
Recommendations

3. National policy formulation and system governance

RECOMMENDATION 3.1

Subsequent to the COAG Ministerial Taskforce on Chemicals and Plastics Regulation Reform having completed its reference, the Commonwealth, states and territories should establish a Standing Committee on Chemicals comprising representatives of all ministerial councils that have responsibility for chemicals regulation. It would:

- *provide an ongoing forum for assessing:*
 - *the consistency of chemicals-specific policy settings across the various areas of concern, including public health, workplace and on-farm safety, transport safety, environment protection and national security*
 - *the effectiveness and efficiency of the overall chemicals-specific regulatory system*
- *oversee the consistent application of chemical hazard and risk-assessment methodologies and international standards such as the Globally Harmonised System of Classification and Labelling of Chemicals*
- *support the coordinated development of regulatory proposals that have cross-portfolio implications, including the conduct of regulatory impact assessments*
- *make recommendations for specific actions by relevant ministerial councils*
- *be supported by a secretariat in the Department of Innovation, Industry, Science and Research.*

4. National hazard and risk assessment

RECOMMENDATION 4.1

The Australian Government should impose a statutory obligation on NICNAS to ensure that:

- *the costs of chemical assessments are commensurate with the risks posed by the chemicals concerned*
- *its assessment priorities are directed to the most efficient management of the aggregate risk of all industrial chemicals.*

RECOMMENDATION 4.2

The Australian Government should establish a technical advisory committee within NICNAS, as a statutory requirement.

RECOMMENDATION 4.3

The Australian Government should generally limit the role of NICNAS to the scientific assessment of the hazards and risks of industrial chemicals. The power to annotate the Australian Inventory of Chemical Substances to ban or phase out chemicals, and the responsibilities for administering the Cosmetics Standard 2007, and for implementing the Rotterdam Convention, should be removed from NICNAS.

RECOMMENDATION 4.4

All relevant national standard setting bodies should be required to respond to NICNAS recommendations within defined time limits. NICNAS should maintain a public schedule of all responses.

RECOMMENDATION 4.5

The Australian Government should introduce a statutory timeframe for the technical screening of applications by NICNAS.

RECOMMENDATION 4.6

NICNAS should implement a program to greatly accelerate the assessment of existing chemicals that:

- *screens all existing chemicals to develop a list of high-priority chemicals for assessment*
- *makes greater use of simulation techniques based on the hazards of chemical analogues*

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- *reviews the scope for recognising the existing chemical assessment schemes of a range of other countries as ‘approved foreign schemes’. Priorities should be the schemes operated by Canada, the European Union and the United States.*

The Australian Government should meet the cost of screening all existing chemicals from budget funding. NICNAS should continue to recover the costs of subsequent assessment of chemicals of concern.

5. Public health

RECOMMENDATION 5.1

The Australian Health Ministers’ Conference should:

- *proceed as soon as feasible with implementing its proposed reforms to separate poisons and medicines scheduling processes, including that poisons scheduling decisions be made by the Secretary of the Department of Health and Ageing, upon advice from a Chemicals Scheduling Committee*
- *undertake a review of the Australian Health Ministers’ Advisory Council model for poisons two years after commencement, including:*
 - *an analysis of the consistency between the recommendations of the Chemicals Scheduling Committee and the decisions of the Secretary of the Department of Health and Ageing*
 - *an analysis of the impact of the model on national uniformity of poisons regulations.*

RECOMMENDATION 5.2

State and territory governments should:

- *adopt poisons scheduling decisions made by the Department of Health and Ageing directly by reference, as published in the Standard for the Uniform Scheduling of Medicines and Poisons (SUSMP)*
- *uniformly adopt regulatory controls for poisons through either a template or model approach, as published in the SUSMP*
- *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 for the variations.*

RECOMMENDATION 5.3

Where a poison is adequately covered under workplace substances regulations and there is demonstrated compliance with those regulations, state and territory governments should exempt workplace users from poisons controls.

RECOMMENDATION 5.4

The ACCC and NICNAS should negotiate formal arrangements for cooperation on issues regarding chemicals in consumer articles. These arrangements should include the establishment of a more systematic research program to identify and deal with the risks of chemicals in consumer articles.

RECOMMENDATION 5.5

The Australian Government should transfer responsibility for the administration and enforcement of the Cosmetics Standard 2007 (Cwlth) from NICNAS to the ACCC.

RECOMMENDATION 5.6

The Ministerial Council on Drug Strategy should develop illicit drug precursor regulations for adoption by reference by all jurisdictions. The associated risk-based schedule of chemicals and apparatus, which are to be subject to the regulations, should be maintained by a committee of experts overseen by the Ministerial Council, and also be adopted by reference in each jurisdiction.

6. Occupational health and safety

RECOMMENDATION 6.1

As part of its review of the National Standard and Code of Practice for the Control of Major Hazard Facilities, the Australian Safety and Compensation Council should:

- determine whether there is a case for regulation of Major Hazard Facilities beyond existing generic regulation in areas such as occupational health and safety, environmental protection, and planning, based on cost–benefit analysis*
- if such a case exists, identify strategies and opportunities for achieving greater consistency in the adoption and application of the Standard across jurisdictions, than has been achieved to date.*

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.

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.

RECOMMENDATION 6.4

The review of the operation of the body that replaces the Australian Safety and Compensation Council that is planned to commence within six years of its creation should assess its effectiveness and efficiency, including the impact of the tripartite structure of the body on the quality and nature of advice that it provides to the Workplace Relations Ministers' Council. The review should also consider the case for replacing the new body with a smaller, statutorily independent body comprised of experts in standard setting, rather than representatives of particular constituencies.

7. Transport Safety

RECOMMENDATION 7.1

The Australian Transport Council should commission an independent public assessment of the consistency with which the Australian Dangerous Goods Code is adopted by jurisdictions, and of the regulatory outcomes produced by their implementation of the associated legislation and regulations. The review should commence not later than twelve months after the reforms have been implemented by all jurisdictions.

RECOMMENDATION 7.2

Responsibility for policy development and monitoring should remain with the National Transport Commission, reporting to the Australian Transport Council.

Once proposed revised governance arrangements have become operational in the transport and workplace relations arenas, the Australian Transport Council should undertake a public review, involving consultation with all stakeholders and including consideration of necessary funding, to determine the most appropriate forum for developing and implementing future national dangerous goods transport policy.

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. Any technical code issues not adequately resolved in the current review of the Australian Explosives Code (AEC3), should also be considered.

RECOMMENDATION 7.4

The National Transport Commission should price all modes of provision of the Australian Dangerous Goods Code at avoidable cost, including free provision on the internet. The resultant revenue loss for the National Transport Commission, together with any compensation payable to the Code distributor, should be offset by increased jurisdictional contributions. Pricing of the Australian Explosives Code should also follow these principles.

8. Agricultural and veterinary chemical products

RECOMMENDATION 8.1

The Australian Government, in consultation with the states and territories, should impose a statutory obligation on the Australian Pesticides and Veterinary Medicines Authority to ensure that:

- *the costs of chemical assessments are commensurate with the risks posed by the chemicals concerned*
- *its assessment priorities are directed to the most efficient management of the aggregate risk of all agvet chemicals.*

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 be negotiated through the Primary Industries Ministerial Council, and should include, at a minimum, uniform approaches to enforcing conditions of use on product labels and to the licensing and training of users.*
- *The Commonwealth, state and territory governments should renegotiate the intergovernmental agreement to confer the necessary powers on the Commonwealth, and develop service level agreements for the regime to be delivered by the states and territories.*
- *The APVMA should recover additional costs through a mix of charges and levies.*

9. Environment protection

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.

RECOMMENDATION 9.2

The Commonwealth, state and territory governments should negotiate an intergovernmental agreement to create an independent standard-setting body to manage the impact of chemicals on the environment. This body should:

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- *report to the Environment Protection and Heritage Council (EPHC)*
 - *develop standards for the environmental risk management of chemicals and undertake regulatory impact assessment where appropriate*
 - *comprise members who are experts in standard setting, and have the ability to appoint advisory bodies as necessary*
 - *assess and respond to the NICNAS recommendations on the environment, with any other work to be agreed specifically by the EPHC*
 - *meet only as required and be funded by jurisdictions.*

The standards developed by this body should be submitted to the EPHC for consideration and approval, and adopted uniformly and automatically by the states and territories by reference. Once adopted, any variation by a jurisdiction should, at a minimum, be reported to the EPHC and include a statement of reasons for the variation.

A sunset clause should apply to the new body, which would require that it be dissolved unless a review of its effectiveness and efficiency showed an ongoing need.

RECOMMENDATION 9.3

Commonwealth, state and territory governments should develop a performance measurement framework for monitoring the impact of chemicals on the environment that identifies national environmental monitoring and reporting objectives, and includes performance indicators for measuring outcomes against these objectives.

- *The data needed to construct these performance indicators should be compared to what is already collected (using the Department of Environment, Water, Heritage and the Arts database) to determine if any gaps exist.*
- *The case for further monitoring should be based on cost–benefit analysis and consider options for reallocating monitoring resources on a budget neutral basis.*

10. National security

RECOMMENDATION 10.1

Commonwealth, state and territory governments should implement a nationally uniform approach to conducting security checks for access to security sensitive ammonium nitrate, irrespective of other harmonisation measures. The

background checking process should be managed by a single agency such as AusCheck. A database that reports current, refused or revoked security clearances should be established, and the information shared across jurisdictions.

RECOMMENDATION 10.2

State and territory governments should consider the following improvements for achieving greater national harmonisation of the security sensitive ammonium nitrate (SSAN) regulations:

- *removing major inconsistencies in reporting requirements*
- *basing storage requirements on agreed physical properties of SSAN, provided adequate security controls are met*
- *ensuring that a single security plan can be lodged for transporting SSAN nationally*
- *making licence durations nationally consistent*
- *requiring regulatory agencies to commit to, and report on, timeframes for assessing licence applications.*

RECOMMENDATION 10.3

State and territory governments should not add any additional security sensitive chemicals to the current security sensitive ammonium nitrate regulations.

RECOMMENDATION 10.4

Commonwealth, state and territory governments should establish an agreed framework for assessing the security risks and appropriate control measures associated with chemicals of security concern. This framework should incorporate strong governance arrangements, underpinned by an intergovernmental agreement, that ensure control measures are implemented consistently across jurisdictions. Once established, this framework should be used to re-examine the controls on ammonium nitrate.

Recommendations from draft report adopted in whole or part by COAG at its 3 July 2008 meeting

DRAFT RECOMMENDATION 5.9

Maximum residue limits set by the Australian Pesticides and Veterinary Medicines Authority, which take account of dietary impacts using methods agreed

with Food Standards Australia New Zealand (FSANZ) and the Australian Government Department of Health and Ageing, should be automatically incorporated into the Australia New Zealand Food Standards Code. Any decision to the contrary by FSANZ and the Australia and New Zealand Food Regulation Ministerial Council should be based on a cost–benefit analysis and be reported publicly.

DRAFT RECOMMENDATION 7.1

Jurisdictions should consistently adopt the Model Transport of Dangerous Goods Act and Regulations and should uniformly reference the Australian Dangerous Goods (ADG) Code.

In light of the risks of greater inconsistency in moving from template to model legislation for implementing the ADG7 package, the National Transport Commission should undertake a transparent public review of the consistency with which the new legislation, regulations and the ADG Code are adopted by jurisdictions.

DRAFT RECOMMENDATION 7.4

The Australian Dangerous Goods Code should be available free on the internet and at avoidable cost for hard copies. The resultant revenue loss for the National Transport Commission should be offset by increased jurisdictional contributions. Pricing of the Australian Explosives Code should also follow these principles.