

**Ms Maggie Eibisch
Regulatory Burdens Review
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601**

Dear Ms Eibisch,

Safe Work Australia welcomes the opportunity to provide comments on the Productivity Commission's *Annual Review of Regulatory Burdens on Business: Business and Consumer Services (Draft Report)* that was released for comment on 29 June 2010.

Safe Work Australia is an independent statutory agency with primary responsibility to improve work health and safety and workers' compensation arrangements across Australia. A current key initiative of Safe Work Australia is the development of model Work Health and Safety (WHS) legislation for adoption in all jurisdictions.

Current and previous regulatory reform activities in work health and safety have been undertaken in accordance with the Council of Australian Governments [COAG] best practice regulation guidelines. This agency therefore has an ongoing interest in any reforms to agreed COAG regulatory impact assessment requirements. Safe Work Australia has also recently been involved in reform activities identified in the Productivity Commission's review of chemicals and plastics regulation in 2008, an area that the current report touches on. That review examined in detail the revision of the workplace chemicals framework, an activity that had been underway for several years.

Safe Work Australia's comments on the draft report are provided in Attachment A.

Yours sincerely

Rex Hoy
CEO
Safe Work Australia

23 July 2010

Attachment A: Safe Work Australia comments on draft report.

Section 2.4 (page 42, paragraph 1): Achieving more effective consultation and recommendation

The final sentence in this paragraph notes consultation only between industry and government. It is important to note that consultation should involve workers as well as the wider community. This broader scope of consultation should be reflected in the report. The improvement of health and safety of workers is a critical aspect to Safe Work Australia's functions, and this is reflected in its established consultation and decision making arrangements.

Section 6.6 (Page 197, Material Safety Data Sheets):

The first paragraph refers to the National Model Regulations for the Control of Workplace Substances. The full and correct title of the document is the *National Model Regulations for the Control of Workplace Hazardous Substances*.

Regulatory requirements for preparation, provision and review of MSDS also apply for workplace dangerous goods. These provisions are based on regulations that give effect to the *National Standard for the Storage and Handling of Workplace Dangerous Goods*.

The following paragraph notes potential duplication where multiple suppliers of the same chemical need to develop a MSDS. This is somewhat misleading.

There are two scenarios related to this issue. The first is where a number of manufacturers are each making the same type of chemical. However, if the manufacturing processes are different or the feedstock is obtained from different sources, there is potential for the products to contain different impurities or to have slightly different formulations, which may mean that they have slightly different hazard profiles.

The second is where a business chooses for commercial reasons to repackage a chemical under its own company's name or a different product name. If a business does this, it takes on the responsibility of the manufacturer under work health and safety laws, and therefore the obligation to prepare an MSDS for the chemical, even if it is chemically identical to another product. If this did not occur, the product information on the repackaged product would not align with that in the MSDS, and the user or purchaser would not have any confidence that that the MSDS was the correct MSDS for that product.

The end user of the chemical also has a right to obtain further health and safety information from the manufacturer about a particular product. This information must be provided by the manufacturer on request. This is particularly important where the use intended for the product as marketed may be different to that envisaged by the original manufacturer of the bulk material. Without the specific details of the product linked to the source of the particular brand named product, this linkage would be broken.

However, if the supplier is simply on-selling the product without repackaging or relabelling the chemical, there would be no need to prepare another MSDS.

Section 6.6 (Page 197, reference to HSIS):

The draft report makes reference to HSIS (last dot point on page 197). It should be clarified that HSIS provides information on the classification and labelling elements for hazardous substances (ie those substances with health effects). Although it also contains some information on physicochemical (ie dangerous goods) hazards, this information is not comprehensive.

Section 6.6, page 198

The paragraph before the conclusion notes that Safe Work Australia should examine options for reducing duplication and regulatory burdens in its review of the workplace chemicals frameworks. A key part of this has been to bring together key elements of the two regulatory regimes for hazardous substances and dangerous goods under one framework. The report also focuses primarily on the reduction in regulatory burdens, but overlooks another critical consideration in regulatory reform being undertaken by Safe Work Australia. This is to improve the protection of worker health and safety. Any regulatory changes that it recommends for incorporation into model work health and safety laws needs to also take this into account.