



Department of Primary Industries

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Mr Terry Roche
Secretary
Grain Industry Association of Victoria
PO Box 2317
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Dear Mr Roche,

DPI is responsible for administering the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992*, which controls the use of agricultural and veterinary chemicals and the manufacture and sale of stock food in Victoria.

I am writing to confirm that changes to the Act, developed with industry support over the past year, received Royal Assent last week and took effect on 1 July 2009.

As most of our stakeholders know, the changes are good news and reflect a mutual determination to reduce regulation and clear up administrative inconsistencies, while strengthening DPI's ability to take appropriate action in those few cases where it becomes necessary.

The attached flyer explains the key changes, but briefly they include:

- recognising Australian Pesticides and Veterinary Medicines Authority (APVMA) Maximum Residue Limits for agricultural and veterinary chemicals in produce and animal food.
- repealing the requirement for mandatory insurance by agricultural aircraft operators
- a new offence for selling contaminated produce, which aims to protect public health and trade by discouraging the sale of contaminated produce, and
- a new offence for breaching a condition of a chemical use licence or permit. Until now the Act allowed for suspension or cancellation of the licence or permit, but this change permits a reduced response.

I would like to congratulate industry on this result. Please convey my thanks to everyone who supported the process, attended meetings and worked with us to achieve these changes.

Regards

Russell McMurray
Director, Chemical Standards

New rules for agricultural and veterinary chemicals and stock food

Several changes have been made to the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992*, which controls the use of agricultural and veterinary chemicals and the manufacture and sale of stock food in Victoria.

The changes have been developed with the support of industry, including the Victorian Farmers Federation, Stock Feed Manufacturers' Council of Victoria, Vegetable Growers' Association of Victoria and Aerial Agricultural Association of Australia.

In general the changes reduce regulation, clear up administrative inconsistencies and introduce new offences to allow for DPI action in the few instances where it is necessary to protect health, the environment, animals and trade. The amendments took effect on 1 July 2009.

DPI now recognises APVMA Maximum Residue Limits

The Maximum Residue Limit (MRL) is the maximum level of an agricultural or veterinary chemical residue permissible in food and animal feed.

Two federal agencies set MRLs for agricultural and veterinary chemicals in Australia:

1. The Australian Pesticides and Veterinary Medicines Authority (APVMA) establishes MRLs based on good agricultural practice, before the chemical is registered, to ensure that the levels do not pose an undue hazard to human health and the environment.
2. Foods Standards Australia New Zealand (FSANZ) reviews the APVMA data and if satisfied, adopts MRLs under the Food Standards Code, based on food safety considerations. This means there can be some time lag between an MRL being set by APVMA and its adoption by FSANZ.

Previously, the Act only referred to FSANZ MRLs. If a residue was detected in the period between the chemical being registered and the establishment of a FSANZ MRL, it was regarded as unacceptable and a 'technical breach' despite the chemical being registered, approved and used appropriately. The Act now references APVMA MRLs which are set first so this issue shouldn't arise, thus providing greater certainty to industry using new chemical products.

If no APVMA or FSANZ MRL is set for an agricultural or veterinary chemical in an agricultural commodity, any detection of a residue will still be considered a breach.

The amendment means a significant change for the **stock food** industry. FSANZ MRLs are established under *food legislation* and thus do not apply to stock food. By referencing the APVMA MRLs instead, the Act now applies to stock food, which includes any substance used or intended to be used for consumption by food producing animals.

These amendments mean DPI can regulate animal food, with benefits for producers and industry. All inputs to stock food, including manufactured food, fodder, forage, additives, organic by-products and mineral premix products must now comply with the APVMA MRLs, and DPI will be able to prevent the sale/distribution of 'contaminated' animal feed that exceeds those MRLs.

No mandatory insurance policy for agricultural aircraft operators

For many years, the Act mandated that agricultural aircraft operators hold an approved insurance policy. The need for mandatory insurance was questioned by a national competition policy review and recognition

that liability claims arising from agricultural chemical spray drift are a civil matter. While it is considered good practice to hold appropriate insurance, this was believed to be a business decision for the aerial operator.

As a result, the mandatory requirement that aircraft operators who carry out aerial spraying hold an approved insurance policy has been repealed.

Farmers still have protection under the Act. It remains an offence to damage or contaminate agricultural commodities, plants or stock by spray drift.

New offence - selling contaminated produce

Contaminated produce can put whole markets at risk, through the actions of a single supplier. This new offence – selling contaminated produce – aims to keep such produce out of the market, thereby protecting public health, trade and Victoria's reputation for clean, green and safe food.

The Act defines 'contaminated', but it is essentially an agricultural commodity with chemical residues above the MRL.

Until now, the Act provided limited responses to contaminated produce. The new offence (Section 52AA) only applies to the producer, rather than a wholesaler or other middle operator. The Act already makes it an offence for people who transport or handle agricultural produce that they do not own to apply chemicals to the produce without the owner's permission.

New offence – breaches of chemical licence/permit conditions

DPI administers around 19,000 chemical licenses and permits, of which around 18,000 are Agricultural Chemical User Permits (ACUPs). Most are held by farmers and other rural landholders, and allow the use of certain higher risk agricultural chemicals.

Others include the Commercial Operator Licence, Pilot (Chemical Rating) Licence, Agricultural Aircraft Operator Licence, Agricultural Chemical Control Area permit and Off-label permit under Section 25A of the Act.

Until now, if a person breached a condition of their licence or permit, the Act allowed only for suspension or cancellation of the licence or permit. The new offence (Section 67A) provides a reduced and more flexible response, to allow for circumstances like minor breaches or effect on employment.

More information

* Chemical Standards Branch telephone 03 9217 4177.

* The new version of the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* is available online at:
[www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/95c43dd4eac71a68ca256dde00056e7b/0EA124DF4ABDD70ECA2575E50077E9C3/\\$FILE/92-46a043.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/95c43dd4eac71a68ca256dde00056e7b/0EA124DF4ABDD70ECA2575E50077E9C3/$FILE/92-46a043.pdf)

* APVMA website www.apvma.gov.au/residues/mrl.shtml

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