

Individual - Wnk Tinker

Mr. Stephen Hodge
Manager, Legislation Review Public Health
Dept. of Human Services
GPO Box 1670 N
Melbourne 3001

16 December 2005

Dear Mr. Hodge,

We appreciate the opportunity to comment on the draft Policy Paper for the review of the Health Act.

We apologise for the lack of decent presentation - we have neither the skills nor the equipment to respond electronically.

We understand that a previous submission to you appears on the Department's website - inverted.

Respectfully may we request that any scan of the enclosed comment be done in a way that does not enhance its tendency to be illegible?

Yours faithfully

Wnk Tinker

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REVIEW OF THE HEALTH ACT 1958

COMMENT ON THE RECOMMENDATIONS - DRAFT POLICY PAPER

PART 1

- REC. NO 1 Endorsed.
- 2 Endorsed in the hope that all areas of responsibility are clearly delineated to avoid 'buckpassing' between authorities.
- 3 Could usefully be expanded to read "... of promoting POSITIVE public health AND KNOWLEDGE OF POTENTIAL NEGATIVE HEALTH ASPECTS."
- 4 Could be expanded usefully to read "... well-being of disadvantaged communities OR INDIVIDUALS."
Other protective Acts refer to "any person," singular.
- 5-18 All endorsed
- 19 Endorsed, but with comment on 19(c)... that emphasis be placed on the concept of what "may be". Current legislation deals with potentials and likelihoods of risks to positive health, but the mechanisms to deal with these have not been evident from my correspondence from relevant authorities within the past two years.
- 20-34 All endorsed.

PART 2

- 35-40 Endorsed
- 41-54 Unable to make informed comment

PART 3

- 55-60 Endorsed
- 61-70 Unable to make informed comment

PART 4

- 71-75 Endorsed
- 76 We found no justification for the recommendation that the Public Health Act NOT to impose a general Duty on all people. All other protective Acts enshrine the principle that NO person shall risk harm to another; there is nothing that indicates a restriction to commercial/agricultural/horticultural practices.
- 77(a) - 77(c)(ix) Endorsed

PART 4

REC 77(d) Hypersensitivities should not be excluded from the General Duty of Care. Most pesticides are recognised as toxic, therefore cannot, in conscience, be regarded as "safe" in the same way as foods - which are recognised as sustaining.

A.P.V.M.A. pesticide labels invariably include precautionary warnings of hazard(s), be it contact, inhalation, ingestion or eye absorption. The degree that reactions become adverse is dependent on many variables. Remember that the Exposure Standard, by definition, does not guarantee the safety of all who may be exposed.

The APVMA also admits that off-target exposures can occur even when an approved product is applied according to instructions. Unlike foods, spray or vapour drift is not labelled with identification, it is not able to be effectively controlled, and in the case of persistent compounds, toxic vapour may continue for significant periods of time after application.

Hypersensitives to such chemicals are the most probable victims; those with the greatest potential to be harmed; those most likely to have their health and well-being seriously compromised. Other legislation specifically includes these possibilities, so responsibility clearly rests already with the EPA and WorkSafe Victoria. The exception currently is the DPI, as the AgVet Control Act - apart from a reference to public health and safety [p.1 S.5.1(a)(i)] has little that specifically deals with harm to humans. The current review of AgVet Control Regulations may be able to correct this anomaly, but a review of the AgVet Control Act, to bring into alignment with the O.H. & S Act and the E.P. Act would be better.

For hypersensitives, AVOIDANCE is the only viable action to prevent harm - and that requires prior knowledge of what, how and when. Toxins are useful tools that are simultaneously dangerous weapons, particularly to those unfortunate enough to be particularly vulnerable. This applies to NON-LICENCED use by the general public, also. Agricultural chemicals (eg. deltamethrin) are available from supermarkets and hardware stores - even marketed

PART 4 Rec. 77(d) continued.

as 'Professional Packs'. Fourth generation synthetic pyrethroids in the hands of UN professionals are just as hazardous to the chemically sensitive, perhaps more so.

To exclude hypersensitivity in the case of toxin utilisation would be discriminatory to those with this disability - and this affliction is recognised as such.

Toxin use demands higher levels of care. It must be treated as a privilege granted, not a casual right. Food is essential to life. Poisons are detrimental to life. There can be no comparison, as in Footnote 51 p 45 of the Draft.

Hypersensitivity onset, by experience and observation, comes suddenly from a single toxic exposure or after a series of exposures, as an aggregate of damage. The physiological pathway is different from that of allergy or anaphylaxis. Scientific "proof" of this has yet to be described conclusively, however the Reviewers should observe the Precautionary Principle in this situation.

78 That a clear understanding of which Act and Agency takes precedence in particular areas is well overdue is evident. Two years of persistent inquiry as to who or what has overall responsibility for human health has resulted only in a collection of evasive responses, finger-pointing or outright refusals to respond. MOU's may be the answer, provided everyone - including the General Public - also understand the Understandings!

79 Comment noted against recommendation 77(d) would apply equally to 79.

80-81(c) Endorsed

82 Endorsed wholeheartedly in light of the definitions. Yet there is a need for the difference to be defined objectively between the subjective terms "serious" and "trivial". What may appear trivial to some (in ignorance) may well be a serious matter for others. Assume that harm to health is always a serious matter.

83-92 Endorsed.

93 Endorsed on the proviso that the guidelines truly reflect the principles and purpose of the Act.

DRAFT POLICY - HEALTH ACT REVIEW

PART 4 CONT.

- 94 Unable to make informed comment
- 95-103 Endorsed
- 104 would be acceptable if one of the prescribed circumstances was intent to spray toxic substances through the atmosphere.
- 105-128 Endorsed
- 129 Endorsed if mention be made specifically to recovery of costs incurred in temporarily evacuating susceptible people away from an intended spray zone AND its attendant potential spray drift zone, for a period commensurate with the toxin's persistence, to avoid POTENTIAL HARM. The DHS already publishes a leaflet warning of possible consequences through commercial pesticides around the home, listing susceptibles as unborn babies, young children, pregnant or nursing mothers and elderly people - any one of whom may become hypersensitised by exposures originating from neighbour's or local Council programs.
- 130-133 Endorsed on the understanding that the term 'public health' is defined in line with other protective Acts, as the health of "any other person".
- 134-143 Unable to make informed comment

PART 5

- 144-207 Unable to make informed comment

PART 6

- 208-227 Unable to make informed comment
- 228-241 Endorsed - No 237 conditionally *
- 242 Unable to make informed comment.

* We consider that licences should be mandatory for all commercial uses of agricultural chemicals, AND - at the very least - local government permits should be issued for every DOMESTIC use of biocides together with the precautions to be instituted in their application - OR - a total ban on domestic use of pesticides, as has been instituted in other parts of the world, eg. Halifax, Nova Scotia.

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