

PESTICIDES ACT 1999 – PESTICIDE CONTROL ORDER UNDER SECTION 38

Name

1. This Order is to be known as the Pesticide Control (Rabbit Haemorrhagic Disease Virus) Order 2017.

Commencement

2. This Order commences on publication in the NSW Government Gazette.

Authority for Order

3. This Order is made by the Environment Protection Authority (EPA).

Revocation of Previous Order

4. Pesticide Control (Rabbit Haemorrhagic Disease) Order 2006 is revoked.

Objects

5. The objects of this Order are to: –
 - (a) Authorise those persons described in condition 9 to use Rabbit Haemorrhagic Disease Virus products that contain active strains of Rabbit Haemorrhagic Disease Virus.
 - (b) Specify the manner in which Rabbit Haemorrhagic Disease Virus products may be used in NSW.

Background

6. Rabbit Calicivirus Injection was registered as a pesticide in Australia in 1996. This product had its registration cancelled in February 2006 as this product was replaced by an equivalent product, Rabbit Haemorrhagic Disease Virus (Lyophilised) in August 2005. Rabbit Calicivirus Disease and Rabbit Haemorrhagic Disease are different names for the same disease. Various strains of Rabbit Haemorrhagic Disease virus are used in Australia to control wild populations of the European rabbit.

A chemical product that contains an active strain of Rabbit Haemorrhagic Disease Virus have been declared to be a “restricted chemical product” under Regulation 45 of the *Agricultural and Veterinary Chemicals Code Regulations 1995* of the Commonwealth.

Section 94 of the Agvet Code provides that a person must not, without reasonable excuse, 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.

In NSW, section 4 of the *Pesticides Act 1999* provides that a “restricted pesticide” means a pesticide that is a restricted chemical product within the meaning of the Agvet Code. Section 17 of the *Pesticides Act 1999* provides that a person must not use or possess a restricted pesticide unless authorised to do so by a restricted pesticide authorisation or a pesticide control order.

Application

7. This Order authorises the use of Rabbit Haemorrhagic Disease Virus products which contain active strains of Rabbit Haemorrhagic Disease Virus, subject to conditions as specified in this Order.

Definitions

8. In this Order -

Agvet Code has the same meaning as in the *Pesticides Act 1999*.

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

authorised agent is a person taking possession of Rabbit Haemorrhagic Disease Virus products mixed with bait material on behalf of another landholder and who will be using Rabbit Haemorrhagic Disease Virus products mixed with bait material on the property of that landholder.

Authorised Control Officer means a person who: –

- (a) holds a current certificate of completion or VET statement of attainment issued by NSW DPI's Registered Training Organisation or another Registered Training Organisation on completion of the training and assessment components of the Vertebrate Pest Management course¹ delivered by NSW DPI or a Registered Training Organisation; or
- (b) is employed by a public authority that has an EPA approved system for evaluating and establishing recognised prior learning that would, at least, be equivalent to obtaining accreditation for the successful completion of the training and assessment components of the Vertebrate Pest Management course; and
- (c) holds a current certificate of completion or VET statement of attainment issued by SMARTtrain, in the previous 5 years for completion of the Vertebrate Pesticide accreditation course; and
- (d) holds a current certificate of completion or VET statement of attainment on completion of the training and assessment components of a Chemical Accreditation training program assessed at Australian Qualifications Framework levels 3 and 4 and that has been issued by a Registered Training Organisation. To maintain currency of level 3 Chemical Accreditation a person must complete refresher training every 5 years but for level 4 Chemical Accreditation only initial accreditation is required for the duration of their employment, functioning as an Authorised Control Officer; and
- (e) is a person who:
 - (i) is a member of staff of an LLS, a Wild Dog Destruction Board, NSW DPI, NSW Office of Environment and Heritage (OEH), or other NSW public authority and is currently employed as part of the Public Service under Part 4 of the *Government Sector Employment Act 2013* to enable that NSW public authority to exercise its functions; or
 - (ii) has obtained approval to operate as an Authorised Control Officer from the Chair and CEO of the EPA prior to completing the training requirements in (c) above.

bait material means carrots diced into pieces approximately 2 centimetres cubed or oats (must be intact with husk).

LLS means the Local Land Services as constituted under the *Local Land Services Act 2013*.

NSW DPI means the NSW Department of Primary Industries.

public authority has the same meaning as under the *Pesticides Act 1999*.

landholder means an owner, occupier or manager of land.

property means an area of land whether privately owned land, a holding (as defined in the *Local Land Services Act 2013*), a Travelling Stock Reserve, State Forest, land reserved or acquired under the *National Parks and Wildlife Act 1974*, or a council reserve or public place within the meaning of the *Local Government Act 1993*.

Rabbit Haemorrhagic Disease is a calicivirus disease that is used to control wild populations of the European rabbit (*Oryctolagus cuniculus*) in Australia. Also known as Viral Haemorrhagic Disease (VHD), Rabbit Calicivirus, Rabbit Calicivirus Disease, RCD, RHD or RHDV.

Rabbit Haemorrhagic Disease Virus (Lyophilised) means the registered agricultural chemical product Rabbit Haemorrhagic Disease Virus (Lyophilised) (APVMA Product Registration Number 50675) that has an active constituent comprising approximately 3000 ID50 units of Rabbit Haemorrhagic Disease Virus (CAPM v351 strain) in a freeze-dried formulation.

Rabbit Haemorrhagic Disease Virus product is a freeze dried product that contains a strain of Rabbit Haemorrhagic Disease Virus that has been registered by the APVMA or approved for use under an APVMA permit that can be injected into a wild rabbit or mixed with bait material for the purpose of producing Rabbit Haemorrhagic Disease in wild populations of rabbits in NSW. It specifically includes the "Rabbit Haemorrhagic Disease Virus (Lyophilised)" and "RHDV K5" products and any such product that the APVMA registers or approves for use in NSW after the making of this Order.

Registered Training Organisation has the same meaning as under the *National Vocational Education and Training Act 2011* of the Commonwealth.

¹ This includes completion of the NSW Agriculture/ NSW DPI Vertebrate Pest Management course prior to the establishment of nationally recognised competencies.

RHDV K5 means the registered agricultural chemical product RHDV K5 (APVMA Product Registration Number 80188) that has an active constituent comprising approximately 30,000 ID50 units of Rabbit Haemorrhagic Disease Virus (08Q712 strain) in a freeze-dried formulation.

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

Persons authorised

9. (1) Only the following persons are authorised to use, subject to condition 10, a Rabbit Haemorrhagic Disease Virus product for the purpose of producing bait material and injecting wild rabbits: –

(a) Authorised Control Officers.

(2) Only the following persons are authorised to use, subject to condition 10, a Rabbit Haemorrhagic Disease Virus product mixed with bait material: –

(a) Authorised Control Officers; or

(b) Any person who is a landholder or their authorised agent or an employee of a NSW public authority (including contractors and sub-contractors) for the property² where the Rabbit Haemorrhagic Disease Virus product mixed with bait material is to be used and who holds as a minimum either:

(A) a current certificate of completion or statement of attainment on completion of the training and assessment components of a Chemical Accreditation training program assessed at Australian Qualifications Framework level 3, as required under Part 3 of the *Pesticides Regulation 2009* and that has been issued by a Registered Training Organisation in the previous 5 years in recognition of the person’s satisfactory achievement of level 3 training competencies covered by the program; or

(B) a current certificate of completion issued by the LLS for the Vertebrate Pesticide training course developed for the EPA, delivered by the LLS and that requires reaccreditation every 5 years.

Conditions on the use of Rabbit Haemorrhagic Disease and bait material

10. A person must only use Rabbit Haemorrhagic Disease Virus products in accordance with:

(a) directions on the approved label of the registered APVMA Rabbit Haemorrhagic Disease Virus product being used; or

(b) directions on an APVMA permit issued for the use of Rabbit Haemorrhagic Disease Virus products.

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.

This Order will remain in force until it is revoked.

BARRY BUFFIER AM

Chair & CEO

Environment Protection Authority

² Authorised Control Officers can only supply Rabbit Haemorrhagic Disease Virus product mixed with bait material to those properties that have been determined to be appropriate by NSW DPI for the initial release. After the initial release period, Rabbit Haemorrhagic Disease Virus bait material can be supplied to any landholder an Authorised Control Officer determines to be appropriate.