



Government Gazette

of the State of

New South Wales

Number 581–Environment

Friday, 16 December 2022

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PROTECTION OF THE ENVIRONMENT OPERATIONS (GENERAL) REGULATION 2022

Amendment to Order granting an exemption under section 150

Discharge of per- and poly-fluoroalkyl substances (PFAS) firefighting foams

This Order amends the Order granting an exemption under section 150 of the *Protection of the Environment Operations (General) Regulation 2022* published in the Gazette on 9 September 2022 and amended 23 September 2022 (N2022-1856) by adding the following to Schedule 1 of that Order.

Column 1	Column 2
Persons to which the exemption applies	Premises to which this exemption applies
<p>Whitehaven Coal Mining Limited ACN 086 426 253</p>	<p>Maules Creek Coal Mine Therribri Road, Boggabri, NSW Lot 7001 DP 94069, Lot 156 DP 455004, Lot 7002 DP 1051146, Lot 7001 DP 1052587, Lot 7300 DP 1143939, Lot 822 DP 1074515, Lot 7 DP 1202450, Lot 38 DP 1211027, Lot 263 DP 1193634, Lot 105 DP 755470 Lot 1 DP 622375, Lot 1 DP 748046, Lot 1 DP 114793, Lot 1 DP 1201952, Lot 1 DP 1226200, Lot 1 DP 1157540, Lot 2 DP 622375, Lot 2 DP 748046, Lot 2 DP 509312, Lot 2 DP 1197060 Lot 3 DP 748046, Lot 3 DP 754924, Lot 3 DP 1200040 Lot 4 DP 1202450 Lots 264, 85, 159 and 262 DP 755475 Lots 54, 59, 60, 73 and 76 DP 754948 Lots 35, 39, 40, 41, 42, 57, 58, 59, 60, 61 DP 754940 Lots 35 and 65 DP 754924 Lots 101 and 102 DP 1204994</p> <p>Tarrawonga Coal Mine 469 Goonbri Rd, Gunnedah, NSW Lot 1 DP 970060, Lot 26 DP 754940, Lots 69 and 83 DP 754953, Lots 6, 10, 11, 15, 16, 24, 25, 29, 31 and 38 DP 754940</p> <p>Werris Creek Coal Mine 1435 Quirindi Rd, Werris Creek, NSW Lot 1 DP 343530, Lot 3 DP 1022826, Lot 271 DP 257307 Lots 19, 20, 73, 74, 75, 83, 109, 110, 112, 115, 120, 121, 123, 126, 127, 128, 129, 130, 131, 132, 133, 135, 217 and 225 DP 751017.</p>

A handwritten signature in black ink, appearing to read 'Steve Beaman', with a long horizontal flourish extending to the right.

STEPHEN BEAMAN

Executive Director

Regulatory Operations Metropolitan

(by delegation)

Date: 12 December 2022

PESTICIDES REGULATION 2017 - EXEMPTION ORDER UNDER CLAUSE 8

Name of Order

1. This Order is to be known as the *Electricity Pole Inspection Licence Exemption Order December 2022*.

Authority for Order

2. This Order is issued by the Environment Protection Authority pursuant to cl 8 of the Pesticides Regulation 2017 (the Regulation).

Duration of Order

3. This Order commences on the date of publication in the NSW Government Gazette and has effect until revoked by the Environment Protection Authority by notice published in the NSW Government Gazette.

Revocation and replacement of previous Order

4. This Order revokes and replaces the *Electricity Pole Inspection Exemption Order 2022* gazetted by the EPA on 22 July 2022.

Objects of Order

5. The objects of this Order are to:
 - (a) Authorise those persons described in cl 8 of this Order to use approved pesticide products to control timber pests when inspecting timber electricity poles without the need to hold a pest management technician licence or a timber pest management technician licence, and
 - (b) Specify the chemical accreditation required by those persons in cl 8 of this Order, who use pesticide products to control timber pests in timber electricity poles in NSW.

Background

6. Section 45 of the Pesticides Act provides that a person must not carry out prescribed pesticide work unless the person is the holder of a licence that authorises the person to carry out that kind of work. Pest management technician work and timber pest management technician work are prescribed pesticide work requiring a licence. Under cl 8 of the Regulation the EPA may exempt a specified person or class of persons from licensing requirements.

The *Electricity Pole Inspection Exemption Order 2022* exempts employees or contractors of an electricity distributor using pesticides to control timber pests in timber electricity poles from the requirement to hold a pest management technician licence under s 45 of the *Pesticides Act 1999* (the Act) if they meet the training and other requirements set out in the order.

The Regulation was amended in 2021 to introduce timber pest management technician work as a new category of prescribed pesticide work. As at the date of this Order, all persons working for an electricity distributor that use pesticides to control timber pests in electricity poles are required by the Regulation to hold either a timber pest management technician licence or a pest management technician licence.

Exemption

7. This Order exempts persons authorised under cl 8 of this Order from the requirement to hold a licence for pest management technician work or timber pest management technician work as required under section 45(1) of the Act, subject to the conditions in cl 9 of this Order.

Persons authorised

8. Persons authorised under this exemption are employees or contractors of an electricity distributor who:
 - a) meet the conditions in cl 9(2) of this Order;
 - b) are supervised by a supervisor who either:

- i) meets the conditions in cl 9(1) of this Order; or
- ii) holds a licence for pest management technician work or timber pest management technician work;
- c) have been determined by the electricity distributor to be competent to carry out pole asset inspections; and
- d) use approved pesticides products to control timber pests in timber electricity poles in NSW.

Conditions

9. The exemption in this Order only applies if the following conditions are met:

(1) A person who is the supervisor of employees and/or contractors who are authorised under cl 8 of this Order must:

- (a) have obtained a Level 4 Chemical user's qualification issued in accordance with the Australian Qualifications Framework that includes either:
 - (i) the competency units AHCCHM404 Develop procedures to minimise risks in the use of chemicals and AHCCHM405 Plan and implement a chemical use program; or
 - (ii) an equivalent competency that supersedes or is superseded by AHCCHM404 and AHCCHM405;
- (b) have obtained one of the following qualifications or an equivalent qualification that supersedes or has been superseded by one of the following qualifications:
 - (i) Pole Inspectors Training Course (TAFE Course No. 27510 or 357-27510V02);
 - (ii) UET20621 Certificate II in ESI – Asset inspection and testing and competency unit UETDRAI004 Treat poles;
 - (iii) Competency unit UETTDRI57 Conduct visual checking and treatment of power system poles and structures;
 - (iv) Competency units UETTDRAI001 Inspect and test poles at and below ground level and UETDRAI004 Treat poles;
 - (v) Competency units UETTDRAI002 Inspect poles, hardware and electrical apparatus and UETDRAI004 Treat poles;
 - (vi) Competency unit UETTDREL18 Inspect and treat poles and inspect electrical apparatus; or
 - (vii) An EPA-approved pole inspector training course developed and delivered by an electricity distributor that gives employees or their contractors specific training in undertaking pole inspections and using pesticides to control timber pests in electricity poles. To obtain EPA approval, the electricity distributor must submit the training course to the EPA for evaluation with evidence that the course aligns with TAFE Course No. 27510 or 357-27510V02; or UET20621 Certificate II in ESI – Asset inspection and testing or competency unit UETTDRI57; or competency units UETDRAI004 and UETTDRAI001; or competency units UETDRAI002 and UETTDRAI004; or competency unit UETTDREL18. Any conditions of the approval must be complied with;
- (c) instruct persons authorised under cl 8 of this Order on how to safely use pesticides and how to be compliant with the requirements of the Act and its regulations; and
- (d) ensure persons authorised under cl 8 of this Order are made aware of the application and limitations of this Order.

(2) A person authorised under cl 8 of this Order to use pesticides to control timber pests must:

- (a) not be less than eighteen (18) years of age;
- (b) have obtained Level 3 Chemical user's qualification issued in accordance with either:
 - (i) the Australian Qualifications Framework AHCCHM307 Prepare and apply chemicals

to control pest, weeds and disease and AHCCHM304 Transport and store chemicals;
or

- (ii) an equivalent competency that supersedes or has been superseded by AHCCHM307 and AHCCHM304;
- (c) have obtained one of the following qualifications or an equivalent qualification that supersedes or has been superseded by one of the following qualifications:
- (i) Pole Inspectors Training Course (TAFE Course No. 27510 or 357-27510V02);
 - (ii) UET20621 Certificate II in ESI – Asset inspection and testing and UETDRAI004 Treat poles;
 - (iii) Competency unit UETTDRI57 Conduct visual checking and treatment of power system poles and structures;
 - (iv) Competency units UETTDRAI001 Inspect and test poles at and below ground level and UETDRAI004 Treat poles;
 - (v) Competency units UETTDRAI002 Inspect poles, hardware and electrical apparatus and UETDRAI004 Treat poles;
 - (vi) Competency unit UETTDREL18 Inspect and treat poles and inspect electrical apparatus; or
 - (vii) An EPA approved pole inspector training course developed and delivered by an electricity distributor that gives employees or their contractors specific training in doing pole inspections and using pesticides to control timber pests in electricity poles. To obtain EPA approval the electricity distributor must submit the training course to the EPA for evaluation with evidence that the course aligns with TAFE Course No. 27510 or 357-27510V02; or UET20621 Certificate II in ESI – Asset inspection and testing; or competency unit UETTDRI57; or competency units UETDRAI001 and UETTDRAI004; or competency units UETDRAI002 and UETTDRAI004; or competency unit UETTDREL18. Any conditions of the approval must be complied with;
- and
- (d) be able to communicate to a level that enables them to perform their duties safely.

Definitions

10. In this Order -

Approved pesticide product means any chemical product registered by the Australian Pesticides and Veterinary Medicines Authority (APVMA), or chemical product approved for use under an APVMA permit.

Australian Qualifications Framework has the same meaning as in section 7 of the *Higher Education Act 2001*.

Electricity distributor means the following electricity transmission or distribution network operators who are responsible for maintaining the electricity pole and wire infrastructure in NSW: Ausgrid Operator Partnership (ABN 78 508 211 731), Endeavour Energy Network Operator Partnership (ABN 11 247 365 823), Essential Energy (ABN 37 428 185 226) and TransGrid (NSW Electricity Networks Operations Pty Ltd ACN 609 169 959 as trustee for the NSW Electricity Networks Operations Trust). Should any of these companies change or modify their company name, or the functionality in regard to servicing electricity poles be bestowed upon another company, then that company name also applies for the purpose of this Order.

EPA means the NSW Environment Protection Authority.

Pest management technician work has the same meaning as in the Regulation.

Supervisor means a person who is responsible for overseeing and instructing employees and contractors on operational procedures in respect to the use of pesticides. Supervision can be indirect only where the supervisor has established an employee or contractor is competent to

use pesticides without direct (onsite) supervision.

Timber pest means any insect or fungal organism that is structurally damaging timber electricity poles.

Timber pest management technician work has the same meaning as in the Regulation.

Use of a pesticide means “use” and “possession” as each of those terms is defined in the Act.

KAREN MARLER

Director Environmental Solutions - Chemicals Land and Radiation

NSW Environment Protection Authority

(as delegate of the EPA)