



Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2005 (No. 3)¹

Select Legislative Instrument 2005 No. 254

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

Dated 10 November 2005

P. M. JEFFERY
Governor-General

By His Excellency's Command

IAN CAMPBELL
Minister for the Environment and Heritage

1 Name of Regulations

These Regulations are the *Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2005 (No. 3)*.

2 Commencement

These Regulations commence as follows:

- (a) on the day after they are registered — regulations 1 to 3 and Schedule 1;
- (b) on 1 January 2006 — Schedule 2.

3 Amendment of *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*

Schedules 1 and 2 amend the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*.

Schedule 1 Amendments commencing on registration

(regulation 3)

[1] Table 131, item 4, column 4

omit

MEM 201

insert

MEM 20198

[2] Subregulation 304 (4), except the note

substitute

- (4) This subregulation applies to:
- (a) equipment that is used by the Defence Force in:
 - (i) a Collins Class submarine; or
 - (ii) an armoured fighting vehicle; or
 - (b) equipment (other than a portable fire extinguisher) that is used by the Defence Force in:
 - (i) an FFG7 Class destroyer; or
 - (ii) an ANZAC Class frigate; or
 - (c) equipment that is installed in, or carried in, an aircraft; or
 - (d) equipment that is installed in an enclosed space containing machinery, including the pump room, of a vessel:
 - (i) of more than 500 tonnes dead weight; or
 - (ii) that is entered in the Australian Register of Ships established under the *Shipping Registration Act 1981*.

Schedule 2 Amendments commencing on 1 January 2006

(regulation 3)

[1] Regulation 200, definition of *exempt person*

substitute

exempt person, for a year, means a person who is shown as an exempt person on the Non-QPS Exemption List for the year.

**[2] Regulation 200, definition of *nominated supplier*,
paragraph (a)**

substitute

- (a) in relation to an exempt person for a year — a person that is shown as a nominated supplier for the exempt person on the Non-QPS Exemption List for the year; and

[3] Regulation 200, definition of *Non-QPS Exemption List*, including the note

substitute

Non-QPS Exemption List means:

- (a) for the year 2005 — the document called Exemption List for Non-QPS Applications of Methyl Bromide, published by the Department, as in force on 1 May 2005; and
- (b) for the year 2006 — the document called Exemption List for Non-QPS Applications of Methyl Bromide in 2006, published by the Department, as in force on 1 January 2006.

Note The Non-QPS Exemption Lists can be viewed on the Internet at www.deh.gov.au/atmosphere/ozone/publications/exemption-list.html.

[4] Regulation 211

substitute

211 Meaning of *allocated amount*

The amount of methyl bromide set out in a Non-QPS Exemption List for an exempt person and the person's nominated supplier (or 1 of the person's nominated suppliers) is the person's ***allocated amount*** for that supplier for the year to which the Non-QPS Exemption List relates.

[5] Subregulation 212 (1), except the penalty

substitute

- (1) A person who uses methyl bromide for a non-QPS application during a year is guilty of an offence if the person is not:
- (a) an exempt person for the year; or
 - (b) acting on behalf of an exempt person for the year.

[6] Regulation 213

substitute

213 Offence — supplying methyl bromide for non-QPS applications

- (1) A person (the ***supplier***), other than an importer, is guilty of an offence if:
- (a) he or she 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 application; and
 - (c) subregulations (2), (3) and (4) are not satisfied in relation to the sale.

Penalty: 10 penalty units.

-
- (2) The buyer must be:
- (a) an exempt person, or acting on behalf of an exempt person, for the year; or
 - (b) a nominated supplier for an exempt person for the year.
- (3) If the buyer is, or is acting on behalf of, an exempt person for the year:
- (a) the supplier must be a nominated supplier for the exempt person; and
 - (b) the supplier must ensure that the total amount of methyl bromide sold during the year by the supplier to the exempt person for non-QPS applications is equal to, or less than, the exempt person's allocated amount for the supplier for the year.
- (4) If the buyer is a nominated supplier for an exempt person for the year:
- (a) the supplier must be an intermediate supplier for the buyer for the year; and
 - (b) the supplier must ensure that the total amount of methyl bromide sold during the year by the supplier to the buyer for non-QPS applications is equal to, or less than, the allocated amounts that the buyer is entitled to supply to exempt persons for non-QPS applications for the year.
- (5) To avoid doubt, if a buyer is an exempt person for a year and also a nominated supplier for an exempt person for the year, the amount of methyl bromide that the supplier may sell to the buyer during the year for non-QPS applications is the sum of the total amounts mentioned in subregulations (3) and (4).
- (6) In this regulation:
- importer** means a licensee who holds a controlled substances licence that:
- (a) allows the licensee to import methyl bromide; and
 - (b) is subject to a condition to the effect that methyl bromide imported for non-QPS applications may only be supplied to a person, or persons, specified in the licence.

Note A licensee must not contravene a condition of his or her licence — see subsection 18 (7) of the Act.

intermediate supplier, in relation to a buyer for a year, means a person who is shown as an intermediate supplier for the buyer on the Non-QPS Intermediate Supplier List for the year.

Non-QPS Intermediate Supplier List means:

- (a) for the year 2005 — the document called Intermediate Supplier List for Non-QPS Applications of Methyl Bromide, published by the Department, as in force on 1 January 2005; and
- (b) for the year 2006 — the document called Intermediate Supplier List for Non-QPS Applications of Methyl Bromide in 2006, published by the Department, as in force on 1 January 2006.

Note The Non-QPS Intermediate Supplier Lists can be viewed on the Internet at www.deh.gov.au/atmosphere/ozone/publications/supplier-list.html.

- (7) An offence against subregulation (1) is an offence of strict liability.

[7] Subregulation 231 (1)

omit

An exempt person must, within 14 days after the end of a report period,

insert

An exempt person for a year must, within 14 days after the end of a report period in the year,

Note

- 1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.