

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 (Administration) Amendment (Methamidophos) Regulations 2017

Legislative Authority

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

Section 69C of the Act provides that if a chemical is the subject of an international agreement or arrangement, certain activities – importation, manufacture, use or other dealings, or export – may be prohibited absolutely or subject to conditions or restrictions.

Purpose

The purpose of the *Agricultural and Veterinary Chemicals (Administration) Amendment (Methamidophos) Regulations 2017* (the proposed Regulations) is to update the chemical entry relating to Australia's obligations under the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* (the Rotterdam Convention). The proposed Regulations update the conditions for export of methamidophos to enable Australia to meet its obligations as a party to the Rotterdam Convention.

Background

The Rotterdam Convention promotes shared responsibility and cooperative efforts in the international trade of certain hazardous chemicals. Annex III of the Rotterdam Convention contains a list of chemicals that are subject to the Prior Informed Consent (PIC) procedure. The PIC procedure is a mechanism for formally obtaining and disseminating the decisions of importing parties as to whether they are prepared to receive future shipments of chemicals listed in Annex III of the Convention, and for ensuring compliance with these decisions by exporting parties.

The decision to list the pesticide methamidophos on Annex III of the Convention was agreed by consensus at the seventh Conference of the Parties to the Convention in Geneva, 4-17 May 2015. As a result of this decision, methamidophos was automatically listed on Annex III on 15 September 2015, and Australia must now complete the implementation by amending the conditions relating to methamidophos in the *Agricultural and Veterinary Chemicals Administration Regulations 1995*.

This minor treaty action requires that the conditions or restrictions for methamidophos need to be updated. The proposed Regulations will update the conditions sufficient for Australia to

meet its obligations following agreement on 2 May 2016 by the Joint Standing Committee on Treaties.

Impact and Effect

It is not anticipated that there will be any adverse impact or effect from updating the listing of methamidophos in the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995*. There are no active constituents approved nor products registered in Australia that contain methamidophos.

Consultation

After consideration by the relevant technical review committees, of which Australia is an active member, the 2015 Conference of the Parties in Geneva considered a proposal to list methamidophos under Annex III to the Convention. Australia was represented at this Conference. The proposal was supported by the Deputy Prime Minister and Minister for Agriculture and Water Resources and the Minister for Environment prior to the Conference.

The Conference agreed that methamidophos met the criteria to be listed in Annex III to the Convention. Australia is now required under the Convention to take appropriate legislative or administrative measures to fulfil its obligations of Annex III.

The chemicals industry has been notified of the change through the publication of a notice in the APVMA Gazette. However, broader consultation was not carried out as no products containing methamidophos have existed in Australia since 2012 and as such there are no users or sellers of methamidophos.

The Office of Best Practice Regulation was consulted and advised that a regulation impact statement is not required (ID 21599).

Details

Details of the proposed Regulations are set out in [Attachment A](#).

The proposed Regulations are 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 proposed Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Agricultural and Veterinary Chemicals (Administration) Amendment (Methamidophos) Regulations 2017*

Section 1 – Name

This section provides that the name of the proposed Regulations is the *Agricultural and Veterinary Chemicals (Administration) Amendment (Methamidophos) Regulations 2017*.

Section 2 – Commencement

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

Section 3 – Authority

This section provides that the proposed Regulations are made under the *Agricultural and Veterinary Chemicals (Administration) Act 1992*.

Section 4 – Schedules

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

Schedule 1 – Amendments

Item 1 removes the condition in the table item that refers to a soluble liquid formulation of the substance that exceeds 600 grams active constituent per litre.

The purpose of the amendment is to give effect to Australia's obligations under the Rotterdam Convention in regards to methamidophos.

ATTACHMENT B

Statement of Compatibility with Human Rights

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

Agricultural and Veterinary Chemicals (Administration) Amendment (Methamidophos) 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 (Administration) Regulations 1995* to update the chemical entry relating to Australia's obligations for methamidophos under the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*.

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