



Chemicals and Plastics Regulation Study
Productivity Commission
E: chemicalsandplastics@pc.gov.au

Dear Madam/Sir

**Re: National Farmers' Federation Submission to the Productivity Commission's
Chemicals and Plastics Regulation Draft Report**

Thank you for the opportunity to provide input to the Productivity Commission's Chemicals and Plastics Regulation Draft Report.

The National Farmers' Federation (NFF) is comprised of State farming organisations, national commodity councils and a range of associate and affiliate members. The NFF is the peak farm lobby group in Australia, representing producers of all major agricultural commodities. Farmers are one of the largest groups of responsible users of chemicals in Australia.

The NFF considers that the report offers a realistic way forward for reducing the chronic over-regulation of the chemicals and plastics sector which has had an unjustifiable cost-impost on agriculture and undermined risk-management principles by creating confusion about compliance and jurisdictional authority. Comment is provided on those draft recommendations of particular relevance to the farm sector.

Policy formulation and system governance

- *Draft Recommendation 3.1* refers to the establishment of a Standing Committee on Chemicals (SCOC) comprising representatives of all ministerial councils that have responsibility for chemicals regulation. The NFF notes that this recommendation seeks to create a necessary forum to continue the work of the COAG Ministerial taskforce on chemicals and plastics regulation after it is disbanded. However, many factors are yet to be determined such as the mandate of the proposed SCOC, which Ministerial Council it will report to, how often it should meet and how it will consult with the public. The NFF seeks clarification on these issues in due course.

National hazard and risk assessment

- The NFF considers that the intent of *Draft Recommendation 4.1* is appropriate in so far as it recommends that the generation of net community benefit should be explicitly recognised as the objective of NICNAS legislation. Without explicit recognition of this objective, NICNAS is likely to err on the side of minimizing risks and not having sufficient regard for costs of its actions, for example by requiring excessive testing of a new chemical, or through making overly-cautious recommendations for controls that are out of proportion to the risks involved. However, the NFF considers that it is necessary to better define ‘net community benefit’ so that this term is not deliberately exploited or unintentionally misunderstood by NICNAS stakeholders in the future. Such misunderstanding would potentially have the opposite effect of overly-cautious controls. On this basis the NFF also supports *Draft Recommendation 4.3* to set up a technical advisory committee within NICNAS to guard against an unnecessarily risk-averse approach.
- NFF particularly welcomes *Draft Recommendation 4.4* which proposes a range of measures designed to greatly accelerate the assessment of existing chemicals. This is a common sense approach that recognises that not all chemicals require the same level of assessment and for some low-risk chemicals the cost of assessment outweighs the public benefits accrued by that assessment. By utilizing a priority list for chemical assessment, government will provide a better service to the community because its effort will be concentrated on assessing those chemicals that, uncontrolled, pose the greatest threat to the community. We note that due regard of Australian conditions should be taken into consideration about the appropriateness of using approved foreign data and that a review of this initiative should be taken within two to three years of its introduction to confirm that it is working satisfactorily.
- *Draft Recommendation 4.5* seeks to demonstrate net community benefit by supporting chemical assessments with an analysis of the cost and benefits of the assessment outcomes. This innovation is necessary as a means of ensuring that the factors already taken into account by other regulators, such as the APVMA, are transparent and considered by the National Registration Scheme (NRS). Without this precaution the NRS may consider community factors such as health, environment and other factors to be unmanaged and therefore take an overly risk-averse approach. It also ensures that information already considered is not repeatedly re-considered or unwittingly ignored by other regulators.
- *Draft Recommendation 4.6* seeks the vertical integration of agvet control-of-use regimes into the National registration Scheme, provided that duplication with state and territory regulatory controls is identified and eliminated. The NFF endorses this approach for two reasons. Firstly, it will eliminate areas of duplication between

national and state/territory regulatory regimes and secondly, it will improve the consistency with which APVMA controls are applied and enforced, reducing current confusion in this area. As recognised in the report, these outcomes will decrease costs to suppliers and users of agvet chemicals.

Public health

- The NFF agrees with *Draft Recommendation 5.2* that state and territory governments should uniformly adopt regulatory controls through either a template or model approach, directly adopt poisons scheduling decisions made at a national level and report any variations to nationally-agreed poisons scheduling or regulatory decisions. This move is a step in the right direction towards resolving the anomalies that exist between jurisdictions and create compliance difficulties for users of chemicals classified as poisons. Further to this, the NFF agrees that *Draft Recommendation 5.3* prevents over-regulation of poisons by recognising that if the industrial use of poisons is covered by occupational health and safety legislation then it does not need to be also covered by other regulatory regimes and controls. Such a situation creates compliance difficulties and unintended risks as two different levels of compliance may exist.
- *Draft Recommendation 5.9* seeks to automatically incorporate maximum residue limits (MRLs) set by the APVMA into the MRLs set by the Australia New Zealand Food Standards Code. An option for retaining different MRLs exists only where a public cost-benefit analysis has deemed this variation appropriate and where this difference is endorsed by the appropriate Ministerial Council. The NFF welcomes this recommendation, noting our strong interest in the setting of appropriate limits of residues from agvet chemicals. The draft report rightly acknowledges that the subject of MRLs has been one of longstanding concerns regarding duplication and inconsistency. At present, both APVMA and FSANZ set MRLs for the same products under separate legislation. In practice, this leads to cases where two different MRLs are prescribed for the same food. In these instances, farmers have no choice but to comply with the most stringent MRL. This creates confusion and additional compliance costs to farmers. Such a situation is an unnecessary burden on farmers, particularly when one considers that FSANZ has never rejected an MRL application from the APVMA. The report attributes this to the fact that the APVMA assesses the human-health impacts of an MRL before approving it, and does so using dietary models and reference health standards from FSANZ and DOHA. For this reason, FSANZ does not deem it necessary to undertake its own dietary exposure assessment when considering an MRL submitted by the APVMA.
- The inability of FSANZ to automatically accept APVMA MRLs has led to time lags between when APVMA prescribes an MRL and when FSANZ mirrors it in food standards. This has led to situations where farmers complying with agvet control-of-

use requirements set by the APVMA cannot sell their produce because FSANZ has yet to duplicate a relevant MRL in food standards. This delay can last up to a year or more and has significant negative impacts on growers, most notably cost and market access.

- The NFF notes that surveys executed by the Department of Agriculture Fisheries and Forestry (DAFF) and various state government agencies are used to monitor MRL compliance and typically find very few instances of MRLs being exceeded. This indicates that the regulatory arrangements for MRLs are working and ensure that food is safe from harmful residue levels. On the basis of this and the factors mentioned earlier, the NFF vigorously supports the proposed automatic extension of MRLs set by the APVMA to FSANZ as a means of retaining high levels of food safety, reducing regulatory duplication, saving costs to farmers caused by extensive time lags, increasing market access for growers denied by time lags and reducing regulatory confusion caused by two levels of MRLs.

Workplace safety

- The NFF supports *Draft Recommendation 6.3* which calls for any new system for workplace hazardous chemicals labeling to recognise labels approved by the APVMA as being sufficient for workplace requirements. This measure is absolutely necessary to prevent duplication of regulation, for consistent and appropriate risk management of occupational health and safety across the supply chain and to reduce the costs of any new system while still achieving workplace safety.
- An intergovernmental agreement and the establishment of a new independent body (already agreed by the Workplace Relations Ministers Council) is proposed at *Draft Recommendation 6.4* to ensure consistency across jurisdictions, national standards and other harmonization measures in the area of workplace safety. This is welcomed by the NFF as a necessary streamlining of the regulations that differ between jurisdictions and cause compliance difficulty, costs and a red tape burden to farmers.

Chemical transport safety

- The requirement at *Draft Recommendation 7.1* for all jurisdictions to consistently adopt the Model Transport of Dangerous Goods Act and Regulations and to uniformly reference the Australian Dangerous Goods (ADG) Code is welcomed by the NFF as a means of harmonizing regulations and therefore compliance. The NFF also supports *Draft Recommendation 7.4* that the Australian Dangerous Goods Code should be available free on the internet and at avoidable cost in hardcopy. This measure makes it easier for the public to access and therefore comply with the regulations governing their actions.

Environmental protection

- The NFF recognises that the work of the Environment Protection and Heritage Council (EPHC) Chemicals Working Group should continue and that its findings should be considered for implementation in due course as proposed in *Draft Recommendation 8.1*.

National security

- *Draft Recommendations 9.1, 9.2 and 9.3* proposes a nationally uniform approach to conducting security checks for access to security sensitive ammonium nitrate (SSAN) and for improving consistency of SSAN regulations across jurisdictions. The NFF has previously called for these measures as urgent given the farcical result of previous harmonization of SSAN regulations which have still not been implemented in some states and remain different in others. National compliance checking will support a national regulatory approach in this area.
- *Draft Recommendation 9.4* calls for Australian governments to establish an agreed framework for assessing security risks and appropriate control measures associated with chemicals of security concern. The NFF is currently participating in the COAG process to develop such a framework and considers that the framework should manage all security sensitive chemicals, including ammonium nitrate when operational.

This NFF understands the importance of regulating the use of chemicals and welcomes the Chemicals and Plastics Regulations Draft Report as an opportunity to restructure and improve current practices. Farmers are committed to using chemicals responsibly and conscientiously. We look forward to continuing our discourse with you to secure efficient, viable and sensible outcomes from this study. In this submission we have outlined a number of key areas of interest to the NFF and our membership.

The NFF would be glad to discuss with the Productivity Commission any questions you may have regarding this submission. Requests for further information can be directed to Natalie Collard on 02 6273 3855; her email address is ncollard@nff.org.au.

Yours faithfully,



BEN FARGHER
Chief Executive Officer