



Code of Conduct

*Accreditation Program for the Australian
Agricultural and Veterinary Chemical Industry*

*"Safety for people and the environment through
education and responsibility"*

Agsafe Limited

ACN 057 112 062
A Subsidiary of CropLife
Australia

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PREFACE

Agsafe Limited is a wholly owned, independent subsidiary of CropLife Australia Ltd. It has been formed to implement the Industry Accreditation Program in accordance with the provisions of Australian Competition and Consumer Commission (ACCC) Authorisation of 1994 and subsequent Determinations of 2002. The aim of this program is to assist the Industry in ensuring its future viability through improved safety management and co-regulation with government.

Under Agsafe Accreditation & Training, all Industry members have equal standing with regard to safety management and co-regulation initiatives.

The Code of Conduct outlines:

- The essential requirements for compliance with the Industry Accreditation Program (see Articles 3, 4, 8 and 9); and
- Ethical behaviours which are promoted and encouraged by Agsafe and its members (see Articles 1, 2, 5, 6 and 7).

Agsafe Accreditation & Training Objectives

1. To ensure that agricultural and veterinary chemicals, within the distribution chain, are stored, handled and transported in accordance with all statutory regulations and standards; and
2. To ensure that all individuals who sell or offer advice on agricultural and veterinary chemicals, from point of manufacture through to point of sale have received proper training in the principles of safe, effective and legal use of these products.

Agsafe Accreditation & Training Strategies

Agsafe Accreditation & Training's objectives will be achieved by:

- (a) Training and accreditation of all industry personnel who handle sell, recommend, advise or take responsibility for the safety of agricultural and veterinary chemicals; and
- (b) Accreditation of agricultural and veterinary chemical storage premises throughout the Industry.
- (c) Administration of inquiries regarding accreditation compliance in accordance with the ACCC Authorisation.

Scope of the Agsafe Accreditation & Training Program

The scope of Accreditation applies to businesses and individuals who sell, handle, transport, store and or take responsibility for the safety of agricultural and veterinary chemicals, as defined in the Agricultural and Veterinary Chemicals Code 1994 Section 4 (agricultural chemical product) and Section 5 (veterinary chemical product) and Section 7 and 8 of the Agricultural and Veterinary chemical code regulations which are:

- Schedule 5 Poisons;
- Schedule 6 Poisons;
- Schedule 7 Poisons;
- Hazardous Substances;
- Dangerous Goods;

and which are not:

- Dairy sanitisers or cleansers in outlets which do not supply any other agricultural or veterinary chemical products;
- Products exclusively for home use including those for companion animals when sold in outlets catering exclusively for home use;
- Nutritional pre-mixes and supplements for animals;
- Substance used in conjunction with an agricultural chemical product to identify areas treated with that product;

- Insect repellents for use on human beings;
- Substances listed in Schedule 3 of the Agricultural and Veterinary Chemical Regulations (examples are mould inhibitors used in paper and glue manufacture, fungicides, bactericide or deodorants in footwear or clothing, soil ameliorants if there is no claim to have effects as regulators of plant growth, invertebrate pest management lures based on food, cut flower preservatives, hay inoculants, predatory insects, industrial biocides);
- Swimming pool products.

The Accreditation & Training Program does not cover:

- Products used and sold by veterinarians and where these products in the supply chain are being wholesaled to Veterinary practices.
- Veterinarians and veterinary wholesalers where the quantity of non-exempt agricultural and veterinary chemicals does not exceed 500 litre or 500 kg.

Further details of the coverage of the Accreditation & Training Program can be obtained from the Agsafe Web site on www.agsafe.com.au or on the ACCC public register.

Agsafe Membership

Any person who, at the date of application for Membership:

- holds a current Premises Accreditation Certificate; or
- is involved in the manufacture of agricultural and veterinary chemical products; or
- is involved in the sale of agricultural and veterinary chemical products; or
- is involved in the distribution of agricultural and veterinary chemical products; and
- who is in accordance with and subscribes to the objects of the Company; and
- if an individual, is a natural person over the age of 18,

may apply for **Business Membership** in accordance with the Company By-Laws.

Any individual who, at the date of application for Membership is a natural person over the age of 18 years and:

- holds a current Personnel Accreditation Certificate; or
- is a registered course provider; or
- is interested in the agricultural and veterinary chemicals industry; and
- subscribes to the objects of the company,

may apply for **Individual Membership** of the Company in accordance with its By-Laws.

TEXT OF THE CODE

Article 1: Objectives of the Code

- 1.1 The objectives of this Code are to set out responsibilities affecting the storage, distribution, marketing and provision of advice to the agricultural and veterinary chemical products industry.
- 1.2 The Code describes the shared responsibility of many segments of society, including governments, the agricultural and veterinary marketing sector and the distribution chain.
- 1.3 The Code addresses the need for co-operative effort between governments and the agricultural and veterinary chemical industry (including the distribution chain and providers of advice) to promote practices which ensure efficient and safe use of agricultural and veterinary chemical products.
- 1.4 The Standards set forth by this Code:
 - 1.4.1 encourage responsible and generally acceptable trade practices;
 - 1.4.2 promote the safety, management and regulatory responsibility in the storage, transport and handling of agricultural and veterinary chemicals;
 - 1.4.3 promote the effective use of agricultural and veterinary chemical products for the improvement of agricultural production and of human, animal and crop plant health within a framework of environmental protection;
 - 1.4.4 are designed to be used, within the context of Australian Legislation, Regulations, Standards, Codes of Practice and Codes of Conduct, whereby government authorities, agricultural and veterinary marketers, distributors, providers of advice, those involved in trade of any kind and any individuals concerned may judge whether their proposed actions and the actions of others constitute acceptable practices;
- 1.5 The Code specifically defines the obligations of certain persons and/or organisations to meet the ethics and behaviours expected to meet the requirements and maintenance of Agsafe Accreditation (refer Agsafe's objectives, Page 4), pursuant to Authorisations granted by the ACCC.

Article 2: Definitions

Agsafe: is a wholly owned independent subsidiary of CropLife Australia Ltd (formerly AVCA Ltd) formed to implement the Industry Accreditation Program in accordance with the provisions of prescribed Australian Competition and Consumer Commission Authorisations and the Agsafe Code of Conduct.

Agsafe Accreditation: an approval issued pursuant to meeting prescribed standards for personnel or premises accreditation.

Agricultural chemical product

- (1) Subject to subsections (2) and (3), an agricultural chemical product is a substance or mixture of substances that is represented, imported, manufactured, supplied or used as a means of directly or indirectly:
 - (a) destroying, stupefying, repelling, inhibiting the feeding of, or preventing infestation by or attacks of, any pest in relation to a plant, a place or a thing; or
 - (b) destroying a plant; or
 - (c) modifying the physiology of a plant or pest so as to alter its natural development, productivity, quality or reproductive capacity; or
 - (d) modifying an effect of another agricultural chemical; or
 - (e) attracting a pest for the purpose of destroying it.
- (2) An agricultural chemical includes a substance or mixture of substances declared by the regulations to be an agricultural chemical product.

- (3) An agricultural chemical product does not include:
 - (a) a veterinary chemical product; or
 - (b) a substance or mixture of substances declared by the regulations not to be an agricultural chemical product.

Active Constituent: the biologically active part of the agricultural or veterinary chemical product present in the formulation.

Co-regulation: a process whereby industry and government co-operate to administer prescribed legislation, requirements or standards.

Dangerous Goods: the substances and items classified as such in the Australian Code for the Transport of Dangerous Goods by Road and Rail.

Distribution: the process by which agricultural and veterinary chemical products are supplied through channels to and including the retail market for final sale and/or supply to end users.

Distributor: person, persons or organisation(s) who conduct the process of distribution.

Environment: surroundings, including water, air, soil and their interrelationships as well as all relationships between them and any living organisms.

Formulation: the combination of various ingredients designed to render the product useful and effective for the intended purpose; the form of the agricultural or veterinary chemical product as registered and presented for sale and use.

Hazardous Substance: (identified by a generic statement on the MSDS) are classified by the manufacturer or importer in accordance with the *National Occupational Health and Safety Commission's Approved Criteria for Classifying Hazardous Substances*. Hazardous Substances are substances that have the potential to harm the health of persons in the workplace.

Manufacturer: a corporation or other entity in the public or private sector or any individual, engaged in the business or function (whether directly or through an agent or through an entity controlled by or under contract to it) of manufacturing an agricultural or veterinary chemical active constituent or preparing its formulation or product.

Marketing: the overall process of agricultural or veterinary chemical product promotion, including advertising, product public relations and information services as well as distributing and selling in retail markets.

Registered Product: a product registered under the Agricultural and Veterinary Chemicals Act (1994) and Regulations (1995).

Registered Label: an agricultural or veterinary chemical product label registered under the Agricultural and Veterinary Chemicals Act (1994) and Regulations (1995).

Scheduled Poisons: (identified by the signal heading on the label) are chemicals which because of their toxicological properties, use patterns and potential hazard if misused, are classified according to the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP).

Use Pattern: the combination of all factors involved in the use of an agricultural or veterinary chemical product, including the concentration of the active constituent in the preparation being applied, the rate of application, time of treatment, number of treatments, additives recommended and other directions which determine total quantity applied, timing of treatment and withholding period.

Veterinary chemical product

- (1) Subject to subsections (2) and (3), a veterinary chemical product is a substance or mixture of substances that is represented as being suitable for, or is manufactured, supplied or used for, administration or application to an animal by any means, or consumption by an animal, as a way of directly or indirectly:
 - (a) preventing, diagnosing, curing or alleviating a disease or condition in the animal or an infestation of the animal by a pest; or
 - (b) curing or alleviating an injury suffered by the animal; or
 - (c) modifying the physiology of the animal:

- i. (veterinary) so as to alter its natural development, productivity, quality or reproductive capacity; or
 - ii. so as to make it more manageable; or
 - (d) modifying the effect of another veterinary chemical product.
- (2) A veterinary chemical includes:
 - (a) a vitamin, a mineral substance, or an additive, if, an only if, the vitamin, substance or additive is used for a purpose mentioned in paragraph (2)(a), (b), (c) or (d); and
 - (b) a substance or mixture of substances declared by the regulations to be a veterinary chemical product.
- (3) A veterinary chemical product does not include:
 - (a) a substance or mixture of substances that is:
 - i. prepared by a pharmacist in accordance with the instructions of a veterinary surgeon; or
 - ii. prepared by a veterinary surgeon; in the course of the practice, by the person preparing the substance or mixture of substances, of his or her profession as permitted by or under a law of this jurisdiction; or
 - (b) a substance or mixture of substances declared by the regulations not to be a veterinary chemical product.

Withholding Period: the minimum recommended interval that should lapse between the last application of an agricultural or veterinary chemical product to any crop, pasture or animal; and the harvesting, grazing, cutting or slaughtering thereof, or the collection of milk and eggs for human consumption, or collection of fibre, as the case may be.

Article 3: Agsafe Accreditation Requirements

Agsafe Accreditation is an industry co-regulation program introduced by the Agricultural and Veterinary Chemicals Association, now CropLife Australia Ltd and administered by an independent subsidiary, Agsafe, to establish and maintain uniformly high safety standards within the industry.

Agsafe Accreditation applies to the storage, handling, transport, sale and provision of advice with regard to agricultural and veterinary chemical products from the point of manufacture through to the point of sale to the end-user.

Both storage premises and personnel are covered by Agsafe Accreditation.

Article 4: Storage, Handling, Transport and Distribution

All persons and organisations involved in the storage, handling, transport and distribution of agricultural and veterinary chemical products shall:

- 4.1** adhere to all Acts, Regulations, Standards, Codes and statutory requirements pertaining to the storage, handling, transport and distribution of agricultural and veterinary chemical products;
- 4.2** ensure that the requirements for Personnel Accreditation and Premises Accreditation are maintained for all staff and premises within their control;
- 4.3** only use contractors or sub-contractors who meet Agsafe Accreditation requirements, where applicable.

Article 5: Marketing

Manufacturers, Distributors, Retailers or any other person conducting the marketing of agricultural or veterinary chemical products should ensure that:

- 5.1 products made available for sale are appropriately registered under the Agricultural and Veterinary Chemicals Act (1994) and Regulations (1995) and/or other legislation, as required;
- 5.2 all statements used in advertising are capable of technical substantiation;
- 5.3 advertisements do not contain any statement or visual presentation which, directly or by implication, omission, ambiguity or exaggerated claim, is likely to mislead the buyer, in particular with regard to the safety of the product, its nature, composition, or suitability for use or official recognition, approval or registration;
- 5.4 advertising does not encourage uses other than those specified on the registered product label;
- 5.5 advertisements do not misuse research results or quotations from technical and scientific literature; and scientific jargon and irrelevances are not used to make claims appear to have a scientific basis they do not possess;
- 5.6 claims as to safety, including statements such as 'safe', 'non-poisonous', 'harmless', 'non-toxic' are not made, with or without a qualifying phrase such as 'when used as directed';
- 5.7 misleading statements are not made concerning the effectiveness of a product;
- 5.8 no guarantees or implied guarantees - eg. 'more profits with...', 'guarantees high yields' - are given unless definite evidence to substantiate such claims is available;
- 5.9 advertisements do not contain any visual representation of potentially dangerous practices, such as mixing or application without sufficient protective clothing, use near food or use by or near children;
- 5.10 technical literature provides adequate information on correct practices, including the observance of registered application rates, frequency of application and withholding periods;
- 5.11 false, distorted or misleading comparisons with other agricultural or veterinary chemical products are not made. Negative comparisons in advertising are discouraged but any comparisons must be factual and capable of substantiation;
- 5.12 advertisements encourage purchasers and users to read the registered label carefully;
- 5.13 advertisements, promotional materials and/or technical literature, wherever feasible, are consistent with recognised Resistance Management programs or policies (eg Department of Agriculture and CropLife Australia policy documents on these matters).

Article 6: Provision of Advice or Recommendations

Any person, organisation or other entity providing advice or recommendations with regard to agricultural and veterinary chemical products should ensure that:

- 6.1 all persons who are in a position of providing advice and/or recommendations are adequately trained to provide advice consistent with label recommendations;
- 6.2 false or misleading comparisons with other agricultural or veterinary chemical products are not made;
- 6.3 misleading statements are not made concerning the effectiveness, safety or other features or characteristics of product(s);
- 6.4 advice or recommendations are accompanied with appropriate advice on warning statements or other limitations or cautions detailed on the registered label;

- 6.5 purchasers, users or other recipients of advice should be encouraged to carefully read the registered agricultural or veterinary chemical product label;
- 6.6 advice or recommendations do not misuse research or quotations from technical or scientific literature; and scientific jargon and irrelevances are not used to make claims appear to have a scientific basis they do not possess;
- 6.7 advice and/or recommendations are consistent, wherever feasible, with recognised Resistance Management programs or policies, as appropriate (eg CropLife Australia or Department of Agriculture documents on these issues).

Article 7: Monitoring the Observance of the Code

- 7.1 The Code should be brought to the attention of all concerned in the manufacture, marketing, sale, advice and use of agricultural and veterinary chemical products; and in the control of such activities so that governments, industry or individuals understand their responsibilities in working together to ensure that the objectives of the Code are achieved.
- 7.2 The Code should be considered a dynamic text which will be updated as required, taking into account technical, economic and social progress.

Article 8: Sanctions

- 8.1 Trading sanctions may apply to those aspects of this code which apply to the Industry Accreditation Program.
- 8.2 If any business location requiring accreditation of its personnel and/or premises does not comply with the accreditation program and/or those sections of this Code of Conduct which apply to the accreditation program then its accreditation status will be denied, suspended or withdrawn if the non-compliance is not corrected.
- 8.3 If such a business location is found to be in breach of accreditation requirements and its accreditation status is denied or withdrawn, trading sanctions would then be applied and (where applicable) there would be simultaneous loss of Agsafe and/or CropLife Australia membership. (Refer also to CropLife Australia Code of Conduct regarding CropLife Australia membership.)
- 8.4 The procedures outlined below in Articles 8.4 to 8.12 will be followed before imposing sanctions.
- 8.5 Industry responsibility for regulation (or co-regulation) means that it is the responsibility of industry members to inform Agsafe, in writing, of any individuals or organisations that do not comply with the requirements of accreditation.
- 8.6 Agsafe will write to the organisation involved seeking a written undertaking to both correct the breach and to ensure its non repetition. A response, within thirty (30) days, to correct the breach, will be required.
- 8.7 In the absence of a satisfactory reason or response from the first warning, Agsafe will request the organisation to show cause why it should not be subject to denial or suspension of its accreditation until the breach is corrected – a response is required within fourteen (14) days.
- 8.8 In the absence of a satisfactory reason or response from the first warning, Agsafe will request the organisation to show cause why it should not be subject to denial or suspension of its accreditation until the breach is corrected – a response is required within three (3) days.
- 8.9 In the absence of a satisfactory reason why accreditation should not be denied or suspended, and if the breach continues, denial or suspension will be introduced, subject to the appeal provisions (see below).
- 8.10 In the event of either a further breach (where accreditation had previously been granted) or a continuation of an existing breach, the organisation would be advised that, unless compliance was immediately rectified, its accreditation would be withdrawn.

- 8.11** If the organisation is also a member of CropLife Australia, denial or withdrawal of premises accreditation would simultaneously result in loss of CropLife Australia membership. (Refer CropLife Australia Code of Conduct for loss of CropLife Australia membership, where relevant.)
- 8.12** Agsafe is required to inform its members and all accredited organisations of such denial or withdrawal of accreditation status or membership status within seven (7) days of denial or withdrawal.
- 8.13** Agsafe members who continue to supply or to purchase from business locations where sanctions have been applied will, (and subject to any appeal rights as outlined below) be suspended from Agsafe and, if the breach continues will have their membership terminated and their premises accreditation removed, even if they satisfy the normal accreditation requirements. (Refer CropLife Australia Code of Conduct for similar conditions regarding CropLife Australia members.)
- 8.14** Should a business location to which sanctions have been applied at some later date correct a breach and hence comply with the requirements of accreditation, Agsafe will inform all interested or affected organisations of the reinstatement of accreditation and the consequent lifting of trading sanctions.

Article 9: Appeals

- 9.1** Any Agsafe member, accredited person, accredited premises or person or premises seeking accreditation, when advised in writing of denial, suspension or withdrawal of membership or accredited status may appeal against this determination within fourteen days of receipt of such notification.
- 9.2** Any organisation or individual (regardless of its accreditation or membership status) may take action through the appeals process if Agsafe fails to act in dealing with non-compliance with either the Code of Conduct or the conditions of the accreditation program by any accredited organisation, accredited person or Agsafe member. Agsafe is to provide evidence that it has dealt with the issue of non-compliance within fourteen (14) days.
- 9.3** The appeal is to be lodged with the General Manager of Agsafe who shall immediately inform members of the Agsafe Accreditation Advisory Committee of the existence and nature of the appeal. The Accreditation Committee and the General Manager shall seek a suitable resolution to the problem.
- 9.4** If a solution acceptable to both parties is not found within fourteen (14) days of receipt of the appeal, the appeal will be referred to the Agsafe Board of Directors.
- 9.5** The Directors of Agsafe shall be obliged to seek a suitable resolution to the problem. If a solution suitable to both parties is not found within fourteen (14) days, the appeal will be lodged with the Australian Commercial Disputes Centre (ACDC). ACDC was selected, in consultation with CropLife Australia and the National Farmers Federation as the most appropriate mediation/conciliation body to co-ordinate Agsafe's selection of an Industry Conciliator.
- 9.6** ACDC will provide a panel of suitably qualified conciliators from whom the parties involved in the appeal may choose a Conciliator to deal with the matter. Such persons should be of recognised integrity and stature who will command respect from all sectors of the industry.
- During the term of office, the Conciliator shall be neither an officer, director, employee nor hold any pecuniary interest in the farm chemical industry that could conflict with the proper performance of his or her functions. The Conciliator shall be required to disclose any such interest before appointment and to disclose any subsequent acquisitions to the Chairman of Agsafe.
- 9.7** The Conciliator will determine the manner in which the appeal will be considered, for example:
- hearing in the capital city of the State in which the dispute occurs;

- on-site inspection of storage premises;
- telephone conferences; or
- exchange of submissions, documents and information by facsimile and mail.

9.8 Subject to the conditions of the accreditation program, the Conciliator shall determine his own procedures. Parties shall not be allowed legal representation before the Conciliator. The complainant and the other party to the dispute may appear personally or be represented by an employee. The parties will be required to agree that:

- everything which occurs before the Conciliator shall be in confidence and in closed session;
- the discussions are without prejudice; and
- no documents created for the purpose of the conciliation process may be called as evidence in later litigation by either party.

9.9 The Conciliator shall:

- act fairly in good faith, without bias and shall treat matters brought before him/her in confidence;
- give each party the opportunity of adequately stating its case;
- ensure that relevant documents used by the Conciliator are disclosed to the parties to the dispute, subject to their acquiescence; and
- make appropriate recommendations for resolution of the disputes between the parties.

The parties shall report back to the Conciliator on actions taken on the Conciliator's recommendations within a period of time determined by the Conciliator.

the Conciliator shall deal with matters referred as expeditiously as possible but not later than fourteen (14) days after the matter has been referred.

9.10 The Conciliator's role is to facilitate constructive discussion between the parties on the causes of a dispute and, if possible, to assist the parties in reaching agreement on a mutually acceptable solution. In the event a mutually acceptable solution to the dispute not being found, the Conciliator shall resolve whether there has, or has not, been breach of the conditions of accreditation and whether accreditation status should be restored or withheld.

9.11 The cost of an appeal which requires the use of a Conciliator shall be shared equally by the parties involved unless the appeal is resolved in favour of the appellant's case. In such cases, Agsafe shall pay all costs of the conciliation process.

REFERENCES

Personnel Accreditation and Training Manual 11th Edition (2009), Agsafe Limited

CropLife Australia Code of Conduct (February 2006), CropLife Australia Ltd.

The Industry Code of Practice for the Safe Transport, Handling & Storage of Packaged Agricultural and Veterinary Chemicals (2008) 3rd Edition, Agsafe Limited

International Code of Conduct on the Distribution and Use of Pesticides (2002), Food and Agriculture Organisation of the United Nations (FAO)

Australian Competition and Consumer Commission - Determination of 6 June 2007, in response to renewal of Authorisation A91027-A91030, Agsafe Limited



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