

Keeping it Green



April 2009



AUSTRALIAN GOLF ENVIRONMENTAL INITIATIVE NEWSLETTER

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Keeping it Green Editorial Enquiries

If you have any editorial or photos you would like to submit for publication in Keeping it Green, please contact AGCSA environmental agronomist John Geary jgeary@agcsa.com.au or phone (03) 9548 8600

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AGCSA, E-PAR HOST EMS WORKSHOPS

March saw the AGCSA in conjunction with e-par conduct a number of training workshops aimed at golf course superintendents and their staff who currently use the environmental management system (EMS) at their golf course.

The e-par EMS, which follows the quality standard 'Plan, Do, Check, Act' and includes all the elements of ISO 14001 Standard, is aimed at continually improving environmental performance while identifying and controlling the major environmental issues of concern at your facility.

The workshops highlighted a number of interesting issues, not the least being that some golf clubs have been able to gain an **\$1,800 rebate** on their insurance premiums simply by providing their insurer proof that they have initiated an environmental management plan.

Given the interest in the e-par workshops we thought it timely to devote this issue of **Keeping it Green** to recent environmental news and legislation that is scheduled to be introduced shortly.



Indooroopilly Golf Club was one of five venues which hosted e-par workshops

NSW will see a number of changes over the coming months to acts such as the Contaminated Land Management Amendment Act, 2008 and to NSW pesticide regulations. Terry Muir has outlined the potential changes and how these will impact on those operating in the turf industry.

Terry has also outlined how being part of the Australian Golf Environmental Initiative can reduce the liability of clubs in the event of an environmental incident in Queensland.

Don't forget, **Keeping it Green** encourages superintendents and their staff to contribute to the newsletter. So, if your club has a project of interest, contact John Geary on (03) 9548 8600 or email jgeary@agcsa.com.au

PRINCIPAL PARTNERS

Bayer Environmental Science



AUSTRALIAN GOLF ENVIRONMENT INITIATIVE AND E-PAR

by Terry Muir

We have been asked recently to show how being a part of the Australian Golf Environment Initiative would help reduce the liability faced by a club in the event of an environmental incident in Queensland.

Attached are excerpts from the Queensland Environment Management Enforcement Guidelines that relate to using an environment management system (e-par) as part of an environmental plan. I have answered some areas in red font to show how an EMS can help a club when faced with the enforcement guidelines.

To view the full Queensland Environment Management Enforcement Guidelines document click on the following link http://www.epa.qld.gov.au/publications/p00092aa.pdf/Environment_management_guidelines_enforcement_guidelines.pdf

3.3.3 Liability of Employees

Employees cannot use as a defence the fact that they were acting under orders from a supervisor. Acting under orders might be a mitigating factor in sentencing.

The guiding principle in deciding whether to charge an employee is the degree of culpability or blame involved. Factors to be considered in assessing the degree of culpability include:

- Whether the employee knew or should have known that the activity was probably illegal;
- Whether the employee feared the loss of livelihood if they did not continue acting in breach of the legislation;
- The seniority of the employee and the scope of the employee's employment duties;
- Whether, having regard to the employee's seniority and employment duties, the employee had taken reasonable steps to draw to the attention of the employer or any other relevant person the impropriety of the practice; This could apply where a superintendent has drawn attention to the employer via the e-par risk assessment, the action plans and the compliance checklist, audits or management reviews, that risk and non-compliance exists. This documentation would show some form of reasonable steps have been taken by the superintendent.
- Whether the employee has taken reasonable steps to endeavour to mitigate or prevent any harm (if it was in the employee's power to do so). Completing an EMS and training staff could be deemed as reasonable steps to mitigate and prevent harm, alongside Hole 13 (Emergency Response Procedures) whereby you have a process to deal with an emergency and its reporting and recording.

- Where employees in good faith and without negligence endeavour to follow a specific environmental management program, environmental protection order, or licence condition, and an offence occurs, they should not be prosecuted. e-par is a specific environmental plan or EMS backed by Golf Australia, the Australian PGA, GMA and the AGCSA, it would be fair to say with this backing, it is industry best practice for golf.

3.3.4 Liability of Directors and Executive Officers

When deciding whether to prosecute a person under a provision that creates executive officer liability, the crucial issue will be whether the person had actual control or influence over the conduct of a corporation.

As a general policy, the EPA will institute proceedings under the executive officer liability provisions only where evidence links the person with the corporation's illegal activity. That linkage needs to show intent to cause environmental harm, that the action or omission was of a negligent nature, there was a failure to monitor or periodically review the corporate programmes or there was an intent to defraud. The law normally provides defences to executive officer liability:

- The executive officer was not in a position to influence the corporation's conduct; and
 - The officer took all reasonable steps to ensure that the corporation complied with the law.
- The EPA may take the view that reasonable steps were taken if executive officers ensured that:
- The corporation had a functioning environmental management system in place; e-par.
 - All staff were aware of the system; e-par Hole 8 (Competence Training and Awareness - training records and induction booklet).
 - The system had been effectively implemented throughout the corporation; e-par Hole 2 (Environmental Policy - policy and senior management support, action plans, SOPs, checklists, training records).
 - The system was under regular review and was amended when necessary. Hole 17 (Audit), Hole 14 (Monitoring and Measurement - compliance checklists), Hole 18 (Management Review).
 - The better the corporation's documentation of these factors, the stronger the executive officer/s. defence. e-par is and ISO 14001 – 2004 is the strongest possible form of environmental management documentation. It is world's best practice because it is measured against the ISO 14001 standard which you will find is exactly the same.

NSW DRAFT PESTICIDES REGULATION 2009

The Pesticides Regulation 1995 (NSW) is due for automatic repeal on 1 September 2009. The NSW Department of Environment and Climate Change (DECC) is proposing that it be replaced by the Pesticides Regulation 2009.

DECC is not seeking to change the legal intent of the current regulation, rather it is proposing only minor changes to make the new regulation more effective and efficient. These changes are summarised in the following [frequently asked questions PDF](#) which can be downloaded.

The [proposed Regulation and Regulatory Impact Statement](#) can also be downloaded by or you can call the DECC Environment Line on 131 555 for a printed copy.

Written submissions will be accepted up to the close of business on Friday 17 April 2009 and should be sent to:

Manager, Chemicals Policy Department of Environment and Climate Change NSW
PO Box A290
Sydney South
NSW 1232
Email: pesticides.regulation@environment.nsw.gov.au

A new [notice of approved units of competency](#) is also open for public comment until Friday 17 April 2009. For more information, visit DECC's [training page](#).

UNDERGROUND PETROLEUM STORAGE SYSTEMS

The NSW Department of Environment and Climate Change has invited planning consent authorities and stakeholders to comment on the practicality of draft guidelines for Development Control Plans which include underground petroleum storage systems (UPSS). Comments on the draft guidelines were invited up until Friday 27 February 2009.

Underground petroleum storage systems have the potential to leak, leading to expensive clean-up bills and damage to the environment. Persistent leaks can have a major impact on neighbouring properties and impose significant costs on the tank owner and broader community.

A new regulation requires owners and operators to regularly check for leaks in the fuel tanks and pipes used to store and handle petroleum products. They also now need to meet minimum standards in their day-to-day environmental management of these storage systems.

The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 was gazetted on 28 March 2008 ([NSW Gazette](#)) and

commenced on 1 June 2008. The regulation aims to:

- Introduce preventative measures to reduce harm to the environment and human health;
- Save money and minimise time-consuming remediation by preventing leaks or dealing with them early;
- Ensure industry best practice is followed; and
- Ensure appropriate validation and decommissioning of systems and sites.

Under the regulation it is against the law to continually allow or ignore contamination resulting from a leaking or faulty UPSS.

The person responsible for a UPSS (usually the owner/operator) will be required to have in place:

- A system for detecting and monitoring leaks;
- Groundwater monitoring wells at sensitive locations and a programme to test them;
- An [Environment Protection Plan](#) for the facility; and
- Systems in place for record keeping, reporting of leaks and notifying the local council when a UPSS is decommissioned.

CLUBS ENCOURAGED TO REGISTER WITH CHEMCLEAR

ChemClear provides a collection and disposal service for agricultural and veterinary chemicals for users of these products across Australia.

Golf courses use pesticides and herbicides regularly. Please check your stores for unwanted or accumulated chemical products and register any surplus or unwanted chemicals with the ChemClear programme on www.chemclear.com.au

or on 1800 008 182.

Inventory forms are downloadable from the website or available on 02 62304799. For e-par users go to the Golf Bag in the e-par website to download the drafted ChemClear SOP.

The more clubs that register for the program the better the service will become.

NSW CONTAMINATED LAND MANAGEMENT AMENDMENT ACT 2008

The Contaminated Land Management Amendment Act 2008 (Amending Act) received assent on 10 December 2008 following an extensive period of consultation. It can be accessed on the NSW Legislation website by clicking [here](#).

The purpose of the amendments is to allow sites to be cleaned up more efficiently while reinforcing the “polluter pays” principle. It will:

- Introduce a new power to enable the EPA to require certain persons to carry out a preliminary investigation of site contamination;
- Amalgamate the investigation and remediation stages into a single “management” stage that can cover investigation, remediation or both;
- Remove the concept of “significant risk of harm”;
- Enable the EPA to declare land to be “significantly contaminated land” if it has reason to believe that land is contaminated and the contamination is significant enough to warrant regulation;
- Enable management orders to be issued to any one or more persons who are responsible for the contamination of land;
- Enable the EPA to issue a management order or to withdraw its approval of a voluntary management proposal that has not delivered a satisfactory outcome in managing contamination;
- Enable the EPA to recover certain administrative costs associated with preliminary investigation orders and voluntary management proposals;
- Provide a more objective basis for the duty to notify the EPA of contaminated land based on criteria to be listed in new guidelines;
- Require land owners and persons carrying out certain activities to notify the EPA of contamination when it becomes aware, or ought reasonably to have become aware, of that contamination;
- Clarify that the EPA and local authorities can disclose site audit statements and reports that relate to statutory site audits;
- Introduce a new power for the Minister to enter into offset arrangements where the person responsible for the contamination can mitigate the impact of contamination if remediation is not feasible within a reasonable time; and
- Expand the penalty for providing false and misleading information to the EPA.

The EPA is currently developing new guidelines for the duty to notify the EPA of contaminated land. A draft copy of these guidelines will be available for comment in 2009.

Commencement

The majority of the provisions in the Amending Act will commence on proclamation which is anticipated to be 1 June 2009. Some minor amendments started on assent of the Contaminated Land Management Bill on 10 December 2008, including:

- The introduction of a general offence for providing false and misleading information;
- The removal of the “no knowledge” defence for directors and other persons concerned in the management of a corporation that has contravened the Act or the regulations;
- An amendment to enable the DECC to make certain minor amendments to guidelines without carrying out public consultation; and
- Changes to provisions relating to penalty notices.

Summary

The review highlighted areas which will provide greater clarity, as well as simplify and streamline regulatory procedures under the Contaminated Land Management Act. Briefly, the amendments include:

- New powers to order a preliminary investigation to assist the EPA with decision making;
- Streamline the two distinct investigation and remediation stages;
- Clarification that more than one individual may be the persons responsible for contamination;
- New regulation-making powers for pollution “off-set” programmes (introduction of any off-set program will be the subject of a new regulation and further public consultation);
- Clarification that the EPA can approve a voluntary proposal subject to conditions;
- Ensuring the EPA can issue notices under the Protection of the Environment Operations Act (POEO Act) in connection with the regulation of a contaminated site under the Contaminated Land Management Act;
- New terminology for sites regulated under the Contaminated Land Management Act;
- Providing a set of clearer, more objective criteria for the triggers to report contamination to the EPA;
- Enabling EPA or a local authority to disclose information with regard to statutory site audits;
- Creating an offence of providing false or misleading information; and
- Making other minor housekeeping amendments.

EPA VICTORIA INVESTIGATES YARRA RIVER DIESEL SPILL

On 16 February 2009 the EPA Victoria issued a statement that it was investigating a diesel spill which occurred on the Yarra River in Melbourne. The spill was visible for two kilometres from the Swan Street Bridge, near the Tennis Centre, down to Spencer Street and spread over the width of the Yarra.

Director of environmental services Bruce Dawson said the EPA was investigating possible sources of the discharge of about 500 litres of diesel including a motor vehicle related incident. The investigation has included inspection of the drainage system and the collection of samples.

EPA Victoria deployed one of its vessels to assist in the investigation. An absorbent boom was placed at the drain outlet to the Yarra River. A second boom was placed downstream at Spencer Street.

EPA Victoria is continuing its investigation on the spill in collaboration with MFB, Melbourne Water and Parks Victoria

Penalties for pollution offences under the Victorian Environment Protection Act includes maximum financial penalties of up to \$1 million and jail terms for individuals of up to seven years.

DRAFT VIC ENVIRONMENT PROTECTION REGULATIONS

EPA Victoria has released its [draft Environment Protection \(Industrial Waste Resource\) Regulations 2009](#) for public comment.

The regulations aim to “provide practical assistance to industry as it works to avoid generating waste and maximise

the reuse and recycling of industrial waste resources”.

EPA Victoria has also made available a [Regulatory impact statement](#) and [Frequently Asked Questions](#) (both dated March 2009) in relation to the regulations. The Regulations are intended to take effect from 1 July 2009.

DRUMMUSTER COLLECTION DAY AT KEYSBOROUGH GC

Keyborough Golf Club in Melbourne will be hosting a drumMuster collection day on Tuesday 14 April.

All Melbourne/Victorian superintendents are encouraged to bring in their empty chemical drums for disposal at the club's maintenance facility (which can be accessed off

Springvale Road) between 9am and 2pm on the day (please note that all containers must be triple-rinsed).

For those that can't get to the club that day, the drumMuster bin will be at Keysborough for the remainder of the week. For more information contact superintendent Brett Chivers on 0407 046 311.

OFF-LABEL PESTICIDE USE IN VICTORIA

The use of off-label pesticides in Victoria always provides an enthusiastic debate whether you can or whether you should. **Keeping it Green** hopes the following will help superintendents and golf clubs make an informed decision about whether to use off label pesticides.

In Victoria, a different approach to the management of AGVET chemicals is taken. No permit is required for off label use unless it has been specifically prohibited on the label, if the rate is increased than that written on the label, or shorter intervals between use than those specified on the label.

In contrast to the Victorian legislation, the starting point in other states and territories is that permits are required for any off-label use of a registered AGVET chemical. In

Victoria, the pesticide user is effectively responsible for undertaking a risk assessment of any proposed off-label use of a pesticide and is also responsible (liable) for any adverse outcomes.

The effect, and possibly the intent, of the Victorian AGVET legislation is to minimise the potential liability to the State Government and personnel of any adverse outcomes arising from use of AGVET chemicals.

What does this mean for golf course superintendents and turf managers? If you use off-label pesticide then you must conduct a risk assessment for each off-label product you use. You must also understand that by using off-label pesticide you are taking the liability away from the Government and potentially placing it onto yourself and your assets. Is it really worth the risk?

E-PAR DEVELOPS NEW SERVICE - TRAINING FOR AN ENVIRONMENTAL EVENT

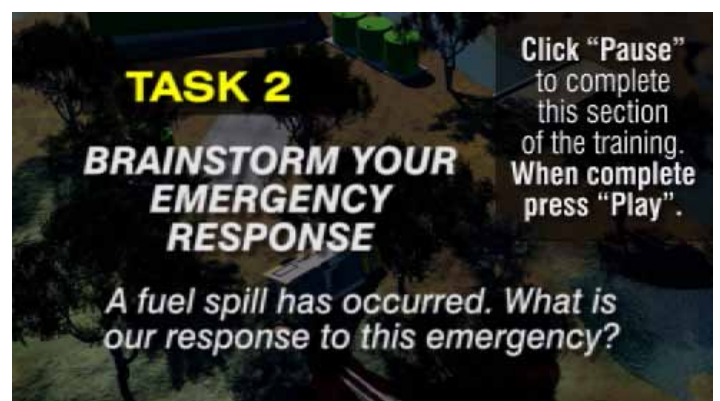
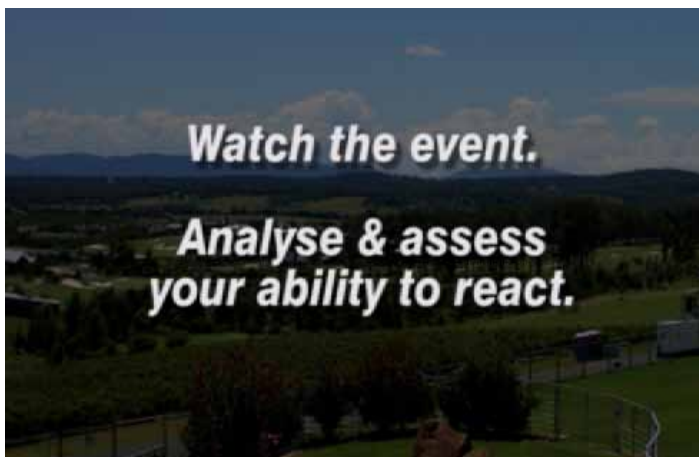
The new e-par Training for an Environmental Event (TEE) animated training modules are currently being developed.

The TEE modules show an animated environmental incident on the course followed by a viewer/s brainstorm session. E-par can trigger the events to occur online through the e-par golf course and the superintendent and his staff simply watch the video incident occur and then discuss the points highlighted – could it happen here, if it did what would we do.

E-par is going to release one of these modules every two months and the first is a simulated fuel spill. Below you will see some screen images from the animation.

We are going to make it part of e-par for e-par members with the fee structure being finalised by an online survey to e-par members. The next one is a simulated chemical spill due to an overflow. We will roll them out every two months so each e-par member club will get six training sessions a year.

For more information email dianne@epar.com.au or telephone 02 4961 4060.



AGEF SUPPORTER PACKAGES

The Australian Golf Environment Foundation (AGEF) has a range of supporter packages to suit corporate, club and individuals that may wish to contribute to fostering future research and knowledge into golf and the environment. For more information on how to become involved with the AGEF, contact John Geary at the AGCSA on (03) 9548 8600 or email jgeary@agcsa.com.au

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