



Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Methyl Bromide, Fire Protection and Other Measures) Regulations 2018

I, the Honourable Paul de Jersey AC, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 06 December 2018

Paul de Jersey AC
Administrator of the Government of the Commonwealth of Australia

By His Excellency's Command

Melissa Price
Minister for the Environment

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1 Name

This instrument is the *Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Methyl Bromide, Fire Protection and Other Measures) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	12 December 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Methyl bromide

Part 1—Main amendments

Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

1 Regulations 200 and 201

Repeal the regulations, substitute:

200 Definitions for Division 6A.3

In this Division:

allocated amount, for a year, for a non-QPS permit holder: see paragraph 235(4)(c).

feedstock permit means a permit granted under regulation 242.

laboratory and analytical uses, of methyl bromide, means uses of methyl bromide that are:

- (a) exempt from a provision of the Montreal Protocol, under any decision made by the parties to the Montreal Protocol that applies to Australia, by virtue of being laboratory and analytical uses; and
- (b) in compliance with the conditions of any such decision.

nominated feedstock supplier, for the holder of a feedstock permit: see subparagraph 242(2)(b)(iv).

nominated non-QPS supplier, for a non-QPS permit holder: see paragraph 235(4)(b).

non-QPS permit holder, for a year, means a person to whom a permit for non-QPS use of methyl bromide for the year is granted under regulation 235.

non-QPS use, of methyl bromide: see subregulation 201(3).

QPS use, of methyl bromide: see subregulation 201(2).

Note: QPS is short for quarantine and pre-shipment.

year means a calendar year.

201 Uses of methyl bromide

(1) The uses of methyl bromide are as follows:

- (a) for QPS uses;
- (b) for non-QPS uses;
- (c) as a feedstock;
- (d) for laboratory and analytical uses.

Note: Section 7 of the Act defines feedstock as an intermediate substance which is used to manufacture other chemicals.

(2) Methyl bromide is used for a **QPS use** 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) Methyl bromide is used for a *non-QPS use* if it is used other than for any of the following:
- (a) for a QPS use;
 - (b) as a feedstock;
 - (c) for laboratory and analytical uses.

2 Subdivision 6A.3.2 (note to Subdivision heading)

Omit “209”, substitute “211”.

3 Regulations 210 to 215

Repeal the regulations, substitute:

212 Offence—using methyl bromide for non-QPS uses

- (1) A person who uses methyl bromide for a non-QPS use during a year commits an offence of strict liability if the person is not:
- (a) a non-QPS permit holder for the year; or
 - (b) acting on behalf of a non-QPS permit holder for the year.

Penalty: 10 penalty units.

- (2) A non-QPS permit holder for a year commits an offence of strict liability if, during the year:
- (a) the amount of methyl bromide that the permit holder uses, or that is used on the permit holder’s behalf, for non-QPS uses is more than the permit holder’s allocated amount for the year; or
 - (b) the permit holder, or another person on the permit holder’s behalf, otherwise contravenes a condition of the permit.

Penalty: 10 penalty units.

213 Offence—supplying methyl bromide for non-QPS uses

- (1) A person (the *supplier*), other than a licensee covered by subregulation (6), commits an offence of strict liability if:
- (a) the supplier 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 use; and
 - (c) subregulation (2), (3) or (4) of this regulation is not satisfied in relation to the sale.

Penalty: 10 penalty units.

- (2) The buyer must:
- (a) hold a non-QPS permit for the year, or be acting on behalf of such a permit holder; or

- (b) be a nominated non-QPS supplier for a non-QPS permit holder for the year.
- (3) If the buyer holds a non-QPS permit for the year, or is acting on behalf of such a permit holder:
- (a) the supplier must be a nominated non-QPS supplier for the permit holder; and
 - (b) the supplier must ensure that the total amount of methyl bromide sold during the year by the supplier to the permit holder for non-QPS uses is equal to, or less than, the permit holder's allocated amount for the year.
- (4) If the buyer is a nominated non-QPS supplier for a non-QPS permit holder for the year, the supplier mentioned in subregulation (1) (the *first supplier*) must ensure that the total amount of methyl bromide sold during the year by the first supplier to the buyer for non-QPS uses is equal to, or less than, the total of the allocated amounts for the year for all non-QPS permit holders in relation to whom the buyer is a nominated non-QPS supplier.
- (5) To avoid doubt, if a buyer is a non-QPS permit holder for a year and also a nominated non-QPS supplier for any other such permit holder, the amount of methyl bromide that the first supplier may sell to the buyer during the year for non-QPS uses is equal to, or less than, the sum of the total amounts mentioned in subregulations (3) and (4).
- (6) A licensee is covered by this subregulation if:
- (a) the licensee holds a controlled substances licence; and
 - (b) the licence allows the licensee to import methyl bromide; and
 - (c) the licence is subject to a condition to the effect that methyl bromide imported for non-QPS uses may only be supplied to a person, or persons, specified in the licence.

Note: A licensee must not contravene a condition of the licence—see section 18 of the Act.

214 Offence—using methyl bromide as a feedstock

- (1) A person who uses methyl bromide as a feedstock during a year commits an offence of strict liability if the person is not:
- (a) the holder of a feedstock permit for which that year is a permit year within the meaning of Subdivision 6A.3.5; or
 - (b) acting on behalf of the holder of such a feedstock permit.

Penalty: 10 penalty units.

- (2) The holder of a feedstock permit for a permit year, within the meaning of Subdivision 6A.3.5, commits an offence of strict liability if, during the permit year:
- (a) the amount of methyl bromide that the permit holder uses, or that is used on the permit holder's behalf, as a feedstock is more than the amount permitted by the permit to be so used; or
 - (b) the permit holder, or another person on the permit holder's behalf, otherwise contravenes a condition of the permit.

Penalty: 10 penalty units.

215 Offence—supplying methyl bromide for use as a feedstock

- (1) A person (the *supplier*), other than a licensee covered by subregulation (3), commits an offence of strict liability if:
- (a) the supplier 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 use as a feedstock; and
 - (c) a requirement covered by subregulation (2) is not satisfied in relation to the sale.

Penalty: 10 penalty units.

- (2) This subregulation covers the following requirements:
- (a) the buyer must hold a feedstock permit for the year, or be acting on behalf of such a permit holder;
 - (b) the supplier must:
 - (i) be a nominated feedstock supplier for the permit holder; and
 - (ii) ensure that the total amount of methyl bromide sold during the year by the supplier to the permit holder for use as a feedstock is equal to or less than the amount that the permit holder is permitted, under the permit, to buy during the year.
- (3) A licensee is covered by this subregulation if:
- (a) the licensee holds a controlled substances licence; and
 - (b) the licence allows the licensee to import methyl bromide; and
 - (c) the licence 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 the licence—see section 18 of the Act.

4 Paragraphs 216(b) and (c)

Repeal the paragraphs, substitute:

- (b) the discharge occurs:
 - (i) during a year for which the person is a non-QPS permit holder; and
 - (ii) while the permit holder's allocated amount of methyl bromide for the year is being used for a non-QPS use by the permit holder, or someone else acting on behalf of the permit holder, in accordance with the permit; or
- (c) the discharge results from the use of the methyl bromide for laboratory and analytical uses; or

5 At the end of paragraph 220(1)(e)

Add:

- ; (iv) how much is to be used for laboratory and analytical uses.

6 Subregulation 220(3)

Repeal the subregulation.

7 At the end of regulation 220

Add:

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

8 Subregulation 221(4)

Repeal the subregulation.

9 Subregulation 221(5)

Omit “subregulation (2)”, substitute “subregulation (3)”.

10 At the end of regulation 221

Add:

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

11 Regulation 222

Repeal the regulation.

12 Subregulation 223(3)

Repeal the subregulation.

13 At the end of regulation 223

Add:

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

14 Subparagraph 230(1)(b)(iv)

Repeal the subparagraph, substitute:

(iv) from the declaration made by the buyer for paragraph 220(1)(e)—how much of the methyl bromide was declared for QPS uses, for non-QPS uses, for use as a feedstock and for laboratory and analytical uses; and

15 After paragraph 231(2)(b)

Insert:

(ba) in relation to any occasion on which methyl bromide is used for a laboratory and analytical use—the nature of the use and the amount used; and

16 Regulation 232

Repeal the regulation.

17 After Subdivision 6A.3.4

Insert:

Subdivision 6A.3.4A—Non-QPS permits

234 Applications for non-QPS permits

(1) A person may apply, in writing, for a permit to use methyl bromide for non-QPS uses for a particular year.

Note: A year is a calendar year: see regulation 200.

- (2) An application for a permit for a year must:
 - (a) be made to the Minister:
 - (i) no later than 18 months before the start of the year; or
 - (ii) if allowed by the Minister—within a shorter period before the start of the year, or at any time after the start of the year; and
 - (b) be made in an approved form; and
 - (c) be signed by the applicant.
- (3) The Minister:
 - (a) may ask the applicant for any further information in relation to the application the Minister considers reasonably necessary; and
 - (b) need not consider, or further consider, the application until such information is provided.

235 Grant of non-QPS permits

- (1) On application under regulation 234, the Minister must, before or after the start of the year for which the application is made:
 - (a) grant a non-QPS permit to the applicant for that year; or
 - (b) refuse to grant a non-QPS permit to the applicant.
- (2) The Minister may grant a non-QPS permit to the applicant only if:
 - (a) the Minister has consulted the parties to the Montreal Protocol; and
 - (b) having regard to any advice received as a result of such consultation, the Minister is satisfied that it is appropriate to grant the permit.
- (3) The Minister must not grant a non-QPS permit to the applicant if the Minister is satisfied that the grant of the permit would be inconsistent with Australia's international obligations under the Montreal Protocol.
- (4) A non-QPS permit must set out the following in writing:
 - (a) the year for which it is granted;
 - (b) each supplier of methyl bromide covered by the permit as a ***nominated non-QPS supplier*** for the permit holder;
 - (c) the amount of methyl bromide (the ***allocated amount***) allocated to the permit holder for non-QPS uses;
 - (d) details of the applicable conditions under subregulation (5).
- (5) A non-QPS permit is granted for a year subject to the following conditions:
 - (a) no more than the allocated amount of methyl bromide may be used in the year by or on behalf of the permit holder for non-QPS uses;
 - (b) methyl bromide may be used by or on behalf of the permit holder for a non-QPS use only if:
 - (i) the use is specified in the permit; and
 - (ii) the use is to treat a geographic location specified in the permit;
 - (c) any other conditions relating to the non-QPS use of methyl bromide, specified in the permit, that the Minister considers to be appropriate.
- (6) A non-QPS permit is in force:
 - (a) from the later of:
 - (i) 1 January in the year for which it is granted; and

- (ii) the day on which it is granted; and
 - (b) until the end of that year.
- (7) If the Minister grants a non-QPS permit to the applicant, the Minister must give a copy of the permit to the applicant.
- (8) If the Minister refuses to grant a non-QPS permit to the applicant, the Minister must give the applicant notice in writing of the refusal, including a statement of:
 - (a) the reasons for the refusal; and
 - (b) the effect of regulation 238 (non-QPS permits—review of decisions).

236 Variation of non-QPS permits

Changes in relation to nominated non-QPS suppliers

- (1) A non-QPS permit holder may apply for the variation of the permit:
 - (a) to cover one or more new nominated non-QPS suppliers; or
 - (b) to remove coverage of one or more nominated non-QPS suppliers; or
 - (c) to change, remove or include details of a nominated non-QPS supplier covered by the permit.
- (2) The application must:
 - (a) be made in an approved form; and
 - (b) be signed by the permit holder; and
 - (c) be given to the Minister.
- (3) The Minister:
 - (a) may ask the applicant for any further information in relation to the application the Minister considers reasonably necessary; and
 - (b) need not consider, or further consider, the application until such information is provided.
- (4) On application under this regulation, the Minister must, by notice in writing to the applicant:
 - (a) vary the permit in accordance with the application, with effect from a date specified in the notice; or
 - (b) refuse to vary the permit.
- (5) If the Minister refuses to vary the permit, or varies the permit with effect from a date other than that applied for, the notice under subregulation (4) must include a statement of:
 - (a) the reasons for the decision; and
 - (b) the effect of regulation 238 (non-QPS permits—review of decisions).

Variations initiated by the Minister

- (6) The Minister may, by notice in writing to a non-QPS permit holder, vary the permit with effect from a date specified in the notice:
 - (a) in any of the ways mentioned in subregulation (1) in relation to one or more nominated non-QPS suppliers; or
 - (b) to change the permit holder's allocated amount; or
 - (c) to change, include or remove a condition under paragraph 235(5)(b) or (c).

- (7) The notice under subregulation (6) must include a statement of:
 - (a) the reasons for the decision; and
 - (b) the effect of regulation 238 (non-QPS permits—review of decisions).

Criteria for variation

- (8) The Minister may vary a non-QPS permit under this regulation only if:
 - (a) the Minister considers it appropriate in the circumstances; and
 - (b) the variation would not be inconsistent with Australia's obligations under the Montreal Protocol.

237 Transfer of non-QPS permits

- (1) A non-QPS permit holder and another person (the *transferee*) may jointly apply to transfer the permit to the transferee.
- (2) The application must:
 - (a) be in the approved form; and
 - (b) be signed by both applicants; and
 - (c) be given to the Minister.
- (3) The Minister:
 - (a) may ask either or both applicants for any further information in relation to the application the Minister considers reasonably necessary; and
 - (b) need not consider, or further consider, the application until such information is provided.
- (4) On application under this regulation, the Minister must, by notice in writing to each applicant:
 - (a) transfer the permit to the transferee with effect from a date specified in the notice; or
 - (b) refuse to transfer the permit.
- (5) The Minister may transfer the permit under this regulation only if:
 - (a) the Minister considers it appropriate in the circumstances; and
 - (b) the transfer would not be inconsistent with Australia's obligations under the Montreal Protocol.
- (6) If the Minister transfers the permit, the Minister must give a copy of the permit to the transferee with the notice under subregulation (4).
- (7) If the Minister refuses to transfer the permit, or transfers the permit with effect from a date other than that applied for, the notice under subregulation (4) must include a statement of:
 - (a) the reasons for the decision; and
 - (b) the effect of regulation 238 (non-QPS permits—review of decisions).
- (8) If the Minister transfers the permit, the transferee is taken to be the permit holder on and after the date the transfer takes effect.

238 Non-QPS permits—review of decisions

Applications may be made to the Administrative Appeals Tribunal for review of any of the following decisions of the Minister:

- (a) under regulation 235 (grant of non-QPS permits):
 - (i) to refuse to grant a non-QPS permit; or
 - (ii) to refuse to grant a non-QPS permit covering a particular person as a nominated non-QPS supplier; or
 - (iii) to provide for a particular amount of methyl bromide as an allocated amount for a non-QPS permit holder; or
 - (iv) to grant a non-QPS permit subject to particular conditions;
- (b) under regulation 236 (variation of non-QPS permits):
 - (i) to refuse to vary a non-QPS permit under paragraph 236(4)(b) (on application); or
 - (ii) to vary a non-QPS permit under paragraph 236(4)(a) (on application) with effect from a date other than that applied for; or
 - (iii) to vary a non-QPS permit under subregulation 236(6);
- (c) under regulation 237 (transfer of non-QPS permits):
 - (i) to refuse to transfer a non-QPS permit; or
 - (ii) to transfer a permit with effect from a date other than that applied for.

18 Subdivision 6A.3.5 (note to Subdivision heading)

Repeal the note.

19 Subparagraph 242(2)(b)(iv)

Repeal the subparagraph, substitute:

- (iv) each supplier of methyl bromide covered by the permit as a *nominated feedstock supplier* for the person; and

Part 2—Consequential amendments

Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

20 Paragraph 216(a)

Omit “QPS application”, substitute “QPS use”.

21 Subparagraph 220(1)(e)(i)

Omit “non-QPS applications”, substitute “non-QPS uses”.

22 Subparagraph 220(1)(e)(ii)

Omit “QPS applications”, substitute “QPS uses”.

23 Regulation 221 (heading)

Omit “QPS and non-QPS applications”, substitute “QPS and non-QPS uses”.

24 Subregulations 221(1) and (2)

Omit “QPS or non-QPS application”, substitute “QPS or non-QPS use”.

25 Paragraph 221(2)(d)

Omit “non-QPS application”, substitute “non-QPS use”.

26 Subparagraph 221(2)(d)(v)

Omit “exempt person”, substitute “non-QPS permit holder”.

27 Paragraph 221(2)(e)

Omit “QPS application” (wherever occurring), substitute “QPS use”.

28 Regulation 231 (heading)

Omit “exempt persons”, substitute “non-QPS permit holders”.

29 Subregulation 231(1)

Omit “An exempt person”, substitute “A non-QPS permit holder”.

30 Paragraph 231(1)(c)

Omit “exempt person”, substitute “permit holder”.

31 Paragraph 231(2)(a)

Omit “exempt person”, substitute “permit holder”.

32 Paragraph 231(2)(b)

Omit “exempt person for a non-QPS application”, substitute “non-QPS permit holder for a non-QPS use”.

33 Paragraph 231(2)(c)

Omit “exempt person for non-QPS applications”, substitute “non-QPS permit holder for non-QPS uses”.

Schedule 2—Fire protection

Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

1 Regulation 301

Insert:

discharge of scheduled substances permit means a permit granted under regulation 305.

Division 6A.4 permit means any of the following:

- (a) a discharge of scheduled substances permit;
- (b) a fire protection industry permit;
- (c) a special circumstances exemption.

2 Regulation 301 (definition of *Fire Protection Industry (Ozone Depleting Substances and Synthetic Greenhouse Gas) Board*)

Repeal the definition, substitute:

Fire Board means a body appointed as a Fire Protection Industry (Ozone Depleting Substances and Synthetic Greenhouse Gas) Board under paragraph 311(1)(a).

3 Regulation 301

Insert:

relevant authority, in relation to a Division 6A.4 permit or an application for such a permit, means:

- (a) the relevant Board; or
- (b) the Minister.

relevant Board means:

- (a) in relation to a Division 6A.4 permit—the Fire Board that granted the permit; or
- (b) in relation to an application for a Division 6A.4 permit—the Fire Board to which the application is made.

4 Paragraph 305(1)(b)

Omit “the Fire Protection Industry (ODS & SGG) Board”, substitute “a relevant authority”.

5 Subregulation 305(2)

Omit “the Board”, substitute “a relevant authority”.

6 Subregulation 305(4)

Omit “Board”, substitute “relevant authority”.

7 After regulation 307

Insert:

Subdivision 6A.4.1A—Appointment of Fire Boards etc.

307A Appointment of Fire Boards and exercise of powers and functions

- (1) The Minister may, in writing:
 - (a) appoint one or more bodies that are incorporated under the *Corporations Act 2001* as Fire Protection Industry (Ozone Depleting Substances and Synthetic Greenhouse Gas) Boards; and
 - (b) specify that an appointment is subject to a condition or conditions set out in the instrument of appointment; and
 - (c) authorise the Board or Boards to exercise any or all of the following powers and functions of the Minister:
 - (i) the powers and functions set out in subregulation (2);
 - (ii) the powers and functions set out in subregulation 311(2).
- (2) For the purposes of subparagraph (1)(c)(i), the Minister's powers and functions are as follows:
 - (a) to receive applications for discharge of scheduled substances permits;
 - (b) to grant discharge of scheduled substances permits;
 - (c) to receive applications for special circumstances exemptions;
 - (d) to grant special circumstances exemptions;
 - (e) to collect, on behalf of the Commonwealth, any fees that are payable for those applications.
- (3) The Minister may exercise the Minister's powers and functions set out in subregulation (2) even if the Minister has authorised one or more Fire Boards to exercise any or all of those powers and functions under subparagraph (1)(c)(i).

8 Regulation 311 (heading)

Repeal the heading, substitute:

311 Minister's powers and functions in relation to fire protection industry permits

9 Subregulation 311(1)

Repeal the subregulation, substitute:

- (1) This regulation sets out the Minister's powers and functions in relation to fire protection industry permits.

10 Subregulation 311(2)

Omit "The powers", substitute "The Minister's powers".

11 Subparagraph 311(2)(d)(ii)

Omit "made by the Board".

12 Regulation 312

Repeal the regulation, substitute:

312 Minister may exercise powers and functions concurrently with Board

The Minister may exercise the Minister's powers and functions set out in subregulation 311(2) even if the Minister has authorised one or more Fire Boards to exercise any or all of those powers and functions under subparagraph 307A(1)(c)(ii).

13 Paragraph 313(1)(a)

Repeal the paragraph, substitute:

- (aa) be made to:
 - (i) a Fire Board that is authorised to receive applications for fire protection industry permits; or
 - (ii) if subregulation (1AA) applies—the Minister; and
- (a) be in an approved form; and

14 Paragraph 313(1)(c)

Omit “Board”, substitute “relevant authority”.

15 After subregulation 313(1)

Insert:

(1AA) This subregulation applies if:

- (a) the Minister:
 - (i) does not appoint any body under paragraph 307A(1)(a); or
 - (ii) appoints one or more bodies under paragraph 307A(1)(a) but does not authorise any of them under paragraph 307A(1)(c) to receive applications for fire protection industry permits; or
- (b) the Minister revokes, or suspends, the appointment of all Fire Boards; or
- (c) the Minister revokes or suspends the powers and functions of all Fire Boards to receive applications for fire protection industry permits; or
- (d) the Minister considers it appropriate in particular circumstances for an application to be made to the Minister.

16 Subregulation 313(1C)

Omit “information the Board”, substitute “information a relevant authority”.

17 Subregulation 313(1C)

Omit “permit, the Board”, substitute “permit, the relevant authority”.

18 Subregulations 313(2) and (3)

Omit “Board” (wherever occurring), substitute “relevant authority”.

19 After regulation 313

Insert:

Subdivision 6A.4.2A—General provisions in relation to Division 6A.4 permits

20 Regulation 314 (heading)

Repeal the heading, substitute:

314 Requirements for grant of Division 6A.4 permits

21 Regulation 314

Omit “The Fire Protection Industry (ODS & SGG) Board must not grant a fire protection industry permit”, substitute “A relevant authority must not grant a Division 6A.4 permit”.

22 Regulation 314

Omit “the Board”, substitute “the relevant authority”.

23 Regulation 314A (heading)

Omit “permit is”, substitute “”, substitute “**Division 6A.4 permits are**”.

24 Regulation 314A

Omit “fire protection industry”, substitute “Division 6A.4”.

25 Paragraph 314A(a)

Omit “granted, or another day specified by the Fire Protection Industry (ODS & SGG) Board”, substitute “granted by a relevant authority, or another day specified by the relevant authority”.

26 Paragraph 314A(b)

Omit “Board”, substitute “relevant authority”.

27 Regulation 315 (heading)

Omit “permit”, substitute “**Division 6A.4 permits**”.

28 Regulation 315

Omit “fire protection industry” (wherever occurring), substitute “Division 6A.4”.

29 Paragraph 316(1)(a)

Omit “the Fire Protection Industry (ODS & SGG) Board for reconsideration of any of the following”, substitute “a relevant authority for reconsideration of any of the following decisions of the relevant authority”.

30 Subparagraph 316(1)(a)(i)

Omit “fire protection industry”, substitute “Division 6A.4”.

31 Subparagraphs 316(1)(a)(ii) and (iii)

Before “permit”, insert “Division 6A.4”.

32 Paragraph 316(1)(b)

After “decision”, insert “of the Minister”.

33 Subparagraphs 316(1)(b)(i) and (ii)

Before “permit”, insert “Division 6A.4”.

34 Subregulations 316(3) to (7)

Omit “Board” (wherever occurring), substitute “relevant authority”.

35 Regulation 317

Omit “the Board or”, substitute “a relevant authority or the”.

36 Regulation 318 (heading)

Omit “Permit”, substitute “Division 6A.4 permits”.

37 Regulation 318

Omit “fire protection industry”, substitute “Division 6A.4”.

38 Regulation 319

Omit “fire protection industry”, substitute “Division 6A.4”.

39 Subregulation 321(4)

Omit “the Fire Protection Industry (ODS & SGG) Board grants 1 or more licences”, substitute “a relevant authority grants one or more extinguishing agent handling licences”.

40 Subregulation 321(5)

Omit “a licence” (wherever occurring), substitute “an extinguishing agent handling licence”.

41 Subregulation 321(6)

Omit “licence granted by the Board must cease to be in force on, or before, the day on which the first”, substitute “extinguishing agent handling licence granted by a relevant authority must cease to be in force on, or before, the day on which the first extinguishing agent handling”.

42 Subregulation 322(1)

Omit “The Fire Protection Industry (ODS & SGG) Board may, on application, grant to a person a licence”, substitute “A relevant authority may, on application, grant to a person an extinguishing agent handling licence”.

43 Regulation 323

Omit “The Fire Protection Industry (ODS & SGG) Board”, substitute “A relevant authority”.

44 Regulation 324

Omit “The Board”, substitute “A relevant authority”.

45 Regulation 324

Omit “the Board”, substitute “the relevant authority”.

46 Regulation 325

Omit “The Board”, substitute “A relevant authority”.

47 Subregulation 326(1)

Omit “A licence granted under this Subdivision”, substitute “An extinguishing agent handling licence”.

48 Paragraph 326(1)(d)

Repeal the paragraph, substitute:

(d) submits to a relevant authority a report describing the circumstances relating to any lawful emission of an extinguishing agent; and

49 Subregulation 326(2)

Omit “The Fire Protection Industry (ODS & SGG) Board”, substitute “A relevant authority”.

50 Paragraph 326(2)(b)

Omit “Board”, insert “relevant authority”.

51 Subregulation 326(3)

Omit “Board”, substitute “relevant authority”.

52 Subregulation 331(1)

Omit “The Fire Protection Industry (ODS & SGG) Board”, substitute “A relevant authority”.

53 Subregulation 331(3)

Omit “Board”, substitute “relevant authority”.

54 Paragraph 332(1)(b)

Omit “the Fire Protection Industry (ODS & SGG) Board, sends to the Board”, substitute “a relevant authority, sends to the relevant authority”.

55 Paragraph 332(1)(g)

Omit “Board”, substitute “relevant authority”.

56 Paragraph 332(3)(c)

Omit “Board only if the Board”, substitute “relevant authority only if the relevant authority”.

57 Subregulation 332(5)

Omit “Board” (wherever occurring), substitute “relevant authority”.

58 Subdivision 6A.4.5 (heading)

Repeal the heading (not including the note), substitute:

Subdivision 6A.4.5—Halon special permits

59 Subregulation 341(1)

Omit “The Fire Protection Industry (ODS & SGG) Board”, substitute “A relevant authority”.

60 Subregulations 341(3) and (5)

Omit “Board”, substitute “relevant authority”.

61 After regulation 341

Insert:

Subdivision 6A.4.6—Special circumstances exemptions

62 Subregulation 342(1)

Omit “The Fire Protection Industry (ODS & SGG) Board”, substitute “A relevant authority”.

63 Subregulation 342(2)

Omit “Board” (wherever occurring), substitute “relevant authority”.

64 Paragraph 342(2)(c)

Omit “Board’s”, substitute “relevant authority’s”.

65 Subregulation 342(3)

Omit “Board”, substitute “relevant authority”.

Schedule 3—Miscellaneous amendments

Part 1—Infringement notices for domestic end-use

Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

1 Subregulation 112(2)

Omit “On or after 1 July 2005, a”, substitute “A”.

2 Subregulation 113(1)

Omit “On or after 1 January 2005, a”, substitute “A”.

3 Subregulations 302(1), 303(2) and 304(1)

Omit “On or after 1 November 2005, a”, substitute “A”.

4 Regulation 906 (after paragraph (a) of the definition of *contravene a provision subject to an infringement notice*)

Insert:

(aa) commit an offence against a provision of these Regulations specified by regulation 906A; or

5 After regulation 906

Insert:

906A Infringement notice offences

An offence against a provision of these Regulations mentioned in an item in the following table is specified for the purposes of paragraph 65AA(1)(b) of the Act (infringement notices).

Offences prescribed for paragraph 65AA(1)(b) of Act		
Item	Column 1 Provision of these Regulations	Column 2 Description of offence
1	Subregulation 111(1)	Carrying out work in relation to RAC equipment
2	Subregulation 112(2)	Possessing or trading in refrigerant
3	Subregulation 113(1)	Possessing halon (RAC equipment)
4	Subregulation 113A(1)	False representations (refrigerant services)
5	Subregulation 113A(2)	False representations (RAC industry permit holder)
6	Subregulation 113A(2A)	False representations (AMSA certificate)
7	Subregulation 136(1)	Refrigerant handling licence contravention
8	Subregulation 142(1)	Refrigerant authorisation contravention
9	Subregulation 302(1)	Handling extinguishing agent
10	Subregulation 303(2)	Possessing or trading in extinguishing agent
11	Subregulation 304(1)	Possessing halon (fire protection equipment)
12	Subregulation 304A(1)	False representations (extinguishing agent services)

Offences prescribed for paragraph 65AA(1)(b) of Act		
Item	Column 1	Column 2
	Provision of these Regulations	Description of offence
13	Subregulation 304A(3)	False representations (fire protection industry permits and special circumstances exemptions)

Part 2—Australian standards

Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

6 After subregulation 135(4)

Insert:

- (5) To avoid doubt, a reference to a standard in an item in Table 135 is a reference to that standard:
- (a) as published by Standards Australia; and
 - (b) as in force when the item commenced.

7 Regulation 135 (Table 135, table items 17, 17A, 18, 19, and 20)

Repeal the items, substitute:

17	AS/NZS ISO 817:2016	Refrigerants—Designation and safety classification
18	AS/NZS 5149.1:2016	Refrigerating systems and heat pumps—Safety and environmental requirements—Part 1: Definitions, classification and selection criteria (ISO 5149-1:2014, MOD)
19	AS/NZS 5149.2:2016	Refrigerating systems and heat pumps—Safety and environmental requirements—Part 2: Design, construction, testing, marking and documentation (ISO 5149-2:2014, MOD)
20	AS/NZS 5149.3:2016	Refrigerating systems and heat pumps—Safety and environmental requirements—Part 3: Installation site (ISO 5149-3:2014, MOD)
20A	AS/NZS 5149.4:2016	Refrigerating systems and heat pumps—Safety and environmental requirements—Part 4: Operation, maintenance, repair and recovery (ISO 5149-4:2014, MOD)

8 After subregulation 326(4)

Insert:

- (5) To avoid doubt, a reference to a standard in an item in Table 326 is a reference to that standard:
- (a) as published by Standards Australia; and
 - (b) as in force when the item commenced.

Part 3—Other amendments

Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

9 Regulation 2 (heading)

Repeal the heading, substitute:

2 Definitions

10 Regulation 2

Insert:

registered qualification has the meaning given by subregulation 131(3).

registered unit of competency has the meaning given by subregulation 322(3).

sampled, for a scheduled substance, has the meaning given by subregulation 400(3).

11 Regulation 101

Repeal the regulation.

12 Regulation 110 (definition of *registered training organisation*)

Repeal the definition.

13 Subregulation 131(1)

Omit “an item in column 2 of Table 131, entitling him or her to engage in the work described in column 3”, substitute “column 1 of an item in Table 131, entitling the person to engage in the work described in column 2”.

14 Subregulation 131(2)

Omit “A relevant authority may grant a licence to an applicant”, substitute “The relevant authority may grant the licence”.

15 Paragraph 131(2)(a)

Omit “qualification mentioned in the item of Table 131 that relates to the licence”, substitute “registered qualification mentioned in column 3 of that item”.

16 Paragraph 131(2)(b)

After “registered training organisation”, insert “(within the meaning of the *National Vocational Education and Training Regulator Act 2011*)”.

17 Subparagraph 131(2)(b)(i)

Omit “applicant’s prior learning is equivalent to”, substitute “applicant has achieved learning outcomes and competencies that are equivalent to the learning outcomes and competencies that would satisfy the requirements of”.

18 Subparagraph 131(2)(b)(ii)

Omit “his or her current competencies are equivalent to”, substitute “the applicant has achieved learning outcomes and competencies that are equivalent to the learning outcomes and competencies that would satisfy the requirements of”.

19 After subregulation 131(2) (before Table 131)

Insert:

- (3) A qualification is a *registered qualification* if, when the requirements of the qualification are first satisfied, the qualification is entered on the National Register (within the meaning of the *National Vocational Education and Training Regulator Act 2011*).

20 Subregulation 131(2) (Table 131, headings)

Repeal the headings, substitute:

Table 131—Licences and entitlements			
Item	Column 1	Column 2	Column 3
	Licence	Entitlement of licensee	Qualification

21 Paragraph 134(1)(a)

Omit “NQC-endorsed qualification mentioned in column 4”, substitute “registered qualification mentioned in column 3”.

22 Paragraphs 135(1)(a) and (aa)

Omit “set out in an item in column 2 of”, substitute “mentioned in an item in”.

23 Paragraph 135(1)(d)

Repeal the paragraph.

24 Subregulation 135(4) (Table 135, headings)

Repeal the headings, substitute:

Table 135—Standards		
Item	Column 1	Column 2
	Standard	Title of standard

25 Regulation 216

Omit “paragraph 45B(1)(e)”, substitute “the purposes of paragraphs 45B(1)(e) and (2A)(c)”.

26 After regulation 304

Insert:

304A Offence—false representations

- (1) A person commits an offence of strict liability if:

- (a) the person makes a representation that the person can provide a service that involves the acquisition, disposal, storage, use or handling of an extinguishing agent; and
- (b) at the time of making the representation, the person does not hold a fire protection industry permit or special circumstances exemption that entitles the person to provide the service; and
- (c) at the time of making the representation, the person does not employ, or has not engaged, a person who holds an extinguishing agent handling licence for work of the kind that is necessary to provide the service.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a person if:
 - (a) at the time of making the representation, the person has entered into an agreement (however described) with someone else to provide the service; and
 - (b) the agreement contains a provision to the effect that the service must be provided by the holder of a fire protection industry permit or special circumstances exemption that entitles the holder to provide the service.

Note: A defendant bears an evidential burden in relation to the matters in subregulation (2)—see subsection 13.3(3) of the *Criminal Code*.

- (3) A person commits an offence of strict liability if:
 - (a) the person makes a representation that the person is the holder of a kind of fire protection industry permit or special circumstances exemption; and
 - (b) at the time of making the representation, the person is not the holder of a fire protection industry permit or special circumstances exemption of that kind.

Penalty: 10 penalty units.

27 Subregulation 305(1)

Omit “paragraph 45B(1)(e)”, substitute “the purposes of paragraphs 45B(1)(e) and (2A)(c)”.

28 Subregulation 322(1)

Omit “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”, substitute “column 1 of an item in Table 322, entitling the person to engage in the work described in column 2”.

29 Subregulation 322(2)

Repeal the subregulation (not including Table 322), substitute:

- (2) The relevant authority may grant the licence only if the relevant authority is satisfied that the person has satisfied the requirements of all of the registered units of competency mentioned in column 3 of the item.
- (3) A unit of competency is a **registered unit of competency** if, when its requirements are first satisfied:

- (a) the unit of competency is entered on the National Register (within the meaning of the *National Vocational Education and Training Regulator Act 2011*); and
- (b) the registration of the unit of competency on the National Register has not been cancelled.

30 Subregulation 322(2) (Table 322, headings)

Repeal the headings, substitute:

Table 322—Licences and entitlements			
Item	Column 1	Column 2	Column 3
	Licence	Entitlement of licensee	Registered units of competency

31 Subregulation 322(2) (note)

Repeal the note.

32 Paragraph 326(1)(a)

Omit “set out in an item in column 2 of”, substitute “mentioned in an item in”.

33 Subregulation 326(4) (Table 326, headings)

Repeal the headings, substitute:

Table 326—Standards		
Item	Column 1	Column 2
	Standard	Title of standard

34 Subregulation 400(1)

Omit “paragraph 45B(1)(e)”, substitute “the purposes of paragraphs 45B(1)(e) and (2A)(c)”.

35 Paragraph 400(1)(g)

Repeal the paragraph, substitute:

- (g) the substance is being:
 - (i) tested to determine what the substance is, the composition of the substance or the physical or chemical properties of the substance; or
 - (ii) sampled as a precursor to being tested as mentioned in subparagraph (i).

36 Subregulation 400(2)

Omit “A”, substitute “For the purposes of paragraphs 45B(1)(e) and (2A)(c) of the Act, a”.

37 After subregulation 400(2) (before the note)

Insert:

- (3) A scheduled substance is *sampled* if the substance is:

- (a) extracted and transferred from equipment or a container into a sample cylinder or piece of testing equipment; or
- (b) through a process such as vacuuming, extracting or transferring, brought into the testing range of a device that detects and analyses a sample of the substance being emitted into the air in the testing range.

38 Regulation 500

Omit “paragraph 45B(1)(e)”, substitute “the purposes of paragraphs 45B(1)(e) and (2A)(c)”.

Part 4—Repeals

Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

39 Regulations 920, 921, 922, 950, 951, 953 and 955

Repeal the regulations.

Schedule 4—Transitional

Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995

1 At the end of Part 10

Add:

Division 5—Amendments made by the Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Methyl Bromide, Fire Protection and Other Measures) Regulations 2018

962 Definitions for Division 5

In this Division:

amending regulations means the *Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Methyl Bromide, Fire Protection and Other Measures) Regulations 2018*.

commencement day means the day on which this Division commences.

old regulations means these Regulations as in force immediately before the commencement day.

963 Transitional—non-QPS permits

- (1) The amendments made by Schedule 1 to the amending Regulations apply in relation to applications for non-QPS permits made on or after the commencement day, subject to this regulation.
- (2) For the purposes of the Minister's consideration of the grant to a person of a non-QPS permit to use methyl bromide for non-QPS uses for the calendar year 2019 or 2020:
 - (a) if, before the commencement day, the person had made a written request to the Minister to be shown on the Non-QPS Exemption List for that calendar year as an exempt person in relation to non-QPS applications corresponding to those non-QPS uses—the person is taken to have made an application for a permit for the calendar year in accordance with regulation 234; and
 - (b) in any case—subregulation 235(2) applies as if a reference to the Minister's consultation with the parties to the Montreal Protocol, and receipt of advice as a result of such consultation, included a reference to any such consultation that occurred, and to any such advice received, before, on or after the commencement day in relation to the person's use of methyl bromide for those non-QPS uses (or non-QPS applications corresponding to those uses).

964 The Fire Protection Industry (Ozone Depleting Substances and Synthetic Greenhouse Gas) Board—continuation

- (1) An appointment:
 - (a) made under paragraph 311(1)(a) of the old regulations; and
 - (b) in force immediately before the commencement day;has effect, on and after that day, as if it had been made under paragraph 307A(1)(a) as inserted by the amending regulations.
- (2) An authorisation:
 - (a) given under paragraph 311(1)(b) of the old regulations; and
 - (b) in force immediately before the commencement day;has effect, on and after that day, as if it had been given under subparagraph 307A(1)(c)(ii) as inserted by the amending regulations.

965 Transitional—pending applications for licences and permits etc.

- (1) This regulation applies in relation to an application if:
 - (a) the application was made under the old regulations before the commencement day; and
 - (b) immediately before that day, a decision on the application has not been made.
- (2) Despite the amendments made by Schedule 2 to the amending regulations, the old regulations continue to apply in relation to the application as if the amendments had not happened.

966 Transitional—new applications for fire protection industry permits

The amendments of these Regulations made by Schedule 2 to the amending regulations apply in relation to applications for Division 6A.4 permits made on or after the commencement day.

967 Transitional—internal review

- (1) This regulation applies in relation to an application if:
 - (a) the application was made under subregulation 316(1) of the old regulations before the commencement day; and
 - (b) immediately before that day, a decision on the application has not been made.
- (2) Despite the amendments of subregulation 316(1) by Schedule 2 to the amending regulations, that subregulation, as in force immediately before the commencement day, continues to apply in relation to the application as if the amendments had not happened.