

**Product Safety and Integrity Committee Secretariat
Innovation, Productivity and Food Security Branch
Department of Agriculture, Fisheries and Forestry**

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Submission: A National Scheme for Assessment, Registration and Control of Use of Agricultural and Veterinary Chemicals – Discussion Paper

The National Toxics Network (NTN) welcomes the opportunity to make a submission regarding the proposal for *A National Scheme for Assessment, Registration and Control of Use of Agricultural and Veterinary Chemicals*. However, we remain concerned about the inadequate process of community engagement throughout this process, which we have raised with the Department and the Minister on a number of occasions. (see Attachment Letter)

SUMMARY

The stated aim of the proposed reforms is to ***“reduce the regulatory burden on businesses and increase government efficiency”***.

From the outset this proposed reform has been framed in terms which do not provide the opportunity for a thorough assessment of whether the current regulatory regime is even achieving its other legislated requirements - that is the protection of public health and the environment from the negative impacts of agricultural and veterinary (AgVet) chemicals.

Our experience over many decades with the regulation of agricultural and industrial chemicals, and the initial establishment of the then National Registration Authority (now APVMA), as well as NTN representation on the APVMA’s Community Consultation Committee over many years, has demonstrated to us the failure of the current national and state regulatory frameworks to effectively protect the community and environment from the negative impacts of AgVet chemicals.

The evidence for the failure to protect public health and the environment includes:

- The APVMA’s failure to assess all pesticides for spray drift risks and the ongoing instances of spray drift which results in damage to crops, pollution in the environment and serious threats to community health, despite products being used ‘according to label directions’.
- The failure to assess and mitigate the secondary movement of pesticide residues (post application) in the environment, which results in diffuse contamination of waterways, such as is occurring in Tasmania and the Great Barrier Reef.
- The APVMA’s failure to establish an efficient and effective pesticide review program, evidenced by the number of pesticides that have been under review for many years,

with little action taken to protect public health and the environment from their negative impacts.

- The APVMA's failure to remove high-risk products from the market despite their removal in other countries. Egs include endosulfan, atrazine, carbofuran, malathion, chlorpyrifos.
- The APVMA's failure to establish a process for the assessment and registration of biopesticides and low-risk products. For instance, Neem is registered in the EU and USA for use on food crops but is not registered for that purpose in Australia.
- The APVMA's failure to establish and promote effective and efficient feedback loops to ensure that registered products and label instructions are achieving the required level of protection of public health and protection of the environment. The current 'Adverse Experience Reporting Program' is virtually unknown to the wider community.
- The failure by the APVMA and the Department to provide any leadership to industry and the community on emerging issues in toxicology (eg endocrine disruption, *in vitro* studies, the use of animal experimentation, chemical mixtures)
- The failure by the APVMA and the Department to provide any leadership to industry and the community regarding new approaches to chemical regulation (eg EU REACH legislation).

The aim of the proposed reform of improving '*regulatory efficiency and the burden on business*' is unlikely to result in any significant benefits to the community and environment in relation to AgVet chemicals because its focus is too narrow. The opportunity to achieve significant improvement in the assessment and regulation of AgVets in Australia will, as a result, be lost.

At a time of great change in the assessment and regulation of AgVets around the world and a concurrent 'revolution' in toxicology underway, Australia runs the risk of being seriously left behind. (See Attachment 'Dawning of a New Age of Toxicology')

Further, we believe because the APVMA is an agency that is captured by industry interests as a result of its funding arrangements (and has a culture inside to match) any reforms that maintain the status quo of the APVMA, or give it even more responsibilities in control of use of AgVets, cannot be supported by NTN.

The common ground we share with this reform proposal is that we agree there does need to be considerable improvement in the assessment, registration and control of use of AgVets in Australia. However, this not only needs to occur for greater regulatory efficiency, but more importantly, for better protection of public health and the environment from exposure to AgVet chemicals and, to maintain Australia's 'clean and green' image in agriculture into the future.

We see that the most effective path would be to require harmonization of state and territory legislations so that control of use requirements would be mirrored, while retaining the right for certain actions depending on local circumstances. The most advanced state control of use legislations should provide the template and be further improved.

The national assessment and registration scheme for AgVets should be re-made based on the four-pillars of chemical reform stated below. Funding should be a mix of cost recovery, with funds going to Treasury and, a levy imposed on the sale of pesticides (like DrumMuster) to fund environment and health monitoring research programs.

FOUR PILLARS OF AGVET CHEMICAL REFORM

1. The **precautionary principle**, which was agreed by governments in 1992 in the Rio Declaration on Environment and Development and which states: “Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.” The SAICM¹ elaborates this principle by indicating that it should be applied in support of health protection as well as environmental protection when the aim is to ensure that chemicals are used and produced in ways that lead to the minimization of significant adverse effects.

2. The **right to know**, which ensures that information about chemicals in circulation is available in a convenient form to all relevant stakeholders. This would include information about a chemical’s effects on human health and the environment, its intrinsic properties, its potential uses, protective measures and relevant regulations. Information on pollutant releases and transfers should also be freely available. (The SAICM includes the right to know in its objectives on knowledge and information)

3. The principle, **no data, no market**, requires manufacturers or importers of all potentially toxic chemical substances to ensure that necessary information on the substances’ hazard characteristics and safe use are available and are transmitted down the supply chain with the goal of reducing risks associated with chemical exposure and chemical accidents to workers, consumers, and the environment. (This principle has been incorporated into European Union chemicals legislation.)

4. The **substitution principle**, which requires that a less hazardous alternative be used in place of a hazardous substance when this does not entail unreasonable cost or inconvenience. (This is encouraged by European Union legislation and elsewhere and is required by law in Norway).

By addressing AgVet chemical management in the framework of the four main pillars, all stakeholders are able to help promote environmentally and socially sound chemicals management, as well as helping ensure that:

- the responsibility for pesticide information and safety sits at top of the supply chain;
- stakeholders are able to access information on pesticide products, including so-called ‘inert’ ingredients.
- the most problematic pesticides are removed from circulation.
- the market is stimulated to provide low-risk products.

SPECIFIC ISSUES RAISED IN THE DISCUSSION PAPER

Q2. How effective are the current registration arrangements for facilitating adequate chemical access for minor uses?

Given the increasing problem with minor use, the backlog of permits, and the small size of the Australian market, the current registration arrangements are not effective in facilitating adequate access to chemicals. There are few incentives to move to low-risk products and the current system effectively results in promoting the ‘illegal’ use of old chemistry products off-label.

Q3 What particular costs or benefits would arise from greater integration of assessment, authorisation and control of use of agvet chemicals?

¹ Strategic Approach to International Chemicals Management (SAICM) <http://www.saicm.org>

Costs include a potential dilution of control of use regulations that currently exist in some states eg NSW notification and reporting regulations which would result in greater exposure risks for the community and environment. Potential benefit is by making the control of use rules the same, the community has access to the same rights.

Q4 What do you take the precautionary principle to mean? What are the potential costs or benefits that could arise from adoption of a more precautionary approach in circumstances where lack of full scientific certainty exists in agvet chemical assessment, registration or control of use?

The *precautionary principle*, which was agreed by governments in 1992 in the Rio Declaration on Environment and Development and which states: “Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”

The SAICM elaborates this principle by indicating that it should be applied in support of health protection as well as environmental protection when the aim is to ensure that chemicals are used and produced in ways that lead to the minimization of significant adverse effects.

The benefits of adopting it include protecting public and environmental health from future costs associated with disease and contamination; stimulating a market for safer alternatives; a cost effective approach to chemical review; protecting Australia’s reputation for clean and green produce.

In addition to the precautionary principle we also advocate the adoption of the principle, *no data, no market; the substitution principle*; and the *right to know*. (See Four pillars of Chemical Reform)

Q8 What are the most important ways in which the efficiency of the APVMA’s assessment process could be enhanced?

Have an assessment process that favours and encourages low-risk products through faster and cheaper process. Systematic reviews of older products.

Q12 What would be the advantages and disadvantages of introducing a requirement for reregistration of agvet chemicals after a set time?

It would be a benefit as it would replace the current ad hoc process of chemical review which is totally inefficient and would ensure all pesticides are subject to review in line with changing science and regulatory requirements. It would also be in accord with requirements in other countries such as the EU and USA.

Q15 What role, if any, could off label access to chemicals for minor use play in an integrated national system?

It plays no role because it fosters illegal use of pesticides for situations where there is no data to support efficacy or safety for a particular use. It lets manufacturers off the hook in terms of supporting the full spectrum of uses for their products. It has legal implications when things go wrong. It does not foster innovation or promote genuine low risk alternatives and it favours older chemistries.

Q16 What are alternative systems for minor use and specialty crops/animals?

The EU, USA and Canada in particular have acknowledged opportunities within their minor use programs where registration of reduced-risk chemistry has a reduced or no application fee and/or reduced assessment timeframes.

Q17 What is the evidence that a particular approach to control of use is/is not effective and efficient:

- in agricultural use, or;
- in urban amenity horticulture or sectors such as management of golf courses

**and other sporting venues, or;
· in pest and weed control?**

Control of use regulations that require prior notification of pesticide use (such as NSW requirements) are based on the *right to know* and provide the opportunity for the public to take steps to avoid exposure to pesticides. This works well in urban areas for pest and weed control. It also creates an environment where pesticide applicators have more responsibility and take more care. It could also work in agricultural settings. Mandatory record keeping and training are also effective and require a more professional approach and greater care from pesticide applicators.

Q18 Is there a need for flexibility of control of use to respond to local or regional issues, and how could such flexible arrangements be delivered by a single national regulator, if at all?

Yes there is a need. But it would be best delivered by the state or territory agency that is closest to the circumstances and can move more rapidly in response to emergencies etc.

Q19 What is the evidence that government penalties are more effective than industry incentives in achieving compliance with chemical use rules?

Q20 To what extent is there a need for a balance to be determined between government compliance action and industry mechanisms?

A self-regulatory approach in industries which are based in the use of toxic chemicals has not delivered good outcomes for the public or environment as evidenced by the high level of chemical pollution in every aspect of our lives, including pesticides.

The reality is a high percent of people who use pesticides are illiterate or can't read English and cannot follow the label instructions ie 'the rules'. Industries are not providing training or ensuring their workers can read and understand the labels, and it wasn't until NSW required mandatory training that the enormity of this problem really surfaced.

Best management practices in the cotton industry didn't stop the pollution they were causing with endosulfan. It was label changes that forced the industry to use the chemical in a less damaging way.

Notification regulations in NSW are working well where they apply, but the agricultural sector argued for self-regulation, and won. Very little notification occurs in the agricultural sector with respect to pesticide use as a result.

Q21 What evidence is there that training is effective in improving agvet chemical use?

What evidence is there that it isn't? Surely the basis for training in any industry, especially one that utilises dangerous substances, is already established. Access to high-risk pesticides should only be given to those with higher levels of training.

ENDS