intermediate substance which is used to manufacture other chemicals.

- (2) For this Division, methyl bromide is used for a ***QPS application*** (or ***quarantine and pre-shipment application***) if:
  - (a) it is applied by, or with the authorisation of, a Commonwealth, State or Territory authority to prevent the introduction, establishment or spread of a pest or disease in Australia, a State or a Territory; or
  - (b) it is applied to a commodity, before it is exported, to meet the requirements of the importing country or a law of the Commonwealth.
- (3) For this Division, methyl bromide is used for a ***non-QPS application*** (or ***non-quarantine and pre-shipment application***) if it is used:
  - (a) for an application that is not a QPS application; and

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- (b) other than as a feedstock.

**202 Powers of inspectors**

An inspector appointed under section 49 of the Act may exercise the powers given to him or her under Part VIII of the Act at premises used for:

- (a) storage of records relating to the sale or use of methyl bromide; or  
(b) storage of methyl bromide.

**Subdivision 6A.3.2 Restrictions on the use and sale of methyl bromide**

*Note* Regulation numbers 203 to 209 (inclusive) are intentionally not used.

**210 Application of Subdivision**

This Subdivision applies in relation to methyl bromide that is imported on or after 1 January 2005.

**211 Meaning of *allocated amount***

The amount of methyl bromide set out in a Non-QPS Exemption List for an exempt person and the person's nominated supplier (or 1 of the person's nominated suppliers) in respect of the person's exempt use is the person's *allocated amount* for that supplier and the use for the year to which the Non-QPS Exemption List relates.

**212 Offence — using methyl bromide for non-QPS applications**

- (1) A person who uses methyl bromide for a non-QPS application during a year is guilty of an offence if the person is not:
- (a) an exempt person for the year; or  
(b) acting on behalf of an exempt person for the year.

Penalty: 10 penalty units.

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- (2) An exempt person is guilty of an offence if, during a year, the amount of methyl bromide that the person uses, or that is used on the person's behalf, for non-QPS applications is more than the total of the person's allocated amounts for the year.

Penalty: 10 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

**213 Offence — supplying methyl bromide for non-QPS applications**

- (1) A person (the *supplier*), other than an importer, is guilty of an offence if:
- (a) he or she sells methyl bromide to a buyer during a year; and
  - (b) the buyer states, in a declaration for paragraph 220 (1) (e), that the methyl bromide is for a non-QPS application; and
  - (c) subregulations (2), (3) and (4) are not satisfied in relation to the sale.

Penalty: 10 penalty units.

- (2) The buyer must be:
- (a) an exempt person, or acting on behalf of an exempt person, for the year; or
  - (b) a nominated supplier for an exempt person for the year.
- (3) If the buyer is, or is acting on behalf of, an exempt person for the year:
- (a) the supplier must be a nominated supplier for the exempt person; and
  - (b) the supplier must ensure that the total amount of methyl bromide sold during the year by the supplier to the exempt person for non-QPS applications is equal to, or less than, the exempt person's allocated amount for the supplier for the year.

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- (4) If the buyer is a nominated supplier for an exempt person for the year:
- (a) the supplier must be an intermediate supplier for the buyer for the year; and
  - (b) the supplier must ensure that the total amount of methyl bromide sold during the year by the supplier to the buyer for non-QPS applications is equal to, or less than, the allocated amounts that the buyer is entitled to supply to exempt persons for non-QPS applications for the year.
- (5) To avoid doubt, if a buyer is an exempt person for a year and also a nominated supplier for an exempt person for the year, the amount of methyl bromide that the supplier may sell to the buyer during the year for non-QPS applications is the sum of the total amounts mentioned in subregulations (3) and (4).
- (6) In this regulation:
- importer** means a licensee who holds a controlled substances licence that:
- (a) allows the licensee to import methyl bromide; and
  - (b) is subject to a condition to the effect that methyl bromide imported for non-QPS applications may only be supplied to a person, or persons, specified in the licence.

*Note* A licensee must not contravene a condition of his or her licence — see subsection 18 (7) of the Act.

**intermediate supplier**, in relation to a buyer for a year, means a person who is shown as an intermediate supplier for the buyer on the Non-QPS Intermediate Supplier List for the year.

**Non-QPS Intermediate Supplier List** means:

- (a) for the year 2005 — the document called Intermediate Supplier List for Non-QPS Applications of Methyl Bromide in 2005, published by the Department, as in force on 1 January 2005; and
- (b) for the year 2006 — the document called Intermediate Supplier List for Non-QPS Applications of Methyl Bromide in 2006, published by the Department, as in force on 1 January 2006; and
- (c) for the year 2007 — the document called Intermediate Supplier List for Non-QPS Applications of Methyl

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Bromide in 2007, published by the Department, as in force on 1 January 2007; and

- (d) for the year 2008 — the document called Intermediate Supplier List for Non-QPS Applications of Methyl Bromide in 2008, published by the Department, as in force on 1 January 2008; and
- (e) for the year 2009 — the document called Intermediate Supplier List for Non-QPS Applications of Methyl Bromide in 2009, published by the Department, as in force on 1 January 2009.

*Note* The Non-QPS Intermediate Supplier Lists can be viewed at the Department's website:

<http://www.environment.gov.au/atmosphere/ozone/publications/supplier-list.html>

- (7) An offence against subregulation (1) is an offence of strict liability.

**214 Offence — using methyl bromide as a feedstock**

- (1) A person who uses methyl bromide as a feedstock is guilty of an offence if the person is not:
  - (a) the holder of a feedstock permit; or
  - (b) acting on behalf of the holder of a feedstock permit.

Penalty: 10 penalty units.

- (2) The holder of a feedstock permit is guilty of an offence if, during a year, the amount of methyl bromide that the holder uses, or that is used on the holder's behalf, as a feedstock is more than the amount that the holder is permitted to use during the year under the permit.

Penalty: 10 penalty units.

- (3) The holder of a feedstock permit is guilty of an offence if the holder, or a person acting on behalf of the holder, uses methyl bromide to manufacture a chemical other than a chemical that the holder is permitted to manufacture under the permit.

Penalty: 10 penalty units.

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- (4) The holder of a feedstock permit is guilty of an offence if:
- (a) the holder, or a person acting on behalf of the holder, buys methyl bromide and states, in a declaration for paragraph 220 (1) (e), that it is for use as a feedstock; and
  - (b) some, or all, of the methyl bromide is used other than as a feedstock.

Penalty: 10 penalty units.

- (5) An offence against subregulation (1), (2), (3) or (4) is an offence of strict liability.

**215 Offence — supplying methyl bromide for use as a feedstock**

- (1) A person (the *supplier*), other than an importer, is guilty of an offence if:
- (a) he or she sells methyl bromide to a buyer; and
  - (b) the buyer states, in a declaration for paragraph 220 (1) (e), that the methyl bromide is for use as a feedstock; and
  - (c) the buyer is not:
    - (i) the holder of a feedstock permit; or
    - (ii) acting on behalf of the holder of a feedstock permit; and
  - (d) if the buyer is, or is acting on behalf of, the holder of a feedstock permit, the supplier:
    - (i) is not a nominated supplier for the holder; or
    - (ii) does not ensure that, if the sale is made in a particular year, the total amount of methyl bromide sold during the year by the supplier to the holder for use as a feedstock is equal to or less than the amount that the holder is permitted, under the permit, to buy from the supplier during the year.

Penalty: 10 penalty units.

- (2) In this regulation:
- importer* means a licensee who holds a controlled substances licence that:
- (a) allows the licensee to import methyl bromide; and

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- (b) is subject to a condition to the effect that methyl bromide imported for use as a feedstock may only be supplied to a person, or persons, specified in the licence.

*Note* A licensee must not contravene a condition of his or her licence — see subsection 18 (7) of the Act.

- (3) An offence against subregulation (1) is an offence of strict liability.

### **Subdivision 6A.3.2A Discharge of methyl bromide**

#### **216 Discharge of methyl bromide (Act s 45B)**

For paragraph 45B (1) (e) of the Act, a person may discharge methyl bromide if:

- (a) the discharge occurs while it is being used for a QPS application; or
- (b) the discharge occurs:
- (i) during a year for which the person has an allocated amount of methyl bromide; and
  - (ii) while the allocated amount for the year is being used for a non-QPS application by the person or a person acting on behalf of the person; or
- (c) the methyl bromide was imported before 1 January 2005 for a non-QPS application; or
- (d) the person is the holder of a feedstock permit.

### **Subdivision 6A.3.3 Record keeping requirements**

*Note* Regulation numbers 217 to 219 (inclusive) are intentionally not used.

#### **220 Records of sale**

- (1) A person (the *supplier*) who sells methyl bromide to another person (the *buyer*) must keep a record of the sale, in an approved form and signed by the supplier, that contains the following:
- (a) the name and ABN (if any) of the supplier;
  - (b) the name, address, telephone number and ABN (if any) of the buyer;

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- (c) the date of sale;
- (d) the amount of methyl bromide sold;
- (e) a declaration, signed by the buyer, stating the following in relation to the amount of methyl bromide sold:
  - (i) how much is to be used for non-QPS applications;
  - (ii) how much is to be used for QPS applications;
  - (iii) how much is to be used as a feedstock.

Penalty: 10 penalty units.

- (2) The supplier must retain the record of sale for 5 years from the date of the sale.

Penalty: 10 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.
- (4) The supplier must give the Minister a copy of a record retained under subregulation (2) within 14 days after receiving a request in writing from the Minister for a copy of the record.

Penalty: 10 penalty units.

**221 Records of use — QPS and non-QPS applications**

- (1) A person who uses methyl bromide for a QPS or non-QPS application must keep a record, in an approved form and signed by the person, of the information mentioned in subregulation (2), unless the person is required to make a record of the information under another law of the Commonwealth or under a law of a State or Territory.

Penalty: 10 penalty units.

- (2) For subregulation (1), the following information must be recorded in relation to each occasion on which methyl bromide is used (each *fumigation*) by the person for a QPS or non-QPS application:
  - (a) the name and address of the person;
  - (b) the date of the fumigation;
  - (c) the amount of methyl bromide used;

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- (d) if the fumigation is a non-QPS application:
  - (i) the kind of produce for which, or to which, the methyl bromide is applied; and
  - (ii) the dosage rate at which the methyl bromide is applied; and
  - (iii) the methyl bromide/chloropicrin ratio used; and
  - (iv) the number of hectares fumigated or the number of containers, and the volume of each container, fumigated; and
  - (v) if the person is a contractor — the name and address of the exempt person for whom the fumigation was carried out;
- (e) if the fumigation is a QPS application:
  - (i) the kind of QPS application; and
  - (ii) the commodity or pest fumigated; and
  - (iii) any reference number issued to the person by a Commonwealth, State or Territory authority in relation to the fumigation.

- (3) A record of the information mentioned in subregulation (2) must be retained for 5 years from the date of the fumigation to which the record relates.

Penalty: 10 penalty units.

- (4) An offence against subregulation (1) or (3) is an offence of strict liability.
- (5) The person must give the Minister a copy of a record retained under subregulation (2) within 14 days after receiving a request in writing from the Minister for a copy of the record.

Penalty: 10 penalty units.

**222 Summary records of use — QPS and non-QPS applications**

- (1) A person who uses methyl bromide for a QPS or non-QPS application must keep a record, in an approved form and signed by the person, of the following information in relation to each

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day on which the person uses methyl bromide for the application:

- (a) the date;
- (b) the total amount of methyl bromide used by the person for QPS and non-QPS applications on the day.

Penalty: 10 penalty units.

*Note* A record mentioned in subregulation (1) must be kept by a person in addition to any record that the person must keep under regulation 221.

- (2) The person must retain the record for 5 years from the day to which the record relates.

Penalty: 10 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.
- (4) The person must give the Minister a copy of a record retained under subregulation (2) within 14 days after receiving a request in writing from the Minister for a copy of the record.

Penalty: 10 penalty units.

**223 Records of use — feedstock**

- (1) A person who uses methyl bromide as a feedstock must keep a record of the following information in relation to each day on which the person uses methyl bromide as a feedstock:
  - (a) the date;
  - (b) the amount of methyl bromide used by the person as a feedstock on the day;
  - (c) the type and amount of chemical or chemicals that the methyl bromide was used to manufacture;
  - (d) what, if any, measures were taken to minimise methyl bromide emissions.

Penalty: 10 penalty units.

- (2) The person must retain the record for 5 years from the day to which the record relates.

Penalty: 10 penalty units.

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- (3) An offence against subregulation (1) or (2) is an offence of strict liability.
- (4) The person must give the Minister a copy of a record retained under subregulation (2) within 14 days after receiving a request in writing from the Minister for a copy of the record.

Penalty: 10 penalty units.

### **Subdivision 6A.3.4 Reporting requirements**

*Note* Regulation numbers 224 to 229 (inclusive) are intentionally not used.

#### **230 Reports to be given by suppliers**

- (1) A person (the *supplier*) who sells methyl bromide must, within 14 days after the end of a quarter, give the Minister a report that sets out:
  - (a) the name and ABN (if any) of the supplier; and
  - (b) in relation to each sale of methyl bromide made by the supplier in the quarter:
    - (i) the date of sale; and
    - (ii) the name and ABN (if any) of the buyer; and
    - (iii) the amount of methyl bromide sold; and
    - (iv) from the declaration made by the buyer for paragraph 220 (1) (e) — how much of the methyl bromide is to be used for QPS applications, for non-QPS applications and as a feedstock; and
  - (c) if the supplier sold no methyl bromide in the quarter, a statement to that effect.

Penalty: 10 penalty units.

*Note* It is an offence to give false or misleading information to a Commonwealth entity — see section 137.1 of the *Criminal Code*.

- (2) An offence against subregulation (1) is an offence of strict liability.

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**231 Reports to be given by exempt persons**

- (1) An exempt person for a year must, within 14 days after the end of a report period in the year, give the Minister a report for the period that:
- (a) is in an approved form; and
  - (b) sets out the information mentioned in subregulation (2); and
  - (c) is signed by the exempt person and by any contractor who carried out a fumigation to which the report relates.

Penalty: 10 penalty units.

*Note* It is an offence to give false or misleading information to a Commonwealth entity — see section 137.1 of the *Criminal Code*.

- (2) For paragraph (1) (b), the information is:
- (a) the name, address and ABN (if any) of the exempt person; and
  - (b) in relation to each occasion on which methyl bromide is used (each *fumigation*) by, or on behalf of, the exempt person for a non-QPS application in the report period:
    - (i) the date of the fumigation; and
    - (ii) the amount of methyl bromide used; and
    - (iii) the kind of produce for which, or to which, the methyl bromide was applied; and
    - (iv) the methyl bromide/chloropicrin ratio used; and
    - (v) the dosage rate at which the methyl bromide was applied; and
    - (vi) the number of hectares fumigated or the number of containers, and the volume of each container, fumigated; and
    - (vii) if the fumigation was carried out by a contractor — the name, address, telephone number and ABN (if any) of the contractor; and
  - (c) if no methyl bromide was used by, or on behalf of, the exempt person for non-QPS applications in the report period, a statement to that effect.

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- (3) In this regulation:  
*report period* means a period of 6 months commencing on 1 January or 1 July.
- (4) An offence against subregulation (1) is an offence of strict liability.

**232 Report about stockpiles of methyl bromide**

- (1) If a person buys methyl bromide on or after 1 January 2005, he or she must, within 14 days after the end of the first quarter in which the person buys the methyl bromide, give the Minister a report that sets out how much methyl bromide the person possessed immediately before the purchase.

Penalty: 10 penalty units.

*Note* It is an offence to give false or misleading information to a Commonwealth entity — see section 137.1 of the *Criminal Code*.

- (2) An offence against subregulation (1) is an offence of strict liability.

**233 Reports to be given by holders of feedstock permits**

- (1) A person who is the holder of a feedstock permit during a year must, within 21 days after the end of the year, give the Minister a report that sets out:
- (a) the amount of methyl bromide used by, or on behalf of, the person as a feedstock in the year; and
  - (b) what chemical, or chemicals, the methyl bromide was used to manufacture; and
  - (c) if no methyl bromide was used by, or on behalf of, the person as a feedstock in the year, a statement to that effect.

Penalty: 10 penalty units.

*Note* It is an offence to give false or misleading information to a Commonwealth entity — see section 137.1 of the *Criminal Code*.

- (2) An offence against subregulation (1) is an offence of strict liability.

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**Subdivision 6A.3.5 Feedstock permits**

*Note* Regulation numbers 234 to 239 (inclusive) are intentionally not used.

**240 Definition for Subdivision 6A.3.5**

In this Subdivision:

*permit year*, in relation to a feedstock permit, means the calendar year for which the permit is granted.

**241 Applications for feedstock permits**

- (1) An application for a feedstock permit must:
  - (a) be made to the Minister in an approved form; and
  - (b) set out the information mentioned in subregulation (2); and
  - (c) be signed by the applicant.
- (2) For paragraph (1) (b), the information is:
  - (a) the name, address and ABN (if any) of the applicant; and
  - (b) the name, address, telephone number, facsimile number and e-mail address of a contact person for the applicant; and
  - (c) the permit year for which the applicant is seeking the permit; and
  - (d) the amount of methyl bromide that the applicant intends to use as a feedstock during the permit year; and
  - (e) what chemical, or chemicals, the applicant will use the methyl bromide to manufacture; and
  - (ea) a description of the process in which the methyl bromide will be used to manufacture the chemical or chemicals; and
  - (f) an estimate of the methyl bromide emissions that will result from the applicant's use of the methyl bromide; and
  - (g) in relation to any methyl bromide that the applicant intends to buy during the permit year for use as a feedstock:
    - (i) the name, address and ABN (if any) of each intended supplier of the methyl bromide; and

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- (ii) the amount of methyl bromide that the applicant intends to buy from each supplier; and
  - (h) the amount of methyl bromide that the applicant already possesses for use as a feedstock during the permit year; and
  - (i) evidence that the applicant is a fit and proper person to hold the permit.
- (3) If an applicant does not provide all the information mentioned in subregulation (2), the Minister:
- (a) may ask the applicant for the missing information; and
  - (b) need not consider the application until the applicant provides the information.
- (4) If, 30 days after an application is made, and any information sought under subregulation (3) is provided, the Minister has not made a decision about the application, the Minister is taken to have refused the application.

**242 Grant of feedstock permits**

- (1) The Minister must grant a feedstock permit to a person who makes an application under regulation 241 if the Minister is satisfied that:
- (a) methyl bromide can be used as a feedstock for the chemical, or chemicals, mentioned in the person's application; and
  - (b) the proposed use of methyl bromide by the person will result in minimum methyl bromide emissions; and
  - (c) the person is a fit and proper person to hold the permit.
- (2) The permit must set out, in writing, the details of the permit and must state:
- (a) the permit year; and
  - (b) the conditions of the permit, including:
    - (i) the amount of methyl bromide that the person may use; and
    - (ii) what chemical, or chemicals, the person may use the methyl bromide to manufacture; and

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- (iii) the amount of methyl bromide that the person may buy; and
    - (iv) the nominated supplier, or suppliers, of the methyl bromide; and
  - (c) that the holder of the permit must not contravene a condition of the permit.
- (3) A permit is in force:
  - (a) from the later of:
    - (i) 1 January in the permit year; and
    - (ii) the day on which it is granted; and
  - (b) until the end of the permit year.
- (4) For paragraph (1) (b), a use of methyl bromide results in *minimum methyl bromide emissions* if no more than 2% of the methyl bromide used is emitted.

**243 Decision whether applicant is a fit and proper person**

When the Minister is deciding whether a person who holds, or is applying for, a feedstock permit is a fit and proper person to hold the permit, the Minister must take into account matters including the following:

- (a) any conviction of the person for an offence against the Act or these Regulations;
- (b) in the case of an individual:
  - (i) any conviction of the person for an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by imprisonment for a period of one year or longer; and
  - (ii) whether the person is bankrupt;
- (c) in the case of a corporation:
  - (i) any conviction of the corporation for an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by a fine of 50 penalty units or more, being an offence committed at a time when a person who is a director, officer or shareholder of the corporation was a director, officer or shareholder of the corporation; and

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- (ii) whether the corporation is an externally administered body corporate (within the meaning of the *Corporations Act 2001*);
- (d) if any statement by the person in an application was false or misleading in a material particular — whether the person knew that the statement was false or misleading;
- (e) whether the person has contravened a condition of a feedstock permit held by the person;
- (f) whether the person held a feedstock permit that was cancelled.

**244 Cancellation and suspension of feedstock permits**

- (1) The Minister may cancel or suspend a feedstock permit if he or she:
  - (a) is satisfied that the holder is no longer a fit and proper person to hold the permit; or
  - (b) is notified, by the holder in writing, that the holder no longer intends to use methyl bromide as a feedstock.
- (2) The Minister cancels or suspends a feedstock permit by giving the holder a notice:
  - (a) stating that the permit has been cancelled or suspended; and
  - (b) setting out the reasons for the cancellation or suspension; and
  - (c) in the case of a suspension — stating the period of the suspension.
- (3) A feedstock permit is not in force during any period of suspension.

**245 Review of decisions**

An application may be made to the Administrative Appeals Tribunal for review of a decision by the Minister:

- (a) under regulation 242:
  - (i) not to grant a feedstock permit; or
  - (ii) to grant a permit to use a particular amount of methyl bromide; or

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- (iii) not to grant a permit to use methyl bromide to manufacture a particular chemical; or
  - (iv) to grant a permit to buy a particular amount of methyl bromide from a particular supplier; or
- (b) to cancel or suspend a permit under paragraph 244 (1) (a).

**246 Delegation**

- (1) The Minister may delegate his or her powers and functions under this Division to an SES employee or acting SES employee in the Department.
- (2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

*Note* Regulation numbers 247 to 300 are intentionally not used.

**Division 6A.4 Fire protection**

**Subdivision 6A.4.1 Preliminary**

**301 Definitions for Division 6A.4**

In this Division:

*approved extinguishing agent destruction facility* means a facility of a kind mentioned in regulation 306, operated by a person who holds a current approval under that regulation.

*extinguishing agent* means a scheduled substance that can be used to prevent, control or extinguish a fire, or suppress an explosion.

*extinguishing agent handling licence* means a licence granted under Subdivision 6A.4.3.

*extinguishing agent trading authorisation* means an authorisation granted under regulation 331.

*fire protection equipment* means equipment that releases an extinguishing agent to prevent, control or extinguish a fire, or suppress an explosion.

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***Fire Protection Industry (Ozone Depleting Substances and Synthetic Greenhouse Gas) Board*** (or ***Fire Protection Industry (ODS & SGG) Board***) means the Board appointed under paragraph 311 (1) (a).

***fire protection industry permit*** means any of the following:

- (a) an extinguishing agent handling licence;
- (b) an extinguishing agent trading authorisation;
- (c) a halon special permit.

***halon special permit*** has the meaning given by regulation 341.

***special circumstances exemption*** has the meaning given by regulation 342.

**302 Offence — handling extinguishing agent**

- (1) On or after 1 November 2005, a person must not handle an extinguishing agent that is, or has been, for use in fire protection equipment unless he or she holds:
  - (a) an extinguishing agent handling licence; or
  - (b) a special circumstances exemption that covers the handling of the agent.

Penalty: 10 penalty units.

- (2) For subregulation (1), ***handle an extinguishing agent*** means to do anything with the extinguishing agent (other than use it to prevent, control or extinguish a fire, or suppress an explosion) that carries the risk of its emission, including:
  - (a) decanting the extinguishing agent; or
  - (b) installing or maintaining fire protection equipment; or
  - (c) decommissioning or disposing of fire protection equipment.
- (3) An offence against subregulation (1) is an offence of strict liability.

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**303 Offence — possessing or trading in extinguishing agent**

(1) In this regulation:

*bulk extinguishing agent* means an extinguishing agent, other than halon, that is, or has been, for use in fire protection equipment, but does not include an agent that is contained in fire protection equipment.

(2) On or after 1 November 2005, a person must not acquire, possess, or dispose of bulk extinguishing agent unless the person is:

- (a) the operator of an approved extinguishing agent destruction facility; or
- (b) the holder of an extinguishing agent trading authorisation; or
- (c) the holder of a special circumstances exemption that is appropriate for the acquisition, possession or disposition of the agent; or
- (d) the officer in charge of a fire station.

Penalty: 10 penalty units.

(3) It is a defence to a charge of contravening subregulation (2) that the defendant, as soon as practicable after becoming aware that he or she possessed bulk extinguishing agent, gave it to:

- (a) the operator of an approved extinguishing agent destruction facility; or
- (b) the holder of an extinguishing agent trading authorisation; or
- (c) the officer in charge of a fire station.

(4) An offence against subregulation (2) is an offence of strict liability.

**304 Offence — possessing halon**

(1) On or after 1 November 2005, a person must not possess halon that is, or has been, for use in fire protection equipment unless:

- (a) subregulation (4) applies to the equipment; or

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- (b) the halon is for use in fire protection equipment and the person is the holder of a halon special permit; or
- (c) the person is the holder of a special circumstances exemption that covers the possession of the halon; or
- (d) the person is the operator of an approved extinguishing agent destruction facility.

Penalty: 10 penalty units.

- (2) It is a defence to a charge of contravening subregulation (1) that the defendant:
  - (a) in the case of a defendant who is the officer in charge of a fire station or the holder of an extinguishing agent trading authorisation — acquired the halon for transfer to an approved extinguishing agent destruction facility; or
  - (b) as soon as practicable after becoming aware that he or she possessed halon, gave it to:
    - (i) the officer in charge of a fire station; or
    - (ii) the holder of an extinguishing agent trading authorisation; or
    - (iii) the operator of an approved extinguishing agent destruction facility.
- (3) An offence against subregulation (1) is an offence of strict liability.
- (4) This subregulation applies to:
  - (a) equipment that is used by the Defence Force in:
    - (i) a Collins Class submarine; or
    - (ii) an armoured fighting vehicle; or
  - (b) equipment (other than a portable fire extinguisher) that is used by the Defence Force in:
    - (i) an FFG7 Class destroyer; or
    - (ii) an ANZAC Class frigate; or
  - (c) equipment that is installed in, or carried in, an aircraft; or
  - (d) equipment that is installed in an enclosed space containing machinery, including the pump room, of a vessel:
    - (i) of more than 500 tonnes dead weight; or

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- (ii) that is entered in the Australian Register of Ships established under the *Shipping Registration Act 1981*.

*Note* If halon ceases to be essential for use with a particular item of equipment mentioned in subregulation (4), the subregulation will be amended to omit the item.

**305 Discharge of scheduled substances (Act s 45B)**

- (1) For paragraph 45B (1) (e) of the Act, a person may discharge a scheduled substance if:
  - (a) the discharge is to:
    - (i) test the design of a fire extinguishing system or a fire extinguisher; or
    - (ii) calibrate equipment used to detect extinguishing agent leaks; and
  - (b) the person is granted a permit by the Fire Protection Industry (ODS & SGG) Board, allowing the discharge.
- (2) A person may apply in writing to the Board for a permit.
- (3) An application must include:
  - (a) the name and address of the applicant; and
  - (b) information about each proposed discharge, including:
    - (i) the location of the discharge; and
    - (ii) if more than 1 discharge is proposed — the number of discharges; and
    - (iii) the quantity of substance in each discharge; and
    - (iv) the reason it is necessary to discharge the substance; and
  - (c) any other information relevant to any proposed discharge.
- (4) The Board may grant a permit if, in its opinion:
  - (a) the applicant, because of his or her training and experience, is able to carry out the discharge in a way that minimises the amount of the substance discharged; and
  - (b) the discharge is to test the design of a system that is necessary to protect human life or critical to the community; and

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- (c) there is no alternative to the discharge that is:
  - (i) practicable; and
  - (ii) available at a reasonable cost; and
  - (iii) safe; and
  - (iv) likely to result in less damage to the environment.

**306 Extinguishing agent destruction facilities**

- (1) The Minister may, on application, give approval in writing for a person to operate an extinguishing agent destruction facility.
- (2) An application must be in writing and must include:
  - (a) the name and address of the applicant; and
  - (b) the address of the facility; and
  - (c) enough information about the facility to enable the Minister to decide the application; and
  - (d) evidence that the equipment to be used by the applicant for the destruction of extinguishing agents (the *destruction equipment*) was, no more than 2 years before the date of the application, tested and approved by a person accredited by the National Association of Testing Authorities, Australia to conduct the testing.
- (3) The application fee for an approval is \$300.
- (4) The Minister may approve a facility only if he or she is satisfied that the facility is able to operate in a way that is consistent with Australia's obligations under the Montreal Protocol.
- (5) An approval is subject to the condition that:
  - (a) the destruction equipment is fit for the purpose for which it is to be used; and
  - (b) of each batch of an extinguishing agent given to the facility for destruction, at least 99.99% is converted into something that is not a scheduled substance.
- (6) An approval granted under this regulation is effective for 2 years.

**Regulation 311**

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**Subdivision 6A.4.2 Fire protection industry permits**

*Note* Regulation numbers 307 to 310 (inclusive) are intentionally not used.

**311 Fire Protection Industry (ODS & SGG) Board**

- (1) The Minister may:
  - (a) appoint a body that is incorporated under the *Corporations Act 2001* as the ***Fire Protection Industry (ODS & SGG) Board***; and
  - (b) authorise the Board to exercise any or all of the powers and functions mentioned in subregulation (2).
- (2) The powers and functions are to:
  - (a) receive applications for fire protection industry permits; and
  - (b) collect, on behalf of the Commonwealth, the fees that are payable for those applications; and
  - (c) grant fire protection industry permits; and
  - (d) collect information:
    - (i) supplied by applicants for industry permits; and
    - (ii) supplied in response to any request made by the Board under paragraph 332 (1) (b); and
  - (e) publish the information mentioned in paragraph (d) in a way that does not:
    - (i) allow any individual to be identified, unless the individual's name is included in a business or trading name.
    - (ii) disclose confidential information; and
  - (f) inspect, with the occupier's permission, premises used for activities conducted under a fire protection industry permit; and
  - (g) if requested by an employer of a holder of a fire protection industry permit, disclose to the employer the following information about the holder's permit:
    - (i) the type of permit held;
    - (ii) the expiry date for the permit.

**312 Minister may exercise Board's powers and functions**

- (1) This regulation applies if the Minister:
  - (a) does not appoint a body under subregulation 311 (1); or
  - (b) appoints a body as the Fire Protection Industry (ODS & SGG) Board but authorises it to exercise only some of the powers and functions mentioned in subregulation 311 (2); or
  - (c) revokes, or suspends, the appointment of the Board; or
  - (d) revokes or suspends some of the powers and functions of the Board.
- (2) The Minister may:
  - (a) exercise any powers and functions mentioned in subregulation 311 (2) not being exercised by the Board; or
  - (b) if there is no Board — exercise any or all of the powers and functions mentioned in subregulation 311 (2).
- (3) A reference in this Division to the Board, in relation to a power or function that is being exercised by the Minister, is a reference to the Minister.

**313 Applications for fire protection industry permits — general**

- (1) An application for a fire protection industry permit must:
  - (a) be made to the Fire Protection Industry (ODS & SGG) Board in a form approved by the Minister; and
  - (b) be accompanied by the fee prescribed for the particular kind of permit; and
  - (c) include the information needed by the Board to decide the application, including:
    - (i) details about the applicant's relevant training and experience; and
    - (ii) in the case of an application by an individual — evidence about the applicant's knowledge about this Division, the Act and any standard that is relevant to the work to be carried out under the permit; and

*Note* Relevant standards are set out in Table 326.

**Regulation 314**

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- (iii) evidence that the applicant is a fit and proper person to hold the permit; and
  - (iv) the name of the applicant's employer (if any).
- (2) If an applicant has not:
  - (a) provided all the information mentioned in paragraph (1) (c); or
  - (b) given any consent that has been requested for the disclosure to the Board or the Minister of personal information that is relevant to whether the applicant is a fit and proper person to hold the permit;  
the Board:
    - (c) may ask the applicant for the information or consent; and
    - (d) need not consider the application until the applicant provides the information or gives the consent.
- (3) If the Board has not made a decision about an application within 30 days after:
  - (a) if paragraph (b) does not apply — the application was made; or
  - (b) if the Board has asked the applicant for any missing information or consent — the information or consent was provided;  
the Board is taken to have refused the application.

**314 Decision whether applicant is a *fit and proper person***

When the Fire Protection Industry (ODS & SGG) Board is deciding whether a person who holds, or is applying for, a fire protection industry permit is a fit and proper person to hold the permit, the Board must take into account matters including the following:

- (a) any conviction of the person for an offence against the Act or these Regulations;
- (b) in the case of an individual:
  - (i) any conviction of the person for an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by imprisonment for a period of one year or longer; and

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- (ii) whether the person is bankrupt;
- (c) in the case of a corporation:
  - (i) any conviction of the corporation for an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by a fine of 50 penalty units or more, being an offence committed at a time when a person who is a director, officer or shareholder of the corporation was a director, officer or shareholder of the corporation; and
  - (ii) whether the corporation is an externally administered body corporate (within the meaning of the *Corporations Act 2001*);
- (d) if any statement by the person in an application was false or misleading in a material particular — whether the person knew that the statement was false or misleading;
- (e) whether the person has contravened a condition of a fire protection industry permit;
- (f) whether the person held a fire protection industry permit that was cancelled.

**315 Minister may cancel or suspend permit**

- (1) The Minister may cancel or suspend a fire protection industry permit if he or she is satisfied that the holder:
  - (a) is no longer a fit and proper person to hold the permit; or
  - (b) has contravened a condition to which the permit was subject.
- (2) The Minister cancels or suspends a fire protection industry permit by giving the holder a notice:
  - (a) stating that the permit has been cancelled or suspended; and
  - (b) setting out the reasons for the cancellation or suspension; and
  - (c) in the case of a suspension — stating the period of the suspension.
- (3) The Minister may delegate his or her powers under this regulation to an SES employee or acting SES employee in the Department.

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- (4) In exercising powers under a delegation, the delegate must comply with any directions of the Minister.

**316 Reconsideration of decisions**

- (1) Application may be made:
- (a) to the Fire Protection Industry (ODS & SGG) Board for reconsideration of any of the following:
    - (i) a refusal of an application for a fire protection industry permit;
    - (ii) a decision about the period for which a permit is in force;
    - (iii) a decision imposing a condition on a permit; or
  - (b) to the Minister for reconsideration of a decision to suspend or cancel a permit.
- (2) An application for reconsideration of a decision must:
- (a) be made within 21 days of the day on which the person received notice of the decision; and
  - (b) set out the reasons why the person wants the decision reconsidered.
- (3) If the Board or Minister receives an application, the Board or Minister may:
- (a) confirm the decision; or
  - (b) vary or reverse the decision.
- (4) If the Board or Minister does not confirm, vary or reverse a decision within 30 days after the application for reconsideration of the decision was received, the Board or Minister is taken to have confirmed the decision.

**317 Review of decisions**

Application may be made to the Administrative Appeals Tribunal for the review of a decision that was confirmed or varied by the Board or Minister under subregulation 316 (3).

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**318 Permit not in force if suspended**

A fire protection industry permit is not in force during any period of suspension.

**319 Powers of inspectors**

An inspector appointed under section 49 of the Act may exercise the powers given to him or her under Part VIII of the Act at premises used, by the holder of a fire protection industry permit, for:

- (a) activities permitted by the permit; or
- (b) storage of records relating to activities permitted by the permit.

**Subdivision 6A.4.3 Extinguishing agent handling licences**

*Note* Regulation number 320 is intentionally not used.

**321 Grant of extinguishing agent handling licences — general**

- (1) The fee to apply for 1 or more licences under this Subdivision is \$200.
- (2) However, if the application is for 1 licence which is to be in force for 12 months or less, the fee is \$100.
- (3) A licence granted under this Subdivision is in force:
  - (a) from the day on which it is granted, or another day specified, in writing, by the Fire Protection Industry (ODS & SGG) Board; and
  - (b) for a period of no more than:
    - (i) 24 months; or
    - (ii) if the licence is granted under regulation 324 — 12 months;specified, in writing, by the Board.

*Note* The holder of an existing State or Territory authorisation is taken to hold an appropriate extinguishing agent handling licence for up to 24 months after the commencement of this Division: see regulation 327.

**Regulation 322**

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- (4) If the Board grants 1 or more licences to a person it must give the person a document setting out the details of each licence granted.
- (5) The holder of a licence that is in force (a *first licence*) may apply, free of charge, for a licence of another kind (a *further licence*).
- (6) A further licence granted by the Board must cease to be in force on, or before, the day on which the first licence ceases to be in force.

**322 Extinguishing agent handling licences — qualified persons**

- (1) The Fire Protection Industry (ODS & SGG) Board may, on application, grant to a person a licence mentioned in an item in column 2 of Table 322, entitling him or her to engage in the work described in column 3 of the item if it is satisfied that he or she has achieved all of the units of competency mentioned in column 4 of the item.

*Note 1* Regulation 313 also applies to an application.

*Note 2* A person is entitled to apply for any number of licences.

- (2) For this regulation, a *unit of competency* is a unit of competency endorsed by the National Quality Council.

**Table 322 Licences and entitlements**

Item	Licence	Entitlement of licensee	Units of competency required
1	Portable Fire Extinguisher Maintenance Licence	To charge and recharge a portable fire extinguisher, and repair the extinguisher valve	PRMPFES03C Safely move materials and loads in the workplace PRMPFES06C Prepare for installation and service operations

**Regulation 322**

Item	Licence	Entitlement of licensee	Units of competency required
			PRMPFES14C Service portable fire extinguishers in the workshop
			PRMPFES21C Service wheeled fire extinguishers in the workshop
			PRMPFES43A Prevent ozone depleting substance and synthetic greenhouse gas emissions
			PRMPFES53A Participate in workplace safety arrangements
2	Fixed System Installation and Decommissioning Licence	(1) To install and decommission a gaseous fire extinguishing system (fire protection equipment) including: <ul style="list-style-type: none"> <li>(a) to install and disconnect actuation devices (mechanisms) to and from container valves; and</li> <li>(b) to install and disconnect gaseous agent containers; and</li> <li>(c) to install and disconnect any interconnections to other gaseous system containers; and</li> </ul>	PRMPFES03C Safely move materials and loads in the workplace PRMPFES06C Prepare for installation and service operations PRMPFES43A Prevent ozone depleting substance and synthetic greenhouse gas emissions PRMPFES44A Interpret installation requirements for gaseous fire suppression systems PRMPFES45A Install gaseous agent containers and actuation devices

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Item	Licence	Entitlement of licensee	Units of competency required
		(d) to install and disconnect ancillary equipment connections to manifold and pipework; and	PRMPFES46A Decommission gaseous agent containers and actuation devices
		(e) to attach and remove transport equipment, such as valve outlet and actuator port caps, plugs and locking devices installed to prevent accidental discharge	PRMPFES53A Participate in workplace safety arrangements
		(2) Commission actuation control devices set to operate and engage safety devices as needed and decommission these devices	
3	Fixed System Testing and Maintenance Licence	To test and maintain a gaseous fire extinguishing system (fire protection equipment), including: <ul style="list-style-type: none"> <li>(a) to test actuation release systems; and</li> <li>(b) to disconnect and reconnect actuation devices (mechanisms); and</li> </ul>	PRMPFES03C Safely move materials and loads in the workplace PRMPFES06C Prepare for installation and service operations PRMPFES25C Inspect, test and maintain gaseous fire suppression systems

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Item	Licence	Entitlement of licensee	Units of competency required
		(c) to disconnect and reconnect any interconnections to other gaseous systems containers; and	PRMPFES43A Prevent ozone depleting substance and synthetic greenhouse gas emissions
		(d) to disconnect and reconnect ancillary equipment connections from containers to manifold and pipework; and	PRMPFES46A Decommission gaseous agent containers and actuation devices
		(e) to test actuation devices (mechanisms); and	PRMPFES47A Inspect and test control and indicating equipment
		(f) to perform any tests and maintenance on any Fire Detection and Alarm System, including any remote operation panel and actuation and control system that interfaces with or forms part of a gaseous fire extinguishing system; and	PRMPFES53A Participate in workplace safety arrangements
		(g) to perform any tests and maintenance on gaseous agent containers and ancillary equipment connections from containers to manifold and pipework	

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<b>Item</b>	<b>Licence</b>	<b>Entitlement of licensee</b>	<b>Units of competency required</b>
4	Recovery, Reclamation, Fill and Recycling Licence	To recover, reclaim, fill and recycle an extinguishing agent into and from a fire extinguisher and gaseous fire extinguishing system container from and to a bulk agent container	<p>PRMPFES03C Safely move materials and loads in the workplace</p> <p>PRMPFES14C Service portable fire extinguishers in the workshop</p> <p>PRMPFES43A Prevent ozone depleting substance and synthetic greenhouse gas emissions</p> <p>PRMPFES48A Receive and dispatch ozone depleting substance and synthetic greenhouse gas containers</p> <p>PRMPFES49A Recover, reclaim and fill operations for ozone depleting substances and synthetic greenhouse gases</p> <p>PRMPFES53A Participate in workplace safety arrangements</p>
5	Warehouse Maintenance Licence	To monitor for leakage stocks of extinguishing agent bulk agent containers in a warehouse and, as needed, to transfer the extinguishing agent from a leaking storage container	<p>PRMPFES03C Safely move materials and loads in the workplace</p> <p>PRMPFES43A Prevent ozone depleting substance and synthetic greenhouse gas emissions</p> <p>PRMPFES48A Receive and dispatch ozone depleting substance and synthetic greenhouse containers</p>

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Item	Licence	Entitlement of licensee	Units of competency required
			PRMPFES49A Recover, reclaim and fill operations for ozone depleting substances and synthetic greenhouse gases
			PRMPFES50A Monitor storage operations for ozone depleting substances and synthetic greenhouse gases
			PRMPFES53A Participate in workplace safety arrangements
6	Control Systems Installation, Commissioning and Decommissioning Licence	To install, commission and decommission a fire detection and alarm system, including any remote operation panel and actuation and control system that interfaces with or forms part of a gaseous fire extinguishing system	<p>PRMPFES43A Prevent ozone depleting substance and synthetic greenhouse gas emissions</p> <p>UEENEEH061A Position and terminate fire detection and warning system apparatus</p> <p>UEENEEH062A Verify compliance and functionality of fire protection installations</p> <p>UEENEEH063A Enter and verify programs in preparation for commissioning fire protection systems</p> <p>UEENEEH064A Commission commercial fire protection systems</p> <p>UEENEEH065A Find and repair faults in fire protection systems</p>

*Note* A unit of competency is referred to by a code followed by a description of the unit.

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**323 Special extinguishing agent handling licence**

The Fire Protection Industry (ODS & SGG) Board may, on application, grant an extinguishing agent handling licence (called a *special extinguishing agent handling licence*) to a person, entitling him or her to carry out work:

- (a) at a specified kind of place (for example, an off-shore drilling platform); or
  - (b) on specified fire protection equipment (for example, aviation or maritime equipment); or
  - (c) both at a specified kind of place and on specified equipment;
- if:
- (d) the work to be covered by the licence requires skills or knowledge (or both skills and knowledge) that are outside the scope of those required for a licence mentioned in Table 322; and
  - (e) the person provides evidence that he or she is able to carry out the work in a way that is appropriate for the grant of the licence.

**324 Extinguishing agent handling licences — experienced persons**

The Board may, on application, grant an extinguishing agent handling licence to a person if the Board is satisfied that the person is suitably qualified to hold a licence because he or she has engaged in, or supervised, work of the kind to be permitted by the licence.

**325 Extinguishing agent trainee licence**

The Board may, on application, grant an extinguishing agent handling licence (called an *extinguishing agent trainee licence*) to a person, entitling the person to carry out activities authorised by a licence mentioned in an item in Table 322 while under the supervision of a holder of a licence of that kind.

**326 Licence conditions**

- (1) A licence granted under this Subdivision is subject to the condition that the licensee:
  - (a) carries out the work to which the licence relates in accordance with any standard set out in an item in column 2 of Table 326 that relates to the work; and
  - (b) gives any extinguishing agent recovered from fire protection equipment to:
    - (i) the holder of an extinguishing agent trading authorisation; or
    - (ii) the operator of an approved extinguishing agent destruction facility; and
  - (c) ensures that any equipment used to transfer an extinguishing agent from one vessel to another:
    - (i) is fit for its purpose; and
    - (ii) is tested, and approved as being fit for the transfer of extinguishing agents, at least once every 2 years by a person accredited by the National Association of Testing Authorities, Australia; and
    - (iii) is otherwise appropriately maintained; and
  - (d) submits a report to the Board describing the circumstances relating to any lawful emission of an extinguishing agent; and
  - (e) does not carry out any work to which the licence relates (other than decommissioning or disposal or work in the aviation or maritime industries) on fire protection equipment that does not comply with any standard mentioned in Table 326 that applies to the equipment.
- (2) The Fire Protection Industry (ODS & SGG) Board may impose a condition on a licence, and must set out the condition on:
  - (a) the licence document; or
  - (b) a written notice given by the Board to the licensee.
- (3) The Board may impose a condition on a licence at any time.
- (4) A licensee must not contravene a condition of his or her licence.

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**Table 326 Standards**

<b>Item</b>	<b>Standard</b>	<b>Title of standard</b>
1	AS 1851-2005	Maintenance of fire protection equipment – Portable fire extinguishers and fire blankets
2	AS 1851-2005	Maintenance of fire protection equipment – Halon 1301 total flooding systems
3	AS 1851-2005	Maintenance of fire protection equipment – Gaseous fire extinguishing systems
4	AS 2030.1-1999	The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases – Cylinders for compressed gases other than acetylene
5	AS 1210-1997	Pressure vessels
6	AS 4214-2002	Gaseous fire extinguishing systems
7	AS 4077.1-1992	Fire protection – Fire extinguishing media – Halogenated hydrocarbons – Specifications for halon 1211 and halon 1301
8	AS 4077.2-1992	Fire protection – Fire extinguishing media – Halogenated hydrocarbons – Code of practice for safe handling and transfer procedures of halon 1211 and halon 1301
9	ISO 14520	Gaseous fire extinguishing systems – Physical properties and system design

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**327 Transitional — holders of existing State or Territory authorisation**

- (1) The holder of an authorisation (however described) mentioned in column 1 of an item in Table 327 (an *existing State or Territory authorisation*) may apply to the Fire Protection Industry (ODS & SGG) Board for an extinguishing agent handling licence.
- (2) The application must be in a form approved by the Board and include a description of the work that the applicant:
  - (a) because of his or her experience, training or both, is able to safely carry out; and
  - (b) regularly carries out as part of his or her duties.

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- (3) If the Board receives an application, the Board may ask the applicant for more information, and refuse to consider the application until the information is provided.
- (4) To ascertain whether the applicant is qualified to hold a licence, the Board may, with the permission of the applicant, inspect the applicant's business premises and any relevant work carried out by the applicant.
- (5) If the Board is satisfied that the applicant is suitably qualified, it must grant, to the applicant, a licence that has effect until the earlier of the following:
- (a) the day on which the existing State or Territory authorisation expires;
  - (b) 1 January 2007.

**Table 327 Kinds of existing authorisation**

Item	Existing State or Territory authorisation
	<i>Australian Capital Territory</i>
1	Environmental authorisation granted under section 46 of the <i>Environment Protection Act 1997</i> of the Australian Capital Territory
	<i>New South Wales</i>
2	Authorisation issued by: <ul style="list-style-type: none"><li>(a) the New South Wales Office of Fair Trading; or</li><li>(b) the New South Wales Department of Environment and Conservation; or</li><li>(c) the Fire Protection Association of Australia;</li></ul> under clause 17 of the <i>Ozone Protection Regulation 1997</i> of New South Wales
	<i>Northern Territory</i>
3	Registration in the Register of Qualified Persons under subregulation 22 (3) of the <i>Ozone Protection Regulations</i> of the Northern Territory
	<i>South Australia</i>
4	Environmental authorisation issued by the Environment Protection Agency of South Australia under section 40 of the <i>Environment Protection Act 1993</i> of South Australia

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<b>Item</b>	<b>Existing State or Territory authorisation</b>
	<i>Tasmania</i>
5	Individual authorisation to undertake a controlled activity issued under subsection 83 (1) of the <i>Environmental Management and Pollution Control Act 1994</i> of Tasmania
	<i>Victoria</i>
6	Ozone Accreditation issued by the Ozone Layer Protection Board under clause 16 (1) of the Industrial Waste Management Policy (Protection of the Ozone Layer) of Victoria  <i>Note</i> The Policy is an Order made under section 16A (1) of the <b>Environment Protection Act 1970</b> of Victoria
	<i>Western Australia</i>
7	Accreditation issued by the Fire Protection Association of Australia, Western Australia under an approval given under clause 42 (1) of the Environmental Protection (Ozone Protection) Policy Approval Order 2000 of Western Australia  <i>Note</i> The Order was made under section 31 (d) of the <i>Environmental Protection Act 1986</i> of Western Australia

**Subdivision 6A.4.4 Extinguishing agent trading authorisations**

*Note* Regulation numbers 328, 329 and 330 are intentionally not used.

**331 Grant of authorisations**

- (1) The Fire Protection Industry (ODS & SGG) Board may, on application, grant an extinguishing agent trading authorisation to a person, permitting the person to acquire, store or dispose of an extinguishing agent that is for use, or has been used, in fire protection equipment.

*Note* Regulation 313 also applies to an application.

- (1A) However, an authorisation does not permit a person to acquire, store or dispose of halon.

*Note* For a permit to possess halon: see regulation 341.

- (2) The application fee for an authorisation is \$300.

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- (3) The Board must not grant an authorisation unless it is satisfied that the applicant:
  - (a) has business premises that are equipped and operating so as to be able to handle, and prevent avoidable emissions of, any extinguishing agent; and
  - (b) is able to ensure that extinguishing agents are handled only by persons who are licensed to do so.
- (4) However, the Board may grant an authorisation to a person if the person:
  - (a) applies before 1 November 2005; and
  - (b) during the 3 months immediately before applying for an authorisation, carried out work of a kind that is to be permitted by the authorisation.
- (5) An authorisation is in force:
  - (a) from the day on which it is granted, or another day specified by the Board in writing; and
  - (b) for a period, of no more than 24 months, specified, in writing, by the Board.

**332 Conditions on authorisations**

- (1) An extinguishing agent trading authorisation is granted subject to the conditions that the holder:
  - (a) keeps up-to-date records showing the amounts of extinguishing agent acquired, disposed of and recovered from equipment by the holder during each quarter; and
  - (b) 14 days or less after receiving a request in writing by the Fire Protection Industry (ODS & SGG) Board, sends to the Board copies of the records mentioned in paragraph (a); and
  - (c) has equipment that is adequate for the holder's activities, including 1 or more of each of the following:
    - (i) unless the holder has leak detection procedures in place — leak detectors;
    - (ii) vacuum pumps;
    - (iii) recovery units; and

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- (d) maintains, so that it operates correctly, each item of the holder's equipment that is necessary to prevent avoidable emissions of any extinguishing agent; and
  - (e) at least every quarter, checks any extinguishing agent container at the holder's premises for leaks; and
  - (f) does not fill a container unless it meets AS/NZS 2030.1; and
  - (g) puts into effect for the premises a risk management plan that is approved, in writing, by the Board; and
  - (h) handles any extinguishing agent in accordance with each applicable standard mentioned in Table 326; and
  - (i) delivers, to the operator of an approved extinguishing agent destruction facility, any extinguishing agent that is to be destroyed.
- (2) A holder may satisfy a requirement of subregulation (1) by ensuring that another person satisfies the requirement on behalf of the holder.
- (3) A risk management plan for paragraph (1) (g):
- (a) must be prepared in accordance with AS 4360:2004; and
  - (b) must include information about how the following matters will be dealt with:
    - (i) emissions from leaks in, or the failure of, storage vessels;
    - (ii) damage by intruders;
    - (iii) the transfer of extinguishing agents from a leaking storage vessel; and
  - (c) may be approved by the Board only if the Board thinks that the plan, if put into effect, would allow the premises to operate in a way that is consistent with Australia's obligations under the Montreal Protocol.
- (4) It is also a condition of a extinguishing agent trading authorisation that the holder accepts any surrendered extinguishing agent that has been used, or appears to be intended for use, in fire protection equipment.

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- (5) The Board may specify that an authorisation is subject to a condition, and must set out the condition on:
- (a) the document that provides evidence of the authorisation; or
  - (b) a written notice given by the Board to the holder.
- (6) For paragraph (5) (b), a notice may be given at any time.

**333 Transitional — existing State or Territory authorisation**

The holder of an authorisation (however described) mentioned in an item in Table 333 (an *existing State or Territory authorisation*) is taken to hold an extinguishing agent trading authorisation until the earlier of the following:

- (a) the day on which the State or Territory authorisation expires;
- (b) 1 November 2005.

**Table 333 Extinguishing agent trading authorisations taken to be held by existing State or Territory authorisation holders**

Item	Existing State or Territory authorisation	Any additional name of existing authorisation
<i>Australian Capital Territory</i>		
1	Environmental authorisation granted under section 46 of the <i>Environment Protection Act 1997</i> of the Australian Capital Territory	Trading authorisation
<i>New South Wales</i>		
2	Authorisation issued under clause 17 of the Ozone Protection Regulation 1997 of New South Wales by:	Either: (a) Authorisation to purchase Halon and HCFC; or

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<b>Item</b>	<b>Existing State or Territory authorisation</b>	<b>Any additional name of existing authorisation</b>
	(a) the Department of Environment and Conservation of New South Wales; or (b) the Fire Protection Association of Australia; or (c) the New South Wales Office of Fair Trading	(b) Authorisation to sell Halon and HCFC
<i>South Australia</i>		
3	Environmental authorisation issued by the Environment Protection Agency of South Australia under section 40 of the <i>Environment Protection Act 1993</i> of South Australia	Nil
<i>Tasmania</i>		
4	Authorisation to undertake a controlled activity issued under subsection 83 (1) of the <i>Environmental Management and Pollution Control Act 1994</i> of Tasmania	Authorisation to Sell a Controlled Substance
<i>Victoria</i>		
5	Ozone Accreditation issued by the Ozone Layer Protection Board (OLPB) under clause 16 (1) of the Industrial Waste Management Policy (Protection of the Ozone Layer) of Victoria  <i>Note</i> The Policy is an Order made under section 16A (1) of the <b>Environment Protection Act 1970</b> of Victoria	Nil

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<b>Item</b>	<b>Existing State or Territory authorisation</b>	<b>Any additional name of existing authorisation</b>
	<i>Western Australia</i>	
6	Accreditation issued by the Fire Protection Association of Australia, Western Australia under an approval given under clause 42 (1) of the Environmental Protection (Ozone Protection) Policy Approval Order 2000 of Western Australia	Nil
	<i>Note</i> The Order was made under section 31 (d) of the <i>Environmental Protection Act 1986</i> of Western Australia	

**Subdivision 6A.4.5 Permit and exemption**

*Note* Regulation numbers 334 to 340 (inclusive) are intentionally not used.

**341 Halon special permit**

- (1) The Fire Protection Industry (ODS & SGG) Board may, on application, grant a written permit (a *halon special permit*) to a person, entitling him or her to possess halon that is for use in fire protection equipment.

*Note* Regulation 313 also applies to an application.

- (2) The application fee for a halon special permit is \$200.
- (3) The Board may grant a halon special permit to a person only if it is satisfied that:
  - (a) the applicant, because of his or her training and experience, is able to competently carry out the activities covered by the permit; and
  - (b) the applicant's use of the halon is for a purpose that is necessary to protect human life or operate equipment that is critical to the community; and

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- (c) there is no alternative to the halon's use that is:
  - (i) practicable; and
  - (ii) available at a reasonable cost; and
  - (iii) safe; and
  - (iv) likely to result in less damage to the environment.
- (4) A permit granted under this regulation remains in force for 12 months, or any lesser period specified in the permit, from the date of the grant.

**342 Special circumstances exemption**

- (1) The Fire Protection Industry (ODS & SGG) Board may grant a written exemption (a *special circumstances exemption*) to a person, entitling the person to the privileges of the holder of:
  - (a) an extinguishing agent handling licence; or
  - (b) an extinguishing agent trading authorisation; or
  - (c) a halon special permit;as specified in the exemption.
- (1A) The application fee for a special circumstances exemption is \$200.
- (2) The Board may accept an application from a person who applies, in writing, to the Board, setting out:
  - (a) the name and address of the person; and
  - (b) the activities to be carried out by the person, for which the exemption is being sought; and
  - (c) any other information relevant to the Board's decision whether or not to grant the exemption.
- (3) The Board:
  - (a) may grant the exemption only if it is satisfied that there are special circumstances that justify the grant, and:
    - (i) if the applicant is an individual — he or she is able to competently carry out the activities covered by the exemption; or

**Regulation 400**

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- (ii) if the applicant is an organisation — the organisation has suitably qualified employees and suitable equipment to carry out the activities covered by the exemption; and
- (b) must on the exemption, specify:
  - (i) the period for which the exemption is in force; and
  - (ii) the activities that may be carried out under the exemption; and
  - (iii) any other information that is relevant to the exemption.

*Note* Regulation numbers 343 to 399 (inclusive) are intentionally not used.

## **Division 6A.5 Uses of scheduled substances not otherwise mentioned in this Part**

### **400 Discharge of scheduled substances (Act s 45B)**

For paragraph 45B (1) (e) of the Act, a person may discharge a scheduled substance if the discharge occurs while:

- (a) the substance is being manufactured or mixed; or
- (b) the substance is being used for foam blowing or is contained in a foam structure that is being machined, cut, shredded or disposed of; or
- (c) an aerosol containing the substance is being used; or
- (d) a solvent containing the substance is being used; or
- (e) the substance is being used for research or analysis conducted in a laboratory; or
- (f) a device containing the substance is being used to remove a cork from a bottle.

*Note* Regulation numbers 401 to 499 (inclusive) are intentionally not used.

**Regulation 500**

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**Division 6A.6 Scheduled substances (other than  
methyl bromide) used as  
feedstock**

**500 Discharge of scheduled substances (other than  
methyl bromide) used as feedstock (Act s 45B)**

For paragraph 45B (1) (e) of the Act, a person may discharge a scheduled substance (other than methyl bromide) if the substance is being used as feedstock.

*Note 1* Regulation numbers 501 to 899 (inclusive) are intentionally not used.

*Note 2* Discharge of methyl bromide is dealt with by regulation 216.

## Part 7 Reports and records

*Note* The numbers of the Parts in these Regulations correspond to those in the Act.

### 900 Import or export of SGGs (Act s 46)

- (1) In this regulation:

*exotic SGG* means a substance mentioned in column 2 of an item in table 900-2.

*secondary SGG* means an SGG mentioned in column 2 of an item in table 900-1.

- (2) A report given by a person to the Minister for subsection 46 (1B) of the Act must be prepared in accordance with this regulation.

*Note* Subsection 46 (1B) of the Act provides that a person who imports or exports an SGG in a quarter must give a report to the Minister within 15 days of the end of the quarter.

- (3) The person must keep a copy of the report for 7 years from the date the report is submitted to the Minister.
- (4) The report must state the following:
- (a) the name and address of the person;
  - (b) the combination of numbers, letters or symbols used to provide a unique identifier for the licence granted to the person under section 16 of the Act;
  - (c) the quarter to which the report relates;
  - (d) the amount (if any) of HFC-134a imported by the person and the amount (if any) exported during the quarter, expressed in CO<sub>2</sub> equivalent tonnes;
  - (e) if the person imported or exported any secondary SGGs during the quarter:
    - (i) each kind of secondary SGG imported and each kind exported; and
    - (ii) the total amount of secondary SGGs imported and the total amount exported during the quarter, expressed in CO<sub>2</sub> equivalent tonnes;

**Regulation 900**

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- (f) if the person imported or exported any exotic SGGs during the quarter:
- (i) the amount of exotic SGGs imported and the amount exported during the quarter expressed in CO<sub>2</sub> equivalent tonnes; and
  - (ii) whether any exotic SGG mentioned in items 9 to 15 of table 900-2 was imported or exported.

*Note* The SGGs mentioned in items 9 to 15 of table 900-2 are PFCs.

- (5) For paragraphs (4) (d) and (e), and subparagraph (4) (f) (i), the **CO<sub>2</sub> equivalent tonnes** of an amount of an SGG is the weight in tonnes of the SGG multiplied by:
- (a) for HFC-134a — 1 300; or
  - (b) for a secondary SGG — the factor mentioned in column 3 of the item in table 900-1 in which the SGG appears in column 2; or
  - (c) for an exotic SGG — the factor mentioned in column 3 of the item in table 900-2 in which the SGG appears in column 2.

**Table 900-1 Secondary SGGs**

Item	SGG	CO <sub>2</sub> equivalent
1	HFC-23	11 700
2	HFC-32	650
3	HFC-43-10mee	1 300
4	HFC-125	2 800
5	HFC-143a	3 800
6	HFC-152a	140
7	HFC-227ea	2 900
8	HFC-236fa	6 300
9	HFC-245fa	950
10	HFC-365mfc	1 300

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Table 900-2 Exotic SGGs

Item	SGG	CO <sub>2</sub> equivalent
1	HFC-41	150
2	HFC-134	1 000
3	HFC-143	300
4	HFC-152	140
5	HFC-161	12
6	HFC-236cb	1 300
7	HFC-236ea	1 200
8	HFC-245ca	560
9	CF <sub>4</sub>	6 500
10	C <sub>2</sub> F <sub>6</sub>	9 200
11	C <sub>3</sub> F <sub>8</sub>	7 000
12	C <sub>4</sub> F <sub>10</sub>	7 000
13	c-C <sub>4</sub> F <sub>8</sub>	8 700
14	C <sub>5</sub> F <sub>12</sub>	7 500
15	C <sub>6</sub> F <sub>14</sub>	7 400

## 901 Importation of pre-charged equipment (Act s 46)

(1) In this regulation:

*category of pre-charged equipment* means a category of pre-charged equipment mentioned in column 2 of an item in table 901.

(2) A report given by a person to the Minister for subsection 46 (1C) of the Act must be in accordance with this regulation.

*Note* Subsection 46 (1C) of the Act provides that a person who imports certain pre-charged equipment in a quarter must give a report to the Minister within 15 days of the end of the quarter.

(3) The person must keep a copy of the report for 7 years from the date the report is submitted to the Minister.

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- (4) The report must state the following:
- (a) the name and address of the person;
  - (b) the combination of numbers, letters or symbols used to provide a unique identifier for the licence granted to the person under section 16 of the Act;
  - (c) the quarter to which the report relates;
  - (d) the number of units in each category of pre-charged equipment that the person imported during the quarter;
  - (e) if any of the equipment contained HFC — the total amount of the HFC that the person imported during the quarter;
  - (f) if any of the equipment contained HCFC — the total amount of the HCFC that the person imported during the quarter;
  - (g) for each category of pre-charged equipment imported by the person during the quarter — the total amount of each kind of HFC and the total amount of each kind of HCFC contained in the category.

**Table 901 Categories of pre-charged equipment**

<b>Item</b>	<b>Category</b>
1	Commercial portable refrigerators
2	Commercial refrigerated cabinets
3	Other commercial refrigeration equipment
4	Domestic refrigerators and freezers
5	Vehicle powered truck refrigerator
6	Self-powered truck or trailer refrigerator
7	Refrigerated portable air conditioning
8	Single head split system air conditioning
9	Multi head/variable reverse flow (vrf) split system air conditioning
10	Packaged window air conditioning
11	Packaged water cooled air conditioning
12	Packaged air cooled air conditioning

**Regulation 901**

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<b>Item</b>	<b>Category</b>
13	High pressure chillers
14	Low pressure chillers
15	Cabin air conditioning for a motor vehicle of 3.5 tonnes gross vehicle mass or less
16	Cabin air conditioning for a motor vehicle of more than 3.5 tonnes gross vehicle mass

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**Table of Instruments**

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**Notes to the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995***

**Note 1**

The *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (in force under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*) as shown in this compilation comprise Statutory Rules 1995 No. 389 amended as indicated in the Tables below.

**Table of Instruments**

<b>Year and number</b>	<b>Date of notification in Gazette or FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
1995 No. 389	12 Dec 1995	12 Dec 1995	
1999 No. 73	19 May 1999	19 May 1999	—
2002 No. 8	21 Feb 2002	21 Feb 2002	—
2003 No. 279	13 Nov 2003	13 Nov 2003	—
2004 No. 16	26 Feb 2004	26 Feb 2004	—
2004 No. 296	7 Sept 2004	7 Sept 2004	—
2004 No. 380	23 Dec 2004	1 Jan 2005	—
2004 No. 381	23 Dec 2004	1 Jan 2005	—
2005 No. 71	29 Apr 2005 (see F2005L00953)	1 May 2005	—
2005 No. 90	27 May 2005 (see F2005L01205)	28 May 2005	—
2005 No. 254	14 Nov 2005 (see F2005L03476)	Rr. 1–3 and Schedule 1: 15 Nov 2005 Remainder: 1 Jan 2006	—
2006 No. 237	8 Sept 2006 (see F2006L02998)	15 Sept 2006	—
2006 No. 312	1 Dec 2006 (see F2006L03919)	1 Jan 2007	—
2007 No. 217	23 July 2007 (see F2007L02307)	24 July 2007	—
2007 No. 335	8 Oct 2007 (see F2007L03917)	1 Jan 2008	—

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<b>Year and number</b>	<b>Date of notification in <i>Gazette</i> or FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
2008 No. 136	25 June 2008 (see F2008L02217)	Rr. 1–3 and Schedule 1: 26 June 2008 Schedule 2: 1 Jan 2009	—
2009 No. 4	9 Feb 2009 (see F2009L00224)	10 Feb 2009	—

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<b>Part 1</b>	
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R. 2 .....	rs. 2004 No. 16
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Heading to Part 3 .....	ad. 2004 No. 296
Note 1 to heading to Part 3 .....	ad. 2004 No. 296
Note 2 to heading to Part 3 .....	ad. 2004 No. 296
R. 3 .....	am. 2003 No. 279 rs. 2004 No. 16
R. 3A .....	ad. 2004 No. 16
R. 3B .....	ad. 2004 No. 16
R. 3C .....	ad. 2004 No. 16 am. 2007 No. 217
R. 4 .....	ad. 2004 No. 16 rep. 2004 No. 296 ad. 2005 No. 71 rs. 2007 No. 217 am. 2007 No. 335
R. 5 .....	am. 2002 No. 8
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R. 7 .....	rep. 2003 No. 279
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<b>Part 6A</b>	
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Note 1 to heading to Part 6A .....	ad. 2004 No. 296
Note 2 to heading to Part 6A .....	ad. 2004 No. 296 rs. 2004 No. 380

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R. 125 .....	ad. 2004 No. 380 am. 2005 No. 90
R. 126 .....	ad. 2004 No. 380

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R. 130 .....	ad. 2004 No. 380 am 2005 No. 90; 2009 No. 4
R. 131 .....	ad. 2004 No. 380 am. 2005 Nos. 90 and 254; 2007 No. 217; 2009 No. 4
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R. 133 .....	ad. 2004 No. 380 am. 2005 No. 90
R. 134 .....	ad. 2004 No. 380 am. 2005 No. 90 rs. 2007 No. 217
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R. 222 .....	ad. 2004 No. 381 am. 2005 No. 71; 2007 No. 217

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R. 223 .....	ad. 2005 No. 71 am. 2007 No. 217; 2009 No. 4
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R. 244 .....	ad. 2005 No. 71 am. 2008 No. 136
R. 245 .....	ad. 2005 No. 71 am. 2008 No. 136
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