

18 December 2012

Committee Secretary
Senate Standing Committee on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
CANBERRA ACT 2600 AUSTRALIA

(e) rrat.sen@aph.gov.au

Submission to the 'Senate Standing Committee on Rural and Regional Affairs and Transport (RRAT) Inquiry on the Agricultural and Veterinary Chemicals Legislation Amendments Bill 2012'

The Australian Forest Products Association (AFPA) welcomes the opportunity to provide comment to the Senate Standing Committee on Rural and Regional Affairs and Transport (RRAT) Inquiry on the 'Agricultural and Veterinary Chemicals Legislation Amendments Bill 2012' (*Bill*). This comment follows and is associated with our feedback to the Department of Agriculture, Fisheries and Forestry (DAFF) on their Revised Exposure Draft in October 2012 (appended as **Attachment 1**).

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products.

AFPA members include native forest managers, plantation growers, wood and paper product manufacturers who also are chemical users. Forestry and its related industries are economically significant and important to rural economies and employment. The industry has a keen interest in ensuring efficient and effective regulation of agricultural and veterinary (agvet) chemicals. The continued availability of viable, efficient and cost-effective chemical solutions is essential in forest growing applications, and processed wood and paper end products.

Agvet Chemical Regulation Reform Process to Date

AFPA appreciates, and sees considerable merit, in the objectives of the Bill (i.e. *improve the efficiency and effectiveness of the current regulatory arrangements, and provide greater certainty*).

We note that DAFF's statement that the Bill has been further revised to include comment from the October 2012 stakeholder consultation process, prior to its introduction into Parliament. However, there remains significant uncertainty about whether the proposed Bill will achieve the aims, and be effective, equitable and efficient.

The complexity of the amending legislation and the current absence of the supporting documentation (including regulations), entail a large and difficult task of policy implementation. We again see little in the proposed amendments that will reduce or streamline the existing regulation process. The new Bill does not appear to provide any clear benefit to agvet chemical registrants and users rather it will create unnecessary barriers, duplicate existing processes, and be inefficient. Overall the Bill in its current form is a poor outcome for agvet chemical registrants and users, and provides significant uncertainty for the forest industry in the continued availability of new and existing cost and operationally effective chemical solutions into the future.

Key Issues

It is in industry's and the wider economy's best interest that the goal of any proposed reforms should be a chemical regulation framework which is consistent, streamlined, flexible, clear and unambiguous, equitable, effective and efficient in order to achieve the desired outcomes at the lowest possible cost.

Again the key issues for the forest industry, that still need to be addressed in this reform process and specifically in this draft legislation are:

- lack of any real reform and regulation simplification;
- the re-registration process is going to make it very difficult to maintain the existing suite of minor use chemicals that our industry relies on;
- increased costs and inefficiencies for registrants and applicants;
- assessment aligned with Risk and uncertainty around the proposed Risk Assessment Framework; and
- minor use permits are essential to ensure chemicals are available to use for forestry applications. The Bill does not appropriately address the issue of minor use.

Summary

AFPA strongly urges that the identified issues above and the content of our previous feedback in October 2012 (appended as **Attachment 1**) need to be addressed prior to further progression of the Bill through Parliament.

Thank you for the opportunity to provide comments to the RRAT Inquiry on the Bill. AFPA is available to discuss the issues raised in this submission in more detail and welcomes additional opportunities to provide further comment.

ATTACHMENT 1: *'AFPA October 2012 Submission on the 'Revised Exposure Draft - Agricultural and Veterinary Chemicals Legislation Amendments Bill 2012' to the Department Of Agriculture, Fisheries and Forestry.'*

22 October 2012

Agvet Chemicals (Better Regulation Reforms)
Agricultural Productivity Division
Department of Agriculture, Fisheries and Forestry
GPO Box 858
CANBERRA ACT 2601

(e) agvetreform@daff.gov.au

Submission on the 'Revised Exposure Draft - Agricultural and Veterinary Chemicals Legislation Amendments Bill 2012'

The Australian Forest Products Association (AFPA) welcomes the opportunity to comment on the 'Revised Exposure Draft - Agricultural and Veterinary Chemicals Legislation Amendments Bill 2012' (*the Bill*).

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products.

AFPA members include native forest managers, plantation growers, wood and paper product manufacturers who also are chemical users. Forestry and its related industries are economically significant and important to rural economies and employment. We have a keen interest in ensuring efficient and effective regulation of agricultural and veterinary (agvet) chemicals. The continued availability of viable, efficient and cost-effective chemical solutions is essential in forest growing applications, and processed wood and paper end products.

Agvet Chemical Regulation Reform Process

AFPA appreciates, and sees considerable merit, in the objectives of the Bill (i.e. *improve the efficiency and effectiveness of the current regulatory arrangements, and provide greater certainty*). However, there remains significant uncertainty about whether the proposed Bill will achieve the aims, and be effective, equitable and efficient. The complexity of the amending legislation and the current absence of the supporting documentation (including regulations), entail a large and difficult task of policy implementation. We see little in the proposed amendments that will reduce or streamline the existing regulation process. The new Bill does not appear to provide any clear benefit to agvet chemical registrants and users, rather it will create unnecessary barriers, duplicate existing processes, and be inefficient. Overall the Bill in its current form is a bad outcome for agvet chemical registrants and users.

Key reform areas identified by the Forest, Wood and Paper Products Industry.

This policy framework and processes will first impact the chemical companies that develop the chemicals to register via APVMA. However, the Australian forest, wood and paper products industries are end-users and the continued availability of agvet chemicals are essential for effective and sustainable forestry operations and wood product manufacturers.

The definition of agvet chemicals covers a vast array of products and uses, adding complexity and difficulty to the task of regulating this area. It is in industry's and the wider economy's best interest that the goal of any of proposed reforms should be a chemical regulation framework which is consistent, streamlined, continually simplified, flexible, clear and unambiguous, equitable, effective and efficient in order to achieve the desired outcomes at the lowest possible cost.

- *Coordination of Chemical Regulation*

The lack of coordination and cohesion within the different levels of chemical regulation is of great concern to forest industry. While the national and state levels of chemical control and regulation exhibit different aspects of timeliness of outcomes and levels of funding and resourcing, in general the aims of regulation are the same. This confusion makes it difficult for registrant and users to understand the process requirements, and how to get important chemical products registered effectively and efficiently.

- *Simplification and streamlining of regulation*

Current regulation and agvet chemical registration, approval and labelling processes are complex and cost/time consuming, while the outcomes are uncertain. Industry's expectation of the reform process was that it would align with the stated objectives (i.e. *improve the efficiency and effectiveness of the current regulatory arrangements, and provide greater certainty*). The Bill seems to have fallen well short of these objectives.

Further the benefits from reform should accrue to all stakeholders including agvet chemical registrants and users.

- *Precautionary Principle and Risk Frameworks*

The precautionary principle is often seriously and deliberately misinterpreted. The whole basis of application of agricultural chemicals is one of risk management. Too often, there is the tendency to adopt the position that if there is any risk, it is unacceptable. Lack of full scientific certainty is not unique to the use of chemicals in agriculture. Regulators adopting the precautionary approach without risk management principles tend to be risk adverse and use administrative powers to curtail the beneficial use of chemicals. Operations should be assessed on a risk-managed basis within appropriate regulatory guidelines.

Of great concern to industry is that registered agricultural chemicals are restricted by unworkable application buffers, based upon the desire to eliminate all potential risk (precautionary principle), rather than recognising industry expertise to manage risk potential via technology, training, accreditation and operationally practical label direction. Excessive buffering requirements impact on industry's ability to maintain productivity levels. In addition, were it becomes too hard to achieve registration of chemicals that industry can use operationally, there is a loss of incentive for manufacturers to develop or register new chemistry for smaller industries and those industries become less financially viable as a result.

- *Minor Use*

Due to the relative size of the forest industry, minor use permits are essential to ensure chemicals are available to use for forestry applications. As a result the forest industry needs the flexibility to use agvet chemicals in 'off-label' situations to ensure efficient and effective chemical use.

- *Control of Use*

There are many regional differences in the appropriateness and efficacy of agvet chemicals that need to be recognised and acknowledged in any reform process (e.g. the efficacy of certain chemicals is different between Queensland and Tasmania).

The Revised Bill

AFPA is supportive of effective and efficient reform of agvet chemical regulation.

However like other industry stakeholders (i.e. CropLife Australia¹). AFPA is disappointed that any small efficiencies and flexibility gained through the reform process are significantly outweighed by new processes (such as re-registration of existing chemicals), increased costs and major missed opportunities to address key issues (such as minor use). Overall the Bill results in more regulatory cost and inefficiencies to registrants and users.

AFPA key concerns of the proposed reforms include:

- *Lack of any real reform and regulation simplification.* Unfortunately most of the provisions in the Bill (all 287 pages) would appear to be about increasing the amount of red tape, process and cost recovery (fees), with very little in the way of increasing efficiencies. The administrative burden is likely to increase for both the regulator and its customers. The re-registration process is going to make it very difficult to maintain the existing suite of minor use chemicals that our industry relies on. This process will require chemical manufacturers to prove again the safety of existing products every 7 – 15 years, imposing a significant additional administrative and cost burden and disincentive to continue marketing beneficial chemicals to the detriment of minor use industries.

¹ CropLife Australia media release dated 19 October 2012 'Rolling out the red tape: \$21 million loss to the aust economy for 287 pages of new regulation' <http://www.croplifeaustralia.org.au/>

Further, there is significant discussion in the Bill regarding benefits accruing to environment, human health and regulatory process but no identifiable mention or quantification of benefits to agvet chemical registrants and users. Benefits from reform should accrue to all stakeholders. This needs to be further considered and addressed.

- *Minor Use.* As detailed previously minor use permits are essential to ensure chemicals are available to use for forestry applications. The Revised Bill does not in any noticeable way address the issue of minor use. This is a major flaw in the Revised Bill that needs to be considered further and addressed. Further the incentive for registrants to register more minor uses has been diminished by the removal of the provision for 1 additional year of registration data protection (reference is Schedule 4, Page 12).
- *Increased costs and inefficiencies for registrants and applicants.* The forest industry is dependent on a relatively small range of chemicals and consumes a small volume relative to other industries. Of great concern to the forest, wood and paper products industry, is that the new regulation will add unnecessary costs and/or inefficiencies that are likely to result in the loss of existing chemical products and/or the loss or delay in the introduction of new chemical products, especially for chemicals with smaller markets.
- *Assessment aligned with Risk.* It was expected as part of streamlining regulation, that an efficient and effective system would be incorporated to tailor the amount of assessment required for an agvet chemical to the level of risk. This approach would concentrate effort and resources in the areas of most need and potentially fast-track the consideration of agvet chemicals that were deemed low risk. The Revised Bill does not incorporate an approach like this. This needs to be further considered and addressed.
- *Uncertainty around the proposed Risk Assessment Framework.* The content, detail and transparency of the Risk Assessment Framework have not been developed. Without a clear understanding of the content and parameters that form a Risk Assessment Framework, stakeholders are not able to assess the potential impacts of this Framework to chemical product registration and end-use.
- *Permit holders and refusal of applications.* Of concern in the Bill are the provisions detailed in Part 7 Section 112 subsection (3A) which requires the APVMA to refuse an application if the applicant (including a body corporate) has, within the last 10 years, had a permit issued suspended or cancelled, or been ordered to pay a pecuniary penalty for contravention of an agvet or related law.

This provision is inconsistent with penalties for registrants, excessive compared to other similar legislation and could be draconian for applicants who have had a permit cancelled for reasons that are trivial or beyond their direct control. For example, a person or group could potentially be prohibited from gaining a permit for 10 years because a user of a chemical under a former permit caused a residue violation or failed to keep complete records under a state law. This provision needs review.

AFPA strongly urges that the identified issues above be addressed prior to introduction of the Bill into Parliament, especially the lack of a transparent, comprehensive and clear statement of the criteria, methodology and standards to be used to assess the risk agricultural chemicals for use in agriculture and forestry.

Thank you for the opportunity to provide comments on the Bill. AFPA would be keen to discuss the issues raised in this submission in more detail and welcomes additional opportunities to provide further comment.

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