

Further the testimony given by Bayer during the committee hearing on Feb 29, I was requested to provide further information on duplicative work health and safety labelling being imposed on the Crop Protection industry as a result of implementation of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).

GHS is a hazard based system used in developing countries that don't have an appropriately funded, independent and technically proficient agricultural chemical regulator (i.e. Burkina Faso, Turkey and Thailand). As of 1 January 2017, agricultural chemical product labels must carry additional and unnecessary intrinsic hazard statements irrespective of whether or not product formulation or prescribed use mitigates the risk of the hazard to negligible levels.

This additional regulation that is not only duplicative, costly and unnecessary; it also risks undermining worker health and safety through confusing messaging on already fully regulated and approved agricultural chemical labels.

Please pass this information on to the committee members.

Best Regards
Richard Dickmann

Bayer CropScience Pty Ltd
Head of New Business Development
391-393 Tooronga Rd, Hawthorn East, VIC, 3123, Australia

Web: www.bayercropscience.com.au



BRIEFING NOTE

Duplicative WHS Labelling for Australian Agricultural Chemical Products

DATE: March 2016

The Australian federal government as a whole is making a concerted effort to cut down on duplicative regulation as part of the commitment to reduce the costs and regulatory burden imposed by unnecessary red tape. Safe Work Australia (SWA), in conjunction with the Department of Employment, however, have created additional regulation that is not only duplicative, costly and unnecessary; it also risks undermining worker health and safety through confusing messaging on already fully regulated and approved agricultural chemical labels.

Agricultural chemical labels are currently regulated by the Australian Pesticides and Veterinary Medicines Authority (APVMA) under the *Agricultural and Veterinary Chemicals Code Act 1994 (Cth)*. Each product undergoes an expert technical risk assessment and hazard warnings are applied that reflect the outcomes of that assessment. Previously, Work Health and Safety (WHS) regulations considered APVMA approved agricultural chemical labels to be compliant with WHS regulations. Safe Work Australia's (SWA) *Model WHS Regulations 2011*, however, removes this recognition and from 1 January 2017 agricultural chemical product labels must also include additional and unnecessary intrinsic hazard statements as stipulated by the Globally Harmonized System of Classification and Labelling of Chemicals (GHS). This is irrespective of whether or not product formulation or prescribed use mitigates the risk of the hazard to negligible levels.

GHS is a hazard-based system used in developing countries that don't have an appropriately funded, independent and technically proficient agricultural chemical regulator (i.e. Burkina Faso, Turkey and Thailand). The GHS system does not reflect the outcomes of expert risk assessments undertaken by an independent, technically proficient regulator. Hazard information is already provided in the form of Safety Data Sheets (SDS), which are legally required to be provided on first supply of a chemical to a workplace and upon request. Duplicating the information already provided in a SDS on a label will not result in any improvements in worker health and safety. It is in fact more likely to confuse users and subsequently threaten worker health and safety.

The specific cost to the agricultural chemical sector and therefore Australian farmers, to amend labels to comply with the new WHS regulations can now be more accurately extrapolated due to the nearing implementation date. The cost of amending the labels of Australian agricultural chemical products affected by this unnecessary red tape, which only undermines existing and effective worker protections, is expected to be in excess of \$21 million. This cost to the agricultural sector is particularly galling, considering SWA itself stated during Senate Education and Employment Legislation Committee estimates (Hansard reference: 22 Oct pg. 49-50), that there was not and has not been one occurrence where the lack of GHS hazard and precautionary statements on APVMA approved labels directly lead to a WHS incident.

Therapeutic Goods Administration approved labels for pharmaceutical chemicals received and continues to receive the same recognition previously received by APVMA approved labels. Agricultural and pharmaceutical chemicals are both tightly regulated by dedicated agencies, with hazards identified, risks assessed and approved uses prescribed on the label. The only real difference being that the Department of Health proactively secured the ongoing recognition when consultation about changes to WHS regulations began before 2009, whereas the Department of Agriculture and Water Resources did not. The Department of Agriculture and Water Resources has since made its strong objections known to SWA, and has recently initiated an independent review into the duplication of effort and unnecessary costs associated with complying with two separate sets of fundamentally conflicting regulations.

CropLife and our members will always support whichever scheme offers the best and most efficient outcomes for the protection of worker health and safety. All available evidence from around the world points to the scientific, evidence-based risk assessment system used by the APVMA as already providing such. This aligns with the Food and Agriculture Organization of the United Nations' recommendation of a risk-based approach, considering local environmental and exposure conditions for agricultural chemicals in countries where the necessary resources are available.



The Productivity Commission report of 2008 on chemicals and plastics regulation also recommended that GHS should not be adopted in advance of Australia's major trading partners. This recommendation was endorsed by the Council of Australian Governments (COAG). One of Australia's major trading partners, the United States of America has a comparative regulatory system in place for agricultural chemicals and in adopting GHS, specifically exempted agricultural chemicals in recognition that their existing regulatory system met WHS requirements. It is a shame that Australia is, at this stage, unwilling to apply a similar pragmatic, sensible and logical approach.

All relevant industry bodies including CropLife Australia, the Plastics and Chemicals Industries Association and Accord Australasia (the hygiene, cosmetic and specialty products industry organisation) have opposed the changes since consultation began before 2009. CropLife is aware that the Department of Agriculture and Water Resources and the APVMA have also repeatedly expressed their opposition to SWA. Despite this, SWA has belligerently pushed ahead with the unnecessary, confusing and potentially dangerous duplication of agricultural chemical labelling regulations.

Considering the significant changing basis of the Department of Employment and SWA's arguments and justification for the change from the original Regulatory Impact Statement to now, one would also be forgiven in thinking that in fact, the Department of Employment and SWA are now simply seeking to justify this misplaced initiative and reverse engineer arguments to do so.

All state governments except for Victoria and Western Australia have adopted SWA's Model Regulations, with compliance mandatory by 1 January 2017. Agricultural chemical products, however, are supplied nationally and can be in the market for over twelve months after production. We will soon have a situation where agricultural chemical products with nationally registered and approved labels will be legally sold in one jurisdiction, but not others.

The previous recognition that APVMA approved labels comply with WHS regulations must be reinstated urgently to avoid the unnecessary cost to manufacturers and therefore Australian farmers, as well as the inherent increased risk to worker health and safety. At the very least, a 24 month extension on the requirement for agricultural chemicals to comply with WHS hazard statements by 1 January 2017 should be immediately instated. This unnecessary and duplicative regulatory burden clearly stands against every principle of good regulation to have two regulators regulating the same product, particularly when the regulations are built on fundamentally contrary principles.