

NORTHERN TERRITORY OF AUSTRALIA

OZONE PROTECTION REGULATIONS

As in force at 29 November 1995

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 29 November 1995

OZONE PROTECTION REGULATIONS

Regulations under the *Ozone Protection Act*

Part I Preliminary

1 Citation

These Regulations may be cited as the *Ozone Protection Regulations*.

2 Commencement

These Regulations shall come into operation with the commencement of the *Ozone Protection Act 1990*.

3 Interpretation

(1) In these Regulations, unless the contrary intention appears:

aerosol product means a container which contains a controlled substance either as a propellant for the expulsion of its contents when used as designed or as the product that is expelled.

Code of Practice means standards, prescriptions, procedures or other specifications developed or approved by the Agency under regulation 20 for the purposes of the regulation and control of controlled substances and controlled articles.

decommissioning means the retirement of a controlled article from service before it is scrapped or used for some other purpose.

extruded polystyrene product means a product made from styrene monomer when extruded under high pressure and temperature.

halon means a controlled substance, being a halon.

halon fire suppression system means a fire extinguishing system consisting of a supply of halon arranged to discharge into an enclosure.

insulation material means material used to provide thermal insulation.

licence means a licence under Part VII.

packaging material means material that is primarily intended to be used for wrapping, protecting, or containing or partially wrapping, protecting or containing, any substance or thing.

portable halon fire extinguisher means a portable fire extinguisher containing halon.

qualified means qualified under regulation 22.

reclaiming means the recovery of ozone depleting substances for re-use, recycling, reprocessing or disposal.

recycling means the recovery of an ozone depleting substance from a controlled article for re-use after it is passed through some on-site or non-production factory form of purification.

reprocessing means the recovery of an ozone depleting substance from a controlled article for return to a processing plant to be reformulated before being available for re-use.

servicing means any repair, maintenance, installation, decommissioning or adjustment of a controlled article which may result in the release into the atmosphere of controlled substances.

vehicle or vessel means a conveyance designed to be propelled or drawn by any means whether or not it is capable of being so propelled or drawn, and includes a cart, caravan, railway carriage, tram, car, ship or boat or other vessel of any description, aircraft or hovercraft.

- (2) A Code of Practice becomes operative in relation to an activity involving the use of controlled substances or controlled articles when:
- (a) it is published in the *Gazette* under the authority of the Minister; or
 - (b) notice of it becoming operative is given in the *Gazette* by the Minister, together with an address in the Territory where copies of the Code of Practice may be obtained.

Part II Airconditioning and refrigeration

4 Motor vehicle airconditioning units

- (1) Any person who designs or services a motor vehicle airconditioning unit which uses a controlled substance must comply with any operative Code of Practice relating to that unit or, where a relevant Code of Practice is not operative, with any directions of the Agency.
- (2) Any person who services a motor vehicle airconditioning unit using a controlled substance must first be qualified to do so.
- (3) Any person who services the airconditioning system of a motor vehicle airconditioning unit shall reclaim any controlled substance whenever the system is being serviced.
- (4) Any controlled substance that is reclaimed must be recycled on-site, returned to the distributor or wholesaler for reprocessing or securely stored pending destruction.

5 Industrial and commercial airconditioning and refrigeration units

- (1) Any person who designs or services an industrial or commercial airconditioning or refrigeration unit which uses a controlled substance must comply with any operative Code of Practice relating to that unit or, where a relevant Code of Practice is not operative, with any directions of the Agency.
- (2) Any person who services an industrial or commercial airconditioning or refrigeration unit must first be qualified to do so.
- (3) Any person who services the airconditioning or refrigerating system of an industrial or commercial airconditioning or refrigeration unit shall reclaim any controlled substance whenever the system is being serviced.
- (4) Any controlled substance that is reclaimed must be recycled on-site, returned to the distributor or wholesaler for reprocessing or securely stored pending destruction.

6 Domestic airconditioners and refrigerators

- (1) Any person who designs or services a domestic airconditioning or refrigeration unit must comply with any operative Code of Practice relating to the unit or, where a relevant Code of Practice is not operative, with any directions of the Agency.
- (2) Any person who services a domestic airconditioning or refrigerating unit using a controlled substance must first be qualified to do so.

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- (3) Any person who services the airconditioning or refrigerating system of a domestic air conditioner or refrigerator shall reclaim any controlled substance whenever the system is being serviced.
 - (4) Any controlled substance that is reclaimed must be recycled on-site, returned to the distributor or wholesaler for reprocessing or securely stored pending destruction.

Part III Fire fighting

Division 1 Portable halon fire extinguishers

7 Portable halon fire extinguishers

- (1) No person shall sell an aerosol or non-rechargable portable halon fire extinguisher.

Penalty: \$5,000.

- (2) No person shall discharge any of the contents of a portable halon fire extinguisher for any purpose (including testing or training) except in an emergency.

Penalty: \$5,000.

- (3) Any person who owns or controls a portable halon fire extinguisher which requires refilling or hydrostatic testing shall, unless the person obtains the prior written consent of the Agency to retain the use of the portable halon fire extinguisher, ensure that the extinguisher is decommissioned and the halons securely stored pending their destruction.
- (3A) Notwithstanding subsection (3), a person who owns or controls a portable halon fire extinguisher shall, unless the person obtains the prior written consent of the Agency to retain the use of the portable halon fire extinguisher, ensure that the extinguisher is decommissioned on or before 31 December 1995 and that the halons are securely stored pending their destruction.
- (4) Any person who services (including filling or re-filling) a portable halon fire extinguisher must:
 - (a) first be qualified to do so;
 - (b) comply with any operative Code of Practice relating to such servicing or, where a relevant Code of Practice is not operative, with any directions of the Agency; and
 - (c) ensure that halons do not escape into the atmosphere.

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- (5) No person shall purchase a portable halon fire extinguisher for purposes other than sale or re-sale as a distributor, wholesaler or retailer unless the person:
- (a) satisfies the Agency that there is a state of danger, imminent or otherwise, to human life:
 - (i) in a building, vehicle or vessel, or structure or part thereof where human occupancy is necessary;
 - (ii) where the continued operation of a building, vehicle or vessel, or structure or part thereof, is necessary to protect human life; or
 - (iii) in a building, vehicle or vessel, or structure or part thereof, critical to the community, and a fire could cause loss of equipment or operation of the equipment or to services from the operation of the equipment which may have serious community consequences,and an acceptable alternative means of fire protection does not exist; and
 - (b) obtains the written consent of the Agency to purchase the portable halon fire extinguisher.
- (6) The Agency may:
- (a) include in its consent under subregulation (3), (3A) or (5)(b) such conditions as it thinks fit;
 - (b) revoke or vary such conditions at any time without giving reasons; or
 - (c) revoke its consent if a person fails to comply with any such conditions or where an acceptable alternative means of fire protection is available.

Division 2 Halon fire suppression systems

8 Reduction of emissions from halon fire suppression systems

- (1) Any person who designs halon fire suppression systems must comply with any operative Code of Practice relating to such systems or, where a relevant Code of Practice is not operative, with any directions of the Agency.

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- (2) Any person who services a halon fire suppression system must comply with any operative Code of Practice relating to such a system or, where a relevant Code of Practice is not operative, with any directions of the Agency.
 - (3) Any person who services a halon fire suppression system must first be qualified to do so.
 - (4) Any person who owns or controls a halon fire suppression system shall ensure that the halons are reclaimed and re-used or held in secure storage pending their destruction whenever that system is being serviced, unless the written consent of the Agency is obtained to the contrary.

9 Testing halon fire suppression systems

- (1) A person must not use halons for testing a halon fire suppression system except with the prior written consent of the Agency.

Penalty: \$5,000.

- (2) Notwithstanding the consent of the Agency, a person shall not test a halon fire suppression system if such testing will result in a release of halon into the atmosphere.

Penalty: \$5,000.

10 Installation of halon fire suppression systems

- (1) A person shall not install any halon fire suppression system except with the prior written consent of the Agency.

Penalty: \$5,000.

- (2) Where the Agency receives a request for consent to install a halon fire suppression system, the Agency shall, not later than 30 days after receiving the request:

- (a) give consent subject to such conditions as the Agency thinks fit; or

- (b) refuse to give consent.

- (3) The Agency may:

- (a) revoke or vary any condition to its consent under subregulation (2); or

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- (b) revoke its consent given under subregulation (2) if the person to whom the consent has been given fails to comply with a condition.
 - (4) It is a condition of a consent given under subregulation (2) that the occupier of premises, the person in charge of a vehicle or the master of a vessel in which a halon fire suppression system is installed shall, within 14 days after installation, notify the Agency of the location and capacity of the system.
 - (5) The occupier of premises, the person in charge of a vehicle or the master of a vessel in which a halon fire suppression system is installed shall, within 14 days of any discharge of halon from the halon fire suppression system, notify the Agency of the discharge and of its cause.

10A Decommissioning halon fire suppression system

A person who owns or controls a halon fire suppression system shall, unless the person obtains the prior written consent of the Agency to retain the use of the halon fire suppression system, ensure that the system is decommissioned on or before 31 December 1995 and that the halons are securely stored pending their destruction.

Part IV Plastic foam

11 Sale of extruded polystyrene products

A person shall not sell any extruded polystyrene product to be used as packaging or as insulation material if:

- (a) the product contains a controlled substance; or
- (b) a controlled substance was used in the manufacture of the product.

Penalty: \$5,000.

Part V Aerosol products

12 Sale of aerosol products

A person shall not sell an aerosol product unless the manufacturer or importer of that product has been granted an exemption in relation to that product.

Penalty: \$5,000.

Part VI Cleaning equipment

13 Electronic cleaning and degreasing systems

- (1) Any person who operates or services an electronic cleaning system or degreasing system, being a system which uses a controlled substance, must comply with any operative Code of Practice relating to the use of those systems or, where a relevant Code of Practice is not operative, with any directions of the Agency.
- (2) Any person who operates or services an electronic cleaning system or degreasing system must first be qualified to do so.
- (3) Any person who services an electronic cleaning system or degreasing system must, where the system does not automatically recycle any controlled substances, reclaim any controlled substances from the system whenever it is being serviced.
- (4) Any controlled substance that is reclaimed must be recycled on-site, returned to the distributor or wholesaler for reprocessing or securely stored pending destruction.

14 Dry cleaning equipment

- (1) Any person who services dry cleaning equipment using controlled substances must comply with any operative Code of Practice relating to that equipment or, where a relevant Code of Practice is not operative, with any directions of the Agency.
- (2) Any person who operates or services dry cleaning equipment using controlled substances must first be qualified to do so.
- (3) Any person who services dry cleaning equipment shall, whenever any controlled substances are not automatically recycled, reclaim any controlled substances from the cleaning operation.
- (4) Any controlled substance that is reclaimed must be recycled on-site, returned to the distributor or wholesaler for reprocessing or securely stored pending destruction.

Part VII Licences

15 Grant of licence

- (1) Subject to these Regulations, a person (including a body corporate or body politic) who, as a principal, proposes to buy or sell a controlled substance shall, before doing so, hold a controlled substance licence.

Penalty: \$5,000.

- (2) An application for a licence shall be made on an approved form accompanied by the prescribed fee.
- (3) The Agency shall, within 14 days after its receipt, consider an application made under subregulation (2) and may:
 - (a) refuse it;
 - (b) grant it; or
 - (c) allow the applicant to amend it, and grant it as amended.
- (4) For the purposes of this regulation, the Agency may require an applicant to provide such further information as is requested.

16 Conditions of licence

- (1) A licence shall be subject to such conditions as the Agency thinks fit and specifies in the licence.
- (2) The Agency may from time to time, by written notice to a licence holder, amend or revoke the conditions of the licence or add new conditions.
- (3) The conditions referred to in this regulation shall be substantially the same for all licences of a similar nature unless the Agency is satisfied, on stated grounds in a particular case, that different conditions are reasonable.
- (4) The Agency may, if it is considered expedient to do so, require the holder of a licence to return it and the Agency shall then issue a substitute licence containing any new or amended conditions in its place.

17 Term of licence

A licence, unless sooner cancelled or suspended, remains in force for such period not exceeding 5 years as may be specified in the licence, but may be renewed.

Part VIII Miscellaneous

18 Sale of controlled substances

- (1) A distributor or wholesaler who sells a controlled substance shall keep records of that sale in accordance with this regulation.
- (2) A distributor or wholesaler of controlled substances shall:
 - (a) wherever practicable, accept all reclaimed controlled substances returned to the distributor or wholesaler for reprocessing;
 - (b) keep records of the controlled substances returned for reprocessing; and
 - (c) not sell a controlled substance other than to a person licensed under Part VII to purchase it.
- (3) Records kept under this regulation are to include the name and address and licence number of a purchaser, the declared end use, the quantity and type of controlled substances supplied and the quantity and type of controlled substances returned.
- (4) Without limiting the categories of end use that may be declared, end uses include:
 - (a) foam production;
 - (b) solvent usage;
 - (c) dry cleaning;
 - (d) aerosols;
 - (e) airconditioning and refrigeration;
 - (f) portable fire extinguishers; and
 - (g) halon fire suppression systems.
- (5) A copy of records kept under this regulation must be sent to the Agency no later than 14 days after each of the quarters ending 31 March, 30 June, 30 September and 31 December.

19 Labelling

- (1) Without derogating from a law in force in the Territory relating to the labelling or identification of substances or articles, all controlled articles shall be labelled or identified in accordance with any operative Code of Practice relating to such labelling or identification.

Penalty: \$5,000.

- (2) A person shall not fill or use a controlled article with a controlled substance unless the article is labelled or identified in accordance with this regulation.

Penalty: \$5,000.

20 Codes of Practice

- (1) The Agency may, in relation to an activity involving the use of controlled substances or controlled articles, develop or approve Codes of Practice for that activity.

- (2) The Agency may, for the purposes of subregulation (1), consult the Ozone Protection Consultative Committee or any other person the Agency thinks may assist it.

- (3) A Code of Practice becomes operative pursuant to the procedure set out in regulation 3(2).

- (4) A person who, in carrying out an activity to which an operative Code of Practice applies, breaches or fails to comply with the provisions of that Code of Practice commits an offence.

Penalty: \$5,000.

21 Exemptions

- (1) The Minister or the Agency may, by notice in the *Gazette*, exempt a person or any class or classes of persons from compliance with all or any of these Regulations, subject to such conditions, if any, as may be specified in the notice.

- (2) An exemption granted under subregulation (1) by the Minister shall:

- (a) be granted for such period not exceeding 60 days as the Minister thinks fit; or

- (b) if granted on the recommendation of the Agency, be for such period as the Minister thinks fit.

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- (3) The Minister may, by notice in the *Gazette*, where the Minister considers it appropriate that an exemption relating to stratospheric ozone protection granted under a law of a State, another Territory or the Commonwealth apply in the Territory, declare that the exemption have effect in the Territory in the same manner and to the same extent as if it had been granted by the Agency under subregulation (1).

22 Qualifications for use of controlled substances and articles

- (1) A person who wishes to use any controlled substance or service any controlled article must first be qualified in that use or the servicing of such articles.
- (2) For the purposes of subregulation (1), a person is qualified if:
- (a) the person:
 - (i) has successfully completed a relevant course presented in pursuance of section 26 of the Act; or
 - (ii) has a written authority of the Agency to use controlled substances or service controlled articles in any case where:
 - (A) a relevant course is not available but the Agency is satisfied that the applicant is suitable until a course can be undertaken; or
 - (B) the Agency is satisfied by reason of experience or of equivalent qualifications obtained in the Territory or elsewhere, that the person should be regarded as a qualified person; and
 - (b) the person is registered in the Register of Qualified Persons under subregulation (3).
- (3) The Agency shall set up and maintain a Register of Qualified Persons, and shall issue to each person registered, in such form as it thinks fit, a certificate of registration as a qualified person.

23 Cancellation or suspension of licence or registration

- (1) Where the holder of a licence or a person registered as a qualified person is found guilty of an offence against the Act or these Regulations, the court may, in addition to imposing a penalty (if any), cancel or suspend the licence or registration.
- (2) Where the holder of a licence or a person registered as a qualified person is charged with an offence against the Act or these

Regulations, the Agency may suspend the licence or the registration for a period or until the determination or withdrawal of the charge.

24 Review of decisions of delegate

- (1) A person dissatisfied with a decision made in pursuance of these Regulations by a person acting under the delegated authority of the Agency shall be entitled to have the decision reviewed and determined:
 - (a) by the Agency; or
 - (b) where the Agency thinks fit, by a person designated by the Agency who was not involved in the making of the original decision.
- (2) An application for review under subsection (1) shall be made in writing to the Agency within 28 days after the day on which notice of a decision referred to in subregulation (1), together with the reasons for that decision, was served on the applicant.
- (3) The Agency or other person referred to in subregulation (1) shall conduct a hearing to review the decision that is the subject of an application under subregulation (2) in such manner as is thought fit.
- (4) A decision referred to in subregulation (1) may, after review, be:
 - (a) confirmed;
 - (b) varied;
 - (c) substituted by another decision; or
 - (d) disallowed.
- (5) A determination under this regulation is final.

25 Infringement offences

- (1) For the purposes of section 19 of the Act, the following offences may be treated by an authorized officer as infringement offences:
 - (a) for a period of 3 months after the commencement of the regulation creating the offence, each offence so created; and
 - (b) after the period specified in paragraph (a), those offences created by regulations 7(1)(2)(3)(3A)(4) or (5), 9, 10(1), 10A, 11, 12, 15, 18(2)(c), 19(2), 20(4) or 22(1).

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- (2) The penalties in respect of an infringement offence are:
- (a) in relation to a first offence:
 - (i) a written statement to the Agency from the offender indicating how the activity leading to the commission of the offence has been remedied; or
 - (ii) if the statement referred to in subparagraph (i) is not provided to the Agency within 14 days after service of the infringement notice on the offender, the statement together with a monetary penalty of \$100; and
 - (b) in relation to a second or subsequent offence, a monetary penalty of \$100.
- (3) All penalties payable under this regulation shall be paid to the Agency or, if a delegate of the Agency is specified in the infringement notice, the delegate.

25A General offence and penalty

A person who contravenes or fails to comply with a provision of these Regulations is guilty of an offence and is liable on conviction, where no other penalty is provided by a provision of these regulations other than this regulation, to a penalty not exceeding \$5,000.

26 Fees

The fee prescribed for the purposes of these regulations is \$10.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
 app = appendix
 bl = by-law
 ch = Chapter
 cl = clause
 div = Division
 exp = expires/expired
 f = forms
 Gaz = Gazette
 hdg = heading
 ins = inserted
 lt = long title
 nc = not commenced

od = order
 om = omitted
 pt = Part
 r = regulation/rule
 rem = remainder
 renum = renumbered
 rep = repealed
 s = section
 sch = Schedule
 sdiv = Subdivision
 SL = Subordinate Legislation
 sub = substituted

2**LIST OF LEGISLATION*****Ozone Protection Regulations (SL No. 54, 1990)***

Notified	21 December 1990
Commenced	1 January 1991 (r 1, s 2 <i>Ozone Protection Act 1990</i> (Act No. 32, 1990) and Gaz S76, 21 December 1990)

Ozone Protection Regulations (SL No. 19, 1995)

Notified	14 June 1995
Commenced	14 June 1995

Parks and Wildlife Commission (Consequential Amendments) Act 1995 (Act No. 46, 1995)

Assent date	15 October 1995
Commenced	29 November 1995 (s 2, s 2 <i>Conservation Commission Amendment Act 1995</i> (Act No. 43, 1995) and Gaz S42, 29 November 1995)

3**LIST OF AMENDMENTS**

rr 3 – 5	amd Act No. 46, 1995, s 4(1)
r 6	amd SL No. 19, 1995, r 2; Act No. 46, 1995, s 4(1)
r 7	amd SL No. 19, 1995, r 3; Act No. 46, 1995, s 4(1)
rr 8 – 10	amd Act No. 46, 1995, s 4(1)
r 10A	ins SL No. 19, 1995, r 4 amd Act No. 46, 1995, s 4(1)
rr 13 – 16	amd Act No. 46, 1995, s 4(1)
r 18	amd Act No. 46, 1995, s 4(1)
rr 20 – 21	amd Act No. 46, 1995, s 4(1)
r 22	amd SL No. 19, 1995, r 5; Act No. 46, 1995, s 4(1)
rr 23 – 24	amd Act No. 46, 1995, s 4(1)
r 25	amd SL No. 19, 1995, r 6; Act No. 46, 1995, s 4(1)5
r 25A	ins SL No. 19, 1995, r 7