

**Submission to PSIC in response to the  
Consultation Regulation Impact Statement –  
A National Scheme for Assessment, Registration  
and Control of Use of Agricultural and Veterinary  
Chemicals**

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## EXECUTIVE SUMMARY

The NSW Farmers' Association supports the need for a national scheme for the assessment, registration and control of use of agricultural and veterinary ('agvet') chemicals. A new national regulatory framework must:

- *be efficient, effective, transparent and underpinned by sound evidence-based science;*
- *ensure confidence in the system by all stakeholders;*
- *encourage the registration of new chemistry in Australia, particularly chemistry that is suitable for integrated pest management (IPM) systems and is already available to international competitors;*
- *improve access to chemicals by small agricultural industries by encouraging the registration of chemicals for 'minor use' applications and an efficient minor use permit system;*
- *ensure chemicals that are safe and effective remain available;*
- *encourage the safe use of chemicals; and*
- *minimise the cost of regulation and compliance that may be passed onto agvet chemical users.*

The NSW Farmers' Association makes the following key points:

- *a nationally harmonised scheme for the assessment, registration and control of use of agvet chemicals is overdue;*
- *more details are required about the policy options given, particularly regarding their cost prior to making final recommendations;*
- *preferred policy options should not add unreasonable cost burdens to agvet chemical users but be shared amongst all beneficiaries of changes to chemical regulation;*
- *the use of agvet chemicals is an important component of sustainable agriculture and continued access to them is critical for food and fibre production;*
- *the Association supports a transparent and consistent system in which risk is assessed using evidence-based science;*
- *a system which provides greater encouragement of applications for registration of new chemistry would be beneficial to Australian agricultural industries;*
- *improved access to chemicals by small agricultural industries is required – incentives that put uses on labels need to be investigated and resourcing of the minor use permit system must be greatly improved;*
- *control of use regulatory requirements should not be additional to those already required for food safety and quality assurance schemes; and*
- *chemical user training at AQF3 is considered the base level of training required in most cases and to remain accredited a flexible system of professional development recognition needs to be developed.*

## **INTRODUCTION**

The NSW Farmers' Association ('the Association') is Australia's largest state farming organisation representing the interests of the majority of commercial farm operations throughout the farming community in NSW. Through its commercial, policy and apolitical lobbying activities it provides a powerful and positive link between farmers, the Government and the general public.

The Association welcomes the opportunity to provide comment to the Product Safety and Integrity Committee on the 'Consultation Regulation Impact Statement – A National Scheme for Assessment, Registration and Control of Use of Agricultural and Veterinary Chemicals' ('the RIS') published in March 2011.

The Association is seeking for its Members a single national regulatory framework for agricultural and veterinary ('agvet') chemicals where the outcome is the efficient and effective assessment and registration of chemical products and nationally consistent policy and implementation of control of use, training, accreditation and licensing.

Chemicals are an important component of sustainable farming and Australian farmers need to have access to chemicals which allow them to produce agricultural commodities using world-leading good agricultural practice. It is therefore vital that a new national regulatory scheme ensures access to safe and effective chemicals, provides practical and valuable support to agvet chemical users and minimises the regulatory burden on farming businesses.

Agricultural industries are largely price takers and do not have the ability to pass on any increased costs that result from chemical reform. The success of a national regulatory scheme will be founded on cooperation between chemical industry stakeholders and Government. The public benefit that will result from the scheme warrants it be well funded by Government.

In particular our Members need a national regulatory scheme which:

- is efficient, effective, transparent and underpinned by sound evidence-based science;
- ensures confidence in the system by all stakeholders;
- encourages the registration of new chemistry in Australia, particularly chemistry that is suitable for integrated pest management (IPM) systems, is already available to international competitors and assists resistance management strategies;
- improves access to chemicals by small agricultural industries by encouraging the registration of chemicals for 'minor use' applications and an efficient minor use permit system;
- ensures chemicals that are safe and effective remain available;
- encourages the safe use of chemicals; and
- minimises the cost of regulation and compliance that may be passed onto agvet chemical users.

The Association would like to express its disappointment in the consultation process, particularly the short timeframe provided for stakeholders to submit written comments on the content of the RIS and the absence of detailed costings for each policy option provided for consideration.

The 5 week period for consultation is inadequate to give due consideration to each option in the RIS, particularly given that it is critical that a national regulatory framework is implemented that ensures the productivity and competitiveness of Australian agriculture. This is likely to be a once only opportunity for Australia to implement a national agvet chemical regulatory scheme and time should be allowed for careful consideration of policy options that will deliver an efficient and effective scheme.

The Association believes that detailed costings and cost-benefit analyses should have been provided for each option in the RIS. Comments provided for each policy option need to be evidence-based and cost will impact how stakeholders respond to each option. At the Sydney discussion on 16 March 2011 many stakeholders expressed their disappointment that the cost of options was not included in the RIS; stakeholders may support an option but later discover that it is cost prohibitive for government and/or industry.

Additionally, the Association is concerned that stakeholders will not have another opportunity to provide further input prior to the Product Safety and Integrity Committee (PSIC) providing final advice to COAG on the structure of the new national regulatory framework for the regulation of agricultural and veterinary chemicals. Further consultation with stakeholders is required so that the cost of options can be considered by industry. It is critical that the right solution is achieved for industry.

It is important that when moving to nationally harmonised standards that the system of the state or territory with the greatest current restrictions or regulations is not automatically chosen. The option selected to address a policy issue should be selected based on the desired outcome and the risk associated with that issue. It is also important that transition arrangements are part of any changes.

The Association provides the following comments on the proposed policy options in the RIS. For the options provided for consideration in the RIS additional information about the associated costs and likely funding sources (e.g. Government, agvet chemicals users, chemical registrants) is required. This submission provides indicative support only and no option will be endorsed by the Association without details of costs and funding sources. The numbering system used throughout our submission reflects that used in the RIS.

## **5. POLICY OPTIONS AND IMPACTS OF OPTIONS – GOVERNANCE**

The Association supports a scheme for the assessment, registration and control of use of agvet chemicals which is nationally consistent for the assessment and registration of chemical products and their management.

The current inconsistencies among states and territories in the areas of training and control of use result in confusion for farming businesses, increased costs of compliance for those operating in more than one jurisdiction and creates disunity amongst industries because of perceived market and administrative advantages/disadvantages.

The Association believes that the assessment and registration of agvet chemicals is best managed at a national level (through the Australian Pesticides and Veterinary Medicines Authority (APVMA)) while control of use post-sale, training, licensing,

accreditation and other regulatory functions should be handled by the states and territories under nationally harmonised regulations (Option 3). As stated in the RIS the activities undertaken and expertise required for control of use is quite different to that required for assessment and registration.

Adoption of Option 3 should minimise the changes required to the current system and would likely be the easiest to implement and resource. It will allow for national consistency while being able to respond to regional issues. Therefore this option is most likely to deliver timely and best quality decisions. If Option 3 is selected inconsistencies in policy and operations among states and territories can be addressed by having nationally harmonised standards incorporated into state and territory chemical legislation.

If Option 3 is adopted steps must be taken to ensure there are not additional compliance costs for farming businesses operating in multiple jurisdictions because of variable licensing and training schemes, given as a possible consequence of the adoption of Option 3. With harmonised rules for training and licensing it should be possible for accreditation to be portable across jurisdictional borders; automatic recognition of current competence should be a given in a nationally harmonised regulatory system.

Option 2 may deliver a nationally harmonised system but create bureaucracy and not be flexible enough to respond to regional differences.

State and territory Department's of Agriculture/Primary Industries are generally trusted and well-regarded by farmers and industry for providing practical on-farm advice and being approachable for assistance and guidance. Given this, Option 3 is likely to be most effective in ensuring that knowledge is applied to provide guidance for industry and the broader community, most likely to enhance compliance and most likely to assist regulators and industry in making better risk management decisions.

The Association would also consider supporting Option 1 if provided with additional information relating to the cost and resourcing of a national agency to manage training, licensing and accreditation.

The Association argues that the preferred policy options for all policy areas other than Governance should first be agreed upon, then the Governance model that best serves the delivery of those options be implemented.

## **6. POLICY OPTIONS AND IMPACTS OF OPTIONS – ASSESSMENT AND REGISTRATION**

### **6.1 Efficiency and effectiveness in the assessment and registration process**

#### **6.1.1 Risk Framework**

The Association supports the implementation of a complete risk framework that is transparent and underpinned by sound, evidence-based science, and therefore supports Option 1 in principle. The management of risk is very important for the long term integrity of agricultural industries.

It is discussed in the RIS that a number of risks in addition to environmental risks are to be considered in an overarching risk framework for agvet chemicals. The inclusion of issues such as occupational health, residues, trade and efficacy is commendable.

However the risk assessment framework needs to be practical, taking into account the ability of agvet chemical users to manage risk, not discourage chemical registrants from making registration applications and not threaten the access of farmers to a range of effective products. The continued access to agvet chemicals is critical to sustainable food and fibre production.

In developing the overarching risk framework for agvet chemicals the Association proposes that the APVMA invite the participation of industry experts to provide advice and feedback to ensure that it is practical for agvet chemical users.

Detail about the cost of developing and implementing a complete risk framework is not provided in the RIS. This option does have a public benefit component and therefore it is appropriate that public funding is made available for developing and implementing it.

### **6.1.2 Efficiency in assessment and registration**

While the Association is not a chemical registrant and is not directly involved in the assessment and registration processes, reforms which create a more efficient and timely registration system, avoiding unnecessary delays for chemical registrants will be of benefit to farming businesses.

A clear and predictable assessment and registration system will benefit chemical registrants as the requirements of the APVMA will be understood by all stakeholders. This will reduce the need for APVMA resources to be tied up with providing assistance to chemical registrants whose applications are incomplete. Chemical registrants with complete applications should not be inconvenienced by delays caused by applicants who do not submit complete applications. Inefficiencies in the process result in delays in new chemistry being made available to industry. Increased costs associated with delays are also likely to be passed onto industry.

To be international leaders in agricultural production (yields, quality, food safety, good environmental outcomes) and be competitive internationally Australian producers need to be served by a system that encourages applications for registration of new chemistry and addresses pest management requirements of minor use industries and crops incorporating gene technology. Australian farming businesses often comment that new chemistry is available internationally but unavailable to them (even in small international markets which are comparable to Australia). A case in point is the drench Zolvix® which was available internationally well before being registered in Australia. A range of chemical products with differing modes of action is also vital for resistance management.

The Association supports Option 1 because Option 2 does not address the issue of inefficiencies in the current assessment and registration system. The Association's position on individual elements to be addressed by Option 1, including the use of overseas data and assessments more efficiently and limiting requirements for efficacy or trade data in some applications were covered in the Association's submission to the Department of Agriculture, Fisheries and Forestry in response to the *Better Regulation of Agricultural and Veterinary Chemicals Policy Discussion Paper* in January 2011.

The Association agrees with the position in the RIS that design questions need to be resolved before implementing change and a cost benefit analysis of individual elements of Option 1 undertaken.

### **6.1.3 Assessment and use information**

The Association supports the provision of clear and consistent information to agvet chemicals users and therefore supports label standards (Option 1). Reducing the complexity of labels on chemical products will assist in safe chemical use, particularly by reducing the potential for confusion amongst users who operate in multiple jurisdictions. Addressing the issue of label complexity will reduce approval delays and costs, benefitting the end user. The Association is not in a position to comment on the costs of redesigning a label.

The Association also supports Option 2, the requirement of all companies to put all their market labels on a single web-based database, in principle. A single, comprehensive, user-friendly web-based database of all current labels and permits would be useful to agvet chemical users. It would reduce confusion about where to find this information and could potentially contribute to safe chemical use. The costs of implementing Option 2 is worthy of further investigation, including funding sources and responsibility for design and maintenance. The database must also be made available on CD-rom for growers with inadequate internet services.

### **6.1.4 Facilitating registration of low risk products**

The Association is supportive of any processes that encourage the registration of newer, safer chemicals in Australia and therefore supports Option 1 in principle. Further information is required about how a 'low risk' chemical will be identified (and if this is possible before a full assessment has been completed) and how their registration will be facilitated. The Association asks for examples of an animal health product and cropping product that are currently available that will likely meet the definition of 'low risk' so industry has a better understanding of the proposed system.

It is important that implementation of this Option does not result in delays for chemical products that are not defined as 'low risk' and does not dismiss the need for a range of chemicals with different modes of action for implementation of resistance management strategies.

Categorisation as low risk may be appropriate for assessment and registration but care must be taken when using this terminology at the user level if it encourages users to avoid certain chemicals and ignore the necessity to rotate chemicals, accelerating the onset of resistance to new products.

The Association cannot comment on the extent of timing and fee concessions that would be needed to interest applicants in the lower risk substitution program and feel that chemical registrants would be better placed to comment on likely products or product groupings.

### **6.1.5 Facilitating access for minor use**

Access to safe and effective chemical products is the major chemical use concern of agricultural industries considered minor in terms of chemical use. Minor agricultural industries often have no or very few legal chemical options. Access to new chemistry is slow compared to industries with larger chemical markets, impacting on their ability

to implement integrated pest management (IPM) systems and limiting their options for chemical rotation.

The number of agricultural commodities affected by market failure and consequently limited availability of chemical products is significant. Industries most impacted are the goat industry and horticultural industries; within horticulture there are well over 120 commodities. Horticulture Australia Limited manages Research & Development programs for over 45 horticultural industries, one of them being the vegetable industry which in turn includes a large range of commodities.

The Association strongly supports Option 1, to facilitate the inclusion of minor uses on labels as policy to improve access to chemicals for minor uses. Option 2, remain the status quo, does not address the problem. The Association would like to see as many uses as possible registered and supports any processes that encourage uses to be included on labels. Small industries should not be denied technical assessments of chemical products and determination of directions for use.

Improvements in the efficiency of assessment and registration of new chemistry will improve access to chemical products for all users. There are additional incentives that should be considered to further improve access for minor uses. These incentives need to be sufficient to warrant chemical registrants carrying out the work required to add uses to labels. CropLife Australia and their members should be further consulted to implement a workable incentive scheme.

Data protection is one option, but improvements are needed to the current arrangements for data protection as they do not provide sufficient incentive to add extra uses to the label. Crop groupings for registration needs further research and consideration. Data protection incentives are problematic for generic products. Even if users are legally required to use the product of the registrant who provided data to extend the uses on an existing label, how will it be enforced? Transfer of data protection 'credits' from the generic product to another could be considered.

Other incentives that increase the value of putting minor uses on labels may include:

- Expedited reviews and accelerated assessment;
- Fee waiver, e.g. the cost of registration be set at a percentage of the returns expected through sales;
- Priority needs lists, e.g. putting a vegetable industry priority on a label for new chemistry aimed at a major crop or a goat industry priority on a label which includes sheep will gain a "fast pass" for registration or registration fee credits); and
- Conditional registrations – registrations based on registrations in another OECD member country with a specific timeframe set for completion of local data generation.

The detail of each incentive needs further investigation and needs to be determined in partnership with industry and CropLife Australia and their members. Stakeholder engagement is necessary to avoid a system being developed which will not be utilised. Incentives that have been adopted in countries such as Canada and the United States of America should be investigated.

### **6.1.6 Access to high risk chemicals**

The requirements to access high risk chemicals are currently inconsistent across jurisdictions. Requirements vary depending on whether a high risk chemical is classified as a Dangerous Poison as classified under Schedule 7 or declared as a Restricted Chemical Product (RCP) by the APVMA, adding to the complexity and confusion about requirements. The outcome of complex requirements is the potential risk to human health and the environment. As outlined in the RIS there is a need for the definition of 'Authorised Persons' to be standardised nationally.

The Association supports Option 1, the implementation of a coordinated national program for control of access and use of high risk chemicals products provided that the requirements are based on risk as determined by the APVMA with input from users. The Association does not support additional requirements at cost to the user if there is no benefit in terms of improved risk management.

The Association suggests Australian Qualifications Framework Level 3 (AQF3) training as the appropriate requirement for access to high risk chemicals in most instances. In the case of the use of pindone and sodium (mono) fluoroacetate (1080), where the user does not require the use of any other agvet chemicals, the Association does not support compulsory chemical user training at AQF3 but instead supports a short training course on the use of 1080 and Pindone baits (as adopted in NSW in 2010) as the national requirement. A reduction in baiting due to excessive regulatory requirements must be avoided.

The 1080 and Pindone short course is funded and approved by the NSW Department of Environment, Climate Change and Water and delivered by Livestock Health and Pest Authorities (LHPA) rangers. It takes 3 hours and gives landholders a clear understanding of 1080 and Pindone use and their legal obligations. Currently the short course costs about \$45 per person and those that complete the course are issued a certification card and remain accredited to use 1080 and Pindone for 5 years. These poisons play a vital role in keeping pest animal numbers under control so it is vital that landholders that do not have the need to use other pesticides are not deterred from controlling feral animals because of the requirement to undergo AQF3 chemical user training. Not controlling feral animal impacts on the livelihoods of neighbouring farming businesses. Since the short course was approved in NSW the response has been excellent, with approximately 1400 landholders having completed the course so far. Following a drop off in coordinated baiting programs when the requirement was AQF3 training, coordinated baiting programs are now being organised by course attendees.

Record keeping of the use of high risk chemicals should be consistent with that already required to meet food safety and quality assurance certification requirements so as to not add regulatory burden to farming businesses.

## **6.2 Other aspects of the operating environment**

### **6.2.1 Enhancing the provision of expert advice**

As discussed in the Association's submission to the Department of Agriculture, Fisheries and Forestry in response to the *Better Regulation of Agricultural and Veterinary Chemicals Policy Discussion Paper* in January 2011 the proposal to remove the requirement of the APVMA to maintain an advisory board and replace it

with expert advisor(s) (Option 1) is supported in principle by the Association as it will allow flexibility and give the CEO the ability to source advise from a range of experts with varying knowledge and experience.

The Association requests that the process to identify and appoint expert advisor(s) be made clear and transparent. It is also requested that agvet chemical users be considered for expert roles. The Association considers they would bring considerable knowledge and expertise to discussions on issues such as spray drift. It is proposed that appropriate nominations for user expert advisors be requested from farming representative bodies and their agricultural chemical committees.

### **6.2.2 Improving legal interaction with the APVMA**

The Association does not have direct experience with the appeal process around APVMA recall and enforcement actions.

If unregistered products are available in Australia then a solution needs to be found. More information is required about the possible repercussions for users of unregistered and recalled products.

### **6.2.3 The precautionary principle**

The Association does not support either Option 1 or 2 as we believe the adoption of the precautionary principle to underpin the regulation of chemicals is inappropriate. The assessment and registration of chemical products should be explicitly risk based, as is currently adopted by the APVMA. As stated in the RIS a considerable degree of caution is already built into the APVMA's existing assessment framework. With the existing framework risks can be identified and actively managed.

The Association strongly opposes any pesticide regulation which further erodes farmers' rights to use agricultural chemicals and which adopts additional regulatory or restrictive controls on chemicals that have satisfied the registration requirements of the APVMA.

The RIS does not satisfactorily explain how the precautionary principle would be adopted within a risk based approach such as is current approach in Australia. Good management decisions involve evaluating existing data and information and actively managing the risk.

Information about additional costs and future access to chemicals through the adoption of the precautionary principle is required. Farming businesses and chemical registrants should not be responsible for the costs of excessive testing of new chemicals or lose potential access to new chemical products because testing requirements are excessive compared to the risks involved.

## **6.3 Permissible uses**

### **6.3.1 General access categories and permits**

As mentioned in Section 6.1.5 access to chemical products is a major issue for minor agricultural industries. A multitude of systems have evolved across jurisdictions to address this market failure, resulting in confusion for farming businesses, particularly for those operating in more than one state or territory. A nationally uniform approach to off-label use of chemicals is well overdue.

A nationally consistent approach to off-label use must get the balance right between providing farmers with options and managing risk. Maintaining confidence in the system will protect farmers' rights to use agricultural chemicals.

The Association supports Option 2, enhance the efficiency of assessments for minor use permits. NSW supports the current permit system because it provides directions of use and the establishment of Maximum Residue Limits (MRLs), contributing to consumer confidence. The Association would argue that jurisdictions that currently have a more lenient approach to off-label use benefit from the MRLs established in jurisdictions that require minor use permits.

Jurisdictions with more lenient off-label provisions have implemented those provisions because of the continuing inadequacy of current registration and minor use permit processes. While the aim should always be to maximise uses on label, the current minor use permit system should immediately be provided with greater resources to generate permits for industry pest management priorities not covered by registrations. The focus should be on solving the problem (through incentives and greater resourcing to put uses on labels or permits) rather than legalising off-label use. An annual list of priorities should be determined by each industry in need of minor use permits so that resources can be targeted.

Over 60% of new use approvals granted by the APVMA are minor use permits. However APVMA organisational resources dedicated to minor use permit approvals is low (approximately 5% of total APVMA staff). This highlights the need for additional dedicated resourcing of the APVMA minor use permit assessment section.

To address the minor use problem in the long-term the Australian Government must look to implementing a system such as that in Canada (*Minor Use Pesticides Program* and the *Pesticide Risk Reduction Program*) and the United States of America (*IR-4 minor use program*). Government has a role to play in addressing market failures. The consumer is a co-beneficiary of protected crops and livestock as consumer prices are held low by a reliable supply and supply is made more reliable by chemical protection from pests and diseases.

The Association does not believe that the cost of improving the minor use permit system should be passed onto farmers. Already small industries bear the cost of market failure through production losses, generating data and permit applications and the increased need for residue testing (in jurisdictions where some off-label use with a minor use permit is legal). For emerging industries and industries without national levies the cost of generating data currently falls on the individual. Those with national levies allocate significant funding towards permit applications.

A set of broad permissible uses on the basis of assessed risk, if established (Option 1) needs to be nationally consistent. The Association offers support for a system such as that currently operating in Queensland and Western Australia to be investigated for implementation nationally under state and/or national pesticide regulations. The recently updated WA pesticide regulations allow for the:

- Use of a pesticide for an unspecified pest on a registered crop;
  - Use of a pesticide at a lower frequency than that shown on the label;
  - Use of a pesticide at a lower rate of application than that shown on the label;
- and

- Use of a pesticide for a crop/pest combination registered in another jurisdiction, (provided the pesticide is registered for use in WA and the label does not prohibit the use in WA).

The above uses do not present a major risk as MRLs will have already been set for the use of a specific chemical product/crop combination. The last point above should become obsolete with the introduction of nationally harmonised chemical regulations. A concern to the Association is that use at a lower frequency or application rate may contribute to the build-up of chemical resistance to some products. Chemical resistance must be managed if it is known to be a risk for a particular product.

The Association has concerns about establishing a list of chemicals that are Generally Regarded as Safe (GRAS) if it is a disincentive for chemical registrants to put uses on labels and leaves chemical users without established MRLs, but acknowledges that such a list would improve chemical user access to low risk options, if suitable products to be included on the list were identified.

### **6.3.2 Permissible uses for crops**

As discussed in Section 6.3.1 it is important that a nationally harmonised regulatory scheme get the balance correct between chemical access and managing risk. The Association does not support the adoption of a system that does not maintain consumer confidence and may leave chemical users vulnerable because the incentive to put uses on label or permit is lost.

The Association offers support to Option 1 (confining legal access to uses on labels and permits) but with further investigation with regards to incorporating the control of use regulations recently adopted in Western Australia. The Western Australian system adds some flexibility to chemical use but does not allow a chemical to be used on a crop for which an MRL has not been established.

While Option 2 (extend legal access to include specific additional uses based on crop groups or similar extensions) would be of benefit to minor use industries, there are associated risks that could leave users vulnerable which need to be addressed. It is acknowledged that the uses on labels do not cover all potential uses but only those that the registrant considers commercially viable and as such many off-labels uses do not present a human or environmental risk.

The concerns that the Association has about adopting a more liberal approach to off-label use are:

- Losing incentives to put uses on labels or permits;
- Cost of data generation being transferred to individuals, small groups of users or peak industry bodies;
- Reduction in the number of MRLs being generated;
- Impact on the assessment of dietary intake if all potential uses had to be included in the assessment, non-detectable residues are unlikely to be treated as zero residues;
- Responsibility of communication of permissible uses to industry;
- Responsibility if an adverse experience occurs from an off-label/permissible use;
- Coordination of resistance management strategies;
- Increased costs of monitoring and compliance; and

- Maintaining consumer confidence and industry bearing the risk of indefensible claims by anti-chemical consumer interests.

The Association does not support Option 3 (extend legal access to minor uses broadly defined) as it would need an expensive monitoring and compliance program which most likely would have to be funded by users. The establishment of a monitoring program to ensure nil residues for off-label uses is acknowledging that there is an access problem for minor agricultural industries and resources should be directed instead at providing a solution for these industries.

Industries that rely on the generation of minor use permits should receive Government funding to develop a national priority chemical needs list so that the size of the problem can be assessed and funds directed to putting uses on label or permit generation.

Option 4, adopting a system where approved agronomists or other advisors could permit off-label use of some agricultural chemicals should be further investigated. This could provide a solution where producers of a minor use crop have no other option to control a pest, as occurs for livestock industries through veterinarians' prescribing rights. The Association offers in principle support for further research into this option. The difficulty will be in determining the qualifications required, as training requirements are variable for those working as an agronomist and there is no single Code of Professional Conduct as is the case for veterinarians. However there are professional certification schemes available, e.g. Industry certified mungbean agronomist (Australian Mungbean Association) and AgCredited national accreditation program (Australian Institute of Agricultural Science and Technology).

To further work through the issues of chemical access, minor use permits and permissible uses the Association recommends that a forum be facilitated that includes minor use industries, state farming organisations, consultants that work in the minor use/IPM area, CropLife Australia and their members and Government. The concerns raised in this section need addressing.

If a national scheme is implemented that changes access to off-label provisions in jurisdictions which currently have a more liberal approach to off-label use a transition period will be required. During the transition period considerable resources must be directed towards obtaining permits for industry priorities.

### **6.3.3 Veterinarians' prescribing rights**

The Association supports Option 1, to harmonise veterinarians' prescribing rights across jurisdictions to ensure legitimate user access to chemicals without compromising the assessment and registration system for veterinary chemicals as long as no current prescribing rights are withdrawn. The compulsory Livestock Production Assurance scheme manages risk in the livestock industries.

### **6.4 Management of the chemical portfolio**

While the Association supports a system which ensures that chemical products are safe and improvements to the current review process to ensure more timely completion of reviews, it is concerned about the introduction of a new requirement for all agvet chemical approvals and registrations to be periodically reviewed. This was outlined in our submission to the Department of Agriculture, Fisheries and Forestry in

response to the *Better Regulation of Agricultural and Veterinary Chemicals Policy Discussion Paper* in January 2011.

The APVMA's existing chemical review program has the ability to initiate a review when new research or evidence has raised concerns about the use or safety of a particular chemical or product. The program also determines the scope of the review (e.g. environmental safety, occupational health and safety) by the specific concerns about the chemical. This ensures reviews are targeted to specific high risk chemicals and concerns.

The Association is concerned that the proposed review system outlined in Options 1 and 2 may redirect resources and efforts away from high risk chemicals or products to those with a low risk. It is believed that the chemical review process is best managed through a targeted risk-based review program, which is currently provided through the existing chemical review program.

The review processes outlined in Options 1 and 2 are unlikely to provide benefit to agvet chemical users, but are likely to add costs as well as increase the workload of the APVMA.

The Association is concerned that if data requirements of chemical registrants in Australia are not in line with that required internationally Australian producers might be disadvantaged as chemical registrants will not be encouraged to seek re-registration of their products. Some chemical registrants may consider the cost of data generation and the submission of data to be commercially unviable, particularly when a chemical is generic or close to coming off patent. This would disadvantage users if they lose access to effective chemicals which are available to their international competitors and would potentially put pressure on chemical resistance management programs. The availability of generic products needs to be protected.

The costs involved in implementing either Option 1 or 2 are likely to be significant. Given this, and that these options are mostly supported by community groups, the cost of implementing these options should be borne by all beneficiaries, including the public.

Based on the above discussion the Association supports Option 3, maintain the status quo.

### **6.5 Supplier compliance – importers, manufacturers and retailers/distributors**

The Association supports in principle the APVMA being provided with a complete, modern set of compliance tools. The steps outlined in Option 1 should protect the end user, as they will have greater assurance of the effectiveness and safety of the products they purchased. More information is required about the cost-benefit of implementing this option.

The Association proposes that communication channels between the APVMA and farming representative bodies be established so that farming representative bodies are advised about compliance activity.

## **7. CONTROL OF USE**

### **7.1 A national system of use controls – monitoring, auditing, surveillance and traceback to ensure safe use**

The Association supports in principle Option 1, establish a national program for monitoring residues of agvet chemicals and contaminants in agricultural commodities and the environment, integrated with effective auditing and surveillance. More information is required about the implementation and funding of such a program.

Monitoring has the benefit of ensuring consumer confidence and provides data, enabling industry to promote the safety of Australian grown produce.

The aim of any monitoring program should be to provide assistance to industry to address chemical management gaps (e.g. pest identification, access to effective chemicals) rather than prosecute. The system that currently operates in Queensland seems appropriate to implement nationally (all violations to be reported to government, increasing monitoring at no extra cost to government and primarily dealt with through extension rather than prosecution).

A national monitoring program must be integrated with monitoring schemes such as the National Residue Survey, Freshtest and testing already required for food safety and quality certification programs. Farmers participating in these schemes are already sufficiently monitored and should not have to pay for additional testing.

### **7.2 A national system of use controls – record keeping**

The Association supports the national harmonisation of record keeping requirements. As record keeping is required for all agvet chemical users who participate in a food safety and quality assurance scheme the Association supports Option 1, a requirement nationally for users to keep records of use. Record keeping required for a national system of use controls must be consistent with that required for food safety and quality assurance schemes (e.g. Freshcare) so that only one set of records are required.

There are benefits of keeping records to agvet chemical users; to protect themselves against vexatious complaints and to refer to past pest management programs when assessing the success of programs and to plan chemical rotations.

The Association does not support the cost burden of additional compulsory periodic audits of record keeping outside of those already required as part of annual food safety and quality audits (for those that are certified). Any other audits of record keeping should be targeted and based on concerns backed up by evidence of chemical misuse.

## **8. TRAINING AND LICENSING**

The Association supports a system which ensures agvet chemical users are able to demonstrate that they can use chemicals safely. Competence in the use of chemicals is good for farm safety, minimising input costs (e.g. through correct chemical choice and well-calibrated spray equipment), consumer confidence and agricultural exports.

Training and licensing requirements currently vary considerably between states and territories and these can impose compliance costs on businesses operating across jurisdictions. The training and licensing required by an agvet chemical user should be

based on risk and competency requirements must be applied consistently across jurisdictions to avoid user confusion and unnecessary compliance costs.

Training must be designed with the end user in mind and provide value to their businesses through improved knowledge and experience rather than simply provide a “tick the box” so that chemicals can be accessed. Checks to ensure the quality of training will assist in improving the value of training. The Association receives widely varying feedback about the quality and value of training. Training should be flexible so as to be able to cater for different learning styles and for people in remote locations, and for agvet chemical users with low literacy or from a language other than English background.

### **8.1 Fee-for-reward users**

Licensing requirements for fee-for-reward users should be harmonised nationally but which activities require a licence needs careful consideration (e.g. aerial applicators, urban pest control, contract ground sprayers). If Governance Option 3 is selected licences must be transferable across jurisdictions and meet agreed national competencies.

The Association is not supportive of licensing contract ground sprayers, which is currently not required in NSW. This has been working effectively in NSW with no known incidents. Contract ground sprayers are acutely aware of their obligations in regards to risk mitigation. The same training requirements for contractors as for farmers and other occupational users should be sufficient for managing risk; Australian Quality Training Framework Level 3 (AQF3) is suggested.

A clear definition of what constitutes a contract ground sprayer needs to be agreed upon if they are to be licensed. For example farmers will often provide spraying services for their neighbours (for a fee) and are not full-time contractors.

The Association cannot support any Option for fee-for-reward users until the activities to be licensed are determined, but does support in principle the need for the development and adoption of a national licensing scheme for fee-for-reward users for those activities deemed to require licensing (where licensing addresses a risk).

### **8.2 Farmers and other occupational users**

The Association supports the setting of a base level of competency nationally for farmers and other occupational users, as described by Option 1. Training requirements need to be based on risk but in general training at AQF3 would be considered appropriate.

It is a positive image for agriculture and beneficial for consumer confidence if all Australian farming businesses are trained in safe chemical use. However this benefit should be additional to the benefit received by chemical users of quality training.

As mentioned previously the quality of training needs to be audited (e.g. is training targeted to the participants and their farming systems) and delivery options flexible (e.g. online and face-to-face). Feedback provided to the Association suggests that training is a positive experience when trainers have practical on-farm experience themselves and are up-to-date with new spray application technologies and chemical products.

The Association's Chemical Card™ training course (AQF3) provides farmers with flexible training options so as to reduce time off-farm. Chemical Card offers home study with a face-to-face workshop or an online workshop so that the course can be completed without leaving home. Initial accreditation costs \$265 for Members (\$330 Non-members) and refresher courses cost \$175 for Members (\$220 Non-members).

The Association does not support mandatory training for re-accreditation, but rather focus on chemical users being able to show that they have maintained current competence through activities such as regular chemical use (farming), training courses, reading, attendance at workshops and field days. A points system could be used for user re-accreditation, such as Continuing Professional Development (CPD) program for Certified Practising Accountants (records of CPD are randomly audited). Certified Practising Soil Scientists keep a record of development activities and actual work undertaken (to meet an annual 50 hour requirement) to remain certified.

Agvet chemical users should be provided with freely available updates on chemical legislation, new chemistry and new spray technology. These topics are most valued in terms of further learning by farmers and timely delivery of this information is required. Farming businesses, due to increasing costs of chemical inputs and food safety certification requirements, will take responsibility of keeping themselves up-to-date and informed and this is the preferred driver for skill and knowledge development.

Training and accreditation must be consistent and transferable across jurisdictions, even if Governance Option 3 is selected. The Australian Quality Training Framework is a national set of standards and therefore the same competencies will be delivered in training nationally.

### **8.3 Sales personnel and advisors**

The majority of sales personnel and advisors provide excellent advice to users. However, as identified in the RIS the Association is aware of sales personnel and advisors that have provided poor advice to agvet chemical users, resulting in improper chemical use or inappropriate chemical choice. This is particularly an issue where the agvet chemical user has poor literacy skills and/or low pest management skills (e.g. identification of target pest). Training for resellers and advisors that improves the quality and legality of advice provided to users would be welcomed. Responsible advice will positively influence the safe and effective use of chemicals. The Association notes that responsibility for correct chemical use will ultimately rest with the end user.

The Association supports Option 3, recognise an industry developed scheme that trains and accredits advisors and sales persons to ensure they are competent. An industry stewardship program is currently delivered by Agsafe, an independent subsidiary of CropLife Australia. The aim of this program is to ensure that there is responsibility and regulatory compliance throughout the supply chain. While this covers safe storage, handling, transport and sale of agvet chemicals from the place of manufacture through to the point of sale it would be expected that if someone was providing detailed pest management advice they would have appropriate qualifications, which should be verified by a user employing their services.

The Association proposes that resellers and advisors undergo AQF3 training to complement their agricultural or other qualifications so that they have a greater practical understanding of chemical application on-farm.