Draft Research Report on Benchmarking of Australian and New Zealand Business Regulation: Food Safety

Horticulture Australia Limited (HAL) welcomes this opportunity to contribute to the Productivity Commission benchmarking study into food safety regulations in Australia and New Zealand.

HAL is the industry services body for the Horticulture sector, the fastest growing agricultural industry in Australia with production in excess of $8 billion annually. HAL works with individual horticulture industries towards meeting their current and strategic needs. As access to and use of farm chemicals is integral to sustainable production for many horticultural industries, HAL believes that having an efficient system for MRL establishment is fundamental to the sectors long-term viability. As a consequence HAL wishes to provide input from a horticultural perspective on the regimes currently in place for the setting of MRLs.

HAL fully supports the COAG decision on the recognition of APVMA residue risk assessments and MRL promulgation into the Food Standards Code (FSC) and believes that the implementation of this decision should be addressed as a matter of urgency. HAL believes that this is important from an efficiency perspective for food items traded both domestically as well as internationally as well as clarifying the status of APVMA risk assessments.

As indicated in the Draft Report Australia has, in effect, two separate systems for the establishment of MRLs:

- the APVMA system, through the MRL Standard, which regulates use of a pesticide on crops; and
- the FSANZ system, through the FSC, which regulates pesticide residues occurring in traded food items.

As identified in the Draft Report this dual approach can result in protracted timeframes for the promulgation of APVMA MRLs into the FSC, resulting in MRL anomalies. This can translate into significant problems for growers, as it would, in

effect, be legal to apply the pesticide, but illegal to have a residue in the crop once harvested.

Firstly, of particular concern to horticultural industries is that this misalignment can create the impression that breaches in food safety regulations are common. While a MRL, as such, is not a food safety limit, nevertheless this is how they are often perceived and portrayed and the occurrence of breaches can lead to the false impression of pesticide misuse and associated health concerns.

This situation is particularly acute for growers of minor crops where access to pesticides is limited and crop production is reliant upon pesticides accessed via an APVMA minor use permit (MUP). Any delay in MRL promulgation creates a situation where the traded commodities of minor crops risk breaching of the FSC when a MUP has been utilized.

This troublesome situation is highlighted in Tables 1 and 2 below, which show the number of MUP derived MRLs established by the APVMA over the last 12 months and the corresponding FSANZ MRL notifications, i.e., proposals M1004 and M1005[1]. The proposals indicate that FSANZ plans to amend the FSC subject to review, based on APVMA MRLs established from September 2008 to September 2009. It is indicated that gazettal is anticipated, "if no review requested" in May 2010 and August 2010, respectively.

Table 1 APVMA Gazetted MRL changes derived from horticulture permits (September 08 till March 09) covered by FSANZ notification M1004 with an anticipated finalisation date of May 2010.

Chemical	**Commodities**	**APVMA MRL**	**Permit #**	**Date Issued**	**Gazettal Date**
abamectin	Peppers	T0.02	PER10730	Aug 8th	Sept 08
Oxamyl	Sweet potato	T0.5	PER10762	Aug 11th	
Pymetrozine	leafy herbs	T10	PER8597	Sept 4th	Oct 08
Bupirimate	Eggplant	T1	PER11087	Oct 1st	Nov 08
Iprodione	Eggplant	T7	PER11082	Sept 29th	
Methomyl	Sweet potato	T1	PER10334	Oct 9th	
Triadimenol	Eggplant	T1	PER11089	Sept 26th	

[1] http://www.foodstandards.gov.au/standardsdevelopment/proposals/proposalm1005maximum4447.cfm http://www.foodstandards.gov.au/_srcfiles/M1003%20MRLs%20(Apr,%20May,%20June,%20Aug%202008)%20AAR%20FINAL.doc

Chemical	Commodities	APVMA MRL	Permit #	Date Issued	Gazettal Date
Chlorantraniliprole	Rucola [rocket]	T20	PER11232	Dec 9th	Jan 09
	Coriander (leaves, roots, stems)	T20	PER11232	Dec 9th	
	Mexican tarragon	T20	PER11232	Dec 9th	
	Herbs	T20	PER11232	Dec 9th	
Buprofezin	Celery	T1	PER10729	Jan 15th	Feb 09
Pyraclostrobin	Brassica leafy veg	T3	PER9631	Jan 16th	
	Broccoli, Chinese	T1	PER9631	Jan 16th	
Phenmedipham	Chard [silverbeet]	T0.2	PER10720	Feb 11th	Mar 09
	Chicory leaves	T0.2	PER10720	Feb 11th	
	Endive	T0.2	PER10720	Feb 11th	
	Radicchio	T0.2	PER10720	Feb 11th	
	Spinach	T0.2	PER10720	Feb 11th	

Table 2 APVMA Gazetted MRL changes derived from horticulture permits (April 09 to September 09) covered by FSANZ notification M1005 with an anticipated finalisation date of August 2010.

Chemical	Commodities	APVMA MRL	Permit #	Date Issued	Gazettal Date
Azoxystrobin	Horseradish	T3	PER10816	Jun 1st	May 09
Bupirimate	Peppers	0.7	PER10979	Mar 31st	
Metalaxyl	Dill	T0.3	PER11425	Apr 2nd	
Methidathion	Date	T*0.01	PER10777	Mar 28th	
	Dates, dried or dried and candied	T*0.01	PER10777	Mar 28th	
Methomyl	Shallot	1	PER6914	May 23rd 08	
	Onion, welsh	1	PER6914	May 23rd 08	
Pyriproxyfen	Herbs	T5	PER8601	Apr 17th	
Buprofezin	Chervil	T50	PER8576	Apr 23rd	June 09
	Coriander (leaves, roots, stems)	T50	PER8576	Apr 23rd	
	Herbs	T50	PER8576	Apr 23rd	
	Mizuna	T50	PER8576	Apr 23rd	
	Rucola [rocket]	T50	PER8576	Apr 23rd	
Fenhexamid	Chervil	T15	PER8617	May 15th	
	Coriander (leaves, roots, stems)	T15	PER8617	May 15th	
	Herbs	T15	PER8617	May 15th	
	Mizuna	T15	PER8617	May 15th	
	Rucola [rocket]	T15	PER8617	May 15th	
Indoxacarb	Cherries	T2	PER11002	May 14th	
Pirimicarb	Sweet corn (corn-on-the-cob)	T0.1	PER10433	May 12th	
Propiconazole	Blueberries	2	PER10894	July 1st	
Spinosad	Shallot	0.3	PER10596	Apr 23rd	
	Onion, welsh	0.3	PER10596	Apr 23rd	
	Spring onion	0.3	PER10596	Apr 23rd	
Abamectin	Almonds	T*0.01	PER5658	Jun 9th	July 09
Azoxystrobin	Radish	0.3	PER10914	Jun 9th	

Chemical	Commodities	APVMA MRL	Permit #	Date Issued	Gazettal Date
Chlorfenapyr	Chervil	T5	PER8633	Jun 18th	July 09
	Coriander (leaves, roots, stems)	T5	PER8633	Jun 18th	
	Herbs	T5	PER8633	Jun 18th	
	Mizuna	T5	PER8633	Jun 18th	
	Rucola [rocket]	T5	PER8633	Jun 18th	
Etoxazole	Chervil	T1	PER8577	Jun 18th	
	Coriander (leaves, roots, stems)	T1	PER8577	Jun 18th	
	Herbs	T1	PER8577	Jun 18th	
	Mizuna	T1	PER8577	Jun 18th	
	Rucola [rocket]	T1	PER8577	Jun 18th	
Fludioxonil	Broccoli	T0.7	PER10735	Jun 1st	
Indoxacarb	Asparagus	T1	PER10166	May 18th	
	Stone fruits	T2	PER9595	Apr 1st 07	
Ioxynil	Onion, welsh	T3	PER10868	Jun 1st	
	Shallot	T3	PER10868	Jun 1st	
Iprodione	Celeriac	T1	PER10846	Jun 9th	
Linuron	Chervil	T1	PER11130	Jun 18th	
	Coriander (leaves, roots, stems)	T1	PER11130	Jun 18th	
	Herbs	T1	PER11130	Jun 18th	
	Mizuna	T1	PER11130	Jun 18th	
	Rucola [rocket]	T1	PER11130	Jun 18th	
	Lemon grass	T1	PER11130	Jun 18th	
	Lemon verbena	T1	PER11130	Jun 18th	
Metolachlor	Celery	T0.05	PER10675	Jun 14th	
	Chard [silverbeet]	T*0.01	PER10675	Jun 14th	
	Onion, welsh	*0.01	PER10675	Jun 14th	
	Shallot	*0.01	PER10675	Jun 14th	
	Spinach	T*0.01	PER10675	Jun 14th	
	Spring onion	*0.01	PER10675	Jun 14th	
Myclobutanil	Chervil	T2	PER8591	Jun 18th	
	Coriander (leaves, roots, stems)	T2	PER8591	Jun 18th	
	Herbs	T2	PER8591	Jun 18th	
	Mizuna	T2	PER8591	Jun 18th	
	Rucola [rocket]	T2	PER8591	Jun 18th	
Propiconazole	Radish	T0.2	PER10980	May 26th	
Pyrimethanil	Podded pea (young pods)[snow and sugar snap]	T2	PER10656	Jun 1st	
Quinoxyfen	Chervil	T5	PER8621	Jun 18th	
	Coriander (leaves, roots, stems)	T5	PER8621	Jun 18th	
	Herbs	T5	PER8621	Jun 18th	
	Mizuna	T5	PER8621	Jun 18th	
	Rucola [rocket]	T5	PER8621	Jun 18th	
Abamectin	Blackberries	T0.1	PER11123	Jun 30th	Aug 09
	Raspberries, Red, Black	T0.1	PER11123	Jun 30th	
Cyprodinil	Strawberry	T5	PER9791	withdrawn	
Dimethomorph	Brassica leafy veg	T2	PER10907	Dec 10th 08	
Fludioxonil	Strawberry	T5	PER9791	withdrawn	
Sethoxydim	Rhubarb	0.1	PER11358	Jun 24th	

Chemical	Commodities	APVMA MRL	Permit #	Date Issued	Gazettal Date
abamectin	Chervil	T0.5	PER8631	Dec 24th 08	Sept 09
	Coriander (leaves, roots, stems)	T0.5	PER8631	Dec 24th 08	
	Herbs	T0.5	PER8631	Dec 24th 08	
	Mizuna	T0.5	PER8631	Dec 24th 08	
	Rucola [rocket]	T0.5	PER8631	Dec 24th 08	
Bentazone	Podded pea (young pods)[snow and sugar snap]	T0.05	PER10976	Aug 10th	
Cyanazine	Podded pea (young pods)[snow and sugar snap]	0.05	PER10988	Aug 10th	
Indoxacarb	Chervil	T10	PER8612	Dec 24th 08	
	Leafy vegetables [except Chervil, Lettuce, Head, Mizuna and Rucola [rocket]]	5	PER8612	Dec 24th 08	
	Lemon balm	T10	PER8612	Dec 24th 08	
	Mizuna	T10	PER8612	Dec 24th 08	
Pirimicarb	Chervil	T20	PER8613	Dec 24th 08	
	Coriander (leaves, roots and stems)	T20	PER8613	Dec 24th 08	
	Herbs	T20	PER8613	Dec 24th 08	
	Rucola [rocket]	T20	PER8613	Dec 24th 08	
	Leafy vegetables [except Chervil, Lettuce, Head, Mizuna and Rucola [rocket]]	T5	PER8613	Dec 24th 08	
	Lemon balm	T20	PER8613	Dec 24th 08	
	Mizuna	T20	PER8613	Dec 24th 08	
Propiconazole	Chervil	T10	PER8596	Dec 24th 08	
	Coriander (leaves, roots, stems)	T10	PER8596	Dec 24th 08	
	Herbs	T10	PER8596	Dec 24th 08	
	Mizuna	T10	PER8596	Dec 24th 08	
	Rucola [rocket]	T10	PER8596	Dec 24th 08	
	Lemon balm	T10	PER8596	Dec 24th 08	
Tebuconazole	Chervil	T0.5	PER8620	Dec 24th 08	
	Coriander (leaves, roots, stems)	T0.5	PER8620	Dec 24th 08	
	Herbs	T0.5	PER8620	Dec 24th 08	
	Mizuna	T0.5	PER8620	Dec 24th 08	
	Rucola [rocket]	T0.5	PER8620	Dec 24th 08	
	Lemon balm	T0.5	PER8620	Dec 24th 08	
Metalaxyl	Ginger root	T0.5	PER11719	Sept 3rd	
Phosphorous acid	Ginger root	T100	PER11719	Sept 3rd	

From the above tables it can be seen that there are in excess of 120 minor crop MRLs yet to be transferred into the FSC. This creates a situation where a grower of a minor crop relying on a permit would potentially be in breach of the FSC for a period of between 11 and 20 months, depending upon when the permit was issued.

In situations as demonstrated above, the time lag makes it virtually impossible for many growers of minor crops to comply with the FSC. In the event of a breach the outcome can be negative financially, i.e., loss of contracts, and/or create the impression of unsafe production practices.

Further adding to grower frustration is the seemingly illogical situation where, as a consequence of the Trans Tasman Mutual Recognition Arrangement (TTMRA), FSANZ automatically recognizes MRLs established by the NZFSA while requiring APVMA MRLs to undergo repeated consultation and Ministerial sign-off. This disparity in the level of scrutiny between APVMA and NZFSA MRLs implies that a NZFSA risk assessment has greater merit than a corresponding APVMA assessment. An inference HAL believes is incorrect and unjustified.

Aside from seemingly imputing the credibility of Australian residue risk assessments the current approach can also have potentially negative trade implications. The reciprocal element of the TTMRA has New Zealand authorities referencing the FSC for commodities imported from Australia. The current time lag in MRL promulgation therefore increases the likelihood of Australian minor crop exports breaching New Zealand standards, thereby significantly raising the risks and potential costs to Australian businesses.

In conclusion, HAL endorses the development of a coherent joint approach that recognizes the roles of the two regulators while removing the current burdensome elements and inefficiencies to streamline the process of MRL setting.

Regards,

Brad Wells
Acting General Manager R&D Services
Horticulture Australia Limited