



growcom

together we grow



Submission on

***The Senate Inquiry into the
Agricultural and Veterinary Chemicals
Legislation Amendment Bill 2012***

December 2012

About Growcom

Growcom is the peak representative body for the fruit and vegetable growing industry in Queensland, providing a range of advocacy, research and industry development services. We are the only organisation in Australia to deliver services across the entire horticulture industry to businesses and organisations of all commodities, sizes and regions, as well as to associated industries in the supply chain. We are constantly in contact with growers and other horticultural business operators. As a result, we are well aware of the outlook, expectations and practical needs of our industry.

The organisation was established in 1923 as a statutory body to represent and provide services to the fruit and vegetable growing industry. As a voluntary organisation since 2003, Growcom now has grower members throughout the state and works alongside other industry organisations, local producer associations and corporate members. To provide services and networks to growers, Growcom has about 30 staff located in Brisbane, Bundaberg, Townsville, Toowoomba and Tully. We are a member of a number of state and national industry organisations and use these networks to promote our members' interests and to work on issues of common interest.

General comments

Thank you for the opportunity to provide a submission to the Senate Inquiry into the *Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012*. We appreciate the level of engagement with industry during the reform process. We recently attended a forum in Brisbane where we discussed a number of issues with members of DAFF and APVMA (4/10/12). Representatives present at this forum indicated that DAFF intended to correct or clarify these issues within the legislation.

As the peak body for the production horticulture industry in Queensland, Growcom is committed to the responsible use of agricultural chemicals for the management of pests and diseases. The horticulture industry consists of more than 120 different commodities, each with its own pest and disease profile. As a result, the industry relies heavily on the minor use permit scheme. Growcom performs an additional function as the applicant and holder of a number of minor use permits on behalf of industry.

In comparison to major chemical companies, minor use permit applicants typically do not have significant resources at their disposal. The current minor use system has a degree of flexibility which allows a level of engagement between the applicants and the APVMA and we would be very concerned if this flexibility were compromised in the name of "better regulation". It would be very damaging to the horticulture industry if access to minor use permits was curtailed as a consequence of this reform process. We are also concerned that there may be potential for unintended consequences or significantly increased costs as a result of this lengthy and sometimes disjointed process.

In framing our submission, we will focus primarily on the impacts on the minor use scheme. Chemical registrants are best placed to provide detailed comments on the proposed amendments and how they impact on chemical registration; however, we will provide comments on general impacts of the proposals.

Specific comments

1. Streamlining processes.

We strongly support the goal of reducing the complexity of the legislation and to improve the transparency of APVMA decision making. In particular, we support the introduction of a draft decision process providing permit holders with an opportunity to provide additional input prior to a final decision being issued.

2. Implications of suspension or cancellation for permit applicants.

It appears that there has been a substantial change to Section 112, subsection (3A) in response to earlier feedback.

Despite these changes, Growcom is still concerned that the suspension or cancellation of permits resulting from processes beyond the control of the applicant (e.g. as a result of a review process) may impact on an applicant's future

applications. In Growcom's opinion, the proposed wording is open to reinterpretation. This section of the legislation must be further reworded to clarify that this applies only if the suspension or cancellation of the permit is a direct result of improper actions of the applicant.

Furthermore, it appears that this penalty applies to permit holders/applicants but not necessarily to registrants. This discrepancy should be explained or resolved.

3. Clarification of liability for permit holders and users.

Growcom holds many minor use permits on behalf of the horticulture industry. Despite Growcom's commitment to responsible chemical use and ongoing efforts to inform growers of their responsibilities under the permit, there is a risk that individual chemical users may stray from the regulated use pattern. We have expressed a concern that, as the permit holder, Growcom may have liability for actions performed by individual chemical users.

At the recent meeting with DAFF and APVMA in Brisbane, it was proposed that a simple rewording of the legislation (i.e. from "permit holder" to "to whom a permit applies" as described on the permit) would solve this issue.

Growcom is not convinced that this simple change will remedy the problem completely. The wording on some permits states that the permit applies to the permit holder, ensuring that liability will fall with the permit holder despite the proposed changes. We propose that, in this context, the legislation must explicitly refer to chemical users rather than permit holders, applicants or unidentified third parties. This is absolutely essential as otherwise the minor use permit system will fail completely as organizations such as Growcom who hold permits on behalf of many growers and commodities cannot accept that level of liability.

4. Systematic review process.

Growcom accepts the need for a more systematic approach to identifying chemicals requiring review. That said, we are concerned that the mandatory review approach could result in increased bureaucracy and cost with no real reduction in risk to the public or the environment.

It is well known that Australia is considered a very small market by chemical companies and as such any additional requirements that erode the commercial viability of a product need to be carefully considered. It would be a perverse outcome if low risk chemicals were no longer available to Australian producers as a consequence of an overly bureaucratic re-registration process. It appears that this mandatory process does not necessarily address many of the issues with the current chemical review process which is very lengthy. A process that adds more products to the long list already under review is not going to reduce risk and may divert resources away from actually reviewing high risk chemicals.

5. *Third party applications will lead to cost shifting and loss of chemical access.*

The ability of third parties to apply to have permitted uses included on-label, with the consent of the registrant, appears to be a positive step. However, we have concerns that this may enable chemical manufacturers to shift registration costs onto smaller industries, possibly leading to reduced availability of some chemicals in the small Australian market (refer to point 4).

It is also unclear how data protection will be managed under this multi-party process. The issue of data protection must be clarified to ensure that data holders and/or registrants are not disadvantaged, should they choose to engage in the proposed process.

6. *Application assessment process*

Growcom has expressed concern that the proposed changes would remove the necessary flexibility and discretion from the application assessment process. Following discussions at the Forum in October, we are satisfied that the Government intends for flexibility to be maintained in the new legislation and regulations.