



# AERIAL APPLICATION ASSOCIATION OF AUSTRALIA LTD.

ABN 13 002 501 886 • ACN 002 501 886

~

8 March 2019

By email to: [enquiries@apvma.gov.au](mailto:enquiries@apvma.gov.au)

Australian Pesticides and Veterinary Medicines Authority  
PO Box 6182  
Kingston ACT 2604

## **AAAA Submission to APVMA public consultation –**

### **Supplemental comments on the APVMA's approach to spray drift management – Stage 1**

AAAA refers APVMA to its submission of 27 March 2018. In addition, AAAA adds the following key areas of concern and the need for APVMA attention to a range of issues that have emerged through experience with the suspension of 2,4-D products and the creation of new permits for its ongoing use.

#### **Staged Approach**

AAAA remains frustrated that APVMA is committed to a staged approach which will see little to no benefits accrue from the adoption of better practices such as modelling of buffers based on lower rates, better spray quality or other assessments related to on-site assessments that are more accurate than the worse-case scenario modelling used on labels.

This is a major flaw in the APVMA strategy and one that is made even less sustainable by the recent experience of developing a response (including additional amending permits) to APVMA's unconsulted suspension notice of all 2,4-D products.

#### **Better Consultation Systems and formal structures**

The 2,4-D suspension experience clearly demonstrated the value to both APVMA and industry of better consultation through improved systemic consultation processes that are still not in place between APVMA and industry.

APVMA should immediately establish a chemical users consultative group to improve the current lack of formal consultative mechanisms, with the NWPPA continuing to provide a facilitative mechanism for annual, science-based discussions.

### **Access to Proven Practice**

The 2,4-D suspension experience demonstrated the need for APVMA to be able to deliver labels and buffers that are based on realistic models of 'standard' use rather than the compounding effect of worse-case assumption (and safety buffer) on top of worse-case assumption.

For example, even though the maximum label rate available on one popular registration of 2,4-D is 3.5 litres per hectare, there are few circumstances where more than 2 litres/ha are used and for most uses the rate falls to 1.7 litres/ha or significantly less.

The ability to recognise this in the APVMA permits issued to support the 2,4-D suspension simply underscores what is wrong with the current system in its inflexibility for users, the significant negative impact of modelling that only uses worse-case assumptions at maximum label rates and the lack of a system that can be effectively administered under State/Territory control of use legislation.

In particular, APVMA should give immediate consideration to how to bring forward the adoption of Stage 2 concurrent with Stage 1 so that benefits can be realised – especially through the use of lower than maximum label rates and consequently shorter buffers.

AAAA is especially concerned with likely delays that may arise to any adoption of Stage 2 and subsequent initiatives as APVMA does not appear to have closely engaged with the States and Territories who may struggle – according to them - to recognise any references to materials that are not directly on the physical label.

In the medium to longer term, AAAA sees this as a fundamental problem for the States and Territories to solve. The States/Territories must upgrade their approach to the recognition of technology, information storage and retrieval and the way chemical users now rely on a wide range of electronic data to support their compliance and decision making.

However, APVMA does have a methodology available to it to bring forward Stage 2 and at the same time facilitate the State/Territory recognition of better practices through a reformed permit system as an interim measure.

### **Immediate Reform of the Permit System**

One way forward would be to consider an amendment to the *Ag Vet Chemical Code Regulations 1995, Part 6-Permits, Clause 57(2)*. This current list of 3 permit types could simply be extended by a new permit type called 'Better Practice Permit' or similar and potentially an additional permit category for aerial application as an interim measure.

This, in combination with a clear APVMA system, could enable a user meeting certain prerequisites (such as training or industry accreditation) to use a prescribed approach to drift assessment (e.g. AgDISP modelling) to arrive at smaller buffers (for example) based on good science and a more accurate in-field assessment of conditions.

Having printed the output of the approved model or system, the user could then access the APVMA website and print out a 'standard' permit for better practice that provides a legal underpinning, relevant to all jurisdictions, for actions that are better than available from the actual label which is, as always, based on worst case scenarios, such as highest rate.

Alternatively, the APVMA proposed SDM Tool could come with the standard permit attached – again for printing and record keeping. However, the timeline for availability of this tool remains unclear.

Further simplifications could also be considered where one set-up or model run could be used for all future applications with the same parameters.

The various State/Territory control-of-use requirements for accurate assessments of conditions, record keeping etc, would all then come into play as usual, with the print-outs as above forming part of the system of record keeping required for each application - and again, as usual, being transparent for audit or investigations.

The innovation of a 'better practice' permit category would be a relatively straight forward improvement that would address the concerns of the States/Territories, while delivering to industry a strong incentive for the adoption of better practice spraying.

The need for a review of the current structure of the permit system and the policy directing it is also clear from a broader aerial application access perspective.

AAAA has been advised on many occasions by APVMA that the permit system is unable to cater suitably for aerial application because of the policy limitations of the existing permit categories.

These policy limitations on existing permit categories - being 'minor use', 'research' and 'emergency use' - seem to be quite contradictory when potential aerial uses are compared to the way ground uses are routinely approved. It may be that a review of the policy surrounding the permits may identify additional greater flexibility for APVMA than previously imagined.

Importantly, an initiative such as an aerial application permit would address the long-standing problem of products that may not have aerial on label, and because they are now 'generic', have no registrant support likely in terms of further research or development that would allow a label change.

### **Revised aircraft deposit curves, particularly in relation to release height**

AAAA has already provided advice to APVMA regarding aircraft spray height as part of the 2,4-D suspension process and development of subsequent permits.

There is a need to take a more nuanced approach, given optimum aircraft spray release height is variable and determined by, amongst other things, the wingspan of the aircraft and its operation in ground effect – normally at a height that is around 25% of the wingspan of the aircraft.

Clearly, the size of the aircraft will have an impact on the optimum spray release height, with increased downwash from larger aircraft offsetting the higher release height.

Given the training on this issue through the AAAA's Spraysafe accreditation and the accountability of all aerial applicators through mandatory licencing by States/Territories, the removal of height requirements on label would not be an unmitigated risk, especially when combined with the modelling already done for approvals that includes a representative spray height that is already close to the 25% of wingspan figure.

Consequently, APVMA should consider removing the current height restrictions on label (generally set at 3 metres) and replacing them with a recommendation to operate the aircraft at a spray height that represents approximately 25% of the wingspan (or rotorspan) of the aircraft – or simply leave this issue to the training and competence underpinned by Spraysafe and licencing.

An alternative approach – adopted for the 2,4-D Permit – is to provide varying spray heights (for example 3 and 5 metres), however, this creates an even more complex, duplicative label/permit and is not AAAA's preferred model.

### **Mandatory verses advisory buffer zones.**

As AAAA has previously indicated, the use of advisory statements on labels, far from simplifying compliance, actually increases compliance risk for applicators as Courts (and some jurisdictions from experience) are likely to rely on the label as setting a standard of due diligence regardless of whether a statement is deemed advisory or mandatory by APVMA.

Consequently, applicators are likely be held to the commonly available standard on label – advisory or mandatory.

A superior solution is for the APVMA to move as quickly as possible to Stage 2 of the proposed reforms to enable applicators to have a clear head of power and a scientifically rigorous method for reducing mandatory maximum buffers that relate to use of the maximum label rate and other maximum parameters.

### **Further information**

If further information or explanation is required in support of this submission, please do not hesitate to contact AAAA on 02 6241 2100.

Yours sincerely



Phil Hurst

CEO