SUBMISSION

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To:	**Environmental Protection Authority**
Submission on:	**Hazardous Substances and New Organisms Fee Proposals (Cost Recovery)**
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1. Introduction

1.1 Animal and Plant Health Association New Zealand (APHANZ) welcomes the opportunity to comment on the Consultation Proposals *outlined within the 'Hazardous Substances and New Organisms Fee Proposals (Cost Recovery)'* discussion document from the Environmental Protection Authority (EPA). APHANZ members are focused on the registration of hazardous substances, therefore our comments are specific to the EPA hazardous substances services predominantly for Section 28 and 28A, 29, 31 and 51 applications.

1.2 APHANZ has a current position of supporting regulatory cost recovery where that cost is fairly allocated to the regulatory task, is based on performance to meet statutory

requirements, is accompanied by a transparent process of delivery and that the regulator maintains an effective performance (as per APHANZ 2018 submission[1]).

1.3 APHANZ members are finding that point 1.2 of this submission has not honored by the EPA, despite fee increases (2016-2018 and prior to 2018) and APHANZ repeated requests of the regulator to meet 1.2 obligations. Substantiated by the following observations:

1.3.1 Since the last fee increase, the processing of applications for hazardous substances has deteriorated to only 7% [1] of applications meeting the statutory time frame for processing. Noting that statutory timeframes are from the time the application is received by the EPA to the time a decision is delivered to the applicant. This is noted as differing from the EPAs reported time frames where the application is deemed to be processed from the time the first fee invoice is raised. The fee invoice may be raised some months after the EPA has physically received an application. The performance measures of the EPA are not being met and the EPA does not have a transparent monitoring process linked to the statutory requirements.

1.3.2 Aphanz is not supportive that all cost increases (10% increase in wages) are apportioned to the applicant only unless accompanied by the requirements listed in 1.2. No recognition has been made of the public and industry benefit derived from such applications. The apportionment of applicant benefit (currently 21% of lodgement costs) increases to 23% of lodgement costs under the proposal. This slide (towards the applicant assuming more of the total cost) is in direct contrast to the apportionment of benefit noted in Aphanz paper (2018[2]) where 80% benefit accrues to public/industry. It is noted that as delays accrue for applications the benefits to all parties (applicants, public and industry) dissipate, therefore the applicant absorbs more of the cost and risk of the application.

1.3.3 The effect of delays in managing environmental risks over a period of ten years (2008 - 2018) costs New Zealand $7M-$70M (discounted at 6%) in contribution to GDP[2] (NZIER).

1.3.4 The discussion document provides evidence that staff costs have increased but does not provide any detail of the time taken to process applications. Therefore, the fee increase is not substantiated to conclude that costs per application should rise, especially as there are fees associated with new pathways.

1.3.5 The discussion document does not provide detail that the costs recovered have stayed in the processing area for applications.

1.4 APHANZ submits that the EPAs fee structure and process is providing no incentives for applicants to propose safer or more environmentally sustainable chemicals for consideration due to the high-cost implications of delays to processing applications.

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[1] Agcarm Submission Our Fees Are Changing 21 May 2018

[2] NZIER paper *The importance of crop protection products for the New Zealand economy.*

1.5 APHANZ submits that the EPAs process changes have made the agency less efficient without providing any meaningful benefit in terms of reducing actual risk (i.e. risk to the environment of maintaining the use of hard chemicals, slowing the introduction of new softer products that can improve productivity for land based producers and improve New Zealand's food security. Noting small productivity gains can be worth $10-$100 million in land-based industries such as horticulture.

1.5.1 Recent changes have seen more granular application requirements for containment resulting in three times the number of applications required to be processed) without providing any meaningful benefit in terms of reducing actual risk or improving efficiency.

1.5.2 Initiatives to improve efficiencies are dependent on crown funding (contributes to public good) and this has not been a priority or is in train but there will be some delay before any benefits may or may not be gained in efficiency or risk management.

1.6 APHANZ, supported by Federated Farmers and HortNZ, submits that the current arrangements are not sustainable (higher costs for less applications processed and long delays) and request that the EPA consider that the current system is not meeting the principles of the Controller and Audit-General of effectiveness[3] or the current and impending risk to primary industries and the general public.

1.7 APHANZ acknowledges members on-going support for the EPAs initiatives to identify trusted offshore regulators and in turn rely on offshore assessments to support the EPAs assessment of an application. However, the EPA is unable to consider initiatives for facilitating the processing of applications that would streamline the application process of a highly compliant industry i.e., group standards to facilitate trial products. Similar group standards are administered by other regulators (i.e. Ministry for Primary Industries) for a range of facilities for research purposes. Such group standards provide an efficient registration, auditing, training, and compliance programme.

1.8 APHANZ wishes to engage with the EPA (and other regulators) to work through a program where applications are processed according to risk that is being regulated within the statutory time frames and there is certainty within the process for applicants and regulators.

Specific Answers to Regulator questions

1. Hazardous substances applications**Rapid assessment for importing or manufacturing hazardous substances (section 28A(2)(c))**

1.1.1. Do you have you any comments on the proposed fee increase from $3,000 to $4,400?

Allocating the total cost increase (of 10% in wages) to the applicant ignores the public and industry benefit (APHANZ submission point 1.3.2). The fee increase does not provide improved processing turnaround to reach ststutory time frames (APHANZ submission point

[3] resources enable the cost-recovered activity to be delivered to a LEVEL OF QUALITY THAT IS APPROPRIATE FOR THE CIRCUMSTANCES

1.3) or is substantiated by the discussion document (APHANZ submission point 3.1.4 and 4.1.5) or meeting the principles of effectiveness (APHANZ submission point 1.6). In addition the proposed increase in fees for the existing rapid reduced pathway would seem counter-intuitive to the EPAs public stated aim to encourage industry to develop products that have reduced hazard profiles than existing similar products. The consultation document actually concludes the following about applications for products with a reduced hazard profile: *The additional public benefit is marginal*. (Section 1.1)

1.2. Rapid assessment for importing or manufacturing hazardous substances (section 28A(2) (ab))

1.2.1. Do you have any comments on the proposed fee of $5,500?

Since the regulator does not know how much work will be involved in these type of applications, and they were added to the Rapid section of the Act, wouldn't it make sense to use the rapid fee (as the starting point?)

1.3. Modified reassessment to align classifications (section 63D)

1.3.1. Do you have any comments on the proposed fee of $5,500?

As per the reply for 1.1.1

1.4. Permissions (section 95A)

1.4.2. Do you have any comments on reinstating permissions fees?

As per APHANZ submission 1.2, increased fees should be accommpanied by supporting regulatory cost recovery detail where that cost is fairly allocated to the regulatory task, is based on performance to meet statutory requirements, accompanied by a transparent process of delivery and that the regulator maintains an effective performance (as per APHANZ 2018 submission[3]).

1.4.3. Do you have any comments on the proposed fees of $650 application + $116 per hour additional assessment?

The hourly fee makes sense given the variance in possible time taken to process the application where it applies to Workplace limited chemicals, and phased out fire-fighting foams

[3] Agcarm Submission Our Fees Are Changing 21 May 2018

1.5. Increase lodgement / implement a minimum fee.

1.5.1. Do you have any comments on the proposed increase lodgement / implement minimum fee from $1,000 to $4,000?

Increasing the lodgement fees means that the EPA sits on applicants' fees for longer and there are no efficiency measures in this proposal as per APHANZ comments in answer to submission question 1.1.1 and 1.4.2.

1.5.2. Do you have comments about the full fee $4,400 for rapid assessments under section 28A(2)(a), (b), and (c) being payable on lodgement? (See also proposal 1.1.)

As per the reply for 1.5.1

1.6. Lodgement fees for existing reassessment applications and the two new rapid pathways

1.6.1. Do you have you any comments on the proposed lodgement fees for existing reassessment applications under sections 63 and 63A?

As per reply for a.1.5.1

1.6.2. Do you have you any comments on the proposed lodgement fees for the two new release pathways?

The EPA has not published (as far as APHANZ is aware) an operational strategy about how the new pathways will be approached. Previous discussion between the EPA and industry have indicated that these pathways would be very difficult to use anyway.

As per APHANZ submission point 1.3.4

2. New organisms applications

2.1. Determinations fee split and capping the number of organisms per application (section 26)

2.1.1. Do you have any comments about splitting the determinations fees into three tiers?

Granulation of applications (splitting and capping the number of organisims per application) has the effect of increasing the number of applications. Given the efficiency issues the EPA is experiencing, this (three tier pla) is unlikely to improve efficiency. Refer to APHANZ Submission 1.5.1 and 1.6.

2.1.2. Do you have any comments on the proposed fee of $1,320 for 1–7 organisms?

As per reply in 2.1.1

2.1.3. Do you have any comments on the proposed fee of $2,640 for 8–16 organisms?

As per reply to 2.1.1

2.1.4. Do you have any comments on the proposed fee of $3,960 fee for 17–25 organisms?

As per reply to 2.1.1

2.1.5. Do you have any comments about capping the number of organisms to 25 per application?

As per reply to 2.1.1

2.2. Rapid assessment for importing or releasing (section 35)

2.2.1. Do you have any comments on the proposed fee of $3,850?

If it was guaranteed that the application was turned around within the statutory time frame and met all other conditions specified within Aphannz submission point 1.2 members would support the fee.

2.3. Rapid assessment for importing or releasing with controls (section 38BA)

2.3.1. Do you have any comments on the proposed fee of 3,850?

As per reply to 2.2.1

2.4. Standard assessment for importation or release with controls (section 38C)

2.4.1. Do you have any comments on the proposed fee of $11,000?

As per reply to 2.2.1

3. Adjustment to current fee schedules to reflect EPA increases in staff costs

3.1. Ten percent adjustment

3.1.1. Do you have any comments on the proposed adjustment to current fee schedules to reflect EPA increases in staff costs?

There is insuffient detail in the discussion document (APHANZ submission point 1.3.4 and 1.3.5), no commitment to meet statutory time frames or transparancy (APHANZ submission point 1.3) to meet the statutory requirements of efficiency (APHANZ submission point 1.6)