



Note Number: AG1215

Published: October 2005

Updated: September 2008

Off-label Chemical Use Permits: Joining the Dots

Introduction

In Victoria, there are cases where the off-label use of an agvet chemical is **ILLEGAL** without a permit. What does a 'permit' to use chemicals off-label do?

A 'permit' issued by the responsible agency, makes an off-label chemical use **LEGAL** in circumstances where the use would otherwise be **ILLEGAL**.

As part of most permit application processes, a risk assessment of the proposed off-label use is carried out to ensure negative impacts arising from the off-label use are avoided.

Not all off-label chemical use is illegal however, and this Agricultural Note provides information on when off-label use is illegal, when it is not, and what permit may be required to legalise the off-label use.

DPI 'restricted use' chemicals

In Victoria, there are a number of agricultural chemicals that are restricted to on-label use by authorised persons. These are referred to as 'restricted use' chemicals and are agricultural chemical products that:

- are Schedule 7 Poisons (Dangerous Poisons)
- contain atrazine, metham sodium, ester formulations of 2,4-D, 2,4-DB, MCPA and triclopyr.

To be authorised to use these chemicals on your own property, you must hold a valid Agricultural Chemical User Permit (ACUP), with the appropriate chemical endorsement, or be working under the direct supervision (i.e. within sight and sound) of an ACUP holder.

'Restricted use' chemicals may also be used by DPI licensed spray contractors and chemical users operating within a recognised Quality Assurance program that requires chemicals to be used in accordance with label directions and is independently audited at regular intervals of less than two years.

DPI permit v APVMA permit

'Restricted use' chemicals **MUST** be used in strict accordance with the label under Victorian law. The off-label use of these chemicals is illegal unless the user holds a valid Section 25A Permit issued for the use by DPI. A Section 25A Permit is different from an ACUP (which only permits the on-label use of 'restricted use' chemicals), and is issued by DPI, not the Australian Pesticides and Veterinary Medicines Authority (APVMA).

Many chemical users are under the belief that the APVMA issues all permits for off-label chemical use, but this is not the case. In Victoria, DPI is the agency responsible for issuing permits to legalise the off-label use of 'restricted use' chemicals because DPI has restricted the use.

If a person proposes to use a 'restricted use' chemical for a use that is not listed on the chemical product label, they must submit an application for a Section 25A Permit to DPI. Application forms are available from the DPI Chemical Standards website at www.dpi.vic.gov.au/chemicalstandards. On receipt of an application, DPI will conduct a risk assessment of the proposed use, and will decide whether or not to issue the permit depending on the results.

National restrictions on use

Some categories of off-label use are restricted nationally, such as when a chemical is used:

- at a higher rate than that listed on the label
- more frequently than the frequency listed on the label
- contrary to a specific label statement.

In these cases, a permit issued by APVMA is necessary to legalise the use.

State differences

In addition, the Control of Use laws governing chemical use are different between Victoria and other states. While a particular practice may not be illegal in Victoria, it may be illegal in other states, and vice-versa. It is therefore vital that chemical users who work across State borders are aware of the

particular controls over chemical use that apply in the State where the chemical is to be used.

Permitted off-label use

For chemicals OTHER than the 'restricted use' chemicals, a permit from DPI or APVMA is NOT required, and the off-label use is NOT illegal in Victoria provided that:

- the maximum label rate is not exceeded
- the label frequency of application is not exceeded
- any specific label statements prohibiting the use are complied with (eg. **DO NOT** statements).

Provided the constraints listed above are complied with, no permit is required for the off-label use of these chemicals, which makes any APVMA Off-Label Permit issued for these chemicals in other States, invalid in Victoria. This is because the APVMA Permit is redundant in Victoria, hence the APVMA Permit would be attempting to legalise something that is already legal.

APVMA off-label permits

Off-label permits issued by the APVMA for non-restricted chemicals in States other than Victoria carry the wording '*Victoria is not included in this permit because their 'Control-of-Use' legislation means that a permit is not required to legalise this off-label use in VIC*'.

Although an APVMA permit for off-label use may not be valid in Victoria, it may contain useful information, such as recommended rates of use and Withholding Periods (WHPs) that may be of assistance to Victorian chemical users.

It is important to note that Temporary Maximum Residue Limits (TMRLs) on APVMA permits are not valid in Victoria, unless they have been adopted by the Food Standards Code (FSC), issued by the Food Standards Australia New Zealand (FSANZ).

Off-label use responsibilities

While the off-label use of chemicals other than 'restricted use' chemicals is permitted in Victoria under certain circumstances, any person who chooses to use such a chemical in an off-label manner does so accepting total responsibility for:

- Efficacy - whether the chemical achieves the desired result or not
- Residues in the environment
- Occupational Health and Safety issues
- Residues in produce.

Further Reference

For further information on chemical use, permits or Control of Use legislation contact:

- DPI Chemical Standards website - www.dpi.vic.gov.au/chemicalstandards
- APVMA website - www.apvma.gov.au
- DPI Chemical Standards Officers

North West

Alan Roberts (03) 5430 4416

Dave Rumbold (03) 5430 4806

North East

Steven Field (03) 5824 5532

Jane Rhodes (03) 5833 5234

South West & Port Phillip West

Jo Robinson (03) 5355 0522

Neil Harrison (03) 5336 6616

Gippsland & Port Phillip East

Michael Laity (03) 9785 0191

Acknowledgements

This Agnote was developed by Alan Roberts, October 2005.

It reviewed by:

Alan Roberts, September 2007.

Alan Roberts, Farm Services Victoria, September 2008.

ISSN 1329-8062

Published and Authorised by: Department of Primary Industries
1 Spring Street
Melbourne, Victoria

This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the *Copyright Act 1968*.

This document was provided as a PDF document from the DPI website

For more information about DPI visit the website at www.dpi.vic.gov.au or call the Customer Service Centre on 136 186

The advice provided in this publication is intended as a source of information only. Always read the label before using any of the products mentioned. The State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication