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## **Review of the Environmental Protection (Ozone Protection) Policy 1993**

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**As required under section 36 of the Environmental Protection Act, 1986**

**Environmental Protection Authority  
Perth, Western Australia  
June 2000**



C. M. C. 115

Department of Environmental Protection

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Dr Wally Cox  
A/Executive Director  
Department of Conservation and Land Management  
PO Box 104  
COMO WA 6952

Enquiries: 9222 7131

Dear Dr Cox

Re: **REVIEW OF THE ENVIRONMENTAL PROTECTION (OZONE PROTECTION) POLICY 1993**

The Environmental Protection Authority (EPA) is an independent statutory authority and is the key provider of independent environmental advice to the Government. The EPA's objectives are to protect the environment and to prevent, control and abate pollution. The EPA aims to achieve this through a number of instruments, including the development of Environmental Protection Policies.

The EPA is currently reviewing its Environmental Protection (Ozone Protection) Policy 1993 which has the force of law since it was published on 10 September 1993.

Under section 36(1)(b) of the Environmental Protection Act the EPA is required to review the Policy within 7 years. As part of this review process the EPA is inviting your comment on the proposed changes. I have enclosed a copy of the EPA's report on the Review of the Environmental Protection (Ozone Protection) Policy 1993 on behalf of the EPA. This report explains the proposed changes to the existing policy and the reasons for review. I invite you to comment on this document during the public comment period between Friday 30 June 2000 and Friday 28 July 2000.

Comments should be marked Attention: Geoff Fulford and returned to the Department of Environmental Protection, PO Box K822, Perth WA 6842. If you prefer, you can e-mail your comments to: [geoff\\_fulford@environ.wa.gov.au](mailto:geoff_fulford@environ.wa.gov.au). For further enquiries please telephone 9222 7131.

Yours sincerely

R.A.D. Sippe  
DIRECTOR  
POLICY COORDINATION DIVISION

30 June 2000

enc.

*Handwritten notes:*  
- New NTA  
- I agree with  
- are covered by reasonable  
- for final only  
- 11/7  
- 17/7

*Handwritten notes:*  
- probably only concerns CACM in regard to its use of air conditioner units, fire hydrant & substance (Halon, so types of polyurethane, CFC's, chloroform) and disposed of same. I guess EP could put together a brief note to inform staff what do you think?  
- 7/7  
- 11/7

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## Foreword

The Environmental Protection Authority (EPA) is an independent statutory authority and is the key provider of independent environmental advice to Government. The EPA's objectives are to protect the environment and to prevent, control and abate pollution.

An Environmental Protection Policy (EPP) is prepared under Part III of the *Environmental Protection Act 1986* and has "the force of law as though it had been enacted as part of this Act", on and from the day on which the policy is published in the *Western Australian Government Gazette*.

The *Environmental Protection (Ozone Protection) Policy 1993* as set out in Appendix 1 and referred to in this document as the 1993 Ozone Protection EPP, was published in the *Western Australian Government Gazette* on 10 September 1993. It has had the force of law since that date. Under section 36(1)(b) of the *Environmental Protection Act 1986*, the Environmental Protection Authority (EPA) is required to review the 1993 Ozone Protection EPP and prepare a revised draft EPP for transmittal to the Minister for the Environment within 7 years.

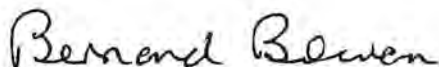
The EPA is required to:

- review the 1993 Ozone Protection EPP;
- prepare a new draft EPP for public comment; and
- submit a revised draft EPP to the Minister for the Environment by 10 September 2000

Accordingly, the EPA has prepared this document to meet the first two of the above requirements (pursuant to section 36 of the *Environmental Protection Act, 1986*)

Upon appraising the effectiveness of the 1993 Ozone Protection EPP and the status of ozone depletion, the EPA has decided to provide for the ongoing management of ozone depleting substances in those activities where such substances have not yet been phased out. The EPA has recommended that this draft policy also provides provisions for alternative refrigerants which are being introduced to replace existing ozone-depleting refrigerants. These provisions for alternative refrigerants have been incorporated in order to provide protection for existing ozone-depleting refrigerant inventories during the phase in of the new alternative refrigerants and it is anticipated, they will only be required throughout the life of this policy (7 years) before becoming redundant.

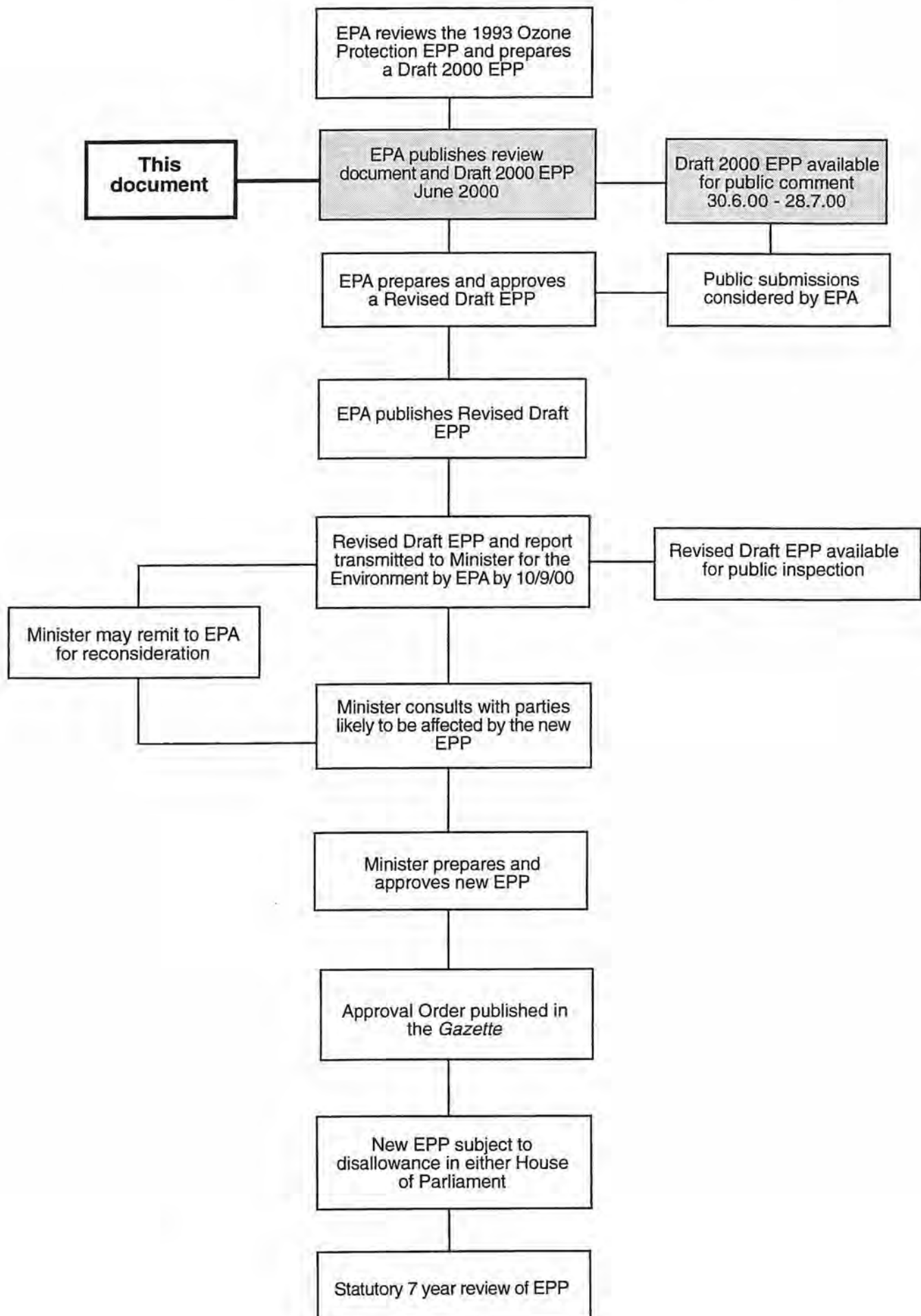
I am pleased to release this draft *Environmental Protection (Ozone Protection) Policy 2000*, pursuant to s 26 of the Environmental Protection Act, 1986, for a 4 week public comment period and invite written submissions from members of the community, organisations and agencies.



**Bernard Bowen**  
CHAIRMAN  
ENVIRONMENTAL PROTECTION AUTHORITY

30 June 2000

## Proposed steps in the review of the 1993 Ozone Protection EPP



## 1. Background

The Government of Western Australia published the *Environmental Protection (Ozone Protection) Policy 1993*, (hereinafter referred to as the 1993 Ozone Protection EPP) in the *Western Australian Government Gazette* on 10 September 1993. The policy had the force of law and was effective on and from that date.

The purpose of the 1993 Ozone Protection EPP was to:

- replace the existing legislation, namely the *Environmental Protection Amendment Regulations 1988* and the *Environmental Protection (Ozone-depleting Substances) Policy 1989*. The 1993 Ozone Protection EPP also applied to a much larger list of ozone-depleting substances and included provisions for accreditation for personnel and registration of businesses.

Under section 36(1)(b) of the *Environmental Protection Act 1986*, the Environmental Protection Authority (EPA) is required to review the 1993 Ozone Protection EPP and prepare a revised draft EPP for transmittal to the Minister for the Environment within 7 years from the date on which the policy was approved (that is, the date it was published in the *Gazette*).

The EPA is therefore required under law to conduct its review and transmit a revised draft EPP to the Minister by 10 September 2000. Accordingly, the EPA has given effect to its review of the 1993 Ozone Protection EPP by:

- explaining the legislative context within which EPPs are both prepared and reviewed;
- outlining the public consultation process for reviewing the 1993 Ozone Protection EPP;
- inviting public comment and written submissions on the draft *Environmental Protection (Ozone Protection) Policy 2000* (referred to in this document as the draft 2000 Ozone Protection EPP); and
- explaining the purpose and structure of the draft 2000 Ozone Protection EPP.

## 2. Context of 1999/2000 Environmental Review

Dr Klaus Topfer, Executive Director, UNEP (OzonAction Number 32 Nov 1999) stated prior to the 11th Meeting of the Parties to the Montreal Protocol that, "the ozone layer is still depleted, many challenges remain and new ones are emerging." Despite a dramatic reduction in the release of ozone-depleting substances, due largely to international cooperation via the Montreal Protocol, the ozone layer is expected to recover only slowly over the next 50 years with stratospheric abundance of ozone depleting substances not expected to return to pre-1980 levels until about 2050, assuming full compliance with the Montreal Protocol and its amendments. As Dr Topfer noted: "the Montreal Protocol is rightly hailed as an example of successful international environmental cooperation. But we must be aware of complacency."

There is a perception within some parts of the community that the ozone problem has been solved and we no longer need to expend resources on this issue. This unfortunately is not the case, as reported in the press (Sunday Times September 19, 1999) "Ozone hole 'at record size'" where it was noted that this year's 'spring' hole was virtually at record size". Last year's Antarctic ozone hole was reported as being 20 million sq km which is consistent with the size of such 'holes' experienced over the past 5 years. (Arthur Downey, Bureau of Meteorology, Melbourne, pers comm).

There are still large amounts of ozone-depleting chemicals being released to the atmosphere including halon gases which are approximately 16 times more harmful than chlorofluorocarbons (CFCs) and methyl bromide. The enhanced greenhouse effect will also have an impact upon ozone recovery as cooling of the stratosphere aids the destruction processes involved in the depletion of the ozone layer.



Hence there is still a substantial time period involved before the stratospheric ozone layer recovers even with adherence to the Montreal Protocol. In order to meet the significant challenges ahead it is important that all parties maintain a high level of commitment to ongoing protection of the ozone layer.

The Scientific Assessment of Ozone Depletion 1998, published by the World Meteorological Organisation, stated that the ozone layer was at that time in its most vulnerable state with total stratospheric loading of ozone-depleting substances not expected to maximise before the year 2000. This assessment also reports that the ozone layer is expected to slowly recover over the next 50 years, with the stratospheric loading of ozone-depleting substances not expected to return to its pre 1980 level until about 2050. This is assuming full compliance with the Montreal Protocol and its amendments and adjustments. It can be quite clearly seen then that there is still much to be done in order to continue to minimise the negative impacts upon the stratospheric ozone layer whilst it struggles to repair itself.

Perhaps the greatest challenge facing 'the legislative protectors' of the ozone layer is the management of the alternative substances being introduced to replace the traditional ozone-depleting substances. This is particularly relevant in the refrigeration and air conditioning industries where many of the alternatives also contribute to global warming and it is wise to extend the provisions of environmental legislation to encompass the introduction of these substances. The Scientific Assessment of Ozone Depletion 1998, stated that the issues of ozone depletion and climate change are interconnected and therefore so are the Montreal and Kyoto Protocols. Changes in ozone affect the Earth's climate, and changes in climate and meteorological conditions affect the ozone layer as the two phenomena share a number of common physical and chemical processes. This draft policy has made provision for interim measures to manage the introduction of alternative refrigerants, many with global warming potential.

### **3. What is an Environmental Protection Policy (EPP)?**

An Environmental Protection Policy (EPP) is prepared under Part III of the *Environmental Protection Act 1986* and has "the force of law as though it had been enacted as part of this Act", on and from the day on which the policy is published in the *Western Australian Government Gazette*.

An EPP establishes:

- the basis on which the environment in this area is to be protected, or pollution is to be prevented, controlled or abated.

In addition, an EPP may also:

- establish the boundaries of the area and the portion of the environment to which the policy applies;
- identify and declare the beneficial uses of the environment to be protected under the policy;

- specify the environmental quality objectives to be achieved and maintained by means of the policy;
- set out the indicators, parameters or criteria to be used in measuring environmental quality;
- make statements relating to any activity directed towards the protection of the environment, including the discharge of waste;
- create offences and penalty provisions; and
- establish a programme for the achievement and maintenance of the environmental quality objectives within the policy area and which specify, among other things, measures designed to:
  - (i) minimise the possibility of pollution;
  - (ii) protect the environment; and
  - (iii) achieve the beneficial uses to be protected.

EPPs are made in accordance with the *Environmental Protection Act 1986*. However, the functions and powers of an EPP are bound by the objects and powers of its parent Act and cannot contain any requirement or condition that may be deemed to be outside the powers of the *Environmental Protection Act 1986* itself. Notwithstanding this, the *Environmental Protection Act 1986* is binding on the Crown. Accordingly, all government departments and agencies are required under law to comply with both the Act and EPPs prepared under that Act.

Because an EPP can require by law that the decisions and actions of a statutory authority be consistent with the purposes of a particular policy, EPPs effectively provide a statutory framework for 'whole-of-government' environmental decision-making.

Under section 6 of the *Environmental Protection Act*, the Minister or the EPA may take one of two approaches to the matter of exemptions from compliance with the provisions of an EPP. They may prevent the granting of such exemptions, or may specify the circumstances or conditions (or both) under which an exemption may be granted. Any person who breaches a condition with which they are required to comply commits an offence, to which penalty provisions may apply.

## **4. The draft 2000 Ozone Protection EPP**

### **4.1 Historical context**

Australia was an original signatory of the Montreal Protocol. It has continued to remain closely associated with the review and update of the Protocol. Australian governments at Federal, State and Territory level, have undertaken legislative and associated activities which complement and support the international agreements.

In 1989 the (then) Australian Environment Council adopted a strategy for Ozone Protection to provide a timetable for the phase out of ozone-depleting substances in Australia. The strategy was Australia's response to the partial phase out programme for ozone-depleting substances under the 1987 Montreal Protocol of Substances that Deplete the Ozone Layer.

The Australian and New Zealand Environment Conservation Council (ANZECC) established the Ozone Protection Consultative Committee (OPCC) as a forum for industry, community and conservation groups to advise the Ozone Protection Working Group (OPWG) on progress and on industry responses to the strategy. Although the OPWG has ceased to exist the OPCC continues to help industry to cooperate with governments in meeting, and, where technically possible, exceeding strategy targets.

Western Australia continues to be actively involved in developing strategies in conjunction with the OPCC for the management of activities which have the potential to impact upon the stratospheric ozone layer.

Western Australia was the first State in Australia to introduce ozone protection legislation by way of the Environmental Amendment Regulations 1988, which banned the use of chlorofluorocarbons (CFCs) in certain aerosols (pressure packs). The Environmental Protection (Ozone-depleting Substances) Policy 1989 was then introduced to control the servicing of equipment, so that no ozone-depleting substances were released to the atmosphere. This was subsequently superseded by the Environmental Protection (Ozone Protection) Policy 1993. This new legislation applied to a much larger list of ozone-depleting substances which included CFCs, halons, carbon tetrachloride, methyl chloroform, hydrofluorocarbons (HCFCs) and mixtures of these. In addition, the new legislation combined existing legislation into one policy and included provision for halons and for accreditation of personnel and registration of businesses.

#### **4.2 Environmental Performance of the 1993 Ozone Protection EPP**

The 1993 Ozone Protection EPP was designed to manage those activities from various industries which used ozone-depleting substances. Industry bodies which continued to use these substances were empowered with 'issuing body' status. Many of the industry groups have successfully phased out the use of substances with ozone-depleting potential, notably the dry cleaning industry, as well as others which used sterilisation equipment, aerosol pressure packs and many types of solvents. The successful phase out of many such substances is testimony, in part, to the successful introduction of the policy.

Ongoing monitoring of the efficacy of the policy has been achieved via feedback from the various industry groups, joint inspections, training programmes, and details of collection activities related to halon gases. The national halon bank (NHM) provides monthly updates of halon 1211 and 1301 gases which are collected throughout the state by the NHM. These figures are used as environmental indicators by the Department of Environmental Protection (DEP).

#### **4.3 Objective of the draft 2000 Ozone EPP**

The principal objective of the draft Ozone EPP 2000 is to continue to manage activities which use ozone-depleting substances in a manner which is consistent with the other states of Australia and with the recommendations of the National Ozone Strategy. This draft has also been extended to cover alternative refrigerants in those areas where new alternatives are being introduced. This has been done to protect current stocks of ozone-depleting substances from being released to the atmosphere as a result of non-accredited tradespersons with insufficient training and/or equipment working on systems containing such substances. This is seen as a temporary measure for the life of this policy to allow for a phase in period to ensure ongoing protection of the stratospheric ozone layer from the release of ozone-depleting substances.

#### **4.4 Summary of the draft 2000 Ozone EPP**

The Environmental Protection Policy consists of five parts.

- **Part 1** describes the purpose of the Policy, defines terms used in the Policy and provides for certain exemptions from the Policy's provisions.
- **Part 2** controls the use, sale or purchase of ozone-depleting substances and requires appropriate record keeping for such transactions.
- **Part 3** and its divisions provide controls on the use of ozone-depleting substances in the:
  - manufacture of foams;
  - operation of dry cleaning;



- use of solvents;
- sale or use of portable halon fire extinguishers;
- use, testing and installation of fixed halon flooding systems;
- manufacture, sale or supply of sterilising equipment;
- control of certain pressure packs;
- servicing of cooling equipment;
- filling of transportable containers; and
- manufacture, sale or supply of non-returnable cylinders.
- *Part 4* provides for the authorisation of "issuing bodies".
- *Part 5* includes penalties, exemptions from certain provisions of this policy and the Schedule of ozone-depleting substances included in the Policy.

## **5. Consultation with key stakeholders – draft 2000 Ozone Protection EPP**

The EPA approved the strategy to undertake consultation with key stakeholders and the general public in order to uncover those issues considered relevant to a review of the 1993 Ozone Protection EPP. In conjunction with industry bodies, namely the Refrigeration and Air Conditioning Industry Registration Board of Western Australia (RACIRB), the Motor Trade Association (MTA) and the Fire Protection Industry of Australia LTD (FPI) meetings were held throughout the State. During September and October 1999 open meetings were held at Perth (2), Fremantle, Bunbury, Albany, Kalgoorlie, Geraldton, Kununurra and Broome. A further consultation period is now being held from 30 June 2000 to 28 July 2000 where the community will have the opportunity to send in submissions on the draft 2000 Ozone Protection EPP.

Many submissions were received from the above industry groups and were incorporated, where practicable, into the draft 2000 Ozone Protection EPP. Following a compilation of issues raised, representatives from the key stakeholder groups, as mentioned above, were invited to examine proposed changes to the draft policy. The current draft policy is a result of extensive negotiations with industry group representatives and submissions received from members of these groups.

## **6. What happens after the public submission period?**

The *Environmental Protection Act 1986* requires both the EPA and the Minister for the Environment to consult such parties as are likely to be affected by an EPP. Accordingly, development of an EPP is a lengthy process.

Formal consultation on the draft 2000 Ozone Protection EPP has commenced with release of this document. A revised draft policy will be prepared and submitted to the Minister for the Environment by 10 September 2000. The Minister then further consults with parties likely to be affected by the EPP and may remit the policy back to the EPA for reconsideration.

## **7. Submissions**

The EPA invites comments on the process, issues and factors to be considered during this review from members of the community, organisations and agencies on:

- the draft *Environmental Protection (Ozone Protection) Policy 2000*

Written submissions on the draft policy should be sent to:

**The Chairman  
Environmental Protection Authority  
141 St Georges Terrace  
PERTH WA 6000**

**Attention Geoff Fulford**

**Telephone 9222 7131**

**Fax 9222 7099**

**email [geoff\\_fulford@environ.wa.gov.au](mailto:geoff_fulford@environ.wa.gov.au)**

Written submission should be lodged by 5pm Friday 28 July 2000. All submissions will be acknowledged and a summary of submissions will accompany the revised draft policy upon its transmittal to the Minister for the Environment. **Those submissions received during the previous consultation period, September to October 1999, will be considered again in this review period.**

## **Appendix 1**

### **ENVIRONMENTAL PROTECTION ACT 1986**

#### **ENVIRONMENTAL PROTECTION (OZONE PROTECTION) POLICY 1993**

Made by the Minister under section 31 (d).

##### **Citation**

1. This order may be cited as the Environmental Protection (Ozone Protection) Policy Approval Order 1993.

Approval and commencement of environmental protection policy

2. The environmental protection policy set out in the Schedule—
  - (a) is approved; and
  - (b) shall have the force of law on and from 1 December 1993.



## SCHEDULE

[clause 2]

### ENVIRONMENTAL PROTECTION (OZONE PROTECTION) POLICY 1993

Approved by the Minister under section 31 (d).

#### PART 1—PRELIMINARY

##### Citation

1. This environmental protection policy may be cited as the Environmental Protection (Ozone Protection) Policy 1993.

##### Application

2. This environmental protection policy applies throughout the State.

Purpose of this environmental protection policy

3. The purpose of this environmental protection policy is to minimise the discharge into the environment of ozone-depleting substances and, in doing so, to help protect the living environment from being harmed by increasing amounts of ultraviolet radiation reaching the surface of the Earth as a result of the reduction of the quantity of ozone present in the upper atmosphere caused by the release of ozone-depleting substances.

##### Interpretation

4. In this policy—

"**AS 1942-1987**" means Australian Standard AS 1942-1987 (Refrigerant Gas Cylinder Identification) published by the Standards Association of Australia;

"**authorized**" means authorized by an authorization in force under Part 4;

"**business**" means a body corporate, or a commercial undertaking or enterprise in respect of any profession, trade or calling within the State which—

- (a) services a controlled article or cooling equipment; or
- (b) sells any ozone-depleting substance;

"**chief executive officer**" means the chief executive officer of the Environmental Protection Authority of Western Australia;

"**controlled article**" means an article or thing (including plant or equipment) that uses, or is designed or intended to use, an ozone-depleting substance in its operation, but does not include cooling equipment;

"**cooling equipment**" means a device which—

- (a) uses the recirculation of an ozone-depleting substance through an evaporation and condensation cycle in order directly or indirectly to cool—
  - (i) the ambient environment within wholly or partially enclosed spaces; or
  - (ii) and object or objects; or

(b) is constructed or adapted for the purification of ozone-depleting substances;

**"decommission"**, in relation to equipment, means dismantle the equipment or render the equipment inoperable, or to remove the gas from the equipment and reuse (subject to this policy), or to store the gas until its destruction, prior to the equipment being scrapped, relocated or used for some other purpose;

**"halon"** means a substance listed in the Schedule, Annex A, Group II;

**"issuing body"** means—

- (a) the chief executive officer; or
- (b) a person, body or association that is approved for the time being by the chief executive officer under Part 4 as an issuing body for the particular type of authorization concerned;

**"number designation"**, in relation to an ozone-depleting substance, means—

- (a) except in relation to a halon, the number designation of a substance as specified in AS 1942-1987; or
- (b) in relation to a halon, the number specified in the Schedule;

**"ozone-depleting substance"** means a substance listed, or referred to, in the Schedule, whether existing alone or mixed with any other substance;

**"packaging material"** means a 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 or a mixture which includes a halon;

**"pressure pack"** means a container—

- (a) that is designed to be hand held;
- (b) the contents of which includes an ozone-depleting substance that provides, either solely or in a mixture with any other substance, the pressure required to expel any contents from the container into the atmosphere; and
- (c) that is designed to be discarded after the contents have been expelled or substantially expelled;

**"reclamation equipment"** means a device which is

- (a) designed to remove an ozone-depleting substance from equipment with little or no discharge of the ozone-depleting substance into the environment; and
- (b) available in Australia to persons carrying on the business of servicing cooling equipment;

**"restricted activity"** means any of the following activities—

- (a) the design, manufacture, installation, servicing or decommissioning of a controlled article or cooling equipment;
- (b) dry cleaning involving the use of an ozone-depleting substance;

**"sell"** includes, without limiting its primary meaning—

- (a) barter and exchange;
- (b) agreeing to sell;
- (c) attempting to sell;
- (d) offering to sell;
- (e) displaying or exposing for sale; and

- (f) supplying, transporting or holding with a view to sale;

**"service"**, in relation to a controlled article or cooling equipment means any installation, service, repair, dismantling, maintenance or adjustment of the article or equipment which involves the risk of the release of an ozone-depleting substance from that article.

### **Certain purchases and sales of ozone-depleting substances to be disregarded**

5. (1) For the purposes of this policy, a person or business is not to be regarded as purchasing or selling an ozone-depleting substance merely because a person or business purchases or sells—

- (a) a controlled article; or
  - (b) any other thing, that, in the opinion of the chief executive officer, contains an ozone-depleting substance in minute or residual quantities only.
- (2) For the purposes of this policy a sale or purchase of an ozone-depleting substance that is merely ancillary to the sale or purchase of a controlled article or cooling equipment is not regarded as a sale or purchase of an ozone-depleting substance.

### **Continued use of certain products containing ozone-depleting substances**

6. (1) Subject to subclause (2), a person may use, store, sell or dispose of a product containing an ozone-depleting substance if the product was manufactured or imported before this policy came into operation.

(2) Subclause (1) does not apply to—

- (a) the use, storage, sale and disposal of a portable fire extinguisher containing Halon 1211 (a BCF fire extinguisher);
- (b) the storage and disposal of a refrigerator (other than a domestic refrigerator containing less than 3 kilograms of a substance listed in Annex A or Annex B of the Schedule), air conditioner or halon flooding fire control system that contains a substance listed in Annex A or Annex B of the Schedule; and
- (c) the disposal of a motor vehicle air conditioner, whether manufactured or imported before or after this policy came into operation.

## **PART 2—GENERAL RESTRICTIONS ON SALE, PURCHASE AND USE OF OZONE-DEPLETING SUBSTANCES**

### ***Division 1 — Restrictions on sellers***

#### **Authorization required to sell ozone-depleting substances**

7. A person or business shall not sell an ozone-depleting substance unless that person or business is authorized to do so, and does so in accordance with any conditions to which the authorization is subject.

#### **Sale to unauthorized purchaser prohibited**

8. A person or business shall not sell an ozone-depleting substance to another person or business unless that other person or business is authorized to purchase it, and can provide evidence of the authorization to the seller.



### **Seller to supply, and accept return of, containers for reclaiming**

9. (1) A person ("the supplier") who is authorized to sell an ozone-depleting substance shall, on request by a person ("the purchaser") who is authorized to purchase the substance—

- (a) supply to the purchaser a container that complies with subclause (2) and which is suitable to be used for returning the substance to that supplier when it is reclaimed; and
- (b) accept the substance when it is returned to the supplier in a container that was supplied by that supplier and complies with subclause (2).

(2) A container must be clearly marked with the following—

- (a) the word "RECLAIMED";
- (b) the number designation of the substance and its colour code (as specified in AS 1942-1987);
- (c) the name of the supplier; and
- (d) a statement that the container is to be used only for the storage and return of the substance indicated.

(3) A person shall not return a container, marked in accordance with subclause (2), to the supplier if that container contains any substance other than the substance indicated on the container, unless the container is clearly marked so as to indicate—

- (a) that it contains a mixture of substances; or
- (b) that the substance is adulterated, or suspected to be adulterated.

(4) This clause does not prevent a supplier from imposing a charge for supplying, or accepting the return of, a container under this clause.

(5) This clause does not apply in respect of a halon or CFC with the number designation 113.

### ***Division 2—Restrictions on purchasers***

#### **Authorization required for both persons and businesses to purchase ozone-depleting substances**

10. A person, business or person acting on behalf of a business, shall not purchase an ozone-depleting substance unless that person or business is, or both the business and that person are (as the case may be), authorized to do so by an issuing body, and do so in accordance with any conditions to which the authorization is subject.

#### **Record keeping by persons holding authorizations**

11. (1) A person or business authorized to purchase or import an ozone-depleting substance shall make and retain a record of each purchase of an ozone-depleting substance specifying—

- (a) the name and address of the person or business from whom the substance was purchased;
- (b) the name of the substance purchased (as set out in the Schedule) and the quantity purchased; and
- (c) the date that the substance was purchased

(2) Subject to subclause (3), a person or business referred to in subclause (1) shall ensure that the records are in writing and are retained for a minimum of 2 years after they are made, and that the records are furnished to the issuing body on or before 30 June each year.

(3) A person or business referred to in subclause (1), who imports an ozone-depleting substance into the State, shall furnish to the chief executive officer the records relating to the importation of the ozone-depleting substances—

- (a) for the 6 month period commencing 1 January to 30 June each year, on or before 31 July of that year; and
- (b) for the 6 month period commencing 1 July to 31 December each year, on or before 31 January of the following year.

### ***Division 3 — Restrictions on activities involving ozone-depleting substances***

#### **Authorization required to engage in restricted activities**

12. A person or business shall not engage in a restricted activity unless—

- (a) that person or business is authorized to do so, or is acting under the direct and immediate supervision of a person authorized to do so; and
- (b) that person or business does so in accordance with any conditions of the relevant authorization.

#### **Restrictions on the granting of authorization**

13. An issuing body may only grant an authorization to a person or business to engage in a restricted activity if the issuing body is satisfied—

- (a) that the person or business demonstrates—
  - (i) an adequate awareness of the health and environmental effects of stratospheric ozone depletion and the need to minimize emissions of ozone-depleting substances to protect the stratospheric ozone layer; and
  - (ii) an adequate knowledge of this policy; or
- (b) that the person or business is currently authorized to engage in a restricted activity by another State, and has, or has access to, the appropriate equipment, as specified by the issuing body.

## **PART 3—ADDITIONAL RESTRICTIONS ON PARTICULAR ACTIVITIES INVOLVING OZONE-DEPLETING SUBSTANCES**

### ***Division 1—Foams***

#### **Rigid polyurethane foam**

14. (1) A person shall not use a substance listed in Annex A or Annex B of the Schedule in the manufacture of rigid polyurethane foam for use as packaging material.

(2) On or after 1 December 1993 a person shall not sell rigid polyurethane foam for use as packaging material if a substance listed in Annex A or Annex B of the Schedule was used in the manufacture of that foam.

(3) On or after 1 January 1995, a person shall not use a substance listed in Annex A or Annex B of the Schedule in the manufacture of any rigid polyurethane foam.

### **Moulded flexible polyurethane foams**

15. On or after 1 January 1995, a person shall not use a substance listed in Annex A or Annex B of the Schedule in the manufacture of any moulded flexible, or slab stock, polyurethane foams.

### **Extruded polystyrene packaging and insulation materials**

16. (1) A person shall not sell any extruded polystyrene product if that product is to be used for packaging or as insulation material and—

- (a) the product contains a substance listed in Annex A or Annex B of the schedule; or
- (b) a substance listed in Annex A or Annex B of the Schedule was used in the manufacture of that product.

(2) In this clause "insulation material" means a material that is primarily used in sheet foam to provide thermal insulation.

### **Phenolic foams**

17. On or after 1 January 1995, a person shall not use a substance listed in Annex A or Annex B of the Schedule in the manufacture of any phenolic foam.

## ***Division 2—Solvents and cleaning agents***

### **Dry cleaning**

18. (1) On or after 1 January 1994, a person who operates or services dry cleaning equipment that uses an ozone-depleting substance in its operation shall ensure that there is no discharge of any ozone-depleting substance into the environment as a result of the operation or servicing of that equipment.

- (2) A person shall not manufacture machinery that is—
- (a) to be used for dry cleaning fabric or leather goods; and
  - (b) capable of being operated only using an ozone-depleting substance.

### **Solvents**

19. A person who operates or services equipment that uses an ozone-depleting substance as a solvent for cleaning or degreasing shall ensure that the substance used is not released into the atmosphere, and that any of that substance that would otherwise be released is reclaimed.

## ***Division 3—Portable halon fire extinguishers***

### **Restriction on the sale of portable halon fire extinguishers**

20. (1) A person shall not sell a portable halon fire extinguisher unless—

- (a) the person has been authorized by the chief executive officer to sell portable halon fire extinguishers;
- (b) the particular sale has been approved in writing by the chief executive officer; and



- (c) any conditions to which the chief executive officer's approval is subject are displayed on a label affixed or attached to the particular extinguisher at the time of sale.

(2) The chief executive officer may give approval for the sale of an extinguisher only if satisfied that, in the circumstances in which the extinguisher is to be available for use, there is no acceptable alternative means of fire protection available and that the availability of the extinguisher in those circumstances is necessary—

- (a) to protect persons in a situation where human occupancy is essential and timely evacuation is not possible;
- (b) to facilitate the continued operation of equipment, the operation of which is necessary to protect human life; or
- (c) to protect equipment, the operation of which is critical to the community (eg. where a fire-caused loss of equipment or a fire-caused loss to the operation of the equipment or to the facilities provided by the operation of the equipment may have far reaching consequences).

(3) The chief executive officer may impose conditions on his or her approval, including conditions as to the place and manner in which the extinguisher may be kept or used.

(4) A person shall not deface or remove a label affixed or attached to a portable halon extinguisher for the purposes of this clause.

#### **Person in possession of a portable halon fire extinguisher to comply with conditions**

21. A person who has possession of a portable halon fire extinguisher shall comply with any conditions displayed on a label which has been affixed or attached to that extinguisher under clause 20.

#### **Special conditions on existing extinguishers**

22. (1) A person who has possession of a portable halon fire extinguisher which was in existence before this policy came into operation shall ensure that it is decommissioned, and that any halon it contains is reclaimed, either—

- (a) when it becomes due for hydrostatic testing;
- (b) when it is wholly or partially discharged; or
- (c) before 1 January 1996,

whichever is the earliest event.

(2) Subclause (1) does not apply in a case where the chief executive officer has approved, in writing, the continued possession of a specified extinguisher by a person, and that person complies with any condition to which the approval is subject.

(3) The chief executive officer may only give approval under subclause (2) if satisfied that the criteria set out in clause 20 (2) could be satisfied if the extinguisher were to be sold under clause 20 (1).

(4) The chief executive officer may impose conditions on approval given under subclause (2), including conditions as to the place and manner in which the extinguisher can be kept and used.

#### **Discharge prohibited except to extinguish fire**

23. A person shall not discharge a portable halon fire extinguisher except for the purpose of extinguishing a fire in an emergency.

## ***Division 4—Fixed halon flooding systems***

### **Interpretation**

24. In this Division, the "**appropriate agency**" is the chief executive officer, or such other person or body as the chief executive officer directs, by notice published in the Government Gazette, to be the appropriate agency for the purposes of any notification under this Division.

### **Use and testing of fixed halon flooding systems**

25. (1) A person shall not test a fixed halon flooding system in a manner which will result in the release of a halon into the atmosphere.

(2) A person shall not discharge a fixed halon flooding system except for the purpose of extinguishing a fire in an emergency.

### **Installation of fixed halon flooding systems**

26. (1) A person shall not install, or cause to be installed, a fixed halon flooding system except with the written approval of the chief executive officer, and in accordance with any conditions which may be imposed by the chief executive officer on that approval.

(2) The chief executive Officer may give approval for the installation of a fixed halon flooding system only if satisfied that, in the circumstances in which the system is to be used, there is no acceptable alternative means of fire protection available and that the installation of the system in those circumstances is necessary—

- (a) to protect persons in a situation where human occupancy is essential and timely evacuation is not possible;
- (b) to facilitate the continued operation of equipment, the operation of which is necessary to protect human life; or
- (c) to protect equipment, the operation of which is critical to the community (eg. where a fire-caused loss of equipment or a fire-caused loss to the operation of the equipment or to the facilities provided by the operation of the equipment may have far reaching consequences).

### **Occupier of premises to notify details of existing fixed halon flooding system**

27. (1) The occupier of premises on which an existing fixed halon flooding system is installed shall, within 6 months of this policy coming into operation notify the appropriate agency, in writing, of the location and capacity of that system .

(2) In this clause existing fired halon flooding system" means a fixed halon flooding system installed on or before this policy came into operation.

### **Discharges of halon to be notified**

28. The occupier of premises on which 8 fixed halon flooding system is installed shall notify in writing the appropriate agency within 30 days of any discharge of halon from the system, stating the reason for the discharge.

### **Manufacture, etc., of halon systems**

29. A person who manufactures or services a fixed halon flooding system shall ensure that there is no discharge of any ozone-depleting substance into the environment as a result of the manufacture or servicing of that system.

### **Halon to be reclaimed when system serviced or decommissioned**

30. The occupier of premises on which a fixed halon flooding system is installed shall ensure that when the system is serviced or decommissioned any halon that would otherwise be released is reclaimed.

### ***Division 5—Sterilization equipment***

#### **Sterilization equipment not to contain ozone-depleting substances**

31. On or after 1 January 1994, a person shall not

- (a) manufacture;
- (b) sell; or
- (c) supply,

sterilizing equipment only using, or intended to use, ozone-depleting substances.

### ***Division 6—Aerosols***

#### **Control of pressure packs**

32. A person shall not—

- (a) bring or attempt to bring into the state for the purposes of sale by any person;
- (b) make, assemble, alter or adapt; or
- (c) sell,

any pressure pack that contains a substance listed in Annex A or Annex B of the Schedule, or cause or permit the doing of any of those things, unless that person has been granted an exemption in relation to that pressure pack under section 40 of the *Ozone Protection Act 1989* of the Commonwealth.

### ***Division 7—Refrigerants***

#### **Servicing of cooling equipment**

33. (1) Subject to subclause (2), a person who services an item of refrigeration or air conditioning equipment shall—

- (a) in so doing prevent the discharge of the ozone-depleting substance contained in that item into the environment (whether with or without the use of reclamation equipment);
- (b) in transferring an ozone-depleting substance to or from that item ensure that none of the ozone-depleting substance is discharged into the environment; and
- (c) generally, ensure that there is no discharge of an ozone-depleting substance into the environment as a result of the servicing of that equipment.

(2) A person does not commit an offence under subclause (1) if the relevant ozone-depleting substance is discharged into the environment—

- (a) when reclamation equipment is being used, only in amounts to be expected with—
  - (i) the reclamation equipment working properly and in accordance with the instructions of its manufacturer; and



- (ii) the refrigeration or air conditioning equipment working properly and in accordance with its design specifications;
- (b) when reclamation equipment is not being used, only in amounts to be expected with the refrigeration or air conditioning equipment working properly and in accordance with its design specifications;
- (c) during the transfer of an ozone-depleting substance to or from the refrigeration or air conditioning equipment, only in amounts to be expected during the execution of such a transfer, if those amounts of ozone-depleting substances are minimal; or
- (d) through leaks caused by the failure, which cannot reasonably be foreseen or prevented, of the refrigeration or air conditioning equipment or reclamation equipment.

### ***Division 8—Transportable containers***

#### **Filling of transportable containers with ozone-depleting substances**

34. When filling a transportable container with an ozone-depleting substance, a person shall not cause the discharge of any ozone-depleting substance into the environment by exceeding the maximum carrying capacity of the container as defined by Table 3 of Australian Standard AS 2030.1-1985 (The Approval, Filling, Inspection, Testing and Maintenance of Cylinders for the Storage and Transport of Compressed Gases: Part 1 - Cylinders for Compressed Gases other than Acetylene) published by the Standards Association of Australia.

### ***Division 9—General***

#### **Filling of containers with incorrect substances**

35. (1) A person shall not fill a container, the label attached to which indicates (whether in writing, by use of a colour code, pictorially or in some other manner) that the container should contain—

- (a) only a particular ozone-depleting substance in pure form, with a substance other than that ozone-depleting substance in that form; or
- (b) only a particular ozone-depleting substance in contaminated form, with a substance other than that ozone-depleting substance in pure or contaminated form.

(2) In subclause (1), "**contaminated**" means contaminated through use in cooling equipment operated normally.

#### **Duty to prevent the release of, and to reclaim, ozone-depleting substances**

36. A person authorized to engage in a restricted activity—

- (a) shall note in the course of engaging in that activity, release or permit to release of an ozone-depleting substance into the atmosphere, except as permitted by this policy; and
- (b) shall reclaim any ozone-depleting substance that would otherwise be released in the course of engaging in that activity, if the release is not permitted under paragraph (a).

### **Non-returnable cylinders**

37. On or after 1 December 1993, a person shall not—

- (a) manufacture;
- (b) sell; or
- (c) supply,

non-returnable cylinders containing, or intended to contain, ozone-depleting substances.

### **Discharge of ozone-depleting substances generally**

38. (1) Subject to subclause (2), a person shall not cause or allow the discharge of an ozone-depleting substance into the environment unless that person does so in accordance with this policy.

(2) Subclause (1) does not apply to a discharge of an ozone-depleting substance if that discharge—

- (a) occurs during the filling of a charging cylinder for the purposes of measuring the quantity of ozone depleting substance transferred to cooling equipment, provided the reclamation equipment is used to collect the vapour otherwise released from the charging cylinder vent during the filling operation and any discharge and is of the minimum quantity of the ozone-depleting substance necessary to enable the filling to take place; or
- (b) occurs from a pressure pack.

(3) In subclause (2), "**charging cylinder**" means a device used for measuring quantities of ozone-depleting substances.

## **PART 4 —AUTHORIZATIONS UNDER THIS POLICY**

### **Approval of issuing bodies**

39. (1) The chief executive officer may from time to time approve of a person body or association as an issuing body for particular types of authorization which may be granted for the purposes of this policy.

(2) The chief executive officer may alter or revoke any approval given under subclause (1) at any time by notice in writing given to the person body or association concerned.

### **Issuing bodies empowered to grant or cancel authorizations**

40. An issuing body is empowered to grant or cancel authorization in accordance with this policy, and to receive and retain fees payable under this Part in respect of those authorizations.

### **Grant of authorization on application and payment of fee**

41. (1) Upon receiving an application in a form approved by the issuing body, and upon the receipt of such application fee (if any) as may be approved by the chief executive officer, an issuing body may grant the authorization for which the application was made.

(2) An authorization issued under subclause (1) must be in writing and must specify the date after which the authorization must be renewed.

(3) An authorization under this clause does not take effect until written notice of the authorization is given to the applicant.

#### **Authorization can be subject to conditions**

42. (1) An issuing body may impose conditions on an authorization when that authorization is granted or at any time after granting it and may vary or revoke any such condition.

(2) The imposition variation or revocation of a condition which has been imposed on all authorization under subclause (1) does not take effect until written notice of that imposition, variation or revocation has been given to the holder of that authorization.

#### **Renewal fee**

43. Where the holder of an authorization under this Part wishes to extend or renew that authorization for a further period, the holder may do so by payment to the issuing body within one month after the date specified in the authorization of such renewal fee as is determined by the chief executive officer from time to time.

#### **Authorization remains in force until cancelled or surrendered**

44. An authorization remains in force until cancelled under this Part or until it is surrendered by the holder.

#### **Cancellation of authorization**

45. (1) An issuing body may cancel an authorization If it is satisfied that holder of that authorization—

- (a) has contravened a condition of the authorization;
- (b) has been convicted of an offence under—
  - (i) the Act; or
  - (ii) this policy;
- (c) has ceased to carry on the activity to which the authorization relates; or
- (d) has failed to pay a fee payable under this policy within one month after a written demand has been given to the holder by the issuing body.

(2) The cancellation of an authorization under subclause (1) does not take effect until written notice of that cancellation has been given to the holder of that authorization.

### **PART 5 — MISCELLANEOUS**

#### **Exemptions**

46. (1) The chief executive officer may exempt a holder of an authorization or a class of holders of authorizations from compliance with specified provisions of this policy and may require a fee to be paid for the grant of such an exemption.

(2) An exemption granted under subclause (1) may be granted in respect of particular ozone depleting substances or controlled articles or particular classes of ozone depleting substances or controlled articles.

(3) An exemption under this clause must be in writing.

(4) An exemption under this clause does not have effect for longer than 12 months from the time it is granted or such shorter period as is specified in the exemption.

(5) The chief executive officer may grant an exemption under this clause which permits conduct that would otherwise contravene a provision of this policy only if the chief executive officer is satisfied that there is no practical alternative to the conduct.

## **Penalties**

47. (1) Any individual who contravenes any of the clauses set out in the Table to this clause is liable on conviction to a maximum penalty not exceeding \$5 000 and, if the offence is a continuing offence, to a daily penalty not exceeding \$1 000.

(2) A body corporate which contravenes any of the clauses set out in the Table to this clause is liable on conviction to a maximum penalty not exceeding \$10 000 and, if the offence is a continuing offence, to a daily penalty not exceeding \$2 000.

### **Table**

clause 7	clause 22 (1)
clause 8	clause 23
clause 9 (1)	clause 25 (1)
clause 9 (3)	clause 25 (2)
clause 10	clause 26 (1)
clause 11 (1)	clause 27 (1)
clause 11 (2)	clause 28
clause 11 (3)	clause 29
clause 12	clause 30
clause 14 (1)	clause 31
clause 14 (2)	clause 32
clause 14 (3)	clause 33 (1)
clause 15	clause 34
clause 16 (1)	clause 35 (1)
clause 17	clause 36
clause 18 (1)	clause 37
clause 18 (2)	clause 38 (1)
clause 19	
clause 20 (1)	
clause 20 (4)	
clause 21	

## **SCHEDULE**

[CLAUSES 4, 6, 11, 17 AND 32]

### **Ozone-depleting substances**

1. Annex A:
  - Group I: CFCs — 11, 12, 113, 114 and 115
  - Group II: Halons — 1211, 1301 and 2402
2. Annex B:
  - Group I: CFCs — 13, 111, 112, 211, 212, 213, 214, 215, 216 and 217
  - Group II: carbon tetrachloride
  - Group III: 1, 1, 1 - trichloroethane (methyl chloroform).
3. Annex C:



HCFCs - 21, 22, 31, 121, 122, 123, 124, 131, 132, 133, 141, 141b, 142b, 151, 221, 222, 223, 224, 225, 225ca, 225cb, 226, 231, 232, 233, 234, 235, 241, 242, 243, 244, 251, 252, 253, 262, and 271

4. Any mixture of any substance, referred to in item 1, with any other substance or substances including mixtures R500, R501, R502, R503 and R504.

5. Any other substance which is included in the Schedule to the Commonwealth *Ozone Protection Act 1989* at the time this policy comes into effect.

9 September 1993

K. J. Minson  
Minister of the Environment

## **Appendix 2**

### **ENVIRONMENTAL PROTECTION ACT 1986**

#### **DRAFT ENVIRONMENTAL PROTECTION (OZONE PROTECTION) POLICY 2000**

Made by the Minister under section 31 (d).

**Citation**

For Comment

## SCHEDULE

[clause 2]

### PART 1—PRELIMINARY

#### Citation

#### Application

2. This environmental protection policy applies throughout the State.
3. The purpose of this environmental protection policy is to minimise the discharge into the environment of ozone-depleting substances and, in doing so, to help protect the living environment from being harmed by increasing amounts of ultraviolet radiation reaching the surface of the Earth as a result of the reduction of the quantity of ozone present in the upper atmosphere caused by the release of ozone-depleting substances.

*Notes \*- Issues associated with the introduction of alternative refrigerants, which are not ozone-depleting have been raised extensively throughout the review period and appear to be the issues of most concern. It is recognised that this policy is for ozone protection, however with the introduction of alternative refrigerants, many which are global warming the two are inextricably linked. This issue has also been recognised in the National Greenhouse Strategy with particular mention of synthetic gases, ie, "7.2 Governments will work with industry to develop environmental management strategies for each of the synthetic gases included in the Kyoto Protocol - hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride."*

*The Scientific Assessment of Ozone Depletion 1998, published by the World Meteorological Organisation, stated that the issues of ozone depletion and climate change are interconnected and therefore so are the Montreal and Kyoto Protocols. Changes in ozone affect the Earth's climate, and changes in climate and meteorological conditions affect the ozone layer as the two phenomena share a number of common physical and chemical processes.*

*This issue is also being addressed at the National level through the Ozone Protection Consultative Committee (OPCC). The Commonwealth and other states are awaiting the outcome of the Western Australia review with respect to the management of alternative substances.*

*It is important that existing controls and mechanisms remain in place during the (interim period) 'phase in' of the new alternative refrigerants. If non authorised persons were allowed to operate in areas previously restricted to authorised persons, then there is a real threat that current inventories of ozone-depleting substances may be released to the atmosphere. This would undo all the previous good work in preventing such discharges and minimising damage to the stratospheric ozone layer.*

*Based upon industry discussions and submissions received through public consultation it would appear the most efficacious approach would be to introduce the concept of ozone-depleting substances (and alternative refrigerants). This would extend the policy coverage to those substances used as replacement refrigerants for ozone-depleting substances. The existing policy provisions could be used with only minimal modifications.*

*\* Notes and suggested changes in italics*

Interpretation

4. In this policy—

**"AS 4484-1997"** means Australian Standard AS 4484-1997 (*Refrigerant, medical and commercial Gas Cylinder Identification*) published by the Standards Association of Australia;

**"AS/NZS 1677 Part 1"** means Australian/New Zealand Standard AS/NZS 1677 Part 1 (*refrigerating systems*) published by the Standards Association of Australia;

**"AS 2030 1999"** means Australian Standard AS 2030 - 1999 (*non refillable cylinders*) published by the Standards Association of Australia;

**"AS 4211 Part 3"** means Australian Standard AS 4211 Part 3 (*Gas recovery or combined recovery and recycling equipment for fluorocarbon refrigerants for commercial and domestic refrigeration and air conditioning equipment*) published by the Standards Association of Australia;

**"CFC"** means chlorofluorocarbon;

**"Codes of Good Practice"** means any current Codes of Good Practice in use in the Refrigeration and Air Conditioning Industry, including Automotive Air Conditioning, and any amendments or revisions to those codes;

**"Alternative refrigerant"** means a refrigerant used to replace an ozone-depleting refrigerant;

**"authorised"** means authorised by an authorisation in force under Part 4;

**"business"** means a body corporate, or a commercial undertaking or enterprise in respect of any profession, trade or calling within the State which—

- (a) designs, manufactures, installs, services or decommissions a controlled article or cooling equipment; or
- (b) sells any ozone-depleting substance *or alternative refrigerants*;
- (c) offers or provides training in the design, manufacture, installation, commissioning, servicing or decommissioning of equipment containing or likely to contain a ozone-depleting substance *or alternative refrigerants* (for a use where previously an ozone-depleting substance had been used;

**"Chief Executive Officer"** means the Chief Executive Officer of the Department of Environmental Protection of Western Australia;

**"controlled article"** means an article or thing (including plant or equipment) that uses, or is designed or intended to use, an ozone-depleting substance in its operation, but does not include cooling equipment;

**"cooling equipment"** means a device which—

- (a) uses the recirculation of an ozone-depleting substance *or alternative refrigerant* through an evaporation and condensation cycle in order directly or indirectly to cool or heat —
  - (i) the ambient environment within wholly or partially enclosed spaces; or
  - (ii) any object or objects; or
- (b) is constructed or adapted for the purification of ozone-depleting substances *or alternative refrigerant*;



**"decommission"**, in relation to equipment, means dismantle the equipment or render the equipment inoperable, or to remove the gas from the equipment and reuse (subject to this policy), or to store the gas until its destruction, prior to the equipment being scrapped, relocated or used for some other purpose;

**"halon"** means a substance listed in the Schedule, Annex A, Group II;

**"issuing body"** means—

- (a) the Chief Executive Officer; or
- (b) a person, body or association that is approved for the time being by the Chief Executive Officer under Part 4 as an issuing body for the particular type of authorisation concerned;

**"Non-refillable or disposable"** means - *a cylinder which is built to and complies with Australian Standard AS 2030 Part 3*

**"number designation"**, in relation to an ozone-depleting substance *or alternative refrigerant*, means—

- (a) except in relation to a halon, the number designation of a substance as specified in AS 4484 -1997 and AS/NZS 1677 Part 1; or
- (b) in relation to a halon, the number specified in the Schedule;

**"ozone-depleting substance"** means a substance listed, or referred to, in the Schedule, whether existing alone or mixed with any other substance;

**"packaging material"** means a 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 or a mixture which includes a halon;

**"pressure pack"** means a container—

- (a) that is designed to be hand held;
- (b) the contents of which includes an ozone-depleting substance that provides, either solely or in a mixture with any other substance, the pressure required to expel any contents from the container into the atmosphere; and
- (c) that is designed to be discarded after the contents have been expelled or substantially expelled;

**"reclamation equipment"** means a device which is

- (a) designed to remove an ozone-depleting substance *or alternative refrigerant* from equipment with little or no discharge of the ozone-depleting substance *or alternative refrigerant* into the environment;
- (b) available in Australia to persons carrying on the business of the installation, commissioning, servicing or decommissioning of cooling equipment; and
- (c) complies with AS 4211 Part 3;

**"restricted activity"** means any of the following activities—

- (a) the design, manufacture, installation, servicing commissioning or decommissioning of a controlled article or cooling equipment;
- (b) dry cleaning involving the use of an ozone-depleting substance; and
- (c) *the training of individuals engaged in such activities as in (a) and (b);*

**"sell" includes, without limiting its primary meaning—**

- (a) barter and exchange;
- (b) agreeing to sell;
- (c) attempting to sell;
- (d) offering to sell;
- (e) displaying or exposing for sale; and
- (f) supplying, transporting or holding with a view to sale; and

**"service"**, in relation to a controlled article or cooling or heating equipment means any installation, commissioning, service, repair, dismantling, maintenance or adjustment of the article or equipment which involves the risk of the release of an ozone-depleting substance *or alternative replacement* from that article.

**Certain purchases and sales of ozone-depleting substances *or alternative refrigerant* to be disregarded**

5. (1) For the purposes of this policy, a person or business is not to be regarded as purchasing or selling an ozone-depleting substance *or alternative refrigerant* merely because a person or business purchases or sells—

- (a) a domestic refrigerator containing less than 480 grams of a substance listed in the Schedule of this policy.
- (b) a domestic freezer containing less than 360 grams of a substance listed in the Schedule of this policy.
- (c) a self contained air conditioning unit containing less than 1800 grams of a substance listed in the Schedule of this policy.
- (d) a controlled article or any other thing that, in the opinion of the Chief Executive Officer, contains a substance listed in the Schedule of this policy in minute or residual quantities only.

(2) For the purposes of this policy a sale or purchase of an ozone-depleting substance that is merely ancillary to the sale or purchase of a controlled article or cooling equipment is not regarded as a sale or purchase of an ozone-depleting substance.

**Continued use of certain products containing ozone-depleting substances**

6. (1) Subject to subclause (2), a person may use, store, sell or dispose of a product containing an ozone-depleting substance if the product was manufactured or imported before this policy came into operation.

(2) Subclause (1) does not apply to—

- (a) the use, storage, sale and disposal of a portable fire extinguisher containing Halon 1211 (a BCF fire extinguisher);
- (b) the storage and disposal of a refrigerator (other than a domestic refrigerator containing less than 0.5 kilograms of a substance listed in Annex A, Annex B or Annex C of the Schedule), or air conditioner that contains a substance listed in Annex A, Annex B or *Annex C* of the Schedule; and
- (c) the disposal of a motor vehicle air conditioner, whether manufactured or imported before or after this policy came into operation.

*Note 'halon flooding fire control system' has been removed from (b) and Annex C has been added to (b) to allow for the control of R-22 in refrigerators and air conditioners.*

## **PART 2—GENERAL RESTRICTIONS ON SALE, PURCHASE AND USE OF OZONE-DEPLETING SUBSTANCES OR ALTERNATIVE REFRIGERANTS**

### ***Division 1 — Restrictions on sellers***

#### **Authorisation required to sell ozone-depleting substances**

7. A person or business shall not sell an ozone-depleting substance *or alternative refrigerant* unless that person or business is authorised to do so, and does so in accordance with any conditions to which the authorisation is subject.

#### **Sale to unauthorised purchaser prohibited**

8. A person or business shall not sell an ozone-depleting substance *or alternative refrigerant* to another person or business unless that other person or business is authorised to purchase it, and can provide evidence of the authorisation to the seller.

#### **Seller to supply, and accept return of, containers for reclaiming**

9. (1) A person ("the supplier") who is authorised to sell an ozone-depleting substance *or alternative refrigerant* shall, on request by a person ("the purchaser") who is authorised to purchase the substance—

- (a) supply to the purchaser a container that complies with subclause (2) and which is suitable to be used for returning the substance to that supplier when it is reclaimed; and
- (b) accept the substance when it is returned to the supplier in a container that was supplied by that supplier and complies with subclause (2).

(2) A container must be clearly marked with the following—

- (a) the word "RECLAIMED";
- (b) the number designation of the substance and its colour code (as specified in AS 4484-1997);
- (c) the name of the supplier; and
- (d) a statement that the container is to be used only for the storage and return of the substance indicated.

(3) A person shall not return a container, marked in accordance with subclause (2), to the supplier if that container contains any substance other than the substance indicated on the container, unless the container is clearly marked so as to indicate—

- (a) that it contains a mixture of substances; or
- (b) that the substance is adulterated, or suspected to be adulterated.

(4) This clause does not prevent a supplier from imposing a charge for supplying, or accepting the return of, a container under this clause.

(5) This clause does not apply in respect of a halon or CFC with the number designation 113.

## ***Division 2—Restrictions on purchasers***

### **Authorisation required for both persons and businesses to purchase ozone-depleting substances or alternative refrigerant**

10. A person, business or person acting on behalf of a business, shall not purchase an ozone-depleting substance *or alternative refrigerant* unless that person or business is, or both the business and that person are (as the case may be), authorised to do so by an issuing body, and do so in accordance with any conditions to which the authorisation is subject.

### **Record keeping by persons holding authorisations**

11. (1) A person or business authorised to sell and/or purchase or import an ozone-depleting substance shall make and retain a record of each purchase of an ozone-depleting substance *or alternative refrigerant* specifying—

- (a) the name and address of the person or business from whom the substance was purchased;
- (b) the name of the substance purchased (as set out in the Schedule) and the quantity purchased; and
- (c) the date that the substance was purchased

(2) Subject to subclause (3), a person or business referred to in subclause (1) shall ensure that the records are in writing and are retained for a minimum of 2 years after they are made, and that the records are furnished to the issuing body on or before 30 June each year.

(3) A person or business referred to in subclause (1), who imports an ozone-depleting substance into the State, shall furnish to the Chief Executive Officer the records relating to the importation of the ozone-depleting substances—

- (a) for the 6 month period commencing 1 January to 30 June each year, on or before 31 July of that year; and
- (b) for the 6 month period commencing 1 July to 31 December each year, on or before 31 January of the following year.

## ***Division 3 — Restrictions on activities involving ozone-depleting substances***

### **Authorisation required to engage in restricted activities**

12. A person or business shall not engage in a restricted activity unless—

- (a) that person or business is authorised to do so, or is acting under the direct and immediate supervision of a person authorised to do so; and
- (b) that person or business does so in accordance with any conditions of the relevant authorisation.

### **Restrictions on the granting of authorisation**

13. An issuing body may only grant an authorisation to a person or business to engage in a restricted activity if the issuing body is satisfied—

- (a) that the person or business demonstrates—
  - (i) an adequate awareness of the health and environmental effects of stratospheric ozone depletion and the need to minimise emissions of ozone-depleting substances to protect the stratospheric ozone layer; and
  - (ii) an adequate knowledge of the relevant Australian Standards;



- (iii) an adequate knowledge of the Codes of Good Practice; and
  - (iv) that a business has the appropriate equipment, including high vacuum pump, leak detection and refrigerant reclaim equipment, or
- (b) that the person or business is currently authorised to engage in a restricted activity by another State, and has, or has access to, the appropriate equipment, as specified by the issuing body.

## **PART 3—ADDITIONAL RESTRICTIONS ON PARTICULAR ACTIVITIES INVOLVING OZONE-DEPLETING SUBSTANCES**

### ***Division 1—Foams***

#### **Rigid polyurethane foam**

14. (1) A person shall not use a substance listed in Annex: A or Annex B of the Schedule in the manufacture of rigid polyurethane foam for use as packaging material.

(2) On or after 1 December 1993 a person shall not sell rigid polyurethane foam for use as packaging material if a substance listed in Annex A or Annex B of the Schedule was used in the manufacture of that foam.

(3) On or after 1 January 1995, a person shall not use a substance listed in Annex A or Annex B of the Schedule in the manufacture of any rigid polyurethane foam.

(4) *Subject to subclause (5), a person shall not cause or allow the discharge of an ozone-depleting substance into the environment unless that person does so in accordance with this policy.*

(5) *Subclause (4) does not apply to a discharge of an ozone-depleting substance if that discharge—*

*(a) occurs during the process of manufacturing polyurethane utilising best practice methods as approved by the Chief Executive Officer; or*

*(b) occurs in a closed system whereby all ozone-depleting substances are recovered/recycled for reuse.*

(6) *Persons wishing to purchase ozone-depleting substances for use in the manufacture of polyurethane must be authorised under this policy.*

#### **Moulded flexible polyurethane foams**

15. (1) On or after 1 January 1995, a person shall not use a substance listed in Annex A or Annex B of the Schedule in the manufacture of any moulded flexible, or slab stock, polyurethane foams.

(2) *Subject to subclause (3), a person shall not cause or allow the discharge of an ozone-depleting substance into the environment unless that person does so in accordance with this policy.*

(3) *Subclause (2) does not apply to a discharge of an ozone-depleting substance if that discharge—*

*(a) occurs during the process of manufacturing polyurethane utilising best practice methods as approved by the Chief Executive Officer; or*

*(b) occurs in a closed system whereby all ozone-depleting substances are recovered/recycled for reuse.*

(4) *Persons wishing to purchase ozone-depleting substances for use in the manufacture of polyurethane must be authorised under this policy.*

### **Extruded polystyrene packaging and insulation materials**

16. (1) A person shall not sell any extruded polystyrene product if that product is to be used for packaging or as insulation material and—

- (a) the product contains a substance listed in Annex A or Annex B of the schedule; or
- (b) a substance listed in Annex A or Annex B of the Schedule was used in the manufacture of that product.

(2) In this clause "insulation material" means a material that is primarily used in sheet foam to provide thermal insulation.

### **Phenolic foams**

17. (1) On or after 1 January 1995, a person shall not use a substance listed in Annex A or Annex B of the Schedule in the manufacture of any phenolic foam.

(2) *Subject to subclause (3), a person shall not cause or allow the discharge of an ozone-depleting substance into the environment unless that person does so in accordance with this policy.*

(3) *Subclause (2) does not apply to a discharge of an ozone-depleting substance if that discharge—*

- (a) occurs during the process of manufacturing phenolic foam utilising best practice methods as approved by the Chief Executive Officer; or*
- (b) occurs in a closed system whereby all ozone-depleting substances are recovered/recycled for reuse.*

(4) *Persons wishing to purchase ozone-depleting substances for use in the manufacture of phenolic foam must be authorised under this policy.*

## ***Division 2—Solvents and cleaning agents***

### **Dry cleaning**

18. (1) On or after 1 January 1994, a person who operates or services dry cleaning equipment that uses an ozone-depleting substance in its operation shall ensure that there is no discharge of any ozone-depleting substance into the environment as a result of the operation or servicing of that equipment.

(2) A person shall not manufacture *or sell* machinery that is—

- (a) to be used for dry cleaning fabric or leather goods; and
- (b) capable of being operated only using an ozone-depleting substance.

### **Solvents**

19. A person who operates or services equipment that uses an ozone-depleting substance as a solvent for cleaning or degreasing shall ensure that the substance used is not released into the atmosphere, and that any of that substance that would otherwise be released is reclaimed.

### ***Division 3—Portable halon fire extinguishers***

#### **Restriction on the sale of portable halon fire extinguishers**

20. (1) A person shall not sell a portable halon fire extinguisher unless-
- (a) the person has been authorised by the Chief Executive Officer to sell portable halon fire extinguishers;
  - (b) the particular sale has been approved in writing by the Chief Executive Officer; and
  - (c) any conditions to which the Chief Executive Officer's approval is subject are displayed on a label affixed or attached to the particular extinguisher at the time of sale.
- (2) The Chief Executive Officer may give approval for the sale of an extinguisher only if satisfied that, in the circumstances in which the extinguisher is to be available for use, there is no acceptable alternative means of fire protection available and that the availability of the extinguisher in those circumstances is necessary—
- (a) to protect persons in a situation where human occupancy is essential and timely evacuation is not possible;
  - (b) to facilitate the continued operation of equipment, the operation of which is necessary to protect human life; or
  - (c) to protect equipment, the operation of which is critical to the community (eg. where a fire-caused loss of equipment or a fire-caused loss to the operation of the equipment or to the facilities provided by the operation of the equipment may have far reaching consequences).
- (3) The Chief Executive Officer may impose conditions on his or her approval, including conditions as to the place and manner in which the extinguisher may be kept or used.
- (4) A person shall not deface or remove a label affixed or attached to a portable halon extinguisher for the purposes of this clause.

#### **Person in possession of a portable halon fire extinguisher to comply with conditions**

21. A person who has possession of a portable halon fire extinguisher shall comply with any conditions displayed on a label which has been affixed or attached to that extinguisher under clause 20.

#### **Special conditions on existing extinguishers**

22. (1) A person who has possession of a portable halon fire extinguisher (*which was in existence before this policy came into operation*)

*This clause introduces an unnecessary element into any action taken against the illegal use/ownership of BCF extinguishers. The words "which was in existence before this policy came into operation" are to be removed*

shall ensure that it is decommissioned, and that any halon it contains is reclaimed, either—

- (a) when it becomes due for hydrostatic testing;
- (b) when it is wholly or partially discharged; or
- (c) before 1 January 1996,

whichever is the earliest event.

(2) Subclause (1) does not apply in a case where the Chief Executive Officer has approved, in writing, the continued possession of a specified extinguisher by a person, and that person complies with any condition to which the approval is subject.

(3) The Chief Executive Officer may only give approval under subclause (2) if satisfied that the criteria set out in clause 20 (2) could be satisfied if the extinguisher were to be sold under clause 20 (1).

(4) The Chief Executive Officer may impose conditions on approval given under subclause (2), including but not limited to conditions as to the place and manner in which the extinguisher can be kept and used.

### **Discharge prohibited except to extinguish fire**

23. A person shall not discharge a portable halon fire extinguisher except for the purpose of extinguishing a fire in an emergency.

## ***Division 4—Fixed halon flooding systems***

### **Interpretation**

24. In this Division, the "appropriate agency" is the Chief Executive Officer, or such other person or body as the Chief Executive Officer directs, by notice published in the Government Gazette, to be the appropriate agency for the purposes of any notification under this Division.

### ***Decommissioning of existing fixed halon flooding systems***

*Fixed halon flooding systems are to be decommissioned by the 31 December 2001. Application can be made for extensions to this time to the Chief Executive Officer. Exemptions to be granted based upon the criteria as set out in 26 (2).*

### **Use and testing of fixed halon flooding systems**

25. (1) A person shall not test a fixed halon flooding system in a manner which will result in the release of a halon into the atmosphere.

(2) A person shall not discharge a fixed halon flooding system except for the purpose of extinguishing a fire in an emergency.

### **Installation of fixed halon flooding systems**

26. (1) A person shall not install, or cause to be installed, a fixed halon flooding system except with the written approval of the Chief Executive Officer, and in accordance with any conditions which may be imposed by the Chief Executive Officer on that approval.

(2) The Chief Executive Officer may give approval for the installation of a fixed halon flooding system only if satisfied that, in the circumstances in which the system is to be used, there is no acceptable alternative means of fire protection available and that the installation of the system in those circumstances is necessary—

- (a) to protect persons in a situation where human occupancy is essential and timely evacuation is not possible;
- (b) to facilitate the continued operation of equipment, the operation of which is necessary to protect human life; or



- (c) to protect equipment, the operation of which is critical to the community (eg. where a fire-caused loss of equipment or a fire-caused loss to the operation of the equipment or to the facilities provided by the operation of the equipment may have far reaching consequences).

#### **Occupier of premises to notify details of existing fixed halon flooding system**

27. (1) The occupier of premises on which an existing fixed halon flooding system is installed shall, within 6 months of this policy coming into operation notify the appropriate agency, in writing, of the location and capacity of that system.

(2) In this clause existing fired halon flooding system" means a fixed halon flooding system installed on or before this policy came into operation.

*Note Section 27 will now be removed.*

#### **Discharges of halon to be notified**

28. The occupier of premises on which a fixed halon flooding system is installed shall notify in writing the appropriate agency within 30 days of any discharge of halon from the system, stating the reason for the discharge.

#### **Manufacture, etc., of halon systems**

29. A person who manufactures or services a fixed halon flooding system shall ensure that there is no discharge of any ozone-depleting substance into the environment as a result of the manufacture or servicing of that system.

#### **Halon to be reclaimed when system serviced or decommissioned**

30. The occupier of premises on which a fixed halon flooding system is installed shall ensure that when the system is serviced or decommissioned any halon that would otherwise be released is reclaimed.

### ***Division 5—Sterilisation equipment***

#### **Sterilisation equipment not to contain ozone-depleting substances**

31. On or after 1 January 1994, a person shall not

- (a) manufacture;
- (b) sell; or
- (c) supply,

sterilising equipment only using, or intended to use, ozone-depleting substances.

### ***Division 6—Aerosols***

#### **Control of pressure packs**

32. A person shall not—

- (a) bring or attempt to bring into the state for the purposes of sale by any person;
- (b) make, assemble, alter or adapt; or
- (c) sell,

any pressure pack that contains a substance listed in Annex A or Annex B of the Schedule, or cause or permit the doing of any of those things, unless that person has been granted an exemption in relation to that pressure pack under section 40 of the *Ozone Protection Act 1989* of the Commonwealth.

### ***Division 7—Refrigerants***

#### **Servicing of cooling equipment**

33. (1) Subject to subclause (2), a person who services an item of refrigeration or air conditioning equipment shall—

- (a) in so doing prevent the discharge of the ozone-depleting substance *or alternative refrigerant* contained in that item into the environment (whether with or without the use of reclamation equipment);
- (b) in transferring an ozone-depleting substance *or alternative refrigerant* to or from that item ensure that none of the ozone-depleting substance *or alternative refrigerant* is discharged into the environment; and
- (c) generally, ensure that there is no discharge of an ozone-depleting substance *or alternative refrigerant* into the environment as a result of the servicing of that equipment.
- (d) *welded or brazed joints for refrigerant pipelines shall be used whenever practical. Flared, screwed and flanged joints shall be avoided wherever possible.*

(2) A person does not commit an offence under subclause (1) if the relevant ozone-depleting substance *or alternative refrigerant* is discharged into the environment—

- (a) when reclamation equipment is being used, only in amounts to be expected with—
  - (i) the reclamation equipment working properly and in accordance with the instructions of its manufacturer; and
  - (ii) the refrigeration or air conditioning equipment working properly and in accordance with its design specifications;
- (b) when reclamation equipment is not being used, only in amounts to be expected with the refrigeration or air conditioning equipment working properly and in accordance with its design specifications;
- (c) during the transfer of an ozone-depleting substance *or alternative refrigerant* to or from the refrigeration or air conditioning equipment, only in amounts to be expected during the execution of such a transfer, if those amounts of ozone-depleting substance *or alternative refrigerant* are minimal; or
- (d) through leaks caused by the failure, which cannot reasonably be foreseen or prevented, of the refrigeration or air conditioning equipment or reclamation equipment.

(3) *A person who carries out the design, manufacture, installation, commissioning, service or decommissioning of equipment containing likely to contain an ozone-depleting or alternative refrigerant, must do so in accordance with the relevant Australian Standards and Codes of Good Practice.*

(4) *For the purpose of this policy a person who sells refrigeration units, including split system air conditioners, which contain an ozone-depleting substance or alternative refrigerant, shall be required to be authorised as required under this policy.*

### **Labelling of equipment**

33 A. All refrigeration and air conditioning equipment shall be labelled in accordance with the relevant Australian Standards and Codes of Good Practice.

### **Division 8—Transportable containers**

#### **Filling of transportable containers with ozone-depleting substances**

34. When filling a transportable container with an ozone-depleting substance, a person shall not cause the discharge of any ozone-depleting substance into the environment by exceeding the maximum carrying capacity of the container as defined by Table 3 of Australian Standard AS 2030.1-1999 (The Approval, Filling, Inspection, Testing and Maintenance of Cylinders for the Storage and Transport of Compressed Gases: Part 1 - Cylinders for Compressed Gases other than Acetylene) published by the Standards Association of Australia.

### **Division 9—General**

#### **Filling of containers with incorrect substances**

35. (1) A person shall not fill a container, the label attached to which indicates (whether in writing, by use of a colour code, pictorially or in some other manner) that the container should contain—

- (a) only a particular ozone-depleting substance in pure form, with a substance other than that ozone-depleting substance in that form; or
- (b) only a particular ozone-depleting substance in contaminated form, with a substance other than that ozone-depleting substance in pure or contaminated form.

(2) In subclause (1), "**contaminated**" means contaminated through use in cooling equipment operated normally.

#### **Duty to prevent the release of, and to reclaim, ozone-depleting substances**

36. A person authorised to engage in a restricted activity—

- (a) shall not in the course of engaging in that activity, release or permit the release of an ozone-depleting substance *or alternative refrigerant* into the atmosphere, except as permitted by this policy; and
- (b) shall reclaim any ozone-depleting substance *or alternative refrigerant* that would otherwise be released in the course of engaging in that activity, if the release is not permitted under paragraph (a).

#### **Non-returnable cylinders**

37. On or after 1 December 2000, a person shall not—

- (a) manufacture;
- (b) sell; or
- (c) supply,

non-returnable *non-refillable or disposable* cylinders containing, or intended to contain, ozone-depleting substances.

### **Discharge of ozone-depleting substances generally**

38. (1) Subject to subclause (2), a person shall not cause or allow the discharge of an ozone-depleting substance into the environment unless that person does so in accordance with this policy.

(2) Subclause (1) does not apply to a discharge of an ozone-depleting substance if that discharge—

- (a) occurs during the filling of a charging cylinder for the purposes of measuring the quantity of ozone depleting substance transferred to cooling equipment, provided the reclamation equipment is used to collect the vapour otherwise released from the charging cylinder vent during the filling operation and any discharge, and is of the minimum quantity of the ozone-depleting substance necessary to enable the filling to take place;
- (b) occurs from a pressure pack; or
- (c) *is undertaken within the provisions of the Australian Refrigeration and Airconditioning Code of Good Practice under SAA HB40.1-1997, section 4.5, Relief Devices.*

(3) In subclause (2), "**charging cylinder**" means a device used for measuring quantities of ozone-depleting substances.

## **PART 4 — AUTHORISATIONS UNDER THIS POLICY**

### **Approval of issuing bodies**

39. (1) The Chief Executive Officer may from time to time approve a person body or association as an issuing body for particular types of authorisation which may be granted for the purposes of this policy.

(2) The Chief Executive Officer may alter or revoke any approval given under subclause (1) at any time by notice in writing given to the person body or association concerned.

### **Issuing bodies empowered to grant or cancel authorisations**

40. An issuing body is empowered to grant or cancel authorisation in accordance with this policy, and to receive and retain fees payable under this Part in respect of those authorisations. *The cancellation of authorisation is subject to approval by the Chief Executive Officer.*

### **Grant of authorisation on application and payment of fee**

41. (1) Upon receiving an application in a form approved by the issuing body, and upon the receipt of such application fee (if any) as may be approved by the Chief Executive Officer, an issuing body may grant the authorisation for which the application was made.

(2) An authorisation issued under subclause (1) must be in writing and must specify the date after which the authorisation must be renewed.

(3) An authorisation under this clause does not take effect until written notice of the authorisation is given to the applicant.

### **Authorisation can be subject to conditions**

42. (1) An issuing body may impose conditions on an authorisation when that authorisation is granted or at any time after granting it and may vary or revoke any such condition. *The imposition, variation or revocation of conditions of authorisation must be approved by the Chief Executive Officer.*



(2) The imposition variation or revocation of a condition which has been imposed on an authorisation under subclause (1) does not take effect until written notice of that imposition, variation or revocation has been given to the holder of that authorisation.

(3) *The ozone protection training components of any training course for authorisation is to be submitted for approval to the Chief Executive Officer.*

### **Renewal fee**

43. Where the holder of an authorisation under this Part wishes to extend or renew that authorisation for a further period, the holder may do so by payment to the issuing body within one month after the date specified in the authorisation of such renewal fee as is determined by the Chief Executive Officer from time to time.

### **Authorisation remains in force until cancelled or surrendered**

44. An authorisation remains in force until cancelled under this Part or until it is surrendered by the holder.

### **Cancellation of authorisation**

45. (1) An issuing body may cancel an authorisation if it is satisfied that the holder of that authorisation—

- (a) has contravened a condition of the authorisation;
- (b) has been convicted of an offence under—
  - (i) the Act; or
  - (ii) this policy;
- (c) has ceased to carry on the activity to which the authorisation relates; or
- (d) has failed to pay a fee payable under this policy within one month after a written demand has been given to the holder by the issuing body.

(2) The cancellation of an authorisation under subclause (1) does not take effect until written notice of that cancellation has been given to the holder of that authorisation.

## **PART 5 — MISCELLANEOUS**

### **Exemptions**

46. (1) The Chief Executive Officer may exempt a holder of an authorisation or a class of holders of authorisations from compliance with specified provisions of this policy and may require a fee to be paid for the grant of such an exemption.

(2) An exemption granted under subclause (1) may be granted in respect of particular ozone depleting substances *or alternative refrigerants* or controlled articles or particular classes of ozone depleting substances *or alternative refrigerants* or controlled articles.

(3) An exemption under this clause must be in writing.

(4) An exemption under this clause does not have effect for longer than 12 months from the time it is granted or such shorter period as is specified in the exemption.

(5) The Chief Executive Officer may grant an exemption under this clause which permits conduct that would otherwise contravene a provision of this policy only if the Chief Executive Officer is satisfied that there is no practical alternative to the conduct.

## Penalties

47. (1) Any individual who contravenes any of the clauses set out in the Table to this clause is liable on conviction to a maximum penalty not exceeding \$5 000 and, if the offence is a continuing offence, to a daily penalty not exceeding \$1 000.

(2) A body corporate which contravenes any of the clauses set out in the Table to this clause is liable on conviction to a maximum penalty not exceeding \$10 000 and, if the offence is a continuing offence, to a daily penalty not exceeding \$2 000.

*The Environmental Protection Regulations need to be amended to allow for the provision of tier 3 offences and concomitant penalties for breaches of this policy.*

**Table**

clause 7	clause 22 (1)
clause 8	clause 23
clause 9 (1)	clause 25 (1)
clause 9 (3)	clause 25 (2)
clause 10	clause 26 (1)
clause 11 (1)	clause 27 (1)
clause 11 (2)	clause 28
clause 11 (3)	clause 29
clause 12	clause 30
clause 14 (1)	clause 31
clause 14 (2)	clause 32
clause 14 (3)	clause 33 (1)
clause 15	clause 34
clause 16 (1)	clause 35 (1)
clause 17	clause 36
clause 18 (1)	clause 37
clause 18 (2)	clause 38 (1)
clause 19	
clause 20 (1)	
clause 20 (4)	
clause 21	

## SCHEDULE

[CLAUSES 4, 6, 11, 17 AND 32]

### Ozone-depleting substances

- Annex A:
  - Group I: CFCs — 11, 12, 113, 114 and 115
  - Group II: Halons — 1211, 1301 and 2402
- Annex B:
  - Group I: CFCs — 13, 111, 112, 211, 212, 213, 214, 215, 216 and 217
  - Group II: carbon tetrachloride
  - Group III: 1, 1, 1 - trichloroethane (methyl chloroform).
- Annex C:

HCFCs - 21, 22, 31, 121, 122, 123, 124,131,132, 133, 141, 141b 142b, 151, 221, 222, 223, 224, 225, 225ca, 225cb, 226, 231, 232, 233, 234, 235, 241, 242, 243, 244, 251, 252, 253, 262, and 271

4. Any mixture of any substance, referred to in item 1, with any other substance or substances including mixtures R500, R501, R502, R503 and R504.

5. Any other substance which is included in the Schedule to the Commonwealth *Ozone Protection Act 1989* at the time this policy comes into effect.

DATE

For Comment