BRCWG Report Card on Progress of the 27 Deregulation Priorities

BRCWG recommends that COAG:

1. Occupational Health and Safety

a) Welcomes the commencement of Safe Work Australia in November 2009 as an independent statutory agency;

b) commends the Workplace Relations Ministers' Council for its agreement of 11 December 2009 to endorse model work health and safety provisions which now form the basis of national model legislation; and

c) reaffirms its commitment to the timetable set out in the National Partnership Agreement to Deliver a Seamless National Economy, which requires all jurisdictions to enact model legislation and regulations and complete all related transitional arrangements by December 2011.

2. Environmental Assessment and Approvals Processes

a) Notes that the requirement for those jurisdictions which did not have a bilateral assessment agreement in place with the Commonwealth has now been met.

3. Payroll Tax Harmonisation

a) Notes that all jurisdictions, with the exception of Western Australia have adopted the Stage 1 reforms to payroll tax, and legislation to implement outstanding Stage 1 measures is scheduled to be introduced into the Western Australian Parliament in March 2010;

b) notes that under the Stage 1 reforms, uniform definitions and administrative procedures will be adopted for the administration of payroll tax including in relation to:-

   i. lodgement dates,
   ii. motor vehicle allowances,
   iii. accommodation allowances,
   iv. a range of fringe benefits,
   v. employee share acquisition schemes,
   vi. work performed wholly or partly outside a jurisdiction,
   vii. superannuation contributions, and
   viii. grouping of business; and

c) notes that New South Wales, Victoria, Queensland, South Australia, Tasmania and Northern Territory have implemented Stage 2 payroll tax reforms, which encompass further harmonisation of administrative definitions and procedures, and that Western Australia is currently considering implementing these remaining changes.

4. Licensing of Tradespeople

a) Notes that consultation on the exposure draft of the National Occupational Licensing Law closed on 28 December 2009 and that legislation will be introduced into the Victorian Parliament between April and June 2010;

b) agrees that jurisdictions will seek to enact referencing legislation by the end of 2010 to establish a new national licensing body; and

c) reaffirms a start-up date of 1 July 2012 for the new national trade licensing system, which will enable licensees in the first tranche of seven occupational areas (electrical, air conditioning and refrigeration mechanics, building, land transport (passenger vehicle drivers and dangerous goods) maritime, plumbing and gasfitting and property agents) to work and operate in all Australian jurisdictions.

5. Health Workforce Agreement

a) Notes that on 3 November 2009 the Queensland government enacted legislation for a national registration and accreditation scheme for health professionals; and

b) agrees that all other jurisdictions will introduce referencing legislation so that the national registration and accreditation scheme can commence by 1 July 2010.

6. National System of Trade Measurement

a) Welcomes the commencement of a national system of trade measurement, replacing eight state and territory systems, from 1 July 2010.

7. Rail Safety Regulation

a) Notes the enactment of enabling legislation and regulations by Victoria, New South Wales and South Australia;

b) notes the enactment of enabling legislation by Tasmania, with regulations expected to be tabled in early 2010;

c) notes the tabling of enabling legislation in the Northern Territory, with regulations currently being developed;

d) notes that the Legislative Assembly of Western Australia has passed its Rail Safety Bill, which has now been introduced into the Legislative Council and referred to the Standing Committee on Uniform Legislation and Statutes Review; and

e) welcomes the commitment of Queensland to enact enabling legislation and regulations by 31 March 2010.

8 & 9. Consumer Policy Framework and Product Safety

a) Welcomes the passage of the first of two bills to implement the Australian Consumer Law Bill through the House of Representatives of the Commonwealth Parliament on 20 October 2009 and its introduction to the Senate on 26 October 2009, with the second bill expected to be introduced in March 2010;

b) welcomes the agreement on 4 December 2009 of the Ministerial Council on Consumer Affairs on the elements which will comprise the second stage of the Australian Consumer Law, being:-

   i. the remainder of the Australian Consumer Law provisions drawn from the existing consumer protection provisions of the *Trade Practices Act 1974* (TPA),
   ii. the new national product safety system,
   iii. reforms drawing on best practice in state and territory consumer laws, and
   iv. the new national law guaranteeing consumer rights when buying goods and services;

c) notes that the Commonwealth will seek to enact both Australian Consumer Law Bills by 1 July 2010; and

d) reaffirms that the states and territories will seek to enact application laws by December 2010 to enable commencement of the new Australian Consumer Law by December 2010.

10. National Regulation of Trustee Corporations

a) Welcomes Royal Assent given on 6 November 2009 to the *Corporations Legislation Amendment (Financial Services Modernisation) Act 2009*;

b) welcomes the enactment of repealing legislation by the New South Wales, Queensland and ACT Governments;

c) agrees that the other states and territories will seek to enact repealing legislation by 1 May 2010; and

d) agrees that the reform will be completed by 1 May 2010.

11, 12, 13 & 27. National Regulation of Mortgage Broking, Margin Lending, Non-deposit Taking Institutions and Remaining Areas of Consumer Credit

a) Welcomes Royal Assent given to the following Acts, forming the National Consumer Credit package, in late 2009:-

   i. the *National Consumer Credit Protection Act 2009* on 15 December,

   ii. the *National Consumer Credit Protection (Fees) Act 2009* on 16 November, and

   iii. the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* on 15 December;

b) agrees that all States and Territories will seek to enact repealing legislation by 30 June 2010; and

c) agrees to defer the commencement of phase one of the National Consumer Credit Protection Reform Package until 1 July 2010 at the request of industry.

14. Development Assessment

a) Reaffirms that the Local Government and Planning Ministerial Council will report through BRCWG to COAG on:-

   i. a finalised first national performance report on development assessment processes for 2008-09, by 30 June 2010,

   ii. the merits of extending code-based assessment to residential multi-unit and commercial and industrial buildings, where these are assessed as low risk and low impact, by early 2010, and

   iii. progress in implementing the five project milestones agreed by COAG by 31 December 2010; and

b) agrees that the Productivity Commission will examine and report by December 2010 on states' and territories' planning and zoning systems, particularly as they impact on business compliance costs, competition and the overall efficiency and effectiveness of the functioning cities. As part of the study, the Commission will report on planning and zoning laws and practices which unjustifiably restrict competition and on best practice approaches that support competition.

15. National Construction Code

a) Reaffirms its agreement to integrate the plumbing and building codes into a single document which will address areas of inconsistency and overlap between the two codes and enable the development of a more consolidated and integrated construction code; and

b) agrees that this reform does not incorporate previous National Reform Agenda milestones.

16. Chemicals and Plastics

a) Agrees to the implementation plans (Attachment A) developed by relevant Ministerial Councils to give effect to recommendations of the Productivity Commission in relation to reform of the Chemicals and Plastics sector, as endorsed by COAG on 2 October 2008;

b) welcomes the establishment and first meeting of the Standing Committee on Chemicals, as recommended by the Productivity Commission; and

c) agrees that early harvest reforms not yet completed will be completed by 30 June 2010.

17. Registering Business Names

a) Re-affirms that, following the commencement of the Intergovernmental Agreement for Business Names on 1 September 2009 which provides the framework for a national system of registering for business names and Australian Business Numbers in one transaction, all jurisdictions will seek to complete relevant legislation to enable the national business names registration system to commence by 31 March 2011.

18. Personal Property Securities

a) Welcomes the commencement of the Commonwealth *Personal Property Securities Act 2009* and the *Personal Property Securities (Consequential Amendments) Act* 2009 on 15 December 2009;

b) welcomes the enactment of referral legislation by New South Wales, Victoria, Queensland and South Australia;

c) notes that the second round of consequential amendments, including to the Corporations Act, is scheduled for passage through the Commonwealth Parliament in early 2010;

d) agrees that that Western Australia and Tasmania will enact referral legislation during 2010;

e) notes that data migration and related transitional arrangements will be completed by the commencement date for the national personal property securities system on 31 May 2011; and

f) reaffirms that the national personal property securities system will be completed by 31 May 2011.

19. Standard Business Reporting

a) Agrees that standard business reporting will commence on 1 July 2010.

20. Food Regulation

a) Reaffirms its agreement on 7 December 2009 to:-

   i. reformed voting arrangements, subject to agreement with New Zealand, for the Australia New Zealand Food Regulation Ministerial Council (ANZFRMC),

   ii. consider by mid-2010 an Intergovernmental Agreement implementing the ANZFRMC voting reforms and proposes reforms to enable, by 1 July 2011, a centralised interpretative advice regime to be provided in relation to food standards on a primarily cost-recovery basis, which would be adopted and applied by all States and Territory food regulatory agencies in the course of their monitoring and enforcement activities related to food standards. Such reform options are to include consideration of:-

      A. Food Standards Australia New Zealand (FSANZ) providing such interpretive advice in relation to food standards using existing jurisdictional and/or other consultative mechanisms in the development of FSANZ interpretive advice,

      B. States and Territories adopting and applying FSANZ interpretive advice in the course of their monitoring and enforcement activities related to food standards, provided arrangements enable states and territories to seek review of such advice, and

      C. other ways in which existing ANZFRMC structures and processes can assist in reducing inconsistency and uncertainty about monitoring and enforcement activities relating to food standards, and

   iii. consider the outcomes of a review of food labelling law and policy by 31 March 2011; and

b) also reaffirms its agreement on 2 July 2009 to:-

   i. implement revised voting arrangements for the ANZFRMC for requests for reviews of draft food standards, and

   ii. to make public ANZFRMC decisions and evidence where the ANZFRMC requests a review of a Food Standards Australia New Zealand food standard.

21. National Mine Safety Framework (NMSF)

a) Agrees that the timeframe for the development of the National Mine Safety Legislative Framework has now been set by the parallel development of Model OHS legislation under the auspices of the Workplace Relations Ministers' Council; and

b) agrees that the overall NMSF initiative will be completed by 30 June 2013.

22. National Electronic Conveyancing System

a) Notes the announcement of 21 January 2010 of the establishment of an electronic conveyancing entity, National E-Conveyancing Development Ltd (NECDL) by the governments of Queensland, New South Wales and Victoria with the opportunity for other states and the territories to join at a later date;

b) notes that the company is chaired by Alan Cameron AM, and comprises six other non-executive directors, representing the three founding states, the Australian Bankers' Association, the Law Council of Australia and the Australian Institute of Conveyancers; and

c) reaffirms the existing completion date of end 2011.

23. Oil and Gas Regulation

a) Agrees the milestones set out at Attachment B, proposed by the Ministerial Council on Mineral and Petroleum Resources (MCMPR), which responds to 25 out of the 30 recommendations of the Productivity Commission *Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector* (the PC Review); and

b) notes that the MCMPR will meet on 26 February 2010 to discuss a proposed response to the remaining five recommendations of the PC Review.

24. Maritime Safety Regulation

a) Reaffirms its agreement to implement national regulation for maritime safety and notes that a new national partnership agreement is being developed for consideration by COAG in the first half of 2010.

25. Wine Labelling

a) Welcomes the completion by the states and territories, by July 2009 of the legislative arrangements to bring into force the World Wine Trade Group's Agreement on Wine Labelling, completing this reform.

26. Directors' Liability

a) Reaffirms its agreement to the principles proposed by the Ministerial Council for Corporations (MINCO), for adoption on a national basis, relating to the imposition of personal criminal liability for corporate misconduct and the circumstances which directors may also be liable for corporate fault; and

b) reaffirms that MINCO will:-

   i. complete implementation plans by April 2010 identifying the provisions to be amended and the reform process to be undertaken to enable jurisdictions to enact legislation by December 2010, and

   ii. report on progress to COAG through the BRCWG in June 2010.

Health Portfolio Implementation Plan for Productivity Commission Recommendations – Plastics and Chemicals Regulatory Reform

PC Recommendations – 4.1, 4.2, 4.3, 4.4, 4.5, 5.4, 5.5		
Stages of Implementation	Indicative Start Date	Indicative Finish Date
Initial consultations with industry, community and government	July 2009	August 2009
• Undertake detailed legislative and functional review of industrial chemicals framework, consistent with Productivity Commission recommendations. • Identify minor legislative/regulation changes and non-statutory reforms for implementation for Phase 1. • Identify major legislative changes/ changes in function for implementation in Phase 2. • Prioritise reform activities based on available resources and review implementation activities and timings. • Preparation of discussion paper.	July 2009	December 2009
Consultation with industry, community and government.	February 2010	March 2010
Draft final policy proposal and seek policy agreement from Minister and/or Ministerial Council.	March 2010	April 2010
Preparation of drafting instructions, regulatory impact statements (where required) and draft regulations for Phase 1 reforms.	April 2010	July 2010
Roll-out of Phase 1 reforms.	July 2010	December 2010
Preparation of drafting instructions, regulatory impact statements (where required) and draft regulations for Phase 2 reforms.	July 2010	October 2010
Consultation on Phase 2 legislative package.	October 2010	November 2010
Revise and fine tune Phase 2 legislative package.	December 2010	January 2011
Enacting legislation/regulations (assume introduction and passage in same sitting)	February 2011	April 2011
Stakeholder education for Phase 2 reforms.	February 2011	March 2011
Commencement of Phase 2 reforms.	1 July 2011	

ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

The Hon Dr Craig Emerson MP
Minister for Small Business, Independent Contractors and the Service Economy
Minister Assisting the Finance Minister on Deregulation
Parliament House
CANBERRA ACT 2600

Dear Minister,

Thank you for your letter of 23 February 2009 seeking advice on progress with recommendations 5.6 and 10.4 of the Productivity Commission's report on Chemicals and Plastics Regulation.

In respect to recommendation 5.6, the Productivity Commission has recommended the adoption of nationally consistent illicit drug precursor regulations. At its May 2008 meeting the Ministerial Council on Drug Strategy (MCDS) requested that the Precursor Working Group report back to MCDS by mid-2009, with a national framework for the control of precursor chemicals and equipment. The Minister for Home Affairs is responsible for taking the Framework back to MCDS.

My Department has recently undertaken extensive consultation with a range of agencies across jurisdictions in progressing nationally consistent illicit drug precursor regulations under the title of The National Precursor Control Framework (the Framework). The aim of the project is to develop a truly national approach to the control of chemicals and equipment across the entire supply chain to minimise the opportunity for diversion for use in illicit drug manufacture.

The Framework will seek to reduce drug manufacture in Australia by limiting access to, and the diversion of, legitimately available chemicals and equipment into the manufacture of illicit amphetamine-type stimulants (ATS). The Framework is due to be put to both the Intergovernmental Committee on Drugs and the Ministerial Council on Drugs by mid-2009.

With regard to recommendation 10.4, as I indicated in my letter of 14 November 2008, a Chemical Security Coordination Unit has been established within my Department and is working to develop a risk methodology for assessing chemicals of security concern. Meetings of both the National Government Advisory Group and National Industry Group on chemical security were held in Canberra on 10 and 11 March 2009.

As a result of these meetings, a work program will be developed which will prioritise the order in which the identified chemicals will be addressed and identify areas for work with industry on capability building measures.

The action officer for this matter is Mr Leigh Crutchley who can be contacted on 02 6270 5839.

Yours sincerely

Robert McClelland

WORKPLACE RELATIONS MINISTERS' COUNCIL IMPLEMENTATION PLAN

Output	Milestones		
	2008-9	**2009-10**	**2010-11**
Occupational Health and Safety (OH&S) Reform of chemicals and plastics workplace OHS regulations.	**Workplace Chemicals Framework:** Revised national standard (with accompanying regulation impact statement in accordance with COAG requirements) to Safe Work Australia for consideration in 2009. **Major Hazard Facilities Framework:** Continue review of MHF framework in 2009 in accordance with COAG requirements. **Australian Explosives Code:** Consideration of revised AEC by Safe Work Australia and WRMC in 2009.	Development of model regulations by Safe Work Australia for workplace chemicals and major hazard facilities in 2009—2012. Development of model codes of practice by Safe Work Australia: commencing late 2009. Revised AEC made available free on the internet.	Implementation of model regulations in all jurisdictions by 2011.

ATC RESPONSE TO COAG ON THE RECOMMENDATIONS FROM THE PRODUCTIVITY COMMISSION RESEARCH REPORT INTO CHEMICALS AND PLASTICS REGULATION

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.*

Agreed: The Australian Transport Council (ATC) agreed to update model dangerous goods legislation (ADG 7) in August 2008 with a common implementation date of 3l December 2008, with a 12 month transitional period. Implementation is now a state and territory responsibility. Most jurisdictions are expected to meet the timeframe. The NT, ACT and Tasmania however, will not be able to meet this timeframe due to resource constraints but will investigate other methods of adopting the code by that date.

ATC further agrees that the National Transport Commission (NTC) will undertake an independent review of the consistency with which the Australian Dangerous Goods Code (ADG Code) is adopted, and of the regulatory outcomes produced by the implementation of the associated legislation and regulations. The review will commence within 12 months of the implementation of the reforms, but not later than the first half of 2010.

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.*

The ATC agrees that responsibility for policy development and monitoring of the ADG Code will remain with the NTC and that it will continue to report to the ATC on these matters. ATC further notes that a legislative review of the NTC, due by September 2009, will provide further opportunities to consider the most appropriate forum for developing and implementing future national dangerous goods transport policy.

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.*

ATC agrees that, by 31 December 2008, the NTC will provide the ADG Code free on the Internet on its website. Charges for other forms of provision will reflect the cost of provision, consistent with Australian Government cost recovery policy. ATC notes that that it has now been advised by the NTC that this internet provision does not raise any significant financial issues. ATC further notes that the Australian Explosives Code issues are under the management of the COAG Workplace Relations Minister's Council.

PLAN FOR PISC IMPLEMENTING THE PRODUCTIVITY COMMISSION RECOMMENDATIONS FOR AGVET CHEMICALS

Implementation Stages	Responsibility	Start Date	Completion Date
Develop a discussion paper in consultation with industry articulating • The scope and features of the proposed new national regime (including regulation up to the point of retail sale and control of use). • The role of states/territories in providing policy advice. • The nature of the compliance and enforcement activities states/territories will be required to undertake and funding arrangements. • Performance-based risk identification and mitigation methodology including product monitoring, residue testing programs and auditing. • Any potential economic net savings/costs to industry, states and territories. • Proposed transition and implementation arrangements.	PISC Working Group (DAFF, states and territories)	December 2008	June 2009
Seek PISC/PIMC agreement to releasing the discussion paper for public comment.	PISC/PIMC .	out-of-session early July 2009	out-of-session mid August 2009
Release discussion paper for public comment.	PISC Working Group (DAFF, states and territories)	mid August 2009	mid November 2009
Draft a final paper based on public consultation.	PISC Working Group (DAFF, states and territories)	mid November 2009	end February 2010
Seek PISC/PIMC agreement to the proposed new regime and an IGA to implement it.	PISC/PIMC	in-session March/April 2010	in-session March/April 2010
Co-ordinate the development and promulgation of Commonwealth and state/territory legislation to give effect to the new national regime.	PISC Working Group (DAFF, states and territories)	February 2011	

The Hon Dr Craig Emerson MP
Minister for Small Business, Independent Contractors and the Service Economy
Minister Assisting The Finance Minister on Deregulation
Parliament House
CANBERRA ACT 2600

Dear Minister

On 23 February 2009, you wrote to me in my capacity as Chair of the Environment Protection and Heritage Council (EPHC) advising me of the Council of Australian Governments' (COAG) interim response to Recommendation 9.2 of the Productivity Commission research report *Chemicals and Plastics Regulation*.

In that response, COAG sought further development of the proposal to establish a new standard-setting body which would assist the EPHC to make single national decisions on the environmental management of chemicals, consistent with the principles described in the EPHC implementation plan and endorsed by COAG on 29 November 2008.

I understand that the proposal should be provided to COAG through the Business Regulation and Competition Working Group (BRCWG) which is co-chaired by you and the Minister for Finance and Deregulation, the Hon Lindsay Tanner MP.

I am pleased to enclose the proposal which was agreed by the EPHC on 22 May 2009. Following endorsement by COAG, extensive consultation will be undertaken within jurisdictions and with industry and the community to ensure that the standard-setting body and associated arrangements will be effective and efficient. Potential resource implications will be addressed through the relevant budgetary processes.

I have copied this letter to the Minister for Finance and Deregulation for his information.

Thank you for your help on this matter.

Yours sincerely

Peter Garrett
Chair
Environment Protection and Heritage Council

Chemicals and Plastics Regulatory Reform

Report to the Council of Australian Governments on the Implementation of Recommendation 9.2

The Council of Australian Governments (COAG), at its meeting of 29 November 2008, considered implementation plans from the Environment Protection and Heritage Council (EPHC) for Recommendations 9.1, 9.2 and 9.3 drawn from the Productivity Commission's July 2008 report on chemicals and plastics regulatory reform.

COAG agreed that the EPHC should begin the implementation plans on Recommendations 9.1 and 9.3.

COAG agreed with the course of action proposed by the EPHC for Recommendation 9.2 and asked for the EPHC to report back to COAG with a more detailed proposal for consideration in the first half of 2009.

RECOMMENDATION 9.2

COAG Decision of 29 November 2008:

COAG requests the Environment Protection and Heritage Council (EPHC) to report back to COAG with a proposal for consideration in the first half of 2009 for establishing a standard-setting body for chemicals in the environment which will report to the EPHC. COAG notes that this will close a significant gap in the current arrangements for environmental protection and provide for a single national decision on the environmental management of chemicals which can be adopted by reference and applied consistently in all jurisdictions.

COAG agrees that this could be progressed through an enhancement to the existing EPHC intergovernmental agreement on chemicals and the National Chemicals Environmental Management Framework (NChEM), with supporting legislation as necessary. The composition, operation and funding of the standard setting body will need to be examined and resolved by the EPHC. Effective implementation of the reform will require continuing close consultation between Commonwealth, state and territory environment agencies in the assessment by the Department of the Environment, Water, Heritage and the Arts of the environmental impact of chemicals. The reforms will have resource implications.

EPHC PROPOSAL FOR ESTABLISHING A STANDARD SETTING BODY FOR CHEMICALS IN THE ENVIRONMENT

Summary

As agreed by COAG, the EPHC will establish a standard-setting body for chemicals in the environment which will report to the EPHC. This will close a significant gap in the current arrangements for environmental protection and provide for a single national decision on the environmental management of chemicals which can be adopted by reference and applied consistently in all jurisdictions.

The environmental chemicals standard-setting body, currently given the interim working title "Environmental Chemicals Bureau" (ECB), will be comprised of a small group of experts in specified relevant fields operating part time with technical and administrative secretariat support from existing agencies, particularly the Department of the Environment, Water, Heritage and the Arts. The ECB will be an advisory body reporting to the Environment Protection and Heritage Council (EPHC), rather than a decision-making body in its own right. Its principal role will be to assess the National Industrial Chemicals Notification and Assessment Scheme recommendations on individual industrial chemicals for their impact on the environment and propose risk management decisions for EPHC approval. Where considered appropriate, the EPHC may request advice from the ECB on 'policy-relevant' standards, such as overarching guidelines and principles for environmental chemicals management. All jurisdictions will have the opportunity to comment on the advice of the ECB before a decision is taken by the EPHC. Where the EPHC (or its delegate(s)) makes a decision that is different from the NICNAS recommendations, a publicly available list of reasons would be prepared. The ECB would monitor the implementation of the risk management decisions, based on advice received from implementing agencies, and report to the EPHC on the results.

The establishment of the ECB will be progressed through an enhancement to the existing EPHC intergovernmental agreement on chemicals and the National Chemicals Environmental Management Framework (NChEM), with supporting legislation and harmonisation with other sectors as appropriate. Funding options considering both cost recovery and budget appropriation options will be developed through consultation and relevant budget processes. The date for establishment of the ECB is expected to be November 2011. The EPHC notes that establishment of the ECB will be dependent on obtaining sufficient resources for its operation.

The Proposal

Consistent with the implementation plan presented to the COAG in November 2008 by the EPHC, the EPHC has considered further the composition, operation and funding of the standard-setting body for chemicals in the environment.

This will close a significant gap in the current arrangements for environmental protection and provide for a single national decision on the environmental management of chemicals which can be adopted by reference and applied consistently in all jurisdictions.

Principles

The EPHC proposes that the standard-setting body should be known as the Environmental Chemicals Bureau (ECB).

Guiding principles for the establishment and purpose of the ECB should include:

- improved environmental outcomes with the adoption of practical and consistent environmental management actions for chemicals;
- a consistent and timely approach across jurisdictions in order to provide greater certainty and less red tape for industry;
- alignment and close cooperation with the governance structures in other chemical sectors to improve compatibility of decisions; and,
- minimum cost and greatest efficiency of decision making through maximum use of existing NChEM processes.

Composition

Consistent with the recommendations of the Productivity Commission, the ECB will be comprised of a small group of experts in specified relevant fields, rather than a representative body. It will be part time and deal with matters through correspondence and teleconferences with only two face to face meetings a year. It will be supported by a technical secretariat from existing agencies (Department of the Environment, Water, Heritage and the Arts with input from the states and territories through the EPHC National Chemicals Environmental Management Framework Working Group) and an administrative secretariat, possibly the National Environment Protection Council Service Corporation.

Operation

The ECB will be an advisory body reporting to the EPHC, rather than a decision-making body in its own right. Its principal role will be to assess the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) recommendations on individual industrial chemicals for their impact on the environment and propose risk management decisions for EPHC approval. In the language of the Productivity Commission report, these risk management proposals are 'technical' standards. Where considered appropriate, the EPHC may request advice from the ECB on 'policy-relevant' standards, such as overarching guidelines and principles for environmental chemicals management.

All jurisdictions will have the opportunity to comment on the advice of the ECB before a decision is taken by the EPHC. For simpler, non-controversial issues, the EPHC may delegate decision-making responsibilities. The nature of the delegation will depend upon the final legislative or administrative arrangements determined by the EPHC.

Decisions on low environmental impact chemicals (expected to be approximately 85% of all chemicals assessed by NICNAS) will be made within four weeks, providing certainty for applicants in a very short timeframe. Where the EPHC (or its delegate(s)) makes a decision that is different from the NICNAS recommendations, a publicly available list of reasons would be prepared. The ECB would monitor the implementation of the risk management decisions, based on advice received from implementing agencies, and report to the EPHC on the results.

Policy and Statutory Basis

Consistent with COAG's decision, the establishment of the ECB will be progressed through an enhancement to the existing EPHC intergovernmental agreement on chemicals and the National Chemicals Environmental Management Framework (NChEM), with supporting legislation. The nature of the legislation is yet to be confirmed, but a statutory basis for the decisions on individual chemicals is preferred so that they can be easily referenced by jurisdictions and provide improved national consistency of application and greater certainty for industry. A Memorandum of Understanding between the EPHC and the NICNAS will be developed and legislative changes will be made consistent, where appropriate, with other relevant legislation.

Funding

Costings for the ECB are under development. As a part-time body using existing agencies for support, it is expected to be relatively low cost. Although the Productivity Commission initially considered that the ECB should be funded from budget appropriations shared amongst jurisdictions, it has indicated also that 'technical standards' set on a chemical-by-chemical basis may be more appropriately funded through cost recovery from the firms that use those chemicals. It suggests that 'policy-relevant' standards are best funded by governments. Resolution of the costings and source of funding will be examined through further consultation with industry, NICNAS, within EPHC and relevant budget processes.

Timing

The timeframes proposed by the EPHC to COAG have been adjusted to incorporate the additional requirement for reporting imposed by the COAG decision of 28 November 2008. The date for establishment of the ECB is expected to be November 2011. Details of the revised timeframe are provided at Attachment A.

Attachment A

Timeframe for Establishment of the Environmental Chemicals Bureau

Stages of Implementation	*Responsibility*	*Start date*	*Completion date*
Consultation on administrative aspects and role of new standards setting body (Environmental Chemicals Bureau – ECB).	EPHC NChEM Working Group	December 2008	September 2009
Development of enhanced Intergovernmental Agreement for endorsement by EPHC.	EPHC NChEM Working Group	October 2009	February 2010
ECB incorporated within appropriate legislation.	NEPC and/or jurisdictions	March 2010	November 2011
Mechanism (statutory or non-statutory) agreed with NICNAS for transmittal of NICNAS risk assessment to ECB.	EPHC NChEM Working Group and/or jurisdictions + NICNAS	March 2010	November 2011 (or earlier)
Establishment of ECB.	NEPC and/or jurisdictions	June 2011	November 2011

ENVIRONMENT PROTECTION AND HERITAGE COUNCIL IMPLEMENTATION PLAN

Productivity Commission Recommendation	Comment		
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.	Environmental classification and labelling are not mandatory under the draft National Standard for the Control of Workplace Hazardous Chemicals. No environment agency currently has the ability to mandate any environmental labelling instructions for industrial chemicals, in contrast to workplace, poisons, transport, agvet and other sectors. Lack of information on product labels reduces the ability of consumers to make informed choices about the products they buy and how to use them safely.		
Stages of Implementation	***Responsibility***	***Start Date***	***Completion Date***
Consultation with industry, community and consumer groups and other sectors such as workplace and transport (Commonwealth and states and territories) on current institutional arrangements for labelling and gaps in protection and trade.	EPHC NChEM Working Group	February 2009	May 2009
Identification of policy and regulatory options for consideration by EPHSC.	EPHC NChEM Working Group	May 2009	June 2009
Consultancy to establish whether there is a net community benefit of introducing environmental labelling. Consideration of outcomes of consultancy and options presented to EPHSC.	Run by the EPHC NChEM Working Group	July 2009	May 2010
Decision taken by EPHC.	EPHC	May 2010	May 2010
Consultation with any affected agencies and Ministerial Councils, depending on outcomes of EPHC decision.	EPHC NChEM Working Group	June 2010	October 2010
Possible legislative amendments, depending on outcomes.	Relevant departments	October 2010	December 2012

Productivity Commission Recommendation	**Comment**
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 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.*	The Commission acknowledged that there is currently no decision making body in the environment sector as there is with the other sectors and noted the lack of a formal national framework for the environmental regulation of industrial chemicals. The Commission recommended establishment of a standard setting body under EPHC to "provide a mechanism for a nationally consistent framework for the management of chemicals in the environment…" (page 260). There is value in the establishment of a standard setting body to ensure that: • Policy decision making relating to the environment rests appropriately with Environment Ministers; • Ministers have the ability to deliver sound environmental outcomes for chemicals; and • There is consistency with the governance framework in other sectors; • Jurisdictions apply nationally uniform decisions on standards and risk management.

Stages of Implementation	***Responsibility***	***Start Date***	***Completion Date***
Consultation on administrative aspects and role of new standards setting body (Environmental Chemicals Bureau - ECB).	EPHC NChEM Working Group	December 2008	September 2009
Development of enhanced Intergovernmental Agreement for endorsement by EPHC.	EPHC NChEM Working Group	October 2009	February 2010
ECB incorporated within appropriate legislation.	NEPC and/or jurisdictions	March 2010	November 2011
Mechanism (statutory or non-statutory) agreed with NICNAS for transmittal of NICNAS risk assessment to ECB.	EPHC NChEM Working Group and/or jurisdictions + NICNAS	March 2010	November 2011 (or earlier)

Establishment of ECB.	NEPC and/or jurisdictions	June 2011	November 2011

Productivity Commission Recommendation	**Comment**		
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 neutral basis.*	The Commission commented that additional data collection systems should only be put in place where they produce net benefits, or are essential for monitoring achievement of international commitments (page 265). The EPHC considers that care will need to be taken that any 'performance based framework' has meaningful objectives, targets and evaluation steps.		
Stages of Implementation	***Responsibility***	***Start Date***	***Completion Date***
Consultation with other Ministerial Councils (such as Australian Health Ministers Conference, Primary Industries Ministerial Council, Workplace Relations Minsters Council) industry and community on current monitoring arrangements, gaps and other issues.	EPHC NChEM Working Group	March 2009	July 2009
Consultancy to develop options for performance indicators.	EPHC NChEM Working Group	July 2009	February 2010
Consideration of options presented and refined implementation plan for decision by EPHC.	EPHC NChEM Working Group	March 2010	June 2010

Implementation Plans for Productivity Commission Recommendations 5.1, 5.2 and 5.3 (as endorsed out of session by AHMAC, 12 December 2009)

PC Recommendation	Implementation activities	Timing
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.	AHMAC and AHMC endorsement of implementation plan (out of session)	December 2000–January 2009
	Chair of AHMC (through the Secretariat) submit implementation plan to COAG through the Business Regulation and Competition Working Group.	January 2009
	COAG endorsement of implementation plan	1st meeting in 2009 (anticipated late January)
	Resolve outstanding issues and finalise scheduling models	November–February 2009
	Public consultation on scheduling models	March–April 2009
	NCCTG endorsement of final models	May 2009
	AHMAC and AHMC endorsement of final models (out of session)	June–July 2009
	Office of Parliamentary Counsel and Office of Legislative Drafting commence drafting of enabling legislation.	June 2009
	Introduce legislation for medicines and poisons scheduling into Parliament	Spring sitting period 2009
	Legislation passes Parliament (assuming A-status)	Autumn sitting period 2010
	Commencement of new legislation and scheduling arrangements	1 July 2010
	Incorporate review of reformed poisons scheduling model into the NCCTG Workplan for 2012, to include analysis of consistency between CSC and DoHA decisions and the impact of the new model on national uniformity	Review to occur two years after commencement (2012)

PC Recommendation	Implementation activity	Timing
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.	AMAC and AHMC endorsement of implementation plan (out of session)	December 2008–January 2009
	Chair of AHMC (through the Secretariat) submit implementation plan to COAG through the Business Regulation and Competition Working Group.	January 2009
	COAG endorsement of implementation plan	1st meeting in 2009 (anticipated late January)
	Commonwealth to facilitate consultation with jurisdictions on model/template approach to regulatory controls for poisons. Identify broad principles for model/template approach.	February 2009
	Commonwealth to facilitate gap analysis/bench marking study of jurisdictional legislation to identify areas of commonality and significant difference. Resourcing for this activity is still to be confirmed.	February–March 2009
	Form drafting group of jurisdictional representatives and Commonwealth to prepare model/template controls.	April 2009
	Prepare draft template/model approach, incorporating mechanism for exemptions from controls where adequate and demonstrated compliance with workplace regulations occurs (recommendation 5.3)	April–December 2009
	Consultation on draft model/template approach	February 2010
	Model/template approach revised based on consultation	March 2010
	NCCTG endorses template/model approach	April 2010
	AHMAC and AHMC endorse template/model approach	May 2010
	New template/model approach to poisons regulatory controls published in poisons standard	June 2010
	Jurisdictions commence preparation of enabling legislation to implement template/model approach.	July 2010
	Enabling legislation commences in jurisdictions	By July 2011

OIL AND GAS REGULATORY REFORM MILESTONES

(a) Commonwealth: complete consolidation of *Offshore Petroleum and Greenhouse Gas Storage Act 2006* regulations by June 2010.

(b) All jurisdictions: MCMPR to formalise status, terms of reference and work program of the Environmental Assessors Forum by June 2010.

(c) All jurisdictions: report to MCMPR on the system of objective based legislation by June 2010.

(d) Commonwealth: amend *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and associated regulations to define regulatory responsibilities in relation to the integrity of wells by June 2010.

(e) Commonwealth: complete Regulation Impact Statement on change of block graticulation by July 2010.

(f) States and Territories: complete review of state and territory petroleum legislation applying to coastal waters and onshore areas by December 2010.

(g) Commonwealth: review *Offshore Petroleum and Greenhouse Gas Storage Act 2006* Guidelines by December 2010.

(h) All jurisdictions: MCMPR to agree and implement Environmental Assessors Forum proposals by December 2010.

(i) States and Territories: develop a draft Memorandum of Understanding template that clarifies the roles and timelines of petroleum developers and local government bodies by December 2010.

(j) Commonwealth: *Offshore Petroleum and Greenhouse Gas Storage Act 2006* Guidelines to be amended to provide timelines by July 2011.

(k) States and Territories: finalise Memorandum of Understanding template that clarifies the roles and timelines of petroleum developers and local government bodies by September 2011.

(l) Commonwealth: develop a national electronic approvals tracking system by December 2011.