

South Australia

Environment Protection (Ozone) Regulations 1994

under the *Environment Protection Act 1993*

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1—Short title

These regulations may be cited as the *Environment Protection (Ozone) Regulations 1994*.

2—Commencement

These regulations will come into operation on the day on which the Act comes into operation.

3—Interpretation

In these regulations—

accredited person means a person accredited by the Authority as a person qualified to service a product containing a prescribed substance;

the Act means the *Environment Protection Act 1993*;

BCF fire extinguisher means a fire extinguisher containing Halon 1211;

commercial refrigerator means a refrigerator that is not a domestic refrigerator;

commission means put a prescribed substance into plant or equipment, and

decommission has the reverse meaning;

domestic refrigerator means a free-standing refrigerator designed for use in domestic premises;

exempt person means a person who has an exemption under Part 6 of the Act or Part V of the Commonwealth Act authorising the person to manufacture or import a product containing a prescribed substance;

the former regulations means the *Clean Air (Ozone Protection) Regulations 1990*;

halon flooding fire control system means a fixed fire extinguishing system containing Halon 1301;

imported means imported into South Australia;

manufactured means manufactured within South Australia;

refrigerator includes a freezer;

use, in relation to a product containing a prescribed substance, does not include service the product.

Note—

For definition of divisional penalties (and divisional expiation fees) see Appendix.

4—Continued use etc of certain products containing prescribed substances

- (1) Subject to this regulation, a person may use, store, sell or dispose of a product containing a prescribed substance if—
 - (a) the product was manufactured or imported before 1 June 1990; or
 - (b) the product was manufactured or imported after that date by an exempt person; or
 - (c) the prescribed substance is an HCFC referred to in Schedule 3 and the product contains no other prescribed substance.
- (2) Subregulation (1)(a) or (b) does not apply to—
 - (a) a BCF fire extinguisher; or
 - (b) a refrigerator, air conditioner or halon flooding fire control system that contains three kilograms or more of a prescribed substance; or
 - (c) the disposal of a refrigerator (other than a domestic refrigerator), air conditioner or halon flooding fire control system containing less than three kilograms of a prescribed substance; or
 - (d) the disposal of a motor vehicle air conditioner.

5—BCF fire extinguishers

- (1) A person may use or store a BCF fire extinguisher if—
 - (a) it—

- (i) was manufactured or imported before 1 June 1990; or
 - (ii) was manufactured or imported after that date by an exempt person; and
 - (b) it is used only for the purposes of extinguishing a fire (not being a fire deliberately lit for the purposes of firefighting training).
- (2) Subregulation (1) ceases to apply in relation to a BCF fire extinguisher on—
- (a) the day on which it is next liable to be subjected to a hydrostatic test; or
 - (b) 31 December 1995,

whichever is the earlier, and the person who owns or has possession of the extinguisher must, before that day, deliver the extinguisher to an office or station of the South Australian Metropolitan Fire Service, the Country Fire Service or the DASCEM Halon Bank for disposal.

Penalty: Division 9 fine.

Expiation fee: Division 9 fee.

- (3) The South Australian Metropolitan Fire Service or the DASCEM Halon Bank may cause BCF fire extinguishers to be decommissioned.

6—Conditional exemptions for certain products

- (1) A person—
- (a) who owns or has possession of a refrigerator, air conditioner or halon flooding fire control system that contains three kilograms or more of a prescribed substance; and
 - (b) who was, immediately before the commencement of these regulations, exempted under regulation 5A of the former regulations in respect of the use of that refrigerator, air conditioner or fire control system,

is exempt from the operation of section 75 of the Act subject to this regulation.

- (2) An exemption under subregulation (1) is subject to the following conditions:
- (a) the person must cause the unit to which the exemption relates to be serviced at intervals of not more than six months;
 - (b) the person must not engage a person other than an accredited person to service the unit;
 - (c) the person must keep a log book in respect of the unit, containing the dates on which the unit was serviced, details of the work performed and the accreditation number of the accredited person who performed the work;
 - (d) the person must make the log book referred to in paragraph (c) available for inspection by an authorised officer;
 - (e) the person must not remove or deface the label that has been fixed to the unit by the manufacturer in accordance with these regulations.

- (3) The exemption under subregulation (1) of a person who owns or has possession of a halon flooding fire control system is subject to the following further conditions:
- (a) the person must not cause or permit a test to be carried out on the unit that would release halon into the atmosphere;
 - (b) the person must not cause or permit the unit to be discharged except for the purposes of extinguishing a fire;
 - (c) if any halon is released from the unit other than for the purposes of extinguishing a fire, the person must give written notice of the release to the Authority and of the reason for the release;
 - (d) if the unit is decommissioned, the person—
 - (i) must cause the halon to be stored pending its disposal; and
 - (ii) must give written notice of the decommissioning to the Authority; and
 - (iii) must not dispose of the halon except in accordance with the approval of the Authority.
- (4) A notice required to be given to the Authority under this regulation must be addressed to the Authority at the principal office of the Authority.
- (5) This regulation does not apply in respect of a halon flooding fire control system after 30 June 1996.

7—Employees of exempt persons also exempt

An employee (including an apprentice) of an exempt person or of any other person exempted (in whole or part) from the operation of section 75 of the Act is, to the extent that he or she is engaged in an activity undertaken in compliance with the employer's exemption, exempt from the operation of that section.

8—Students at exempt educational institutions also exempt

A student attending an educational institution that is exempt (in whole or part) from the operation of section 75 of the Act is, to the extent that he or she participates in an activity undertaken in compliance with the institutions's exemption, exempt from the operation of that section.

9—Owner of certain products must engage accredited person for service

A person who owns or has possession of a refrigerator, air conditioner or halon flooding fire control system that contains less than three kilograms of a prescribed substance must not engage a person other than an accredited person to service the unit.

Penalty: Division 9 fine.

Expiation fee: Division 9 fee.

10—Labelling

The manufacturer of a product that contains a prescribed substance and that can only be serviced by an accredited person must affix to the product, in a position visible to a person about to carry out any such work on the product, a label that—

- (a) conforms with Schedule 1; and

- (b) is of dimensions such that the wording of the label is easily legible; and
- (c) is printed in black on a yellow background; and
- (d) will endure for the life of the product.

Penalty: Division 9 fine.

Expiation fee: Division 9 fee.

11—Fees

- (1) The fee for the accreditation of a person for a period of two years is as set out in Part A of Schedule 2.
- (2) The fees payable in respect of an application under Part 6 of the Act for exemption from the operation of section 75 of the Act are as set out in Part B of Schedule 2.
- (3) Where the fee payable by an applicant for exemption exceeds \$50 the applicant is exempt from the requirement to pay the fee at the time of lodgment of the application, provided that the fee is paid in four equal quarterly instalments in advance of each quarter.

12—Form of exemption

An exemption from the operation of section 75 of the Act will be in a form determined by the Authority.

13—Section 48 of Act not to apply

Section 48 of the Act does not apply to an exemption from the operation of section 75 of the Act.

15—Transitional provision

- (1) A person holding an accreditation under the former regulations is to be taken to be accredited for the purposes of these regulations until 31 May 1996.
- (2) When the Authority makes a decision granting an exemption under Part 6 of the Act in respect of the operation of section 75 of the Act to a person who held an exemption that was of the same effect under section 30B of the repealed *Clean Air Act 1984*, the exemption document issued by the Minister under the repealed Act is to be taken to be an exemption granted by the Authority from section 75 of the Act in the form required by these regulations.

Schedule 1—Label for products containing prescribed substances



Schedule 2—Fees

Part A

Fee for accreditation by the Minister for a period of two years \$50.00

Part B

Fee for exemption by the Minister—

- | | |
|---|---|
| (a) in the case of a person who imports any of the following prescribed substances for sale or use by that person:
CFC-11, CFC-12, CFC-13, CFC-111,
CFC-112, CFC-113, CFC-114,
CFC-115, CFC-211, CFC-212,
CFC-213, CFC-214, CFC-215,
CFC-216, CFC-217, Halon-1211,
Halon-1301, Halon-2402, Carbon Tetrachloride | 10 cents for each kilogram of those imported prescribed substances sold or used during the year ending 31 December preceding the date of the application. |
| (b) in the case of any other applicant | \$50.00 |

Schedule 3—HCFCs under Commonwealth Act

HCFC-21
HCFC-22
HCFC-31
HCFC-121

HCFC-122
HCFC-123
HCFC-123
HCFC-124
HCFC-124
HCFC-131
HCFC-132
HCFC-133
HCFC-141
HCFC-141b
HCFC-142
HCFC-142b
HCFC-151
HCFC-221
HCFC-222
HCFC-223
HCFC-224
HCFC-225
HCFC-225ca
HCFC-225cb
HCFC-226
HCFC-231
HCFC-232
HCFC-233
HCFC-234
HCFC-235
HCFC-241
HCFC-242
HCFC-243
HCFC-244
HCFC-251
HCFC-252
HCFC-253
HCFC-261
HCFC-262
HCFC-271

Any other HCFC that is referred to in Schedule 1 of the Commonwealth Act.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Revocation of regulations

The *Environment Protection (Ozone) Regulations 1994* were revoked by Sch 2 of the *Subordinate Legislation (Postponement of Expiry) Regulations 2005* on 1.9.2005.

Principal regulations

Year	No	Reference	Commencement
1994	182	<i>Gazette 27.10.1994 p1337</i>	1.5.1995: r 2

Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 14</i>	<i>expired: r 14(2)—omitted under Legislation Revision and Publication Act 2002</i>	<i>(31.5.1996)</i>

Appendix—Divisional penalties and expiation fees

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

Note: This appendix is provided for convenience of reference only.