EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 278

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

Agricultural and Veterinary Chemicals Code Act 1994

Agricultural and Veterinary Chemicals Code Amendment Regulations 2007 (No. 1)

The Agricultural and Veterinary Chemicals Code Act 1994 (the Act) provides for regulations to be made in respect of the States and the Northern Territory of Australia. In particular, section 6 of the Act provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the Agricultural and Veterinary Chemicals Code to be prescribed by regulations within the meaning of the Code.

Subsection 5(1) of the Act provides that the Code set out in the Schedule to the Act may be referred to as the Agvet Code of the participating States and the Northern Territory.

Part 2A and Part 2B of the Code contain provisions regarding the low-regulatory scheme for agricultural and veterinary chemicals. These provisions were introduced in 2003 so that industry would benefit from a decreased regulatory burden in following the registration process for low-risk agricultural and veterinary chemical products. Under these arrangements, the listing of products, or classes of those products, allows for them to be registered on application against established standards. The reserving of products, or classes of those products, on the other hand, allows for them to be excluded from the conventional registration processes, subject to certain conditions regarding their possession, custody, use or other dealing.

Subsection 56C(1) of the Code makes provision for the regulations to contain a schedule listing chemical products or classes of chemical products that can be granted listed registration under Part 2A. Likewise, subsection 56ZU(1) of the Code makes provision for the regulations to contain a schedule specifying chemical products or classes of chemical products that are reserved chemical products under Part 2B.

On the advice of the Australian Pesticides and Veterinary Medicines Authority (APVMA), the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry has recommended that the Agricultural and Veterinary Chemicals Code Regulations 1995 (the Principal Regulations) be amended to add:

- Two classes of chemical products to be listed under Part 2A – those being, joint health products for dogs and horses, and certain products for use in home swimming pools and spas; and
- Eleven classes of agricultural chemical products to be reserved under Part 2B – those being, general-purpose disinfectants commonly used to treat surfaces and equipment in animal husbandry, egg production and horticulture.

The decision as to which products, or classes of products, should be listed or reserved was made by the APVMA in consultation with industry stakeholders and representatives of state government.
agricultural and primary industry departments. This led to the following information being provided to the then Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry, Senator, the Hon Richard Colbeck in accordance with subsections 56C(2) and 56ZU(4) of the Code:

- particulars of the classes of chemical products that the APVMA proposes for listing and reservation;
- draft standards that the APVMA proposes to submit for approval in relation to chemical products granted listed registration;
- draft conditions that the APVMA proposes to apply to reserved chemical products;
- written explanations regarding certain matters that the APVMA is required to be satisfied; and
- written statements of the Code identifying the consultations held by, and advice given to, the APVMA regarding the proposed listing and reservation of the chemical products.

While the Code allows the Parliamentary Secretary to direct the APVMA to conduct a round of formal public consultation, he was satisfied that sufficient consultation had occurred with all stakeholders and, accordingly, decided not to require the APVMA to publish a notice in the Gazette seeking further comment.

The Regulations add the following to the Principal Regulations:

A. at Schedule 3B, two classes of chemical products that can be granted listed registration under Part 2A of the Code;
   - joint health products for dogs and horses that contain 1 or more of the following as an active constituent;
     1. chondroitin;
     2. glucosamine, and
   - home swimming pools and spas products that contain only 1 one of the following as an active constituent;
     1. calcium hypochlorite;
     2. lithium hypochlorite;
     3. sodium dichloroisocyanurate;
     4. sodium hypochlorite;
     5. trichloroisocyanuric acid

B. at Schedule 3C, eleven classes of agricultural chemical products used as disinfectants that are reserved chemical products for the purposes of the Code and which contain the following active constituents at specified concentration levels;
   1. benzalkonium chloride
   2. glutaraldehyde
   3. hydrogen peroxide
   4. o-benzyl-p-chlorophenol
   5. ortho-phenylphenol
   6. peroxyacetic acid
   7. phosphoric acid
   8. sodium hydroxide
   9. sodium hypochlorite
   10. sulfamic acid
   11. sulfuric acid
The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commenced on the day after they were registered.

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