

## **EXPLANATORY STATEMENT**

Issued by authority of the Minister for the Environment and Water

*Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*

*Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*

*Ozone Protection and Synthetic Greenhouse Gas Management (Extinguishing Agent Handling Licences—Qualifications and Standards) Determination 2024*

### **Purpose**

The purpose of the *Ozone Protection and Synthetic Greenhouse Gas Management (Extinguishing Agent Handling Licences—Qualifications and Standards) Determination 2024* (the Determination) is to determine:

- the units of competency a person must have satisfied to be granted an extinguishing agent handling licence; and
- the standards with which the holder of an extinguishing agent handling licence must comply (as a condition of the licence).

### **Legislative authority**

The Determination is made under subregulations 322(3) and 326(5) of the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (OPSGGM Regulations).

Subregulation 322(3) of the OPSGGM Regulations provides that the Minister may, by legislative instrument, determine units of competency required for a licence mentioned in column 1 of an item in Table 322 (covering the different kinds of extinguishing agent handling licences).

Subregulation 326(5) of the OPSGGM Regulations provides that the Minister may, by legislative instrument, determine standards that apply in relation to work carried out under an extinguishing agent handling licence.

### **Background**

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (OPSGGM Act) and the OPSGGM Regulations implement Australia's international obligations under the *Vienna Convention for the Protection of the Ozone Layer*, its *Montreal Protocol on Substances that Deplete the Ozone Layer* and the *United Nations Framework Convention on Climate Change*. It does so through the control of the import, export, manufacture and use of substances covered by the OPSGGM Act.

Section 45A of the Act provides that the regulations may make provision for the regulation of scheduled substances, including the sale, purchase and disposal of scheduled substances; storage, use and handling of scheduled substances; labelling requirements for scheduled substances and for equipment containing or using such substances; conferring certain functions on persons or bodies; and other incidental matters.

Under regulation 302 of the OPSGGM Regulations, a person or organisation must, except in very limited circumstances, hold an extinguishing agent handling licence to handle an extinguishing agent that is, or has been, for use in fire protection equipment.

Regulation 322 has the effect that a relevant authority can only grant an extinguishing agent handling licence to a person if satisfied that:

- the person has satisfied the requirements of all of the units of competency determined by the Minister under subregulation (3) for the licence; and
- when the requirements of each unit of competency are first satisfied by the person, both:
  - the unit of competency is entered on the National Register (within the meaning of the *National Vocational Education and Training Regulator Act 2011*); and
  - the registration of the unit of competency on the National Register has not been cancelled.

Regulation 326 sets out the mandatory conditions to which an extinguishing agent handling licence is subject.

Paragraph 326(1)(a) has the effect that an extinguishing agent handling licence is subject to the condition that the licensee carries out the work to which the licence relates in accordance with any standard mentioned in an item in the table in regulation 326 that relates to the work.

Paragraph 326(1)(e) has the effect that an extinguishing agent handling licence is subject to the condition that the licensee 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.

## **Impact and effect**

The effect of the Determination is to determine:

- the units of competency a person must have satisfied to be granted an extinguishing agent handling licence; and
- the standards with which the holder of an extinguishing agent handling licence must comply (as a condition of the licence).

The lists of units of competency and standards set out in the Determination were previously included in the OPSGGM Regulations. Following amendments to the OPSGGM Regulations, these qualifications and standards have been moved to a separate legislative instrument to ensure the competencies and standards can be more easily and quickly updated, as appropriate, to align with changing technologies. There is no substantive change to the content of the units of competencies and standards that were previously included in the OPSGGM Regulations, though both have been updated to reflect the most current versions of these documents.

## **Pre-conditions to making the Determination**

The OPSGGM Regulations specify no further conditions that need to be satisfied before the power to make the Determination may be exercised.

### **Consultation**

The Fire Protection Industry Board, which operates the fire protection permitting scheme on behalf of the Australian Government, was consulted on the lists of units of competency and standards listed in the Determination. No broader consultation on the Determination was undertaken because the Determination is minor and machinery in nature. This is because the lists of competencies and standards set out in the Determination are equivalent to those previously included in the OPSGGM Regulations for the same purposes and there is no substantive change to the content of the competencies and standards, or their effect on persons applying for, or holding, an extinguishing agent handling licence.

### **Details and operation**

Details of the Determination are set out in Attachment A.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Determination commences the later of 1 August 2024 or the day after it is registered.

The Determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

Details of the *Ozone Protection and Synthetic Greenhouse Gas Management (Extinguishing Agent Handling Licences—Qualifications and Standards) Determination 2024*

Section 1 – Name

1. This section provides that the title of the instrument is the *Ozone Protection and Synthetic Greenhouse Gas Management (Extinguishing Agent Handling Licences—Qualifications and Standards) Determination 2024* (the Determination).

Section 2 – Commencement

2. This section provides that the Determination commences on the later of 1 August 2024 and the day after it is registered.

Section 3 – Authority

3. This section provides that the Determination is made under subregulations 322(3) and 326(5) of the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (the OPSGGM Regulations).

Section 4 – Definitions

4. This section defines the term *Regulations*, as used in the Determination. The term *Regulations* refers to the OPSGGM Regulations.

Section 5 – Extinguishing agent handling licences—qualifications

5. Regulation 302 of the OPSGGM Regulations has the effect that a person or organisation must, except in very limited circumstances, hold an extinguishing agent handling licence to handle an extinguishing agent that is, or has been, for use in fire protection equipment.
6. Regulation 322 has the effect that a relevant authority can only grant an extinguishing agent handling licence to a person if satisfied that:
  - a. the person has satisfied the requirements of all of the units of competency determined by the Minister under subregulation (3) for the licence; and
  - b. when the requirements of each unit of competency are first satisfied by the person, both:
    - i. the unit of competency is entered on the National Register (within the meaning of the *National Vocational Education and Training Regulator Act 2011*); and
    - ii. the registration of the unit of competency on the National Register has not been cancelled.
7. Section 5 of the Determination is made for the purposes of subregulation 322(3) of the OPSGGM Regulations and determines the units of competency that are relevant to the granting of an extinguishing agent handling licence to a person. The list of competencies in section 5 relate to each kind of extinguishing agent handling licence and are substantively

the same as the list of qualifications that were previously included in the Table in regulation 322 of the OPSGGM Regulations (though updated to reflect the most current version of these documents).

#### Section 6 – Licence conditions—standards

8. Regulation 326 of the OPSGGM Regulations sets out the mandatory conditions to which an extinguishing agent handling licence is subject.
9. Paragraph 326(1)(a) has the effect that an extinguishing agent handling licence is subject to the condition that the licensee carries out the work to which the licence relates in accordance with any standard mentioned in an item in the table in regulation 326 that relates to the work.
10. Paragraph 326(1)(e) has the effect that an extinguishing agent handling licence is subject to the condition that the licensee 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.
11. Section 6 of the Determination is made for the purposes of subregulation 326(5) of the OPSGGM Regulations and determines the mandatory standards to which an extinguishing agent handling licence is subject. The list of standards in section 6 are substantively the same as the list of standards that were previously included in the Table in regulation 326 of the OPSGGM Regulations, though updated to reflect the most current version of these documents.
12. Subsection 6(2) of the Determination makes it clear that references to a ‘standard’ in the table in section 6 refer to that standard as published by Standards Australia; and as in force when the item commenced.

## **Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*  
*Ozone Protection and Synthetic Greenhouse Gas Management (Extinguishing agent Handling Licences—Qualifications and Standards) Determination 2024*

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (OPSGGM Act) and the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (OPSGGM Regulations) implement Australia's international obligations under the *Vienna Convention for the Protection of the Ozone Layer*, its *Montreal Protocol on Substances that Deplete the Ozone Layer* and the *United Nations Framework Convention on Climate Change*. It does so through the control of the import, export, manufacture and use of substances covered by the OPSGGM Act.

Under regulation 302 of the OPSGGM Regulations, a person or organisation must, except in very limited circumstances, hold an extinguishing agent handling licence to handle an extinguishing agent that is, or has been, for use in fire protection equipment.

Regulation 322 has the effect that a relevant authority can only grant an extinguishing agent handling licence to a person if satisfied that:

- the person has satisfied the requirements of all of the units of competency determined by the Minister under subregulation (3) for the licence; and
- when the requirements of each unit of competency are first satisfied by the person, both:
  - the unit of competency is entered on the National Register (within the meaning of the *National Vocational Education and Training Regulator Act 2011*); and
  - the registration of the unit of competency on the National Register has not been cancelled.

Regulation 326 sets out the mandatory conditions to which an extinguishing agent handling licence is subject.

Paragraph 326(1)(a) has the effect that an extinguishing agent handling licence is subject to the condition that the licensee carries out the work to which the licence relates in accordance with any standard mentioned in an item in the table in regulation 326 that relates to the work.

Paragraph 326(1)(e) has the effect that an extinguishing agent handling licence is subject to the condition that the licensee 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.

The *Ozone Protection and Synthetic Greenhouse Gas Management (Extinguishing Agent Handling Licences—Qualifications and Standards) Determination 2024* (the Determination) is to determine:

- the units of competency a person must have satisfied to be granted an extinguishing agent handling licence; and
- the standards with which the holder of an extinguishing agent handling licence must comply (as a condition of the licence).

The list of competencies and standards in the Determination are substantively the same as the list of competencies and standards that were previously included in the OPSGGM Regulations, though updated to reflect the most current versions of these documents.

### **Human rights implications**

The Determination does not engage with any of the applicable rights or freedoms.

### **Conclusion**

The Determination is compatible with human rights as it does not raise any human rights issues.