



Fire Protection Industry Permit Scheme and Penalties under Ozone Legislation

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In Australia controls for ozone depleting substances (ODS) and synthetic greenhouse gases (SGG) are achieved under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (the Act) and the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (the Regulations).

These controls are in place to:

- Promote the responsible management of scheduled substances to minimise their impact on the atmosphere.
- Provide controls on the manufacture, import, export, and use of SGGs under the Framework Convention on Climate Change and the Kyoto Protocol.
- Encourage industry to replace ozone depleting substances.
- Ensure Australia meets its international obligations under the Vienna Convention and the Montreal Protocol.

The Penalties for offences under the Regulations have been increased from 10 penalty units to a maximum of 50 penalty units. The Regulations have also been updated to include civil penalty provisions of 60 penalty units for all offences. Based on the current penalty unit value of \$313, the new Regulations increase the maximum penalty for an offence to between \$3,130 and \$18,780 for individuals and up to \$93,900 for body corporates.

The Act and Regulations control the acquisition, possession, disposal, and handling of controlled extinguishing agents for the fire protection industry in Australia.

These controls apply to any ODS or SGG extinguishing agent scheduled under the Act, including but not limited to:

Commonly used

- Heptafluoropropane (HFC-227ea)
- Bromochlorodifluoromethane (BCF)
- Bromotrifluoromethane (BTM)
- Hydrochlorofluorocarbon (HCFC Blend A and HCFC Blend C)

Limited use

- Tichlorofluoromethane (CFC-11)
- Trifluoromethane (HFC-23)
- Pentafluoroethane (HFC-125)
- Hexafluoropropane (HFC-236fa)
- Cholorotetrafluoroethane (HCFC-124)
- Perfluorobutane (PFC-410)

Permit or Authorisation Required – acquisition, possession, disposal, or handling

You are required to obtain an appropriate licence, permit or authorisation from the Fire Protection Industry (ODS & SGG) Board if you acquire, possess, dispose, or handle any of the extinguishing agents scheduled under the Act. These requirements are also in place for Halon.

Special arrangements may apply to operators of approved destruction facilities and to handling equipment or controlled extinguishing agents in the aviation, marine or Defence Force industries. For more information contact the **Fire Protection Industry (ODS & SGG) Board**.



Handling a controlled extinguishing agent

Handling a controlled extinguishing agent means doing anything with an extinguishing agent that carries the risk of emission. This includes, but is not limited to:

- Decanting the agent
- Installing or maintaining fire protection equipment
- Decommissioning or disposing of fire protection equipment.

Discharging a controlled extinguishing agent

Discharging a controlled extinguishing agent can have an impact on the atmosphere. For this reason, the Act and Regulation allow for civil penalties for individuals of **\$93,900 and up to \$469,500** for a body corporate for the unlawful discharging of a controlled extinguishing agent into the atmosphere.

The Act and Regulations also allow inspectors to issue infringement notices to individuals or a body corporate if there are reasonable grounds to believe a person has caused an unlawful discharge of a controlled extinguishing agent into the atmosphere. Individuals can be fined up to **\$3,756 and a body corporate up to \$18,700**.

It is not an offence to use a controlled extinguishing agent to prevent, control or extinguish a fire or to suppress an explosion.

In some limited circumstances, such as to test or calibrate a fire extinguishing system, the Fire Protection Industry (ODS & SGG) Board may approve the discharge of a controlled extinguishing agent. For more information, please contact the **Fire Protection Industry (ODS & SGG) Board**.

Non-compliance with the Act and Regulations

Non-compliance with the Act or Regulations may result in:

- A criminal prosecution
- A civil penalty order (where available)
- Infringement notice being issued.
- In addition, non-compliance can result in the cancellation of a licence, permit or authorisation if the holder is no longer a fit and proper person, or has contravened a condition of the licence, permit or authorisation.
- In some cases, the Minister or another person may also seek an injunction:
 - to restrain a person from doing a thing that is a contravention of the Act or Regulations, or
 - to require a person to act if failure to act is a contravention of the Act or Regulations.

Licence, permit and authorisation holders found to have not complied with the Act or Regulations will be monitored for ongoing compliance and may be the subject of increased compliance activities by the Department and the Fire Protection Industry (ODS & SGG) Board.

Reporting Noncompliance

If you have any information about the acquisition, possession, disposal, and handling of controlled extinguishing agents in Australia that may not comply with the **requirements** of the Act or Regulations please contact the Fire Protection Industry (ODS & SGG) Board. Information reported to the Fire Protection Industry (ODS & SGG) Board will be held in the strictest confidence



Summary of Offences under the Act and Regulations

Offences under the Act and Regulations that apply to the fire protection industry include:

Handling extinguishing agent without an extinguishing agent handling licence or a special circumstances exemption	r 302	Penalty for an individual: 50 penalty units (\$15,650)
Acquiring, possessing or disposing of bulk extinguishing agent without approval	r 303	Penalty for an individual: 50 penalty units (\$15,650) Penalty for a body corporate: up to 60 penalty units (18,780)
Possessing halon without approval	r 304	Penalty for an individual: 50 penalty units (\$15,650) Penalty for a body corporate: up to 60 penalty units (\$18,780)
Engaging in conduct leading to the discharge of a scheduled substance	s 45B	Penalty for an individual: 300 penalty units (\$93,900) Penalty for a body corporate: up to 1,500 penalty units (\$469,500) Infringement notice for an individual: up to 12 penalty units (\$3,756) Infringement notice for a body corporate: up to 60 penalty units (\$18,780)
Making a false or misleading statement or providing a document containing false or misleading information in relation to a licence, permit or authorisation application	s 62	Civil penalty for an individual: up to 120 penalty units (\$37,560) Civil penalty for a body corporate: 600 penalty units (\$187,800) Criminal penalty: imprisonment for 2 years
Making a false or misleading statement or providing a document containing false or misleading information to an inspector	s 62	Civil penalty for an individual: up to 60 penalty units (\$18,780) Civil penalty for a body corporate: 300 penalty units (\$93,900) Criminal penalty: imprisonment for 12 months
Intentionally hindering, or resisting an inspector or a person assisting an inspector	s 63	Civil penalty for an individual: up to 30 penalty units (\$9,390) Civil penalty for a body corporate: 150 penalty units (\$46,950) Criminal penalty: imprisonment for 6 months
Refusal or failure to answer an inspector's question or produce a document required by an inspector	s 64	Civil penalty for an individual: up to 60 penalty units (\$18,780) Civil penalty for a body corporate: 300 penalty units (\$93,900) Criminal penalty: imprisonment for 12 months