



**Submission by the
Forest Industries Association of Tasmania**

to

The Product Safety and Integrity Committee

in respect to

**A National Scheme for Assessment,
Registration and Control of Use of
Agricultural and Veterinary Chemicals-
Discussion Paper**



Forest Industries Association
of Tasmania



Executive Summary

The Forest Industries Association of Tasmania (FIAT) welcomes the opportunity to provide comment on the discussion paper – *A National Scheme for Assessment, Registration and Control of Use of Agricultural and Veterinary Chemicals* (the scheme), and has made a range of comments and recommendations.

FIAT is supportive of a move towards nationally consistent regulation for control of use of AGVET chemicals. However, FIAT is also mindful that the burden of voluntary or compulsory regulation should only be added to where there will be a demonstrable benefit to society, the environment or the economy.

The creation of a National System should not simply consist of adoption of the strictest standards from the existing State or Territory systems to implement nationally without proper justification against this principle. Likewise the cost burden of a new Scheme should be carefully considered and in all cases minimised. The Government should continue to fund control-of-use activities.

FIAT would encourage a move towards control-of-use regulation being equally applicable to **all** chemical users, including local government and private individuals, not just large organisations that are relatively easy to deal with.





All AGVET chemical users should have training in line with the risk of the activities being undertaken. This training should be nationally accredited and consistent. Sales of specific AGVET chemicals should be restricted to appropriately qualified individuals, where it is deemed that these are necessary.

The national registration system sufficiently manages risk in a way which fulfils the intent of the precautionary principle, and also discounts the need for a re-registration system or analysis of aggregate risk. The registration system could be improved through more timely access to chemicals, and the provision of clear definitions for label terms available on the APVMA webpage.

FIAT believes that it is essential to provide access to a wide range of chemicals and “an option for compliance” through the maintenance of a minor use permits program.





Executive Summary 2

Preamble 5

Introduction..... 7

Section 5 Introduction..... 7

Section 6 The National Registration Scheme..... 9

Section 7 Issues for Consideration in Developing a National Framework ... 9

Section 8 Assessment Registration and Access to Chemicals 11

Section 9 Control of Use 13

Section 10 Competencies, Training, Accreditation and Licensing 14

Section 11 Possible Structures for a National Regulatory Scheme 15

Section 12 Funding Issues 15

Section 13 Is Cost Recovery of Control of Use Appropriate? 16

 In Conclusion 16





Preamble

The Forest Industries Association of Tasmania (FIAT) would like to thank the Product Safety and Integrity Committee (PSIC) for the opportunity to comment on the development of *A National Scheme for Assessment, Registration and Control of Use of Agricultural and Veterinary Chemicals* (the Scheme).

FIAT is an industry association formed in 1983 to represent the interests of processors of Tasmanian forest products. FIAT was formed out of a predecessor Association, the Tasmanian Timber Association (TTA). FIAT and TTA collectively have provided representational services to the Tasmanian timber industry for in excess of 60 years. Our members' activities are diverse and include:

- the production of veneers, hardwood and softwood timber, pulp and paper
- woodchip production and export
- plantation and native forest management.

FIAT's 15 member businesses include all of the State's larger processors of forest products. They utilise a significant proportion of the crown sawlog output as well as all of the veneer logs produced in the State. FIAT Members' activities account for more than 75% of the gross value of production in the forest and wood products industry in Tasmania.

Included within the FIAT membership are the State's largest industrial forestry companies that account for the vast bulk of plantation development and management enterprises on private land in Tasmania. Our members are all committed to sustainable forestry practices, and as such are interested in the development of schemes for the assessment, registration, control and use of agricultural and veterinary chemicals.





FIAT's role is as follows: -

In addressing its first objective, FIAT's role is characterised by helping to create the right external environment within which industry has to operate. This has two main dimensions - the policy environment and the public image of the industry in the eyes of the community.

The policy environment centres on government legislation and regulations; as well as engaging with voluntary codes of conduct, environmental management systems and certification standards. The policy environment must be tackled at the National, State and Local Level.

Industry's public image rests on public opinion and the various factors which influence that opinion. This is important because public opinion has a strong bearing on the development of policy.

In addressing its second objective, FIAT's role is to facilitate discussion and joint action among its membership, and to project membership position in wider forums as appropriate.



Forest Industries Association
of Tasmania



Introduction

FIAT makes this submission to bring attention to ways in which the scheme can ensure that it does not unnecessarily add to the burden of regulation without providing demonstrable benefit to society, the environment or the economy.

This submission provides comment based on the sections identified in the Discussion Paper, but it does not restrict itself to answering only or all of the suggested questions. The views put forward are those of FIAT and as such are most relevant to agricultural chemical use in plantations or in limited cases in native forest management.

Section 5 Introduction

There is overlap between the Tasmanian State *Control of Use Regulations*, other Tasmanian Government Regulations and procedures by the APVMA. This includes overlap on product use and off-target effects, adverse experience recording, community consultation on use and public education.

A specific example is the management of off target impacts of product use or spray drift. The Tasmanian Government has taken an inflexible rule based approach to spray drift through the establishment of “drift exclusion zones” in their *Control of Use Regulations*. Whereas the APVMA guidelines are based around best practice, and include mandatory instructions with down wind “no spray zones” calculated, based on a combination of application method, droplet size and wind speed. These risk assessment criteria ensure that there will be no adverse effect due to chemical use, but they are also reasonable. Importantly, people will be protected from adverse effect, but there will be minimal loss of the productive capacity of land. This can not be





equally said for the State system where penalties will be imposed for *any* detection of pesticides on buffered land.

Another specific example of inconsistency is that pertaining to triazines, use, in particular atrazine. There is clear conflict between the viewpoints of the Tasmanian State and the Federal Government with respect to the safety of the herbicide, which, from a public relations perspective for individual companies, has proved quite cumbersome.

An example of regulatory overlap within the State is the intent of the Tasmanian Forest Practices Authority to develop control of use prescriptions for inclusion in the Forest Practices Code. These prescriptions are intended to be different from those that are in the existing Tasmanian control of use regulations. This regulatory overlap between the Forest Practices Authority and the Department of Primary Industries and Water is inefficient, misleading and confusing for chemical users.

It is clearly better to have one set of consistent National Guidelines than multiple State based systems. By adopting national guidelines only, it saves the confusion created by conflicting and or parallel regulation between the Federal and State Governments or between State Governments. It is equally important that the National Regulations are clearly delineated between federal government departments and control of use and registration activities are not intermixed.

FIAT member Companies operate in a number of States of Australia and find the proliferation of different regulatory regimes confusing and lacking in any objective rationale. An employee could, conceivably, undertake operations in a number of States utilising the same chemical but in every case the





regulatory regime would be different creating the potential for inadvertent breaches of State based laws.

Section 6 The National Registration Scheme

The current chemical registration system is not as efficient as it could be. It could be improved by:

- acknowledging overseas data;
- improving timeliness;
- greater consistency in process;
- greater flexibility;
- better intellectual property rules;
- recognition of technological improvements in chemical application technologies; and,
- access to products.

While the 'emergency use' system currently in place has been effectively providing timely permits, it is the view of FIAT that this was not a primary objective of the said system

Section 7 Issues for Consideration in Developing a National Framework

There are three clear regulatory areas to be considered in the national framework: chemical registration and assessment; control of use; and, industry (self) regulation. Integration of these steps is not necessarily helpful, but the development of nationally consistent regulations at each level is.

FIAT is supportive of a National Regulator for Control of Use of AGVET chemicals as it will result in greater consistency, and scientific rigour across





Australia without undue localised or “NIMBY” pressure from party politics or from specially formed interest groups.

When using the precautionary principle to develop scheme standards this does not immediately equate to a “more precautionary” approach being used. The precautionary principle generally provides that - *“Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”* This does not require that a chemical be proved 100% “safe”, it requires action if there is a real (not perceived or imagined) risk of serious or irreversible environmental degradation resulting from use of a chemical. These measures are then to be cost effective. Prohibiting or banning chemicals is not a “cost effective” measure as some parties would have you believe. The standard chemical registration process to develop label requirements followed by the APVMA, which includes a process by which applicants are required to generate more data if additional perceived risks are encountered, adequately assesses and manages risk and fulfils the intent of the precautionary principle in a pragmatic manner.

Therefore whilst FIAT agrees overall in principle with the precautionary approach, it cannot endorse the adoption of it within the framework of a national scheme. The major reason for this is it is not believed that an adequate, workable definition would be produced. It is a fact that our democratic process these days must deal with ‘serial pests’ in an environment where ‘serial pests’ are now numerous and effective due to technology. For this reason, FIAT can only support continuation of the ‘risk based’ approach currently undertaken. Certainly, FIAT also fully endorses an ‘err on the side of caution’ approach for certain defined scenarios, such as schools, or areas of a high concentration of population.





Section 8 Assessment Registration and Access to Chemicals

The Chemical Registration process should provide certainty to applicants of reasonable time frames for a designated data set.

A risk to effort based registration and assessment process, developed in collaboration with industry, would add greater flexibility and efficiency for the registration and minor use permit processes and should be considered. The risk management approach already undertaken by the APVMA is sufficient and FIAT does not believe a chemical re-registration process would be of any significant benefit.

APVMA should continue to assess chemicals on a product by product basis. Accessing data on use patterns to determine aggregate risk is impractical and unreliable.

It is always better to have an option for compliance, the fact that the minor use permit system is frequently used implies that it is necessary, and to shut down the system would leave some chemical users in a position of having no option of compliance and could potentially lead to significant crop damage or even total failure.

Full cost recovery for minor use permits will prevent access to the most efficient and appropriate chemicals for small operators due to the cost impost. This may result in poorer environmental and production outcomes through forced use of less efficient chemicals, and may ultimately disadvantage the general community. It is important that the scheme creates an environment that enables affordable and timely access to appropriate





chemicals. The use of overseas data could help achieve these goals. Likewise it may be possible to establish a fee system based upon both the value of the product for which a minor use permit is being sought, and the estimated volumetric use for the life of the permit.

When developing and approving labels the APVMA should ensure all terms have clear and definable meanings, which should be documented and made publically available through the APVMA webpage – in a ‘user friendly’ format. This will aid consistent use and avoid unnecessary disputes or contests that turn on the correct understanding to be applied to a vague or ambiguous term.

More specifically with respect to benchmarking, FIAT believes that the monitoring of performance of the APVMA is actually a very complex topic and would merit a discussion paper on it’s own at some future stage.

However very briefly, FIAT believes that there are several benchmarks that should be formally adopted, of which the primary ones would be: performance based with respect to the meeting of imposed deadlines; and, comparison based with like countries or economic blocks, in terms of regulations and constraints on specific agvet chemicals.





Section 9 Control of Use

The Scheme would need to recognise that there are three significantly different chemical application methods to be considered when developing control of use regulations; aerial spraying; ground spraying; and, other uses.

Question 17 requests provision of evidence in this submission that a particular approach to control of use is or is not effective and efficient in agricultural use, urban amenity horticulture or pest and weed control. FIAT feels this question to be open to interpretation and a complex one to answer within the context of this submission. FIAT would welcome the opportunity to participate in future discussions on this at a future date.

Nether the less the creation of a national scheme should not unnecessarily adopt the strictest standards from the various State systems to implement nationally. This is due to the fact, as mentioned earlier in the submission, that it seems that many regulations, particularly in the smaller state and territories are based upon political objectives rather than sensible science.

A preferable approach would be to permit the national regulator to assess the various State and Territory systems against objective criteria that provide a genuine risk management approach and adopt a single set of standards that would have general application. Moving to a single national system should not of itself require an increase in the regulatory burden imposed on industry.

National control of use regulations should be applicable to **all** chemical users, including local councils and domestic users. Industry already has a strong imperative to comply with high levels of self imposed quality assurance monitoring, small entities and domestic users do not. Regulating Industry alone would not pick up “problem” users. Government should





recognise industry mechanisms and take compliance action only where these fall short. This will allow the most effective use of compliance resources, allowing them to be directed towards groups with no or unacceptable standards of self compliance.

There is a requirement for control of use to be able to respond to regionally significant issues where these are based on actual differences in risk. Perceived risk or political will or artificial arbitrary boundaries should not be considered regional differences. Regional difference should be based on a demonstrated scientifically required basis and could be used to allow for different climate behaviours of some chemicals or to protect a susceptible species found across a limited range.

Section 10 Competencies, Training, Accreditation and Licensing

All users of agricultural chemicals should have the appropriate skills and training commensurate to the activity they are undertaking. These levels of training should be nationally consistent and may be made available through existing service providers such as ChemCert. A nationally consistent approach is particularly relevant and beneficial for businesses that undertake activities in more than one State or Territory.

Training should lead to nationally consistent (and fully portable) accreditations or licenses for attendees. It should be a requirement of purchasing AGVET chemicals that the appropriate level of accreditation is held by the user. Checking this would be the responsibility of the chemical supplier.





Section 11 Possible Structures for a National Regulatory Scheme

FIAT is supportive of the scheme taking any structure which achieves the following goals:

- Nationally consistent scientifically based control of use regulations.
- Efficient and effective access to and registration of chemicals.
- No increase in the cost of regulatory compliance to chemical producers or users.
- Access to minor use permits on a timely basis.
- Recognition of industry initiatives.
- Regulation of **all** chemical users.

Section 12 Funding Issues

The change of management from State to the Federal Governments and development and implementation of the scheme should be managed in such a way as to minimise the regulatory burden.

The cost of effective chemical regulation should be shared between all benefitting parties: Government, users, the industrial chemical industry and consumers. Currently the industrial chemical industry funds the APVMA through the chemical registration process. Chemical users fund self regulatory measures and some control of use compliance activities. The State Government has historically funded other control of use costs. FIAT is supportive of this funding structure and believes it a fair distribution of costs.

It seems that any nationally consistent, integrated regulatory system can and should deliver economies through the removal of duplication and the identification of synergies and these savings should be considered in any funding model.





Section 13 Is Cost Recovery of Control of Use Appropriate?

Funding of control of use regulations has traditionally been borne by the State Governments to date. If the cost were to be recovered from chemical users, to be consistent with Government policy this would require that the cost were able to be passed onto the consumer to create a price signal in the market. However, primary producers in Australia (including plantation companies) are generally “price takers” and this severely limits their ability to pass on the extra regulatory costs to the ultimate benefactor of chemical use – the consumer.

FIAT believes it appropriate that the Government continues to play a role in funding control of use. Cost recovery would decrease the competitiveness and economic viability of Australia’s farmers.

It seems apparent that the Australian public demand an “arms Length” relationship between chemical users and the regulator or enforcer of the rules attending to chemical use. This approach ensures that the public can be confident that the “policeman” is not subjected to any undue influence and is free of conflicts of interest. This outcome can best be achieved through an enforcement regime provided and funded by Government.

In Conclusion

A national scheme for registration and control of use of AGVET chemicals has the potential to benefit the economy, society and the environment and significantly reduce the burden of regulation, and should be pursued with those clear objectives as the drivers of regulatory change.

If you would like more information about this submission please contact petra.strich@fiatas.com.au.



Forest Industries Association
of Tasmania