

Senate Standing Committee on Education Employment and Workplace Relations

QUESTIONS ON NOTICE Budget Estimates 2011-2012

Agency - Safe Work Australia

DEEWR Question No. EW0144_12

Senator Colbeck provided in writing.

Question

National Harmonisation of Occupational Health And Safety Legislation and Impacts on Labelling of Agvet Chemicals.

1. Can you provide details of the current status of the Model Work Health and Safety Regulations?
2. Can you provide details of the rationale for the requirement in these model regulations to move from the longstanding defined-use, risk-based approach to labelling of agricultural and veterinary chemicals to a hazard-based approach for workplace labelling?
3. What benefits is the hazard-based system expected to deliver to chemical users that are not currently delivered by the risk-based approach? a. What are the shortfalls of the current risk-based approach used for agvet chemical labels supported by detailed hazard identification in the Material Safety Data Sheets that have triggered the proposal to move to a hazard- based approach?
4. In moving to a hazard-based system, individual workplaces will be required to undertake their own risk assessments. What consideration has been given to the potential for this risk assessment to conflict with that done by the APVMA?
 - a. What consideration has been given to the potential increase in risk associated with this inconsistency, particularly related to the often transitory nature of the primary industry workforce and use of agricultural chemical contractors?
 - b. Has feedback been sought from farming organisations to determine the capacity of primary producers to undertake these risk assessments and particularly whether additional training would be required to assist primary producers undertake appropriately rigorous risk assessments?
5. What are anticipated costs associated with the relabelling of agvet chemicals under this model legislation?
6. How will primary producers who have previously received training in safe use of agvet chemicals through programs such as ChemCert and SMARTtrain be advised of and retrained to understand the proposed changes to product safety information?
7. What is the anticipated cost of this retraining?

Answer

Safe Work Australia has provided the following response.

1. Safe Work Australia is currently considering submissions provided during the public comment period and revising the draft model WHS Regulations through its established tripartite processes. It is expected that the final regulatory package will be considered by the Workplace Relations Ministers' Council in August 2011. COAG has agreed that the model Work Health and Safety (WHS) Regulations would commence on 1 January 2012.
2. During policy development of the revised work health and safety regulatory framework for hazardous substances and dangerous goods, concerns over the adequacy of information provided on some workplace agricultural and veterinary chemicals were raised by state and territory work health and safety regulators and worker representatives. Specifically, it was identified that for some chemical products, critical information on chronic health hazards such as carcinogenicity and sensitisation had been omitted from labels. This information is currently required on labels for all other workplace chemicals. Omission of this information has the potential to affect a workplace's ability to manage risks in the workplace. Worker representatives and WHS regulators believe that all workers should have information on the intrinsic hazards of chemicals on labels, regardless of the sector in which they work.
3. Inclusion of critical information on chronic health hazards on labels is expected to improve awareness of the intrinsic hazards of agricultural and veterinary chemicals by workers and persons conducting a business or undertaking, and improve the management of risks associated with their use in workplaces. The proposed changes will also result in greater consistency of information on hazards and risks from agricultural chemicals on labels and safety data sheets.

Improved risk management in the workplace is expected to reduce injury and disease associated with use of these chemicals through reduced exposure. Workers are considered to be more likely to follow safety directions on labels if they are aware of significant chronic hazards, consider the use of less hazardous chemicals, and consider appropriate control measures to reduce exposure other than the use of personal protective equipment - as they are required to do under existing work health and safety laws.

- a. One of the shortfalls of some agricultural and veterinary labels is that the safety directions default to the use of personal protective equipment.
- b. There is a perception that following the risk based information on agricultural chemical labels is sufficient to meet all work health and safety laws. This is not correct.
- c. Work health and safety laws require consideration of control measures in accordance with the hierarchy of controls. A principle of the hierarchy of controls is that risks must be controlled through means other than personal protective equipment where it is reasonably practicable to do so.

4. Current work health and safety laws in most jurisdictions already have a requirement to undertake a risk assessment in their workplace, including in agricultural workplaces. The risk assessment undertaken by the Australian Pesticides and Veterinary Medicines Authority (APVMA) is different to that required under workplace laws. No evidence has been provided demonstrating conflict between the APVMA and workplace risk assessments.

A workplace assessment requires, for example, the worker to examine their own systems of operation, including where they mix chemicals, how chemicals are stored, whether flammable liquids are stored next to oxidising substances like pool chlorine, whether there is adequate ventilation in the mixing location, what access to chemicals other people have at the workplace, whether safer alternatives could be used and so on. None of these things are considered as part of the APVMA risk assessment, nor are they included on labels. The APVMA system also has no assessment of the physico-chemical hazards of chemicals, such as their flammability, oxidising or explosive potential, all of which is required for workplace safety.

The APVMA pre-market risk assessment is based on the chemical only ever being used in accordance with label instructions, and does not focus on workplace storage and handling aspects of chemicals. If important hazard information is omitted from the labels of workplace agvet chemicals, workers may be unaware that the chemical they are using is a carcinogen, and not be given the opportunity to use safer non-carcinogenic alternatives.

5. The costs and benefits of the proposal, including costs of relabelling, were considered in the Regulatory Impact Statement: Proposed Revisions to the National OHS Framework for the Control of Workplace Hazardous Substances and Dangerous Goods, that was approved by the Office of Best Practice Regulation in early 2010. The RIS demonstrated that there was a net benefit for the proposal in accordance with COAG requirements. The RIS is available on the Safe Work Australia website. The direct web link to the document is www.safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhatWeDo/Publications/Documents/472/Chemicals_RIS_Jan_2010_PDF.pdf

A 5 year transition time to move to the new system of hazard classification and labelling was proposed in the Regulation Impact Statement in order to minimise costs and maximise benefits. Transitional arrangements are yet to be agreed for the model WHS Regulations, however it is likely that this 5 year transition period will apply.

6. Safe Work Australia and its partners (WHS regulators, unions and industry) expect to undertake a range of activities to assist in implementation of the WHS Regulations, including activities to raise awareness of changes to the workplace hazardous chemicals regulations. It is expected that workers trained through ChemCert and SMARTtrain or other accredited service providers will be advised of any changes either through those providers, or through the other activities more generally being undertaken on the new model work health and safety legislation. It is noted that training through accredited service providers on hazardous chemicals is not a requirement under the work health and safety laws.
7. The Regulatory Impact Statement: Proposed Revisions to the National OHS Framework for the Control of Workplace Hazardous Substances and Dangerous Goods, considered costs including training.