

Queensland



Explanatory Notes for SL 2003 No. 201

Pest Management Act 2001

PEST MANAGEMENT REGULATION 2003

Short Title

Pest Management Regulation 2003.

Authorising law

Details are contained in the regulatory impact statement.

Policy objectives

Details are contained in the regulatory impact statement.

How policy objectives will be achieved

Details are contained in the regulatory impact statement.

Consistency with authorising law

Details are contained in the regulatory impact statement.

Options and alternatives

Details are contained in the regulatory impact statement.

Cost-benefit analysis

Details are contained in the regulatory impact statement.

Fundamental legislative principles

Details are contained in the regulatory impact statement.

Consultation

In accordance with the requirements of the *Statutory Instruments Act 1992*, a Regulatory Impact Statement (RIS) was prepared and released for public comment in November 2002, for a period of 4 weeks. The availability of the RIS was advertised in the *Courier-Mail*, and direct advice about its release was provided to key stakeholders, including the Australian Environmental Pest Managers' Association, and a selection of local governments, pest management businesses and government agencies. In addition, the RIS was available on Queensland Health's website.

Eleven submissions were received on the RIS, primarily from pest management technicians and businesses. The Australian Environmental Pest Managers' Association (AEPMA) and the Australian Institute of Environmental Health (AIEH) responded on behalf of their members.

Further targeted consultation with key stakeholders was subsequently undertaken on a draft of the proposed Regulation. The draft was distributed to key stakeholders in June, seeking comments by early July 2003. Feedback on the draft Regulation was received from 16 key stakeholders, including AEPMA, the Local Government Association of Queensland, and pest management technicians and businesses.

Results of consultation

Feedback received during consultation with stakeholders was generally favourable and informed the drafting of the proposed Regulation. Significant issues raised, and the results of consultation, are as follows—

- concern was expressed by industry stakeholders that various requirements proposed for inclusion in the proposed Regulation were unnecessary or impractical. Where appropriate, these requirements were omitted or modified. For example, personal hygiene requirements are not prescribed.
- some industry submissions argued that the more onerous safety requirements canvassed in the RIS should only apply to fumigation activities, as they pose a higher risk of harm than pest control activities. In response, these requirements (such as establishing if a

risk area exists, and ensuring an additional person is present) will only apply for fumigation activities.

- some submissions argued that certain proposed safety requirements for fumigation activities, such as erection of barricades, display of warning signs, and providing prior notice of fumigation to occupiers, should only apply to fumigation activities carried out in 'public' places. In response, there is an exemption from the requirement to provide 24 hours notice to occupants prior to carrying out a fumigation activity, when the place being fumigated is not a public place and it is not practicable to do so. The requirement to provide a fumigation notice and a clearance certificate will not take effect until 6 months after commencement of the proposed Regulation. Requirements regarding barricades and signage are included but have been modified to minimise cost to industry.
- one submission indicated that the requirement to ensure a fumigation space is sealed prior to fumigation could not be met with regards to a fumigation activity carried out at an unsealed grain storage facility. In response, a fumigation activity carried out at these facilities, using a method designed for such facilities, will be exempt from certain inspection and testing requirements.
- a few industry submissions commented that vehicles currently used by pest management technicians would need modification or replacement vehicles purchased to comply with the proposal for a separate air supply for the passenger cell and the section of the vehicle in which a fumigant or a pesticide is carried. In response, a separate air supply will not be required. However, the proposed Regulation will continue to require the floor and walls of a pest management vehicle be impervious to the fumigant or pesticide and be capable of containing any leakage or escape. A vehicle that cannot comply with this requirement must not be used.
- in response to industry submissions, the proposed requirement for a pest management vehicle to be clearly marked on *both external sides* of the vehicle to indicate it is used for a pest management activity has been modified. The proposed Regulation will require vehicles to be clearly and visibly marked on the vehicle's exterior. Pest management technicians will have 12 months from commencement to ensure existing pest management vehicles comply.
- a number of submissions were concerned that the proposed requirement that pesticides and fumigants must not be stored at a place where a person resides was too broad and could restrict the

ability of an owner-operator to conduct a pest management business from home. The proposed Regulation will require that a fumigant or pesticide must not be stored in a place that is part of, or is within part of, a person's residence, when the place is also used for residential purposes. Two examples of lawful storage at a person's residence (eg by an owner-operator) are included to clarify the intent of the provision.

- several submissions commented on a revised proposal to *require* the provision of a pest control advice to an occupier, or if a pest control activity is carried out on an unoccupied premises, to the owner of the premises or the person who requested the activity (eg a letting agent). The advice must include the product name and active constituent of the pesticide used for the treatment; advise in which part of the premises the pesticide was used; and provide information about general precautions that should be taken in relation to the pest control activity.

Two submissions clearly supported the proposal. The remaining submissions did not oppose the proposal, but some raised concerns about the suitability of some of the prescribed information, and proposed that lead time before implementation would be necessary as the requirement would have some impact on businesses.

In response, the required information was modified where practicable. Also, commencement of this provision is delayed until 20 September 2004, to provide sufficient time for technicians to comply with the new requirements. Queensland Health will provide advice to industry stakeholders about compliance issues prior to commencement of the proposed Regulation.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Health.