

PESTICIDES ACT 1999 – PESTICIDE CONTROL ORDER UNDER SECTION 38

1. Name

This Order is to be known as the Pesticide Control (4-aminopyridine and alphachloralose) Order 2023.

2. Authority for Order

This Order is made by the Environment Protection Authority under Part 4 of the *Pesticides Act 1999*.

3. Commencement

This Order commences on the date of publication in the NSW Government Gazette.

4. Revocation of Previous Order

This Order revokes and replaces The Pesticide Control (Avicide Products) Order 2010 as published in NSW Government Gazette No 66 of 21 May 2010 and amended by NSW Government Gazette No 140 of 24 December 2010.

5. Objects

The objects of this Order are to: –

- (a) authorise those persons described in clause 9 of this Order to use and possess 4-aminopyridine products and alphachloralose products in NSW;
- (b) specify the manner in which 4-aminopyridine products and alphachloralose products may be used in NSW; and
- (c) revoke and replace the Pesticides Control (Avicide Products) Order 2010 to:
 - (i) implement a decision of the Australian Pesticides and Veterinary Medicines Authority relating to the registration of alphachloralose rodenticides; and,
 - (ii) protect public health, property, and the environment by authorising persons, subject to the conditions specified in this Order, to use and possess 4-aminopyridine products and alphachloralose products.

6. Background

A vertebrate pest control chemical product that contains 4-aminopyridine or alphachloralose is a “restricted chemical product” under regulation 45 and Schedule 4 of the *Agricultural and Veterinary Chemicals Code Regulations 1995* (Cth).

Section 94 of the Agvet Code, which is applied as a law of New South Wales by the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994*, provides that a person must not, without reasonable excuse, supply a restricted chemical product, or cause or permit a restricted chemical product to be supplied, to a person who is not authorised to use the product under another law of this jurisdiction.

Section 4 of the *Pesticides Act 1999* provides that a “restricted pesticide” means a pesticide that is a restricted chemical product within the meaning of the Agvet Code. Section 17 of the *Pesticides Act 1999* provides that a person must not use or possess a restricted pesticide unless authorised to do so by a certificate of competency or a pesticide control order.

7. Application

This Order authorises the use and possession of 4-aminopyridine products and alphachloralose products, subject to the conditions specified in this Order.

8. Interpretation

- (1) Words used in this Order have the meanings set out in the Dictionary at the end of this Order.
- (2) Unless otherwise defined in this Order, words used in this Order have the same meanings as in the *Pesticides Act 1999*.

9. Authorised persons

- (1) The following persons are authorised to use or possess 4-aminopyridine avicides and alphachloralose avicides:
 - (a) A Bird Control Officer;

- (b) A person who is qualified within the meaning of clause 31(1)(b), or (c) of the Pesticides Regulation 2017, subject to clause 10(1) of this Order;
 - (c) A person who is authorised, pursuant to a licence or exemption under the *Pesticides Act 1999* or the Pesticides Regulation 2017, to carry out pest management technician work and holds:
 - (i) a current certificate of completion issued by ProTrain Training and Consulting Services Pty Ltd (ABN 80 793 244 357) on completion of the bird management training course delivered by it;
 - (ii) a current certification of completion issued by PestCert Limited (ACN 115 850 872) on completion of the bird management training course delivered by it; or
 - (iii) a current certification of completion or statement of attainment for an EPA approved bird management training course.
- (2) The following persons are authorised to use or possess alphachloralose rodenticides:
- (a) A person who is:
 - (i) authorised, pursuant to a licence or exemption under the *Pesticides Act 1999* or the Pesticides Regulation 2017, to carry out pest management technician work; or
 - (ii) qualified within the meaning of clause 31(1)(b), or (c) of the Pesticides Regulation 2017.
- (3) The following persons are authorised to use or possess 4-aminopyridine products and alphachloralose products:
- (a) a person who conducts a business of selling or supplying 4-aminopyridine products or alphachloralose products, whether as an employee, contractor or self-employed person, subject to clause 10(2) of this Order.
 - (b) an authorised officer, subject to clause 10(3) of this Order.

10. Conditions on the possession and use of 4-aminopyridine products and alphachloralose products

- (1) A person authorised to use and possess 4-aminopyridine avicides and alphachloralose avicides under clause 9(1)(b) of this Order must only use or possess 4-aminopyridine avicides and alphachloralose avicides:
- (a) in connection with agricultural operations or forestry operations;
 - (b) by means of hand-held or hand-powered equipment;
 - (c) on no more than 12 days in the previous 12 months and on no more than 4 days in the previous month; and,
 - (d) under the supervision of a Bird Control Officer.
- (2) A person authorised to use and possess 4-aminopyridine products and alphachloralose products under clause 9(3)(a) of this Order must only possess or store the 4-aminopyridine products or alphachloralose products for the purposes of selling or supplying these pesticides.
- (3) A person authorised to possess 4-aminopyridine products and alphachloralose products under clause 9(3)(b) of this Order must only use or possess the 4-aminopyridine products or alphachloralose products for the purposes of storing or possessing a sample of 4-aminopyridine products or alphachloralose products collected in the exercise of powers under section 198 of the *Protection of the Environment Operations Act 1997*.

Notes

A person must not contravene this Order – maximum penalty \$120 000 in the case of a corporation and \$60 000 in the case of an individual.

This Order will remain in force until it is revoked.

Clauses 9(1)(b) and 9(2)(a)(ii) refer to clauses 31(1)(b) and (c) of the Pesticides Regulation 2017, which provide that a person is qualified if they have achieved certain units of competency and meet other criteria. These units of competency are approved by the EPA and published in the NSW Government Gazette. Information about these units of competency, and a link to the current approved units of competency, is available on the EPA's website.

Approved labels and permits do not contain all of the conditions that apply to the use of 4-aminopyridine products and alphachloralose products in NSW. All persons using 4-aminopyridine products or alphachloralose products must also follow the instructions in this Order, in order to comply with section 39 of the Pesticides Act 1999. Where this Order gives no instruction on a matter that is included in an approved label or permit for a 4-aminopyridine product or alphachloralose product, then the instructions on that matter in the approved label or permit must be complied with. Where any instructions on the approved label or permit are inconsistent with instructions in this Order, the conditions in this Order prevail to the extent of the inconsistency.



KAREN MARLER
A/Executive Director Regulatory Practice and Environmental Solutions
Environment Protection Authority
(as delegate of the EPA)

Dictionary

In this Order –

4-aminopyridine product means a vertebrate pest control chemical product containing 4-aminopyridine within the meaning of item 12 of Schedule 4 in the *Agricultural and Veterinary Chemicals Code Regulations 1995* (Cth).

4-aminopyridine avicide means a 4-aminopyridine product:
(b) registered under Part 2 of the Agvet Code; or,
(c) for which a permit under Part 7 of the Agvet Code has been issued;
for use in NSW against a pest which is a species of the class Aves.

alphachloralose avicide means an alphachloralose product which APVMA has:
(a) registered under Part 2 of the Agvet Code; or,
(b) for which a permit under Part 7 of the Agvet Code has been issued;
for use in NSW against a pest which is a species of the class Aves.

alphachloralose product means a vertebrate pest control chemical product containing alphachloralose within the meaning of item 12 of Schedule 4 in the *Agricultural and Veterinary Chemicals Code Regulations 1995* (Cth).

alphachloralose rodenticide means an alphachloralose product:
(a) registered under Part 2 of the Agvet Code; or,
(b) for which a permit under Part 7 of the Agvet Code has been issued;
for use in NSW against a pest which is a species of the order Rodentia.

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

Bird Control Officer means a person who:
(a) holds a statement of attainment for a NSW Government Vertebrate Pest Management course; and
(b) holds at least one of the following:
(i) a current certificate of completion issued by ProTrain Training and Consulting Services Pty Ltd (ABN 48 131 945 741) on completion of the bird management training course delivered by it;
(ii) a current certificate of completion issued by PestCert (ACN 115 850 872) on completion of the bird management training course delivered by it;
(iii) a current certificate of completion or statement of attainment issued by NSW Department of Primary Industries on completion of an avicide training course delivered by it; or,

- (iv) a current certificate of completion or statement of attainment for an EPA approved bird management training course; and
- (c) either:
 - (i) holds a statement of attainment for completion of a Chemical Accreditation training program assessed at Australian Qualifications Framework 4; or,
 - (ii) holds a statement of attainment for completion of a Chemical Accreditation training program assessed at Australian Qualifications Framework 3 and, if the training program was completed over 5 years ago, has completed refresher training at least once every 5 years since the training program was completed; and
- (d) is either:
 - (i) employed in the Public Service under Part 4 of the *Government Sector Employment Act 2013*; or,
 - (ii) approved in writing for the purposes of this clause by a person employed by the EPA and appointed from time to time (in an ongoing, temporary, casual or acting capacity) to the position of Senior Executive Band 1 or above.

current certificate of completion or current statement of attainment means:

- (a) If the certificate of completion or statement of attainment includes an expiry date, a certificate of completion or statement of attainment that has not yet expired;
- (b) Otherwise, a certificate of completion or statement of attainment.

EPA approved bird management training course means a course:

- (a) that gives specifically contextualised training in pest bird management including training on how to identify pest birds, know and understand their behaviour, assess how to manage them and to lawfully use an avicide product to control them;
- (b) delivered by a Registered Training Organisation, within the meaning of the *National Vocational Education and Training Regulator Act 2011* (Cth); and,
- (c) approved in writing by a person employed by the EPA and appointed from time to time (in an ongoing, temporary, casual or acting capacity) to the position of Senior Executive Band 1 or above.

NSW Government Vertebrate Pest Management Course means the Vertebrate Pest Management course delivered by the NSW Department of Primary Industries and includes the Vertebrate Pest Management course delivered by the NSW Department of Primary Industries or NSW Agriculture prior to the establishment of nationally recognised competencies.

statement of attainment means a VET statement of attainment under the *National Vocational Education and Training Regulator Act 2011* (Cth).