

## Queensland



### Regulatory Impact Statement for SL 2003 No. 201

#### *Pest Management Act 2001*

## PEST MANAGEMENT REGULATION 2003

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### TITLE

*Pest Management Regulation 2003*

### BACKGROUND

Pest control operators and fumigators are currently regulated, by way of a licensing system, under part 4, division 7 of the *Health Act 1937* and parts 10 and 12 of the *Health Regulation 1996*. This legislation is to be repealed and will be replaced by the *Pest Management Act 2001* (“**the Act**”) and the *Pest Management Regulation 2003* (“**the regulation**”).

The Act was passed by the Legislative Assembly on 13 December 2001 and was developed following a comprehensive review process that involved extensive consultation with key stakeholders.

The Act updates and revises the licensing regime under the current legislation to provide a more effective regulatory system for pest control operators and fumigators. The key provisions of the Act are those which specify:

- the types of pest management activities that are regulated under the Act;
- the criteria and processes for obtaining a licence;
- the obligations on licensees and other persons under the Act and the penalties for non-compliance;
- the mechanisms for compliance with the Act to be monitored and enforced; and
- the transitional arrangements that will apply to persons who are licensed under the current legislation.

The commencement of the Act is planned to coincide with the making of the regulation.

This Regulatory Impact Statement outlines the Government's proposals regarding the development of the regulation. The Queensland Government invites you to participate in the development of the regulation by commenting on any of the matters contained in the Regulatory Impact Statement.

## **AUTHORISING LAW**

Section 130 of the Act provides the general head of power for the making of a regulation. Specific provisions regarding the matters to be covered by the regulation are contained in sections 10, 19, 29, 34, 40, 54, 131 and Schedule 3 of the Act.

## **POLICY OBJECTIVES**

Activities for the management and control of pests are carried out in almost every facet of life ranging from every-day domestic situations to large-scale agricultural crop production. However, it is well recognised that many chemicals used in pest management are highly toxic poisons and can cause serious harm to the user of the chemicals and to other members of the public if not used safely. It is essential that the use of a pesticide or a fumigant in the management of pests does not pose a public health risk and that such chemicals are only used by competent persons.

The main policy objective of the Act is to protect the Queensland public from:

- the health risks associated with pest control activities and fumigation activities (collectively referred to as “**pest management activities**”); and
- the adverse results of the ineffective control of pests.

This objective is to be achieved by establishing a licensing regime to regulate pest management activities and ensure that the activities are carried out by pest management technicians in a safe and competent manner.

It is necessary to make the regulation to:

- specify certain requirements to be met by a pest management technician when carrying out a pest management activity;

- ensure the health risk associated with a pest management activity is minimised; and
- provide greater detail about, and give effect to, particular provisions of the Act to ensure that the licensing regime established under the Act can operate.

Therefore, the objective of the regulation is consistent with the objective of the Act.

### **HOW THE POLICY OBJECTIVES WILL BE ACHIEVED**

To ensure the licensing system for pest management technicians established under the Act can operate, the regulation will prescribe the qualifications that a person must hold to be granted a licence as a pest management technician. The qualifications will be specific to the pest management activity that may be carried out under the licence.

To minimise the health risk associated with a pest management activity, the regulation will specify various safety precautions to be observed by licensees prior to, during and after a pest management activity is carried out. Provisions concerning fumigant and pesticide containers, equipment and motor vehicles used in carrying out a pest management activity will also be included in the regulation. There will be an obligation on a pest management technician to keep a record of the use of a fumigant or a pesticide.

The regulation will also provide for incidental matters such as the fees to be paid by applicants for a licence and licensees.

A change in a licensee's circumstances may have an impact on the licence. The regulation will prescribe the matters that must be notified to the Chief Executive, Department of Health about changes in a licensee's circumstances that are relevant to their licence.

Specific details about the provisions to be contained in the regulation are provided in the Attachment to this Regulatory Impact Statement.

### **CONSISTENCY WITH AUTHORISING LAW AND OTHER LEGISLATION**

The regulation will be consistent with the authorising law, as the proposals for the regulation have been developed in line with the objectives of the authorising law (ie the *Pest Management Act 2001*). The regulation

will further develop those aspects of the Act that require prescription to ensure the Act can operate effectively.

Other State legislation such as the *Environmental Protection Act 1994*, the *Transport Operations (Road Use Management) Act 1995*, the *Dangerous Goods Safety Management Act 2001*, *Chemical Usage (Agricultural and Veterinary) Control Act 1988* and the *Workplace Health and Safety Act 1995* impose various requirements which apply to the use, storage, transport and disposal of a fumigant or pesticide. The Act and regulation are consistent with, and complement, this other legislation.

## **OPTIONS AND ALTERNATIVES**

The alternative of achieving the policy objectives by not making subordinate legislation was rejected because this option would provide a lower level of protection of the public from the health risks associated with pest management activities than that provided under the proposed regulation.

## **COST-BENEFIT ANALYSIS**

An analysis of the costs and benefits of implementing the regulation, and the alternative of not making subordinate legislation, has been undertaken for community, industry and government stakeholders likely to be affected by the proposed regulation. The analysis is set out below.

## **PROPOSED REGULATION**

### ***Community***

#### **Benefits**

The proposed regulation will potentially provide greater protection to the public from the health risks associated with pesticides and fumigants and ineffective control of pests. In addition, there may be increased public confidence in the pest management industry. For instance:

- qualifications to be prescribed for licensing as a pest management technician are expected to result in increased competency levels within the pest management industry;
- the regulation sets out additional safety procedures to be followed by a pest management technician in relation to carrying

out a pest management activity (eg. measures to restrict access to fumigation sites).

### **Costs**

The proposed regulation will impose additional costs on some pest management technicians by way of increased licensing fees, training costs in upgrading qualifications and compliance costs associated with the additional safety procedures to be followed. While some technicians may pass these costs on to consumers, it is not expected that the regulation will result in a significant overall increase in the cost of pest management services.

### ***Industry***

#### **Benefits**

##### *Pest management technicians/businesses*

Additional safety procedures in the regulation to be followed by a pest management technician in relation to carrying out a pest management activity will result in site environments that provide greater protection to technicians, trainees and other persons.

The proposed regulation will provide greater transparency as to the obligations that must be met by a pest management technician and clearly delineates between a fumigation activity and pest control activity. These obligations are also consistent with good industry practice.

Prescribing national competency standards as qualifications for licensing is likely to result in pest management activities being carried out in a more effective and safe manner. This is expected to enhance public confidence in the pest management industry. Greater consumer use of pest management services may result in an increase in profits for pest management industry operators.

The introduction of a single licence under the Act and the proposed rationalisation of the licence fees (discussed below) means that persons who currently hold a pest control operator's licence and a fumigator's licence will pay \$31 less per annum for a licence under the Act.

##### *Training providers*

Prescribing the new qualifications for licensing as a pest management technician will result in greater participation in training programs by licensees and trainees. As a result, training providers who provide training

and assessment for the competency standards required for licensing as a pest management technician are likely to derive increased income.

### **Costs**

The licence fee structure under the proposed regulation will rationalise the existing fee structure under which different licence fees are payable for pest control operator's licences and fumigator's licences. It is proposed that a single licence fee be set, for all licences under the Act, at the same level as the current fee for a pest control operator's licence, namely \$72 (plus applicable CPI increase). This means that current holders of a fumigator's licence (for which the licence fee is \$31) will pay an additional \$41 per annum.

The regulation will prescribe the competency standards that an individual must achieve to be qualified to hold a licence to perform pest management activities. For new entrants this is not considered to be an extra cost, as current administrative arrangements already require attainment of these competencies to gain a licence. Some existing licence holders will incur a cost under the transitional arrangements, as upgrading of qualifications will be required. The costs of upgrading qualifications will vary depending on whether further training is required or if the licensee is able to obtain the required qualifications by utilising the process for recognition of current competency.

Record-keeping requirements will be extended and include all pest management activities involving the use of a fumigant or a pesticide. As records may be kept electronically and would be part of normal business practice, the costs incurred will be minimal.

The regulation will also set standards for vehicles used in a pest management activity, including signage. These requirements are consistent with contemporary industry practices and will not pose significant costs to industry.

Additional procedures to be followed in carrying out a fumigation activity include the use of barricades, ensuring site security and the issue of a clearance certificate on completion of the activity. As these requirements are consistent with and complement other legislation, minimal additional compliance costs are expected.

## ***Government***

### **Benefits**

In conjunction with the Act, the regulation will enhance the Government's ability to ensure that pest management services, to which the Act applies, are carried out in a safe and competent manner. This will assist the Government to more effectively meet public expectations about the Government's role in protecting consumers from the health risks associated with pest management activities.

### **Costs**

As the Act and regulation will replace the existing licensing system for pest control operators and fumigators under the *Health Act 1937* and the *Health Regulation 1996*, costs to the Government will be minimal. Other than costs for public education and promotion activities in relation to new legislation, the only additional costs will be those associated with the introduction of photographic licences.

## **NO SUBORDINATE LEGISLATION**

### ***Community***

#### **Benefits**

As there would be no additional costs to the pest management industry, there would not be the potential for a negative flow-on effect to consumers in relation to the cost or availability of pest management services.

#### **Costs**

Without subordinate legislation prescribing matters such as the licensing qualifications and safety procedures to be followed by pest management technicians, there would be an increased risk of harm to the public from pest management activities.

### ***Industry***

#### **Benefits**

Without subordinate legislation prescribing the licensing qualifications, any person could operate in the pest management industry irrespective of their qualifications or experience. In addition, the pest management industry would not incur the compliance costs associated with licensing.

**Costs**

Without subordinate legislation prescribing matters such as the licensing qualifications and the safety procedures to be followed by pest management technicians, pest management industry participants would have less protection from the health risks associated with pest management activities. In addition, public confidence in the industry may decrease leading to a reduction in profits for pest management industry operators.

***Government*****Benefits**

Costs to the Government in administering the regulation will be avoided.

**Costs**

The Government's ability to effectively meet public expectations about its role in protecting consumers from the health risks associated with pest management activities will be reduced. In addition, as a result of unqualified or incompetent operators being allowed to enter the industry, the Government may incur additional costs through pest eradication programs and in dealing with the adverse public health consequences of the ineffective control of pests.

**FUNDAMENTAL LEGISLATIVE PRINCIPLES**

The proposed regulation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.



**Attachment****PEST MANAGEMENT REGULATION 2003****LEGISLATIVE PROPOSAL****CONTENTS**

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## BACKGROUND

The *Pest Management Act 2001* (“**the Act**”)<sup>1</sup> was assented to on 19 December 2001.

The main objective of the Act is to protect the public from—

- health risks associated with pest control activities and fumigation activities (collectively referred to as “**pest management activities**”); and
- the adverse results of the ineffective control of pests.

The objective is to be achieved, in part, by regulating the entry of persons into the pest management industry through a licensing system that requires a qualification issued by a registered training organisation stating that an individual has achieved a competency standard to undertake the particular pest management activity.

In order to ensure that the public health risk associated with a pest management activity is minimised, the regulation will provide for a number of other incidental matters. These include the prescribing of fees, specifying various safety precautions to be observed by licensees prior to, during and after a pest management activity is carried out, setting standards for a container that holds a fumigant or pesticide, the storage and transport of a fumigant or pesticide, and the keeping of records.

## DEFINITIONS AND KEY CONCEPTS

Particular words used in the Act are defined in the dictionary in schedule 3 of the Act. These definitions will also apply to these words when used in the regulation. The key terms used are listed below.

### *Chief executive*

The Act does not define the term “chief executive”. However, where used, the term “chief executive” is a reference to the chief executive of the Queensland Department of Health. The person who holds the position of chief executive is also the Director-General of Queensland Health.

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<sup>1</sup> A copy of the Act may be purchased from Goprint and is also available electronically through the Office of the Queensland Parliamentary Counsel’s website at the following address:  
[www.legislation.qld.gov.au/LEGISLTN/ACTS/2001/01AC103.pdf](http://www.legislation.qld.gov.au/LEGISLTN/ACTS/2001/01AC103.pdf)

***Fumigant***

The term “fumigant” means a substance that—

- (a) is capable of producing a gas; and
- (b) when in a gaseous state is ordinarily used to—
  - (i) kill a pest; or
  - (ii) sterilise grain or seed to prevent germination; or
  - (iii) perform another function prescribed under a regulation.

***Fumigation activity***

The term “fumigation activity” means—

- (a) preparing a fumigant for use, including measuring, mixing or weighing the fumigant; or
- (b) using a fumigant to—
  - (i) kill a pest; or
  - (ii) sterilise grain or seed to prevent germination; or
  - (iii) perform another function prescribed under a regulation.

***Licence***

The term “licence” means a licence under the Act.

***Motor vehicle***

The term “motor vehicle” means a vehicle for which registration is required under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 1999* and includes a trailer.

***Pest***

The term “pest”—

- (a) generally—means an arthropod,<sup>2</sup> bird, mollusc,<sup>3</sup> rodent<sup>4</sup> or another biological entity prescribed under a regulation, that injuriously affects, or may injuriously affect—
  - (i) a place by transmitting disease, a toxin or another pest in the place or by causing physical damage to the place or a thing in the place; or
  - (ii) a person by transmitting disease, a toxin or another pest to the person or by causing distress to, or an adverse physiological or social effect in, the person; and
- (b) for the definitions “fumigant” and “fumigation activity”—includes a fox or rabbit.

***Pest control activity***

The term “pest control activity” means—

- (a) preparing a pesticide for use, including measuring, mixing or weighing the pesticide; or
- (b) using a pesticide to—
  - (i) kill, stupefy or repel a pest; or
  - (ii) inhibit the feeding of a pest; or
  - (iii) modify the physiology of a pest to alter its natural development or reproductive capacity.

***Pesticide***

The term “pesticide” means a chemical or biological entity that is ordinarily used to—

- (a) kill, stupefy or repel a pest; or

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2 Arthropods include insects (eg ants, bed bugs, carpet beetles, cockroaches, fleas, flies, lice, mosquitoes, moths, silverfish, termites, wasps), arachnids (eg mites, spiders, ticks), crustaceans (eg amphipods, slaters), and myriapods (eg centipedes).

3 Molluscs include snails.

4 Rodents include mice and rats.

- (b) inhibit the feeding of a pest; or
- (c) modify the physiology of a pest to alter its natural development or reproductive capacity.

***Pest management activity***

The term “pest management activity” means a fumigation activity or pest control activity.

***Pest management technician***

The term “pest management technician” means an individual who holds a licence.

***Trainee***

The term “trainee” is defined in schedule 3 of the Act and means a individual who is—

- (a) 17 years or more; and
- (b) being trained to enable the individual to obtain a pest management qualification.

The term “trainee” is intended to identify a person who is over the age of 17 years and is learning / studying to acquire the skills and knowledge required in order to obtain a pest management qualification. The use of the term “trainee” in the Act and the regulation should not be confused with the meaning of that term under the *Training and Employment Act 2000*.

Under the *Training and Employment Act 2000*, a trainee is a person who is being trained in a traineeship, which is employment based training declared by the Training Recognition Council to be a traineeship and a traineeship contract has been signed by the relevant parties.

## **DETAIL OF THE PROPOSED REGULATION**

### **GENERAL PROVISIONS**

#### **QUALIFICATIONS FOR LICENSING AS A PEST MANAGEMENT TECHNICIAN**

A pest management technician must be licensed to carry out a pest management activity. The Act provides that it is a condition of the licence that a pest management technician may only carry out a pest management activity stated in the technician's licence.

Section 21(2) of the Act provides that the chief executive may grant an application for a pest management technician's licence if the chief executive is satisfied that the applicant is at least 17 years, a suitable person to hold a licence and holds a pest management qualification relevant to a pest management activity the applicant intends to carry out under the licence.

Schedule 3 of the Act defines "pest management qualification" to mean a certificate issued by a registered training organisation<sup>5</sup> stating that an individual has achieved a competency standard prescribed under a regulation.

For a person to operate effectively in a workplace, the person must have specific skills and knowledge relevant to that workplace. Competency standards describe the skills and knowledge required. Competency standards are defined by industry, are nationally recognised and form the basis of training for that specific industry. Competency standards contain descriptors of outcomes to be achieved, performance criteria and a guide to assess attainment of competence.

The pest management industry has developed a series of competency standards specific to that industry. These standards have been endorsed by the Australian National Training Authority and are part of the Training Package for Asset Maintenance in Property Services PRM AM CL PM 98. Training in pest management is conducted by registered training organisations against the competency standards in this training package.

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5 A registered training organisation is a training organisation that is registered under the *Training and Employment Act 2000* to provide training services or recognition services. The scope of registration will include the type of training and the qualification level that may be issued. A certificate may be in the form of a qualification or statement of attainment that identifies the learning outcomes achieved by the person named in the certificate.

Qualifications and statements of attainment are issued by a registered training organisation in accordance with the Australian Quality Training Framework (which is a set of nationally agreed standards to ensure the quality of vocational education and training services throughout Australia).

For over three years registered training organisations have provided training and/or assessment and issued qualifications and statements of attainment in pest control activities in accordance with the above units of competency.

In recent years entrants to the pest management industry have undertaken this training. In addition, many pest management technicians who gained a licence prior to the introduction of the above competency based training have upgraded their qualifications through the 'fast track' system of recognition of current competency.

The competency standards proposed to be prescribed under the regulation as requirements for licensing will be the units of competence from the national training package as listed in the table below:

<b>Class of pest management activity</b>	<b>Units of Competency</b>	
Pest control activity (not including timber pests)	PRMPM05A	Modify environment to manage pests
	PRMPM06A	Apply pesticide to manage pests
	PRMPM018A	Maintain an equipment and consumables storage area
Pest control activity (including timber pests)	PRMPM05A	Modify environment to manage pests
	PRMPM06A	Apply pesticide to manage pests
	PRMPM018A	Maintain an equipment and consumables storage area
	PRMPM08A	Inspect and report on timber pests
	PRMPM10A	Control timber pests
Fumigation activity	PRMPM11A	Eradicate pests through fumigation

## Timber Pests Qualification

Existing holders of a pest control operators licence will be permitted to carry out a pest control activity, including an activity for timber pests, for a 2 year period after the commencement of the Act. After this period those licensees will not be permitted to carry out an activity for timber pests unless they hold a timber pest qualification.

It is proposed that the regulation will prescribe that a timber pest qualification will be that listed in the table below:

Timber pests qualification	Prescribed pest management qualification – Units of Competency	
Pest control activity (for timber pests)	PRMPM08A	Inspect and report on timber pests
	PRMPM10A	Control timber pests <sup>a</sup>

- a It should be noted that competency in Unit PRMPM06A *Apply pesticide to manage pests* is a prerequisite to competency in Unit 10A.

The competencies required for a timber pests qualification are consistent with those required for business licences issued by the Queensland Building Services Authority for a person to undertake pre-slab and perimeter soil treatment of a site for termite control.

## FEES

The Act makes provision for fees to be charged for various matters relating to licensing as a pest management technician including applying for, or renewing, a licence and applying to vary or replace a licence.

It is proposed that the fees to be prescribed under the regulation be as set out below.

## Licences

### *Application for Licence or Renewal of Licence*

An application for a licence, or for renewal of a licence, must be made to the chief executive, be in the approved form and be accompanied by the fee prescribed under a regulation. An application for renewal of a licence must be made within 60 days before the licence expires.



The amount of the fee for an application for a licence, or for renewal of a licence, will depend on the term<sup>6</sup> of the licence. It is proposed that the fee will be:

- for 1 year or less \$72.00
- for more than 1 year but not more than 2 years \$144.00
- for more than 2 years but not more than 3 years \$216.00
- for more than 3 years but not more than 4 years \$288.00
- for more than 4 years but not more than 5 years \$360.00

These fees are based on the fees for a pest control operator's licence under the current legislation and will be subject to an adjustment to reflect CPI increases since 30 March 2002.

### **Variation of a Licence**

A pest management technician may apply to the chief executive to vary the pest management activities that may be carried out, or to vary a condition of the licence. The application must be in the approved form and accompanied by the fee prescribed under a regulation.

It is proposed that the fee for an application to vary a licence will be \$20.00.

### **Replacement of Licence**

In the case where a licence has been damaged, destroyed, lost or stolen a pest management technician may apply for a replacement licence. The application must be made to the chief executive, include information about the circumstances in which the licence was damaged, destroyed, lost or stolen, and be accompanied by the fee prescribed under a regulation.

It is proposed that the fee for the replacement of a licence that has been damaged, destroyed, lost or stolen will be \$20.00.

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<sup>6</sup> Under section 25 of the Act, the chief executive may issue a licence for a period up to 5 years.

**Refund of fees**

The Act provides that a regulation may provide for refunding of fees. It is proposed that the regulation specify that the fee payable for an application for a licence or an application for the renewal of a licence is to be refunded in the following circumstances:

- if the chief executive refuses the application; or
- the applicant withdraws the application before it is decided.

**NOTIFICATION OF CHANGE IN CIRCUMSTANCES**

Section 54 of the Act provides that a pest management technician (ie a licence holder) must advise the chief executive of a change in the technician's circumstances prescribed under a regulation. Advice as to the change must be given within 21 days after the change happens.

The changes in circumstances proposed to be prescribed in the regulation as follows:

- a change of the technician's name;
- a change of the technician's address;
- a change of the technician's postal address;
- if the technician is employed, a change of name or address of the technician's employer;
- if the technician is self-employed, a change of business name, if any, under which the technician carries on business; or
- a change in the place where the licence holder stores a fumigant or a pesticide.

The changes in circumstances that must be notified relate to matters that are normally included in an application for a licence.

**CONDUCT OF PERSONS**

The Act provides that a regulation may be made about requirements concerning the conduct of persons before, during and after a pest management activity is carried out.

**Prohibition of smoking**

Some substances used in a pest management activity may be flammable. The presence of a naked flame or spark could ignite such substances resulting in injury to a person or damage to property.

Smoking while handling a pesticide or a fumigant, or a thing that has come into contact with a pesticide or fumigant, increases the risk of ingestion or inhalation of such substances.

It is proposed that the regulation will specify that a person must not smoke tobacco or any other substance while engaged in a pest management activity.

**Personal hygiene**

It is proposed that the regulation will specify that a person must thoroughly cleanse his or her hands by washing them with soap or detergent and water immediately after carrying out a pest management activity.

**REQUIREMENTS ABOUT CONTAINERS****Suitability**

The Act provides that a regulation may be made about the requirements concerning containers used in relation to the carrying out of a pest management activity.

It is generally accepted industry practice that a fumigant or a pesticide should be kept and stored in its original container. This is the container in which the substance is packaged by the manufacturer.

It is essential that any container used to contain a fumigant or a pesticide is suitable for that purpose, whether the substance is in the manufacturer's formulation or the 'ready to use' state.

A container includes any closure or other sealant and any application device attached to the container. Examples of a container include an aerosol generator, bait station, compressed air sprayer, duster, emulsion tank, hand held sprayer, or puffer.

It is proposed that the regulation will require that a container being used by a pest management technician to contain a fumigant or a pesticide must comply with the following standards:

*Impermeability*

- the container must be impervious to the fumigant or pesticide it contains;

*Integrity*

- the container must be sufficiently robust to prevent its breakage or leakage of its contents arising from the ordinary handling, storing or transport;

*Excess capacity*

- where the contents of the container are likely to expand during handling, storage or transport, there must be sufficient excess capacity to prevent any consequential breakage of the container or leakage of its contents;

*Closure*

- except where a fumigant or a pesticide is being placed into or removed from a container, the container must be capable of being securely closed, and must be securely closed to prevent leakage of the contents;

*Compatibility*

- the container must not chemically react with a fumigant or a pesticide it contains; and the container and its contents must not physically interact resulting in any deterioration in the performance of the container.

**Labelling**

The Act provides that a regulation may be made about the labelling by a pest management technician of a container used to hold a fumigant or a pesticide.

Some of the containers used by a pest management technician are the original containers used to package the pesticide or fumigant for the purpose of sale. Under the Agvet Code of Queensland, these containers are required to have an approved label attached when the product is sold. However, a pest management technician might put a pesticide or fumigant into another container when using, storing or transporting it. It is essential that all containers used to contain a fumigant or a pesticide are clearly labelled to identify their contents.

A label that clearly identifies the contents of a container will assist in ensuring the fumigant or pesticide is used for the purpose and at the correct

application rate for which it was manufactured. Clear and accurate labelling of containers will also assist in ensuring appropriate first aid procedures or medical attention is given to a person exposed to a fumigant or a pesticide.

### ***Information on labels***

It is proposed that the regulation will require that a container being used by a pest management technician to contain a fumigant or a pesticide must, unless an approved label<sup>7</sup> is attached to the container, be labelled with the following particulars:

#### *Product name*

- the full product name of the fumigant or pesticide it contains or from which it was mixed or prepared; and

#### *Active constituent*

- the active constituent of the fumigant or pesticide it contains; and

#### *Strength of active constituent*

- a statement of the strength of each active constituent contained in the fumigant or pesticide in one of the following forms:
  - in the case of a liquid in a liquid preparation, the mass or volume of the active constituent per stated volume of the preparation;
  - in the case of a liquid in a solid or semi-solid preparation, the mass or volume of the active constituent per stated mass of the preparation;
  - in the case of a solid or semi-solid in a liquid preparation, the mass of the active constituent per stated volume of the preparation;
  - in the case of a solid or semi-solid in a solid or semi-solid preparation, the mass of the active constituent per stated mass of the preparation;
  - in the case of a gas in a liquid preparation, the mass of the active constituent per stated volume of the preparation;
  - in the case of a gas in a solid or semi-solid preparation, the mass of the active constituent per stated mass of the preparation;

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<sup>7</sup> within the meaning of the *Agvet Code of Queensland*

- in the case of a gas in a gaseous preparation, the mass of the active constituent per stated mass of the preparation.

### ***Securely attached***

It is proposed that the regulation will provide that the label must be printed on or securely attached to the outside of the container.

## **STORAGE OF A FUMIGANT OR PESTICIDE**

If a fumigant or a pesticide in the possession of a pest management technician, other than when in use, is not securely stored, harm or nuisance may be caused to a person or the environment. It should be noted that, depending on the quantity and type of substance stored, other legislation (eg the *Dangerous Goods Safety Management Act 2001*) might impose requirements about the storage of the substance. It is intended that a place where a fumigant or a pesticide is stored must comply with a minimum standard.

### **Place where a fumigant or pesticide is stored**

It is proposed that the regulation will specify that a place used by a pest management technician to store a fumigant or a pesticide must comply with the following standards:

- the place is designated for the storage of a fumigant or a pesticide and is not a place where a person resides;
- the place has a floor which is impervious to any fumigant or pesticide stored there;
- the place is constructed so that any spillage of a fumigant or pesticide can not cause harm or nuisance to any person or the environment; and
- the place is kept locked except when a fumigant or pesticide is being placed in, removed from or is being prepared in the place.

### **Duty of a pest management technician to maintain storage facility**

It is proposed that the regulation will impose a duty on a pest management technician having the custody, control or possession of a

fumigant or a pesticide to ensure that the place where such a fumigant or pesticide is stored complies with the above standards.

### **Access to place where a fumigant or pesticide is stored**

It is proposed that the regulation will require that a pest management technician having the custody, control or possession of a fumigant or a pesticide must ensure the fumigant or pesticide is stored in a way that prevents any other person gaining access to them without the pest management technician's knowledge and authority.

It is proposed that the regulation will require that a person who has access to a place where a fumigant or a pesticide is stored, unless a trainee, must be at least 18 years of age.

### **MOTOR VEHICLE USED BY A PEST MANAGEMENT TECHNICIAN IN A PEST MANAGEMENT ACTIVITY**

A pest management technician uses a motor vehicle for various purposes such as the storage, transport, and preparation of a fumigant or pesticide for use. A vehicle used for these purposes must meet certain minimum standards to ensure the protection of the occupier and others.

#### **Standard for motor vehicle used in a pest management activity**

It is proposed that the regulation will prescribe that a pest management technician must not have in or on a motor vehicle a fumigant or a pesticide for use in a pest management activity unless:

##### *Separation from persons*

- the section of the vehicle in which an occupant may be carried has a separate air supply from the section of the vehicle in which a fumigant or a pesticide is stored;

##### *Part of motor vehicle where a fumigant or pesticide is stored*

- the floor and walls of the section of the vehicle used to store a fumigant or a pesticide are impervious to such fumigant or pesticide;

##### *Spill containment*

- the section of the vehicle used to store a fumigant or a pesticide is, in the event of a spillage, able to contain the spill;

*Prevention of accidental damage or loss*

- the fumigant or pesticide is packed and placed so as to prevent any accidental damage or loss;

*Inaccessible to unauthorised persons*

- the container or equipment used to contain a fumigant or a pesticide is inaccessible to any person other than the pest management technician, a trainee, or a person over the age of 18 years, without the pest management technician's knowledge and authority; and

*Identification of pest management motor vehicle*

- the vehicle is identified as a pest management vehicle by having written on both external sides of the vehicle the words 'Pest Management Vehicle' or other words<sup>8</sup> clearly indicating that the vehicle is used in a pest management activity. These words are to be immediately followed by a contact telephone number.

**DISPOSAL OF WASTE**

A pest management activity and any associated activity such as cleaning up spillages and disposing of fumigants or pesticides or containers used to contain same, should be carried out in a manner that is consistent with sound public health and environment practice. The disposal of waste is generally controlled by environment protection legislation administered by the Environmental Protection Agency or Local Governments. This legislation may not cover all possible situations involving the clean up and disposal of waste. It is proposed that the regulation will provide for some matters concerning cleaning up and disposal of waste to complement the requirements in the *Environmental Protection Act 1994*.

**Clean up of spills**

It is proposed that the regulation will specify that a pest management technician must, as soon as practicable after becoming aware of a leakage

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8 Other words could be a trade name or other writing indicating that the vehicle is used in a pest management activity.  
Example:  
'Urban Pest Management Services  
Phone 07 7777 9999'



or spill of a fumigant or pesticide, take action to contain the leakage or spillage and, where necessary, dispose of the leaked or spilt substance.

### **Disposal of Unwanted Fumigant or Pesticide**

It is proposed that the regulation will require that a pest management technician must not, without a reasonable excuse, dispose of an unwanted fumigant or pesticide in a manner that is likely to:

- put at risk or endanger the life or safety of any person or animal; or
- pollute a water supply or watercourse, contaminate land or adversely affect air quality.

### **Disposal of Containers**

It is proposed that the regulation will require that a pest management technician must not dispose of a container used to contain a fumigant or a pesticide other than by:

- emptying the container, rinsing it several times with clean water, rendering it useless and disposing of it at an approved waste facility; or
- securely sealing the container and returning it to the supplier; or
- using another method authorised under other Queensland legislation.

## **RECORDS TO BE KEPT BY A PEST MANAGEMENT TECHNICIAN**

Community awareness and concern about the use of chemical treatment agents has increased in recent years. Accurate records assist in addressing situations where there is concern that a person may have suffered an adverse effect from the use of such a substance. They also provide a means to demonstrate that the substance was used appropriately. Many pest management businesses keep records of all pest management activities as part of normal business practice. A licensed fumigator is currently required to keep a record of each fumigation procedure performed including the time of application, location, the fumigant used and the names of all operators. The Environmental Protection Agency of New South Wales requires the user of a pesticide to keep a record of use.

**Detail to be recorded**

It is proposed that the regulation will require that a pest management technician must make and keep a record of each pest management activity carried out by the technician or a trainee supervised by the technician where the activity involves the use of a fumigant or a pesticide. The record must contain the following information:

*Date and time*

- the date and time the activity was carried out;

*Details of place*

- the address or the place where the activity was carried out and the name and contact details of the owner, occupier, or person who contracted the pest management activity;

*Details of the pest management technician*

- the name and licence number of the pest management technician who carried out the activity, and where the pest management activity was carried out by a trainee, the name of the trainee;

*Product name*

- the full product name of the fumigant or pesticide used;  
Example: Cislin Residual Insecticide or Biflex Termiticide

*Active constituent*

- the name and strength of each active constituent contained in the fumigant or pesticide used;  
Example: 10g/L Deltamethrin or 100g/L Bifenthrin

*Situation*

- a description of the situation in which the fumigant or pesticide was used; and  
Example: Domestic or commercial building, silo, stack in building.

*Quantity and rate of application*

- the quantity and the rate of application of the fumigant or pesticide used.

### **Other requirements about records**

It is proposed that the regulation will require that:

#### *When record must be made*

- a record must be made as soon as practicable after the pest management activity was carried out and no later than 24 hours after such activity;

#### *Retention of records*

- a pest management technician who is required to make a record, must keep the record for a period of not less than 2 years after the date on which the record was made; and

#### *False, misleading or incomplete entry in a record*

- a person must not without reasonable excuse make an entry in a record, required to be kept under the regulation, that the person knows is false or misleading, or incomplete in any particular.

It should be noted that section 85 of the Act provides that an inspector may require a person to make available for inspection any of the records required to be kept. The inspector may also make a copy of any record.

## **RESPIRATORY PROTECTIVE DEVICES**

In carrying out a pest management activity, consideration must be given to the risk of harm being caused to the pest management technician or other persons by the unintentional exposure to a fumigant or a pesticide. The use of protective equipment such as a respiratory protective device is an effective way of minimising this risk.

The *Workplace Health and Safety Act 1995* places obligations on employers and other persons to prevent or minimise the risk of harm to persons in the workplace. These obligations may be achieved in the ways provided for in a regulation or advisory standard under that Act. Some of those standards make reference to respiratory protective devices.

To reinforce workplace standards and to clarify the required standard of respiratory protection, it is proposed that the regulation will require that a respiratory protective device used by a pest management technician must:

- be selected, used and maintained in accordance with AS/NZS 1715:1994 *Selection, use and maintenance of respiratory protective devices*; and

- comply with the performance criteria set out by AS/NZS 1716:1994 *Respiratory protective devices*.

## FUMIGATION ACTIVITY

A fumigation activity involves the use of a gas and requires specific skills and work practices. Fumigants are highly toxic and can cause serious harm to a person exposed to the gas. It is necessary that minimum standards be maintained in conducting a fumigation activity. It is proposed that the regulation will contain a number of requirements specific to a fumigation activity.

## RESTRICTING ACCESS

The space to be fumigated (“**the fumigation space**”) must have a gas tightness to sufficiently contain the fumigant introduced to the space. Although entry to the fumigation space involves the greatest risk of a person being harmed by a fumigant in use, entry to the area adjoining the fumigation space may also pose a risk of harm if the fumigant escapes. To minimise risks of harm to the community from exposure to a fumigant, it is essential that there is restricted access to the fumigation space and any adjoining area that may expose a person to the risk of harm.

It is proposed that the regulation will require that a pest management technician must:

- prior to undertaking a fumigation activity, make an assessment of the area adjoining the fumigation space and determine what part of that area (“**the adjoining risk area**”) may pose a risk to persons if the fumigant escapes from the fumigation space; and
- at all times when carrying out the activity, ensure that the fumigation space and the adjoining risk area are barricaded in a manner that restricts access to:
  - the space by any person other than the technician; and
  - the area by a person other than a person authorised by the technician (“**an authorised person**”).

An authorised person may be a trainee or a person carrying out an activity associated with the fumigation activity.

## WARNING SIGNS

A barricade surrounding the fumigation space and adjoining risk area should be signed to identify that the fumigation space contains a fumigant and that access to the adjoining risk area is limited to authorised persons.

### Information on a warning sign

It is proposed that the regulation will require that a pest management technician carrying out a fumigation activity must ensure that the barricade surrounding the fumigation space and the adjoining risk area are signed in the following way:

- the sign shall be on a white background and in red letters not less than 100 mm in height;
- the sign shall state in capital letters:

DANGER  
KEEP OUT  
FUMIGATION IN PROGRESS  
WITH (name of fumigant)

- the foot of the sign must include the name of the pest management technician (or, if applicable, the technician's employer/business name) and a 24 hour contact telephone number.

### Other requirements about a warning sign

It is proposed that the regulation will require that:

- there must be a sufficient number of warning signs so that an approaching person may easily see a warning sign;
- all warning signs must be suitably illuminated; and
- all warning signs must remain in place during the period starting at the time the fumigant is introduced into the fumigation space and ending when the pest management technician has declared the space free from the fumigant (“**the exposure period**”).

## **PROHIBITION FROM ENTRY/INTERFERENCE WITH SIGNS**

It is proposed that the regulation will prescribe that, during the exposure period, no person may, without a reasonable excuse:

- enter the fumigation space other than the pest management technician carrying out the fumigation activity;
- enter the adjoining risk area unless the person is an authorised person; or
- move or otherwise interfere with a barricade or warning sign.

## **OTHER PERSON PRESENT DURING A FUMIGATION ACTIVITY**

Fumigation activities vary in size and complexity. Irrespective of the type or size of the premises to be fumigated or the concentration of the fumigant, there is a risk that a pest management technician may be unintentionally exposed to a fumigant. The presence of at least one other person will assist in ensuring that the technician undertaking a fumigation activity is given first aid treatment and other assistance if necessary.

It is proposed that the regulation will require that a pest management technician must not carry out a fumigation activity unless at least one other person who is 18 years or older is present.

It should be noted that the other person, if not a trainee, is not permitted to participate in the fumigation activity (ie preparing and using the fumigant) but may participate in other associated activities before and after the fumigation activity is carried out.

## **NOTIFICATION REQUIRED BEFORE USING A FUMIGANT**

The implementation of best work practices when undertaking a fumigation activity will minimise the health risk posed by the activity. All persons who generally have access to the adjoining risk area need to be made aware that it is proposed to carry out a fumigation activity at that place.

It is proposed that the regulation will require that a pest management technician must give notice to the occupier of any place at which a fumigation activity is to be carried out of the intention to undertake a fumigation activity that involves the use of a fumigant.

This notice must be given not less than 24 hours prior to the fumigation activity being carried out and state:

- the name, address and telephone number of the pest management technician;
- the street address of the place where the fumigation activity is to be carried out and, if only part of the place is included in the risk area, that part of the place;
- the fumigant to be used;
- the date and time the fumigant is to be introduced into the fumigation space;
- the estimated period of time the fumigant is to be retained in the fumigation space.

The person who gives the notice must sign and date the notice and keep a copy of the notice for a period of not less than 2 years after the date on which it was given.

## **INSPECTION OF RISK AREA**

Prior to the introduction of a fumigant into the fumigation space it is essential that the adjoining risk area be inspected to ensure that it is safe to commence the use of the fumigant. It is proposed that the regulation will specify that a pest management technician must, prior to the use of a fumigant, inspect the risk area and ensure that:

### *Exclusion of all persons from fumigation space*

- no person is within the fumigation space;

### *Exclusion of sources of ignition*

- all fires, electric radiators, naked lights, gas heaters or other potential sources of ignition within the fumigation space have been extinguished or switched off;

### *Removal of liquids and foods*

- all liquids and foods that are not the subject of the fumigation activity are removed from the fumigation space;

### *Sealing of fumigation space*

- all cracks, crevices or openings, have been sealed to prevent the escape of the fumigant from the fumigation space.

## **REQUIREMENT FOR ADDITIONAL PERSONS**

Where the fumigation space is enclosed in a building or a building forms part of the fumigation space, it is often possible to secure the adjoining risk area by locking the building to restrict access to a person other than the holder of a key. If the adjoining risk area can not be secured by locking, other steps need to be taken to restrict access to the area by an unauthorised person.

It is proposed that the regulation will specify that a pest management technician must ensure that, if a risk area can not be secured by locking, for the duration of the exposure period a sufficient number of persons must remain at the fumigation site to prevent entry to the adjoining risk area by any person who has not been authorised to enter by the technician.

The pest management technician or other persons assisting the technician may perform this function.

## **TESTING FOR LEAKS**

Successful fumigation is a result of a number of factors including the concentration of the fumigant and retention of the fumigant for a predetermined period (“**the retention period**”) in the fumigation space. It is essential for the health and safety of the public that the fumigation space remains sealed during the introduction of the fumigant and for the retention period.

It is proposed that the regulation will specify that a pest management technician must test for leakage of the fumigant from any application equipment and the fumigation space and that such testing must:

- commence, where possible, during the introduction of the fumigant; and
- be conducted during the retention period.

If a leak is detected it is proposed that the regulation will require that the pest management technician must seal the fumigation space and conduct further tests to ensure that the fumigation space remains sealed.

## **VENTING OF FUMIGATION SPACE**

At the end of the retention period, the fumigant needs to be released from the fumigation space and the space vented. Venting time will depend on the fumigant, the material fumigated and the venting method used.



Particular attention should be given to highly sorptive materials to ensure they are properly vented and free of the fumigant.

It is proposed that the regulation will provide that at the end of the retention period the pest management technician carrying out the fumigation activity must:

- release the fumigant in a way that will not cause a risk or danger to any person; and
- vent the fumigation space (including any thing in the space).

### **RE-ENTRY TO FUMIGATION SPACE**

The presence of residual fumigant in the fumigation space could pose a health risk to a person entering the space after a fumigation activity has been carried out.

It is proposed that the regulation will require that after the release of the fumigant and venting of the fumigation space, the pest management technician must determine if the space is safe for entry by a person.

A pest management technician must not allow a person, other than a person authorised by the technician, to enter the fumigation space until the technician has determined that the space is safe for entry.

It is also proposed that the regulation will specify that, if the fumigation space is part of a place where a person resides and the fumigation is carried out using methyl bromide, the space is not safe for entry if the concentration level exceeds 0.5 parts per million by volume.

### **CLEARANCE CERTIFICATE**

It is common practice for a pest management technician to issue a clearance certificate to the person who requested the fumigation activity be carried out. This practice signifies that the pest management technician considers that the place has been cleared of all fumigant and the place is suitable for re-occupation.

### **Details to be included in a clearance certificate**

It is proposed that the regulation will require that a pest management technician must at the completion of the fumigation activity give to the person who contracted the activity to be carried out a certificate (“**the**

**clearance certificate**”) signed and dated by the technician stating the following information:

- the name and address of the person to whom the clearance certificate is to be given;
- the name, address and telephone number of the pest management technician;
- the street address of the place where the fumigation activity was carried out and if only part of the place was included in the risk area state that part of the place;
- the commodity or thing fumigated;
- the reason for carrying out the fumigation activity;
- the fumigant used;
- the date and time when the fumigant was introduced into the fumigation space;
- the method used to introduce the fumigant into the fumigation space;
- the duration of the retention period;
- the date and time when the fumigant was released from the fumigation space;
- the device or method used to determine that the fumigation space is safe for re-entry;
- a statement that the fumigation space is safe for re-entry by a person.

The person who gives the clearance certificate must keep a copy of the certificate for a period of not less than 2 years after the date on which it was given.

## **PEST CONTROL ACTIVITY**

A pest control activity may involve the use of a pesticide in a number of different forms. These may include an aerosol, bait, dust, gel, liquid, paste, space spray and surface spray. Use of a pesticide may potentially pose a health risk to the pest management technician and other persons. Factors influencing this potential are varied and may include the site environment, pesticide formulation and method of application. It is proposed that the

regulation will contain a number of provisions specific to a pest control activity.

### **ASSESSMENT OF THE RISK AREA**

It is proposed that the regulation will prescribe that a pest management technician, prior to undertaking a pest management activity, must:

- make an assessment of the place to be treated; and
- determine the area that may pose a risk to a person (“**the risk area**”) if a person enters the area while the activity is being carried out.

### **RESTRICTING ACCESS TO THE RISK AREA**

If a health risk may exist as a result of a pest control activity, access to the risk area should be restricted to the pest management technician carrying out the activity.

It is proposed that the regulation will specify that a pest management technician must ensure that access to the risk area is restricted to other persons until such time as no health risk exists.

### **WARNING SIGNS**

The risk area must be signed to identify that entry to the place is restricted.

#### **Information on warning signs**

It is proposed that the regulation will require that a pest management technician must ensure that any point of entry to the risk area is signed in the following way:

- the sign shall be in letters of not less than 100 mm in height;
- the sign shall state in capital letters:

DANGER  
KEEP OUT  
PEST CONTROL IN PROGRESS  
WITH (name of pesticide)

- the foot of the sign must include the name of the pest management technician (or, if applicable, the technician's employer/business name) and a 24 hour contact telephone number.

### **Other requirements about warning signs**

The regulation will require that all warning signs must be displayed until the pest management technician has declared the place suitable for entry.

### **TREATMENT INFORMATION**

It is important for consumers to be able to obtain information about pest control treatments that have been carried at their premises. Information such as the name of the pesticide used, where it was applied and what precautions need to be taken after the treatment assists in minimising the risk of exposure to the pesticide and in ensuring appropriate medical treatment is provided if exposure occurs. While some pest management technicians may already provide information of this nature to consumers as part of good industry practice, all technicians should provide the information to consumers on request.

It is therefore proposed that the regulation will require that, if a pest management technician carries out a pest control activity and is asked by the occupier of the premises at which the activity was carried out, or the person who engaged the technician, to supply any the following information:

- the product name of the pesticide used; or
- the active constituent of the pesticide used; or
- the part of the premises where the pesticide was used; or
- the precautions that should be taken to avoid exposure to the pesticide used –

the technician must give the information to the person as soon as practicable after being asked.

## **MISCELLANEOUS PROVISIONS**

### **PEST MANAGEMENT ACTIVITIES EXEMPT FROM THE ACT**

Under section 10 of the Act, a regulation may exempt, from the Act or any of its provisions:

- a particular pest management activity or a type of pest management activity; or
- the use of a particular fumigant or pesticide; or
- the use of a particular form or concentration of a fumigant or pesticide; or
- a particular method of use of a fumigant or pesticide.

However, section 10 of the Act also provides that an exemption may be given under a regulation only if the activity, use or method could reasonably be expected to pose no, or only a negligible, health risk to any person. Queensland Health will conduct a health risk assessment of any activity, use or method in respect of which an exemption is sought.

## **PENALTY PROVISIONS**

The Act provides that a regulation may impose a penalty of not more than 20 penalty units for a contravention of a provision of the regulation. It is proposed that the regulation will prescribe such penalties.

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### **ENDNOTES**

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