



Queensland

Chemical Usage (Agricultural and Veterinary) Control Amendment Regulation (No. 1) 2009

Subordinate Legislation 2009 No. 237

made under the

Chemical Usage (Agricultural and Veterinary) Control Act 1988

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1 Short title

This regulation may be cited as the *Chemical Usage (Agricultural and Veterinary) Control Amendment Regulation (No. 1) 2009*.

2 Commencement

Sections 8 and 9 commence immediately after the commencement of the *Environmental Protection Act 1994*, section 75, as inserted under the *Great Barrier Reef Protection Amendment Act 2009*, section 6.

3 Regulation amended

This regulation amends the *Chemical Usage (Agricultural and Veterinary) Control Regulation 1999*.

4 Amendment of s 9 (Definitions for div 1)

Section 9—

insert—

‘**1080** means sodium monofluoroacetate.’.

5 Amendment of s 11A (Restricted chemical products containing pindone)

(1) Section 11A, heading, after ‘containing’—

insert—

‘**1080 or**’.

(2) Section 11A, after ‘containing’—

insert—

‘1080 or’.

6 Insertion of new s 11B

After section 11A—

insert—

‘11B Restricted chemical products containing RHDV

- ‘(1) A person must not use a restricted chemical product containing rabbit haemorrhagic disease virus (***RHDV***) (also known as rabbit calicivirus) unless the person is—
- (a) authorised to use the product; or
 - (b) an officer or employee of the State, a State authority, a local government, a local government entity or the Darling Downs–Moreton Rabbit Board who—
 - (i) holds a statement of attainment issued by a registered training organisation stating that the person has successfully completed the competency RTD3707A—Release biological agents; or
 - (ii) has successfully completed training for using RHDV that the chief executive reasonably considers is substantially equivalent to the statement of attainment mentioned in subparagraph (i).

Maximum penalty—40 penalty units.

- ‘(2) In this section—

Darling Downs–Moreton Rabbit Board means the board of that name established under the *Land Protection (Pest and Stock Route Management) Regulation 2003*, section 11(1).

local government entity see the *Local Government Act 1993*, section 1170 or the *Local Government Act 2009*, section 216(3).

State authority means an entity, other than a local government entity, established under a law of the State.’.

7 Amendment of s 12 (Other restricted chemical products)

Section 12(1)—

omit, insert—

- ‘(1) This section applies to a restricted chemical product, other than a restricted chemical product containing 1080, bifenthrin,

chlorpyrifos, endosulfan, pindone or rabbit haemorrhagic disease virus.’

8 Replacement of pt 4, div 3, hdg (Records of chemical product use)

Part 4, division 3, heading—

omit, insert—

‘Division 3 Prescribed agricultural ERA products and conditions for use for agricultural ERAs

‘Subdivision 1 Preliminary

‘12M Definitions for div 3

‘In this division—

applied, for an agricultural chemical product, includes administered, dispersed, injected, sprayed and spread.

drainage line means a channel—

(a) consisting of either, or a combination, of the following—

(i) an area showing evidence of erosion or deposition, including, for example, a gravel, pebble, rock or sand bed;

(ii) an incised channel that is more than 30cm deep and has clearly defined beds and banks; and

(b) in which run-off flows continuously or from time to time.

irrigation channel means an artificial channel in which there is only water that is intended to be used for irrigation.

place susceptible to run-off, for preparing or using an agricultural chemical product, means a place from which a constituent of the product can easily enter a water body by—

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- (a) being carried by run-off into the water body; or
- (b) binding with soil particles that can be carried by run-off into the water body.

Examples—

access roads, farm tracks

prescribed qualification, for a person preparing or using an agricultural chemical product, means—

- (a) if the person prepares or uses the product on or from an aircraft in flight, either—
 - (i) a pilot chemical rating licence under the *Agricultural Chemicals Distribution Control Act 1966*; or
 - (ii) a pilot's Spraysafe accreditation issued by the Aerial Agricultural Association of Australia; or
- (b) if the person prepares or uses the product otherwise than on or from an aircraft in flight, either—
 - (i) a statement of attainment issued by a registered training organisation stating that the person has successfully completed each of the following competencies—
 - (A) RTC3401—Control weeds;
 - (B) RTC3704—Prepare and apply chemicals;
 - (C) RTC3705—Transport, handle and store chemicals; or
 - (ii) an unrestricted commercial operator's licence under the *Agricultural Chemicals Distribution Control Act 1966*.

registered training organisation means a training organisation registered under the *Vocational Education, Training and Employment Act 2000* or under similar legislation of another State.

relevant cattle grazing means cattle grazing that is an agricultural ERA.

relevant sugarcane growing means commercial sugarcane growing that is an agricultural ERA.

run-off means water from rainfall, irrigation or seepage of groundwater that flows over the surface of land.

water body means any of the following—

- (a) a channel, other than an irrigation channel, in which there is water;
- (b) a creek, river or stream in which water flows permanently or intermittently, whether in a natural or artificial channel;
- (c) a dam or lake;
- (d) a wetland.

wetland includes—

- (a) a tidal wetland, estuary, salt marsh, melaleuca swamp (and any other coastal swamp), mangrove area, marsh or lake; or
- (b) a minor coastal stream regardless of whether it is of a saline, freshwater or brackish nature.

‘Subdivision 2 Prescribed agricultural ERA products

‘12N Prescribed agricultural ERA products (Act, s 13C)

‘For section 13C(1)(a) of the Act, an agricultural chemical product is a prescribed agricultural ERA product if the product contains any of the following constituents—

- (a) ametryn;
- (b) atrazine;
- (c) diuron;
- (d) hexazinone;
- (e) tebuthiuron.

‘Subdivision 3 General prescribed conditions

‘12O Conditions for relevant sugarcane growing and cattle grazing (Act, s 13C)

‘For section 13C(1)(b) of the Act—

- (a) section 12P and subdivision 4 prescribe the conditions for preparing and using particular prescribed agricultural ERA products for carrying out relevant sugarcane growing; and
- (b) section 12P and subdivision 5 prescribe the conditions for preparing and using particular prescribed agricultural ERA products for carrying out relevant cattle grazing.

‘12P Who may prepare and use particular products

- ‘(1) Subsection (2) applies to a person who personally prepares or uses—
 - (a) an agricultural chemical product containing ametryn, atrazine, diuron or hexazinone for carrying out relevant sugarcane growing; or
 - (b) an agricultural chemical product containing tebuthiuron for carrying out relevant cattle grazing.
- ‘(2) The person may prepare or use the product only if the person—
 - (a) holds a prescribed qualification; or
 - (b) prepares or uses the product under the direct supervision of someone else who holds a prescribed qualification.
- ‘(3) Subsection (4) applies to a person who employs or engages someone else (the *direct user*) to prepare or use—
 - (a) a product mentioned in subsection (1)(a) for carrying out relevant sugarcane growing on the person’s behalf; or
 - (b) a product mentioned in subsection (1)(b) for carrying out relevant cattle grazing on the person’s behalf.

- ‘(4) The person may allow the direct user to prepare or use the product only if the direct user—
- (a) holds a prescribed qualification; or
 - (b) prepares or uses the product under the direct supervision of someone else who holds a prescribed qualification.

Note—

See, however, section 30 (Deferral of requirement for prescribed qualifications for using particular agricultural chemical products).

‘Subdivision 4 Additional conditions for relevant sugarcane growing

‘12Q Application of sdiv 4

- ‘(1) This subdivision applies to a person who prepares or uses, or causes to be prepared or used, an agricultural chemical product containing ametryn, diuron or hexazinone for carrying out relevant sugarcane growing.
- ‘(2) However, this subdivision does not apply to the preparation or use of a registered agricultural chemical product containing ametryn and trifloxysulfuron sodium as its only active constituents in the following quantities for each kilogram of the product—
- (a) for ametryn—731.5g;
 - (b) for trifloxysulfuron sodium—18.5g.

‘12R Preparing products

‘The person must not prepare the product or allow the product to be prepared—

- (a) at a place susceptible to run-off; or
- (b) within 20m of a water body; or
- (c) if the product contains ametryn or hexazinone, within 20m of a sinkhole or well.

‘12S Using products

- ‘(1) The person may use the product or allow the product to be used only if—
- (a) before the product is used, there has not been published a forecast of heavy rain affecting the area where the product is to be used for the 48 hours after the use; and
 - (b) the product is not used—
 - (i) on a drainage depression or drainage line; or
 - (ii) on waterlogged soil; or
 - (iii) at a place susceptible to run-off; or
 - (iv) within 20m of a water body; or
 - (v) if the product contains ametryn or hexazinone, within 20m of a sinkhole or well; and
 - (c) the product is not applied within an area from 20m to 30m from a water body, unless—
 - (i) the product is applied using a shielded sprayer; or
 - (ii) the water body is upwind of where the product is being applied; and

Note—

For the conditions under paragraphs (b)(iv) and (v) and (c), see however, section 31 (Deferral of particular conditions for relevant sugarcane growing).

- (d) the wind speed at the site where the product is applied is—
 - (i) less than 20km/h, if the product is applied—
 - (A) using a shielded sprayer; or
 - (B) below the level of the canopy of the sugarcane on which the product is applied; or
 - (ii) otherwise, more than 3km/h and less than 20km/h; and
- (e) the product is applied using either—

-
- (i) a shielded sprayer fitted with nozzles that produce spray droplets no smaller than the medium spray quality category under ASAE S572; or
 - (ii) another type of spraying device fitted with nozzles that produce spray droplets no smaller than the coarse spray quality category under ASAE S572; and
- (f) the person ensures no area where the product has been used is irrigated to the point of run-off within 48 hours after the use.
- ‘(2) For subsection (1)(d), the wind speed must be measured above the level of the canopy of the sugarcane on which the product is, or is to be, applied.
- ‘(3) Subsection (1)(f) does not prevent an interrow furrow being irrigated to the point of run-off but only if the run-off does not leave the furrow.
- ‘(4) In this section—

ASAE S572 means the standard ASAE S572 published by the American Society of Agricultural Engineers.

Editor’s notes—

- 1 ASAE S572 is available for inspection during normal business hours at the department’s head office in Brisbane and regional offices in Cairns, Mackay and Townsville.
- 2 At the commencement of this section, information about the nozzle classification system on which ASAE S572 is based was contained in the document ‘Agricultural chemical users’ manual—Guidelines and principles for responsible agricultural chemical use’ published by the department in 2005 and available on the department’s web site at <www.deedi.qld.gov.au>.

drainage depression means a channel, other than a drainage line or interrow furrow, in which run-off flows continuously or from time to time.

forecast of heavy rain means a forecast (however described) issued by the Bureau of Meteorology of a chance or greater likelihood of—

- (a) rain falling at a rate of more than 6mm in an hour; or

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- (b) weather conditions associated with rain falling at a rate of more than 6mm in an hour.

Example—

a forecast of scattered or widespread thunderstorms associated with rain falling at a rate of more than 6mm in an hour

interrow furrow means a ploughed furrow adjacent to a row of sugarcane.

irrigated to the point of run-off, in relation to an area, means more water is applied to the area than can be absorbed by the soil in the area, resulting in run-off from the area.

published includes published on radio, television or the internet whether by the Bureau of Meteorology or another entity.

shielded sprayer means a device for applying an agricultural chemical product consisting of 1 or more nozzles that are surrounded by a shield except for a gap at the bottom of the shield through which the product is applied.

‘12T Quantities of particular constituents of products that may be used

‘The person must take reasonable steps to ensure no more than a total of 2.3kg of ametryn or 1.8kg of diuron, as a constituent of any agricultural chemical product, is used on a hectare in a year.

Example of a reasonable step—

checking records required to be kept about the quantity of relevant agricultural chemical products that has been used on a parcel of land during a relevant period

‘Subdivision 5 Additional conditions for relevant cattle grazing

‘12U Application of sdiv 5

‘This subdivision applies to a person who prepares or uses, or causes to be prepared or used, an agricultural chemical

product containing tebuthiuron for carrying out relevant cattle grazing.

‘12V Using the product from an aircraft

- ‘(1) This section applies to the use of the product on or from an aircraft in flight.
- ‘(2) The person—
 - (a) must not use the product or allow the product to be used from 1 November to 31 March; and
 - (b) must take reasonable steps to ensure—
 - (i) subject to subparagraph (ii), no more than a total of 4.6kg of tebuthiuron as a constituent of any agricultural chemical product is used on a hectare in any 3 year period; and
 - (ii) no more than a total of 6.8kg of tebuthiuron as a constituent of any agricultural chemical product is used on a hectare in any 6 year period.
- ‘(3) Also, the person may use the product or allow the product to be used only if—
 - (a) before the product is used, the person—
 - (i) identifies each drainage line (a *relevant drainage line*) wider than 20m in or near the area where the product is to be used; and
 - (ii) ensures an appropriate map of the area is prepared; and
 - (b) the person ensures that while the product is used, someone else is able to—
 - (i) observe the use of the product from the ground; and
 - (ii) communicate with the person using the product about the location of the relevant drainage lines; and
 - (c) the product is not used—

- (i) within 20m of a relevant drainage line; or
- (ii) if it is raining where the product is or is to be used;
or
- (iii) if the wind speed where the product is or is to be used is more than 20km/h.

‘(4) In this section—

appropriate map, of an area, means a map showing—

- (a) the boundary of the area and each relevant drainage line in the area on an image base; and
- (b) 5 or more points visible in the image base that correspond to identifiable fixed features; and
- (c) the Map Grid of Australia 1994 coordinates and zone references for each point, acquired by GPS or a similar system of satellites that receives and processes information; and
- (d) a description of the feature that each point represents.

GPS means global positioning system.

identifiable fixed features include road intersections, fence intersections, survey marks and built infrastructure.

image base means an image or mosaic of images, for example an aerial photograph or a satellite image.

Map Grid of Australia 1994 has the meaning given in ‘Geocentric Datum of Australia Technical Manual’ published by the Intergovernmental Committee on Surveying and Mapping.

Editor’s note—

A copy of the manual may be found on the committee’s website <www.icsm.gov.au/icsm/gda/gdatm/>.

‘12W Preparing or using the product from the ground

- ‘(1) This section applies to the preparation or use of the product other than on or from an aircraft in flight.

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- '(2) The person must not prepare or allow the product to be prepared at a place susceptible to run-off.
 - '(3) The person must not use the product or allow the product to be used—
 - (a) on a drainage line; or
 - (b) at a place susceptible to run-off; or
 - (c) within 20m of a sinkhole or well.

'Subdivision 6 Records of use

'12X Required record

- '(1) This section applies if—
 - (a) a person carries out an agricultural ERA; and
 - (b) a prescribed agricultural ERA product is used by or for the person for carrying out the agricultural ERA.
- '(2) The person must unless the person has a reasonable excuse—
 - (a) within 3 days after the product is used, make or cause to be made a record in the approved form that complies with subsection (3); and
 - (b) keep the following documents for at least 6 years after the product is used—
 - (i) the record made under paragraph (a);
 - (ii) the documents, including, for example, a receipt, relevant to the acquisition of the product;
 - (iii) a copy of the prescribed qualification held when the product was used by the person who used the product or supervised its use.

Maximum penalty—40 penalty units.

- '(3) For subsection (2)(a), the record must include information about the following matters—

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- (a) the trade name and other relevant information required for identifying the product and each active constituent of the product;
 - (b) the name, contact details and prescribed qualifications of—
 - (i) the person who used the product; and
 - (ii) if relevant, the person who supervised the use of the product;
 - (c) the days and times when the product was used;
 - (d) the quantity of the product used;
 - (e) the places where the product was used;
 - (f) the meteorological conditions at relevant times before, during and after use of the product;
 - (g) the equipment and methods used to apply the product.
- ‘(4) In this section—

approved form means a form approved by the chief executive for this section.

‘Division 4 General provisions for records of chemical product use’.

9 Insertion of new pt 8

After section 29—

insert—

‘Part 8 **Transitional provisions for
Chemical Usage (Agricultural
and Veterinary) Control
Amendment Regulation (No. 1)
2009**

‘30 **Deferral of requirement for prescribed qualifications
for using particular agricultural chemical products**

- ‘(1) This section applies to a person for preparing or using an agricultural chemical product, other than on or from an aircraft in flight.
- ‘(2) Despite section 12P, the person is not required to have a prescribed qualification for preparing or using the product.
- ‘(3) This section stops applying 6 months after its commencement.
- ‘(4) In this section—
prescribed qualification see section 12M.

‘31 **Deferral of particular conditions for relevant
sugarcane growing**

- ‘(1) This section applies to a person who uses, or allows the use of, an agricultural chemical product containing ametryn, diuron or hexazinone for carrying out relevant sugarcane growing.
- ‘(2) Despite section 12S, the person is not required to comply with the conditions under section 12S(1)(b)(iv) and (v) and (c).
- ‘(3) This section stops applying 9 months after its commencement.’.

Schedule Minor amendments

section 3

1 Section 5, definition *MRL standard*, from ‘National’ to ‘published’—

omit, insert—

‘APVMA, ‘MRL Standard Maximum Residue Limits in Food and Animal Feedstuff’, published’.

2 Sections 6, 7 and 8, ‘MRL Standard’—

omit, insert—

‘MRL standard’.

ENDNOTES

- 1 Made by the Governor in Council on 29 October 2009.
- 2 Notified in the gazette on 30 October 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Employment, Economic Development and Innovation.

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