

PESTICIDES ACT 1999 – PESTICIDE CONTROL ORDER UNDER SECTION 38

Name

1. This Order is to be known as the Pesticide Control (Copper Chrome Arsenate) Order 2012.

Commencement

2. This Order commences on publication in the NSW Government Gazette, except for clauses 8 (a) (iii), 8 (b) (ii) and 10 which commence on 1 January 2013.

Authority for Order

3. This Order is made by the Environment Protection Authority with the approval of the Minister for the Environment under Part 4 of the *Pesticides Act 1999*.

Background

Restricted chemical products/restricted pesticides

4. From 1 July 2012, all chemical products with formulations containing, as active ingredients, all of copper, chromium, and arsenic in their various chemical forms (commonly known as copper chrome arsenate) are declared to be a “restricted chemical product” under Regulation 45 of, and Schedule 4 to, the *Agricultural and Veterinary Chemicals Code Regulations 1995* of the Commonwealth. These products are mainly used as timber preservatives.

Section 94 of the Agvet Code provides that a person must not 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.

In NSW section 4 of the *Pesticides Act 1999* defines “restricted pesticide” to mean a pesticide that is a restricted chemical product within the meaning of the Agvet Code. Under section 17 of that Act, 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.

Objects

5. The objects of this Order are to: –
 - (a) Authorise those persons described in clause 8 to use timber treatment products which contains copper chrome arsenate.
 - (b) Specify the manner in which copper chrome arsenate timber treatment products may be used in NSW.

Application

6. This Order authorises the use of copper chrome arsenate timber treatment products, subject to conditions as specified in this Order.

Definitions

7. In this Order -

Chemical retailer means a person who conducts the business of selling or supplying pesticides and other chemical products.

Copper chrome arsenate timber treatment product means any pesticide that:

- (a) is registered by the APVMA, and
- (b) has a formulation containing, as active ingredients, all of copper, chromium and arsenic in their various chemical forms, and
- (c) is used as a timber preservative.

Agvet Code means the provisions applying because of section 5 of the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994*.

APVMA means the Australian Pesticides and Veterinary Medicines Authority established by the *Agricultural and Veterinary Chemicals (Administration) Act 1992* of the Commonwealth.

Timber preservation plant is a workplace as defined under Australian Standard AS/NZS 2843.1:2006 *Timber preservation plants - Timber preservation plant site design* published by Standards Australia, as in force from time to time.

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

Persons authorised

8. Subject to clauses 9 and 10 of this Order, a person is authorised to use a copper chrome arsenate timber treatment product if that person is:
- (a) an incorporated company or business:
 - (i) that has a timber preservation plant,
 - (ii) which use of the copper chrome arsenate timber product is in the course of the operation of the plant, and
 - (iii) that employs at least one person in the plant who has been assessed against, and holds a validly issued statement of attainment for, the unit of competency *Treat timber* (FPISAW3201A) or *Treat timber* (FPISAW3201B) in the Forest and Forest Products Training Package endorsed by the National Quality Council; or
 - (b) an employee of a company or business described in clause 8 (a) (i) and (ii) above:
 - (i) who uses the copper chrome arsenate timber treatment product in the course of his or her employment in the company or business, and
 - (ii) who has been assessed against, and holds a validly issued statement of attainment for, the unit of competency *Treat timber* (FPISAW3201A) or *Treat timber* (FPISAW3201B) in the Forest and Forest Products Training Package endorsed by the National Quality Council; or
 - (c) a chemical retailer, but the authorisation is only for the possession of the copper chrome arsenate timber treatment product for the purposes of commercial supply or sale.

Conditions on the use of Copper Chrome Arsenate Timber Treatment Products

9. A person must only use a copper chrome arsenate timber treatment product:
- (a) in accordance with:
 - (i) the instructions on the approved label for the copper chrome arsenate timber treatment product; or
 - (ii) the directions of a permit* for the use of the copper chrome arsenate product; and
 - (b) in compliance with any conditions, as may be relevant, that are attached to a notice, order or an environment protection licence issued under the *Protection of the*

Environment Operations Act 1997 in respect of the premises on which the product is used.

10. A company or business that has a timber preservation plant using copper chrome arsenate timber treatment products must comply with all of the requirements of Australian Standards AS/NZS 2843.1:2006 *Timber preservation plants - Timber preservation plant site design* and AS/NZS 2843.2:2006 *Timber preservation plants - Treatment area operation*, both published by Standards Australia, and as in force from time to time**.

Notes

Words used in this Order have the same meaning as in the Pesticides Act 1999, unless otherwise defined in this order.

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.

** only means a permit as defined under the Pesticides Act 1999.*

*** Clause 10 does not commence until 1 January 2013 after which date all timber preservation plants that use copper chrome arsenate timber treatment products in NSW must be compliant with all the requirements specified in AS/NZS 2843 (parts 1 and 2). This delay in commencement provision does not apply to any conditions on Environment Protection Licences that relate to AS/NZS 2843 (parts 1 and 2).*

BARRY BUFFIER
Chair & CEO
Environment Protection Authority

ROBYN PARKER MP
Minister for the Environment