

REPLACEMENT EXPLANATORY STATEMENT

Agricultural and Veterinary Chemicals Code Act 1994

AGRICULTURAL AND VETERINARY CHEMICALS CODE (AGRICULTURAL ACTIVE CONSTITUENTS) STANDARDS AMENDMENT INSTRUMENT (NO. 1) 2024

Issued by the Australian Pesticides and Veterinary Medicines Authority

Legislative Authority

Section 6E of the Agricultural and Veterinary Chemicals Code, as scheduled to the *Agricultural and Veterinary Chemicals Code Act 1994 (Code)* provides that the APVMA may, by legislative instrument, make standards for constituents for chemical products, chemical products, or labels for containers for chemical products.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The amendments to the *Agricultural and Veterinary Chemicals Code (Agricultural Active Constituents) Standards 2022 (Principal Instrument)* made by the *Agricultural and Veterinary Chemicals Code (Agricultural Active Constituents) Amendment Instrument (No. 1) 2024 (Amendment Instrument)* rely on this provision.

Purpose

The purpose of the Principal Instrument is to prescribe standards for certain active constituents for agricultural chemical products. The Amendment Instrument amends the Principal Instrument to specify new standards for certain active constituents. The Amendment Instrument also updates existing standards and makes other minor changes to the Principal Instrument.

Operation

Details of the Amendment Instrument are set out in Attachment A.

The Amendment Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Instrument commences on the day after the day it is registered.

Impact analysis

The Office of Best Practice Regulation (OBPR – the predecessor to the Office of Impact Analysis (OIA)) was consulted about the making of the Principal Instrument (OBPR ID 19176).

On the basis of the information provided, OBPR considered that a Regulatory Impact Statement (now known as a Policy Impact Analysis) is not required as the making of the Principal Instrument is machinery in nature, would be done in accordance with existing legislation, is likely to have no more than minor regulatory impacts on business, community organisations or individuals and is not being considered by Cabinet. The same considerations apply to the Amendment Instrument.

Consultation

In accordance with the requirement for consultation under section 17 of the *Legislation Act 2003*, the Amendment Instrument has been informed by consultation with stakeholder groups including industry representatives prior to making the Amendment Instrument. Relevant stakeholders were consulted via a formal process involving publication of notices on the APVMA website and in the APVMA Gazette inviting submissions on the draft instrument from stakeholders. The draft instrument was open for consultation for 28 days, between 20 September and 18 October 2022. One submission was received in response to the consultation and was published on the APVMA website. The submission was of a technical nature and related to the operation and practicalities regarding enforcement of the standards in respect of particular active constituents. The issues were taken into account in finalising the instrument via the development of separate guidance regarding the analysis of the relevant active constituents and processes for demonstrating compliance with the standards.

Other

The *Agricultural and Veterinary Chemicals Code (Agricultural Active Constituents) Standards Amendment Instrument (No. 1) 2024* is exempt from sunseting under paragraph 54(1)(a) of the *Legislation Act 2003*, as the enabling legislation (the Code) facilitates the establishment and operation of an intergovernmental scheme (the National Registration Scheme for Agricultural and Veterinary Chemicals) between the Commonwealth and State and Territory governments. Making of the Instrument for the purposes of the scheme is authorised under section 6E of the Code.

The Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

EXPLANATION OF PROVISIONS

Part 1 Introduction

Section 1 – Name of instrument

This section provides that the instrument is the *Agricultural and Veterinary Chemicals Code (Agricultural Active Constituents) Standards Amendment Instrument (No. 1) 2024* (Amendment Instrument).

Section 2 – Authority

The Amendment Instrument is made by the APVMA under section 6E of the Code. The Delegate who made the instrument has the delegated authority to do so under sections 11, 32 and 44 of the *Agricultural and Veterinary Chemicals (Administration) Act 1992*.

Section 3 – Commencement

This section provides that the Amendment Instrument commences on the day after the day it is registered.

Section 4 – Schedules

This section provides that the Principal Instrument is amended as set out in Schedule to the Amendment Instrument.

Schedule 1—Amendments

Agricultural and Veterinary Chemicals Code (Agricultural Active Constituents) Standards 2022

Item 1 – Amend definition of *Validated Analytical Method*

Item 1 omits the current definition and inserts a new definition for the term *Validated Analytical Method*.

An essential part of APVMA's assessment and evaluation processes is ensuring that analytical methods used are appropriate. The use of a validated analytical method ensures that a particular method, when correctly applied, produces results that are fit for purpose.

The definition of *Validated Analytical Method* has been revised to provide general guidance that for the purpose of determining compliance with the standards contained in the Instrument, an analytical method that is validated in accordance with generally accepted scientific principles for the purpose of analysis of the relevant chemical is acceptable to the APVMA.

Item 2– Schedule

Item 2 omits the asterisk in Column C of the table in the Principal Instrument and also omits the associated footnote at the end of the Primary Instrument.

Item 3 – Schedule

Item 3 inserts entries for a series of new agricultural active constituents in alphabetical order within the table in the Schedule to the Principal Instrument.

Item 4 – Schedule

Item 4 omits the entry for the active constituent triclopyr butoxyethyl from the Schedule to the Principal Instrument.

Item 5 – Schedule

Item 5 omits the entries for certain agricultural active constituents that are currently listed in the Schedule to the Principal Instrument and inserts amended entries for these same active constituents.

Item 6 – Schedule

Item 6 incorporates a footnote to detail the method of calculation of the summation of the concentrations of a group of 17 chemical compounds, polychlorinated dibenzodioxins and polychlorinated dibenzofurans (PCDDs and PCDFs) and provides the chemical names for these 17 compounds. As this group of compounds and summation of their concentrations is included in four different entries in the table in the Schedule, a footnote containing the information relevant to all four entries is included to avoid unnecessary repetition.

Statement of compatibility with human rights obligations

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

AGRICULTURAL AND VETERINARY CHEMICALS CODE (AGRICULTURAL ACTIVE CONSTITUENTS) STANDARDS AMENDMENT INSTRUMENT 2024

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of this Instrument is to amend the Principal Instrument to include additional new standards for certain active constituents for agricultural chemical products under section 6E of the Code, as well as to amend standards for certain active constituents already included in the Principal Instrument and to make certain other minor amendments to the Principal Instrument.

Human rights implications.

The Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The Instrument is compatible with human rights as it does not raise any human rights issues.