



Australian Government
**Department of Employment and
Workplace Relations**

National Office

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MARS/PRISM:
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The General Manager
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Dear Mr Gregson

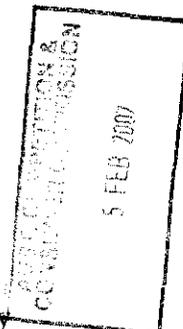
Thank you for your correspondence to Mr Bill Scales, Chairman of the Australian Safety and Compensation Council (ASCC), in relation to Agsafe's application for revocation and substitution A91027 and A91028 – interested party consultation. Mr Scales has asked me to reply on his behalf.

The ASCC is not a regulatory authority. It does not make or enforce laws. Occupational health and safety (OHS) and workers' compensation in Australia are jurisdiction-based, and all OHS regulations and legislation are the responsibility of Commonwealth, state and territory OHS authorities. The national OHS standards and codes of practice are not legally enforceable unless Commonwealth, state and territory governments adopt them as regulation or codes of practice under their OHS legislation or regulations.

The national standards may be adopted by the governments in the Commonwealth, state and territory regulation to make up part of their OHS regulatory framework. National standards and codes of practice, including those for the storage, handling and use of workplace hazardous substances and Dangerous Goods, are developed to allow the consistent uptake of such documents in the various OHS jurisdictions.

Agricultural and veterinary chemicals should be stored, handled and used in accordance with the relevant jurisdictional OHS legislations and regulations, if the chemicals meet the criteria for classification of hazardous substances and/or Dangerous Goods. These criteria are defined in the National Standard for the Storage and Handling of Workplace Dangerous Goods [NOHSC:1015(2001)] or its accompanying code, the National Model Regulation for the Control of Workplace Hazardous Substances [NOHSC:1005(1994)] or its accompanying code, and/or the Approved Criteria for Classifying Hazardous Substances [NOHSC:1008(2004)]. The state and territory OHS requirements are largely consistent with the ASCC/NOHSC national standards and codes mentioned above. Generally, agricultural and veterinary chemicals that are Schedule 5, 6, or 7 poisons would also be hazardous substances and/or Dangerous Goods in the workplace.

Commonwealth, state and territory OHS legislation and regulations relating to the safe use and storage of workplace chemicals may already include the identification of the risks associated with their use, and the requirement that an employer must eliminate any reasonably foreseeable hazard and, if this is not practical, must control the risks. Employers also generally have an obligation to ensure that (amongst other requirements): any safety risks that



may arise in the tasks or work their workers perform are eliminated or controlled; workers are provided with any safety gear that may be needed to perform their tasks safely; information, training (including induction) and supervision that is required to ensure workers work safely are provided; safety procedures are developed for any equipment or substance that is used in the workplace that may pose safety risks. Enforcement and compliance of these regulations is a matter for the relevant OHS jurisdictions.

The Agsafe Guardian Program purports to ensure that people that handle agricultural and veterinary chemicals (including those that are workplace hazardous substances and/or Dangerous Goods) fulfil their duty of care obligations and understand the relevant safety and regulatory requirements, and provides a mechanism to provide training to users of workplace chemicals, when these are agricultural or veterinary chemicals. However, employers already have such obligations under existing OHS regulations, and can meet these legal requirements regardless of whether they have Agsafe accreditation. The Guardian Program also links accreditation with supply of chemicals, effectively imposing trading sanctions on businesses that do not purchase accreditation from Agsafe (which is the sole supplier of such accreditation), even if all of the legal occupational health and safety requirements have been met by those businesses.

The agriculture, forestry and fishing sector is one of the five sectors targeted by the National OHS Strategy to improve its OHS performance. This sector was chosen because it was identified, through data analysis, as having one of the highest incidence rates of workers' compensation claims compared with other industries. The Australian agriculture, forestry and fishing industry employed 365 000 people in 2003-04, representing 4% of the Australian workforce, and strategies to improve safety performance in this sector should be commended. However, the Department would not support the imposition of trading sanctions in the absence of clear evidence that safety performance was improved using such a mechanism. Rather the Department's view is that the relevant legal OHS requirements for chemical use may be met through a range of methods.

I trust that this submission assists in the deliberations of the ACCC. If you have any queries relating to this submission, please contact Peter Haynes on (02) 6121 69171 or peter.haynes@dewr.gov.au for further information.

Sincerely



Sandra Parker
Group Manager
Office of the Australian Safety and Compensation Council

1 February 2007