

# Emergency Plant Pest Response Deed – Questions and Answers

## 1. What is the Emergency Plant Pest Response Deed?

The Emergency Plant Pest Response Deed (EPPRD) is a formal legally binding agreement between Plant Health Australia (PHA), the Australian Government, all State and Territory Governments and plant industry signatories covering the management and funding of responses to Emergency Plant Pest Incidents.

The EPPRD replaces previous informal arrangements and provides a formal role for industry to participate and assume a greater responsibility in decision making in relation to Emergency Plant Pest responses.

The EPPRD is the plant sector equivalent of the Emergency Animal Disease Response Agreement which operates in the animal (livestock) sector.

## 2. What is an Emergency Plant Pest?

An Emergency Plant Pest is a known exotic plant pest, a variant form of a plant pest already established in Australia, or an entirely new serious plant pest, all of which could have an adverse economic impact regionally and/or nationally if established in Australia. An Emergency Plant Pest may also be a plant pest that is being officially controlled in Australia but requiring a significant emergency response to ensure that there is not a large scale epidemic of regional or national significance.

## 3. When does the EPPRD come into effect?

The EPPRD came into effect on the 26 October 2005, once PHA and all Government Parties signed the EPPRD.

## 4. Who is covered by the EPPRD?

Coverage extends to all industries where the representative bodies are Parties to the EPPRD. To become a Party to the EPPRD, an industry representative body must be, or be becoming, a PHA Member and apply to PHA in accordance with the EPPRD. Parties to the EPPRD as at 1 January 2007 are PHA and:

PHA Member	Date EPPRD Signed
Apple and Pear Australia Limited	28-October-2004
Australian Banana Growers' Council Inc	28-October-2004
Australian Cane Growers' Council Ltd (CANEGROWERS)	28-October-2004
Grains Council of Australia Inc.	28-October-2004
The State of South Australia	9-March-2005
Ricegrowers' Association of Australia Inc.	15-March-2005
The State of Victoria	31-March-2005

PHA Member	Date EPPRD Signed
The State of Western Australia	14-April-2005
Nursery and Garden Industry Australia Ltd	23-May-2005
Avocados Australia Limited	26-May-2005
Commonwealth of Australia	26-May-2005
Strawberries Australia Inc.	26-May-2005
Summerfruit Australia Ltd	26-May-2005
Queensland Fruit and Vegetable Growers Ltd (GROWCOM) (pineapples)	26-May-2005
The State of Tasmania	27-June-2005
Australian Citrus Growers Inc. (now Citrus Australia)	9-September-2005
Australian Macadamia Society Limited	15-September-2005
The State of New South Wales	30-September-2005
The State of Queensland	20-October-2005
The Australian Capital Territory	21-October-2005
The Northern Territory of Australia	26-October-2005
Australian Mango Industry Association Limited	23-December-2005
Australian Cotton Growers' Research Association Inc. (now Cotton Australia)	26-May-2006
Almond Board of Australia Inc.	26-October-2006
Australian Dried Fruit Association Inc.	26-October-2006
Cherry Growers of Australia Inc.	26-October-2006
Australian Table Grape Association	25-May-2007
Canned Fruits Industry Council of Australia	25-May-2007
Australian Honey Bee Industry Council	25-October-2007
Onions Australia	11-March-2008
Australian Walnut Industry Association	29-April-2008
Australian Processing Tomato Research Council Inc.	6-May-2008
Australian Olive Association	23-May-2008
Wine Grape Growers' Australia	29-May-2008
AUSVEG	20-November-2008

## 5. What pests are covered under the EPPRD?

The EPPRD contains a list of categorised Emergency Plant Pests to which the EPPRD applies. The EPPRD provides a mechanism to also cover Emergency Plant Pests not listed in the EPPRD but determined by the Categorisation Group to meet the criteria to be classified an Emergency Plant Pest.

## 6. What are the benefits of the EPPRD?

The most substantial benefit is the ability to respond quickly and effectively to an Emergency Plant Pest threat while minimising uncertainty over management and funding arrangements.

Other significant benefits are:

- potential liabilities are known and funding mechanisms are **agreed in advance**
- **costs are minimised** for all Parties
- a requirement that all funding Parties **remain engaged** in cost sharing until the Emergency Plant Pest response is successful or a decision is made that the Emergency Plant Pest response is no longer feasible or cost effective
- industry is **directly involved** in decision making about mounting and managing an Emergency Plant Pest response from the outset
- involvement of senior people with **authority to commit** to actions and funding decisions
- a consistent and agreed **national approach** for managing incursions
- Affected growers whose industry representative body is a Party to the EPPRD receive **reimbursement** of certain authorised direct costs associated with an approved Emergency Plant Pest response which will help remove disincentives to report suspicion of pests and diseases
- Australian Government agreement to initially pay an Industry Party's share of costs where that Industry Party is unable to do so and to allow such funding to be **repaid over time**
- wider commitment to **risk mitigation** by all Parties through the development and implementation of biosecurity strategies and programs
- all jurisdictions being required to define a **base level** of resources for managing Emergency Plant Pest responses
- all State and Territory Government Parties being required to meet **performance standards** for emergency response resources and to provide legislative support for response activities and grower compensation payments
- provision of an impetus to maintain a **reserve of trained personnel** and technical expertise
- **trained and accredited** personnel being required to be involved in Emergency Plant Pest responses wherever possible
- provision of **accountability** and **transparency** to all Parties.

## 7. What are Owner Reimbursement Costs?

Under the EPPRD, if a Government Party reimburses the Owner of a crop or other property which is damaged or destroyed as a result of the implementation of an Emergency Plant Pest Response Plan (Owner Reimbursement Costs), that Government Party is entitled to seek Cost Sharing in respect of qualified Owner Reimbursement Costs, based on pre agreed formulae. An Owner is defined as the owner(s) (or their authorised representatives) of a crop, crops or a property, which is subject to a Response Plan.

Payments are based on an agreed valuation approach (specified in the EPPRD) applicable to particular industries or Cropping Sectors.

The main objective in providing for Cost Sharing in respect of Owner Reimbursement Costs is as an incentive for growers to report suspicious pests, having regard to the basic principle of no one being worse off, or better off, as a result of making a report. Providing for these Owner Reimbursement Costs also provides for social justice for growers who, through no fault of their own, are detrimentally affected by a plan to eradicate an Emergency Plant Pest.

## 8. When do Owner Reimbursement Costs apply?

Owner Reimbursement Costs may be claimed once the National Emergency Plant Pest Management Group (generally referred to as the National Management Group) is convened, and agrees to and implements a Response Plan. In particular, the claim must be made within 90 days after the date of destruction of the relevant crops, and/or receipt of an order for a fallow period, under a Response Plan.

Owner Reimbursement Costs cannot be cost shared for an Owner in a Cropping Sector with an LVP of more than \$20 million per annum if their industry representative body is not a Party to the EPPRD.

## 9. What do Owner Reimbursement Costs cover?

Owner Reimbursement Costs can include the loss of the crop destroyed (including stored produce) and any extra costs that the Owner directly incurs in complying with the response plan in assisting eradication efforts. Reimbursements only cover costs above and beyond the Owner's normal operational costs.

### 9.1. Consequential losses

Consequential income losses are not eligible for reimbursement. The amount of Owner Reimbursement Costs will be related strictly to direct costs that arise from the implementation of a Response Plan.

### 9.2. How are these direct costs calculated?

Costs are calculated on the basis of agreed formulae in the EPPRD which vary slightly between industries. The formulae reflect an intention that, as far as possible, Owner Reimbursement Costs for crop loss should be based on fair market value at the time of destruction of the crop, and that valuations should also include extra costs incurred in complying with the Response Plan and replanting costs.

### 9.3. How is the market value of an asset or crop calculated?

The formulae in the EPPRD reflect the principle that the market value of an asset (including a crop) is based on the price that a fair minded buyer and a fair minded seller in open competition agree to exchange ownership of the asset. In economic terms it is based on the expected net present value (NPV) of the income stream derived from the asset over its life.

In practice this means using existing industry pricing practices as much as possible to determine the fair price. This will be different for different industries.

## 10. How much do government and industry pay?

The EPPRD contains provisions for Parties to agree on a limit on the amount which will be eligible for cost sharing between the Parties under the EPPRD in respect of a Response Plan for an Emergency Plant Pest Incident. This is known as the "Agreed Limit" and can only be exceeded with the written agreement of the Affected Parties. In many cases, the Agreed Limit is calculated using 2% of the Local Value of Production (LVP) of the Industry Parties which are Affected by the Emergency Plant Pest incident, other Industry Parties have agreed to a different amount. The Agreed Limit for the total Response Plan is based on the LVP for one year (and where multiple Response Plans are used for an Incident, the Agreed Limit would be applied to each Response Plan).

The actual costs of a Response Plan may be lower than the Agreed Limit, and where there is a possibility it will be exceeded, the National Management Group must meet to review the situation and determine what alternative actions should be taken under the EPPRD.

Government and Industry Parties share the costs of the Response Plan based on four Emergency Plant Pest categories. The EPPRD provides that Emergency Plant Pests will be categorised based on potential impacts on public health, environment or amenity values, regional and national economies, trade and market access, and control or production costs. The four Emergency Plant Pest categories determine the cost sharing arrangement between Industry and Government Parties.

## 11. What are the four pest categories?

Category	Funding ratio	Summary of Category characteristics
<b>Category one</b>	100% government	Large impact on the environment, human health or amenity flora values and relatively little impact on commercial crops
<b>Category two</b>	80% government 20% industry	Significant impact on amenity flora and/or environmental values and/or effects on households, or very severe regional and national economic impacts
<b>Category three</b>	50% government 50% industry	Minor adverse impact on public amenities, households or the environment, and/or moderate trade implications and/or national and regional economic implications
<b>Category four</b>	80% industry 20% government	Primarily affects commercial cropping industries, with minor or no economic, trade or environmental impacts

## 12. Who determines the category of an Emergency Plant Pest?

An Emergency Plant Pest Categorisation Group (Categorisation Group) determines the formal pest categories.

The Categorisation Group is made up of:

- the PHA CEO, who is the chair of the Categorisation Group
- a PHA nominee representing all Industry Parties (this enables a consistent approach to be adopted across all participants)
- three technical experts (one nominated by the Australian Government, one nominated by the State and Territory Governments and one nominated by the Industry Parties)
- a person with relevant economic expertise (nominated by the Australian Government)
- a nominee from each Affected Industry Party

## 13. What if there is an outbreak of an Emergency Plant Pest that has not been categorised?

If there is an Incident concerning an uncategorised Emergency Plant Pest, cost sharing between Affected Industry/s and Government Parties will commence on a 50:50 basis until the Emergency Plant Pest is categorised.

78 high priority pests, as identified in Industry Biosecurity Plans, have been categorised and are included on the Emergency Plant Pest list under the EPPRD. EPPRD Parties are working to preliminarily categorise their lists of high priority uncategorised Emergency Plant Pests. In the event of an Incident, the Categorisation Group would be convened to formally categorise the Emergency Plant Pest so that it is included on the Emergency Plant Pest list in the EPPRD. This saves precious time during an emergency, with the preliminary ground work already done, and also enables the most up to date information to be taken into account at the time of formal categorisation.

## 14. Who is responsible for the decision making?

There is no single Party exclusively responsible for decision making under the EPPRD. Equally, not every Party to the EPPRD will be involved in decision making for every Incident. Decisions are made by the three groups described below, with government and industry representation drawn from Parties who are Affected by the Emergency Plant Pest Incident ('Affected Parties').

The three decision making groups are:

- National Management Group
- Consultative Committee on Emergency Plant Pests
- Categorisation Group

The National Management Group, the peak decision making group under the EPPRD, decides how the Emergency Plant Pest incursion will be managed. Secretariat support for the National Management Group and Consultative Committee on Emergency Plant Pests is located with the Australian Government Department of Agriculture, Fisheries and Forestry.

**14.1. The National Management Group is made up of the following representatives:**

- the Secretary of the Australian Government Department of Agriculture, Fisheries and Forestry – National Management Group Chair
- the CEO of the Affected State and Territory Government Parties
- the President/Chairman of each of the Affected Industry Parties, and
- the Chairman of PHA (non-voting)

**14.2. The Consultative Committee on Emergency Plant Pests is made up of the following representatives:**

- the Chief Plant Protection Officer (Australian Government Department of Agriculture, Fisheries and Forestry) – Consultative Committee on Emergency Plant Pests Chair
- all State and Territory Chief Plant Health Officers
- one representative from each of Biosecurity Australia and AQIS (non-voting)
- a representative of PHA (non-voting)
- two representatives from the Affected industry (one from a member organisation of PHA, the other a technical representative)
- other advisers/observers/resource persons may also, by invitation, attend Consultative Committee on Emergency Plant Pests meetings (with the number being “kept to the essential minimum”).

**14.3. Categorisation Group**

- Details of the representatives of the Categorisation Group are set out at Question 12.

**15. Is the information given to the National Management Group and Consultative Committee on Emergency Plant Pests completely confidential?**

Most information provided to the National Management Group and Consultative Committee on Emergency Plant Pests is confidential. However, representatives present at the meeting are allowed to discuss certain information within their organisation, under the provisions of the EPPRD, on a strict need to know basis in order to effectively operate and perform their obligations under the EPPRD. The EPPRD also provides for disclosure to the extent necessary to permit a Government Party to report to its Parliament or committees (and other agencies or instrumentalities where it is required to do so), and for legal proceedings or as required by law.

**16. Does the National Management Group release any information on its deliberations?**

Public statements on the outcomes of National Management Group meetings are usually released after each meeting by the National Management Group Secretariat within Australian Government Department of Agriculture, Fisheries and Forestry. Contact:

- NMG Secretariat on (02) 6272 3933

### **17. What happens to an industry that is not a Party to the EPPRD?**

In the event of an Emergency Plant Pest incursion, representatives from industries that are not a signatory to the EPPRD would not be part of the decision making process. Growers in that industry are not eligible for consideration for Owner Reimbursement Costs under the EPPRD if the "farm gate value" (as that term is defined in the EPPRD) of that whole industry is greater than \$20 million. If the farm gate value of a whole industry is less than \$20 million Owner Reimbursement Costs may be available.

### **18. What happens when multiple industries are affected by an Emergency Plant Pest Incursion and some of them are not a Party to the EPPRD?**

In this case an Emergency Plant Pest response would be undertaken by those Government and Industry Parties which are signatories to the EPPRD.

Representatives from industries that are not signatories to the EPPRD would not be involved in decision making. Growers in that industry are not eligible for consideration for Owner Reimbursement Costs under the EPPRD if the "farm gate value" (as that term is defined in the EPPRD) of that whole industry is greater than \$20 million. If the farm gate value of a whole industry is less than \$20 million Owner Reimbursement Costs may be available.

### **19. Are other sectors of the value chain covered under the EPPRD?**

Reimbursement costs are only payable under the EPPRD to "Owners" of crops or properties. Where an Owner has stored produce which is destroyed as a result of a Response Plan, costs of the Owner associated with this destruction would still be covered by the EPPRD. However, other sectors of the value chain do receive indirect benefits from an eradication campaign through reduced impacts of Emergency Plant Pests on the industry.

### **20. What if an affected industry is unable to meet its cost sharing obligation?**

The Australian Government has agreed to initially pay an Industry Party's cost sharing obligation where that Party is unable to do so. This is done on the basis that the Industry Party will repay the Australian Government within a reasonable period (generally expected to be no longer than ten years) using a pre-agreed funding mechanism such as the Emergency Plant Pest Response Levy – see Question 21 below.

### **21. How does industry meet its cost sharing obligation?**

Parties to the EPPRD can establish an Emergency Plant Pest Response (EPPR) Levy to meet financial liabilities for responses under the EPPRD. While this is not the only option, most industries have chosen this approach, as it provides the greatest flexibility in relation to adjusting levy rates to suit particular needs.

## 22. What other ways can industry meet its cost sharing obligations?

Other options available include using funds held by the industry in trust accounts, voluntary levies or funds raised by other means. This could also include funds from the PHA levy<sup>1</sup> over and above membership subscription commitments. However, if an adjustment to the PHA levy rate is necessary, it would require consultation with members of the industry (producers) and their agreement before the Australian Government Department of Agriculture, Fisheries and Forestry will consider changing the levy.

## 23. Has the Emergency Plant Pest Response Levy always been an option?

No. The Emergency Plant Pest Response Levy option has only become available since amendments to the Plant Health Australia (Plant Industries) Funding Act 2002<sup>1</sup> commenced on 22 June 2006. PHA understands that new Emergency Plant Pest Response Levy Regulations will now be drafted to introduce Emergency Plant Pest Response levies for plant industries that wish to use the arrangements under the EPPRD. Many industries have already gained approval to establish this levy during consultation on the EPPRD.

## 24. How would the levy work?

The rate of the levy will be determined by each participating industry up to a maximum determined by the Regulations. Industries may elect to set the levy rate at zero, to be activated in the event of an Emergency Plant Pest response or at some other level up to the maximum. Industries may also set the levy as a positive rate to undertake biosecurity risk mitigation activities such as surveillance and research related to emergency plant pests.

## 25. How will the funds be managed?

The Australian Government will collect and forward to PHA amounts collected by the Emergency Plant Pest Response levies and charges. PHA is required to hold the payments for each participating plant industry in a separate fund.

Any reserve of funds collected by the levy will be managed by PHA. These accumulated funds may be applied to Emergency Plant Pest responses and related Emergency Plant Pest activities, such as surveillance and Emergency Plant Pest control programs where support has been provided by industry in accordance with the Australian Government Levy Principles and other relevant legislation. Where the accumulated levy funds or the operative levy rate are found to be insufficient to meet liabilities, industries will need to obtain agreement to vary the levy rate.

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<sup>1</sup> The Plant Health Australia (Plant Industries) Funding Act 2002 provides mechanisms that Industry Members can use to meet part or all of their subscription commitments each year by establishment of a PHA levy. Funds from the PHA levy can also be applied to meet other liabilities including liabilities resulting from EPP's with PHA (such as with Special Programs) where these are agreed before the start of the financial year and are consistent with PHA's Constitution. At present, 8 of PHA's Industry Members have established a PHA levy to pay for PHA membership.

## 26. Where can I obtain more information on the new levy?

Advice may be sought from PHA and from the Australian Government Department of Agriculture Fisheries & Forestry in relation to the Emergency Plant Pest Response Levy and the options and implications for each industry. PHA understands that the Australian Government Department of Agriculture, Fisheries and Forestry has contacted industry Members to discuss whether they wish to be covered by the Regulations. For more information please contact:

- Manager – Plant Health Policy, Department of Agriculture, Fisheries and Forestry on (02) 6271 6472

## 27. What is the base capacity of a State or Territory agency in undertaking an eradication campaign?

State and Territory Government Parties to the EPPRD are in the process of defining normal resource commitments to managing Emergency Plant Pest responses. This will assist in determining what costs incurred during a response to an Emergency Plant Pest Incident are over and above normal resource commitments and thus may be eligible for cost sharing in accordance with the EPPRD.

## 28. Are contractors to government parties covered under a Response Plan?

Yes. Where a contractor is contracted by a Party to undertake work as a direct result of an Emergency Plant Pest Incident, costs incurred as a result of that contract will be included as part of the cost sharing arrangements under the EPPRD except where the contractor is performing activities that form part of the agreed normal resource commitments of the Party/s.

### For more information on Plant Health Australia

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