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Chemicals and Plastics Regulation Study  
Productivity Commission  
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Dear Sir/Madam

**CHEMICALS AND PLASTICS REGULATION - PRODUCTIVITY COMMISSION  
ISSUES PAPER**

The Productivity Commission has invited submissions to be made about its *Chemicals and Plastics Regulation Issues Paper* (the Issues Paper). The following comments are provided from the WorkSafe and Resources Safety Divisions of the Western Australian Department of Consumer and Employment Protection (DOCEP).

DOCEP contributes to the Council of Australian Governments initiatives and national standard setting bodies as appropriate, and supports the aims of consistency. This includes a consistent approach to chemicals and plastics regulation between jurisdictions and across industrial sectors. However, proposed reforms should not diminish the occupational safety and health benefits arising from specific regulations where these can be justified in the interests of improving safety and health at work.

An increased incorporation of international chemical and plastic classifications and standards within Australian regulatory systems would be supported by DOCEP. Comments have been made in response to specific questions raised in the Issues Paper (Attachment A).

If you have any enquiries, please do not hesitate to contact Ms Sally North, Principal Scientific Officer, WorkSafe, on direct telephone (08) 9327 8600. Thank you for the opportunity to provide comment on the Issues Paper.

Yours sincerely

**Nina Lyhne  
A/DIRECTOR GENERAL  
DEPARTMENT OF CONSUMER AND EMPLOYMENT PROTECTION**

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**Department of Consumer and Employment Protection's comments on questions from the Productivity Commission's *Chemicals and Plastics Regulation Issues Paper***

*Pg. 14 Do you consider that the current regulatory regime is effective in addressing issues in relation to OHS, environmental outcomes and public safety and health?*

- The current regime is effective in addressing chemical and plastic related occupational safety and health (OSH) issues. However, for organisations operating at a national level, differences in state requirements may increase compliance costs. National Industrial Chemicals Notification and Assessment Scheme (NICNAS) recommendations, for example, may be adopted in a non-uniform manner. Flexibility of the regulatory regime at the state level can be valuable in taking account of state-specific issues. For example, some states have little chemical manufacturing and consequently some regulations applicable mainly to this sector may not be relevant or applicable.
- A balance between national consistency, and flexibility at the local level, is required to maximise effectiveness and efficiency.
- The recent WA parliamentary inquiry into lead pollution in the Esperance area includes a review of some aspects of the environmental and public health regulatory environment with respect to chemicals, and highlights some concerns. This can be downloaded from:

<http://www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Committees+-+Reports> )

*Pg. 15 Do regulators make sufficient effort to measure and monitor the effectiveness of the regulations they impose?*

- In relation to hazardous substances, WorkSafe undertakes routine monitoring of compliance in five key areas. This is integrated into routine inspections where practical and allows a level of review of compliance. Periodically, WorkSafe reviews selected regulations in conjunction with available data on related lost time injuries and diseases. WorkSafe also undertakes specific projects each year to assess compliance in particular industries or with particular regulations. Industry sectors or areas are identified based upon those areas posing the greatest risk to safety and health.

*Pg. 21 What existing institutional frameworks or coordination mechanisms within or across jurisdictions are working well?*

- The Hazmat Emergency Advisory Team (HEAT) for management of chemical emergencies is working well. The team's core members are the Fire and Emergency Services Authority, the Department of Environment and Conservation, the Department of Consumer and Employment Protection (DOCEP, Resources Safety Division), the WA Police Department, the Department of Health and the Chemistry Centre. Non-core members include the Department of Consumer and Employment Protection (WorkSafe Division) and the Department of Water. Local government representatives and specialist advisors may attend if required.
- The Pesticides Advisory Committee is working well to manage pesticide issues across agencies and is currently working on a Code of Practice for Pesticide Use. Members include the Department of Health, the Department of Environment and Conservation, WorkSafe, the Chemistry Centre, the Department of Food and Agriculture, and the Department of Water.
- The NICNAS MOU Group is working well in relation to communications with state OSH agencies but less well in relation to state health and environment agencies. NICNAS is currently exploring options to improve liaison with state health and environment agencies.

*Pg. 22 Are government regulators having problems retaining expert staff? If so, what can be done to address the problem?*

- With the resources boom in WA at present many employers, including DOCEP, are experiencing problems attracting and retaining expert staff. One division of DOCEP has implemented an attraction and retention salary bonus to assist in managing this issue.
- Government regulators could also consider non-salary aspects of jobs, such as providing greater flexibility in hours or location of work, better leave provisions, wellness and/or fitness services, and increased training and educational opportunities. Implementing cross-agency working groups such as the Pesticides and HEAT groups above also improves networking with colleagues in other agencies, which may assist in skill and knowledge sharing.

*Pg. 24 Do the powers of regulators give them sufficient scope to effectively enforce the regulations they are responsible for? Is the mix of education, information and penalties appropriate?*

- In the case of WorkSafe, inspectors have sufficient powers to enforce the relevant regulations and the mix of education, information and enforcement activities is considered well balanced.

*Pg. 24 Does the compliance regime take sufficient account of the market mechanisms that play a part in reducing the risk of adverse events?*

- Where such market mechanisms are working well, inspection of those workplaces would generate little enforcement action. Such workplaces would be a lower priority for future proactive visits than workplaces where a high level of enforcement action had been required. The results should impact the degree of regulatory activity without the need for the regulator to take particular account of this matter.

*Pg. 25 What are the implications of transposing the hazard-based GHS system onto Australia's approach to classifying and labelling chemicals?*

- Companies will need to reclassify their products and review their MSDS's and labels. The costs of this work could be minimised by regulators preparing an extensive 'list' of classified substances, with guidance on cut-off concentrations for mixtures. Some substances currently classified as 'hazardous' may not be hazardous under GHS and vice-versa. However, information to date indicates that a relatively small number of substances would fall into these categories.
- The GHS system is expected to integrate regulations for dangerous goods and hazardous substances, resulting in a more streamlined and less complex regulatory regime. Consistency with trading partners' classification systems should also decrease compliance costs for chemical importers and exporters in the medium to long term.