



Department of
**Primary Industries and
Regional Development**

Summary report: Consultation on the proposed *Biosecurity and Agriculture Management (Agricultural Chemical Record Keeping) Regulations 2020*

March 2020

Proposed Biosecurity and Agriculture Management (Agricultural Chemical Record Keeping) Regulations – Revised draft

In 2019 the Department of Primary Industries and Regional Development (DPIRD, the Department) sought stakeholder comment on the draft *Biosecurity and Agriculture Management (Agricultural Chemical Record Keeping) Regulations*. These are proposed regulations for minimum record keeping requirements for commercial users of agricultural chemical products.

The Department received twenty responses during the consultation period. Nineteen of the responses were supportive with some seeking clarification or amendment on particular issues. There was one non-supportive response.

A revised draft of the proposed regulations has now been prepared.

Background and outline of the regulations

In 2008 the Productivity Commission released a report on the regulation of chemicals and plastics. In response, the Council of Australian Governments directed the Primary Industries Ministerial Council (now AgMin) to develop a single national framework to improve the efficiency and effectiveness of the regulation of agricultural chemicals and veterinary medicines (agvet chemicals).

These reforms aim to address current variations in states and territory regulation, relating to:

- licensing and competency requirements for fee for service chemical users
- competency requirements for chemical users of schedule 7 and restricted chemical products
- improving the consistency of monitoring for chemical residues
- access to chemicals and the variation in off-label use restrictions and
- record keeping requirements for agvet chemical use.

To meet the requirements of the single national framework, in relation to record keeping for agricultural chemical use, the proposed *Biosecurity and Agriculture Management (Agricultural Chemical Record Keeping) Regulations 2020* will require the following records to be kept for agricultural chemical product applications:

- the date and the time of application
- the name and contact details of the responsible owner/occupier and the person who applied the chemical
- the location of the chemical application
- the name of the agricultural chemical product or products used
- method of application
- the rate of application or other information to allow the determination of application rate
- the situation, crop or commodity to which the chemical was applied
- additional records as required by the product label or permit of the chemical product used.

The records must be available for inspection if requested by an inspector.

Exemptions from the requirement to keep records will include use of home garden products, use in dwellings, sanitisers for public swimming pools and products used in limited quantities.

The consultation process

Consultation on the proposed Regulations was carried out for a period of four weeks (from 8 April until 10 May 2019).

The DPIRD identified approximately 65 stakeholders, including 37 major industry groups, and these stakeholders were invited to comment on the proposed Regulations. They also were encouraged to visit the DPIRD Agriculture and Food website for information and to provide feedback.

A dedicated webpage was developed, entitled 'BAM (Agricultural Chemical Record Keeping) Regulations 2019 – consultation'. This gave an outline of the Regulations and the feedback process as well as access to the Consultation Draft of the Regulations and an explanation of the proposed amendments. The webpage also provided contact details for any queries and links to the Act.

Stakeholders were invited to provide comments via the online portal, by uploading a submission or by sending an email addressed to the consultation co-ordinator.

Responses and enquiries

See Appendix 1 for comments and detailed responses.

The Department received twenty submissions in response to the proposed Regulations. Only one submission was not supportive.

The submissions covered a variety of issues. Most were concerned about clarifying different aspects of the proposed Regulations. Some of these can be appropriately addressed as part of a communications package including frequently asked questions.

Discussion

DPIRD targeted a wide range of stakeholders likely be affected by the proposed Regulations.

Submissions sought clarification around issues such as whether veterinary chemicals are included, non-crop use, use in commercial areas (e.g. restaurants), weather information, method of application, crop description, penalties and information on the legislation involved.

The one non-supportive response was concerned with several areas, including the lack of discussion on record keeping requirements in historical decision making and development of the 'single national framework for agricultural and veterinary chemicals'. Also, whether there was a need for regulated record keeping when the National Residue Survey results showed a high level of compliance with maximum residue limits in the grains industry.

One response pointed out that industry quality assurance schemes require records to be retained for only 2 years, rather than the 3 years proposed by the Regulations.

Another noted that making a record within 48 hours would not encourage best practice chemical stewardship and recommended this be amended from 48 hours to 7 days.

It was noted that there was overlap in commercial areas like hotels and restaurants where the Health Department was already involved in regulating. This has been resolved by extending the exclusions to include the small scale use of pesticides.

There was a request to expand the regulations to include the disclosure of chemicals used on livestock feed covering agricultural chemical use on the crop, storage and transport. This was outside the scope of the regulations but may be addressed by commodity vendor declarations.

Revised draft

In response to submissions received and further discussion the following changes have been made to the draft regulations as put out for consultation in 2019:

- The timeframe for record retention has been changed from 3 years to 2 years to align with industry quality assurance schemes.
- The timeframe within which records must be made, has been extended from 48 hours to 7 days.
- Exclusions from the regulations now include the small scale use of pesticides.
- The revised draft is a clearer expression of the principal that the obligation to keep the records rests with the responsible owner or occupier of the property even if the chemicals are applied by an employee, agent or contractor. This is not a change to the substance or effect of the regulations, just a more appropriate form in terms of clarity and consistency with the enabling Act.
- The maximum possible penalty for an offence against the regulations is reduced from \$50,000 to \$20,000.
- The regulations will also amend the *Biosecurity and Agriculture Management (Infringement Notices) Regulations 2013* to allow an offence against the record keeping requirements to be dealt with by an infringement notice and a modified penalty of \$400.

If you need any further information or wish to comment on the revised proposed Regulations, please contact Chris Sharpe by email: chris.sharpe@dpird.wa.gov.au . Please provide any comment by Friday 20 March 2020.

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