



Submission to the
Productivity Commission
On the
**Chemicals and Plastics Regulation
Issues Paper**

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Growcom submission on the Productivity Commission Issues Paper – Chemicals and Plastics Regulation

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Executive Summary

Chemicals are used on a daily basis for a variety of purposes such as fertilising; pest and disease management; treatment of irrigation water; sanitation of harvesting and processing equipment; and general hygiene.

The regulation of chemicals can thus have significant impacts on horticulture businesses. Developing and maintaining the most appropriate, efficient and effective regulatory framework can reduce the impacts and regulatory burdens on these businesses. This is even more important when taking into account that access to and the use of chemicals in the horticulture industry is essential for the viability of every business.

The key issues Growcom believes need to be addressed in relation to chemical regulations include:

- The complex regulatory environment surrounding chemicals can have many impacts, particularly when taking into account that access to and the use of chemicals is essential for the viability of every horticulture business;
- The timeliness of chemical registrations is a critical issue for the industry;
- Growcom is supportive of commonality and harmonisation of chemical control of use legislation between the states and territories;
- The uncertainty around the outcomes of a chemical review process can mean that an industry could be required to invest a substantial amount of money prior to knowing the final outcomes;
- The implications of a chemical review needs to be communicated to all stakeholders in plain English well before the finalisation of any review;
- Past experiences have demonstrated that controlling security sensitive chemicals can have long term and unintentional consequences on the viability of industry;
- Access to permitted and minor use chemicals, including in biosecurity emergencies, is significantly important to horticulture producers, however there are many constraints that reduce producers' ability to legally access and use these chemicals;
- We are supportive of a system that ensures imported produce adheres to the same food safety standards as Australian grown produce.

Growcom is appreciative of the opportunity to respond to the Productivity Commission's Issues Paper on Chemicals and Plastics Regulation and anticipate that our feedback will be taken into consideration. We are willing to provide more information to the Productivity Commission on any aspect of our submission if required.

Introduction

As the peak body representing the Queensland horticulture industry, Growcom welcomes this opportunity to provide feedback to the Productivity Commission's Issues Paper on Chemicals and Plastics Regulation.

The regulation of chemicals can have significant impacts on horticulture businesses, therefore developing and maintaining the most appropriate, efficient and effective regulatory framework can reduce the impacts and regulatory burdens on these businesses. This is even more important when taking into account that access to and the use of chemicals in the horticulture industry is essential for the viability of every business. Chemicals are used on a daily basis for a variety of purposes such as fertilising; pest and disease management; treatment of irrigation water; sanitation of harvesting and processing equipment; and general hygiene.

Growcom is supportive of any initiative that reduces the regulatory burdens on horticulture enterprises in Queensland. We anticipate that the feedback provided in this submission on the concerns of the horticulture industry in relation to chemical regulations will be taken into consideration by the Productivity Commission when developing their draft report.

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 to the sector. 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 horticultural business operators and are well aware of the outlook, expectations and practical needs of the industry.

The organisation was established in 1924 as a statutory body to represent and provide services to the fruit and vegetable growing industry. Now a voluntary organisation, Growcom has grower members throughout the state and works alongside other industry organisations, regional producer associations and corporate members. To provide services and networks to growers, Growcom has approximately fifty staff located in offices in Brisbane, Bundaberg, Ayr, Toowoomba and Tully. Growcom is a member of a number of state and national industry organisations and uses these networks to promote our members' interests and work on issues of common interest.

Growcom has an established and skilled Land and Water team. This team has developed and delivered environmental and water policy and programs for over a decade. The team works to assist horticultural growers to achieve high standards of natural resource management, environmental protection and business profitability by delivering a range of projects and services. Growcom also has skilled Industry Development Officers specialising in certain issues such as vegetables, bananas, apples, grapes and melons. These officers travel throughout Australia and have established networks and industry contacts.

Growcom has also been running a pest management program for a number of years. This program has resulted in Growcom gaining extensive knowledge and experience relating to chemicals and pest management in the horticulture industry. The aim of this project is to ensure there is an ongoing pest management strategic framework that allows the current strategies to be maintained and updated.

The project also aims to coordinate industry and other stakeholders in meeting their pest management needs. The benefits to the horticulture industry as a result of this work being undertaken have included chemical access and coordination between commodity groups for residue trials to support chemicals use and a quicker turn over time for applications lodged with APVMA. The project allows for a strategic approach to assessing chemicals and has provided a critical information transfer service on chemical and non-chemical control options and issues.

As a result of our extensive knowledge and experience in the horticulture industry, in addition to chemical and pest management, Growcom is providing this response to the Productivity Commission's Issues Paper on Chemicals and Plastics Regulation on behalf of the Queensland horticulture industry.

About the Queensland Horticulture Industry

Queensland is Australia's premier state for fruit and vegetable production, growing one-third of the nation's produce. Horticulture is Queensland's second largest primary industry, worth more than \$1.7 billion per annum and employing around 25,000 people. Queensland's 2,800 farms produce more than 120 types of fruit and vegetables and are located from Stanthorpe in the south to the Atherton Tablelands in the far north. The state is responsible for the majority of Australia's banana, pineapple, mandarin, avocado, beetroot and fresh tomato production. There are 16 defined horticultural regions with a total area under fruit and vegetable production of approximately 100,000 hectares.

The Queensland horticulture industry is:

- A major contributor to regional economies and the mainstay of many regional communities;
- The largest high quality supplier of fresh fruit and vegetables to Australian consumers;
- A diverse industry utilising a range of production methods in different locations and climates;
- A resource base for significant value adding throughout the food, transport, wholesale and retail industries;
- The most labour intensive of all agricultural industries, with labour representing as much as 50% of the overall operating costs;
- An industry with significant links to the tourism industry, providing income for thousands of backpackers and "grey nomads" each year;
- A high value and efficient user of water resources in terms of agricultural production;
- A primary and secondary source of income for many families in regional Queensland e.g. through seasonal work in packing sheds;
- The site for a number of emerging agricultural industries including olives, Asian exotic tropical fruits, culinary herbs, bush foods, functional foods and nutraceuticals; as well as
- A significant user of a variety of chemicals for a diverse range of purposes.

Chemical regulation concerns of the Queensland horticulture industry

Chemicals are regulated by a complex web of legislation, with the aim of the regulation to obtain an appropriate balance between the benefits of society, such as increased agricultural production, and the risks to human health and the environment associated with exposure to potentially harmful substances.

This regulatory environment can have many impacts on the horticulture industry, particularly when taking into account that access to and the use of chemicals in the horticulture industry is essential for the viability of every business. Chemicals are used on a daily basis for a variety of purposes such as fertilising; pest and disease management; treatment of irrigation water; sanitation of harvesting and processing equipment; and general hygiene.

Generally, there is concern about duplication and inconsistency of chemical regulations between the Australian Government and state and territory governments. To demonstrate, there are numerous existing legislation in Queensland and the nation controlling the purchase, transport, storage and/or use of chemicals, including:

- Agricultural and Veterinary Chemicals Act 1994
- Agricultural and Veterinary Chemicals Code Act 1994
- Agricultural and Veterinary Chemicals Act (Queensland) 1994
- Agricultural Chemicals Distribution Control Act 1966
- Agricultural Chemicals Distribution Control Regulation 1988
- Chemical Usage (Agricultural & Veterinary) Control Act 1988
- Chemical Usage (Agricultural & Veterinary Control Regulation 1999

Growcom will provide further feedback on some specific concerns of the Queensland horticulture industry in relation to chemicals in the sections below.

Australian Pesticides and Veterinary Medicines Authority (APVMA)

The APVMA regulates chemicals up to the point of retail sale, and has the role of assessing chemicals before registration, as well as reviewing them once on the market. APVMA also has the capacity to issue permits for minor use (such as off-label permits, supply/use permits and export permits) as well as emergency and research permits.

Growcom has received some general feedback in relation to the APVMA:

- The timeliness of registration of agricultural and veterinary chemicals is a critical issue for AgVet chemical users and manufacturers/distributors;
- Sections of APVMA that are responsible for issuing permits are seen to be significantly under resourced and therefore are unable to turn around applications in the promoted time frame of 3 months; and
- International data should be allowed to be taken into consideration in considering registration applications.

Chemical Control of Use legislation

The control of use of chemicals is undertaken separately from the APVMA by state and territory governments throughout Australia.

In Queensland, the state government has been undertaking a review to investigate consolidating the *Agricultural Chemicals Distribution Control Act 1966* and the *Chemicals Usage (Agricultural and Veterinary) Control Act 1988* into a single Act. This process has been underway for more than 8 years, which is considered to be far too long and resulting in the wasting of resources for both government and industry.

Growcom has submitted the following feedback on this review to the state government:

- Industry supports the consolidation of existing state regulation into a single Act;
- Legislation controlling the use of AgVet chemicals should be as simple, transparent and consolidated as possible;
- Consolidation would assist in reducing unnecessary duplication and remove confusion and complexity resulting from the current legislative arrangements;
- Nationally consistent AgVet legislation, with consideration for each state and territory's particular conditions will eliminate confusion regarding what particular actions are allowed in each state and benefit industries operating across state borders;
- Growcom was supportive of the proposal that the new legislation have the capacity to recognise the benefits of industry initiatives, such as environmental Codes of Practice and other risk-based, on farm programs such as Farm Management Systems (FMS);
- Growcom was generally supportive of the proposal for the new legislation to include a general duty of care obligation on users of AgVet chemicals and other agricultural inputs to take reasonable care to prevent or minimise harm to the health and safety of human beings, non-target species, the environment and trade;
- However, Growcom was less supportive of the extension of this general duty of care outside the area intended for treatment. Introduction of this provision could allow growers to be held liable for unintentional contamination through activities with the potential for off site consequences.

Overall, Growcom is supportive of commonality and harmonisation of chemical control of use legislation between the states and territories. This should incorporate the best practices from each state and territories' chemical control of use legislation.

Chemical reviews

Chemical reviews and the associated outcomes can have significant impacts on the horticulture industry. Growcom understands that these reviews are undertaken by the APVMA to ensure that the use of registered products does not cause undue harm or pose undue risk to people and the environment. However, there are many issues that Growcom would like to raise in relation to the chemical review process.

These issues include:

- There needs to be greater industry engagement prior to the finalisation of a review. This is essential to ensure those potentially affected are aware of what is likely to occur and have undertaken activities to ensure the industry and its businesses are prepared for the review's outcomes;
- Greater engagement mechanisms are likely to result in improved 'warning signals' to industry on potential outcomes of the review process. This is particularly important for smaller industry groups who may not be able to interpret the preliminary findings; and

- The uncertainty around the outcomes of a chemical review process can mean that an industry could be required to invest a substantial amount of money prior to knowing the final outcomes.

Growcom would like to provide an example of how chemical reviews can impact on the horticulture industry.

Currently, the APVMA is undertaking a review of the chemicals dimethoate and fenthion, which has been occurring for many years. The review is anticipated to have a potentially adverse effect in terms of retaining access to many currently approved uses. These chemicals are extremely important in terms of interstate and international trade of horticulture produce and the uncertainty around the outcomes is placing millions of dollars worth of produce at stake.

Numerous fruit and vegetable commodities are considered “at risk” as a consequence of this review, due to the heavy reliance upon dimethoate and fenthion for in-field and post-harvest control of fruit fly and other pests. If the review identifies particular commodities which, when consumed, contain dimethoate or fenthion residues which will exceed the measure of short-term dietary intake, then the use of these chemicals for those applications may no longer be permitted.

Dimethoate and fenthion are regularly used for pre-harvest and post-harvest fruit fly control and, in some cases, post-harvest treatment with one of these chemicals is currently the only accepted fruit fly disinfestation treatment to gain access to certain markets. Trade which could be affected includes domestic trade (from fruit fly infested areas into fruit fly sensitive markets) and some international markets (including New Zealand and Pacific Islands).

The review outcomes could also impact upon producers within the Fruit Fly Exclusion Zone or other non-infested areas of Australia, particularly if they result in withdrawal of the approval to use dimethoate or fenthion as a post-harvest disinfestation treatment. If a non-infested area has a fruit fly outbreak and fruit movement out of that area requires a disinfestation treatment, then the absence of an alternative to dimethoate or fenthion could seriously impact upon the ability of those quarantined areas to trade freely at times when an outbreak occurs.

Industry groups are considering the likely impact of the potential loss of post-harvest uses of dimethoate and fenthion. For commodities with inedible peel the use of dimethoate and fenthion might be maintained if the dietary exposure estimates can be significantly reduced. However, residue trial data is required to allow any such refinements to occur. Relevant data appears to be limited or not available and as both are generic compounds manufacturers are reluctant to fund the research required to generate the required data.

Therefore, to preserve uses the onus to generate data is falling on the affected industries. Many of these industries are funding the generation of new insecticide data to maintain the uses or are looking at the development of alternate procedures to satisfy interstate quarantine requirements.

Growcom held an industry forum in Queensland in December 2006. This forum resulted in the issue being brought to the forefront. Further to this, Growcom was supportive of the Australian Government Department of Agriculture, Fisheries and Forestry (DAFF), through the Office of the Chief Plant Protection Officer, appointing a National Coordinator to address the plant quarantine and market access issues associated with the reviews of dimethoate and fenthion.

Overall, it is seen as important for a national and consistent approach to this issue to ensure that all industry's needs and requirements are addressed.

The feedback Growcom would like to submit in relation to this issue and the associated regulatory burdens are:

- The chemical review process and potential restrictive outcomes will have a high impact on the horticulture industry;
- Industry has put forward substantial resources to improve the research and data available to the APVMA;
- State governments will also need to commit substantial resources to develop new biosecurity plans and market access requirements to reflect restrictions to these important chemicals; and
- Uncertainty around the outcomes of the review means that the investments need to be made despite the final verdict.

Control of chemicals of security concern

Growcom recognises that issues of security are important for the broader community. We also understand that, in some cases, the burden of addressing community concern will fall upon some sectors more than others. However, it is our strong view that measures to address such issues should be soundly based in comprehensive risk assessment processes. We also believe that, when such burdens fall unreasonably on a sector as a result of community concern rather than risk-based assessment, the cost of compliance should be met by the community rather than the impacted businesses.

The Queensland horticulture industry was significantly impacted upon when security sensitive ammonium nitrates (SSAN) were restricted in 2005. Currently producers who wish to use SSAN have to hold a licence, which can be obtained by demonstrating to government that there is a legitimate need to use SSAN, that it will be stored and transported securely and that the producer as an individual is not of security concern. This experience demonstrated that with government placing control measures on the use of a particular chemical, it had unintentional consequences on the viability of the industry. This included suppliers and resellers not stocking SSAN due to onerous requirements.

Growcom recently submitted a detailed submission to the Department of Prime Minister and Cabinet on the Council of Australian Government's discussion paper on the control of chemicals of security concern (CoSC). It is seen as extremely important that government does not implement control measures without adequate consultation as occurred in relation to SSAN. Overall Growcom submitted that this issue is extremely complex and detailed and requires government to undertake an extensive consultation process both within government and industry. Government must also undertake a detailed impact analysis on placing control measures on all legitimate users of CoSC within all sectors of the economy.

Growcom suggests that the Productivity Commission reviews Growcom's detailed submission to the Department of Prime Minister and Cabinet on the Control of Chemicals of Security Concern. This submission can be found on the Growcom website at www.growcom.com.au or by following this link - http://www.growcom.com.au/uploads/24712Growcom_submission_security_sensitive_chemicals.pdf.

Minor use

Access to minor use chemicals is significantly important to horticulture producers in Queensland. However, there are many constraints that reduce producers' ability to legally access and use these chemicals. It is important that improvements are made to the current system to ensure that Australia's food production industry is globally aligned with responsible chemical use practices in order to be internationally competitive and maintain market access.

On the 21 June 2007, the Minor Use Liaison Office (a joint initiative of the Department of Agriculture, Fisheries and Forestry (DAFF) and the APVMA) hosted a forum in Canberra entitled Minor Use 07 – Future Directions. Following this, a discussion paper was released that included many of the problems relating to the current system and the need for a Speciality Crops Unit. Growcom suggests that the Productivity Commission review the information from this forum, and the discussion paper. This information can be found on the DAFF website (www.daff.gov.au), or on the following link - <http://www.daff.gov.au/agriculture-food/food/regulation-safety/ag-vet-chemicals/minor-use/future-directions>.

Growcom would like to provide further feedback in relation to this issue. Overall, Australian producers of specialty food and other crops (minor crops) are faced with numerous challenges in managing plant pests, weeds and diseases. The limited scale of these minor crop industries, and even many major crops, has significantly restrained the commercial drivers that pesticide manufacturers require to invest in research and development and therefore registration of beneficial pesticide products.

This market failure has resulted in an urgent need for a proactive government-industry mechanism to facilitate the registration of minor uses for pesticides. Improvements to the processes for developing minor use data packages and pesticide registrations will strengthen the safeguards that are in place to deliver safe and high quality food products to consumers by keeping chemical residue levels within internationally acceptable standards.

Pesticide manufacturers must provide the regulator with research to prove the product is effective for specific crops and safe for humans and the environment when registering a product. As this research is expensive, it is only undertaken for major crops. Consequently, uses for minor crops are not researched and not specified on labels. The food production industry's capacity to be innovative in moving to newer chemicals or different use patterns is frustrated by the lack of minor uses specified on labels, thereby allowing them to legally do so.

It is important that solutions to Australia's minor use problems be found as a matter of high priority to ensure that a lack of approved crop protection products does not become the limiting factor for the continued and future prosperity of the horticulture industry.

In an effort to encourage government to improve Australia's minor use program as a matter of urgency, Growcom recently joined with other organisations including Horticulture Australia Limited, AUSVEG, CropLife Australia, Horticulture Australia Council and National Farmers Federation to develop a proposal to establish a Minor Use and Speciality Crops Unit to facilitate the registration of chemicals and to generate minor use registration data in a targeted, economic and timely manner. Government's commitment to this proposal would enhance the horticulture industry's ability to have access to the chemical control options they require, which is vital to the continued profitability and sustainability of the industry.

Growcom believes government intervention is required in the minor use area to:

- Ensure that consumer and community expectations for safe and healthy food are met through responsible chemical usage;
- Foster innovative approaches and development of niche market opportunities for Australian food producers;
- Achieve an optimal approach through increased capacity and alignment of relevant regulatory, policy and research entities;
- Ensure that Australian food producers have access to a range of chemicals that allows them to compete in global markets;
- Ensure that Australian food producers are not forced to rely upon only one chemical control option for a pest that could lead to resistance problems;
- Ensure that Australian food producers can develop environmentally friendly, sustainable integrated crop management systems through access to the latest chemistry;
- Ensure harmonization and collaboration with similar programs overseas to facilitate data sharing;
- Protect consumer confidence by providing a system where standards of food safety and integrity are “world’s best” by extending produce shelf-life through the effective treatment of field diseases; and
- Ensure that Australian food producers have a range of chemicals ‘at the ready’ to respond to exotic pest incursions and changes in pest status that may occur from changing climatic conditions.

Overall, minor use permits are costly and time consuming for developing industries. Improved alignment with internationally recognised pesticide registration programs would potentially reduce the cost and improve access to data to ensure that Australian food production industries are not competitively disadvantaged. The formation of a Minor Use and Specialty Crops Unit to address minor use in Australian food production would also assist in improving the minor use pesticide registration process, accelerating the adoption of safe pesticide practices.

Growcom would be pleased to submit more information to the Productivity Commission on industry’s proposal for a Minor Use and Speciality Crops Unit if requested.

Chemical access in biosecurity emergencies

Access to critical chemicals in the event of biosecurity incursions and emergencies is also a serious issue. It is important that in these circumstances, the industry has access to the chemicals they required to control the incursion or biosecurity emergencies immediately to prevent further contamination or spread of the pest and/or disease. Many horticulture industries are signatories to the Emergency Plant Pest Response Deed and, as a result, have undertaken to develop an Industry Biosecurity Plan which identifies the pests and diseases that threaten the viability of these industries. It is important that in the event of one of these foreign pests or diseases entering Australia, that the industry has immediate access to the chemicals required to control the outbreak. Australia requires a regulatory system that can react quickly in the event of biosecurity emergencies.

Imported produce

Growcom is concerned that there is inconsistent treatment of fresh domestic produce compared to important fresh produce. We are supportive of a system that ensures imported produce adheres to the same food safety standards as Australian grown produce.

Interstate Certification Assurance (ICA) scheme

Growcom recognises that many of the issues relating to the ICA system fall outside the scope of this review. However, we would like to raise the issue of burdens on enterprises and the industry resulting from the different chemical treatments required between states in some circumstances. Growcom supports a system that harmonises acceptance of chemical treatments and systems across state borders.

drumMuster

drumMuster is a national program for the collection and recycling of empty, cleaned, non-returnable crop production and on-farm animal health chemical containers. The system was set up to provide an environmentally responsible way of collecting and recycling metal and plastic containers. Since 1st February 1999, farm chemical users have paid a 4 cents per litre or kilogram levy on crop production and on-farm animal health products sold in non-returnable chemical containers over 1 litre or kilogram in content. This levy funds the *drumMuster* program.

Currently, there are emerging issues over the management and expenditure of the levies collected under this program. Growcom is adamant that growers' contributions must be used for their intended purposes and that the integrity of grower control over these funds must be maintained.

Further to this, Chemclear is the nationally approved pathway for the disposal of hazardous waste. Currently due to economic pressures (such as drought) producers are unable or unwilling to pay the 75% disposal cost of group 2 chemicals. This is despite Queensland EPA subsidising 25% of the collection costs.

Maximum Residual Limits (MRLs)

Growcom wishes to raise a specific issue in relation to inconsistencies between APVMA and Food Standards Australia New Zealand (FSANZ) regarding MRLs in fresh produce and food products. The issue for the horticulture industry is that when a new pesticide use is gazetted by APVMA, it is not gazetted in the Food Standards Code by FSANZ simultaneously. There can be lengthy delays of up to 15 months, where some fresh produce can technically be a MRL violation despite the fact the chemical is legal. This is a national issue that has been raised by industry stakeholders for many years, however it must be recognised that this issue has still not been rectified. The dual MRL system reflects poorly on Australia when dealing with our trading partners.

Conclusion

The key points Growcom has raised in relation to chemical regulations are:

- The complex regulatory environment surrounding chemicals can have many impacts, particularly when taking into account that access to and the use of chemicals is essential for the viability of every horticulture business;
- The timeliness of chemical registrations is a critical issue for the industry;
- Growcom is supportive of commonality and harmonisation of chemical control of use legislation between the states and territories;
- The uncertainty around the outcomes of a chemical review process can mean that an industry could be required to invest a substantial amount of money prior to knowing the final outcomes;
- The implications of a chemical review needs to be communicated to all stakeholders in plain English well before the finalisation of any review;
- Past experiences have demonstrated that controlling security sensitive chemicals can have long term and unintentional consequences on the viability of industry;
- Access to permitted and minor use chemicals, including in biosecurity emergencies, is significantly important to horticulture producers, however there are many constraints that reduce producers' ability to legally access and use these chemicals;
- We are supportive of a system that ensures imported produce adheres to the same food safety standards as Australian grown produce.