

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 89

Issued by Authority of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry

Agricultural and Veterinary Chemicals (Administration) Act 1992

Agricultural and Veterinary Chemicals (Administration) Amendment Regulations 2006 (No. 1)

Section 73 of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* (the Act) provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the Regulations is to amend the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* to update the framework for controls on the exportation of chemicals in order to reflect changes to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the Rotterdam Convention). The Regulations implement controls relating to specified active constituents, or chemical products containing these active constituents, to enable Australia to meet its obligations as a Party to the Rotterdam Convention.

Companies wishing to export controlled chemicals need to apply for permission from the Australian Government Department of Agriculture, Fisheries and Forestry. No importation controls are necessary under the Rotterdam Convention as importation of these chemicals is already regulated under the National Registration Scheme for Agricultural and Veterinary Chemicals.

Details of the Regulations are in the Attachment.

Subsection 69C (2) of the Act provides that a regulation prescribing conditions or restrictions on the import, manufacture, use or export of certain chemical products under international agreements must not be made unless:

- (a) a relevant agency has published in the *Gazette*, and in any other manner that it thinks appropriate, a notice:
 - (i) identifying the agreement or arrangement; and
 - (ii) listing the name or names by which the constituent or product is known to the public; and
- (b) a period of 30 days has elapsed since the notice was published.

On 4 April 2006, a notice identifying the amendments to the listing of chemicals that are subject to the Convention, was published in the Commonwealth of Australia Gazette no. APVMA 4.

A 20 June 2005 hearing of the Joint Standing Committee on Treaties (JSCOT) supported the amendments to the list of chemicals controlled by the Rotterdam Convention.

The Act specifies no other conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on 12 June 2006, the date the amendments to the Rotterdam Convention enter into force for Australia.

Authority: Section 73 of the *Agricultural and
Veterinary Chemicals (Administration)
Act 1992*

Details of the *Agricultural and Veterinary Chemicals (Administration) Amendment Regulations 2006 (No. 1)*

Regulation 1 – Name of Regulations

This Regulation provides that the title of the Regulations is the *Agricultural and Veterinary Chemicals (Administration) Amendment Regulations 2006 (No. 1)*.

Regulation 2 – Commencement

This Regulation provides that the Regulations commence on 12 June 2006.

Regulation 3 – Schedule 1

This Regulation provides that the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 - Amendments

Item [1]

Item 1 removes the current definition of ‘controlled chemical’ and refers to the new definition of controlled chemical inserted by regulation 1.3A (see item 2 below).

Item [2]

Item 2 inserts a new regulation 1.3A, with a refined definition of a controlled chemical which can be sensibly applied to chemical formulations containing more than one active ingredient. It was also necessary to ensure that “salts and esters” were effectively captured in Schedule 1 to the Principal Regulations. The “salts and esters” terminology is used by the Rotterdam Convention and both terms have specific meanings in chemistry.

Item [3]

Item 3 clarifies which schedule is being referred to when the search warrant provisions of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* (the Act) are mentioned. This amendment has been made to avoid any possible confusion about which schedule was being referred to in this Regulation.

Item [4]

Item 4 amends the description of chemicals contained in Part 1 of Schedule 1 to the Principal Regulations. This amendment is necessary to allow for the capture of chemical formulations that are defined in terms of more than one active ingredient (as is the case with item 19 below).

Item [5]

Item 5 amends the heading for Part 2 of Schedule 1, in order to differentiate it from the newly added Part 3 of that Schedule (see item 19 below).

Item [6]

Item 6 amends the listing of the chemical 2,4,5-T so that salts and esters of 2,4,5-T will also be considered export-controlled chemicals for the purposes of the Act. This amendment has been made necessary by the inclusion of the salts and esters of 2,4,5-T to the list of chemicals that are subject to export controls under the Rotterdam Convention.

Item [7]

Item 7 adds a footnote to the 2,4,5-T entry to clarify that the Chemical Abstracts Service (CAS) number referred to in that entry only refers to the parent compound and not to the salts and esters of this compound.

Item [8]

Item 8 inserts binapacryl into Schedule 1 as new item 3A. This amendment has been made necessary by the addition of binapacryl to the list of chemicals that are subject to export controls under the Rotterdam Convention.

Item [9]

Item 9 inserts dinitro-ortho-cresol and its salts into Schedule 1 as item 10A. This amendment has been made necessary by the addition of dinitro-ortho-cresol to the list of chemicals that are export-controlled under the Rotterdam Convention.

Item [10]

Item 10 amends the listing of dinoseb in Schedule 1 so that salts and esters of dinoseb will also be considered export-controlled chemicals for the purposes of the Act. This amendment has been made necessary by the addition of the salts and esters of dinoseb to the list of chemicals that are subject to export controls under the Rotterdam Convention.

Item [11]

Item 11 adds a footnote to the dinoseb entry to clarify that the CAS number referred to in that entry only refers to the parent compound and not to the salts and esters of this compound.

Item [12]

Item 12 removes the listing for dinoseb acetate, as the expansion of the listing to include its salts and esters (referred to in item 10) captures dinoseb acetate.

Item [13]

Item 13 inserts ethylene dichloride and ethylene oxide into Schedule 1 as new items 14A and 14B respectively. This amendment has been made necessary by the addition of these two chemicals to the list of chemicals subject to export controls under the Rotterdam Convention.

Item [14]

Item 14 amends a spelling error in the Principal Regulations.

Item [15]

Item 15 removes the conditions relating to a severely hazardous pesticide formulation and the conditions relating to Australia's notification of final regulatory action for this chemical. This amendment reflects the incorporation of monocrotophos into the full procedure of the Rotterdam Convention, which removes it from the list of severely hazardous pesticides and negates the fact that Australia has enforced a final regulatory action on this chemical.

Item [16]

Item 16 removes the conditions relating to a severely hazardous pesticide formulation and the conditions relating to Australia's notification of final regulatory action for this chemical. This amendment reflects the incorporation of parathion (ethyl) into the full procedure of the Rotterdam Convention, which removes it from the list of severely hazardous pesticides and negates the fact that Australia has enforced a final regulatory action on this chemical.

Item [17]

Item 17 amends the listing of pentachlorophenol in Schedule 1 so that salts and esters of pentachlorophenol will also be considered export-controlled chemicals for the purposes of the Act. This amendment has been made necessary by the addition of the salts and esters of pentachlorophenol to the list of chemicals that are subject to export controls under the Rotterdam Convention.

Item [18]

Item 7 adds a footnote to the pentachlorophenol entry to clarify that the CAS number referred to in that entry only refers to the parent compound and not to the salts and esters of this compound.

Item [19]

Item 19 inserts a new Part 3 of Schedule 1, which deals with those toxic chemical products that are defined in terms of 2 or more active constituents. One chemical formulation is included in this Part, containing three active ingredients (benomyl, carbofuran and thiram) at, or above, specified concentrations. This amendment has been made necessary by amendments to the list of chemicals that are subject to export controls under the Rotterdam Convention.