

Wednesday Workshop 6 May 2020

Invitee	Organisation	Attendance
Julie Gaglia	DAFF	In-person
s22(1)(a)(ii)	DAFF	In-person
Tim Karlov	DAFF	In-person
s22(1)(a)(ii)	DAFF - Contractor	In-person
	DAFF	In-person
	DAFF	Teleconference
	DAFF	Teleconference
	DAFF	In-person
	DAFF	In-person
	DAFF	Teleconference
	DAFF	Teleconference
	DAFF	Teleconference
	DAFF	Teleconference
	DAFF	In-person
	DAFF	In-person
	DAFF	In-person
	DAFF	In-person
	DAFF	Teleconference
	DAFF	Teleconference

Archived: Monday, 24 October 2022 2:37:14 PM
From: s.22(1)(a)(ii)
Sent: Monday, 4 May 2020 1:03:14 PM
To: s.22(1)(a)(ii) [Gaglia, Julie](#); [Karlov, Tim](#); s.22(1)(a)(ii)
s.22(1)(a)(ii)
Subject: RE: Wednesday Workshop 6 May 2020 [SEC=OFFICIAL]
Sensitivity: Normal
Attachments:
[Consumer goods workshop.docx](#) ;

Hello all, in addition to [s.22\(1\)\(a\)\(ii\)](#) papers find attached the pre-meeting material for the discussion on consumer goods under the review.

I will try to produce the proposal we developed for efficacy from last week, in the near future.

Regards

s.22(1)(a)(ii)

From: [s.22\(1\)\(a\)\(ii\)](#)
Sent: Monday, 4 May 2020 10:46 AM
To: [Gaglia, Julie](#) <Julie.Gaglia@agriculture.gov.au>; [Karlov, Tim](#) <Tim.Karlov@agriculture.gov.au>; [s.22\(1\)\(a\)\(ii\)](#)

Subject: Wednesday Workshop 6 May 2020 [SEC=OFFICIAL]

All

At the workshop on Wednesday, I would like to discuss the topic of 'registration by reference' for overseas registered products. To assist with our discussion, I prepared a background document about authorisations (things like registration, licensing etc) and a specific background document about issues with and options for 'registration by reference'. They are both attached. These build on previous documents about the topic of registration by reference.

If I missed anyone, I am sorry and please feel free to forward the documents to them.

s.22(1)(a)(ii)

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Consumer Goods Exclusion Workshop 6 May 2020

Purpose

To explore an operation proposal for the omission of consumer goods for home garden or indoor pest control use from consideration within agvet chemical legislative framework.

Current state

Any product with a use that is consistent with the definition of an agvet chemical product is regulated as an agvet chemical product, unless specifically excluded from the operation of the legislation.

Pre-market assessment establishes the APVMA's satisfaction of the products, safety, efficacy, hazards to trade and labelling.

Satisfaction of the trade criteria for products intended for use in home garden or indoor pest control is taken for granted through limited exposure of trade commodities.

Efficacy of products that are replicas or derived from products used in agriculture is taken for granted.

All products are subject the ACL. Products for use as home garden or indoor pest control are subject to consumer protections of the ACL.

The ACL provides that consumer products may be subject to a safety standard that prohibits supply of products unless they conform with/to the safety standard.

Current agvet consumer goods include all products for use as home garden or indoor pest control and pool and spa chemicals.

Products that are excluded from specific consideration are subject to consideration as an industrial chemical. This assessment, while not product or formulation specific, does consider the human and environmental risks from a particular class of use (such as a pest control product).

Key points

The panel has expressed a desire for the agvet chemical regulatory scheme to be focussed on primary production, non-urban land management and veterinary uses.

Products can be excluded either in the definition proper or through regulation under a more inclusive definition (as is the current case).

Excluded products would remain subject to ACL and industrial chemical legislation as is the current case.

Annex 1 proposes a definition and safety standard for home garden and domestic pest control products.

An equivalent standard can be developed pool and spa chemicals.

Other products are considered for removal for the agvet scheme, these are largely industrial in nature and would/may not require a specific standard.

- anti-fouling paints
- insect pheromone attractants
- products modifying the effect of another product such as wetters, spray adjuvants and spray markers.

- The proposed standard:
 - defines home garden- and domestic -pest control products
 - establishes that products must not contain any ingredient listed by the agvet chemical regulator as a “Potentially Hazardous or Injurious Substance” (PHIS list). This measure ensures, consistent with the panel’s request, that substances limited from use in agriculture do not appear in the home garden sector
 - restricts the composition of products to ensure hazards carcinogenicity, mutagenicity, reproductive toxicity or aquatic toxicity (for home garden pest control products only) are not present
 - establishes minimum labelling and packaging requirements
 - seeks to address human health and environmental safety, within the confines of ACL.
- Where a product was to contain an ingredient on the PHIS list or its formulation is prohibited (for example it is a Category 1 GHS carcinogenic hazard), the product would not be able to be supplied under the ACL arrangements. It would either need to be assessed by the agvet regulator (and provisions in legislation to provide for this), or is not available to the home garden market at all.
- In 2017 the Australian Consumer Law Review proposed strengthening consumer protections through the introduction of a GSP. A GSP would provide a clear onus on manufacturers/suppliers of consumer goods to only supply products that are safe.

Discussion ideas

- What are the risks of/from home garden and domestic pest control?
- Do these warrant pre-market assessment?
- If addressed through an exclusion should it be a prohibition list (as per annex) or a permission list?
- Does the standard adequately address the risks of/from home garden and domestic pest control?

May 2020

Annex 1

Mandatory standard for home garden- and domestic- pest control products

Definitions

Active constituent means the substance that is, or one of the substances that together are, primarily responsible for the pest control effect of the product.

Control includes destroy, repel and prevent.

Domestic pest control products means products:

- acting through a chemical or biological means, and
- used inside private dwellings, and
- for the control insect pests such as cockroaches, ants, spiders, silverfish, flies, mosquitoes and fleas.

But does not include products intended for use as a vertebrate poison.

Home garden pest control products means products:

- acting through a chemical or biological means, and
- for the control of plant diseases, insect pests, weeds, snails, slugs and rodents, and
- for use on vegetables and fruit primarily grown for personal consumption i.e. not be grown on a commercial scale or for sale, or
- trees, ornamentals, lawns and other areas around private dwellings.

But does not include products used for pool and spa sanitisation.

Potentially Hazardous or Injurious Substance are defined in a legislative instrument
<Note: for clarity this may overlap with the criteria for a prohibited composition, but would most effectively capture products with bee toxicity. Could also build this as a permission model rather than prohibition. More effort and would require ongoing maintenance, but model operates as per END>.

Prohibited composition means:

- A formulation containing an active constituent, or ingredient, that:
 - meets the criteria of classes Ia or Ib of the WHO Recommended Classification of Pesticides by Hazard
 - that meets the criteria of classes II of the WHO Recommended Classification of Pesticides by Hazard, other than those with a GHS classification of 4 or higher
 - listed by the Stockholm Convention in its Annexes A and B, and those meeting all the criteria in paragraph 1 of Annex D of the Convention
 - listed under the Montreal Protocol
- A formulation that meets the criteria of carcinogenicity Categories 1A and 1B of the Globally Harmonized System on Classification and Labelling of Chemicals (GHS), except where this classification is the result solely of:
 - petroleum oils, or other hydrocarbons routinely used as fuel
 - boron present as boric acid or borax decahydrate
- A formulation that meets the criteria of mutagenicity Categories 1A and 1B of the GHS
- A formulation that meets the criteria of reproductive toxicity Categories 1A and 1B of the GHS
- If the product is intended for use as a home garden pest control product
 - A formulation that meets the criteria of acute aquatic toxicity Category 1 of the GHS
 - A formulation that meets the criteria of chronic aquatic toxicity Category 1 of the GHS

- A formulation with a $\log K_{ow} \geq 4$, except where experimentally determined bioconcentration factor shows the formulation ingredients will not bioconcentrate

Private dwelling means a building classified as Class 1a, 1b, 2 or 4 as set out in the National Construction Code (residential buildings) used only for residential purposes. A private dwelling does not include a dwelling to which workplace health and safety laws would apply. For example boarding houses, hotels, common lodging house or special accommodation house.

Supply to the public means through normal retail outlets.

Requirements

A home garden pest control product and domestic pest control product supplied, or intended for supply, to the public must meet the requirements set out for scope of use, ingredients, pack size, user safety statements, packaging, labelling and disposal.

Scope of use

The product is intended, and represented, for use as either:

- domestic pest control product
- home garden pest control product.

Composition

No ingredient of the product can be listed as a Potentially Hazardous or Injurious Substance under agvet legislation.

The composition of the product must not be a Prohibited Composition.

Maximum pack size

The product, if intended for dilution by the user prior to use, does not exceed 1L or 1 kg. The product, if intended as use without dilution i.e. ready-to-use, does not exceed 5 L or 5 kg.

User safety statements

The product instructions for safe use must not include a need for special precautions or personal protective equipment in the product's preparation, use, or disposal.

For example none of the following can be required protective waterproof clothing, PVC or rubber apron, elbow-length PVC gloves, face shield, goggles, impervious footwear, half- or full-face respirator, or breathing apparatus with air supply.

For home garden pest control products a statement the product is not be to used within 3 meters of a waterway or body water that enters a catchment.

Packaging

The product packaging must:

- be impervious to, and incapable of chemical reaction with, its contents when under conditions of temperature and pressure that are likely to be encountered in normal service
- have sufficient strength to prevent leakage of its contents during handling, transport and storage under normal handling conditions
- if it is intended to be opened more than once—be able to be securely and readily closed and reclosed
- have sufficient excess capacity to prevent it from breaking if its contents expand during handling, transport or storage
- enable all or any part of its contents to be removed or discharged in such a way that, with the exercise of no more than reasonable care, the contents cannot:
 - harm a person; or
 - have an unintended effect that is harmful to the environment
- once empty, not be considered hazardous waste and be able to be discarded through domestic waste streams

Labelling

The products must at a minimum have attached a prominent, legible label in English with text that details:

- the appropriate signal heading as required by the Poisons Standard
- the name(s) and concentration of active constituent(s) and any other ingredients required by schedules 5 or 6 of the Poisons Standard
- the name and address of the company marketing the product
- the manufacturing lot identification and date of manufacture of formulation
- instructions for how to use the product, including
 - pests controlled and the circumstances of that control, e.g. target crops or room descriptions
 - rates of application
 - dilution rates (if required) and instructions for dilution or preparation prior to use
 - instructions (if any) on:
 - when, or circumstances where, the product should not be used
 - the time to elapse between application and picking/harvest
 - application instructions
 - instructions for storage and disposal
 - relevant safety directions and first aid instructions
 - any other information reasonably foreseeable for proper use.

Instructions on pests controlled and the circumstances of that control and rates of application are taken to comply with this requirement if they are communicated through information made available for downloading from a website either by listing the URL of the website or another method by which a person may download that information from the website.

The format of the details required for the label must conform to a recognised industry Codes of Practice.

The requirements for labelling to not reduce or alleviate obligations for labelling under other legislative requirements.

Example:

Consumer Goods (Decorative Alcohol Fuelled Devices) Safety Standard 2017
<https://www.legislation.gov.au/Details/F2017L00909>