

From: Phil Hurst [phil@aerialag.com.au]
Sent: Wednesday, 21 May 2008 2:10 PM
To: Chemicals and Plastics Xternal Email
Subject: Aerial Ag comments on draft report
Hi

Sorry to have missed the 2 May deadline which was not included on the report and which I couldn't find on the website.

The Association would like to contribute a few comments as below:

Strongly Support Commonwealth Control-of-Use Legislation

AAAA strongly supports the move to a Commonwealth legislative role for the regulation of ag chemicals via the National Registration Scheme as the States have vastly different agendas which are reflected in their different approaches to chemical control-of use regulation and its administration. The difficulties identified at page 91 of the draft report are only a few examples of where State reluctance to change their regulations or to adopt nationally agreed initiatives has led to significantly different regulatory regimes in different States – other examples include ground application training, definitions of 'harm', defences of due diligence and record keeping. The only caveat in this support is that aerial applicators and AAAA should be involved in the development of the legislations, as we have been in all States and through Ministerial appointment in NSW.

States administration must be consistent and meet agreed standards

If the States are to retain the *administration* of chemical control-of-use Commonwealth regulation on the ground, then they need to ensure that their administration (including auditing, surveillance and enforcement action) of both ground and aerial application is even handed – at the moment it is not. In some States a very unlevel playing field exists in areas such as basic competence of applicators, licencing, insurance requirements, auditing etc where there is a heavily skewed approach towards much higher standards for aerial agriculture despite ongoing evidence from their own agencies that ground application represents a much greater problem. Perhaps a useful addendum to the Commonwealth legislation would be all States signing on to an agreement on protocols for administration – including at least auditing, surveillance, investigation and enforcement.

Existing approval of labels system may undermine better practice

The existing APVMA system can work directly against the adoption of best practice. This is particularly true in terms of labels (especially old labels) approved by APVMA that are simply wrong in their approach to mandating certain equipment on label etc. A previously highly prescriptive approach to label directions for applicators has resulted in an enormous back-log of labels that positively direct industry towards poor practice. This is particularly true with generic products where generic registrants are essentially required to 'follow-the-leader' and directly copy an existing label, even when it is clear the existing label poses unacceptable threats to the environment etc by its prescription of certain equipment which has been superseded – particularly in terms of drift control. APVMA should be given the flexibility to approve labels (including generic labels) that improve standards for application where the improvement is obvious, proven and already in the field. While the new APVMA drift policy (yet to be implemented after years of development) may solve some of these problems, it highlights the difficulty industry has (particularly applicators rather than chemical registrants) in influencing Government agencies that may not actually hold expertise over what they are regulating. The establishment of an application reference group by APVMA would be welcomed as has been promised for some years.

Ensure a role for applicators in policy development

The new Commonwealth legislation (or extended APVMA powers) for standard setting and risk management for ag chemicals and environmental risks should only be developed in such a way as to secure the support of and use of the best practice techniques of people actually using the chemicals – the applicators, their representative associations and supporting

technical experts. Applicators are generally frozen out of such discussions due to the nature of the commercial-in-confidence relationship between APVMA and registrants, or the closed door policy of discussions between Environment Australia, the States and APVMA. Often the first an applicator or representative body such as AAAA will know of a different approach on label will be when the drums turn up at an applicator's base for use – and often with either very confusing or outdated practice on label and in supporting company information that is near impossible to have changed for the better.

Encourage best practice and support industry efforts

Any new legislation should include a facility to recognize and support industry programs that deliver positive outcomes for the safe use of ag. Chemicals, such as AAAA's Spraysafe program. Many Associations run excellent best practice programs which are voluntary. However, the voluntary nature of such programs means that 'bottom-dwellers' in a sector who do not volunteer to participate in such a program are still able to operate legally, but are able to operate accepting greater risks and thereby undercut more responsible operators – in other words, the more responsible operators are actually encouraged by a lack of Government support for best management programs to reduce standards, cut corners and take greater risks so as to be able to compete with the lowest common denominator. The Trade Practices Act plays a significant role in making it impossible for many voluntary programs to have 'teeth' or to apply to complete sectors. Where a program, such as Agsafe has been able to secure the appropriate exemption from the Trade Practices Act, it has been very successful and has managed to increase standards effectively without all the downside of Government regulation, inefficiency, poor responsiveness to changes etc. With AAAA's Spraysafe program there has been some support from States for the business level accreditation - Tasmania has simply made compliance with Spraysafe mandatory and Victoria has made it a benchmark that operators must either be accredited or be able to demonstrate that they operate to a similar standard. But the support is seldom backed up with appropriate auditing, surveillance or action against non-accredited operators. Government has to learn to work better with industry where industry can achieve higher standards without the usual cost of compliance with Government regulation.

Cheers

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FACT: Using aerial agriculture puts chemical application into the hands of highly qualified, licenced professionals.