

7 April 2017



COMMISSIONER FOR  
BETTER REGULATION

GPO Box 4379  
Melbourne Victoria 3001  
Telephone: 03 9092 5800

Mr Stuart Holland  
Principal Policy Officer  
Employment, Investment and Trade Group  
Agriculture, Food and Fibre Division  
Department of Economic Development, Jobs, Transport and Resources  
475 Mickleham Rd  
ATTWOOD Victoria 3049

Dear Mr Holland

I would like to thank the staff of the Department of Economic Development, Jobs, Transport and Resources for working with our team on the preparation of the Regulatory Impact Statement (RIS) for the proposed *Agricultural and Veterinary Chemicals (Control of Use) Regulations 2017*. These Regulations are proposed due to the sunset of current arrangements on 24 July 2017.

Under section 10 of the *Subordinate Legislation Act 1994* (the Act), the Commissioner for Better Regulation is required to provide independent advice on the adequacy of all RIS prepared in Victoria. The Commissioner's role is to advise on the adequacy or otherwise of the analysis presented in the RIS, rather than the merits or otherwise of policy or regulatory proposals. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written, so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 7 April 2017 meets the adequacy requirements of the Act.

The current *Agricultural and Veterinary Chemicals (Control of Use) Regulations 2007* are made under the authority of the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992*, which is the primary legislation controlling the use of agricultural and veterinary chemicals in Victoria. They form part of a larger regulatory framework, at both the state and federal levels, that seeks to manage the risks associated with the use of agricultural and veterinary chemical products. The objectives of the regulations include reducing the potential harms to human and animal health, the environment and damage to the domestic and export trade in agricultural produce.

The proposed *Agricultural and Veterinary Chemicals (Control of Use) Regulations 2017* replace the current regulations with some amendments. Key provisions relate to:

- requirements to record the sale and use of chemicals to facilitate incident investigations and timely responses to harms from the use of these chemicals .
- labelling requirements for veterinary chemical products sold by veterinary practitioners to provide instructions on their safe use .
- notification requirements for spraying near schools, hospitals, aged care services or children's services.
- aerial spraying requirements to help prevent 'spray drift'.
- 'restricted use' chemical products that must be used in accordance with instructions on a permit or a label.
- prohibiting the possession of specified higher risk, unregistered chemicals.

The proposed revisions to the existing regulations include:

- Changing record keeping requirements to reflect agreed national consistent standards and to make some minor additions to the content of labelling requirements.
- Removing unused record keeping exemptions for approved quality assurance programs.
- Amending criteria for when a veterinary chemical label or advice note is required.
- Changing some requirements relating to notification and aerial spraying equipment.
- Extending the requirements for owners to pay for the testing of potentially contaminated stock and agricultural produce.
- Transferring requirements relating to the use of the of 'restricted use' agricultural chemicals from an Order in Council to the proposed Regulations.
- Remaking Orders in Council to remove the prohibition on the use of certain baits for the control of feral pigs and remove the licencing and permit exemption for 'restricted use' chemicals under accredited quality assurance programs.
- A new regulation to prohibit the possession of seven specified unregistered agricultural chemicals, with exemptions including storage for disposal.

This RIS includes a summary of stakeholder consultations undertaken on the existing regulations and the Department's response.

The RIS estimates that the annual cost of the proposed Regulations is about \$3.5 million per annum. The total cost over the expected 10 year life of the Regulations has a present value of \$28.3 million. The RIS adopts the same methodological approach adopted in the 2007 RIS and stakeholder input has been sought on the estimates and assumptions.

In addition to these costs, the RIS estimated that the costs of meeting the training requirements – for people applying for licences and permits to use these chemicals – amount to about \$2 million per annum. Although the proposed Regulations provide the legal grounds for refusing to grant a licence or permit to applicants who do not have the requisite training, the Department attributes these training costs to a separate Ministerial Order.

Although the RIS makes it clear that it is difficult to estimate accurately the specific benefits of the proposed Regulations, the Department bases its expectations of the benefits on the substantial gains to the agricultural sector from the use of these chemicals and the minimisation of risks to market access due to contamination. The Department expects that the benefits of the proposed Regulations will outweigh the costs and recommends that its preferred option is to remake the regulations with some modifications.

As you know, it is government practice that this letter be published with the RIS when it is released for public consultation.

Should you wish to discuss any issue raised in this letter, or the implications of new information or policy options identified through the public consultation process for your proposal, please do not hesitate to contact me on (03) 9092 5800.

Yours sincerely



Anna Cronin  
**Commissioner for Better Regulation**