Senate Rural and Regional Affairs Transport Committee
Inquiry into Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012

20 December 2012

Committee Secretary,

The Australian Mushroom Growers Association (AMGA) welcomes the opportunity to provide additional input into the AgVet chemical regulatory reform process. As indicated in the October 2012 submission, the AMGA welcomes proposals aimed at facilitating improved administrative processes, timeframes, and the use of overseas data and assessments.

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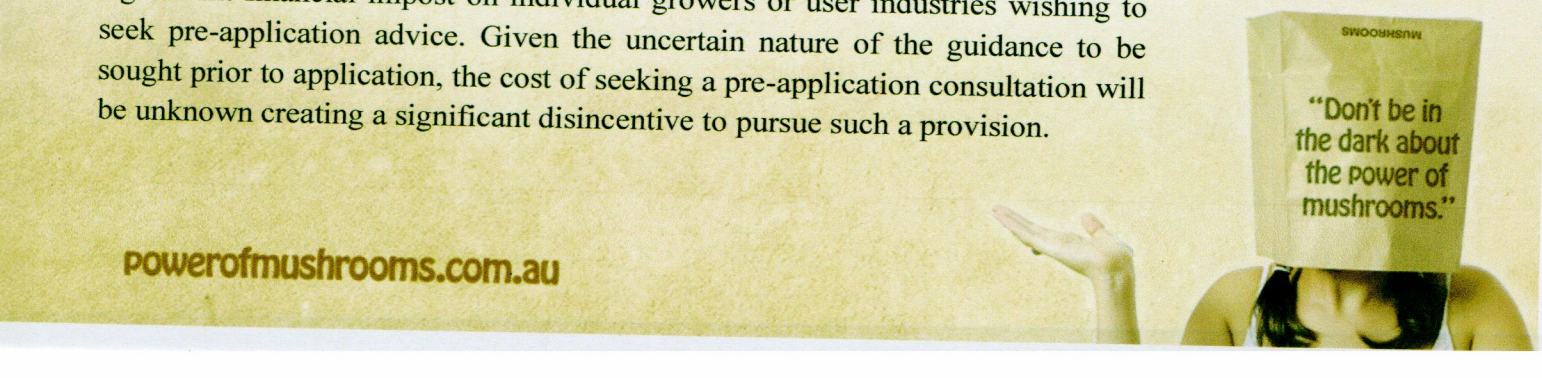
The Australian mushroom industry is relatively low user of agricultural chemicals. As a result it perennially suffers from a lack of pest and disease management options because registrants do not anticipate sufficient financial returns to warrant pursuing label extensions. Consequently, the industry is particularly interested in any legislative changes that will affect the capacity of the industry to access agricultural chemicals.

From that perspective the AMGA wishes to highlight significant concerns over two areas of the bill relating to minor use permits and how they will work in practice.

Firstly, the legislation will afford all applicants the opportunity to utilise a pre-application consultation. The intent, it is understood, is to help ensure the APVMA receives good quality applications. In the bill it is indicated that a fee of $350 will be charged, i.e., $175 per unit of assistance with a minimum purchase of two units, with the fee subject to rebate. Unfortunately, the APVMA in the recently published CRIS has outlined a more burdensome fee structure where an additional *"$175/person/hour to be added to the initial fee, based on the time taken to prepare and provide the advice and the number of advising agencies that are required to be involved"*.

From a minor use permit perspective this has the potential to impose a significant financial impost on individual growers or user industries wishing to seek pre-application advice. Given the uncertain nature of the guidance to be sought prior to application, the cost of seeking a pre-application consultation will be unknown creating a significant disincentive to pursue such a provision.



The AMGA recommends that APVMA break its pre-application consultation into two parts: Stage 1 provides a total estimate of the likely cost of the pre-application advice including the estimate of costs for advising agencies. This estimate would be part of compulsory minimum two unit fee i.e. $350. The applicant will decide whether they wish to proceed when they have received the cost estimate. Should the applicant wish to proceed with the full pre-application process then Stage 2 begins and the fee is charged as per the CRIS. If the actual cost were likely to exceed the estimate provided in stage 1, APVMA would need to advise the applicant.

Secondly, the AMGA wishes to raise concerns over the provision to allow individuals to pursue label extensions as outline under *section 27 Applications*[1] of the bill and the potential adverse impact this will have on the capacity of growers and user industries to seek minor use permits.

In previous submissions to both DAFF and the APVMA, argued for fee mitigation associated with industry initiated label extensions. To date the mushroom industry has been exploring opportunities to achieve label extensions via the Category 25 initiative of the APVMA. The bill outlines an alternative pathway to that of the current Category 25 applications whereby third parties, i.e., industry associations, can apply to vary a product label with the consent of a registrant. Applications under the current Category 25 approach, and as outlined in the bill, are to be assessed on a modular basis thereby incurring a range of fees.

In its previous submissions the AMGA has argued that these modular fees are a significant disincentive, i.e., a $350 minor use permit fee as against multiple thousands for the alternative pathways. If the alternative pathway is to be useful then fee mitigation is essential. The AMGA was particularly disappointed in the outcome of the recent APVMA consultation process where its proposal for fee relief was acknowledged as being under consideration, yet in the CRIS no mention of the proposal was made. One can only conclude the proposal had been effectively disregarded with no comment.

Related to the costs associated with seeking a label extension under section 27, but of greater concern, is how this new legislative pathway will be linked with the process of seeking minor use permits. Under *section 112 Issuing permits,* various criteria are listed that the APVMA must consider prior to the issuance of a minor use permit. Of these there is the requirement that the APVMA must determine whether *"if an application has not been made for approval of the constituent or registration..... there are reasonable grounds for the application not having been made"*[2].

Under section 27, a mechanism will exist by which individuals (growers or user industry associations) will have, in theory, the ability to make applications. AMGA is concerned how the criteria be applied? Will a permit application be refused on the grounds that no application to register was made under section 27? This would force growers and user industries to pursue label extensions as their only avenue for legal access to essential pesticides. Given the cost disincentive associated with seeking a label extension under section 27 growers and user industries would be left in an unsatisfactory position and the policy desired outcomes would not

[1] Part 2 Division 3 section 27 Applications (2) (a).
[2] Part 7 Section 112 (2) (f)

be achieved. AMGA is also concerned about what other additional operation criteria will minor use permit applicants have to satisfy for the APVMA to grant approval?

AMGA supports the policy initiative to have pesticide uses included on labels wherever feasible. In an effort to facilitate that process in a simple way without major modification to the existing practice, the **AMGA recommends the following:**

- **Applicants seeking a permit must provide written evidence that they requested the registrant(s) of a pesticide to include the proposed use of the pesticide on the label;**
- **Where possible, the permit applicant should provide evidence of the response of the registrant the above request;**
- **If the registrant declines to add the applicants proposed use to their label, APVMA can automatically proceed with the assessment of the permit knowing that a label extension is not possible**

AMGA supports the policy intent in the above highlighted sections of the bill. However, AMGA is concerned that there is a disconnect between the policy intent and the potential operational implementation for the pre-application consultation provisions, and the label extension provisions. As a consequence the AMGA is acutely concerned at the impact this will have on the ability of crop industries to access safe, legal and efficacious farm chemicals.

AMGA is happy to provide any further information or feedback on this matter

Yours sincerely,

Greg Seymour
General Manger