

## Operation of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*

This annual report is prepared in accordance with section 68 of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*, and covers the operation of the Act from 1 July 2003 to 30 June 2004.

The main purposes of the Act are to:

- implement the provisions of the 1985 Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;
- institute specific controls on the manufacture, import, export, distribution and use of ozone depleting substances;
- encourage Australian industry to replace, and achieve a faster and greater reduction in the use of ozone depleting substances;
- control the manufacture, import, export and use of synthetic greenhouse gases that are used to replace ozone depleting substances, to give effect to Australia's obligations under the United Nations Framework Convention on Climate Change; and
- promote the responsible use of these substances to minimise their impact on the atmosphere.

In December 2003, Parliament passed amendments to the *Ozone Protection Act 1989*, creating the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*. The amendments ensure Australia remains at the forefront of international efforts to repair the ozone layer. The Act:

- extends the existing import, export and manufacture licensing system for ozone depleting substances to cover synthetic greenhouse gases where they are used as alternatives to ozone depleting substances;
- establishes a system for licensing the import of refrigeration and air conditioning equipment containing hydrochlorofluorocarbon (HCFC) or hydrofluorocarbon (HFC) refrigerant;

- creates regulation making powers to allow the Australian Government to develop end-use controls on purchase, sale, handling and disposal of these gases; and
- implements the Beijing Amendment to the Montreal Protocol, including a ban on the import and manufacture of a new ozone depleting substance, bromochloromethane, and a ban on trade in certain ozone depleting substances with non-protocol parties.

The Department, in conjunction with the Australian Greenhouse Office, introduced the extended licensing system on 1 April 2004. In total 516 licences and exemptions were issued in 2003–04:

- import and export of HCFC – eight licences;
- import and export of methyl bromide – five licences;
- import and export of HFC and perfluorocarbon (PFC) – 15 licences;
- import of refrigeration and air conditioning equipment containing an HCFC or HFC refrigeration charge – 473 licences;
- export of chlorofluorocarbon (CFC) – two essential uses licences;
- import and export of used or recycled CFC, halon, carbon tetrachloride and methyl chloroform – one used substance licence issued; and
- import of certain products and equipment containing or designed to contain certain ozone depleting substances that are essential for medical and other purposes and for which practical alternatives are not available in Australia – 12 section 40 exemptions issued.

In 2003–04, 504.4 ozone depleting potential tonnes<sup>1</sup> of ozone depleting substances were imported into Australia, a reduction of 58.4 tonnes from the previous year. This was possible through the constructive efforts of industry and as a result of the administration of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

## Montreal Protocol

In March 1985, the Vienna Convention for the Protection of the Ozone Layer came into being when nations agreed to take “appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the Ozone Layer”. Following agreement that concrete measures were required to curb the increasing

---

<sup>1</sup> The ozone depletion potential compares the expected impact on stratospheric ozone per unit mass (e.g. tonne) emitted to the atmosphere to the impact of the same unit mass of chlorofluorocarbon-11.

use of ozone depleting substances, the Montreal Protocol on Substances that Deplete the Ozone Layer was finalised in September 1987. The Montreal Protocol aims to promote international cooperation in developing and implementing specific measures to control the consumption and production of ozone depleting substances. The protocol was amended in 1990, 1992, 1995, 1997 and 1999.

Australia ratified the Montreal Protocol in May 1989. There are now 188 parties to the Vienna Convention and 187 parties to the Montreal Protocol. The original Montreal Protocol set limits on a number of controlled substances but did not require their total elimination by a specific date. Subsequent reviews of the protocol established total phaseout dates for these substances and added to the list of controlled substances (see Table 1).

Table 1: Summary of the Montreal Protocol control measures

Ozone depleting substances	Developed countries	Developing countries
Chlorofluorocarbons (CFCs)	Phased out end of 1995 <sup>(a)</sup>	Total phase-out by 2010
Halons	Phased out end of 1993	Total phase-out by 2010
Carbon tetrachloride	Phased out end of 1995 <sup>(a)</sup>	Total phase-out by 2010
Methyl chloroform	Phased out end of 1995 <sup>(a)</sup>	Total phase-out by 2015
Hydrochlorofluorocarbons (HCFCs)	Freeze from beginning of 1996 <sup>(b)</sup>  35 per cent reduction by 2004  65 per cent reduction by 2010  90 per cent reduction by 2015  Total phase-out by 2020 <sup>(c)</sup>	Freeze in 2016 at 2015 base level        Total phase-out by 2040
Hydrobromofluorocarbons (HBFCs)	Phased out end of 1995	Phased out end of 1995
Methyl bromide	Freeze in 1995 at 1991 base level <sup>(d)</sup>  25 per cent reduction by 1999  50 per cent reduction by 2001  70 per cent reduction by 2003  Total phase-out by 2005 <sup>(e)</sup>	Freeze in 2002 at average 1995–1998 base level  20 per cent reduction by 2005      Total phase-out by 2015
Bromochloromethane (BCM)	Phased out by 2002	Phased out by 2002

<sup>(a)</sup> An exception is made for a very small number of internationally agreed essential uses that are considered critical to human health and/or laboratory and analytical procedures.

<sup>(b)</sup> This is based on 1989 HCFCs consumption with an extra allowance (ozone depleting potential weighted) equal to 2.8 per cent of 1989 CFC consumption.

<sup>(c)</sup> Up to 0.5 per cent of base level consumption can be used until 2030 for servicing existing equipment.

<sup>(d)</sup> All reductions include an exemption for pre-shipment and quarantine uses.

<sup>(e)</sup> The protocol allows for 'critical use exemptions' to be granted from the methyl bromide phase-out where end users meet certain strict criteria, and where they can demonstrate that technically or economically viable alternatives will not be available to them by 2005.

## Operation of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*:

- prohibits the import, export or manufacture of CFCs, halons, carbon tetrachloride, methyl chloroform, bromochloromethane and hydrobromofluorocarbons without an essential-uses or used-substances licence;
- establishes a system of controlled-substances licences and reporting requirements for the import, export or manufacture of HCFCs, methyl bromide, HFCs and PFCs consistent with Australia's obligations under the Montreal Protocol and United Nations Framework Convention on Climate Change;
- establishes a licensing system for the import of refrigeration and air conditioning equipment that contains an HFC or HCFC refrigerant charge (pre-charged equipment), thereby applying the same conditions and responsibilities for the import of these substances in equipment as apply to their import in bulk form;
- establishes the Ozone Protection and SGG Account to allow revenue from the licensing system, import levies and the Halon Bank to be directed towards the cost of: the Act's administration; ozone depleting substance phase-out programmes; emission minimisation programmes; and the operation of the Halon Bank; and
- establishes administrative fees for licences issued under the Act, with the fees set under the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*.

The *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* provides for the payment of levies in respect of the import of HCFCs, methyl bromide, HFCs, PFCs and precharged equipment under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

The *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995* provides for the payment of levies in respect of the manufacture of HCFCs, methyl bromide, HFCs and PFCs under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

## Implementation, compliance and enforcement

Implementation of the amendments to the Act was a high priority during the year, as well as continued compliance and enforcement actions under the existing provisions of the Act.

The Department and the Australian Greenhouse Office commenced development of national end-use regulations in the refrigeration and air conditioning, and fire protection sectors. The proposed end-use regulations have been developed in close consultation with industry and will reduce Australia's national emissions of ozone depleting and global warming substances. The proposed regulations will set national knowledge, skill and equipment standards to ensure that emissions are minimised.

Development of end-use regulations for the foam sector and methyl bromide users also commenced, in close consultation with these industries. These regulations will ensure Australia meets its phase-out responsibilities under the Montreal Protocol and will lead to reduced emissions.

The Department worked closely with the Australian Customs Service, the Department of Transport and Regional Services, the Customs Brokers and Forwarders Council of Australia and the Australian Federation of International Forwarders to raise industry and public awareness of the new regulatory requirements and to establish workable administrative processes to handle licensing issues, particularly through the transition period.

During the year, the Department, in cooperation with the Australian Customs Service, acted to halt the illegal import of refrigeration and air conditioning equipment containing, or designed to contain, CFCs. This action resulted in the detection of 1004 CFC units illegally entering Australia over a four-month period, equating to a saving of around 0.7 ozone depleting potential tonnes of CFCs. During a transitional period, importers who were unaware of the prohibition were given the opportunity to degas and retrofit the systems in Australia in accordance with Australian standards.

## Licensing

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* controls the manufacture, import and export of ozone depleting substances and synthetic greenhouse gases used to replace ozone depleting substances in Australia, specifically CFCs; halons 1211, 1301 and 2402; carbon tetrachloride and methyl chloroform; hydrobromofluorocarbons; bromochloromethane, HCFCs; methyl bromide; HFCs; and PFCs.

The import, export and manufacture of these substances, the import and manufacture of certain products containing, or designed to contain, some of these substances, and the import and manufacture of air conditioning and refrigeration equipment containing an HCFC or HFC refrigerant, are prohibited in Australia unless the correct licence or exemption is held. There are four types of licence—

controlled substance; essential use; used substance; and pre-charged equipment. There is one type of exemption—section 40.

Controlled substance, used substance and pre-charged equipment licences are granted for a two-year period and stay in force until the end of the licensing period in which they are granted. The current licensing period ends on 31 December 2005.

Essential use licences and exemptions are granted for a one-year period and stay in force until the end of the period in which they are granted, which for the purpose of this report is 31 December 2004.

The HFC, PFC and pre-charged licensing system commenced on 1 April 2004, following an extensive awareness campaign. The current licensing period ends on 31 December 2005.

## Licence, exemption and activity fees

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* provides for licence application fees to be levied (see Table 2).

**Table 2: Licence and exemption application fees**

Type of licence/exemption	Fee (per licence period)
Controlled substances	\$15 000
Essential uses	\$3000
Used substances	\$15 000
Pre-charged equipment	\$3000
Section 40	\$3000

Levies on import and manufacturing activity (see Table 3) are payable each quarter under the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* and the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995* according to the quantity and ozone depletion potential of HCFCs imported or manufactured; or the quantity of methyl bromide, HFCs or PFCs imported or manufactured. Since 1996, Australia has not manufactured ozone depleting substances, HFCs or PFCs.

Table 3: Levies on imports

Licensed activity	Levy
HCFCs import	\$3000 per ozone depleting potential <sup>(a)</sup> tonne
HFCs and PFCs import	\$165 per metric tonne
Methyl bromide import	\$135 per metric tonne <sup>(a)</sup>

<sup>(a)</sup> One metric tonne of methyl bromide equals 0.6 ozone depleting potential tonne.

Licence fees and levies are set at the level estimated to be the cost to the Australian Government of administering the legislation and undertaking programmes associated with phase-out and emission minimisation. These fees are held in the Ozone Protection and SGG Account.

## Ozone Protection and SGG Account

The Ozone Protection and SGG Account was established by the 1995 amendments to the Ozone Protection Act. The purpose of the account is to reimburse the Commonwealth for the costs associated with:

- administration of the Act and regulations;
- furthering the ozone depleting substances phase-out and emission minimisation programmes; and
- management of the National Halon Bank.

Table 4 shows the projects that received funding during 2003–04:

Table 4: Projects funded from the Ozone Protection and SGG Account 2003–04

Approved projects	Total project budget <sup>(a)</sup>	Ozone Protection and SGG Account expenditure <sup>(b)</sup>
Trialing of methyl bromide alternatives for quarantine and pre-shipment treatment of export hay	\$72 028	\$24 007
Development of an environmental rating scheme for air conditioning and refrigeration systems using life-cycle assessment methodology, to raise awareness in industry and government and confirm comparative operating efficiencies	\$165 400	\$57 367
<b>Total</b>	<b>\$237 428</b>	<b>\$81 374</b>

<sup>(a)</sup> Total project budget is the amount funded from the Ozone Protection and SGG Account (excludes goods and services tax). Project budgets often cover expenditure over several years.

<sup>(b)</sup> Ozone Protection and SGG Account expenditure (excludes goods and services tax) is the amount the project received from the reserve during 2003–04.

No new projects were approved for funding through the Ozone Protection and SGG Account in 2003–04, as programme priorities are being reassessed in light of the inclusion of synthetic greenhouse gases and the expanded scope of the account under the amended Act. Expressions of interest for project grants are expected to be called in 2004–05.

## Cost recovery

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* provides for full cost recovery through licence fees and levies. The fees received during 2003–04 were:

Table 5: Ozone Protection and SGG Account receipts and expenditure 2003–04

Licence or activity	Amount received
Controlled substance licence fees:	
• HCFCs licence fees	\$120 000
• Methyl bromide licence fees	\$75 000
• HFCs licence fees	\$225 000
Essential use licence fees	\$6 000
Used substance licence fees	\$15 000
Pre-charged equipment licence fees	\$1 419 000
Section 40 exemption fees	\$6 000
Levies	
• HCFCs	\$393 671
• Methyl bromide	\$66 591
<b>Total</b>	<b>\$2 326 262</b>
<b>Reserve</b>	<b>Expenditure</b>
Grants	\$81 374
Salary and administration	\$241 156
<b>Total</b>	<b>\$322 530</b>

## Freedom of information

No requests were received under the *Freedom of Information Act 1982*.

## Administrative Appeals Tribunal

No applications under section 66 of the Act, for review of a decision made by the Minister, were received by the Administrative Appeals Tribunal.