

<u>Quest No.</u>	<u>Page No.</u>	<u>Question</u>	<u>Australian Vinyls Corporation Pty Ltd Response</u>
Introduction			
1	7	What concerns do you have about Australia's regulatory regime for chemicals and plastics, and how substantial are they?	<p>There is substantial duplication of legislation and other requirements across not only state and federal government, but also within states. There is also difficulty with consistency between states.</p> <p>This discussion paper focuses primarily on regulation of chemicals, i.e. NICNAS and associated structures, but does not adequately address regulation on the industry. AV believes that the most substantial burden on the Plastic and Chemicals Industry is the regulation of the industry and not necessarily the regulation of the products. Regulation of the industry spans Occupational Health and Safety, Environment, Manufacturing, Payroll, Tax, Insurance, Dangerous Goods Management, Security Concerns and Transport.</p>
2	7	What policy changes do you recommend to address your concerns, and what would be their costs and benefits?	<p>Consistency in requirements and implementation across all states and within all states. This may need to be lead at the Federal level to ensure it is achieved. If this is not achievable then at least recognition of other states requirements. There is often substantial work in taking the same information and reporting it in a different format to another department. This does not add any value to the overall business, but is simply a cost impost.</p>
The case for change			
3	12	Why has it been so difficult to achieve fundamental reform of chemicals and plastics regulation despite advice from numerous reviews and government efforts to address the concerns?	<p>Each new review tends to have a series of recommendations which apply new requirements, often neglecting to remove the old ones. There is also a tendency to focus on the political driver rather than the outcome. An example of this is the duplication in Victoria of waterMAP, verses Energy</p>

			and Resource Efficiency Plans, verses State Environment Protection Policy (to an extent) verses National Environment Pollution Measures verses Energy Efficiency Opportunities and National Pollutant Inventory at the federal level. All of these require reporting of resource use in a slightly different format. Then there are voluntary programs such as Greenhouse Challenge Plus which covers the same information again.
4	12	What specific barriers to reform should the Commission focus on in order to raise the likely effectiveness of its recommendations?	Despite the best efforts of COAG to agree in nationally consistent requirements, we still see quite different application at each of the 9 jurisdictions. Both SSAN and Major Hazard Facilities regulations are examples of this.
5	12	Given the criticisms of the existing system, are there grounds for preserving structural elements of the status quo (for example, are there good reasons for variations in State and Territory regulations)?	Where ever possible localisms should be avoided.
The need for effectiveness			
6	13	What are the problems that chemicals and plastics regulation address?	The plastics and chemicals industries face community and environmental health concerns, whether real or perceived. This can often lead to politics driving a policy direction which may not necessarily have merit or basis in science.
7	13	Is there a need to make more extensive use of a risk-based approach to regulation in parts of the system? How can such an approach be integrated with the future adoption of the hazard-based Globally Harmonised System (see later)?	A risk based approach is typically a solid base to build upon. For example, the Chemicals of Concern Review proposed a risk based framework was a solid example of how outcomes could be achieved.
8	13	Is the burden of regulation commensurate with the problems caused by chemicals and	Duplication of regulation does not enhance the safety of the industry; as such it creates a burden

		plastics?	which is not commensurate with potential problems caused in the industry. It is also important to remember the benefits that the plastics and chemicals industries provide to society for our sustainability, such as water treatment and transport, health products, safety devices, energy efficient machines etc.
9	14	Is the regulatory system sufficiently flexible to incorporate and respond to changing knowledge and understanding of issues over time?	The current system is flexible to such a point that it lends itself to changes for political purposes, resulting in regulatory burden like we have today. This is exacerbated by the fact that it is so interlinked that changing one part can result in unintended consequences or burdens.
10	14	Could regulatory objectives be stated more clearly?	This is a matter for COAG when stating direction of regulation.
11	14	Do you consider that the current regulatory regime is effective in addressing issues in relation to: <ul style="list-style-type: none"> . •public health and safety . •OHS . •the environmental outcomes . •security sensitive ammonium nitrate (SSAN)? 	The current regime, containing the duplication or different application across and within states does not enhance any of these areas. It may actually be perverse in terms of making compliance complex and difficult, resulting in a lack of compliance to the intent, and therefore reducing the outcomes.
12	14	Have governments achieved the right balance between these issues? That is, are they devoting too many or too little resources to any?	Not able to comment on this question.
13	14	What, if any, examples are there of outcomes of regulation that are contrary to the stated goal? For example, does the fact that the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) only makes	Not able to comment on this question.

		recommendations relating to risk assessment and management undermine the value of its assessments?	
14	14	Are there cases where regulations are in direct conflict (in complying with one regulation, you are breaching another)?	Not able to comment on this question.
15	14	Have responses to major adverse outcomes led to ongoing regulatory or operational short-term responses, or have they led to structural change that has improved the efficiency and effectiveness of the regulatory system?	Predominantly they have lead to short term responses, such as the initial SSAN changes, verses the more structured and long term approach to Chemicals of Security Concern.
16	15	Do regulators make sufficient effort to measure and monitor the effectiveness of the regulations they impose?	It is unusually to see regulators reviewing the implications of reform. One limited example of this occurring is the current review on the implementation of the Occupation Health and Safety Act 2004 in Victoria; however this is limited to the implementation and not the result of the implementation.
17	15	Can you identify specific gaps, overlaps or variations in the regulatory structure that make regulations less effective (for example, do variations in the regulation of SSAN undermine the effectiveness of regulations in this area)?	The inconsistent application of the National Standard on Major Hazard Facilities has lead to some regulations being less effective than others in this area, such as in plant verses community impact.
18	15	Is there a gap in the existing regulatory system with respect to the environmental impacts of chemicals and plastics? If so, do you see the National Framework for Chemical Environmental Management (NChEM) proposals as a good way to fill that gap?	Not able to comment on this question.
19	15	Do you consider that the current processes for assessing existing industrial chemicals (see attachment B) represent a gap in the	Not able to comment on this question.

		existing regulatory structure? If so, what new ways are there to prioritise (or categorise) chemicals and identify those chemicals that warrant risk assessment, and who (industry or government) should bear the primary responsibility, and cost, for carrying out those assessments?	
20	15	Does the focus of some parts of the regulatory system on individual chemicals rather than products represent a gap in the system? If so, what should be done to cover that gap?	Not able to comment on this question.
21	15	What measures should be adopted to streamline data requirements and assessment processes so that, for example, information and data relating to the same chemical do not have to be provided to multiple agencies (for example developing a common national chemicals database)?	There is a bigger issue than just the chemicals regulated. This type of database could also be applied to environmental issues related to the manufacture as well as the chemicals themselves. Data collection must be streamlined as a primary step in reducing the unnecessary burden on industry.
Alternatives to government regulation.			
22	16	How well have existing self- and co-regulatory approaches to regulation worked? Are they used appropriately?	Co-regulatory approaches can work well, provided there is some form of legislative instrument to address non performance or items outside the framework (such as imports). A good example of self regulation is the PACIA Responsible Care program, requiring companies to self asses and also obtain external verification against a series of codes of practice.
23	16	What net impacts have self- and co-regulatory approaches had on the plastics and chemicals industry over and above government regulations, and at what cost?	Not able to comment on this question.
24	16	Is there scope to strengthen current self-	As we move to more performance and risk based

		regulatory measures or further develop new voluntary and self-regulatory frameworks (including covenants between industry and regulators)?	legislation, there is substantial scope to expand these systems. They do need the legislative instrument to provide the back up system should companies choose not to participate. It is vital that we achieve the intent of the requirements with a self or co-regulatory approach for all industries impacted.
25	16	Are there any overseas self- or co-regulatory models that are worth examining?	Not able to comment on this question.
Access to information			
26	17	Is the quality and quantity of information supplied to the public on public health, workplace safety and environmental outcomes of chemicals in Australia appropriate for effectively managing risks?	Typically this is sufficient. Sometimes it is necessary to apply the precautionary principle due to a lack of suitable information.
27	17	What are the best ways to enhance public understanding of the potential risks from chemicals and plastics (such as improved education, training and awareness-raising activities, and generation and dissemination initiatives)? Is the National Pollutant Inventory a useful and cost-effective tool?	The NPI may be a useful tool for providing information to the public due to its accessibility; however it could not do so under its current name, as it implies that everything in it is a pollutant (which is not correct).
28	17	Do regulators have sufficient access to technical information to be effective? If not, what improvements can be made in managing the flow of technical information between regulators?	Not able to comment on this question.
29	17	Are there ways to increase access to relevant information without compromising the competitiveness of firms that have commercially-sensitive information?	Not able to comment on this question.
Consultation			
30	17	Are the current consultation processes that	It must be said that the current consultation

		underpin chemicals regulation and decision-making in Australia adequate? If not, why not, and are there strategies to support more active participation by interested parties?	processes we have may have contributed to the current regulatory regime, therefore it has not been effective in minimising unnecessary burden. The timeframes are often tight, with little understanding of conflicting priorities by the people being consulted. In the end, the changes are driven predominantly by politics, which may not be the best policy outcome.
31	17	Are there consultation mechanisms that can be identified as working well in any overseas regimes?	Not able to comment on this question.
32	18	The US, Canada and New Zealand actively consult with their Indigenous communities on chemicals and plastics regulation. Is there a need to do so in Australia, and if so, what would be the best forum for such consultation?	Not able to comment on this question.
<u>The need for efficiency</u>			
33	18	How substantial are the barriers to entry caused by the existing regulatory system? What reforms would address these barriers while still maintaining an appropriate degree of protection for public health and the environment?	Not able to comment on this question.
34	18	Are there specific areas of overlap in the regulations that are burdensome and inefficient?	It is important to understand that any overlay is burdensome and inefficient. There are multiple areas which are subject to this currently across all 9 jurisdictions. An example of this is the duplication in Victoria of waterMAP, verses Energy and Resource Efficiency Plans, verses State Environment Protection Policy (to an extent) verses National Environment Pollution Measures verses Energy Efficiency Opportunities and National

			Pollutant Inventory at the federal level. All of these require reporting of resource use in a slightly different format. Then there are voluntary programs such as Greenhouse Challenge Plus which covers the same information again.
35	18	Are you able to provide any estimates of the costs caused by gaps, overlaps or inconsistencies in the regulatory framework?	This is a difficult question to quantify as it is often driven by additional hours input by salaried personnel, resulting in opportunities not being realised due to time constraints.
36	19	Do you have any evidence of excessive costs imposed by chemicals and plastics regulations? Can you estimate, however approximately, the costs imposed by these regulations on your firm or industry?	This is a difficult question to quantify as it is often driven by additional hours input by salaried personnel, resulting in opportunities not being realised due to time constraints.
37	19	Can you identify cases where the regulatory environment has altered the way a business would otherwise operate (for example, making a decision about where to locate a major hazard facility)?	Not able to comment on this question.
38	19	Are you able to articulate alternative regulations that would meet the same objectives, but that would reduce or eliminate the costs you have identified?	Consistent streamlined regulation that recognised other formats for data would reduce some of the burden, with consistent reporting timeframes (i.e. all calendar or all traditional financial year).
The need for coordination within and across jurisdictions			
39	21	Where are the greatest inconsistencies in regulation: between the Australian Government and the states and territories, between the states and territories, or within jurisdictions, that warrant reform?	The inconsistencies occur in all cases as stated. Depending on the company's locations, the greatest burden may change form between federal to state or across state borders. All areas need to be addressed.
40	21	What advantages have there been in taking different regulatory approaches to chemicals and plastics in different jurisdictions? Can you provide examples of these advantages?	There have not been advantages identified to this approach.

41	21	What existing institutional frameworks or coordination mechanisms within or across jurisdictions are working well? Conversely, which ones are less effective, and how could they be improved?	The first step which seems to work well is COAG agreeing on certain issues and directions. This system is less effective when each jurisdiction takes that guidance and interprets it with their own political slant, resulting in the inconsistencies. This is sometimes the result of how the individual jurisdiction has structured their constitution and regulatory framework, which makes it very difficult to align.
42	21	Taking account of all the costs and benefits involved, should inconsistencies be reduced by having fewer regulators at any jurisdictional level (in the extreme case, having a 'mega regulator' at each jurisdictional level)?	The extreme case is actually reducing the number of jurisdictions and regulators. Reduction in the number of regulators may not actually achieve the best outcomes. An example of a "mega regulator" is the Victoria Department of Human Services, this organisation is so large and diverse (covering diverse areas such as hospitals, cooling towers, drugs and poisons, radiation) that it seems to struggle to find direction in certain areas.
43	21	What elements of chemicals and plastics regulation can most appropriately be dealt with through uniform national approaches (for example, should the Agvet code be extended to include control of use)?	It is important to also cover the regulations existing on the manufacture, not necessarily just the product. Areas such as Occupational Health and Safety, Environment, Manufacturing, Payroll, Tax, Insurance, Dangerous Goods Management, Security Concerns and Transport
44	21	More generally, given the different roles, responsibilities and powers of the different levels of government in Australia, what would be the most efficient and effective regulatory framework, how would this be achieved, and how quickly should it be implemented?	This is a significant constitutional issue for the 9 jurisdictions.
<u>Implementation and administration of regulation</u>			
45	22	Is fragmentation of regulations across and within jurisdictions hampering the	Not able to comment on this question.

		effectiveness and efficiency of regulation in Australia — including securing staff to enforce regulations?	
46	22	Is there scope to build economies of scale by merging parts of the regulatory structure so that better use is made of the limited resource pool?	This may provide some benefits, but needs to consider the impact on the effectiveness (refer answer to question 42 above).
47	22	Are some parts of the regulatory system more acutely impacted than others by lack of institutional experience and institutional memory?	Not able to comment on this question.
48	22	Are government regulators having problems retaining expert staff? If so, what can be done to address the problem?	Not able to comment on this question.
49	23	Are the financial costs to applicants (and cost recovery arrangements) for pre-market notification and registration/approval of new chemicals appropriate? If not, how could they be improved?	Not able to comment on this question.
50	23	Are the information and other requirements on notifiers of new chemicals appropriate? Could they be streamlined or improved?	Not able to comment on this question.
51	23	Are the time limits and stop-the-clock provisions for regulators adequate, and do they achieve their objectives?	Not able to comment on this question.
52	23	Should more use be made of international data when assessing chemicals for registration and use in Australia?	There is often a wealth of information available in other markets, especially considering the size of the Australian plastics and chemicals industry compared to continents like Europe and North America. We need to take advantage of work done elsewhere, otherwise we are disadvantaging ourselves and imposing a significant cost and time burden on Australian Industry and Government.

53	23	To what extent are existing processes for assessing and registering chemicals in Australia impairing the entry of new chemicals, and what effect is this having on the achievement of public health, worker safety and environmental outcomes, and on competition and economic efficiency?	Not able to comment on this question.
54	23	Should changes be made to existing LRCC assessment and approval procedures to increase their efficiency and effectiveness, or are there alternative methods to better manage chemicals of low regulatory concern?	Not able to comment on this question.
55	23	What scope is there to make greater use of self-assessment processes?	Where suitable information exists overseas on a chemical and it poses a low hazard, self-assessment should be a suitable option to streamline the process of assessment.
56	24	How predominant has a 'regulate first and ask questions later' culture been in the development of the chemicals and plastics regulatory framework?	Not able to comment on this question.
57	24	Are there institutional design factors that make regulators overly risk averse?	Not able to comment on this question.
58	24	Are the current regulations effectively enforced? How is this monitored? 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?	Not able to comment on this question.
59	24	Would greater economies of scale, through merged functions or regulators (within or between jurisdictions), make compliance any more effective?	This may provide some benefits, but needs to consider the impact on the effectiveness (refer answer to question 42 above).

60	24	To the extent that there is non compliance, is there evidence of how much of this is deliberate, and how much is due to lack of knowledge or understanding (possibly because of complexity of the system)?	This is difficult to answer. Navigating the complex regulatory system takes a great deal of time and effort to comply.
61	24	Does the compliance regime take sufficient account of the market mechanisms that play a part in reducing the risk of adverse events (such as large companies needing to protect their brand and to be seen as 'good corporate citizens', and that failure to comply with regulatory obligations may void insurance coverage)? Does compliance effectively target rogue operators?	The current regime does not take this into account. It is the companies wanting to protect brand or be good corporate citizens who go to extreme efforts to ensure they comply with the excessively complex and burdensome regimes. This result sin these companies doing more, when it does not provide "more" compliance. The rogue operators are not impacted by the thought of bad brand, as this is typically not an issue for them, therefore the complex system does not effectively target these rogue operators.
<u>Leveraging international linkages</u>			
62	25	What international regulatory frameworks or benchmarks should Australia seek to participate in and align itself with?	To simplify trading between companies, the UN provides frameworks intended to be applied consistently across borders.
63	25	Are there any specific international coordination initiatives that could be progressed or further developed for the benefit of Australia?	The GHS is a good initiative, however Australia should not lead the implementation of this due to the relative size of our chemical ad plastics industry. We need to leverage off the implementation in the EU and USA as major trading partners in this industry.
64	25	To what extent can chemical risks and hazards be treated generically across different countries, and what are the Australian-specific circumstances or conditions that justify separate risk assessment and management (for example, do agricultural chemicals need to be tested in	Not able to comment on this question.

		Australian conditions)?	
65	25	To what extent is Australia's approach to classifying chemicals a barrier to recognising and using overseas standards and processes?	Not able to comment on this question.
66	25	How can Australia best use the expected rapid growth of available overseas information on existing chemicals to maximise efficiencies, reduce duplication and provide chemical safety information in a form that will be useful to stakeholders?	Establishment of a central database or repository of information that is available on the world market.
67	25	Should the GHS be implemented across all sectors of the chemicals and plastics industry, including agricultural and veterinary chemicals and scheduled drugs and poisons?	Not able to comment on this question.
68	25	What should influence decisions about the timing of the implementation of the GHS? Should Australia wait until the system has been implemented by our major trading partners, or aim to be a leader in adopting the new system?	The GHS is a good initiative, however Australia should not lead the implementation of this due to the relative size of our chemical and plastics industry. We need to leverage off the implementation in the EU and USA as major trading partners in this industry.
69	25	What are the implications of transposing the hazard-based GHS system onto Australia's approach to classifying and labelling chemicals?	This is a significant change and needs to be managed so the training and consistent implementation can be achieved practically.
70	25	Overall, what will be the costs and benefits of implementing the GHS in Australia?	In the long term there is the potential to greatly reduce costs due to the national and international consistency. In the short term there will be a cost imposed in the training and transitional period of implementation.
71	26	Is the lack of mutual recognition between Australia and New Zealand a major impediment to the chemicals and plastics	Not able to comment on this question.

		industry in Australia?	
72	26	What are the barriers to mutual recognition of the systems of industrial chemicals assessment and notification in Australia and New Zealand? How can these be removed?	Not able to comment on this question.
73	26	What benefits would flow to Australia if mutual recognition was established?	Not able to comment on this question.
Regulation of security sensitive ammonium nitrate			
74	27	Could the development of the agreed principles for SSAN regulation have been improved?	Not able to comment on this question.
75	27	Are the security measures required by the agreed principles commensurate with the security risk posed by ammonium nitrate products?	Not able to comment on this question.
76	27	What impacts have the individual state and territory legislation for SSAN had on business operations? Can the benefits and costs be quantified?	Not able to comment on this question.
77	27	What grounds are there for variations across the jurisdictions in the regulation of SSAN? How extensive are these variations, and what impact have these variations had on the overall security objective, and on the costs to business of complying with the regulations?	Not able to comment on this question.
78	27	Could less stringent regulations or other policy measures be introduced to control access to SSAN without compromising the security objectives?	Not able to comment on this question.