

EXPLANATORY STATEMENT

Issued by Authority of the Deputy Prime Minister and Minister for Agriculture and Water Resources

Agricultural and Veterinary Chemicals (Administration) Act 1992

Agricultural and Veterinary Chemicals Legislation Amendment Act 2013

Agricultural and Veterinary Chemicals Legislation Amendment (Reconsideration Participation Review) Regulations 2017

Legislative Authority

The *Agricultural and Veterinary Chemicals (Administration) Act 1992* (the Act) establishes a national registration authority to administer such laws of the Commonwealth or of the States and Territories relating to agricultural and veterinary (agvet) chemical products as confer functions and powers on the Authority.

Section 73 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013* (the Amendment Act) provides for a number of amendments to agvet chemical legislation. Among the amendments is the requirement to conduct a review on matters which relate to the functions and powers of the Australian Pesticides and Veterinary Medicines Authority (APVMA) that are prescribed by regulations, which includes the Reconsideration Participation Review (the review) under regulation 80D of the *Agricultural and Veterinary Chemicals Code Regulations 1995* (the Agvet Code Regulations).

Subsection 6(1) of the Amendment Act provides that the Governor-General may make regulations prescribing matters required to cause a review to be conducted of matters relating to the powers and functions of the APVMA required or permitted by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Purpose

The purpose of the *Agricultural and Veterinary Chemicals Legislation Amendment (Reconsideration Participation Review) Regulations 2017* (the Regulations) is to delay the due date for the review to no later than 30 June 2019.

Background

Regulation 80D of the Agvet Code Regulations requires a review to be conducted on participation in the APVMA reconsideration process.

The APVMA may undertake a formal reconsideration of the registration or approval of a registered agvet active constituent, chemical product or label if new information emerges suggesting the statutory criteria for safety, efficacy or trade may no longer be met. The

APVMA can then decide to take regulatory action, such as modifying use patterns or removing the chemical from the Australian market.

A written report on the review must be provided to the Deputy Prime Minister and Minister for Agriculture and Water Resources no later than 30 June 2017.

Since 2014, two reconsiderations have been finalised for omethoate and dimethoate (insecticide/acaricides). If the review goes ahead as scheduled, the examiners will have a narrow information base to draw upon and the review will be of limited value. Further, the omethoate and dimethoate reviews began prior to the current reconsideration process and will not accurately reflect industry participation in the current reconsideration process.

Delaying the review to no later than 30 June 2019 will enable the APVMA to consider 17 reconsideration reviews (based on APVMA forecasts), covering a range of agvet chemical industries.

Delaying the review also offers the opportunity to align it with the legislated review of the 2014 series of agvet chemical legislative reforms (scheduled for 2019). Consultation for both reviews would be consolidated to improve efficiency and reduce the burden on industry and the APVMA.

The review will then be considered as part of the broader examination of amendments under section 4 of the Amendment Act. However, due to the timing requirements under the Amendment Act, the participation reconsideration review is proposed for inclusion in the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995*.

Impact and Effect

Reforms to agvet chemical legislation in 2014 included provisions to formalise participation in the APVMA's reconsideration process by agvet stakeholders and members of the public. Regulation 80D of the Agvet Code Regulations requires a review of industry participation in APVMA reconsiderations that identifies:

- any problems with chemical and user industries participating in chemical reconsiderations
- obstacles or disincentives to providing information to support ongoing registration of chemical products
- options to address identified problems, obstacles or disincentives, including using taskforces.

Under the current scheduled timeframe, the review will only be able to analyse the two reconsiderations that have been completed for omethoate and dimethoate. However, it should be noted that these reviews have taken 13 and 19 years respectively and would not be fully representative of the 2014 reforms.

The APVMA continues to focus on broader efficiency improvements and delaying the review would allow a more meaningful review of reconsideration participation arrangements to be carried out in 2019.

Consultation

Industry supports the delay. CropLife Australia, the National Farmers Federation, Animal Medicines Australia, the Veterinary Manufacturers and Distributors Association and ACCORD support the APVMA focussing on implementing past reforms and improving its efficiency at this time.

The Office of Best Practice Regulation advised that a regulation impact statement is not required (ID 21600).

Other

Details of the Regulations are set out in Attachment A.

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

The Regulation is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Agricultural and Veterinary Chemicals Legislation Amendment (Reconsideration Participation Review) Regulations 2017*

Section 1 – Name

This section provides that the name of the Regulations is the *Agricultural and Veterinary Chemicals Legislation Amendment (Reconsideration Participation Review) Regulations 2017*.

Section 2 – Commencement

This section provides for the Regulations to commence the day after the instrument is registered.

Section 3 – Authority

This section provides that the Regulations are made under the *Agricultural and Veterinary Chemicals (Administration) Act 1992* and section 6 of the *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013*.

Section 4 – Schedules

This section provides that the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* (the Administration Regulations) and *Agricultural and Veterinary Chemicals Code Regulations 1995* (the Code Regulations) to be amended or repealed as set out in the applicable items in the Schedule 1.

Schedule 1 – Amendments

Item 1 adds a new regulation to the Administration Regulations that mirrors the current requirements of the Code Regulations, regulation 80D.

Item 2 repeals the current regulation 80D in the Code Regulations.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Agricultural and Veterinary Chemicals Legislation Amendment (Reconsideration Participation Review) Regulations 2017

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Legislative Instrument amends the *Agricultural and Veterinary Chemicals Code Regulations 1995* to allow for the review into participation in the APVMA reconsideration process to be delayed by two years.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon. Barnaby Joyce MP
Deputy Prime Minister and Minister for Agriculture and Water Resources