



National Farmers' Federation

Submission to the Agricultural and Veterinary Chemicals Legislation Amendments 2012, Revised Exposure Draft

October 2012

Prepared by David McKeon

NFF Member Organisations



Introduction

The NFF and its member organisations are generally not involved in the registration of agricultural and veterinary chemicals, but represent a significant group of individuals who use agricultural and veterinary chemicals. Australian farmers need a chemical registration system that facilitates the timely and cost-efficient introduction of new chemicals onto the Australian market. Australian farmers compete in International markets, and it is important that they have access to tools that allow them to efficiently produce safe fresh product. The costs of registration and timeframe around this process should not deter registrants from seeking to introduce new chemicals to the Australian market.

Effective mechanisms must be in place to allow Australia's agricultural industries to access the chemicals, particularly where there is a market or regulatory failure which means that chemical registrants face significant barriers or limited incentives to register chemicals. The need to ensure the availability of safe and effective chemicals continue, while minimising the cost of regulation is fundamental. It is important that the chemical registration system does not act as a barrier for chemical registrants.

The NFF has confidence in the current system used by the Australian Pesticides and Veterinary Medicines Authority (APVMA) for the assessment and regulation of chemicals for agricultural and veterinary uses. Reforms to improve the efficiency and effectiveness of the APVMA's operations are supported. The current draft Bill has made some improvements from previous releases. However, the NFF is yet to be convinced that the current reform process will achieve the intended outcomes.

Overarching comments

A significant amount of effort has been put into reforming regulation of agricultural and veterinary chemicals over recent years. Given the effort expended, a clear understanding of the likely outcomes to industry should be understood by all affected parties.

In the absence of a clear analysis of the costs and benefits of the proposed measures within this 'better regulation' process, the NFF continues to hold concerns that the proposed changes will negatively impact on the costs of chemicals and the availability of chemicals in the Australian market. These impacts will ultimately be felt by the agricultural community and reduce the productivity and profitability of individual farm businesses.

Additionally, it has been disappointing that this current process has not been better integrated with work on an effective minor use program and the efforts to harmonise state control-of-use. The lack of a clear and coherent approach no doubt limits the opportunity for improved outcomes.

Specific comments on the draft Bill

Open for interpretation

The NFF notes that a number of terms used throughout the draft Bill are undefined and could be open to misinterpretation. This may prove problematic for the government and the APVMA once these terms are set in legislation without clear definitions. For example, terms such as ‘unmanageable risk’ and ‘relevant science’, need to be clearly defined or not used at all.

Consideration of trade and efficacy

Revisions in the draft Bill go some way towards providing greater clarity on how ‘trade impact’ and ‘efficacy’ will be used at APVMA’s discretion in the registration process. However, it is hard to support the current position without a more detailed understanding of the regulations. An initial analysis of the regulations does not provide any guidance on efficacy.

The NFF would have concerns if there were delays in developing these risk frameworks, confusion over the application of the risk assessments, or if the requirements of the frameworks introduced delays or additional costs to the application process.

Re-registration

The NFF welcomes the increased clarity in the draft Bill. However, the details of the re-registration process are still not adequately outlined in the draft Bill to a level that provides assurance of any improved outcomes for chemical users or the broader community.

The NFF notes that whilst in the regular review of chemicals seems appropriate and has potential, it increases the costs to chemical registrants. Because of the costs of review, chemical companies may choose not to go through the process of review and chemicals will be withdrawn from the market. This may particularly be the case with chemicals that have low margins or are not widely used. The loss of these chemicals as a consequence of increased requirements for reviews may deny Australian farmers access to chemicals which are actually safe, and may exacerbate issues related to minor and off-label use of farm chemicals. Again, this highlights the piecemeal approach of current agricultural and veterinary chemical reforms.

Refusal of applications

The current position in the draft Bill outlining that APVMA must refuse applications if the applicant has within the last 10 years had a permit suspended or cancelled may cause perverse outcomes for organisations trying to improve chemical access for farming businesses. It is currently not clear whether the refusal due to permit suspension would apply, even when there has been a voluntary recall of products or other factors where the

organisation has taken all necessary steps to avoid the use of chemicals beyond legislative requirements.

Notification Periods

Within the draft Bill, where the registration or approval is not to proceed, there is a 12 month period in which the chemical can be used before it is deregistered. The APVMA has the ability to shorten this period at its discretion. This is half the period of the current arrangements and those proposed in the initial set of amendments. The proposed 12 month period amendment increases the likelihood of waste chemical stockpiles being orphaned on farms, leading to poor environmental outcomes, compared to the current 24 month period.

Data protection

The NFF welcomes the changes made to data protection and believes the improved clarity and change to 10 years recognises the need for companies to make a return on their investment and the benefits from these companies continuing to bring new products to the Australian market.

Review mechanism

The NFF welcomes the addition of an initial 5-year, and subsequent 10-year review mechanism in the draft Bill. Without a clear understanding of the impact prior to the legislative changes it will be particularly important to understand the impacts of the changes and base subsequent amendments on a clear evidence base. A clear evidence base should underpin any future amendments. The NFF would support a review that not only looked at the operational aspects of the legislation, but also analysed the impacts on pricing and availability of agricultural and veterinary chemicals subsequent to the current reforms. Specifically, the review would need to look at the impact on chemicals being registered for the Australian market, the cost of chemicals, the cost of registration process, the impact on 'minor-use' chemicals, and the loss of chemicals from the market.

Further reforms of agricultural and veterinary chemicals

The NFF is not in a position to provide support for implementation of the draft Bill because we do not have a clear understanding of the costs and benefits associated with it. We note that chemical manufacturers will be impacted the most by the proposed changes, and are in a better position to understand the implications and potential costs.

The NFF encourages the Australian Government to continue any further reforms of agricultural and veterinary chemicals through a more holistic approach, including improving avenues for access to chemicals for minor use.