
G Labelling

This study examines Australia's system of regulating chemicals and plastics in the context of the five main areas of public policy concern that relate to the hazardous nature of some chemicals — public health, workplace and transport safety, agricultural and veterinary (agvet) safety, environment protection and national security. It also assesses the efficiency and effectiveness of current institutional and regulatory frameworks.

The study considers the efficiency and effectiveness of the various chemical labelling schemes in the context of the abovementioned policy areas. To complement this approach, this appendix examines labelling regulation more generally, and brings together all the elements of the Commission's investigation of the labelling arrangements.

G.1 Labelling regulation in Australia

Rationale for labelling regulation

The market failures which are addressed by labelling are discussed throughout the report. Generally, these market failures relate to insufficient market incentives for some firms to obtain, assess and provide the information required to manage risks to human health and the environment, and to the inability of some chemical users to understand and translate information into appropriate risk management strategies (box 2.1).

Labelling schemes

As with the wider regulatory framework for chemicals and plastics in Australia, labelling regulation is organised around end use covering industrial chemicals, agricultural and veterinary chemicals, pharmaceutical and therapeutic goods and food. National labelling codes and standards require chemical importers, manufacturers and suppliers to inform consumers about chemical hazards to human health and the environment (box G.1). This appendix covers labelling schemes for industrial chemicals (including cosmetics, explosives and poisons) and agvet

chemical products. This appendix does not consider labelling of alcoholic beverages, food, tobacco, pharmaceutical and medicinal products, radioactive or infectious substances, or veterinary medicines as they are outside the scope of this inquiry.

Box G.1 Labelling schemes in Australia

The following national codes and standards provide guidance on how to meet labelling requirements under Commonwealth, state and territory legislation:

- Standard for the Uniform Scheduling of Drugs and Poisons (for scheduled poisons) — administered by the National Drugs and Poisons Schedule Committee.
- Information Standard (for cosmetics ingredient labelling) — administered by the Australian Competition and Consumer Commission.
- National Code of Practice for the Labelling of Workplace Substances (for the labelling of hazardous substances in the workplace) — administered by the Australian Safety and Compensation Council (ASCC).
- Australian Code for the Transport of Dangerous Goods by Road and Rail 6th Edition (ADG6), based on UN Recommendations on the Transport of Dangerous Goods, Model Regulations (11th edition) — administered by the National Transport Council (NTC), (soon to be replaced by ADG7, based on UN Model Regulations (14th and parts of the 15th edition) being developed by NTC).
- Australian Code for the Transport of Explosives by Road and Rail 2nd Edition (AEC2) based on UN Model Regulations (11th edition) — administered by the NTC.
- Agriculture and Veterinary Codes (for agvet chemicals) — administered by the Australian Pesticides and Veterinary Medicines Authority.

Proposed labelling schemes:

- Draft Code of Practice for the Labelling of Workplace Hazardous Chemicals (for the labelling of hazardous chemicals (including dangerous goods) in the workplace) — based in part on the Globally Harmonised System of Classification and Labelling of Chemicals, being developed by the ASCC.
- Australian Code for the Transport of Explosives by Road and Rail 3rd Edition (AEC3), based on UN Model Regulations (15th edition) — being developed by the Australian Forum of Explosives Regulators.

As outlined in chapter 3, states and territories have most of the constitutional power to regulate the use of chemicals and plastics in Australia. Chemicals labelling regulations are based on national labelling codes and standards which have no legal power¹ unless they are implemented and enforced by a Commonwealth, state or

¹ With the exception of the Agvet Code under which it is illegal to supply an agricultural chemical product with a label that has not been approved by the APVMA.

territory regulatory agency. However, the codes and standards provide model documents for state and territory governments to use as a basis for regulation and industry to refer to. These codes and standards promote national consistency in labelling regulation by providing state and territory governments with uniform text and requirements for adoption into their legislation. States and territories adopt the codes and standards using various legislative mechanisms (for example, conferral of powers, template and model legislation) and to varying degrees of consistency. National codes and standards also provide industry with a degree of clarity and certainty about how to meet the various state and territory legislative requirements in labelling chemicals. Box G.1 lists the main current and proposed national labelling schemes and the bodies that administer them.²

Material Safety Data Sheets (MSDS) form part of the regulatory response to information failures associated with the use of hazardous substances and dangerous goods in the workplace (chapters 6 and 9). This appendix refers to MSDS regulation to the extent it interacts with labelling.

Approaches to labelling regulation

Chemical substances or products introduced into the Australian market require labels which comply with the relevant labelling schemes. In preparing a label, chemical suppliers, manufacturers and importers use the labelling codes and standards to find out the information required on the label and how it should be presented. Information on the label is drawn from a number of sources, including the chemical suppliers and chemical assessment reports.

Hazard versus risk-based approaches to labelling

There are two main approaches to chemicals labelling in Australia. Where uses of a chemical are defined, risk-based labelling systems are generally used. A risk-based label provides specific instructions for use which, if followed, can help manage the risks posed to human health and the environment. Where uses are undefined, hazard-based systems are generally used, providing information on the potential hazards to people and the environment.

² Other elements of labelling include: trade measurement regulation; the references to the Australian Safety and Compensation Council Labelling Code (NOHSC 1994b) included in the National Code of Practice of the Storage and Handling of Workplace Dangerous Goods (NOHSC 2001b); the First Aid Instruction and Safety Directions for Agricultural and Veterinary Chemicals Handbook containing advice provided to the APVMA by the Office of Chemical Safety; and the labelling associated with cosmetic product claims regulated by the Cosmetics Standard administered by NICNAS.

In Australia, hazard and risk assessments must be carried out by the manufacturers and importers of any chemical used in a workplace. National regulatory agencies (National Industrial Chemical Notification and Assessment Scheme (NICNAS) and the Australian Pesticides and Veterinary Medicines Authority (APVMA)) assess new and priority existing chemicals. In making a risk assessment, the magnitude of the hazard, as well as the potential exposure and the probability of a hazardous event occurring, is evaluated. National regulatory agencies conduct risk assessments for chemicals based on their hazard classifications and patterns of use. How a chemical is used is a significant determinant of the potential exposure pathways to people and the environment, as well as the probability of a hazardous event. Chemical use includes where, when, how, how often, in what quantity, and in which combination with other chemicals a chemical is used.

If the use of a chemical is known, potential exposure pathways to humans and the environment can be determined. Instructions on labels can provide greater certainty that risks to human health and the environment are managed. For example, a cleaning product may be applied to surfaces around the house and enter water ways via drains and the sewage system. Based on this pattern of use, instructions can be developed which, if followed by chemical consumers, should manage risks to human health and the environment.

However, where the type and nature of the use is undefined, and potential exposure pathways³ are unknown or variable, hazard based labelling systems can be an effective regulatory solution to managing risk. Identified chemical hazards are communicated through labels. Users undertake their own risk assessment, combining hazard information provided on labels with the intended use of the chemical and other information to develop a risk management strategy. Improved risk management practices may result from incorporating local information on use and allowing ongoing feedback and innovation into safe use practices. Ongoing training and monitoring may be required to enable users to maintain and refine risk management strategies.

Label approval versus self-assessment

Effective regulation depends not only on establishing the right type of regulations, but also on ensuring compliance with them. Once a supplier has prepared a label for a chemical or product, there are two approaches to label assessment and approval in Australia. Agvet labels must be approved by the APVMA before an agvet product can be registered and sold. Other codes rely on self-assessment by chemical

³ In this context, use includes transport, storage and disposal, and potential exposure pathways include those arising from accidents.

suppliers, based on established labelling frameworks, to comply with labelling requirements in state and territory legislation. A range of monitoring and enforcement systems operate to encourage ongoing adherence with labelling regulation.

Agvet chemicals are applied widely to the environment and incorrect use could pose a high risk to human health and the environment (including food safety and agricultural exports). The risk-based approach used on agvet labels places a heavy onus on providing appropriate instructions for use, and use according to label instructions.

All agvet chemical products must carry a label approved by the APVMA containing the information required by the Agvet Code. Agvet product suppliers must prepare and submit a label to the APVMA for approval. The APVMA will approve labels that are compliant with the Agvet Code and assessed to contain adequate instructions for safe and effective use. Non-compliant labels will not be approved, preventing the agvet product from being registered. Changes to agvet labels also require APVMA approval (except for minor changes). Labels not conforming to that approved may be identified through compliance activities. The APVMA investigates label non-compliance when it comes to their attention. The APVMA also issues some permits for off-label use.

Under the other labelling schemes, covering hazardous workplace chemicals, poisons, cosmetics and dangerous goods, labels do not require approval.⁴ It is the legal responsibility of suppliers of these chemicals or products to ensure their labels comply with labelling requirements under state and territory legislation. Compliance with labelling requirements is encouraged through legal liability and penalties for noncompliance. Workplace safety agencies may check label compliance during workplace inspections and investigations, and may respond to complaints about the quality of the information on the label. Label checks are undertaken by NICNAS for the Cosmetics Standard and the Australian Competition and Consumer Commission (ACCC) for the Information Standard. State and territory health departments are responsible for ensuring compliance with poisons legislation.

⁴ NICNAS may make recommendations on labels of industrial chemicals in chemical assessment reports. NICNAS recommendations on labelling are provided to companies applying for chemicals assessment and are publicly available (chapter 4). NICNAS and the OCS identify necessary controls in relation to poisons scheduling during assessment which are referred to the National Drugs and Poisons Schedule Committee (chapter 5).

Interpreting label information to manage risks

The labelling schemes aim to provide the right type of information to different chemical users, including adequate instructions for safe use, in a comprehensible format to allow users to effectively manage risks to human health and the environment. The ability of chemical users to interpret labelling information and their private incentives to act can be significant determinants of the effectiveness of the regulation.⁵ Table G.1 summarises how different chemical users can combine their own knowledge with information on a label to manage risks to human health and the environment.

G.2 Effectiveness and efficiency of labelling regulation

Chapter 2 discusses the criteria applied in the report to assess the efficiency and effectiveness of chemicals regulation in Australia. This appendix has drawn on these general assessment criteria to develop the following framework for assessing the efficiency and effectiveness of the various labelling schemes. The framework involves:

- national consistency in labelling regulations across jurisdictions
- consistency with Australia's major trading partners
- potential for streamlining labelling systems
- ensuring interactions between labelling schemes are efficient and effective.

Box summarises the main issues, findings and recommendations relating to labelling in the report.

National consistency of labelling schemes

Uniform national regulation can deliver benefits through interjurisdictional spillovers, economies of scale and scope, and lower transaction costs. While there can be arguments in favour of states and territories tailoring regulations to their own requirements in certain circumstances, labelling regulation appears particularly suited to a nationally uniform approach. This is because:

⁵ Labelling regulation can mandate that information such as instructions for use or hazard warnings appear on a label. There may be no legal requirement for users to follow the instructions or act on the hazard information. The degree to which they act to manage risks may depend on their abilities to interpret label information, other legal requirements to act in a manner consistent with the label, and their private incentives. In the case of agvet products, the control-of-use arrangements also provide incentives to comply with label directions.

- labels, where they are hazard based, inform users about the hazardous nature of chemicals which is the same nationally and internationally
- chemical products tend to be sold on national markets
- relabelling for subnational markets is costly.

Table G.1 Labels inform chemical users on risk management

<i>Schemes</i>	<i>Label information</i>	<i>Other information</i>	<i>Risk management action</i>
Agvet Labelling Code	Environment, health and safety information. Instructions for use.	Licensing for some activities such as aerial spraying. Local weather and environment knowledge. Can call information hotline.	Follow instructions for use. The Agricultural Pesticides and Veterinary Medicines Authority issues permits for some 'off-label use'. Victoria allows some 'off-label' use.
Poisons Schedule appendixes	Poisons signal heading. Warning statements. Instructions for use. Safety and emergency directions.	Some schedule 7 poisons only available to authorised or licensed users. Can call information hotline.	Follow instructions for use.
Cosmetics Information Standard	Ingredients list.	Knowledge of personal allergies. Can call information hotline.	Follow instructions for use. Avoid products containing known irritants.
Workplace Labelling Code	Hazard warnings. Health and safety, disposal and emergency information.	Pattern of chemical use and knowledge of workplace conditions, occupational health and safety (OHS) training, signage. Can call emergency services.	Consider use pattern and training, conduct risk assessment, develop risk management strategy.
Australian Dangerous Goods Code	Hazard warnings. Emergency contact information.	Pattern of chemical use and knowledge of workplace conditions, OHS training, workplace signage. Driver training and licensing. Can call emergency services.	Consider use pattern and training, conduct risk assessment, develop risk management strategy.
Australian Explosives Code	Hazard warnings. Emergency contact information.	Driver training and licensing. Can call emergency services.	Consider hazards and risks, conduct a risk assessment, develop risk management strategy.

Labelling schemes in Australia are based on agreed national codes and standards. However, their implementation and enforcement mostly rests with the states and territories. A national code or standard, and its uniform adoption and implementation by states and territories, increases the efficiency of a national labelling scheme by reducing compliance costs from relabelling, provides regulatory certainty for industry, and facilitates interstate trade and competition.

Box G.2 Issues, findings and recommendations relevant to labelling

National consistency of regulatory arrangements

Recommendation 5.2: State and territory governments should ... uniformly adopt regulatory controls for poisons [and] continue to report any variations to nationally-agreed poisons scheduling or regulatory decisions at the state and territory level to the Australian Health Ministers' Conference, and include a statement of reasons.

Section 6.6: COAG has agreed to uniformly adopt and implement national model occupational health and safety (OHS) legislation, regulations and codes of practice.

Section 7.4: COAG has agreed to the nationally consistently implementation by all jurisdictions of the 7th edition of the Australian Dangerous Goods (ADG) Code, which is based on UN Recommendations on the Transport of Dangerous Goods, Model Regulations.

Recommendation 7.3: The current review of the Australian Explosives Code by the Australian Forum of Explosives Regulators (AFER) should be completed as expeditiously as possible to produce uniform regulations that are adopted and consistently applied by all jurisdictions. The AFER should then immediately undertake a review of jurisdictional legislation and regulations for explosives transport, with the aim of achieving nationally consistent legislation and regulations to complement the uniformly adopted technical code.

Recommendation 8.2: The Australian Pesticides and Veterinary Medicines Authority (APVMA) should regulate the use of agricultural and veterinary chemical products after the point of retail sale through amendments to the Agvet Code. The scope of the new control-of-use regime should ... include, at a minimum, uniform approaches to enforcing conditions of use on product labels and to the licensing and training of users.

Consistency with foreign schemes

Section 5.3: The Commission does not regard it as appropriate to introduce deemed-to-comply provisions for foreign cosmetics labelling at this time. However, the Australian Competition and Consumer Commission (ACCC) should review the Information Standard and scope for deemed-to-comply arrangements once EU reforms have been completed, if stakeholders identify ongoing alignment issues.

Recommendation 6.2: The Workplace Relations Ministers' Council should implement the Globally Harmonised System of Classification and Labelling of Chemicals in the workplace sector in Australia only when it can be shown that adoption of the new regime would produce net benefits. The Australian Safety and Compensation Council should undertake a further regulatory impact assessment when some of Australia's key trading partners, such as China and the United States of America, have commenced implementation of systems of regulation for workplace chemicals that are based on the Globally Harmonised System of Classification and Labelling of Chemicals.

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Box G.2 continued

Streamlining labelling regulation

Section 8.2: The Commission supports an APVMA initiative to simplify its label approval processes so that changes to content on agvet labels which is not part of the agvet labelling code would no longer require a label approval application.

Compliance costs from multiple schemes

Section 5.3: The Commission does not recommend a specific exemption from the Information Standard for industrial hand cleaners that are sold to consumers.

Recommendation 6.3: The Australian Safety and Compensation Council should conduct a regulatory impact assessment of the proposal to require agricultural and veterinary chemical products that are also workplace hazardous chemicals to carry workplace hazardous chemicals labels. The assessment should identify alternatives and the costs and benefits of the options. The Workplace Relations Ministers' Council should only adopt the proposal if it can be demonstrated that it would deliver a greater net benefit to the community than any alternative. Until the regulatory impact assessment has been completed, recognition of agricultural and veterinary chemical product labels for occupational health and safety purposes should continue to apply.

Other

Recommendation 9.1: The Environment Protection and Heritage Council should examine the costs and benefits of mandatory environmental labelling of chemicals. Mandatory environmental labelling should only be introduced if there is a demonstrated net benefit to the community.

Any jurisdictional variations from a national labelling standard should only be allowed where a cost–benefit analysis demonstrates that the benefit to the community from increased effectiveness outweighs the higher compliance cost from inconsistency. Under the Commission's governance model (chapter 3), jurisdictions should report any variations to the overseeing ministerial council with their reasons. This is the case under the intergovernmental agreement (IGA) on transport, for poisons scheduling, and the Occupational Health and Safety (OHS) IGA⁶, and the Commission has recommended this approach for an environment standard-setting body (recommendation 9.2).

⁶ In the OHS IGA, the states and territories agreed that any amendments to legislation or new legislation that would materially effect the operation of national model OHS legislation would have to be endorsed by the Workplace Relations Ministers' Council. If changes are endorsed, the parties agreed to introduce changes to their own legislation to ensure that OHS legislation remains nationally consistent.

Nationally consistent agvet labelling requirements are achieved through state and territory adoption of the national Agvet Code. However, some, off-label uses of agvet chemicals can be allowed by the APVMA under its permit provisions. Permits can be jurisdiction-specific. There are also significant differences across jurisdictions in the regulatory approaches to off-label use not authorised by the APVMA, leading to stakeholder confusion and competition distortions (table 8.2). To address this issue, the Commission has recommended that agvet chemicals, after the point of retail sale, be regulated by the APVMA through national legislation (recommendation 8.2).

Apart from the inconsistencies in off-label regulations of agvet chemicals, the Commission has not been presented with any evidence of significant deviation by states and territories from the national labelling standards. Table G.2 summarises the level of national uniformity of the various labelling schemes. Apart from minor variations listed in the table, there appears to be a high degree of national uniformity in labelling regulation.

Consistency with foreign labelling schemes

As mentioned previously, the hazardous nature of chemicals is the same internationally. While risk assessment and the development of risk management standards must necessarily ensure relevance to local circumstances, international consistency in labelling can deliver benefits by reducing the need to relabel Australian exports and imports to meet foreign and local labelling regulations.⁷

International labelling systems can provide a framework within which countries can align their labelling regimes with those of their major trading partners, where there are net benefits in doing so. Recognition of foreign labelling schemes and deemed-to-comply provisions can also assist in aligning schemes.

⁷ Box E.3 provides examples of the costs to Australian business of relabelling imported products.

Aligning labelling requirements with those of our trading partners can also involve costs, including:

- costs to chemical importers, manufacturers and suppliers of amending labels, and retraining staff
- reduced effectiveness of risk-based labelling schemes that do not take into account Australian environments or conditions, or that include aspects not relevant to Australia
- administrative costs to government of assessing whether foreign schemes or international systems are sufficient for Australian requirements
- ongoing administrative costs to government and compliance costs to business of keeping up-to-date with changes to international systems or recognised foreign schemes to ensure compliance of labels on Australian imports and exports.

Table G.2 describes the level of consistency between Australian and foreign labelling schemes. There is a broad range in the degree of alignment with foreign schemes, from close alignment for an international system for transport labelling to unique Australian requirements for agvet and poisons labelling.

Although agvet labelling codes and poisons regulatory controls are not aligned to international schemes, the Commission has not been presented with examples of compliance costs resulting from this.

The UN Recommendations on the Transport of Dangerous Goods, Model Regulations and the Globally Harmonised System of Classification and Labelling of Chemicals (GHS) are examples of international systems for labelling to which Australia has aligned or is aligning its domestic labelling regulation.

Australian regulations for air and sea transport of dangerous goods are closely aligned with international requirements. The linking of the new land transport regulatory framework (ADG7) to the most recent UN Model Regulations (14th and part of the 15th edition) achieves a similar outcome. The alignment of land transport regulations with the UN Model Regulations has significantly increased the compatibility of dangerous goods transport regulations across transport modes within Australia.

However, some Australia-specific provisions remain. For example, certain emergency information panel requirements not contained in the UN Model Regulations have been retained in ADG7 to assist emergency services responses to accidents (NTC 2007, p. G14). These will impose some additional costs on exporters and importers of dangerous goods, but may provide offsetting benefits in terms of more effective emergency responses. ACCORD Australasia (sub. DR91)

Table G.2 National and international consistency of labelling schemes

<i>Scheme</i>	<i>Degree of national uniformity</i>	<i>Degree of international uniformity</i>
Agvet Labelling Code	Uniform adoption of template Agvet Code. Some jurisdictions permit off-label uses, which are nationally inconsistent and may reduce the effectiveness of the agvet regime (section 8.3). The Commission has recommended that agvet chemical products after point of retail sale be regulated by the Australian Pesticides and Veterinary Medicines Authority (APVMA) through national legislation (recommendation 8.2).	No recognition of foreign labels. Imported agvet chemicals must be registered by the APVMA for use in Australia and their labels approved for the Australian market.
Poisons Schedule appendixes	Some interjurisdictional variations (NSW, WA) but no issues raised with respect to labelling. The Commission has recommended that the states and territories uniformly adopt poisons regulatory controls through either a template or model approach (recommendation 5.2).	No recognition of foreign labels. Imported scheduled poisons need to be labelled for the Australian market.
Cosmetics Information Standard	Made under the <i>Trade Practices Act 1974</i> (Cwlth) and applied nationally. However, Qld and SA have mirrored the Commonwealth legislation in their own legislation.	Labelling requirements broadly similar to major trading partners.
Current Workplace Labelling Code	The current Code is picked up consistently by occupational health and safety (OHS) legislation in states and territories. Under the new OHS IGA, states and territories have committed to uniformly adopt and implement national model OHS legislation. Any proposed amendments must be endorsed by the Workplace Relations Ministers' Council and the states and territories will 'undertake all necessary steps to introduce appropriate changes to their legislation with a view to ensuring that OHS legislation remains nationally consistent' (OHS IGA clause 5.5.3) (COAG 2008c).	The Code is broadly aligned with the system for classification and labelling of hazardous substances used in the EU.
Draft Code of Practice for the Labelling of Workplace Hazardous Chemicals		Based on the Globally Harmonised System of Classification and Labelling of Chemicals (GHS). The draft Australian Safety and Compensation Council workplace standard proposes that some hazard classes be exempted (for example, hazard to aquatic environment). The Commission has recommended that the Environment Protection and Heritage Council examine environmental labelling (recommendation 9.1).

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Table G.2 continued

<i>Scheme</i>	<i>Degree of national uniformity</i>	<i>Degree of international uniformity</i>
Australian Dangerous Goods Code (ADG7)	The COAG Ministerial Taskforce has required nationally consistent implementation of the Model Transport of Dangerous Goods Act and referencing of the ADG Code including labelling requirements (section 7.4).	ADG7 based on UN Model Regulation (15 th edition), improves labelling uniformity with imports and exports meeting UN 15 th edition. Departures from UN Model Regulations are present, such as emergency information panel requirements, inner packaging requirement and the removal of the limited quantities exemption (sub. 91) (section 7.3).
Australian Explosives Code (AEC)	The Commission has recommended that the review of the AEC produce uniform regulations that are consistently adopted across jurisdiction (recommendation 7.3).	AEC3 would be based on the UN Model Regulations (15 th edition), but will incorporate some departures from UN Model Regulations (intermodal repackaging and relabelling requirements (subs. 82 and 63).

noted departures from the UN Model Regulations in ADG7 for inner package labelling and exemptions of limited quantities, which would lead to higher labelling costs for the consumer goods and cosmetics industry (section 7.3).

Alignment of Australian labelling requirements with international systems may provide trade facilitation benefits to the extent that our major trading partners also align with the international system (section 6.5). The current system of classification and labelling for workplace hazardous substances is broadly aligned with that of the European Union. Although the GHS is intended to be a single global system for labelling, not all countries will implement all elements of the system in the same way. Different ‘brands’ of the GHS may be implemented in different countries that are not consistent with each other. The implementation of the GHS in Australia could result in benefits arising from trade facilitation, but may also impose substantial costs (section 6.5).

The GHS contains provisions for the classification of a substance as a hazard to the aquatic environment and environmental labelling provisions (section 9.3). However, under the draft National Standard for the Control of Workplace Hazardous Chemicals (ASCC 2006e) it will not be mandatory to classify a substance as hazardous to the aquatic environment, nor to include information or hazard communication elements that relate to aquatic toxicity on labels even if the substance has been classified. The draft National Code of Practice for the Labelling of Workplace Hazardous Chemicals (ASCC 2006c) provides guidance on the voluntary inclusion of information on environmental hazards on labels (section 9.2). Approaches to environmental labelling and its associated costs and benefits are discussed in chapter 9.

Many of Australia’s trading partners have labelling requirements that are broadly similar to those applied in Australia, although not based on an international system. For cosmetics ingredient labelling, the EU⁸, the US⁹, and Canadian¹⁰ arrangements all require the ingredients of cosmetics to be labelled in descending order in terms of volume, and contain other similar provisions such as the use of terms for flavours and fragrances (section 5.3).¹¹ ACCORD Australasia (sub. 42) proposed that a ‘deemed-to-comply’ provision be added to the Information Standard to allow fully-imported cosmetic products to be sold in Australia if the label satisfies the

8 Council Directive of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products (76/768/EEC).

9 Code of Federal Regulations, Title 21: Food and Drugs, Part 701 — Cosmetic Labelling.

10 Cosmetic Regulations (Food and Drugs Act).

11 The International Nomenclature Cosmetic Ingredient names provides some international consistency.

requirements of the EU, the US, Canada or New Zealand.¹² The Commission does not regard it as appropriate to introduce such a provision at this time. However, the ACCC should review the Information Standard and scope for deemed-to-comply arrangements once EU reforms have been completed, if stakeholders identify ongoing alignment issues (section 5.3).

Streamlining labelling systems

An effective and efficient labelling system relies on labels being easy for consumers to understand and interpret, and easy for producers to comply with. A key determinant of the ease of understanding a label is the amount of information on it. The Industry Commission noted in its report on Packaging and Labelling Regulations (IC 1996a) that '[c]rowding out, whereby the information required competes for space on the product label, is a significant problem' (p. xxxii). To this end, performance-based labelling can assist by specifying objectives, rather than prescribing label information. This approach can confer benefits, including:

- reducing the need to have multiple labels that meet the prescriptive requirements of multiple schemes. Instead, one label that contains all the information to meet the various objectives could be developed
- greater potential for aligning Australian requirements with those overseas, which reduces the need for relabelling.

There are, however, costs associated with performance-based labelling, including establishing that labels meet the requirements of legislation. These costs can be reduced by having prescriptive regulations that are 'deemed to comply'. This approach allows firms to choose whether to meet performance or prescriptive based regulations, depending on their circumstances.

The cost of complying with regulations is also a component of the efficiency of labelling systems. For most of the labelling schemes covered by this study, it is the responsibility of the manufacturer or distributor to ensure compliance with the relevant regulations. The APVMA product registration process, however, requires approval of labels by the APVMA (table G.3). This approach reflects the risk-management nature of agvet labels that are more prescriptive than performance-based, and the risks to human health and the environment of providing noncompliant labels. But it also imposes additional compliance costs on registrants, including longer product approval times and requiring approvals for minor matters.

¹² ACCORD Australasia noted that New Zealand has already implemented such an exemption for cosmetics satisfying the labelling requirements of Australia, the EU, or the US.

Table G.3 Label assessment and compliance processes

<i>Scheme</i>	<i>Assessment</i>	<i>Compliance</i>
Agvet Labelling Code	The APVMA checks agvet labels and approves those that comply with the Agvet Code. Changes to any information on labels, apart from that exempted under permits 686 and 9523, including poisons and dangerous goods information requires reapproval of the label by the APVMA. ^a	Labels not conforming to that approved by the APVMA may be identified through APVMA compliance activities. The APVMA investigates label noncompliance when it comes to their attention. Suppliers are subject to litigation or penalty for noncompliance.
Poisons Schedule appendixes	NICNAS makes recommendations on label compliance with the SUSDP as part of chemical assessment process. Office of Chemical Safety makes recommendations for agvet chemicals for poisons scheduling, and First Aid Instruction and Safety Directions label elements. It is the responsibility of the manufacturer, packer or distributor of a poison to ensure that a product is correctly and adequately labelled.	States and territories can investigate noncompliance if information comes to hand. Suppliers are subject to litigation or penalty for noncompliance.
Cosmetics Information Standard	It is an offence to sell or supply a cosmetic that is not labelled in accordance with the Trade Practices Act regulations.	Label audits conducted by the Australian Competition and Consumer Commission. Suppliers are subject to litigation or penalty for noncompliance.
Workplace Labelling Code	It is the legal responsibility of the chemicals supplier to assess their own labels and ensure they comply with state and territory legislation. NICNAS makes recommendations on label compliance with the Australian Safety and Compensation Council (ASCC) Code for assessed new or existing chemicals.	Workplace audits, including checking label compliance, may be conducted by state and territory workplace authorities. Employers are subject to litigation or penalty for noncompliance.
Australian Dangerous Goods Code	It is the legal responsibility of the chemicals supplier to assess their own labels and ensure they comply with state and territory legislation.	States and territories can investigate noncompliance if information comes to hand. Suppliers are subject to litigation or penalty for noncompliance.
Australian Explosives Code	It is the legal responsibility of the chemicals supplier to assess their own labels and ensure they comply with state and territory legislation.	States and territories can investigate noncompliance if information comes to hand. Suppliers are subject to litigation or penalty for noncompliance.

^a The APVMA label reform will establish three modes of regulatory approval for agvet label information. Agvet Code information would require APVMA approval. Information not relating to the Agvet Code would be controlled by a condition of label approval. Commercial information would be controlled by permit. This would reduce compliance costs for the APVMA and registrants (section 8.2).

There may be some aspects of the label approval process that can be streamlined to reduce costs to both registrants and governments. The APVMA has already

introduced reforms to allow specified administrative changes to the product label without the need to apply for APVMA approval. It has also proposed changes that would remove the requirement for registrants to apply for APVMA approval for changes to labels that are outside of the scope of APVMA operations (such as poisons scheduling and dangerous goods classification) (section 8.2). Further streamlining could be considered as part of ongoing reforms.

Interaction between labelling schemes

Where a chemical or chemical product falls under more than one labelling scheme, issues arise as to the compliance burden arising from multiple schemes and inconsistencies between schemes. Table summarises how the various labelling schemes operate together.

Burdens arising from compliance with multiple labelling schemes

Reduced effectiveness and efficiency may occur where manufacturers or suppliers have to comply with more than one labelling scheme. The use of multiple labelling schemes can improve effectiveness if the combined information enhances a user's ability to manage risks. It also has the potential to cause confusion among users if information from one scheme crowds out other information, or requirements are inconsistent between schemes. Being subject to more than one scheme does not necessarily result in overlap or duplication. Where both schemes require a particular piece of information, it need only be provided once (that is, there do not have to be two labels that have the same information). However, multiple labelling schemes may raise compliance costs for chemical importers, manufacturers and suppliers, and could create uncertainty for business if the interactions between labelling schemes are not clear.

Compliance with multiple schemes should only be required where it provides a net benefit to the community, and should not impose an unnecessary administrative burden. It was beyond the scope of this study to assess the net benefit of using multiple labelling schemes for chemicals and chemical products. However, the study has addressed issues raised by stakeholders, including:

- a potential regulatory overlap where industrial hand cleaners may be subject to both workplace labelling requirements and ingredients labelling (section 5.3)
- a proposal to require agvet chemicals used in the workplace to be subject to both workplace and agvet labelling requirements (section 6.5)
- reform to the APVMA's label approval process for information not covered by the Agvet Code (poisons and dangerous goods information) (section 8.2).

Table G.4 Current and proposed labelling requirements for chemicals in Australia^a

<i>Type of chemical</i>	<i>Industrial chemicals</i>	<i>Agvet chemicals</i>
Used in the workplace		
Hazardous substances	Labelled under the current Australian Safety and Compensation Council (ASCC) Code (unless an agvet product, cosmetic product or end-use domestic product covered by the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP). Environmental labelling not required.	Labelled under Agvet Code. Recognition of agvet labels in the current ASCC Code.
Scheduled poisons	Reasonably expected to be used in workplace or industrial and lab products: labelled under current ASCC Code and exempt from the SUSDP. ^b Incidental use in workplace: exempt from current ASCC Code and labelled by SUSDP.	Labels approved by the Australian Pesticide and Veterinary Medicines Authority (APVMA), including poisons information. APVMA approval will not be required for changes to poisons information.
Hazardous chemicals (draft ASCC Code based on the GHS replaces classification, labelling and safety data sheet systems for hazardous substances and dangerous goods)	Labelled in accordance with draft ASCC Code unless a cosmetic or consumer product. Environmental labelling not mandatory but optional.	Recognition of agvet labels have been removed. Possible overlap should be examined by regulatory impact analysis.
Consumer products that are hazardous chemicals (scheduled poisons are not distinct from consumer products under the draft ASCC Code)	If use is incidental to the workplace or consistent with household use, exempt from draft ASCC Code. For workplace use, labelled in accordance with draft ASCC Code and exempt from SUSDP (if it is a poison). ^b	..
Dangerous goods	Labelled in accordance with the Australian Dangerous Goods Code which is consistent with the draft ASCC Code.	Label approved by the APVMA, including dangerous goods information. APVMA approval will not be required for changes to dangerous goods information.
Cosmetics (when not packed and sold as end use products or use is related to work activity)	Labelled under OHS requirements when related to work activity and the Australian Competition and Consumer Commission (ACCC) Information Standard when sold to consumers.	..

(Continued next page)

Table G.4 continued

<i>Type of chemical</i>	<i>Industrial chemicals</i>	<i>Agvet chemicals</i>
Used in the domestic situation or household		
Hazardous substances	Not subject to ingredient labelling (unless a cosmetic). Not subject to hazard classification regulation (unless a scheduled poison) if targeted directly at households.	
Scheduled poisons	Labelled in accordance with SUSDP.	
Hazardous chemicals	Not subject to ingredient labelling (unless a cosmetic). Not subject to hazard classification regulation (unless a scheduled poison) if targeted directly at households.	Domestic/household use of pesticides
Consumer products that are not scheduled poisons or cosmetics	Not subject to ingredient labelling. Not subject to hazard classification regulation.	is covered by the Agvet Code
Dangerous goods	Not subject to hazard classification regulation (unless a scheduled poison).	
Cosmetics	Labelled under the Cosmetic Information Standard. The ACCC should review the Information Standard and scope for deemed-to-comply arrangements (section 5.3)	

^a The current ASCC Code may be replaced by the draft GHS-based ASCC workplace hazardous chemicals Code. 'Hazardous substances' and 'scheduled poisons' is terminology used under the current ASCC Code; 'Hazardous chemicals' and 'consumer products' is terminology used under the draft ASCC Code; 'Dangerous goods' and 'cosmetics' is terminology used for both Codes. ^b 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 ASCC National Code of Practice for the Labelling of Workplace Substances.
.. Not applicable.

General principles for reform

The Commission offers some general principles to apply to labelling regulation arising from the issues discussed in this appendix:

- New labelling regulations should only be introduced where a net benefit to the community can be demonstrated. A cost–benefit analysis should be conducted of any labelling reforms in line with Best Practice Regulation Guidelines (COAG 2007a).

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- Where the need for new labelling regulations can be demonstrated, they should be:
 - incorporated into existing labelling schemes, where possible, to avoid administrative burdens or uncertainties arising from compliance with multiple schemes and inconsistencies between schemes
 - implemented uniformly across jurisdictions with any deviations being required to be publically reported and explained to the overseeing ministerial council
 - aligned with the schemes of Australia’s major trading partners where there are net benefits to Australia from doing so, with any variations subject to cost–benefit analysis to demonstrate the net benefit to the Australia.
 - Opportunities to rationalise and simplify labelling schemes should be examined in the context of ongoing reforms and reviews of regulation. This includes options to streamline approval processes (in the case of agvet chemical products) and introduce performance-based labelling where possible.