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Registered for GST

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Adjudication Branch
ACCC
PO Box 1199
Dickson ACT 2602

Attention **Mr. Scott Gregson**

Dear Sir,

Re: Comments supporting the continuation of Agsafe Guardian Program

We, Elizabeth Hak and David Rose, are currently contracted to Agsafe as “accreditation facilitators” under the Guardian program. As such we are responsible for the accreditation of approximately 170 facilities in Victoria and over a period of two years will visit and report on them all. Whilst many of the operators are conscientious and diligent there are some that are either unaware of their obligations or choose to ignore them. This applies across the board to large and small operators alike.

The Guardian program, with its requirement for adequate and appropriate training of persons involved in the handling of the products, **is a guarantee to the public** that premises that are accredited have appropriate systems in place and personnel that are competent to store and handle the agricultural and veterinary chemicals safely and according to the relevant legislation. Without such accreditation there is no means for members of the public to judge the competency of the operators. Untrained people with no or limited knowledge of their legal and social responsibilities will be able to operate in an industry that uses large quantities of hazardous and often dangerous materials and expose the public and the environment to risk.

Several times over the past year we have encountered circumstances which, if not corrected, would have continued to put the community at risk. One involved the storage of six (6) tonnes of aluminium phosphide in a Victorian country town. This material (a grain fumigant) was stored in a shipping container and in no way complied with storage requirements Dangerous Goods Code. There was no labelling of the storage, no notification to Worksafe or the local emergency services, and the material was not considered in the emergency procedures for the facility. Discussion with the site operator corrected the situation at this site and also at other sites managed by the same company. Without the facilitator’s visit and diligent inspection, this potentially hazardous situation would not have been discovered or corrected.

A second event involved the storage of sixty (60) tones of the fumigant gas methyl bromide in a residential area in one of Melbourne’s eastern suburbs. Again this was discovered by a facilitator and the quantity reduced immediately to the approved low level that the facility had been built to contain. Although the facility had complied with the formal dangerous goods notification for the product, the amount stored significantly exceeded the notified quantity. In fact, the 60 tonnes of material stored brought the site under the requirements of the **Major Hazards Facility Regulations**. Again, without the facilitator’s visit this potentially hazardous situation would not have been discovered or corrected. The operator was unaware of the MHF Regulations and his obligations of notification and compliance with them.

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These are two examples of OHS and Dangerous Goods regulatory compliance and both of the operators believed that they “complied” until visited by the Agsafe facilitator and the actual quantities that they were holding had been established. These storage quantity breaches by the operators had just “slipped through”.

Without the ability to sanction those operators who do not comply, there will be no incentive to comply with regulations and the safety standards that Agsafe has been instrumental in achieving will be compromised as non-compliance is simpler and cheaper and risk of detection without Agsafe will be very low. Sanctions by suppliers will not happen as they will have no way of knowing whether or not a store operator complies with the appropriate standards.

Unloading of hazardous chemicals in a public street, storage of environmentally hazardous materials (glyphosate and liquid fertilisers particularly) in unbunded areas, inappropriate storage of “swap and go” change over barbeque gas cylinders, no traffic management plans, no risk assessments for operating plant and forklifts, and the storage together of incompatible materials together such as swimming pool chlorine and pH adjusting acids are some of the items we often identify and correct as a result of facilitator’s visits. Not all are directly related to the Ag and Vet chemical business but as more businesses take on “hardware store” additions then there will be more exposure of the community to the hazards of the overall business. The Agsafe facilitators can assist in minimising the risks associated with these hazards and in some cases assist in complying with legal obligations.

With out compulsory Agsafe compliance, including the regular training of personnel and premises inspection, there will be no incentive for operators to maintain the high standards of safety that has been achieved. Government regulatory agencies do not always have inspectorates so the likelihood of detection of regulatory breaches is low and will usually only occur if there has been an incident. This is too late.

Another aspect of Agsafe that seems to have been overlooked by the ACCC in making its decision is the advice given to industry participants, both old and new, by Agsafe to set up a complying operation. Agsafe personnel can advise directly and also refer enquiries to specialists in planning, occupational health and safety, dangerous goods and environmental matters as required. Applicants are usually not familiar with the planning, design and legal requirements to set up an operation and without Agsafe there is no “one stop shop” from which to obtain direction to the requirements necessary to be compliant.

It is imperative for the industry to maintain its credibility by actively promoting safety and regulatory compliance and this can best be done by strengthening the Guardian program, not by removing the requirement for compliance and ability to sanction those who do not comply.

David Rose is a chemical engineer and farmer and has had 40 years experience in the chemical industry lately involved with Occupational Health and Safety in the petrochemical industry.

Elizabeth Hak is an industrial chemist and farmer with 30 years experience in the chemical industry.

If you deem it useful, we would be pleased to discuss our experiences of the Agsafe program with you.

Yours sincerely

David Rose and Elizabeth Hak