



Australian Government

Department of Education, Employment and Workplace Relations

Your Ref
Our Ref

WR07/27712

Ms Vicki Russell
Chemicals and Plastics Regulation Study
Productivity Commission
LB2 Collins Street East
MELBOURNE VIC 8003

Dear Ms Russell

Please find attached the Department of Education, Employment and Workplace Relations' submission on the Productivity Commission's draft research report on chemicals and plastics regulation. Following are a few paragraphs summarising the department's response to the report.

Compliance with COAG RIS requirements

In a number of instances in relation to workplace chemicals and major hazard facilities, the report reiterates the need to abide by Council of Australian Governments (COAG) best practice policy making principles. Regulatory material is developed in compliance with COAG Regulation Impact Statement (RIS) requirements, but the Department feels that this issue has been somewhat overlooked in relation to regulatory decisions that are made by other chemicals regulatory or assessment agencies, and which may have an impact in the workplace. For example, scheduling decisions made by the Department of Health and Ageing that impose restrictions in manufacture, supply or use (eg scheduling into S7) or recommendations to ban chemicals should all be subject to COAG and RIS requirements, and should consider downstream consequences of these decisions on other regulatory sectors.

Workplace chemicals review

The draft report discusses and makes recommendations on reviews of OHS Standards and Codes of Practice that are currently underway within the Office of the ASCC in DEEWR. While the Department recognises its obligations to abide by COAG RIS guidelines in its reviews of OHS Standards and Codes, it believes a number of the recommendations and issues raised in the draft report pre-empt the outcomes of the RIS process, particularly as the costs and benefits of various regulatory options have not yet been fully assessed.

GHS

There is a fundamental misunderstanding of the Globally Harmonised System of Classification and Labelling of Chemicals (GHS) implementation in key chemical trading countries in the draft report. The draft report erroneously states that Europe will not implement the GHS until 2015, when in fact the GHS will come into effect almost immediately after the GHS directive is considered by European parliament, expected to be late in 2008, although there will be transition arrangements through to 2015.

Agvet labels

The draft report discusses labelling of agricultural and veterinary (agvet) chemicals and provides a recommendation that the ASCC's new workplace chemicals framework should recognise Australian Pesticides and Veterinary Medicines Authority (APVMA) labels as meeting workplace requirements. All chemicals used in a workplace environment should be classified and labelled in accordance with national OHS policy. National OHS policy mandates a hazard based approach to labelling, whereas the APVMA uses a risk based approach.

A key concern of DEEWR is that the APVMA risk assessment process may exclude some information on the intrinsic hazard properties of agvet chemicals from labels because of its risk-based approach. DEEWR also believes that some aspects of OHS labelling for dangerous goods storage and handling requirements may not be currently adequately addressed on APVMA labels. A consequence is that APVMA labels may not meet OHS laws in some jurisdictions. This may also have downstream implications for other OHS requirements such as training.

The draft PC report erroneously suggests that requiring all workplace chemicals to be labelled in accordance with OHS requirements will result in a dual labelling system for pesticides. This is not the case, and in fact the opposite is true. There already exists dual labelling systems and this would not change if the ASCC's new workplace chemicals framework recognises the APVMA's labelling system.

MHFs

If Major Hazard Facility (MHF) regulation is excluded from the scope of this study, as is indicated in Part D on page 287, then it is considered inappropriate to provide recommendations on MHF regulation in the report. Another concern is that a cost-benefit analysis has not been conducted to support the draft recommendations in the report.

We would be happy to meet with the Commission's representatives to discuss the submission. To arrange any such discussions please contact Peter Haynes on (02) 6121 9171.

Yours sincerely



Drew Wagner
Assistant Secretary
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Office of the Australian Safety and Compensation Council

7 May 2008

Draft recommendations

3.1 The report proposes the establishment of a standing committee of chemicals to coordinate chemicals policy across all ministerial councils involved in chemicals regulation. DEEWR seeks clarity on what the status and powers of the group would be, and what weight its recommendations carry.

The sub recommendation in 3.1 relating to nanotechnology does not appear to recognise the Health and Safety Executive (HSE) forum that has been set up under the Australian Office of Nanotechnology or the work by this group undertaken to date. The HSE forum would currently appear to be meeting all of the requirements set out in this recommendation in relation to nanotechnology. There is no discussion on nanotechnology in the body of chapter 3, so it is unclear why it is identified in the recommendation.

4.1 and 4.2 These two recommendations appear to be contradictory. 4.2 recommends the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) should be limited to scientific assessments only whereas 4.1 recommends NICNAS should assess costs and benefits. DEEWR believes decisions made by NICNAS that have regulatory implications should be accompanied by an assessment of costs and benefits in accordance with Office of Best Practice Regulation (OBPR) Regulation Impact Statement (RIS) requirements.

5.3 DEEWR agrees that poisons controls should not apply to the workplace sector. The Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP) (no. 21, June 2006) in sections 13 and 26, Part 2, states that the labelling and container provisions do not apply to a poison that is packed and sold solely for dispensary, industrial, laboratory or manufacturing purposes. Labelling provisions also do not apply where a poison is labelled in accordance with the NOHSC National Code of Practice for the Labelling of Workplace Substances. This exemption should also apply to restrictions resulting from scheduling decisions.

5.5 This recommendation appears to be in contradiction to recommendation 4.2 in that it refers to NICNAS' role in the assessment of consumer articles, whereas 4.2 indicates NICNAS' role be limited to "industrial chemicals".

6.1 This recommendation relates to major hazard facilities (MHFs), even though it was stated in Appendix D of the report (page 287) that *"As not all MHFs are chemicals facilities, MHF regulation, of itself, does not fall within the scope of this study"*. [DEEWR notes that while the NOHSC MHF Standard allows non-chemical (specifically radiological and biological) facilities to be covered by MHF regulations, only 1 jurisdiction to date has taken up that option (Comcare)]. Whether the MHF regulation is excluded from the scope of the study or not should be clarified. If it is excluded, the recommendation should be deleted. If it is included, a more comprehensive analysis of this complex sector should be provided.

6.2 DEEWR agrees with the first part of this recommendation however it is noted that the final decision to declare a combined hazardous substances and dangerous goods standard will rest with the ASCC or its replacement body, on the basis of a RIS to meet Council of Australian Governments (COAG) requirements.

The second paragraph of this recommendation states the EU will move to a Globally Harmonised System of Classification and Labelling of Chemicals (GHS) based system in 2015. This is not correct. The European Parliament will consider GHS legislation in late 2008 and if accepted, will come into force 20 days later. This means GHS will be implemented in the EU in 2008, and therefore chemical manufacturers and importers will be legally able to classify and label according to GHS at that time. However, transitional arrangements mean that the new

and existing systems will operate concurrently until 2015, at which point the GHS system will be the sole mandatory system in operation.

Although the arrangements for transition of the existing Australian classification and labelling system for workplace chemicals to a GHS based system have yet to be agreed, it is noted that the intent was to have a phase-in period where both the existing and new systems operated concurrently, similar to that in Europe. DEEWR believes it is likely to be detrimental to Australian business to wait until 2015 before starting the Australian transition arrangements, which seems to be the intent of recommendation 6.2, but this can only be decided on a more comprehensive analysis than was provided by the Productivity Commission (PC) report.

DEEWR is concerned that the recommendation that Australia should not implement the GHS before 2015 is pre-empting the outcomes of the RIS process and therefore should be deleted.

The Regulation Taskforce's report on reducing regulatory burdens on business (the Banks Report) states "The Taskforce endorses the Australian Government's commitment to GHS and supports its implementation in Australia as soon as practicable, with any local variation subject to an assessment of net public benefit". This is reflected in recommendation 4.57, which states: *"The Australian Government should ensure that any 'uniquely Australian' variation of international standards or agreements relating to regulations in the chemicals and plastics sector is contingent on a demonstration of net public benefit"*. GHS implementation is a key component of addressing this recommendation for the workplace chemicals sector. Recommendation 6.2 (2nd part) of this report appears to be at odds with the Banks Report.

6.3 DEEWR does not agree with this recommendation. DEEWR believes that all chemicals used in a workplace environment should be classified and labelled in accordance with national OHS policy. National OHS policy for chemicals is for hazard based labelling and the Australian Pesticides and Veterinary Medicines Authority (APVMA) risk based approach may therefore lead to information that is inconsistent with national OHS policy. In the same way that transport information on APVMA labels will need to reflect changes in transport policy (ie moving from the Australian Code for the Transport of Dangerous Goods by Road and Rail 6th Edition (ADG6) to ADG7), OHS information on APVMA approved labels should reflect any changes in national OHS policy.

If the ASCC were to declare a revised standard based on the GHS (and have state regulations in place) before the APVMA, this may create confusion amongst chemical manufacturers and users as there will be dual classification and labelling systems in operation for chemicals used in workplaces. A large number of agvet chemicals registered by the APVMA are likely to be used solely in workplaces. This could lead to a situation where non-agvet chemicals on farms would be labelled in accordance with national OHS policy whereas agvet chemicals would not.

DEEWR believes that this would be inconsistent with recommendations of the Banks Report, which states that there should be a demonstration of net public benefit for not adopting internationally agreed standards (such as the GHS) in the agvet sector. DEEWR has to demonstrate a net benefit from the RIS process.

As most agvet chemicals are workplace chemicals, recommendation 6.3 contradicts recommendation 5.3. DEEWR supports recommendation 5.3 and questions why a greater emphasis is placed on public health processes during the registration of workplace agvet chemicals. During the hazard assessment process, a workplace hazard classification could be conducted and the appropriate risk and safety phrases provided to the APVMA for inclusion on the label.

6.4 The Minister for Employment and Workplace Relations is currently considering the establishment of an independent body to replace the ASCC, including its membership and role.

7.3 DEEWR supports the intention of the recommendation which is to lead to nationally consistent legislation and regulations and technical codes. To this end the Australian Forum of Explosives Regulators (AFER) has adopted an extensive work program which includes the current review of the Australian Explosives Code (AEC) as well as a review of current jurisdictional legislation and regulations and their implementation in particular licensing and authorisation.

As a first step AFER has revised the current AEC to bring it up to date with national and international technical standards. Currently, the AEC's classification, packaging and labelling provisions are four editions behind the United Nations' 'Recommendations on the Transport of Dangerous Goods'. The AEC is also lagging behind the Australian Dangerous Goods Code (ADG). The update of the AEC to bring it into line with the UN Model Regulations and the ADG is seen as a matter of priority to help promote safer practices, facilitate international trade and reduce costs to industry. This will also help reduce inconsistency across Commonwealth, State and Territory jurisdictions.

AFER is also considering a review of explosives regulations in jurisdictions to meet COAG requirements. This has been given further priority as a result of the Workplace Relations Ministers' Council's (WRMC's) decision on the need 'to harmonise OHS laws' and on 'the use of model legislation [...] to achieve harmonisation of OHS laws'. Therefore, while DEEWR supports the recommendation this is an AFER function and AFER may undertake the review with the aim of developing nationally consistent legislation and regulations once the AEC update has been well progressed.

The parallel revisions of the AEC and ADG will be made easier once the AEC has been revised to align with the current edition of the ADG Code. AFER has previously indicated its support for combining the regulation of dangerous goods and explosives transport.

7.4, 9.1 and 9.2 These recommendations will be brought to the attention of AFER members for their consideration.

Detailed comments

General

In some situations, where reference is made to ASCC or NOHSC National Standards or Codes of Practice this should be interpreted as meaning State and Territory legislation and regulations that give effect to these documents.

Several comments are provided from DEEWR in relation to the transport of explosives. DEEWR provides the secretariat for the Australian Forum of Explosives Regulators. Additional comments may be provided separately from individual AFER members.

GHS implementation

Page XXIV, last dot point

In a number of instances throughout the report reference is made to GHS implementation in Australia's major trading partners not occurring until 2015. This is incorrect. The GHS will be implemented in the EC following agreement of the European Parliament which is expected to occur later this year – ie in 2008. From then onwards, manufacturers or importers of chemicals in the EU will be able to classify and label according to the GHS. The date of 2015 is the date after which the GHS based system will be the only applicable classification and labelling system, ie where the existing classification and labelling system will no longer apply.

Information on the progress of GHS implementation internationally, including Australia's major trading partners can be found on the GHS website
http://www.unece.org/trans/danger/publi/ghs/implementation_e.html.

Page XXXIV, last paragraph

New Zealand has fully implemented the GHS. However they used an earlier version of the GHS document as the basis for their Hazardous Substances and New Organisms (HSNO) Legislation. While NZ is currently examining what changes are required to bring their HSNO legislation into line with the current version of the GHS, it is DEEWR's belief that any changes required to bring NZ's system into line with the current version of the GHS will be minimal.

Issues surrounding the costs and benefits of GHS implementation in the workplace chemicals sector in Australia will be examined as part of the OBPR's RIS requirements. This includes any transition arrangements if there are changes to the current system. The last sentence in this paragraph appears to pre-empt this process and therefore should be amended.

Page 148

As noted above the EU is moving to a GHS based system from 2008, and this system will be the only system in operation after 2015 once the transition arrangements have ended. For the revised workplace chemicals framework, part of the decision making and regulatory impact assessment will determine what transition timeframes are most cost effective in moving to a combined, GHS based, workplace chemicals framework.

Costs to business – these will be refined after consideration of public comment received, and also taking into account developments in the EU. It is important to note that the EU has already provided a list of GHS classifications for some 3500 chemicals, and this list is expected to continue to be populated over the coming years. Classification information will be available electronically over the internet as part of the EU's Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) system, and this is likely to reduce re-classification costs on Australian businesses. In addition, the EU is developing a comprehensive range of guidance material for classification that will assist Australian businesses. It is not clear what level of information will be generated by the USA should they choose to adopt GHS, and divergence from the EU's well established and transparent system may result in greater costs to Australian industry over the long term. Australia currently is aligned to the EU's hazardous substances framework.

Page 159-160 GHS implementation

DEEWR believes the comments regarding inconsistent adoption of the GHS are unnecessarily pessimistic. Firstly, the GHS was developed to be a non-mandatory, non-binding system. It was developed based on existing systems worldwide and it was always recognised that not all countries would adopt every part of it entirely and therefore with complete consistency. It is also recognised that not all sectors within a country would adopt all elements of the GHS consistently. For example, substances with chronic health hazards are not regulated in the transport sector, therefore these hazard classes are not relevant to this sector. Similarly, the consumer product sector is unlikely to adopt many of the physicochemical (ie dangerous goods (DG)) hazard classes (for example explosives or self-reactive substances) as they are not relevant to the consumer product market.

It is important to note that even if countries adopt GHS in different ways, there is still likely to be greater consistency overall than currently exists. This is particularly the case where respondents are advocating delaying GHS implementation until the USA releases their proposal. There is currently little consistency between the Australian and USA classification systems for workplace chemicals.

Page 160, benefits of delaying GHS

This section notes there may be benefits for a single GHS based system for workplace chemicals. DEEWR contends that there would be benefits from introduction of the GHS across other sectors as well. This point has not been made in other parts of the report. DEEWR has liaised with other chemical regulatory sectors regarding GHS implementation, however there appears to have been little real effort to analyse costs and benefits and other issues of GHS implementation in some sectors. Implementation of the GHS is a decision for the competent authorities in each sector.

Page 160-161

There is likely to be additional costs to businesses importing chemicals into Australia from countries that have implemented the GHS already if Australia delays GHS implementation. As noted previously, businesses in Europe will be able to classify and label chemicals in accordance with the GHS from 2008 onwards once the GHS legislation is passed by the European Parliament. This is expected to be reflected in the classification and labelling of imported chemicals from Europe. Delays in GHS implementation in Australia could therefore be a non-tariff trade barrier.

Page 160, top of page

The codification that is referred to in the extract regarding New Zealand is used to simplify tabulation and reference of labelling elements contained within the GHS. It is not a key part of the GHS itself, the codes are not intended to appear on labels or safety data sheets (SDS), and therefore DEEWR does not believe this should be retained in the report.

The proposal for implementation of the GHS into the workplace chemicals framework has not been finalised or agreed by ASCC yet. Nevertheless, the proposal has always included a process for phase-in and transition to the new system to allow businesses time to undertake re-classification and re-labelling etc before a GHS-based system would be mandatory, however these transition arrangements have not been finalised. The arrangements will be decided once a RIS has been developed to meet COAG requirements.

GHS implementation in other sectors

One of the terms of reference for the study was to "Investigate the degree to which Australian regulations diverge from accepted standards (both international and those applying in similar jurisdictions overseas) and the costs and benefits of those variations". However, there seems to have been little consideration of the costs and benefits of GHS implementation in other chemicals regulatory sectors, such as for domestic/consumer chemicals, agvet chemicals and the environmental sector, or indeed the implications of non-GHS implication in those sectors. In contrast, the report describes in detail and makes comments on cost and benefit information that was made available for GHS implementation in the workplace sector, presumably because this is the only sector to have undertaken such an analysis. DEEWR therefore believes that the report should identify that other agencies and departments have yet to provide any details of cost-benefit analysis of GHS implementation in other sectors, and recommend that this be undertaken as a matter of priority.

There appears to be little consideration of the work underway to achieve mutual recognition and harmonisation with New Zealand under the Trans-Tasman Mutual Recognition Arrangement (TTMRA). Again, this was included in the terms of reference for this study and is a significant gap in the report.

Typographical errors

Page XXXIV, paragraph 3

ASCC is the Australian Safety and Compensation Council.

There are several invalid cross-reference links in Appendix D.

Major Hazard Facilities

Page 297, establishing the case for MHF regulation

This paragraph states the review of the MHF Standard could examine commercial incentives rather than specific MHF regulation. The ASCC's mandate covers review of OHS requirements, it does not cover reviews of incentive schemes. DEEWR therefore believes this last sentence should be deleted. As with previous recommendations, DEEWR is aware of its obligations to undertake reviews in accordance with COAG RIS requirements and therefore believes that stating what should or should not be considered in such a review is pre-empting the review process. The process for reviewing the current MHF arrangements has already begun, in consultation with OBPR.

Agvet chemicals

Page XXXIV, paragraph 3

The first sentence indicates that the ASCC's workplace safety standards draw on NICNAS and APVMA assessments. This is not normally the case, although NICNAS does make recommendations to the ASCC on workplace chemicals, using the ASCC classification system. The last sentence of this paragraph states that ASCC should take responsibility for workplace risk assessments currently done by the APVMA. It is unclear what this is referring to. The ASCC develops national policy and material on OHS. It is not an assessment body. Obligations to determine the hazards of a chemical fall on either the manufacturer or supplier, while risk assessments are undertaken at the workplace. DEEWR believes that all chemicals used in a workplace environment should be classified and labelled in accordance with national OHS policy. National OHS policy for chemicals is for hazard based labelling and the APVMA risk based approach may raise inconsistencies with national OHS policy. In the same way that transport information on APVMA labels will need to reflect changes in transport policy (eg moving from ADG 6 to ADG 7) APVMA labels (for those chemicals used in workplaces) should reflect any changes in national OHS policy. One way to simplify the APVMA assessment process for labels would be to use a hazard based system for the OHS information and place the obligation for hazard classification on the manufacturer or supplier of the chemical, consistent with all other workplace chemicals.

Page 162, paragraph 2

It is stated that agvet chemical labels are much more detailed than workplace labels. Agvet chemical labels include detailed information on directions for use such as crop type, application rates, timing of applications and withholding periods. The OHS information that appears on APVMA labels is less detailed than that required under workplace labelling requirements in many cases. Some information on the hazards of the chemical is omitted from labels following the APVMA's risk assessment. This information could be provided without impacting on the other information on APVMA labels.

A major concern of DEEWR is that APVMA labels may not meet OHS laws in some jurisdictions. Employers and employees on farms (which are workplaces in all jurisdictions) using agvet chemicals may not have sufficient information available to them to undertake risk assessments that are required under OHS laws where the label does not contain information on all the hazards. This may also have downstream implications for other OHS requirements such as training.

In addition, DEEWR believes that some aspects of OHS labelling for dangerous goods storage and handling requirements are currently not adequately addressed on APVMA labels. There appears to be a perception that labelling in accordance with the ADG Code is sufficient to meet

OHS laws for the storage and handling of dangerous goods. However this is not the case. Additional information to that required to meet transport requirements (eg UN number, class label) are also required, for example information such as risk and safety phrases relevant to the physicochemical hazards.

Page 162, paragraph 3

OHS laws require certain information on workplace chemical labels. Transport laws require certain information on chemical labels, and APVMA labels currently reflect transport information (even though APVMA does not assess this information in any way). If APVMA-approved labels meet OHS requirements, no change to APVMA labels is needed, but if manufacturers have not provided the necessary OHS information on APVMA labels, this will need to be addressed.

There also appears to be a perception that utilising a GHS based system for agvet chemicals, with inclusion of the additional pictograms and label information, would dramatically increase the size of labels. However, DEEWR contends that for the majority of agvet chemicals the OHS information makes up a small proportion of the total information on labels (the majority being use pattern information such as crop types, application rates, timing, WHP etc).

The use of two distinct systems of classification and labelling for different types of workplace chemicals (ie GHS hazard based and non-GHS risk based) may create confusion for workers on farms, and a dual labelling system is not advocated by DEEWR.

Page 140, section 6.1

Under OHS laws, there is an obligation to warn of a known hazard, regardless of whether the risk has been communicated. This could have implications for agencies such as APVMA who approve labels that only include information on those hazards that remain following their risk assessment based on the intended use, rather than including information on all known hazards.

Explosives

Page 176 - Explosives (land transport)

The report states that *'the ADG Code contains provisions regarding transport of explosives'*. This not fully accurate. The ADG Code contains minimal provisions for the transport of explosives only while they are being transported with other dangerous goods. Class 1 dangerous goods and explosives are outside the scope of the model subordinate law.

For this reason the AEC has been developed. The objective of the AEC is to ensure the safety of the community from the activities associated with the transport of explosives. The Code sets out the requirements for transport of explosives by road and rail in Australia and has been adopted under explosives legislation in all of States and Territories except for South Australia and the Northern Territory.

The report also states that the AEC security provisions are more stringent than those of the ADG Code. This is not accurate, given that the ADG Code does not have any security provisions, as stated earlier on in the section.

The report states that *'the AEC was last fully updated in March 2000, after consultations with the Australian Forum of Explosives Regulators (AFER) and the Explosives Competent Authority Safety Committee'* (ECASC). This is not correct. The second edition of AEC was prepared in consultation with explosives regulators and with the advice of the Advisory Committee on the Transport of Dangerous Goods (ACTDG) and the Explosives Competent Authorities Sub-Committee (ECASC).

The Australian Forum of Explosives Regulators were not formally established until August 2005. AFER incorporates Commonwealth, State and Territory explosives regulators as well as representatives from the National Security Division of the Department of the Prime Minister and Cabinet and the Australian Explosives Industry Safety Group (AESIG).

In 2006, the WRMC agreed that AFER be requested to report to WRMC through the Australian Safety and Compensation Council on the development of nationally consistent explosives legislation.

Page 181-182 - Inter-jurisdictional consistency (explosives transport)

The report outlines AEISG's views on the lack of consistency in the explosives transport regulations and the implementation of the AEC across jurisdictions. AFER is aware of these issues and is working towards resolving them. In particular as mentioned above AFER is revising the AEC and is considering a review of the legislation across jurisdictions with a view to harmonising explosives legislation.

Miscellaneous

Page XXXI, first paragraph

The report proposes the establishment of a Standing Committee on Chemicals to coordinate chemicals policy across all ministerial councils involved in chemicals regulation. While DEEWR supports the recommendation, further consideration is required to determine which is the most appropriate portfolio agency, the status and powers of the committee and what weight its decisions and recommendations would carry.

Page XXXII, table 1

The entry in the workplace safety column for hazard and risk assessment is incorrect. Under workplace OHS laws hazard and risk assessments are undertaken by chemical manufacturers and importers, for example for determining the correct classification of a substances that is manufactured or imported, while a risk assessment is required to be undertaken in the workplace in relation to the storage, handling and use of a hazardous chemical. NICNAS undertakes a very limited number of hazard assessments for workplace chemicals in Australia.

Page XXXV

DEEWR believes that all decisions that impose restrictions or prohibitions on chemicals that are made by chemical regulatory or assessment agencies, such as APVMA, NICNAS and the National Drugs and Poisons Schedule Committee (NDPSC), should comply with COAG and OBPR RIS processes. For example, a decision of the NDPSC to schedule a chemical as S7 or S9 invokes restrictions on sale, use and supply, and should therefore follow OBPR and COAG RIS processes.

Restrictions or prohibitions on a chemical resulting from a decision by one regulatory agency may also affect the availability of the chemical in other sectors, such as in workplaces. Regulatory decisions that impose restrictions across multiple regulatory sectors should take account of the effects that those decisions have on other sectors. When the ASCC and DEEWR considers banning or severely restricting a workplace chemical, the availability of suitable safer alternatives is considered as part of the regulatory impact assessment.

Page 52, last paragraph

The last sentence states that the Rotterdam Convention imposes an obligation on parties to restrict or ban the introduction or export of certain chemicals. This is not correct. The Rotterdam Convention (<http://www.pic.int/home.php?type=t&id=5&sid=16>) essentially requires exporters to seek consent from importing countries to import certain listed chemicals.

Page 142, item 3 (top of page)

The last sentence states that employers may "ban" the use of certain chemicals. DEEWR believes this could be mis-interpreted. Employers may choose to use alternative chemicals in their workplace following risk assessments.

Page 144, NICNAS paragraph

This paragraph states that NICNAS recommendations that relate to OHS are reviewed by the Office of the ASCC, however this is not necessarily the case. Some, but not all NICNAS recommendations are forwarded to the OASCC prior to finalisation.

Page 145, paragraph 4

This paragraph needs to be clarified to reflect that ASCC has declared national standards and model legislation relevant to chemicals. The ASCC has also declared standards that relate to other OHS areas such as construction.

page 152, labelling and MSDS

The first sentence is not strictly correct for labelling of dangerous goods. Labelling for hazardous substances are covered by the National Code of Practice for the Labelling of Workplace Substances, however labelling for dangerous goods is not, even though information relevant to dangerous goods hazards is included in the document. The DG National Standard states:

A person who imports or manufactures dangerous goods to be stored or handled at another premises must ensure that they are contained, packaged and labelled in accordance with the ADG Code, and, for workplace supply, labelled with other information to protect the health and safety of persons before the goods are supplied for use.

Page 155

DEEWR questions the usefulness of including the information provided in table 6.3 in the report, on the basis that it may not reflect regulatory burden.

Page 156 - 159,

DEEWR questions the usefulness of including this information in the report. It is acknowledged that there will be costs and benefits associated with the review. It appears however, much of this information has been sourced from a draft RIS prepared by the Office of the ASCC for consultation. A key part of this process was to seek additional data on costs and benefits of the proposed framework. Consequently, these values presented may change as a result of further analysis and refinement of the data, in addition to amendments to the draft documents that may be made based on the public comments provided.

Page 162, paragraph 3

The statement that the new workplace framework recognises consumer product labels is not entirely correct. It is not a blanket exemption. Rather, the framework recognises these labels where the package, type and use of the product is consistent with household domestic use. The new framework defines a consumer product as follows:

Consumer product means a hazardous chemical that has been manufactured and packaged primarily for use:

- a) by household consumers and is contained in a package of a size and type consistent with the manner and quantity in which the product is intended to be used by a household consumer; or
- b) as an office supply and is contained in a package of a size and type consistent with the manner and quantity in which the product is intended to be used for office work.

Pages 162-163 – labelling

The report does not indicate an understanding that there is in actuality no clear distinction between “domestic products” and “workplace chemicals”. The distinction should be expressed as “chemicals when used in a domestic environment” and “chemicals when used in a workplace”. As a consequence, the issues associated with labelling have not been addressed in the recommendations, particularly in relation to scheduled poisons. It also appears that there is a belief that workplace labelling and agvet labelling are mutually exclusive when this is not the case.

Page 203, paragraph 4

Dangerous goods also include hazards for acute toxicity (class 6.1) and miscellaneous dangerous goods and environmentally hazardous substances (class 9), not just physicochemical hazards.

Page 204, paragraph 1

The draft workplace chemicals framework includes the environmental hazard information for reference purposes only as these hazards do not relate to occupational health and safety. This is the same as in the existing framework.

Page 204, paragraph 4

This paragraph states that the draft SDS code for the revised workplace chemicals framework has a greater emphasis on environmental hazards. DEEWR does not believe this is the case. The existing material safety data sheet (MSDS) code prescribes a 16 header format of which one heading deals with environmental hazards, and this is essentially the same as in the draft SDS code.

Poisons scheduling

Page 107

DEEWR reiterates its assertion that any scheduling decisions made by NDPSC that impose regulatory controls (ie restrictions or prohibitions) be accompanied by a regulatory impact statement in accordance with COAG RIS requirements. This should not be limited to changes to the schedules.

Scheduling decisions should also take account of the implications of these decisions on other sectors such as the workplace sector. DEEWR does not believe that this has been adequately addressed in the report.