



Pesticides & Other Agricultural Chemicals

Updated December 2010

An introduction to Pesticides and Other Agricultural Chemicals

Pesticides and other agricultural chemicals are used in a wide variety of applications – from crops and plantations to use in industry and buildings. By their nature, the chemicals can be toxic to humans and native plants and animals. As a result, laws have developed to control the type of chemicals that can be used, and the manner in which they can be used and transported.

This fact sheet explains the laws relating to pesticide and other agricultural chemical use in Western Australia, and identifies the bodies responsible for its management. See also [Fact Sheet 29: Industrial chemicals](#), [Fact Sheet 30: Contaminated sites](#), [Fact Sheet 26: Air quality](#), and [Fact Sheet 27: Pollution and environmental harm](#).

What are “agricultural chemicals”?

The term “pesticide” is not itself defined in the *Agricultural and Veterinary Chemicals Code 1994* (Cth) (“AgVet Code”), however the term “agricultural chemical” covers substances which are intended to destroy any pest or plant, repel or inhibit any pest, modify the physiology of a pest or plant, modify the effect of another agricultural chemical, or attract a pest for the purposes of destroying it. This definition includes pesticides, herbicides and substances such as pool and spa sanitisers, but it does not include fertilizers, or substances prepared by a veterinarian, even if the product is used for curing an infestation of an animal by a pest.

Pesticides can be in the form of a gas (e.g. fumigants), liquid (e.g. Round-up herbicide) or solid (e.g. rodent poisons).

This Fact Sheet does not consider industrial chemicals (see [Fact Sheet 29: Industrial chemicals](#)), or chemicals that are used for human or animal consumption. For information on the disposal of hazardous substances, see [Fact Sheet 32: Waste management](#), or for information on contaminated sites, see [Fact Sheet 30: Contaminated Sites](#).

How are agricultural chemicals regulated?

Pesticides and agricultural chemicals are regulated under both State and Commonwealth laws. The Commonwealth *AgVet Code Act* and *Agricultural and Veterinary Chemicals Code Regulations 1995* (Cth) (“AgVet Regulations”) have been adopted into each state uniformly. They have been adopted into Western Australian law by the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* (WA) and the *Agricultural and Veterinary Chemicals (Western Australia) Regulations 1995* (WA). The AgVet Code controls the registration, manufacture, import and labeling of agricultural chemicals up to the point of sale.

Important disclaimer:

This fact sheet is for general information purposes. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your specific circumstances you should contact the Environmental Defender's Office WA (Inc) or your solicitor. The EDO takes no responsibility for any loss or damage resulting from any error in this fact sheet.



In addition to the AgVet Code, there are also some Western Australian laws that regulate the use, transportation and storage of agricultural chemicals, and also specific regulations relating to pesticides such as the *Dangerous Goods Safety Act 2004* (WA) ("DGS Act"), and the *Health (Pesticides) Regulations 1956* (WA) ("Pesticide Regulations"). Specific references to pesticides in this fact sheet relate only to pesticides, not to all agricultural chemicals.

Role of the Australian Pesticides and Veterinary Medicines Authority

Only agricultural chemicals that have been assessed and registered by the Australian Pesticides and Veterinary Medicines Authority ("APVMA") can be sold in Australia.

The APVMA must keep a register of agricultural and veterinary chemicals and a record of approved active constituents which the public can inspect.

The supply of an unregistered product is an offence. Other offences include making claims that are inconsistent with the registered label, supplying pesticides with an unapproved label, importing an unregistered pesticide, and supplying pesticides in contravention of any conditions relating to that supply.

Approved Pesticide Use

A person may only use, possess or transport a pesticide if it is a registered pesticide, it is kept in the required kind of container and has an approved label.

A pesticide cannot legally be used for any purpose other than the purpose shown on the approved label. It is also against the law to use a pesticide in excess of the recommended frequency or rate of application, or otherwise than in accordance with any direction or precaution shown on the label.

However, the APVMA can issue a permit for the use of an agricultural chemical contrary to the label where it is a minor use, an emergency use; or for the purpose of research.

Human health

It is unlawful to use a pesticide in any manner, place or circumstance which is dangerous or harmful to human health. For the most part, this duty just requires the operator to apply the chemical in accordance with the label.

General duty to minimise risk

Under the DGS Act, a person directly or indirectly storing, handling or transporting dangerous goods must take all reasonable steps to minimise the risk to people, property and the environment. The definition of "dangerous goods" includes many agricultural chemicals, full details of which can be obtained from the Dangerous Goods Division of the Department of Mines and Petroleum.

Failure to exercise reasonable care in the use, storage or transport of dangerous goods is an offence, and is subject to a maximum penalty of four years jail and a fine of \$100,000 for an individual, or a fine of \$500,000 for a company.

Important disclaimer:

This fact sheet is for general information purposes. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your specific circumstances you should contact the Environmental Defender's Office WA (Inc) or your solicitor. The EDO takes no responsibility for any loss or damage resulting from any error in this fact sheet.



Use of pesticides in a public place

Where a person is using a pesticide in a public place, and that pesticide is listed in the *Poisons Act 1964* (WA), a sign must be erected warning people not to enter the area whilst the sign is displayed. "Public place" is not defined, but it would likely include any place where the public (or a section of the public) has access, including places where an entry fee is payable.

Public water supply areas

There are controls on the use of agricultural chemicals in areas set aside for public drinking water. For example, it is an offence to place or use any pesticide, insecticide or herbicide in a metropolitan catchment area without written permission of the Department of Water. This would apply to areas such as the Gngara and Jandakot ground water areas.

Spraying on or near certain crops

The Executive Director of Public Health may prohibit or restrict the use of certain pesticides on specified crops in any part of the State under the Pesticide Regulations.

The *Agriculture and Related Resources Protection (Spraying Restrictions) Regulations 1979* (WA), also put restrictions on the spraying of agricultural chemicals. For example, grapevines and tomatoes are susceptible to damage by phenoxy herbicides such as 2,4-D. Restrictions on spraying this chemical apply in the Swan Valley, Ord River irrigation area, Geraldton and within 5 kilometres of any place where tomatoes or grapevines are being grown for commercial purposes.

Aerial spraying restrictions

A person must not conduct any aerial spraying of agricultural chemicals unless the pilot of the aircraft holds an aerial spraying certificate issued by the Department of Agriculture and Food. The operator must also hold a current security bond before commencing work. This bond is to be used to cover liability that may arise in respect of loss of or damage to the property of any other person.

Spray Drift

Where damage is caused by spray drift from aerial spraying, any damage to crops, trees, pastures, or animal life on a person's land must be reported to the Department of Agriculture and Food within 14 days of observing the damage. Failure to give notice operates to remove the right of the injured party to claim damages against the person responsible for the spraying.

Failure to take steps to minimise the risk of damage to people, property or the environment under the DGS Act, as discussed above, may also be an offence in relation to spray drift. Pollution controls may also apply (see [Fact Sheet 27: Pollution and Environmental Harm](#)).

Important disclaimer:

This fact sheet is for general information purposes. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your specific circumstances you should contact the Environmental Defender's Office WA (Inc) or your solicitor. The EDO takes no responsibility for any loss or damage resulting from any error in this fact sheet.



Under the common law, a person affected by spray drift may also be able to take action in trespass, negligence or nuisance (see [Fact Sheet 2: Common law](#)).

Commercial Application of Pesticides

A person who applies pesticides for payment must hold a licence from the Department of Health unless:

- The person only applies pesticides by air, and holds a certificate under the *Aerial Spraying Control Act* (WA).
- The person is a casual employee in an agricultural operation and working under the direction of a licensed pesticide operator.

Transport

Some agricultural chemicals are classified as “dangerous goods” under the DGS Act. Depending upon the quantity of the chemical transported, the carriage of such chemicals on public roads may require the vehicle to carry placards, protective suits for the driver or the chemical to be packaged in a certain way. Documents explaining the type of chemical being transported must be carried on all vehicles, irrespective of quantity. For further information on the rules applying to specific chemicals, contact the Dangerous Goods Division of the Department of Mines and Petroleum.

Storage

A place where dangerous goods were, are, or are intended to be stored or handled is defined as a “dangerous goods site”. A person who has the control or management of a dangerous goods site commits an offence if the DGS Regulations require the site to be licensed and the site is not licensed. A site may not be required to be licensed depending on the length of time the goods will be stored at the site, quantities and other factors. Refer to the Dangerous Goods Division of the Department of Mines and Petroleum, or the *Dangerous Goods Safety (Storage and Handling of Non-Explosives) Regulations 2007* (WA) for more information on licensing.

The WA Pesticide Regulations additionally require that commercial pesticide operators must store pesticides in such a manner as to ensure they do not contaminate a water supply or watercourse.

Agricultural Chemical Spills

A person storing, handling or transporting dangerous goods (including many agricultural chemicals) is required to report spills and other dangerous events to a dangerous goods officer within the Department of Mines and Petroleum as soon as practicable.

Where an agricultural chemical spill is likely to cause pollution or environmental harm (i.e. because of the quantity, characteristics of the chemical or sensitivity of the location of the spill), the occupier of the land on which the discharge occurred is required to inform the Department of Environment and Conservation. There are actions that the Department of Environment and Conservation can take against a person who causes

Important disclaimer:

This fact sheet is for general information purposes. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your specific circumstances you should contact the Environmental Defender's Office WA (Inc) or your solicitor. The EDO takes no responsibility for any loss or damage resulting from any error in this fact sheet.



pollution or environmental harm (see [Fact Sheet 27: Pollution and environmental harm](#)).

Opportunities for public involvement

- Report any suspect use of agricultural chemicals to the environmental health officer at your local government, the Department of Health, the Dangerous Goods Division of the Department of Mines and Petroleum, or to the Department of Environment and Conservation.
- Contact the Department of Health for information on the correct disposal of pesticides or their containers.
- Check the APVMA website for details on registered agricultural chemicals.
- Contact the Poisons Information Centre if you believe you have been affected by a chemical.
- Contact a person causing spray drift and ask them to modify their activity, or contact the Department of Agriculture and Foods.
- Contact the Department of Health for more information about some of the specific procedures that relate to the use of pesticides.
- Report death of native plants and animals from the use of agricultural chemicals to the Department of Environment and Conservation.

Contacts and further information

Department of Environment and Conservation www.dec.wa.gov.au/ Tel: (08) 6467 5000

Emergency Pollution Response Hotline, Tel: 1300 784 782

Environmental Protection Authority www.epa.wa.gov.au/ Tel: (08) 6467 5000

Australian Pesticides and Veterinary Medicines Authority www.apvma.gov.au/ Tel (02) 62104748, or for adverse experiences Tel: 1800 700 538

Standard for the Uniform Scheduling of Medicines and Poisons www.tga.gov.au/ndpsc/susdp.htm#susdp

Department of Health (WA) www.health.wa.gov.au/ Tel: (08) 9222 4222

Department of Health, Pesticide Safety Section Tel: (08) 9285 5500

Department of Water www.water.wa.gov.au Tel: 6364 7600

Western Australian Poisons Information Centre, Tel: 131 126

Department of Mines and Petroleum, Dangerous Goods Division, www.dmp.wa.gov.au/6682.aspx/

Tel: (08) 9358 8001

Important disclaimer:

This fact sheet is for general information purposes. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your specific circumstances you should contact the Environmental Defender's Office WA (Inc) or your solicitor. The EDO takes no responsibility for any loss or damage resulting from any error in this fact sheet.



The Environmental Defender's Office WA (Inc)

The Environmental Defender's Office WA (EDO) is a community legal centre specialising in public interest environmental law.

The objects of the EDO include:

- to provide community groups and individuals with legal advice and representation to help protect the environment;
- to promote law reform that improves environmental protection; and
- to provide community education about environmental law.

The EDO is a non-profit, non-government organisation. The EDO receives its principal funding from the Federal and State Attorney-General's Departments.

However, these funds are limited and donations from the public provide a vital source of funds for many of our activities. Donations over \$2 are fully tax deductible. The EDO also welcomes people with a commitment to the environment to join as members.

If you require legal advice on an environmental issue or wish to find out more about the EDO, please contact us at the following address:

Environmental Defender's Office WA (Inc)

Suite 4, 544 Hay Street, Perth WA 6000

Tel: (08) 9221 3030

Fax: (08) 9221 3070

Freecall: 1800 175 542 (for WA callers outside the Perth metropolitan region)

Email: edowa@edowa.org.au

Thank you to our donors

The EDO is grateful for the funding provided by the following organisations to create and maintain these fact sheets.



Important disclaimer:

This fact sheet is for general information purposes. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your specific circumstances you should contact the Environmental Defender's Office WA (Inc) or your solicitor. The EDO takes no responsibility for any loss or damage resulting from any error in this fact sheet.