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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 2022*.

Authority for Order

2. This Order is granted by the Environment Protection Authority pursuant to clause 8 of the Pesticides Regulation 2017.

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.

Replacement of previous Order

4. This Order replaces the *Electricity Pole Inspection Licence Exemption Order 2017* issued by the EPA and which was gazetted on 2 June 2017.

Objects of Order

5. The objects of this Order are to:
 - (a) Authorise those persons described in clause 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.
 - (b) Specify the chemical accreditation that is required by those persons in clause 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 clause 8 of the *Pesticides Regulation 2017*, the EPA may exempt a specified person or class of persons from licensing requirements.

The *Electricity Pole Inspection Licence Exemption Order 2017* (2017 Order) exempted 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* if they met the training and other requirements set out in the order. The 2017 Order expired on 2 June 2022.

The Pesticides Regulation 2017 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 to hold either a timber pest management technician licence or a pest management technician licence.

Exemption

7. This Order exempts persons specified under clause 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 *Pesticides Act 1999*, subject to the conditions in clause 9 of this Order.

Persons authorised

8. Persons authorised under this exemption are employees or contractors of an electricity distributor that:
 - a) meet the conditions in clause 9(2) of this Order; and

- b) have been determined by the electricity distributor to be competent to carry out pole asset inspections; and
- c) use approved pesticides products to control timber pests in timber electricity poles in NSW.

Conditions

9. This Order only applies if the following conditions are met:

(1) A person that is the supervisor of employees and/or contractors who are authorised under clause 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 the competency units AHCCHM404 Develop procedures to minimise risks in the use of chemicals and AHCCHM405 Plan and implement a chemical use program; or an equivalent competency that supersedes or is superseded by AHCCHM404 and AHCCHM405; and
- (b) have undergone and successfully completed one of the following or an equivalent that supersedes or is superseded by one of the following:
 - (i) Pole Inspectors Training Course (TAFE Course No. 27510 or 357-27510V02); or
 - (ii) UET20621 Certificate II in ESI – Asset inspection and testing and UETDRAI004 Treat poles; or
 - (iii) Competency unit UETTDRI57 Conduct visual checking and treatment of power system poles and structures; or
 - (iv) Competency units UETTDRAI001 Inspect and test poles at and below ground level and UETDRAI004 Treat poles; or
 - (v) Competency units UETTDRAI002 Inspect poles, hardware and electrical apparatus and UETDRAI004 Treat poles; or
 - (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 would need to 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; and
- (c) instruct persons who use pesticides on how to safely use pesticides and to be compliant with the requirements of the *Pesticides Act 1999* and its regulations; and
- (d) ensure those persons are made aware of the application and limitations of this Order.

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

- (a) not be less than eighteen (18) years of age; and
- (b) have obtained Level 3 Chemical user's qualification issued in accordance with of the Australian Qualifications Framework AHCCHM307 Prepare and apply chemicals to control pest, weeds and disease and AHCCHM304 Transport and store chemicals; or an equivalent competency that supersedes or is superseded by AHCCHM307 and AHCCHM304; and
- (c) have undergone and successfully completed one of the following or an equivalent that supersedes or is superseded by one of the following:

- (i) Pole Inspectors Training Course (TAFE Course No. 27510 or 357-27510V02); or
 - (ii) UET20621 Certificate II in ESI – Asset inspection and testing and UETDRAI004 Treat poles; or
 - (iii) Competency unit UETTDRI57 Conduct visual checking and treatment of power system poles and structures; or
 - (iv) Competency units UETTDRAI001 Inspect and test poles at and below ground level and UETDRAI004 Treat poles; or
 - (v) Competency units UETTDRAI002 Inspect poles, hardware and electrical apparatus and UETDRAI004 Treat poles; or
 - (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 would need to 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 -

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

Electricity distributor means the electricity transmission or distribution network operators who are responsible for maintaining the electricity pole and wire infrastructure in NSW. They are only the companies Ausgrid, TransGrid, Endeavour Energy and Essential Energy. 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 *Pesticides Regulation 2017*.

Supervisor means a person that 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 *Pesticides Regulation 2017*.

Use of a pesticide means “use” and “possession” as each of those terms is defined in the *Pesticides Act 1999*.

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Director

Environmental Solutions - Chemicals Land and Radiation

NSW Environment Protection Authority

(as delegate of the EPA)