

**PESTICIDES ACT 1999 – PESTICIDE CONTROL ORDER UNDER SECTION 38**

**Name**

1. This Order is to be known as the Pesticide Control (Pindone Products) Order 2010.

**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 with the approval of the Minister for Climate Change and the Environment under Part 4 of the *Pesticides Act 1999*.

**Revocation of Previous Order**

4. Pesticide Control (Pindone Concentrate) Order 2002 is revoked.

**Objects**

5. The objects of this Order are to: –
  - (a) Authorise those persons described in clause 9 to use pindone concentrate and pindone bait products that are approved by the APVMA for use in NSW.
  - (b) Specify the manner in which pindone concentrate and bait products may be used in NSW.
  - (c) Revoke and replace Pesticide Control (Pindone Concentrate) Order 2002.

**Background**

6. A chemical product containing pindone that is a concentrate and which requires further mixing with carriers before it is ready to use as a bait has been declared to be a “restricted chemical product” as set out in 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 of this jurisdiction”.

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 certificate of competency or a pesticide control order.

Pindone bait products are not restricted pesticides but are included under this order as the Environment Protection Authority has determined to control the use of pindone bait products by authorising only the persons specified in clause 9(2) of this Order to use them.

**Application**

7. This Order authorises the use of pindone concentrate and bait products that are approved for use in NSW by the APVMA, subject to the conditions specified in this Order.

**Definitions**

8. In this Order –

**Agvet Code** means the Code applying because of section 5 of the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994*.

**ALDI Pindone 25 Liquid Concentrate** means the registered agricultural chemical product ALDI Pindone 25 Liquid Concentrate (APVMA Product Registration Number 52505) that has an active constituent comprising 25 grams of pindone present as the sodium salt per litre of product.

**Apply** a pesticide means apply or disperse the pesticide.

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

**Australian Qualifications Framework** has the same meaning as in section 7 of the *Higher Education Act 2001*.

**Authorised control officer** means a person who: –

- (a) holds a current certificate of completion or statement of attainment issued by DII or another Registered Training Organisation on completion of the training and assessment components of the Vertebrate Pest Management course<sup>1</sup> delivered by DII or a Registered Training Organisation; and
- (b) holds a current certificate of completion or statement of attainment issued, in the previous 5 years, by DII or another Registered Training Organisation approved by DII, on completion of the Vertebrate Pesticide Induction course delivered by DII or a Registered Training Organisation; and
- (c) holds 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 levels 3 and 4 and that has been issued by a Registered Training Organisation in the previous 5 years in recognition of the person's satisfactory achievement of the level 4 training competencies covered by the program; and
- (d) is a person who:
  - (i) is a member of staff of an LHPA, a Wild Dog Destruction Board, DII, DECCW, or other NSW public authority and is currently employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* by the Government Service to enable that NSW public authority to exercise its functions; or
  - (ii) has obtained approval to operate as an Authorised Control Officer from the Director-General of DECCW or the Director-General of DII, or their delegates, prior to completing the training requirements in (a) to (c) above.

**DECCW** means the Department of Environment, Climate Change and Water (NSW).

**DII** means the Department of Industry and Investment (NSW).

**Habitation** means a dwelling house or some other accommodation that is occupied by people and is located on private, crown or public land. It includes but is not limited to domestic dwelling houses, hospitals, shops, schools, pre-schools, kindergartens, childcare and community health care centres, factories, nursing homes, public halls, caravan parks and designated camping areas on private, crown or public land. It does not include any caravan, mobile home, vehicle, tent or other structure that is used for the purpose of camping outside a designated camping area. A designated camping area means any council regulated or privately operated camping and/or caravan area, or any area that is signposted as a camping area on land reserved under Part 4 of the *National Parks and Wildlife Act 1974*.

**Landholder** means an owner, occupier or manager of land.

**LHPA** means a Livestock Health and Pest Authority constituted under the *Rural Lands Protection Act 1998*.

**Pindone 25 Rabbit Bait Rodenticide** means the registered agricultural chemical product Pindone 25 Rabbit Bait Rodenticide (APVMA Product Registration Number 48263) that has an active constituent comprising 25 grams of pindone sodium per kilogram of product.

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<sup>1</sup> This includes completion of the NSW Agriculture / NSW Department of Primary Industries Vertebrate Pest Management course prior to the establishment of nationally recognised competencies.

**Pindone bait material** means any carrot (diced into pieces roughly 2 centimetres cubed or 5 grams in weight), or any oats, that have been treated with pindone in accordance with the NSW directions on an approved label of the products “Rabbait Aqueous Pindone Concentrate”, “ALDI Pindone 25 Liquid Concentrate” and “Pindone 25 Rabbit Bait Rodenticide” or any other pindone concentrate product that has been registered by the APVMA and approved for use in NSW and that can be used to control rabbits.

**Pindone bait product** means any non liquid formulation product that contains pindone as its only active constituent and that has been registered by the APVMA and approved for use in NSW. It also includes pindone bait material. It does not include the pindone concentrate products “Rabbait Aqueous Pindone Concentrate”, “ALDI Pindone 25 Liquid Concentrate” and “Pindone 25 Rabbit Bait Rodenticide” or any other pindone concentrate product.

**Pindone concentrate product** means any concentrate product that contains pindone as its only active constituent, has been registered by the APVMA and approved, by way of label instruction, for use in NSW. It specifically includes the products “Rabbait Aqueous Pindone Concentrate”, “ALDI Pindone 25 Liquid Concentrate” and “Pindone 25 Rabbit Bait Rodenticide”.

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

**Rabbait Aqueous Pindone Concentrate** means the registered agricultural chemical product Rabbait Aqueous Pindone Concentrate (APVMA Product Registration Number 48158) that has an active constituent comprising 25 grams of pindone present as the sodium salt per litre of product.

**Registered Training Organisation** has the same meaning as under the *Vocational Education and Training Act 2005*.

**Statement of Attainment** has the same meaning as in the *Vocational Education and Training Act 2005*.

**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 clause 10, pindone concentrate products:
- (a) Authorised Control Officers.
- (2) Only the following persons are authorised to use, subject to clause 10, pindone bait products:
- (a) Authorised Control Officers;
  - (b) A person applying the pindone bait products in connection with agricultural or forestry operations where that person applies the pindone products:
    - (i) by means of hand-held or hand-powered equipment;
    - (ii) on no more than 12 days in the previous 12 months and on no more than 4 days in the previous month; and
    - (iii) under the direct supervision of an Authorised Control Officer or a person who holds as a minimum the qualification specified under clause 9(2)(c)(iii)(A) of this Order; or
  - (c) Any person who:
    - (i) has obtained pindone bait product from an Authorised Control Officer or rural trader; and
    - (ii) is a landholder of the land on which the pindone bait product is to be used, or their authorised agent; and
    - (iii) 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 and that has been issued by a Registered Training Organisation in the

- previous 5 years in recognition of the person's satisfactory achievement of the level 3 training competencies covered by the program; or
- (B) a current certificate of completion issued by an LHPA, public authority or Registered Training Organisation in the previous 5 years on completion of the 1080 and pindone training course developed for DECCW and delivered by the LHPA, public authority or Registered Training Organisation.

### **Conditions on the use of Pindone Concentrate and Pindone Bait Products**

- 10 A person is authorised to use pindone concentrate products or pindone bait products under clause 9 above only if:
- (a) the approved label of the pindone concentrate product or pindone bait product authorises use of that product in NSW; and
  - (b) the use is in accordance with:
    - (i) the instructions on the approved label for the particular pindone concentrate or pindone bait product; or
    - (ii) an APVMA permit that has been granted for the use of the pindone concentrate or pindone bait product.

### **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.*

*FRANK SARTOR, MP*  
*Minister for Climate Change and the*  
*Environment*

*LISA CORBYN*  
*Director-General of the*  
*Department of Environment,*  
*Climate Change and Water (on behalf of the*  
*Environment Protection Authority)*