National Coordinating Committee on Therapeutic Goods

Strategies to implement a national approach to poisonous chemical controls

Consultation
Regulation Impact Statement

August 2012
This report contains 224 pages

Contents

Glossary

The following abbreviations are used throughout this paper

ACCC	Australian Consumer and Competition Commission
ACCS	Advisory Committee on Chemical Scheduling
ACMS	Advisory Committee on Medicine Scheduling
AHMAC	Australian Health Ministers' Advisory Council
AHMC	Australian Health Ministers' Conference
APVMA	Australian Pesticides and Veterinary Medicines Authority
ASMI	Australian Self-Medicating Industries
BRCWG	Business Regulation and Competition Working Group
COAG	Council of Australian Governments
CTEPC	Chemical Technical and Ethical Principal Committee
DOHA	Department of Health and Ageing
FSANZ	Food Standards Australia and New Zealand
NCCTG	National Coordinating Committee on Therapeutic Goods
NDPSC	National Drugs and Poisons Schedule Committee
NICNAS	National Industrial Chemicals Notification and Assessment Scheme
RIS	Regulatory Impact Statement
SCOC	Standing Committee on Chemicals
SCOH	Standing Council on Health
SUSMP	Standard for the Uniform Scheduling of Medicines and Poisons
TGA	Therapeutic Goods Administration

Executive Summary

Chemical regulation in Australia

Poisonous chemicals have long been subject to government regulation, due to the dangers their misuse can pose to public health.

The framework that is in place to ensure a net benefit to the community as a whole in relation to the use of these chemicals that have the potential to cause harm has two key elements.

- First, a substance (either a medicine or a poisonous chemical) that can potentially cause harm is classified in one of the schedules of the Standard for Uniform Scheduling of Medicines and Poisons (SUSMP) as per set criteria and factors in the Scheduling Policy Framework.[1]
- Second, the nature and level of controls that apply to the storage, disposal, labelling, packaging, record keeping, advertising and supply of poisonous chemicals in each schedule of the SUSMP are specified. These controls are specified in the SUSMP and/or State and Territory legislation.

It is the second aspect of the regulatory framework which is the subject of this RIS.

Implementation, compliance and enforcement decisions relating to these controls to achieve public health objectives are the responsibility of State and Territory Governments.

Differences in controls applying in each State and Territory have led to national inconsistency, which can pose a cost to businesses that operate in more than one jurisdiction.

Despite some reform focused towards achieving greater national consistency, there remain inconsistencies. These inconsistencies are of concern to the Council of Australian Governments (COAG) because they cause cost burdens to industry and create unnecessary complexity.

COAG's 2009 *Memorandum of Understanding on Plastics and Chemicals Regulatory Reform*[2] established the Standing Committee on Chemicals (SCOC). SCOC have included achieving greater national consistency of poisonous

[1] NCCTG *Scheduling Policy Framework*, July 2010. Factors for Schedules 5, 6 and 7 are listed in Appendix G
[2] COAG 2009, *Memorandum of Understanding on Plastics and Chemicals Regulatory Reform,* http://www.coag.gov.au/coag_meeting_outcomes/2009-12-07/docs/mou_framework_chemicals_plastics_regulatory.pdf

chemicals regulation within their work plan. Progress against milestones on this reform has been included in reporting by the COAG Reform Council.[3]

This reform agenda came about as a result of the 2008 Productivity Commission research report into chemicals and plastics regulation. Submissions and research associated with this report argued that the current differences between the States and Territories' regulatory environments imposed a burden on business and made complying with regulation difficult. The Productivity Commission consequently recommended that, in addition to work around the assessment of chemicals, State and Territory Governments should 'uniformly adopt regulatory controls for poisons through either a template or model approach, as published in the SUSMP. (Recommendation 5.2)'[4]

Health Ministers approved an implementation plan to progress the recommendations of the Productivity Commission, which included a project to address recommendation 5.2[5]. The project commenced in December 2011, and consisted of the development of a consultation RIS, and decision RIS on an agreed set of controls on poisons, and how future decisions regarding controls would be managed.

This Consultation Regulation Impact Statement will inform the Decision Regulation Impact Statement. Ultimately, Ministers will first, decide how the objectives of the reform are to be achieved, and second, should they adopt a single set of nationally consistent regulatory controls on poisonous chemicals, then decide the key regulatory controls for poisonous chemicals in Schedules 5, 6 and 7. Jurisdictions would need to amend their legislation to give effect to the nationally agreed controls. The mechanism for amending national controls will also need to be established.

Scope of RIS

This RIS considers

- What options exist to make poisonous chemical controls more nationally consistent
- The options that could be adopted for each control relating to poisonous chemicals in Schedules 5, 6 and 7

[3] COAG Reform Council (2011) *Report on Progress 2011*.
http://www.coagreformcouncil.gov.au/reports/progress.cfm
[4] This was part of recommendation 5.2 of the Productivity Commission report. The Standing Committee on Chemicals reports on 'Reforms' with numbering that correlates to the relevant Productivity Commission recommendations which are to be implemented.
[5] Standing Committee on Chemicals 2011, *Progress Report*, March, p.3
http://www.innovation.gov.au/Industry/ChemicalsandPlastics/SCOC/Documents/Standing_Committee_on_Chemicals_Progress_Report_March_2011.pdf

- How revised controls could be implemented, and
- Who could make future decisions regarding controls.

Statement of the problem

Industry has long argued that inconsistency of chemical and poisons regulation across States and Territories increases compliance costs for business, and indirectly for consumers, without improving regulatory outcomes. These inconsistencies are argued to create unnecessary costs to industry because they represent a complex compliance framework for industry and consumers.[6] This complexity may also affect compliance, thereby leading to reduced levels of public health protection.

The problems of the current regulatory framework include:

1. the costs of time devoted to understanding the complex differences in controls by business operating (or considering operating) across jurisdictions, and having to put in place different procedures and training for staff, or in some cases adopt the most onerous controls nationally for simplicity where this is feasible.
2. the additional administrative cost on governments (and those they consult), and associated governance challenges within each State and Territory as they seek to align their regulation, or separately update it, in response to new information about the effectiveness of controls.
3. the costs to business of managing the transitional arrangements when changes to the SUSMP take different amounts of time to be reflected in State and Territory legislation and regulations.
4. the cost of compliance that arises from duplication and overlapping regulatory regimes controlling poisonous chemicals in different settings.[7]

Options to address the problems

This Consultation RIS outlines a number of options for each chosen regulatory control of poisonous chemicals to be considered for implementation. One of the six options will be selected as the preferred approach for each control.

A detailed mapping exercise that compared the regulatory controls in each jurisdiction was conducted to identify all the key differences and the magnitude of differences among the controls. This analysis showed that most of the

[6] ACCORD 2011, Response to Industry Survey
[7] This problem is not the primary focus of this RIS. However in a number of cases the options considered would result in a removal of unnecessary overlap or duplication, which should reduce regulatory complexity.

substantive differences exist in regulatory design (such as outcome vs prescriptive) and extent of the control. In many areas, there are limited substantive differences. Variations in detail may not affect regulatory outcomes, but can add complexity for businesses seeking to comply.

A systematic approach was taken to decide on the options considered for implementation. This approach led to the development of six different options for each regulatory control available to the States and Territories. The options below were assessed for their costs and benefits:

The options outlined in this RIS are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP
3. Adopt a prescriptive control
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations, and rely on other chemical and general regulatory schemes.

The analysis of these options and their associated impacts drew heavily on the analysis that mapped the existing regulatory controls, and any evidence of outcomes achieved.

Preferred options in options impact analysis

Out of the six options discussed for each regulatory control, one option has been labelled as the 'preferred option.' The preferred option is that which the analysis to date suggests achieves the intended outcome of the control with the lowest level of regulatory burden. The selection of the option with the lowest burden in each case was largely due to the lack of evidence suggesting that where a more burdensome regulation option was adopted by one or more jurisdictions, that this had been more effective at achieving the desired outcome of efficient and effective protection of public health.

However, the analysis to date has highlighted the very limited evidence currently available relating to the costs and benefits of the current regulatory arrangements. Consequently, an indicative, largely qualitative, impact assessment for the impact of each option on industry, consumers and government has been provided at this stage. Consultation questions are included throughout the impact analysis and the RIS more generally that are focussed on gathering evidence from businesses and consumers on the types and level of costs they face. It is hoped that responses to this Consultation RIS will assist in providing more quantitative evidence of the cost and benefits.

Preferred Options Summary

This report puts forward a preferred option for each regulatory control placed on poisonous chemicals. A summary of the preferred options is provided below.

Table 1.2 – Preferred options for each regulatory measure

Regulatory control	Preferred Option	Details and impact
Storage of Schedule 5 chemicals	Four	Adopt an outcome-based control This option will assist to achieve national consistency and help prevent access to chemicals by children, while not representing a material increase in the regulatory burden on business.
Storage of Schedule 6 chemicals	Four	Adopt an outcome-based control This option will achieve a nationally consistent approach that retains flexibility for business.
Storage of Schedule 7 chemicals	Five	Adopt an outcome-based control, with a prescriptive 'deemed to comply or satisfy' provision. The impact of this option would be that Schedule 7 chemicals are kept in a facility or area which is secured, along with detailed guidance provisions for how this may be implemented.
Disposal of Schedule 5, 6 & 7 chemicals	Four	Adopt an outcome-based control for disposal Reduction in the overall amount of regulation covering chemicals, while still requiring that public and environmental health and safety standards are upheld.
Labelling of Schedule 5, 6 & 7 chemicals	Two	Implement the labelling provisions of the SUSMP as they are written with no additions This option would achieve greater national consistency while still achieving the objective of the regulatory control. There is not expected to be any additional regulatory burden for businesses in the majority of States and, for Tasmania, the Australian Capital Territory and New South Wales, the increase in regulatory burden would be minimal.
Packaging of Schedule 5, 6 & 7 chemicals	Two	Implement the provisions of the SUSMP as they are written with no additions For jurisdictions that offer alternatives or include additional requirements the impact of adopting the SUSMP would be minimal while still achieving the objective of the control.
Record keeping of Schedule 5, 6 & 7 chemicals	Three	Adopt a prescriptive control Minimal impact: the majority of jurisdictions currently require the listed details and the period of retention aligns with the requirements of the Australian Tax Office.
Advertising of Schedule 5, 6 & 7 chemicals	Six	Remove existing provisions or controls This option would achieve national consistency. It is unlikely that removal of this control would have a material impact on consumers or businesses in Queensland

Regulatory control	Preferred Option	Details and impact
Hawking/Supply of product samples of Schedule 5, 6 & 7 chemicals	Four	Adopt a prescriptive control This option is preferred because it would deliver national consistency of control; it would not represent a material regulatory increase in the ACT or the Northern Territory, and it would maintain an acceptable level of benefit to consumers in terms of restricting access to chemicals by children.
Appendix C	Three	Adopt a prescriptive control This option would involve removing Appendix C from the SUSMP and creating a new Schedule of chemicals in the SUSMP. The impact of this decision on business would be minimal – it is not expected that the levels of control will materially change with the creation of a new Schedule.
Appendix I	Two	Implement the provisions of the SUSMP as they are written with no additions This option will achieve national consistency with minimal change from States and Territories, and is an appropriate level of control over dangerous chemicals in paints.
Appendix J	Three	Adopt a prescriptive standard This option will achieve national consistency, and includes a requirement to review, evaluate and update the chemicals that are currently included in Appendix J.

The principal observation to be drawn from the summary is that for none of the controls is the status quo considered to be the preferred option. The impact of implementing the preferred options in the preferred method would be a nationally consistent regulatory approach to chemicals regulation, and reduced compliance costs to business. In addition, where options have been agreed to, they are generally the lower burden regulatory option.

Implementation and decision making

This RIS has also considered options for the implementation and decision making regarding nationally consistent regulatory measures. Options for implementation that were included in this consideration were:

1. Maintain the status quo
2. Template 'reference' legislative approach
3. Model legislation and regulations
4. Referral of powers
5. Adoption of a national standard by reference **[Preferred option]**
6. Harmonising subordinate law
7. Mutual recognition

8. Implementing agreed principles
9. Memorandums of Understanding
10. Service level agreements
11. Industry self-regulation

Options that were considered for potential decision makers for regulatory controls were:

1. A Commonwealth delegate to make decisions, on the advice of an Advisory Committee (this is the status quo for scheduling but not controls)
2. Establish a statutory board as the decision-maker.
3. Establish a standard-setting body (based on a model such as food regulation)
4. Through an intergovernmental arrangement (via a committee similar to the NCCTG) with a Ministerial Council (SCOH or equivalent) as the decision-maker. **[Preferred Option]**

Role of the Consultation RIS

This RIS has been prepared to inform further deliberation and consultation regarding possible options for achieving greater national consistency of poisonous chemicals regulation with government and industry.

This Consultation RIS will inform stakeholder and industry consultation in August 2012. Consultation questions have been included throughout this paper where there further evidence is sought to assist analysis or make a point more clear, or where the opinions of stakeholders are specifically sought. However, stakeholders should feel free to address any additional issues they consider may be relevant.

This RIS will lead to a decision on what should be the key regulatory controls for poisonous chemicals in Schedules 5, 6 and 7, and the approach to be used for implementation.

A Decision RIS is expected to be finalised in November 2012.

1 Chemical regulation

1.1 Overview of regulation framework

Poisonous chemicals have long been subject to government regulation, due to the dangers their misuse can pose to public and environmental health. This is particularly the case with poisonous chemicals, where misuse can lead to hazardous risks (toxic, explosive, corrosive or flammable.)[8] It is reasonable to assume that chemical users may not always have pre-requisite knowledge to make informed decisions regarding the chemicals controlled by legislation, many of which could have serious, sometimes fatal consequences.[9]

The institutional and regulatory arrangements relating to chemicals in Australia are complex. It involves some 140 pieces of legislation and multiple policy departments, assessment agencies, and regulatory decision-makers at the Commonwealth, State and Territory and local levels of government.[10]

There are separate regulatory regimes poisonous chemicals relating: public health; food safety; agriculture; work health and safety; the transport of dangerous goods; disposal; and environment protection.

The primary focus of this RIS is on the public health regulation of poisonous chemicals. However, to the extent that opportunities to reduce unnecessary duplication and overlap with other related regimes are identified, these are also examined.

1.2 Public health regulation of poisonous chemicals

The public health regulatory framework that is in place to ensure a net benefit to the community as a whole in relation to the use of these chemicals that have the potential to cause harm has two key elements.

First, a substance (either a medicine or a poisonous chemical) that can potentially cause harm is classified in a schedule of the SUSMP as per set criteria and factors in the Scheduling Policy Framework.[11] The decision to include a substance in the SUSMP is made by the Secretary of the Commonwealth Department of Health and Ageing who may seek advice from

[8] Ibid
[9] Ibid
[10] Departments of Health and Aging and of Finance and Deregulation (Commonwealth) 2012, *Review of the National Industrial Chemicals Notification and Assessment Scheme (NICNAS): Discussion Paper*, Canberra, June.
[11] NCCTG *Scheduling Policy Framework*, July 2010. Factors for Schedules 5, 6 and 7 are listed in Appendix G

statutory advisory committees beforehand. (refer to table 1.3 below for details of the schedules of the SUSMP.)

Table 1.3 – Schedules of the SUSMP[12]

Schedule	Title and description
Schedule 1	Not currently in use *This Schedule is currently blank*
Schedule 2	Pharmacy Medicine *Substances, the safe use of which may require advice from a pharmacist and which should be available from a pharmacy or, where a pharmacy service is not available, from a licensed person.*
Schedule 3	Pharmacist Only Medicine *Substances, the safe use of which requires professional advice but which should be available to the public from a pharmacist without a prescription.*
Schedule 4	Prescription Only Medicine OR Prescription Animal Remedy *Substances, the use or supply of which should be by or on the order of persons permitted by State of Territory legislation to prescribe and should be available from a pharmacist on prescription.*
Schedule 5	Caution *Substances with a low potential for causing harm, the extent of which can be reduced through the use of appropriate packaging with simple warnings and safety directions on the label.*
Schedule 6	Poison *Substances with a moderate potential for causing harm, the extent of which can be reduced through the use of distinctive packaging with strong warnings and safety directions on the label.*
Schedule 7	Dangerous Poison *Substances with a high potential for causing harm at low exposure and which require special precautions during manufacture, handing or use. These poisons should be available only to specialised or authorised users who have the skills necessary to handle them safely. Special regulations restricting their availability, possession, storage or use may apply.*
Schedule 8	Controlled Drug *Substances which should be available for use but require restriction of manufacture, supply, distribution, possession and use to reduce abuse, misuse and physical or psychological dependence.*
Schedule 9	Prohibited Substance *Substances which may be abused or misused, the manufacture, possession, sale or use of which should be prohibited by law except when required for medical or scientific research, or for analytical, teaching or training purposes with approval of Commonwealth and/or State or Territory Health Authorities.*

The SUSMP is a Commonwealth legislative instrument.

Second, a separate aspect of the framework specifies the nature and level of controls that apply to the storage, disposal, labelling, packaging, record keeping, advertising and supply of poisonous chemicals which are included in the SUSMP. It is this aspect of the regulatory framework which is the subject of this RIS.

[12] Only Schedules 5, 6 and 7 are relevant to this RIS.

Some of the aforementioned controls are referred to in the SUSMP, whilst others are referred to in State and Territory legislation. Implementation, compliance and enforcement decisions for all chemical controls are the responsibility of State and Territory Governments.

1.3 Background of this RIS

Different sets of regulation in each State and Territory have led to national inconsistency, which can pose a cost to businesses that operate in multiple jurisdictions.

The Commonwealth Government asked the Productivity Commission to undertake a research report into chemicals and plastics regulation which reported in 2008. The Commission was asked to:

1. assess Australia's current system of chemicals and plastics regulation, including its effectiveness in achieving public health, occupational health and safety, and environmental outcomes, and its impacts on productivity, competitiveness and efficiency;
2. recommend reforms to the current system of regulation, including options to enhance national uniformity and consistency, streamline data requirements and assessment processes, and use alternatives to regulation.[13]

In regard to public health aspects of chemicals and plastics regulation, this study encompassed the consideration of the decision-making mechanism for scheduling of poisonous chemicals. The Productivity Commission found through its analysis and consultation process that poisonous chemical scheduling was not uniform, and that controls placed on poisonous chemicals for different schedules was also nationally inconsistent.

This inconsistency had been earlier noted in the Galbally National Competition Review of Drugs, Poisons and Controlled Substances in 1999.

These variations and complexities have developed over time due to the evolution of each State and Territory's regulatory frameworks, local issues of concern and differing attitudes towards risk across jurisdictions.[14]

Governments have responded to these challenges with a number of reform initiatives, including:

- modifying the administrative arrangements relating to the scheduling decisions regarding chemicals and medicines. The National Drugs and Poisons Schedule Committee (NDPSC) was disbanded and replaced by the

[13] Productivity Commission 2008, *Chemicals and Plastics Regulation*, Research Report, Melbourne, p. xxvi
[14] Ibid, p. 7-8

Advisory Committee on Chemicals Scheduling (ACCS) and the Advisory Committee on Medicines Scheduling (ACMS). These modified arrangements took effect from 1 July 2010;

- allocating decision making regarding the scheduling aspects of the SUSMP to the Secretary or a delegate in the Commonwealth Department of Health and Ageing (DoHA), to increase consistency and efficiency of decision making;
- requiring variations in the adoption of schedules in each jurisdiction to be reported.

These changes improved the consistency of scheduling. However, there remain some state-based differences in the adoption of Schedule 7. Schedules are still incorporated into legislation differently by the States and Territories and are not always updated in each State and Territory as soon as the SUSMP is updated. This results in some level of variation continuing.

The regulation of chemicals across all levels of government has been of significant concern for the Council of Australian Governments (COAG). This was highlighted by the Productivity Commission findings about the inconsistencies, fragmentation and the complexity of administration, and COAG's response to the recommendations.[15] The Standing Committee on Chemicals (SCOC) was established in 2009 with responsibility for overseeing the implementation of agreed COAG reforms in this area by the various Ministerial Councils and Commonwealth departments, including the recommendation assigned to the then Australian Health Minister's Conference (now Standing Committee on Health) of achieving national consistency of regulatory controls over poisonous chemicals.

1.4 State and Territory Government involvement

States and Territories have historically had primary responsibility for chemical controls relating to public health. The regulatory regimes of jurisdictions focus on control of use through the supply chain from transport and storage, to consumer access, to disposal and environmental protection.[16] Consequently, the health departments listed below are responsible for State and Territory legislation and regulation over chemicals (Appendix B lists the relevant chemical-related Acts and Regulations that these Departments are responsible for administering.)

[15] ibid.
[16] Ibid

State	Responsible Department
ACT	ACT Health
NSW	NSW Health
NT	Department of Health
QLD	Queensland Health
SA	SA Health
TAS	Department of Health and Human Services
VIC	Department of Health
WA	Department of Health

1.5 Commonwealth Government involvement

The Commonwealth Government undertakes the majority of hazard and risk assessments for chemicals.[17] Generally, States and Territory Governments are responsible for role in licensing the manufacturing, wholesaling, and in certain circumstances, retailing and use of certain chemicals.[18]

The SUSMP contains scheduling decisions regarding the classification and scheduling of chemicals and medicines, which affects some regulatory controls that apply to scheduled substances included in relevant State and Territory legislation.

The SUSMP consists of decisions regarding the classification of medicines and poisonous chemicals into Schedules for inclusion in the relevant legislation of the States and Territories. The SUSMP also includes model provisions about containers and labels, a list of products recommended to be exempt from these provisions, and recommendations about other controls on drugs and poisonous chemicals. The Secretary of Commonwealth's Department of Health and Ageing (or their delegate) approves changes to the SUSMP.[19]

States and Territories are responsible for making regulatory controls. Many of these State and Territory controls vary in their level of control, where some are based on the SUSMP Schedule that the chemical has been classified into by the Commonwealth (for example, there are varied storage controls in South Australia for Schedules 5, 6 and 7 chemicals) and other controls may vary. The extent of variation from the SUSMP differs across jurisdictions.

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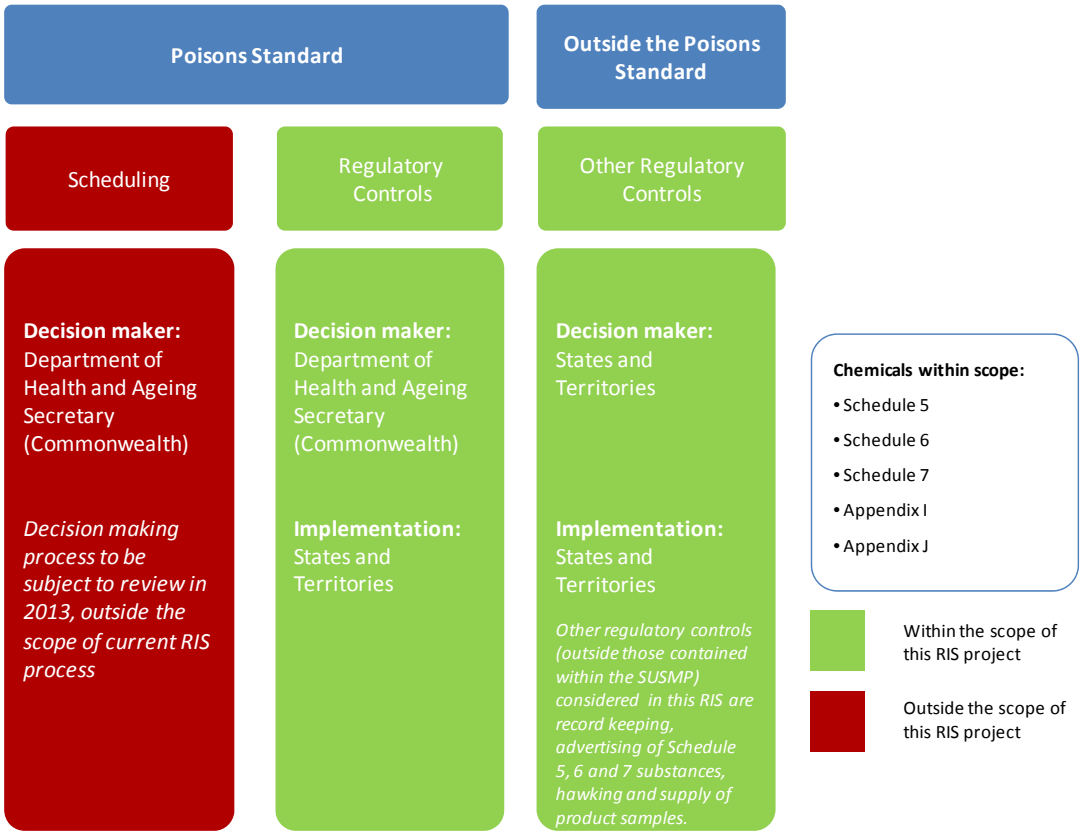
[17] Productivity Commission 2008, *Chemicals and Plastics Regulation*, Research Report, Melbourne, p. xxvi
[18] The Australian Pesticides and Veterinary Medicines Authority also licences manufacturers of veterinary medicines which may also include some products that are also fall within Schedules 5, 6 & 7 (poisons schedules).
[19] Therapeutic Goods Administration 2011, *Scheduling basics*, viewed 21 February 2012, <http://www.tga.gov.au/industry/scheduling-basics.htm>

The Commonwealth Government's Department of Health and Ageing Office of Chemical Safety (OCS) provides secretariat support to the ACCS and the ACMS. The Department of Health and Ageing administers the *Therapeutic Goods Act 1989* which provides the legislative framework for the scheduling of chemicals and medicines and risk management approach to chemical regulation.[20]

The diagram below illustrates the regulatory framework and where there are different decision-making roles of State and Territory Governments and the Commonwealth Government.

Figure 1 - Role of the Commonwealth and State and Territory Governments in chemical regulation



1.6 National initiatives to address inconsistency – National Competition Policy Review

In 1999 the Commonwealth, State and Territory Governments commissioned the *National Competition Policy Review of Drugs, Poisons and Controlled Substances Legislation*. This Review, undertaken by Rhonda Galbally (the

[20] Therapeutic Goods Administration 2011, *TGA basics,* viewed 21 February 2012, <http://www.tga.gov.au/about/tga.htm >

Galbally Review), examined legislation of Commonwealth, States and Territories that regulated medicines and poisonous chemicals against national competition principles. The Review's terms of reference specifically asked it to examine inconsistencies in regulation and administration of regulation of drugs and poisonous chemicals relating to: licensing of manufacturers, wholesalers and retailers; packaging and labelling; advertising; storage and handling, and additional requirements such as records of sale.[21]

The Galbally Review identified significant advantages to consumers, government and industry if a uniform national approach was adopted in regulating chemicals and medicines.[22] These advantages included greater efficiency of chemical controls[23] and reduced costs to stakeholders.[24] This was further supported by the Productivity Commission's 2008 report which also noted that a uniform national approach would improve both efficiency and effectiveness of chemical controls.[25]

The Galbally Review identified that the lack of uniformity in chemical regulation across jurisdictions caused major costs to consumers, government and industry.[26] These costs were associated with identifying and keeping up-to-date with requirements, and complying with varying controls across all jurisdictions.[27]

It was noted that these costs not only affect stakeholders directly but also affect Australia's competitiveness internationally by making market entry more difficult.[28] It was identified that these costs could be minimised by adopting a more nationally consistent approach to regulation.

To achieve uniformity, the recommendations of the report included:

- the division of the National Drugs and Poisons Schedule Committee (NDPSC) into two committees
- the National Coordinating Committee on Therapeutic Goods (NCCTG) to develop template legislation,

[21] Galbally, R 2000, *National Competition Review of Drugs, Poisons and Controlled Substances Legislation: Final Report Part A*, Canberra, p.105
[22] Ibid, p.96
[23] Galbally, R 2001, *National Competition Review of Drugs, Poisons and Controlled Substances Legislation: Final Report Part B*, Canberra, p.27
[24] Ibid, p.156
[25] Productivity Commission 2008, *Chemicals and Plastics Regulation*, Research Report, Melbourne, p. 300
[26] Galbally, R 2000, *National Competition Review of Drugs, Poisons and Controlled Substances Legislation: Final Report Part A*, Canberra, p.94
[27] Ibid
[28] Ibid

- Australian Pesticides and Veterinary Medicines Authority (APVMA) to be responsible for labelling and packaging decisions[29], and
- removal of more onerous regulatory requirements on poisonous chemicals in some jurisdictions, where they continue to exist without achieving more effective outcomes.

In 2005 the Commonwealth, State and Territory Governments responded to the Galbally Review. In their response, they agreed to most of the recommendations.[30]

However, governments did not support the recommendation to adopt template legislation. Instead they stated that they would prefer to achieve regulatory uniformity through alternative means. Despite national standards and the involvement of national regulatory bodies, the inconsistencies of interpretation and legislation across Australia have continued. Business stakeholders have argued that this has imposed significant costs without evidence of commensurate benefits.

1.7 National Partnership to Deliver a Seamless National Economy

In 2006, COAG identified chemicals and plastics as a 'regulatory hotspot'. A Ministerial Taskforce was established to develop a streamlined and harmonised national system of chemicals and plastics regulation. COAG agreed that the Productivity Commission would undertake a study to assist the work of the Taskforce. The study was commissioned in July 2007, and reported in July 2008. The Commission made 30 recommendations covering: hazard and risk assessment; public health; occupational health and safety; transport safety; agricultural and veterinary chemical products; environmental protection and national security.

COAG included national consistency of chemical regulation as an area for reform in its 2008 *National Partnership Agreement to Deliver a Seamless National Economy*.[31] The Australian Health Ministers' Conference (now the Standing Committee on Health) was tasked with achieving a nationally consistent approach to regulating the public health aspects of poisonous chemicals.[32] This agreement required that there be clear implementation plans for reform of poisonous chemical controls by June 2011, with reporting to the

[29] The recommendation about the APVMA was not wholly agreed to. This point is included to provide background information and to illustrate the interwoven nature of the regulatory framework for poisonous chemicals.
[30] Australian Health Ministers' Advisory Council Working Party 2003, *Response to the Review of Drugs, Poisons and Controlled Substances Legislation*
[31] COAG 2009, *National Partnership Agreement to Deliver a Seamless National Economy*, Canberra
[32] COAG Reform Council 2011, *Seamless National Economy: Report on Performance*.

Business Regulation and Competition Working Group on the progress of these reforms in June 2012. Key milestones in the improvement to chemicals and plastics regulation were found in this report to be behind time and at risk of not being met.[33]

1.8 Committees and authorities

Chemicals are subject to a range of standards and regulatory controls by a variety of regulatory authorities and committees.

Committee/Regulator	Role
Standing Committee on Chemicals (SCOC)	To achieve an effective and efficient national system of chemicals and plastics regulation.
Standing Council on Health (SCOH) – Previously known as the Australian Health Ministers' Conference (AHMC)	Intergovernmental ministerial committee that facilitates a cooperative and coordinated approach to the development of policy and efficient and effective delivery of health services.
Australian Health Ministers' Advisory Council (AHMAC)	To advise and make recommendations to SCOH on development, implementation and evaluation of national policies, programs and priorities.
Australian Consumer and Competition Commission (ACCC)	Product safety regulator, responsible for safety and monitoring products after they have entered the consumer market.
Australian Pesticides and Veterinary Medicines Authority (APVMA)	Registers all agricultural and veterinary chemical products into the marketplace.
National Industrial Chemicals Notification and Assessment Scheme (NICNAS)	Responsible for risk and safety assessment of chemical substances.
National Coordinating Committee for Therapeutic Goods (NCCTG)	Co-ordinates national therapeutic goods and chemical regulation.
Chemicals Technical and Ethical Principal Committee (CTEPC)[34]	To provide advice to AHMAC.
Office of Chemical Safety (OCS)	Risk and safety assessment for veterinary medicines and pesticides.
Advisory Committee on Medicines Scheduling/Advisory Committee on Chemicals Scheduling (ACMS/ACCS)	To advise the DOHA Secretary on appropriate scheduling of medicines and chemical substances, respectively, in the SUSMP.
Therapeutic Goods Administration (TGA)	Regulatory authority for therapeutic goods including medicines.

[33] Ibid, p. 358.
[34] Arrangements for Principal Committees were amended in April 2012 and CTEPC no longer exists in its current form. A new Principal Committee with oversight of the issues in this RIS will be established.

1.9 Stakeholders affected by chemical regulation

It is noted that parties interested in and affected by changes to the regulatory environment are not restricted to businesses and government bodies. Other stakeholders include:

- consumers
- businesses (retail, wholesalers, users, transporters and manufacturers)
- industry groups and industry entities
- environmental groups
- trade unions; and
- educational institutions

All stakeholders' evidence and views will be taken into consideration when considering the options for poisonous chemical regulation.

1.10 Scope and approach

The scope of this project focuses solely on how particular parts of the SUSMP are implemented by the States and Territories, and opportunities for either harmonising those or creating a national approach agreed to by all States and Territories to be uniformly adopted.

The chemicals within the scope of this project belong to the following schedules:

- Schedule 5 - Caution
- Schedule 6 – Poison
- Schedule 7 – Dangerous Poison

These are the schedules of the SUSMP that include poisonous chemicals rather than medicines or controlled drugs.

Poisonous chemicals are not scheduled on the basis of a universal scale of toxicity. Although toxicity is one of the factors considered, and is itself a complex of factors, the decision to include a substance in a particular Schedule also takes into account many other criteria such as:

- the purpose of use,
- potential for abuse,
- safety in use, and
- the need for the substance.

As outlined in the overview, the SUSMP lists substances in nine Schedules according to the degree of control recommended to be exercised over their availability to the public.

Schedule 5 and 6 poisonous chemicals include a range of industrial, domestic and specialty chemicals. Many of these chemicals have a wide range of industrial and commercial uses, for example Hydrochloric Acid, Acetone, Acetic Acid**.** These chemicals are used by a wide range of manufacturers and other businesses**.** Schedule 5 and the more toxic Schedule 6 poisonous chemicals are also often used domestically. Examples include liquid hydrocarbons (methylated spirits, turpentine), some pesticides, and in home garden products. These are sold to consumers primarily through hardware stores, supermarkets and chemists. These businesses vary from micro businesses to national chains.

Schedule 7 poisonous chemicals are even more toxic chemicals, such as agricultural and veterinary chemicals for on farm use. They also include some industrial chemical poisons such as hydrofluoric acid; these are sold through authorised suppliers, including licensed stock agents. Whilst Schedule 7 chemicals also contain some industrial chemicals - for example, benzene, this group tends to contain more specialty chemicals and chemical additives including chemicals sold specifically for their poisonous properties - for example paraquat and strychnine. Businesses in these sectors can also vary substantially in size.

The parts of the SUSMP which contain regulatory controls, and are thus within the scope of this project are:

- Part Two – Labels and Containers: outline labelling and packaging requirements for Scheduled substances.
- Part Three – Miscellaneous Regulations. These are regulations that have been developed over a number of years as a result of considerations by the National Drugs and Poisons Schedule Committee (NDPSC) (now the Advisory Committee on Chemicals Scheduling and the Advisory Committee on Medicines Scheduling) on appropriate regulatory controls for medicines and chemicals. Regulations and controls set out in this Part of the SUSMP can apply to all or any Schedule of poisonous chemicals or medicines.
- Appendix C – Substances other than those in Schedule 9, of such danger as to warrant prohibition of sale, supply and use
- Appendix I – the Uniform Paint Standard
- Appendix J – Conditions and Availability of use for Schedule 7 Poisons

These parts of the SUSMP also form the scope of the project because they constitute the substantive parts of the SUSMP that relate to Schedule 5, 6

and 7. The following materials and information gathered as a result of the following discussions have informed the development of this RIS:

- detailed cross-jurisdictional legislative mapping of poisonous chemical legislation and regulations in Australian States and Territories;
- submissions that were made to a recent industry survey conducted on behalf of the NCCTG;
- preliminary consultation interviews with the NCCTG members from each Australian jurisdiction;
- academic literature on the effectiveness of physical packaging controls to prevent child poisonings;
- the Productivity Commission's Report into Plastics and Chemicals Regulation; and
- submissions that were made to the Productivity Commission in response to its Issues Paper and draft Research Report.

1.11 Purpose of this consultation regulatory impact statement

The purpose of the regulatory change considered in this RIS is the appropriate level and method for regulatory control of certain scheduled substances included in specified parts of the SUSMP, as outlined in the Scope section above. This Consultation Regulatory Impact Statement (RIS) will form the basis of stakeholder consultation on options to achieve greater national consistency of chemical regulation relating to the SUSMP. Consultation will occur ahead of the preparation of a COAG Decision RIS, which will outline the preferred method to achieve COAG's intent of implementing part of recommendation 5.2 of the Productivity Commission report. This part of this recommendation related to regulatory controls stated:

> State and Territory Governments should:
>
> - uniformly adopt regulatory controls for poisons through either a template or model approach, as published in the SUSMP

This recommendation has not yet been implemented and is the focus of this RIS.

Following consultation in August 2012, it is intended that before the end of 2012 Health Ministers will consider the recommended options as to what should be the key regulatory controls for poisonous chemicals in Schedules 5, 6 and 7.

2 Statement of the problem

This consultation RIS is focussed on the problem caused by inconsistency of poisonous chemical regulation across the States and Territories. Inconsistency of regulation across States and Territories can present a heightened compliance cost to industry and indirectly to consumers, without necessarily improving regulatory outcomes, and can subsequently lead to reduced levels of public health protection. In addition to this, it may affect compliance by being unnecessarily complicated.[35]

The problems of the current regulatory framework include:

1. the costs of time devoted to understanding the complex differences in controls by business operating (or considering operating) across jurisdictions, and having to put in place different procedures and training for staff, or in some cases adopt the most onerous controls nationally for simplicity where this is feasible.
2. the additional administrative cost on governments (and those they consult), and associated governance challenges within each State and Territory as they seek to align their regulation, or separately update it, in response to new information about the effectiveness of controls.
3. the costs to business of managing the transitional arrangements when changes to the SUSMP take different amounts of time to be reflected in State and Territory legislation and regulations.
4. the cost of compliance that arises from duplication and overlapping regulatory regimes controlling poisonous chemicals in different settings.[36]

In competitive markets the costs borne by industry will be passed onto consumers. The purpose of this chapter is to characterise and confirm the nature and extent of the problem posed by inconsistency of chemicals regulations.

2.1 Controls that are placed on poisonous chemicals

Numerous inconsistencies exist in the regulatory controls that apply to poisonous chemicals between jurisdictions. Business stakeholders have long argued that these inconsistencies create unnecessary costs for businesses operating across borders,[37] and these costs will, ultimately, be passed on to

[35] Croplife 2008, *Submission to the Productivity Commission Research Report,* p. 6
[36] This problem is not the primary focus of this RIS. However in a number of cases the options considered would result in a removal of unnecessary overlap or duplication, which should reduce regulatory complexity.
[37] Observed by ACCORD, 2011, in response to an industry survey conducted on behalf of the NCCTG.

consumers. However, there is little evidence available on the activities associated with compliance with chemical regulation that can assist in quantifying these costs. The consultation questions within this report are therefore designed to seek evidence of costs and impacts on business of nationally inconsistent regulation.

The current system has not been able to address the inconsistencies. There is little public information about the differences in these regulatory controls between jurisdictions. Although variations in chemical scheduling are published on the TGA website there is not publicly available resource for reporting of differences in State and Territory controls.

Comprehensive mapping to understand the types and extent of the differences, and the resulting costs, of inconsistent regulation has not previously been conducted in Australia.

The preparation of this Consultation RIS has been underpinned by a legislative and regulatory mapping exercise which has sought to identify where there are inconsistencies between the States and Territories. Table 2.1 provides a high-level summary that outlines:

- where the SUSMP sets out a standard for a regulatory control, whether a State or Territory has adopted a more or less prescriptive approach; or
- where the SUSMP does not address that particular regulatory control, whether a State or Territory has adopted a control, and consequently a more prescriptive approach than some other jurisdictions

A more detailed analysis of the differences between the States and Territories for each regulatory control can be found in Chapter 5. These comparisons have been made with the Poisons Acts and related Regulations set out in Appendix B. The focus of this RIS has been on poisons regulation that has been put in place to achieve public health objectives. Other chemical controls that exist in other Acts and Regulations have not been examined in detail, although the NCCTG has sought to identify, where possible, overlaps with other regulation that could be addressed, for example, with food, occupational health and safety, or transport regulation.

Table 2-1 - Comparing regulatory controls across States and Territories

Control	Schedule	SUSMP?	Variation across the States and Territories							
			ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Storage	5	N	-	-	-	↑	↑	-	-	↑
Storage	6	N	-	↑	-	↑	↑	-	-	↑
Storage	7	Y	-	-	↑	↑	↓	-	↓	↑
Disposal	5, 6 and 7	N	-	↑	-	↑	↑	-	-	↑
Labelling	5, 6 and 7	Y	↑	↓	-	-	-	↓	-	-
Packaging	5, 6 and 7	Y	-	-	-	-	-	-	-	↑
Record keeping	7	N	↑	-	↑	↑	↑	↑	↑	↑
Advertising	7	N	-	-	-	↑	-	-	-	-
Hawking/Supply of product samples	5, 6 and 7	N	-	↑	-	↑	↑	↑	↑	↑
Appendix C: substances prohibited from sale, supply or use	n/a	Y	-	↓	-	-	-	-	-	↓
Appendix I: Uniform Paint Standard	n/a	Y	-	↓	-	↓	↓	-	↓	-
Appendix J: conditions for availability	7	Y	-	-	-	-	-	-	-	-

Key
↑ *More onerous than SUSMP*
\- *Consistent with SUSMP or no additional controls in place (if not covered by the SUSMP)*
↓ *Less onerous than SUSMP*

This table illustrates how onerous regulation is for some controls is inconsistent across jurisdictions. There is also variation in the type of control. The table also highlights that the SUSMP outlines a possible control for half of the controls examined. The table also shows that controls outlined in the SUSMP have been inconsistently adopted by States and Territories. This is explained further in the legislative and regulatory mapping at Appendix C.

An example of this is the storage requirements for Schedule 7 chemicals. The Australian Capital Territory, New South Wales, South Australia and Tasmania are consistent with the standard for storage of Schedule 7 chemicals in the SUSMP, which states that Schedule 7 chemicals should not be stored in a

location that is accessible to the public. The Northern Territory, Queensland and Western Australia impose additional requirements, such as prescribing the people who are authorised to access poisonous chemicals. Meanwhile, Victoria has less onerous requirements for storage of Schedule 7 chemicals because they allow access to chemical storage facilities for members of the public, in some instances such as under the supervision of an authorised person.

A high level description of the current status of regulatory controls of poisonous chemicals is provided below.

Storage There is no standard included in the SUSMP for schedule 5 or 6 chemicals, however three jurisdictions impose conditions for storage for schedule 5 chemicals and four jurisdictions impose conditions for storage for schedule 6 chemicals. All jurisdictions impose conditions for storage for schedule 7 chemicals; four jurisdictions are aligned to the SUSMP and four differ.

Disposal Requirements in jurisdictions regarding disposal are split between having no requirements (aligned with the SUSMP) and requiring disposal in a manner that does not pose a risk to public health and / or safety.

Labelling Half of the jurisdictions have minimal requirements for labelling poisons, with the other half referencing the SUSMP.

Packaging All jurisdictions reference the SUSMP with some jurisdictions adding to these requirements. The Australian Standard for packaging is also used. This is only available by purchase, so it may be considered a problematic regulatory practice.

Record Keeping Requirements for the record keeping of transactions involving Schedule 7 chemicals vary significantly between jurisdictions; however most jurisdictions require some or all of the following details of the purchaser: name, address, occupation, telephone number, signature, date of purchase, the name of the chemical, its strength, quantity and purpose for which it has been purchased.

Advertising Queensland is the only jurisdiction that prohibits the advertisement of Schedule 7 chemicals by non-approved persons.

Hawking/supply of product samples	Six of the eight jurisdictions prohibit hawking. The restrictions on hawking prohibit selling or supplying in public places and / or from house to house.
Appendix C: Substances that warrant prohibition of sale, supply and use	All jurisdictions refer to Appendix C and effectively adopt the list as restricted or prohibited substances, except for WA, which has not updated its reference to Appendix C since a proclamation in 2008.
Appendix I – Uniform Paint Standard	Two jurisdictions follow the SUSMP; one jurisdiction deviates slightly from the SUSMP and the remaining five jurisdictions have lower or no standard regarding paint.
Appendix J – Conditions for availability	Although there are substantial differences between the types of licences that the States offer, States and Territories are generally consistent with the standard set out in Appendix J as they require that a person or business be licensed or otherwise authorised.

2.2 Regulatory design is a barrier to national consistency

The Productivity Commission noted that there were some potential barriers to achieving greater national consistency. It particularly noted that legislation and regulations are designed differently in each state and territory:

"The harmonisation of regulation is an important first step to greater national uniformity, but even this can be complicated by the fact that each jurisdiction has its own legislative drafting conventions, and its own institutional structure. For example:

- *Jurisdictions may have Acts that do not exist in other jurisdictions*
- *The scope of legislation can vary*
- *Penalties for non-compliance and appeal mechanisms may differ*
- *Interpretation of Acts varies across jurisdictions*
- *Terms used in legislation may have different definitions across jurisdictions*[38]
- *Sections of Acts are numbered differently"*

[38] This has also been observed by the Australian Self-Medicating Industry Group, 2011, in response to an industry survey conducted on behalf of NCCTG.

2.3 Duplication and overlap: Regulation focused on chemicals from other areas

The regulation of poisonous chemicals covered by this RIS is aimed at improving public health outcomes. However, chemicals are subject to additional set of regulations than public health regulations, which makes achieving compliance a complicated task for industry.

Although not a primary focus for this regulatory change project, where this is feasible the analysis considers options that contribute to simplifying regulation or reducing overlap, albeit ultimately only to a limited extent. Where regulation can be simplified, this is expected to reduce costs and improve the likelihood of compliance.

Other areas of regulation that control poisonous chemicals:

- *Workplace Health and Safety:* additional regulatory requirements originate from State WorkSafe/Workcover authorities and Safe Work Australia. The overlap here generally involves controls over storage and labelling of chemicals, including aspects such as height of storage.
- *Environment and environmental health policy:* Policy and regulatory responsibilities are split between State environment departments and authorities such as the Environment Protection Authority, plus the Commonwealth Department of Sustainability, Environment, Water, Population and Communities.
- *Transport*: federal policy in this area from Department of Infrastructure, the National Heavy Vehicle Regulator may have a role. In addition to this, workplace safety standards play a role in safety procedure. State Governments have a role in transport safety through their respective road authorities and transport departments.
- *Food safety:* national standards are set by Food Safety Australia and New Zealand. States, Territories and local Governments are responsible for the regulation, compliance and enforcement of food safety standards.
- *Agricultural chemicals:* on a federal level this is regulated by the Australian Pesticides and Veterinary Medicines Authority. In the States and Territories, the relevant agricultural or primary industries regulator provides the controls over use but not over sale and supply unless the chemical is classified as a 'restricted chemical product'.

The needs of each of the sectors covered by these regulatory schemes can differ significantly, and moreover, these scheme also vary across jurisdictions.[39]

[39] Environment Protection and Heritage Council 2007, *Submission to the Productivity Commission Plastics and Chemicals Research Report.*

In considering strategies to achieve either uniformity or less complexity in chemical controls, controls that exist in other regulatory policy areas should be taken into account. Examples of this are controls that relate to storage of Schedule 7 chemicals, and occupational health and safety controls.

There are occupational health and safety labelling controls on some substances. Recommendation 5.3 of the Productivity Commission's *Chemical and Plastics Regulation* report stated that where these workplace controls were adequate, they should be the primary control and that no other chemical controls ought to apply. This condition being met depends on the intended field of use for the chemical. Workplace controls do not apply to domestic settings so they may not always be appropriate for Schedules 5 or 6 chemicals.

2.4 Considering the cost of the problem

Much of the difficulties and costs associated with inconsistent regulation lie in businesses being required to know and understand that there are different regulatory requirements in each jurisdiction in Australia.

Multiple reviews have highlighted the challenges associated with attempts to quantify the costs and benefits of chemicals regulation. This is due to the difficulty of accurately estimating the number of negative events that would have occurred in their absence. To understand the potential benefits, it is useful to note that with the current level of controls, the harm resulting from negative events caused by accidental or deliberate misuse are significant. For example, as noted by the Galbally Report, accidental and deliberate misuse of medicines and poisonous chemicals was estimated in 1998 to cause harm that has a social cost of $600 million and could be related to as many as 40,000 hospital admissions annually.[40] However, the controls within the scope of this RIS would only address a portion of these harms.[41]

One of the purposes of this Consultation RIS is to gather current quantitative and qualitative evidence of the costs and benefits of the current regulatory framework and the options proposed in subsequent chapters of this report. Of particular concern are any additional implementation and/or ongoing compliance costs that regulated businesses may incur as a result of proposed changes that intended to achieve more uniform controls, that might offset the anticipated savings.

[40] Galbally, R 2000, *National Competition Review of Drugs, Poisons and Controlled Substances Legislation: Final Report Part A*, Canberra, p.17. More recent analysis that provides quantification of the economic and social costs of misuse associated with poisonous chemicals has not been identified.
[41] The controls covered by this RIS reduce the risk of accidental misuse of poisonous chemicals, and reduce access to chemicals that may be deliberately misused, either for self-harm or to harm others. However, regulatory controls cannot completely eliminate all risks associated with deliberate misuse.

The two main costs industry faces in the current system are the costs:

- To national businesses or businesses operating across State boundaries, which need to ensure compliance with up to eight different sets of legislation and knowledge of potential jurisdiction from other areas of policy. Where there are multiple and different sets of regulation affecting a business that operates across state boundaries, the business often has an incentive to impose the most onerous requirements on the entire business to ensure compliance. This increases the regulatory burden.
- To State-based businesses which have to comply with potentially unnecessarily prescriptive controls if the controls are higher than that of other jurisdictions.

While multiple reviews have acknowledged that the current regulatory system for poisonous chemicals imposes substantial costs to industry, government and consumers, those costs have not been quantified, and nor are there specific case studies, or submissions from industry, that outline in detail the impact on business of the differences in regulatory control.

The Public Health Association of Australia has noted that there is little evidence of problems that arise from non-compliance, because they argue compliance monitoring is an infrequent occurrence, which may result in breaches of regulation not being identified.[42] On the other hand, there is concern from industry that the lack of consistency of controls encourages businesses to impose their own, overly onerous conditions across Australia, thereby increasing the regulatory burden.[43]

The Productivity Commission noted in its report that it had received inadequate information to conduct any kind of cost-benefit analysis. The Galbally Review provided qualitative analysis of the costs of inconsistencies but did not conduct any quantitative analysis of the problem.

The Galbally Review noted that inconsistencies cause significant costs for government, industry and consumers.[44] These costs were associated with:

- establishing and comprehending various requirements in all jurisdictions;
- complying with various requirements in all jurisdictions;
- confusion and frustration caused for consumers in identifying and using chemicals which may have different packaging and labelling; and

[42] Public Health Association of Australia 2007, Submission in response to the Productivity Commission Plastics and Chemicals Regulation Issues Paper.
[43] ACCORD 2008, Submission on Productivity Commission Study into Chemicals and Plastics Regulation, p. 26.
[44] Galbally, R 2000, *National Competition Review of Drugs, Poisons and Controlled Substances Legislation: Final Report Part A*, Canberra, p.94

- costs for government from regulatory duplication and inefficiencies in administering various controls.[45]

In addition, variations to requirements increase complexity making market entry more difficult and potentially decreasing Australia's cost competitiveness internationally. [46]

Whilst the Galbally Review was published in December 2000, the substantial variations in controls, as documented in this RIS, have persisted. Therefore it is a reasonable to assume that these costs still persist.

Furthermore, the Productivity Commission report (2008) supported the findings from the Galbally Review by noting that inconsistencies create costs for businesses operating across borders and, consequently, consumers.[47]

Businesses or individuals subject to the regulatory controls relating to Schedule 7 chemicals can be identified in most jurisdictions they are required to be registered, licensed or otherwise authorised to be in possession or use of the chemical. The number of authorised persons for Schedule 7 chemicals in each State and Territory is included below:

State/Territory	Number authorised to have, supply or use Schedule 7 chemicals
Australian Capital Territory	3 research and education licences
New South Wales	81 authorised sellers
Northern Territory	214 licences or permits issued for following sectors/uses: 117 industrial; 56 pest control; 30 retail; 8 wholesale; 3 manufacturing. Additional 89 agricultural and veterinary Schedule 7 authorisations
Queensland	100 licenced sellers
South Australia	280 sellers; 2032 purchasers
Tasmania	36 licencees: 31 for possession and use and 5 wholesalers
Victoria	436 licences to sell, 292 licences to purchase or obtain
Western Australia	*Information not available*
TOTAL	*3,271 authorised businesses, individuals or researchers*

[45] Galbally, R 2001, *National Competition Review of Drugs, Poisons and Controlled Substances Legislation: Final Report Part B*, Canberra, p.29
[46] Galbally, R 2000, *National Competition Review of Drugs, Poisons and Controlled Substances Legislation: Final Report Part A*, Canberra, p.94
[47] Productivity Commission 2008, *Chemicals and Plastics Regulation*, Research Report, Melbourne, p. 103

Box 2.2 Difficulties in quantifying the additional burden from national inconsistency of poisonous chemical regulation

This RIS has limited costing information in the options impact analysis due to the lack of quantification of the cost to businesses that arises from the problem of a lack national harmonisation of poisonous chemical regulation. The following reviews and organisations have articulated that there is a cost arising from complexity without providing quantitative analysis to outline an estimate of the nature and magnitude of this cost.

Reviews

- Galbally Review (1999) *National Competition Review of drugs, poisons and controlled substances legislation*, September 1999.
- Productivity Commission (2008) *Plastics and Chemicals Regulation research report*, Canberra 2008
- Productivity Commission (2009) *Lessons for National Approaches to Regulation - Supplement to Research Report*, Canberra 2009.

Industry submissions

ACCORD

– Response to recent industry survey

– Submission to Productivity Commission *Plastics and Chemicals Regulation* issues paper

– Submission to Productivity Commission *Plastics and Chemicals Regulation* draft report

Australian Self-Medicating Industries

– Response to recent industry survey

Plastics and Chemicals Industry Association

– Response to recent industry survey,

– Submission to Productivity Commission *Plastics and Chemicals Regulation* draft report

Australian Chamber of Commerce and Industry

– Submission to Productivity Commission *Plastics and Chemicals Regulation* draft report

Australian Council of Trade Unions

– Submission to Productivity Commission *Plastics and Chemicals Regulation* issues paper

Public Health Association of Australia

– Submission to Productivity Commission *Plastics and Chemicals Regulation* issues paper

National Farmers' Federation

– Submission to Productivity Commission *Plastics and Chemicals Regulation* issues paper

1. Are you able to quantify the nature and extent of the burden on your business of the additional compliance activities that arise from the inconsistencies associated with chemicals regulation?

The legislative mapping conducted for this Consultation RIS is the first time that regulatory controls have been comprehensively compared with each other and against the SUSMP. For this Consultation RIS, the differences in the regulatory controls for Schedules 5, 6 and 7 chemicals have been mapped and summarised. This means that options for each control can be analysed, which has been included in Chapter Four.

The current system also presents costs to consumers, passed on from businesses. It also presents some costs to government in terms of regulatory complexity and coordination. For example, poison information centres nationally received approximately 215,000 in 2010, although many of these calls relate to medicine poisoning.[48]

2.5 Benefits or rationale behind maintaining variations across jurisdictions

In some circumstances, it may be justifiable that a particular jurisdiction has decided to vary their chemical scheduling or regulatory control from that of other jurisdictions in Australia. The control may deliver benefits that are only present in that jurisdiction, or there may be evidence that a higher level of control is leading to relatively more beneficial public health and safety outcomes.

Where jurisdictions have varying degrees of controls, we might see differences in safety outcomes, for example in the jurisdictions that have retail storage height controls that are more restrictive than other jurisdictions in terms of how the chemicals are kept, there may be fewer instances of poisonings of children in retail settings. However, there is little evidence to suggest that retail storage requirements in those jurisdictions are more effective at preventing poisonings.

[48] NSW Poisons Information Centre 2010, *2010 Annual Report,* Westmead, p. 8. The statistics quoted in this report are national figures.

2. Are there benefits from variations that have not been identified in this paper?
3. Are you aware of any examples where a variation between jurisdictions has led to a reduction in cost or delivered benefits (i.e. better health and safety outcomes)?

2.6 Rationale for government intervention in this project

The nature of the problem that this RIS is seeking to address is the inconsistency and difference in State and Territory regulation and control of chemicals. As problems arising from government regulation are the sole responsibility of Governments, Government intervention is needed to address the inconsistency and enable a consistent approach to regulation.

The results of a recent industry survey conducted by the NCCTG Working Group showed that there are many outcomes that could be achieved by government through working toward increasing the national consistency of regulatory controls over poisonous chemicals. Stakeholders who responded to the survey saw a wide range of benefits that they expected would occur if Governments intervened to achieve a more nationally consistent approach, some of which would occur directly due to changes considered in this RIS. The most common answers provided by industry stakeholders included:

- increased compliance and reduced business costs
- timely and consistent investigation and enforcement of non-compliance by businesses
- a single central and accessible contact point for matters relating to SUSMP, including interpretation and advice
- timeliness of decision making and adoption of changes in the SUSMP
- enhanced reputation of the poisonous chemical regulatory system, with a perception that it is responsive and effective.

The nature of government intervention – regulatory controls

Legislative controls are designed to avoid the occurrence of a range of negative events. The public health regulatory controls relating to chemicals were identified through the literature review, legislative and regulatory mapping and initial consultation with NCCTG members. These are:

- labelling
- packaging
- Appendix C: Substances, other than those included in Schedule 9, of such danger to health as to warrant prohibition of sale, supply and use. Appendix

C is a list of poisonous chemicals that are prohibited from availability, sale and supply.

- Appendix I: Uniform Paint Standard. This Appendix controls the concentrations and locations for chemicals in paints.
- Appendix J: conditions for availability and use of Schedule 7 chemicals. The role of this Appendix is to outline a list of chemicals for which users should be licensed or otherwise authorised.
- storage of Schedule 7 chemicals
- storage of Schedule 6 chemicals
- storage of Schedule 5 chemicals
- disposal
- record keeping
- advertising
- hawking or supply of product samples.

4. Are there any controls missing from the list of identified controls that should be included in the scope of a project to achieve uniformity?

Public health regulatory controls in scope

As noted above, the Productivity Commission's research report into *Chemicals and Plastics Regulation,* recommended that "States and Territories should uniformly adopt regulatory controls for chemicals through either a template or model approach, as published in the SUSMP." Broadly speaking, a regulatory control is a limitation on the activities of firms or individuals imposed by a regulator.

Common controls of chemicals include requirements for: licensing, storage, labelling, disposal, packaging and record keeping. However, there is no uniform set of regulatory controls across Australian jurisdictions.

The Commission's recommendation is arguably ambiguous. The extent of their intended scope of controls that were recommended to be made uniform was not explicitly defined, but focused on the SUSMP.

The Standing Council on Health, on the advice of the NCCTG, have decided, consistent with the Commission's recommendation endorsed by COAG, to focus the scope of this project on those regulatory controls published in the

SUSMP, and related control affecting disposal, record keeping, advertising and hawking.[49]

Given the focus on the SUSMP controls, addressing the additional complex issues of variations in licensing arrangements, such as conditions for qualifying for a poisonous chemicals licence or being deemed an appropriately qualified person, and any fees associated with applying for the licence, are out–of-scope of this project.

2.7 Rationale for government regulation of chemicals

Separately from efforts to achieve a nationally consistent approach, Commonwealth, State and Territory Governments, industry and the general public all agree that government intervention is necessary for the chemical industry. Two important reasons that it is reasonable to expect that Governments will regulate chemicals are the:

- protection of public health and safety
- information asymmetries that can at times exist between chemical manufacturers and users.

The private sector may be unable to sufficiently provide protection of public health, national security and the environment from adverse effects of chemical misuse.[50] Consequently, chemical regulation is centred on public health and safety.

In addition, significant information asymmetries are likely to exist concerning the nature of use of certain chemicals and the hazardous risks associated with them (toxic, explosive, corrosive or flammable.)[51] Many poisonous chemicals controlled by legislation could have serious, sometimes fatal consequences, and it is reasonable to assume that consumers do not have the pre-requisite knowledge to make an informed decision.[52]

[49] While Appendix J sets out a requirement that persons accessing certain substances be licensed, it does not outline how the licensing systems should work. This control has remained in the States and Territories' jurisdiction.
[50] Productivity Commission 2008, *Chemicals and Plastics Regulation*, Research Report, Melbourne, p. xxvi
[51] Ibid
[52] Ibid

3 Objectives

The objective of this project is to improve the efficiency of this regulation by achieving greater levels of national consistency of chemical controls. This includes identifying the approach with which national consistency will be implemented, and who should be the decision-maker for controls in the future.

Regulation of chemicals creates an incentive for chemical businesses to disclose certain information and abide by certain requirements that they may not otherwise do. These requirements are intended to ensure that the net gain achieved from chemical use is maximised and that the risks to the public are minimised.

The status quo, in which there are eight different sets of regulations, gives rise to inefficiencies. This is particularly the case as this is an environment where the risks that regulation seeks to minimise are essentially the same. Review of existing arrangements has found that benefits can be achieved from harmonising parts of regulation, which will in turn increase the net benefit of chemical use to the community.

At a high level the objective of these regulations is to ensure the protection of public health and safety whilst minimising as as much as possible, the regulatory burden on business and government. There are a number of other objectives that achieving national consistency in this area of chemical regulation could seek to achieve. These objectives are targeted to remedy the existing problems that arise from inconsistent jurisdictional requirements.

- Decreased cost to businesses. Well designed regulations that did not impose overly onerous requirements and were nationally consistent would allow businesses operating across jurisdictions to interpret and comply with one set of regulations, thereby reducing costs.[53]
- Increased compliance with the regulatory framework. The current complex regulatory framework requires nationally operating businesses to comply with up to eight different sets of regulations. This is complex, time consuming and costly to businesses and carries the additional risk of intentional and unintentional non-compliance. Increased compliance should reduce risks to the public from poisonous chemicals.
- Decreased cost to consumers. National retailers may choose to simplify their supply chain management by adopting a single set of standards, which will meet the requirements of the most rigorous set of regulatory requirements. The cost of complying with the strictest standards will

[53] One of the other ways that it can reduce the cost to business is by removing regulation where there are other sets of regulation that duplicate or overlap the effect of current poisonous chemical regulations.

therefore be likely to be passed onto consumers. Agreeing on a set of nationally consistent controls that are commensurate to the risk they are addressing ought to reduce compliance costs to retailers, which may be reflected in reduced costs being passed on to consumers.

5. Have the objectives of consistent poisonous chemical controls been accurately outlined?

4 Poisonous chemical controls: options and impact analysis

This chapter details the general options available to achieve uniformity of controls for any one aspect of poisonous chemical regulation. Following the general outline, the chapter discusses each control that is in scope of this project[54], describing and assessing the costs and benefits of each option and highlighting the preferred option for control. The controls that are in the scope of this project have been decided by the Standing Council on Health on the advice of the NCCTG.

4.1 Identification of options for the regulatory controls

This RIS identifies that there are six possible approaches available to the States and Territories in minimising inconsistency of each regulatory control.

States and Territories can:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP
3. Adopt a prescriptive control
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations, and rely on other chemical and general regulatory schemes.

Option One: Maintain the status quo

This option would involve making no changes from the current arrangements for a particular control. There would be no requirement for State or Territory Governments or the Commonwealth to make any change. This option retains any pre-existing inconsistency, and is considered to be a 'base case' for comparison with the other options. With this option, any costs or problems that are caused by national inconsistency would remain.

In the analysis for each regulatory control, a description of the differences between the States and Territories is provided where relevant. This description

[54] The Productivity Commission recommendation informed COAG Agreement and the inclusion of chemicals in the National Partnership for a Seamless National Economy. It is this COAG NP that has driven the Business Regulation and Competition Working Group's work plan. COAG set the high level scope, while SCoH have agreed the detail.

is based on detailed mapping of the regulatory requirements for poisonous chemicals in each State and Territory, which is provided as an addendum to the RIS at Appendix B.

Option Two: Implement provisions in the SUSMP

One option available for all controls is that the States and Territories simply reflect or refer to the provisions of the SUSMP in their own legislation. Initial analysis of the regulation of poisonous chemicals in the States and Territories indicates that this would likely constitute a reduction in the regulatory burden on the chemicals sector.

Depending on the legislative or regulatory approach that is used to implement the provisions, there is still a risk that States and Territories will implement the control differently.

To agree to implement the SUSMP as it is written, the decision makers would need to be confident that the SUSMP outlines a reasonable level of control or advice for managing poisonous chemicals, and that it does so in a way that delivers a net benefit while still adequately managing risk.

Option Three: Adopt a prescriptive control

For this option, States and Territories would agree to the specific requirements for a particular control. The main benefit from prescriptive controls would be clear requirements that industry must follow in order to comply. Conversely, this option allows less flexibility to business to decide how to comply in a manner that suits their individual needs.

Option Four: Adopt an outcome-based control

States and Territories would agree on the outcome that a regulatory control is seeking to achieve. This outcome would be stated, and business would be able to decide how to achieve the outcome.

Option Five: Adopt an outcome-based control, that contains a prescriptive 'deemed to satisfy or comply' provision[55]

This option would see the regulatory control set as an outcome-based standard, with an additional provision or guideline included to outline the specific activities businesses could do to comply with the standard. This would offer businesses the option of either complying with a prescriptive black-letter requirement, or to achieve the intended outcome in a flexible manner.

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

States and Territories could agree to remove regulatory controls on poisonous chemicals. This would be a 'zero public health regulation' option. Where there

[55] This is the regulatory model adopted in the National Construction Code.

is regulatory duplication or overlap from another chemical regulatory framework such as occupational health and safety or food standards, that regulatory control would continue to apply. In some cases this may not be seen as a viable option for chemical regulation, as there is a general consensus that poisonous chemicals ought to be subject to regulatory controls in areas where the other regimes do not apply. Government and industry stakeholders are more concerned about the complexity of poisonous chemical regulation, rather than whether there should be regulation or not.

6. Are there any other high-level approaches available to States and Territories that could be adopted to achieve the objectives?

To decide to remove any controls, States and Territories would require evidence that the particular control – or its absence – would not make a material difference to public health and safety outcomes.[56]

Removing a control may not remove all regulation over a particular activity or requirement, as there is some overlap and duplication of poisonous chemical regulation. The regulatory framework may be simplified and streamlined if some regulation that is currently imposed by chemicals and poisons legislation located in health departments is removed and other controls (for example workplace controls over labelling and storage of chemicals) are allowed to be the controlling instrument.

For removal of controls to be the preferred option, decision makers would need to be confident that the other area of regulation (for example, occupational health and safety, consumer product safety regulation[57] or environmental health regulation) is able to provide the appropriate level of control in an efficient and effective manner. Policy and decision-makers in that area would also need to be appropriately qualified to offer advice on particular issues concerning chemicals. The following sections of this paper outline each of the key controls that regulate the use of poisonous chemicals. It includes a description of each control, followed by detailed analysis of the differences between the States and Territories. The costs and benefits of each of the six options identified above for achieving greater national consistency are then considered, followed by an indicative impact analysis. After identifying the preferred option for each regulatory control, Chapter Five identifies and analyses the impact of governance and decision-making options for implementing the preferred regulatory controls.

[56] A precautionary principle may support regulatory instrument development in circumstances where uncertainty exists about the nature and extent of risk.
[57] Consumer product safety is regulated by State and Territory consumer regulators and the Commonwealth's Australian Competition and Consumer Commission. This national regulatory scheme covers chemicals for some (but not all) consumer products. A gap that has been identified household chemicals - the ACCC identifies that the NDPSC (sic) is the specific regulator for that class of product. See http://www.productsafety.gov.au/content/index.phtml/itemId/970225 [accessed 18 March 2012]

4.2 Storage of Schedule 5 chemicals

Storage controls prescribe the location that poisonous chemicals must be kept and who should be able to access the poisonous chemicals in a retail environment. This and the next two sections describe and analyse possible options to achieve uniformity for controls of Schedules 5, 6 and 7 chemicals respectively.

Standardising retail storage of Schedules 5 and 6 chemicals has been considered and analysed by the NDPSC, the NCCTG and industry over a number of years. However, no resolution has been reached and there remain differences between the States and Territories. Schedules of poisonous chemicals with greater toxicity may require relatively more stringent controls due to increased risk associated with their storage.

Purpose of the regulatory control

The focus of requirements for retail storage of Schedule 5 chemicals is to control access to these poisonous chemicals in a retail environment. In particular, the outcome sought is to prevent access to poisonous chemicals by children.

Options for the regulatory control

The options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP
3. Adopt a prescriptive control
4. Adopt an outcome-based control **[Preferred Option]**
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations

Option One: Maintain the status quo

The status quo at present for retail storage of Schedule 5 chemicals is that there is no requirement contained in the SUSMP. However there is some inconsistency, as South Australia, Queensland and Western Australia have specific storage requirements for Schedule 5 chemicals.

Five of the eight jurisdictions do not currently specify controls. There is no evidence to suggest that having storage controls for Schedule 5 chemicals leads to more beneficial outcomes in terms of poisonings.[58] However, it is acknowledged that national chains may adopt controls consistent with states

[58] ACCORD 2011, Response to industry Survey.

where controls occur, making assessment of impact of absence of controls more difficult.

Queensland, Western Australia and South Australia's controls currently also deal with food contamination issues. In most jurisdictions, food safety legislation or workplace safety legislation about food and chemicals should provide sufficient protection from food contamination. There is no evidence to suggest that there are inferior public health outcomes in jurisdictions that do not currently deal with food contamination issues in current poisonous chemical regulation. Retaining food contamination controls in storage requirements would seem to contribute to regulatory duplication.

This option retains any pre-existing inconsistency, as well as the associated costs of the inconsistency and is considered to be a 'base case' for comparison with the other options.

This option is not preferred as it retains national inconsistency as well as some regulatory duplication for businesses that operate in Queensland, Western Australia and South Australia.

7. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP

This option would involve the States and Territories implementing any provision in the SUSMP relating to storage of Schedule 5 chemicals.

There are no suggested regulatory controls over retail storage of Schedule 5 chemicals contained in the SUSMP.

Implementing this option would require that all States and Territories do not have any controls over retail storage of Schedule 5 chemicals – therefore Queensland, Western Australia and South Australia would consequently have to remove existing controls. This option is essentially the same as Option Six: Remove the provisions of the SUSMP and any State or Territory variations.

This option is not preferred. Controls on poisonous chemicals such as labelling and packaging have been demonstrated as effective at preventing accidental poisoning in domestic settling[59] could be more effective at preventing poisonings generally.

[59] Rodgers, G. B. 2002, 'The Effectiveness of Child-Resistant Packaging for Aspirin', Arch Pediatr Adolesc Med. 2002; 56;929-933. And Walton, W. 1982, An Evaluation of the poison prevention Packaging Act, *Pediatrics*, Vol 69, No 3, March 1 1982 pp. 363-370.

Costs and benefits

There are no additional costs to industry across Australia associated with this option. For industries that operate where there are prescriptive storage controls, the change may represent a reduction in regulatory burden due to greater flexibility, and thus reduced compliance cost.

While several large jurisdictions do not have any regulatory controls in this area, there has been no evidence identified indicating jurisdictions with more stringent regulatory controls relating to storage in a retail or wholesale environment have more positive health outcomes in terms of preventing poisonings than jurisdictions without prescriptive controls.

8. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

This option would involve outlining specific requirements for the regulatory control, for example, along the lines of those currently in place in South Australia. Specific requirements would relate to elements such as the height at which chemicals should be stored, and the public accessibility of storage areas. This would be a new control for five of the eight jurisdictions in Australia.

Costs and benefits

This option would represent less flexibility than exists currently for businesses in all States and Territories (except South Australia) in how they achieve the intended policy outcome. The main benefit would be clear requirements that industry must follow in order to comply. Compliance would be a 'tick-the-box' exercise that requires little interpretation or margin for error.

For this more costly regulation to be warranted there would need to be an evidence base that suggests it would be the most cost-effective control.

This option is not preferred as it is considered that being prescriptive would impose an undue regulatory burden on business. This is particularly the case as there are currently five jurisdictions with no regulation over retail storage requirements for Schedule 5 chemicals.

This option is not preferred. It would represent an increase or change in the regulatory burden for seven jurisdictions, while delivering an unclear benefit.

9. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control **[Preferred Option]**

The regulatory control would require that businesses which store chemicals to achieve the objective of preventing access to children by stating that poisonous chemicals be stored in a manner that 'precludes access to the poison by children', but does not prescribe how this should be achieved (along the lines of the control currently in place in Western Australia).

Costs and benefits

This option would only impose costs and an additional regulatory burden on industry to the extent that there were businesses that would otherwise not control public or children's access to poisonous chemicals. This regulatory control would not seem to impose an additional cost, as it would likely align with standard business practices. Not having any controls over children's access to poisonous chemicals may already expose businesses to consequences such as reputation risks and private litigation.

A benefit from outcome-based regulation is that it would allow business to comply with the purpose of the regulation in the manner they see fit.

This option is preferred to the status quo of retail storage because it would achieve greater national consistency while still achieving the purpose of the regulatory control. There are perceived flow-on effects to householders of their being too relaxed in their storage of chemicals in the home if there are no storage restrictions on these poisonous chemicals in a retail environment.

No evidence has been identified that indicates that Western Australia, which has an outcome-based control, has more positive public health outcomes that could be attributed to the storage of Schedule 5 chemicals than that of jurisdictions without controls or worse than those with more prescriptive controls.

10. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy provision

This option would see storage control set as an outcome-based standard, with an additional provision included to outline the specific activities businesses could do to comply with the standard. This option would offer businesses the option of either complying with a prescriptive black-letter requirement, or to comply with the intended outcome in the manner they saw fit.

Costs and benefits

This option would impose a regulatory cost on businesses that operate in jurisdictions that do not currently have any storage requirements for Schedule 5 chemicals. However, much of this cost would seem to align with standard business practices, as not controlling children's access to poisonous chemicals may expose businesses to consequences such as reputation risks and private litigation.

This option offers both certainty and flexibility to businesses, depending on how they choose to comply with the requirements. However, it is not preferred in comparison to Option Four, as depending on the extent of the prescriptive 'deemed to comply provisions' it would increase the complexity of regulation, while likely delivering the same outcomes as Option Four.

11. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

This option would mean that there are no explicit regulatory controls over the storage of Schedule 5 chemicals. This would be consistent with the five jurisdictions that currently have no controls over retail storage of poisonous chemicals.

Costs and benefits

There are no additional costs to industry across Australia associated with this option. For industries that operate where there are prescriptive storage controls, the change may represent a reduction in regulatory burden due to greater flexibility, and thus reduced compliance cost.

While several large jurisdictions do not have any regulatory controls in this area, there has been no evidence identified indicating jurisdictions with more stringent regulatory controls relating to storage in a retail or wholesale

environment have more positive health outcomes in terms of preventing poisonings than jurisdictions without prescriptive controls.

This is not the preferred option. Although controls on poisonous chemicals such as labelling or packaging, which have been demonstrated as effective at preventing accidental poisoning in a domestic setting, [60] can be effective at preventing poisoning, it is prudent chemical management to control the storage location of poisonous chemicals in public places.

12. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?
13. Is there an alternative level of regulation that has not been discussed here that could be used to control storage of Schedule 5 chemicals?
14. Are there any costs or benefits that have not been considered above?
15. Are there any risks associated with these options?
16. Are you able to provide any evidence of the benefits of any of these controls?
17. Which option do you believe best delivers the policy objective, and why?

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	-	↑ (except SA)	↑ (except WA and SA)	↑ (except QLD)	↓
Consumers	-	-	-	-	-	↓
Government	-	-	↑	↑	↑	↓

In conclusion, the preferred option for storage of schedule 5 chemicals is Option Four: to adopt an outcome-based standard. This option will assist to achieve national consistency and help prevent access to poisonous chemicals by children, while not representing a material increase in the regulatory burden on business.

[60] Rodgers, G. B. 2002, 'The Effectiveness of Child-Resistant Packaging for Aspirin', Arch Pediatr Adolesc Med. 2002; 56;929-933. And Walton, W. 1982, An Evaluation of the poison prevention Packaging Act, *Pediatrics*, Vol 69, No 3, March 1 1982 pp. 363-370.

4.3 Storage of Schedule 6 chemicals

Purpose of the regulatory control

The focus of the regulation of storage of Schedule 6 chemicals is to control access to poisonous chemicals by children.

Options

The options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP
3. Adopt a prescriptive control
4. Adopt an outcome-based control **[Preferred Option]**
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations

Options analysis

Option One: Maintain the status quo

Maintaining the status quo would involve maintaining a level of national inconsistency and the associated costs of national inconsistency. The Australian Capital Territory, Victoria, Northern Territory and Tasmania do not impose specific storage requirements in their Acts or regulations for poisonous chemicals. New South Wales and South Australian regulations provide that Schedule 6 chemicals are kept out of reach from children and are not accessible to the public. Western Australian and Queensland requires that poisonous chemicals are kept out of the reach of children and that they are stored in a way that does not allow contamination of any food, drink, condiment or any other substance intended for human or animal (Queensland only) use.

This option is not preferred as it involves maintaining national inconsistency and the associated costs of national inconsistency.

18. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written

This option would involve the States and Territories implementing any provision in the SUSMP relating to the storage of Schedule 6 chemicals.

The SUSMP does not contain any suggested regulatory controls over retail storage of Schedule 6 chemicals.

Implementing this option would require that all States and Territories do not have any controls over retail storage of Schedule 6 chemicals – therefore Queensland, Western Australia, New South Wales and South Australia would consequently have to remove existing controls. This option is essentially the same as Option Six: Remove the provisions of the SUSMP and any State or Territory variations.[may need to add in that other sentence if accepted]

Costs and benefits

There are no additional costs to industry across Australia associated with this option. For industries that operate where there are prescriptive storage controls, the change may represent a reduction in regulatory burden due to greater flexibility, and thus reduced compliance cost.

While several large jurisdictions do not have any regulatory controls in this area, there has been no evidence identified indicating jurisdictions with more stringent regulatory controls relating to storage in a retail or wholesale environment have more positive health outcomes in terms of preventing poisonings than jurisdictions without prescriptive controls. Controls on poisonous chemicals such as labelling or packaging, which have been demonstrated as effective at preventing accidental poisoning in a domestic setting, [61] could be more effective at preventing poisoning in this environment.

This option is not preferred. As there is no standard for storage of Schedule 6 chemicals included in the SUSMP, it is not feasible to implement provisions of the SUSMP for this regulatory control

19. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

The adoption of a prescriptive standard would prescribe the storage of Schedule 6 chemicals with specific requirements to prevent access by children.

Costs and benefits

The adoption of a prescriptive standard would likely increase the regulatory burden for industries in all jurisdictions except for New South Wales and South

[61] Rodgers, G. B. 2002, 'The Effectiveness of Child-Resistant Packaging for Aspirin', Arch Pediatr Adolesc Med. 2002; 56;929-933. And Walton, W. 1982, An Evaluation of the poison prevention Packaging Act, *Pediatrics*, Vol 69, No 3, March 1 1982 pp. 363-370.

Australia. Currently, New South Wales and South Australia have existing regulations that stipulate specific requirements for storage of Schedule 6 chemicals, in terms of distance above the floor. The cost to industries in jurisdictions with outcome-based legislation would increase due to decreased storage flexibility for Schedule 6 chemicals.

The main benefit of prescriptive standards is the reduced risk of inconsistent interpretation by businesses and any compliance officers by creating clear guidelines for compliance.

This option is not preferred as it is considered that being prescriptive would impose an undue regulatory burden on business. This is particularly the case as there are currently four jurisdictions with no regulation over retail storage requirements for Schedule 6 chemicals.

20. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control **[Preferred Option]**

This option would prescribe that storage of Schedule 6 chemicals occur in a manner that would prevent access by children. This is the preferred option and would be conducted in a similar manner to the regulation of storage of Schedule 5 chemicals.

Costs and benefits

This option would increase the regulatory burden on industries within jurisdictions currently without regulatory controls. However, this increase is likely to be minimal, if at all, as it would be expected that preventing access to poisonous chemicals by children would be standard business practice due to the associated risks of not doing so.

For industries in jurisdictions with prescriptive legislation, the regulatory burden and associated costs of compliance would be slightly lower due to the increased flexibility.

This option is preferred to no regulation of retail storage because there are perceived flow-on effects to householders of their being too relaxed in their storage of poisonous chemicals in the home if there are no storage restrictions on these poisonous chemicals in a retail environment.

21. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control containing a prescriptive 'deemed to comply or satisfy' provision

This outcome based option would provide regulatory alternatives, allowing flexibility whilst maintaining the outcome of preventing access to Schedule 6 chemicals by children.

Costs and benefits

This option would provide benefits to businesses as they could comply with regulation in the manner they deem appropriate.

In jurisdictions with existing regulations, the effect would be neutral. For those without existing regulations the effect would be minimal due to standard business practice that likely prevents access to chemicals by children.

The adoption of an outcome standard with a 'deemed to satisfy' provision would appear to have little impact on consumers. This option offers both certainty and flexibility to businesses, depending on how they choose to comply with the requirements. However, it is not preferred in comparison to Option Four, as depending on the extent of the prescriptive 'deemed to comply provisions' it would increase the complexity of regulation, while likely delivering the same outcomes as Option Four.

22. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

This option would mean that there are no explicit regulatory controls over the storage of Schedule 6 chemicals. This would be consistent with the four jurisdictions that currently have no controls over retail storage of poisonous chemicals.

Costs and benefits

There are no additional costs to industry across Australia associated with this option. For industries that operate where there are prescriptive storage

controls, the change may represent a reduction in regulatory burden due to greater flexibility, and thus reduced compliance cost.

While several large jurisdictions do not have any regulatory controls in this area, there has been no evidence identified indicating jurisdictions with more stringent regulatory controls relating to storage in a retail or wholesale environment have more positive health outcomes in terms of preventing poisonings than jurisdictions without prescriptive controls. Controls on poisonous chemicals such as labelling or packaging, which have been demonstrated as effective at preventing accidental poisoning in a domestic setting, [62] could be more effective at preventing poisoning in this environment.

This is not the preferred option. Although controls on poisonous chemicals such as labelling or packaging, which have been demonstrated as effective at preventing accidental poisoning in a domestic setting, [63] can be effective at preventing poisoning, it is prudent chemical management to control the storage location of poisonous chemicals in public places.

23. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?
24. Is there an alternative level of regulation that has not been discussed here that could be used to control storage of Schedule 6 chemicals?
25. Are there any costs or benefits that have not been considered above?
26. Are there any risks associated with these options?
27. Are you able to provide any evidence of the benefits of any of these controls?
28. Which option do you believe best delivers the policy objective, and why?

[62] Rodgers, G. B. 2002, 'The Effectiveness of Child-Resistant Packaging for Aspirin', Arch Pediatr Adolesc Med. 2002; 56;929-933. And Walton, W. 1982, An Evaluation of the poison prevention Packaging Act, *Pediatrics*, Vol 69, No 3, March 1 1982 pp. 363-370.
[63] Rodgers, G. B. 2002, 'The Effectiveness of Child-Resistant Packaging for Aspirin', Arch Pediatr Adolesc Med. 2002; 56;929-933. And Walton, W. 1982, An Evaluation of the poison prevention Packaging Act, *Pediatrics*, Vol 69, No 3, March 1 1982 pp. 363-370.

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	↑	↑	↑	↑	↓
Consumers	-	-	-	-	-	-
Government	-	↑	↓	-	-	↑

In conclusion, Option Four is the preferred option for this regulatory control. It would achieve a nationally consistent approach that retains flexibility for business. It is appropriate to have a control for storage of Schedule 6 chemicals, as there are perceived flow-on effects to householders of retailers being too relaxed in their storage of poisonous chemicals in the home if there are no storage restrictions on these poisonous chemicals in a retail environment.

4.4 Storage of Schedule 7 chemicals

Purpose of the regulatory control

The focus of the regulation of storage of Schedule 7 chemicals is to control access in a retail environment. As Schedule 7 chemicals are considered to be more toxic and dangerous than Schedule 5 and 6 chemicals, access arrangements should ensure that only people deemed to be appropriately qualified should have access. Regulated storage also mitigates security risks for businesses associated with selling and supplying quantities of these highly toxic chemicals and ensures that Schedule 7 chemicals are not available for self-selection (e.g. suitably qualified persons such as an agronomist should have the opportunity to counsel purchasers about lower toxicity products if appropriate.)

All jurisdictions and the SUSMP recognise that certain members of the public should not have access; or that access should only be granted under supervision. Consequently it is not expected that the level of regulation would change considerably with the adoption of nationally consistent standards.

Queensland, Western Australia and South Australia's controls currently deal with food contamination. However, these would seem to be superseded by food specific regulation, and would only contribute to regulatory duplication. Consequently, no options include coverage of this aspect.

Options for the regulatory control

The options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP
3. Adopt a prescriptive control
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision **[Preferred Option]**
6. Remove the provisions of the SUSMP and any State or Territory variations

Options analysis

Option One: Maintain the status quo

Maintaining the status quo involves maintaining differences between the States and Territories and the associated costs of these differences. Most jurisdictions are aligned to the standards and require Schedule 7 chemicals to be kept away from public access, however there are differences in each State or Territory's regulations. Key differences include that Queensland requirements differ according to the method of sale (wholesale vs retail) and are more prescriptive of the method of storage. Western Australia explicitly specifies the individuals who are able to access the area where Schedule 7 chemicals are stored. Victoria allows access under supervision.

29. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written

This option would involve the States and Territories implementing any provision in the SUSMP relating to storage of Schedule 7 chemicals. The SUSMP reads that "A person who sells or supplies Schedule 7 chemicals must keep these poisons in a part of the premises to which the public does not have access." This option is largely similar to Option Four.

Costs and benefits

While each jurisdiction has slight wording differences for the storage requirements of Schedule 7 chemicals, they are largely similar and aligned to the SUSMP. Therefore, if all States and Territories adopted the SUSMP a very similar outcome would be achieved to what is currently being achieved through individual States and Territories legislation.

It is expected that only minor changes will be required, such as ensuring that every premises has an appropriate storage location that is not accessible by the public. An associated benefit would be reduced likelihood of inappropriate access (which may lead to inappropriate or unauthorised use) of Schedule 7 chemicals.

Another benefit is that customers will have to actively seek and request the Schedule 7 chemical to obtain it. This may result in reduced misuse of the poisonous chemical. However, there is no evidence to suggest that this is or previously has been an issue in Australia and that disallowing public access to Schedule 7 chemicals is an appropriate way to mitigate this risk.

There would be a cost to industry because businesses would be required to interpret how to implement the public access outcome. They may prefer to have more black-letter rules around who should have access.

This is not the preferred option because the wording is indistinct and may be interpreted a number of different ways. To resolve this issue, an outcome-based control containing prescriptive 'deemed to comply or satisfy' provisions, such as that discussed in Option Five could be used.

30. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

A prescriptive regulatory control could require that Schedule 7 chemicals are kept in an area that cannot be accessed by the public, apart from when escorted at all times by an appropriately deemed person. This approach is currently adopted by Victoria.

31. What criteria should be used to categorise someone as an appropriately deemed person?

Costs and benefits

Implementing this option would require all premises to have a section that is not accessible to the public unless when escorted by an appropriate person. Potential costs could include:

- Time cost of the appropriate person to escort / accompany the customer to the appropriate part of the store if they chose to provide supervised access. This may influence staffing requirements of the business by requiring a minimum of two staff members to be present at all times (as if one staff member is involved in escorting a customer to the place of Schedule 7

chemicals, another staff member may be required to be present in the area where the public does have access). Appropriate security measures will also have to be in place. It is expected that this may be more of an issue and hence impose more costs on smaller retailers.

- Re-design of store/premises. Depending on how a store is set up, the store may need to be redesigned or altered to allow for the regulatory requirements. It is expected that this could also be an issue where other prohibited substances are required to be stored in an area that the public does not have access, thus requiring that Schedule 7 chemicals are stored in a separate section.

The benefits of escorted access would be that customers can read, under supervision, the ingredients and any other information on the packaging of Schedule 7 chemicals in conjunction with receiving guidance from the seller. They may not be able to have this level of information if they are prohibited access to the chemical.

This is not the preferred option as the increase in regulatory burden may be substantial, with unclear benefits.

32. How beneficial is it to allow members of the public to have supervised access to Schedule 7 chemicals?
33. Is there any evidence that allowing public access to Schedule 7 chemicals results in a material risk to the community?
34. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

The regulatory control would require that businesses which store Schedule 7 chemicals store them in a manner that precludes public access.

Costs and benefits

Harmonising regulation to prohibit public access to Schedule 7 chemicals will not result in any substantial differences from current regulatory requirements. It is expected that only minor changes will be required, such as ensuring that every premises has an appropriate storage location that is not accessible by the public. An associated benefit would be reduced likelihood of inappropriate access (which may lead to inappropriate or unauthorised use) of Schedule 7 chemicals.

Another benefit is that customers will have to actively seek and request the Schedule 7 chemical to obtain it. This may result in reduced misuse of the chemical. However, there is no evidence to suggest that this is or previously has been an issue in Australia and that disallowing public access to Schedule 7 chemicals is an appropriate way to mitigate this risk.

This is not the preferred option. This is because there would be a cost to industry as businesses would be required to interpret how to implement the public access outcome. They may prefer to have more black-letter rules around who should have access.

35. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control containing prescriptive 'deemed to comply or satisfy' provisions **[Preferred option]**

This option would contain both the sought outcome that Schedule 7 chemicals be kept in a facility or area which is secured, along with detailed guidance provisions for how this may be implemented. Details would include elements such as that only appropriately authorised personnel would be allowed access to the facility or area, and those interested in purchasing the chemicals would be supervised while accessing dangerous poison chemical.

Costs and benefits

The potential cost of this option to business would be installation of an appropriately secured storage facility or area where this currently does not exist.

This option is preferred because it would provide retailers with the option to store the Schedule 7 chemicals within view of potential purchasers, which could allow the purchasers to read ingredients and other information disclosed on the label. However they would not be able to access the poisonous chemical products without the knowledge or guidance of the person selling or supplying the product.

36. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State and Territory regulations

This option would mean that there are no explicit regulatory controls over the storage of Schedule 7 chemicals. This would not be consistent with any of the current controls that are employed by jurisdictions. All jurisdictions would be required to remove regulations that relate to the storage of Schedule 7 chemicals.

Costs and benefits

It may be argued that removing current regulations would represent a reduction in regulatory burden and compliance costs. However, it is expected that jurisdictions and businesses would maintain a similar level of control to ensure that an appropriate amount of 'duty of care' is undertaken.

No evidence has been identified indicating the effectiveness of storage controls in a retail or wholesale environment in terms of preventing poisonings. However, all jurisdictions have regulations controlling storage of Schedule 7 chemicals. This suggests there may be a risk-based justification for controlling access to these chemicals, and that inappropriate storage could create a potential risk to public safety. Therefore, this is not the preferred option.

37. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	↑	↑	↑	↑	↓
Consumers	-	-	-	-	-	-
Government	-	-	-	-	↑	↓

38. Is there an alternative level of regulation that has not been discussed here that could be used to control storage of Schedule 7 chemicals?
39. Are there any costs or benefits that have not been considered above?
40. Are there any risks associated with these options?
41. Are you able to provide any evidence of the benefits of any of these controls?
42. Which option do you believe best delivers the policy objective, and why?

4.5 Disposal of Schedules 5, 6 and 7 chemicals

This controls standards and conditions for the safe disposal of Schedules 5, 6 and 7 chemicals.

This section will consider the different options to achieve uniformity of the control.

Purpose of the regulatory control

The focus of the control of disposal for Schedules 5, 6 and 7 chemicals is to ensure that chemicals are discarded in a safe manner that does not pose a risk to human health.

Four of the eight jurisdictions, namely the Australian Capital Territory, Northern Territory, Victoria and Tasmania, do not currently specify controls on disposal[64]. Disposal is not included in the SUSMP.

Queensland's disposal controls currently regulate for food contamination and animal welfare issues. These would likely be superseded by food specific regulation and animal welfare regulation, and seem to contribute to regulatory duplication. Consequently, no options include coverage of this aspect of the regulatory control.

Options for the regulatory control

The options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP
3. Adopt a prescriptive control
4. Adopt an outcome-based control **[Preferred Option]**
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations

Options analysis

Option One: Maintain the status quo

The current status quo is that four jurisdictions have regulatory controls over the disposal of poisonous chemicals. New South Wales, South Australia and Western Australia all use differently worded outcome-based approaches to stipulate that poisonous chemicals are disposed of in a manner that does not

[64] However, Victoria does require that all those who need to complete a Poisons Control Plan include methods for disposal in their PCP.

pose a risk to public health and / or safety. Queensland has adopted a prescriptive approach.

It is possible that the States with no specific references to disposal in their respective poisons acts have controls through other legislative instruments, such as environmental health and protection legislation or regulation, or in the case of Schedule 7 poisons through the associated licences. For instance, in their Poisons Control Plans in Victoria, businesses are required to demonstrate that they have a planned approach to disposal.

The current system imposes costs on businesses that operate across different jurisdictions, as they are required to be aware of the requirements in each jurisdiction in which they operate.

43. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

This option is not preferred as it does not achieve the objective of establishing a nationally consistent approach to the control, and it would maintain the differences that exist between the States and Territories as well as the associated costs.

Option Two: Implement the SUSMP as it is written

Implementing the provisions of the SUSMP would have the same impact as removing States and Territories legislation, as there are no regulations for the disposal of poisons set out in the SUSMP.

This option would therefore mean that there would be no explicit regulatory control over the disposal of Schedule 5, 6 and 7 chemicals. This would require four jurisdictions to remove their legislation. Despite the removal of some jurisdictions legislation, legislation from other areas may provide necessary guidance relating to the disposal of dangerous chemicals.

Potential legislation could include the Environmental Protection Act, provisions in licensing requirements,[65] or environmental standards-setting policy development such as that being considered by COAG at present.

However, environmental protection measures would not necessarily address incidental disposal as the focus of environmental protection measures is predominantly on emissions, rather than small scale problems that can occur in the retail and wholesaling setting.

[65] Not all users of Schedules 5, 6 and 7 chemicals are required to be licensed. However, in Victoria, a Poisons Control Plan requires that an authorised seller plan how they intend to deal with disposal of chemicals.

Costs and benefits

There would be no additional costs to industry across Australia associated with this option. For the four jurisdictions that currently have controls regarding disposal of Schedule 5, 6 and 7 chemicals, the change may represent a reduction in regulatory burden.

No evidence has been identified indicating the effectiveness of disposal controls. The effectiveness of these specific disposal regulations in mitigating any risks to public safety and environment in each respective jurisdiction is therefore unclear.

Removing the legislation would still allow other areas of legislation, if any, to influence behaviour of disposal. It is currently unclear whether or not any other legislation exists, that contains requirements and implies a duty of care about the disposal of Schedule 5, 6 and 7 chemicals.

44. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

A prescriptive control would explicitly detail how the intended regulatory outcome is to be achieved. This would involve outlining specific elements of the regulation. In the case of controlling disposal, clauses that could be included are:

- stating specific locations of where chemicals must not be discharged;
- prohibiting disposal in particular circumstances; and / or
- ensuring that disposal does not provide certain people with access to the chemicals.

Costs and benefits

Implementing this option would represent an increase in regulation for the four jurisdictions that currently have no regulation of the disposal of Schedule 5, 6 and 7 chemicals.

Adoption of this option would represent an increase in regulation and reduction of flexibility of the three jurisdictions that presently have outcome based regulation surrounding the disposal of Schedule 5, 6 and 7 chemicals.

However, for the costs to be fully assessed, understanding of current business practices is required. Specifically, knowledge of whether or not businesses, in

their day-to-day practice, follow these disposal practices without explicit regulation needs to be understood.

45. Are there pre-existing industry standard practices for disposal of Schedule 5, 6 and 7 chemicals?

This option is not preferred as it would lead to an increase in the regulatory burden, and would allow business less flexibility in how to achieve safe disposal of chemicals. For this option to be favoured, evidence is necessary to prove that this option would lead to an increase in achieving public health and safety.

46. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control **[preferred option]**

The regulatory control would require that businesses dispose of poisonous chemicals in a manner that does not constitute, or is not likely to constitute, a risk to public health or safety.

Costs and benefits

Costs would be incurred to the extent that there are no other regulations that require safe disposal of poisonous chemicals and that they do not currently dispose of Schedule 5, 6 and 7 chemicals in a manner that constitutes a risk to public health or safety. It is expected that good business practice would encompass safe disposal of poisonous chemicals. Therefore, implementing this control could be seen as regulatory duplication if businesses are currently disposing Schedule 5, 6 and 7 chemicals in a safe manner.

A benefit of setting the intended outcome (in this case, safe disposal) is that it would allow businesses to comply with regulation in a manner they saw fit.

There is little to no evidence available that indicates that New South Wales, South Australia and Western Australia, which already have specified controls, have better or worse public health outcomes than other jurisdictions that do not have this control. There is potential that duplication and overlap from other regulations could impose additional costs.

This option is preferred because it involves a reduction in the overall amount of regulation covering poisonous chemicals, while still requiring that public health and safety standards are upheld.

47. Do you see any potential for an outcome based standard for disposal of chemicals to be seen as regulatory duplication?

48. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control that contains a 'deemed to comply or satisfy' provision

This option would see an outcome-based control set out, with a provision that explicitly prescribes the conditions that can be met for a business to be deemed to have complied with the outcome.

Costs and benefits

Impact of this type of control would be an increase in the amount of regulation with an effect that would be similar to if there were just an outcome-based approach.

This option is not preferred as although it would be nationally consistent, it would constitute an increase in the level of regulation.

49. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State and Territory variations

This option would mean that there would be no explicit regulatory control over the disposal of Schedule 5, 6 and 7 chemicals. This would require four jurisdictions to remove their legislation. Despite the removal of some jurisdictions legislation, legislation from other areas may provide necessary guidance relating to the disposal of poisonous chemicals. Potential legislation could include the Environmental Protection Act, provisions in licensing requirements,[66] or environmental standards-setting policy development such as that being considered by COAG at present.

Costs and benefits

There would be no additional costs to industry across Australia associated with this option. For the four jurisdictions that currently have controls regarding

[66] Not all users of Schedules 5, 6 and 7 chemicals are required to be licensed. However, in Victoria, a Poisons Control Plan requires that an authorised seller plan how they intend to deal with disposal of chemicals.

disposal of Schedule 5, 6 and 7 chemicals, the change may represent a reduction in regulatory burden.

No evidence has been identified indicating the effectiveness of disposal controls. The effectiveness of these specific disposal regulations in mitigating any risks to public safety and environment in each respective jurisdiction is therefore unclear.

50. How effective are controls over disposal of poisons, where they exist?

Removing the legislation would still allow other areas of legislation, if any, to influence behaviour of disposal. It is currently unclear whether or not any other legislation exists, that contains requirements and implies a duty of care about the disposal of Schedule 5, 6 and 7 chemicals.

This is not the preferred option because four of the eight jurisdictions currently have legislation and removing legislation has the potential to increase the risk of public health and safety.

51. What other incentives exist for business to adhere to the standards intended in the disposal requirements (i.e. are there environmental regulations or do general corporate responsibility and sustainability practices influence behaviour) if there were no explicit regulation of disposal of Schedules 5, 6 and 7 chemicals?
52. Is there alternative legislation or regulation that could be relied upon to control disposal of scheduled chemicals?
53. Are there any costs or benefits that have not been outlined above?
54. Are there any risks associated with these options?
55. Are you able to provide any evidence of the benefits of any of these controls?
56. Which option do you believe best delivers the policy objective, and why?
57. For your industry or firm, do you consider the transitional or future costs of this option could exceed any benefits of achieving a nationally consistent approach? If so, can you please provide details of the costs that you expect you would incur.

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	↓	↑	↑	↑ (ACT, NT, TAS, VIC) ↓ (NSW,	↑	↓
Consumers	-	-	-	-	-	-
Government	↓	-	↑	-	-	↑

In conclusion, the preferred option for disposal controls is option four: adopt an outcome-based approach. This approach is preferred because it will require that business dispose of poisonous chemicals safely, with enough flexibility that they can decide how they will comply with the requirement.

4.6 Labelling of Schedules 5, 6 and 7 chemicals

The SUSMP outlines the expected labelling requirements for all scheduled poisonous chemicals. States and Territories currently differ in the manner in which they implement or adopt those requirements. These differences have been noted as a major inconsistency and system gap, affecting consumers' ability to understand what ingredients are in the products they buy, particularly for household cleaning products.[67] The differences are detailed below.

This section will consider the different options to achieve uniformity of the control.

Purpose of the regulatory control

The focus of labelling containers that hold Schedule 5, 6 and 7 chemicals is to ensure that chemicals can be identified correctly and that the public are informed of any associated risks of use. Appropriate labelling is likely to reduce to cases of misuse.

All eight jurisdictions recognise that Schedule 5, 6 and 7 chemicals should be appropriately labelled and hence, include labelling requirements in their legislation. Labelling standards are also included in the SUSMP.

Options for the regulatory control

The options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP **[Preferred Option]**

[67] Environment Protection and Heritage Council 2007, Submission to the Productivity Commission Plastics and Chemicals Regulation project.

3. Adopt a prescriptive control
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations

Options analysis

Option One: Maintain the status quo

The status quo at present for labelling of Schedule 5, 6 and 7 chemicals is that the Australian Capital Territory, New South Wales and Tasmania have differing and inconsistent requirements that generally only require that poisonous chemicals are labelled and correctly identified.

This is inconsistent with Victoria which requires labelling to be as per the SUSMP. This stipulates that decanted containers must at least have a label that accurately identifies the chemical or controlled substance.

The Northern Territory, Queensland, South Australia and Western Australia also require that labelling procedures follow those set out in the SUSMP. However, Queensland and Western Australia, whilst aligned to the SUSMP, also provide for some extra specification. Under most circumstances, these specifications do not pose an extra burden.

This option is not preferred as it retains national inconsistency and associated costs of national inconsistency

58. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP **[Preferred Option]**

The regulatory control would require that businesses in all jurisdictions adopt the labelling requirements as they are outlined in the SUSMP.

Costs and benefits

Queensland, Northern Territory, South Australia, Western Australia and Victoria all refer to the SUSMP in their legislation in some way. While some of these jurisdictions impose extra requirements in addition to the SUSMP, they do not appear significant. Therefore, it is expected that there would be no additional regulatory burden.

Tasmania, the Australian Capital Territory and New South Wales are less specific in their requirements for labelling. If these jurisdictions adopted the SUSMP, this would represent an increase in regulatory burden. As the

differences are only slight, it is expected that the increase in regulatory burden would not be substantial.

This option is preferred as it would achieve greater national consistency while still achieving the objective of the regulatory control. In addition, there is not expected to be any additional regulatory burden for businesses in the majority of States and, for Tasmania, the Australian Capital Territory and New South Wales, the increase in regulatory burden would be minimal.

59. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

The SUSMP is a prescriptive standard as it provides specific requirements for labelling of poisonous chemicals. Therefore, this option would have the same costs and benefits of the Option Two.

This option is not preferred as there would appear to be no benefit from creating an alternative prescriptive standard. It would likely achieve the same outcome as simply adopting the SUSMP.

60. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

The SUSMP is a prescriptive standard that explicitly details the labelling requirements for different chemicals. An alternative to the prescriptive standard is to state the control as an outcome based standard. Potential wording could be:

> *'Schedule 5, 6 and 7 chemicals must be labelled in a way that the public are made aware of the contents of the package so it does not pose a risk to public health and safety. Appropriate steps must be taken to ensure a label is affixed at all times.'*

Costs and benefits

Implementing this option may represent a decrease in regulation for all jurisdictions as it provides jurisdictions with a level of flexibility to achieve the specific outcome.

However, an outcome based standard may increase the risk to public health and safety, as labelling decisions would be at the business owners' or manufactures' discretion. As this would likely result in inconsistencies between businesses, risks of misuse or inappropriate handling may increase.

This option is not preferred as the potential increase of the risk to public health and safety outweighs the benefits of increased flexibility for businesses. In addition, the majority of States currently have prescriptive requirements with no evidence to suggest that these requirements have created a significant burden on businesses.

61. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

This option would provide an outcome-based control, whilst also referring to the SUSMP as a list of requirements with which businesses could choose to comply. This option would allow businesses to choose to comply with a prescriptive standard or choose to comply in a manner they saw fit.

Costs and benefits

However, this flexibility could be considered unnecessary as it would increase the complexity of existing regulation, as all States and Territories currently have prescriptive controls. In addition, this increased flexibility could lead to ambiguity and misinterpretation.

This option would have the potential to increase the risk to public health and safety as it would give the option for businesses and manufacturers to label poisonous chemicals differently from each other, which may cause confusion.

This option is not preferred in comparison to Option Two, as it would appear to increase the risk to public health and safety and provide an additional layer of complexity to regulation thereby potentially creating ambiguity and providing scope for misinterpretation.

62. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

This option would mean that there are no explicit regulatory controls over the labelling of Schedule 5, 6 and 7 chemicals. This would require all jurisdictions to remove their legislation.

Costs and benefits

The removal of this legislation would mean that there are no regulatory costs for businesses. However, as all jurisdictions currently have legislation regarding the labelling of Schedule 5, 6 and 7 chemicals it would appear that removing this legislation may increase the risk of public health and safety. For this option to be chosen, evidence would need to show that the cost of the regulatory burden of having labelling requirements is greater than the cost to public health and safety that would result if there are no labelling requirements.

The removal of this legislation however, would allow other areas of legislation to influence behaviour of labelling. The Safe Work Australia 'Labelling or Workplace Hazardous Chemicals – Code of Practice 2009' is one example of this. A further example of this is the Globally Harmonised System of Classification and Labelling, an internationally agreed system for warning and labelling of chemicals, to which Australia has agreed. However, workplace labelling would not apply to household chemicals and may not be the most appropriate mechanism for regulation.

This option is not preferred as all jurisdictions currently have legislation and removing all legislation has the potential to increase the risk of public health and safety.

63. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	- (except TAS, ACT and NSW)	- (except TAS, ACT and NSW)	↓	↓	↓
Consumers	-	-	-	↑	↑	↑
Government	-	-	-	↑	↑	↑

In conclusion, the preferred option for labelling of Schedule 5, 6 and 7 chemicals is Option Two: Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP. This option is preferred as the majority of States currently refer to the SUSMP for this control. For States and Territories that do not currently refer to the SUSMP for this control, the effect of adopting the SUSMP would be minimal. This option would achieve greater national consistency and the objective of the regulatory control.

64. Are there any costs or benefits that have not been outlined in any of the options above?
65. Are there any risks associated with these options?
66. Are you able to provide any evidence of the benefits of any of these controls?
67. Which option do you believe best delivers the policy objective, and why?

4.7 Packaging of Schedules 5, 6 and 7 chemicals

This section will consider the different options to achieve uniformity of the control. Packaging standards do not vary significantly for Schedules 5, 6 and 7 chemicals. However, differences result from the treatment of Camphor and Naphthalene. Due to the unavailability of the Australian standards, it is unclear what the differences are between the SUSMP and jurisdictional standards for these chemicals, therefore, for the purposes of this analysis packaging of Schedule 5, 6 and 7 chemicals are considered under the same framework.

Purpose of the regulatory control

The objective of controlling the packaging of Schedule 5, 6 and 7 chemicals is to minimise the risk to public health and safety. This is often achieved by requiring that packaging is leak proof, impervious, minimises the risk of contamination, and prevents inadvertent access by infants and young children.

All eight jurisdictions recognise that Schedule 5, 6 and 7 chemicals should be appropriately packaged and hence, packaging requirements are included in each jurisdiction's legislation. Packaging standards are also included in the SUSMP.

It is noted that this control and others contained in the SUSMP contain multiple references to Australian Standards. There is a general question regarding the appropriateness of referring to a standard within a Standard. The Australian Standards are not generally freely available. However they are set out by groups of people who have expertise in the area they are setting standards for.

Options for the regulatory control

The method of determining the options for each control is outlined in Section 5.1 of this report.

The options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP **[Preferred Option]**
3. Adopt a prescriptive control
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations

Options analysis

Option One: Maintain the status quo

The status quo for packaging of Schedule 5, 6 and 7 chemicals involves jurisdictional inconsistencies. As the Australian Standards which are referenced in the SUSMP were unavailable, we have been prevented from having a clearer understanding of how jurisdictional standards vary.

However, all of the jurisdictions reference the SUSMP. The Australian Capital Territory, Queensland, Western Australia and Tasmania allow for an alternative if consent is given by the relevant chief officer or Minister. South Australia, New South Wales and Victoria require adherence to further standards, however these appear to be simple and would therefore impose little or no extra burden.

This is not the preferred option as it maintains the inconsistencies that currently exist across jurisdictions and the associated costs of inconsistencies.

68. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP **[Preferred Option]**

The regulatory control would require that businesses in all jurisdictions adopt the wording of the SUSMP.

Costs and benefits

All jurisdictions currently refer to the SUSMP in their individual legislation. Some jurisdictions offer alternatives to the SUSMP which is contingent on

approval by an appropriate person. However, these alternatives do not appear to vary significantly from the SUSMP. Therefore, the cost of adopting the SUSMP appears to be minimal.

The SUSMP references the Australian Standard. This is not recognised as good practice, and may cause issues when it comes to implementing this option. This may represent a cost. Option Three below provides an alternative to solve this potential problem.

This option is the preferred option as all jurisdictions currently refer to the SUSMP. For jurisdictions that offer alternatives or include additional requirements the impact of adopting the SUSMP would be minimal while still achieving the objective of the control.

69. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

The SUSMP is a prescriptive control; however, it currently references the Australian Standard AS 2216 -1997 which is not seen by some as good legislative drafting practice. This is largely due to the fact that all requirements in the SUSMP are not clearly spelt out in the one resource, nor freely available.

This option would involve including all the specific packaging requirements in the SUSMP in a way that articulated the intent and outcomes currently included in the Australian Standard. In terms of current compliance cost, there would likely be no practical difference from the current SUSMP.

Costs and benefits

In practice, it is expected that there would be no addition to or lessoning of the regulatory burden to that described in Option Two above. However, this would require large amounts of information to be added to current packaging controls, which may not be practical. Moreover, the Australian Standard is able to draw on packaging expertise nationally to keep the Standard up to date, and it would be costly and duplicative to repeat this analysis to keep the SUSMP current.

70. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

This option would state the control as an outcome-based standard. Potential wording could be:

> *'Schedule 5, 6 and 7 chemicals must be packaged in a way that minimises the risk of contamination and does not pose a risk to public health and safety.'*

Costs and benefits

This option would represent a decrease in regulation for all jurisdictions as it provides jurisdictions with a level of flexibility to achieve the specific outcome, without referencing the current prescriptive requirements of the SUSMP.

However, an outcome-based standard may increase the risk to public health and safety, as packaging decisions would be at the discretion of business owners or manufacturers. This may create ambiguity and misinterpretation and result in inconsistencies between businesses or increase risks of misuse or inappropriate handling.

This option is not preferred as the potential ambiguity may pose significant risk to public health and safety.

71. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

This option would provide an outcome-based standard, with an additional provision included that outlines the specific activities businesses could undertake to comply with the standard. This option would provide businesses with the option of either complying in the manner they saw fit, complying by adhering to the prescriptive requirements.

Costs and benefits

This option would be similar to the current legislation in the Australian Capital Territory, Queensland, Western Australia and Tasmania. In these jurisdictions a similar level of flexibility is provided by allowing compliance with the SUSMP or compliance if consent is given by the relevant chief officer or Minister. This option would have minimal effect on the aforementioned jurisdictions. There would also be minimal effect on the other jurisdictions.

However, the risk of providing an outcome-based standard is that it may provide a level of ambiguity and scope for misinterpretation as mentioned in Option Four.

This option is not the preferred option as it may increase complexity by providing options to businesses unnecessarily. The packaging requirements would be at the discretion of businesses and manufacturers which may increase the risk to public health and safety.

72. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove existing provisions or standards

This option would mean that there are no explicit regulatory controls over the packaging of Schedule 5, 6 and 7 chemicals. This would require all jurisdictions to remove their legislation.

Costs and benefits

The removal of this legislation would mean that there are no regulatory costs for jurisdictions. However, as all jurisdictions currently have legislation regarding the packaging of Schedule 5, 6 and 7 chemicals it would appear that removing this legislation may increase the risk of public health and safety. For this option to be chosen, evidence would need to show that the cost of the regulatory burden of having packaging requirements is greater than the cost to public health and safety that would result if there are no packaging requirements.

The removal of this legislation however, may still allow other controls to influence behaviour of packaging. Australian Standard AS2216-1997 entitled '*Packaging for poisonous substances'* is one example of this. It is not fully understood what other legislation exists, that may regulate packaging of Schedule 5, 6 and 7 chemicals.

73. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	-	-	↓	↓	↓
Consumers	-	-	-	↑	↑	↑
Government	-	-	-	↑	↑	↑

In conclusion, the preferred option is Option Two: Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP. This option is preferred as all jurisdictions currently refer to the SUSMP which would indicate minimal implementation costs. Furthermore, the SUSMP sufficiently achieves the objective of the control.

74. Are there any costs or benefits that have not been outlined in any of the options above?
75. Are there any risks associated with these options?
76. Are you able to provide any evidence of the benefits of any of these controls?
77. Which option do you believe best delivers the policy objective, and why?

4.8 Record keeping for Schedule 7 chemical transactions

Record keeping controls prescribe how businesses document the inward and outward movement of Schedule 7 chemicals. The following section describes and analyses options to achieve uniformity of record keeping controls across jurisdictions for Schedule 7 chemicals. Record-keeping controls would apply to all transactions involving Schedule 7 chemicals along the supply chain.

The analysis reviews each option and assesses the benefits and costs for government, consumers and industry. Current requirements in each jurisdiction are outlined in the table below.

This section will consider the different options to achieve uniformity of the control.

Purpose of the control

The purpose of record keeping is to allow government to have regulatory oversight over the supply chain for dangerous chemicals. It ensures that suppliers and purchasers can be identified or located if necessary and that clear

transaction records are maintained. In addition, record keeping controls ensure that information can be retrieved when required and understood by a third party.

The options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP
3. Adopt a prescriptive control **[Preferred Option]**
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations

Options analysis

Option One: Maintain the status quo

The status quo would maintain the inconsistencies between jurisdictions. Seven of the eight jurisdictions require some form of record keeping. There is slight variation across jurisdictions, as some jurisdictions require records to be kept for the sale of all poisonous chemicals, and some jurisdictions require extra details to be noted or only require records for Schedule 7 chemicals.

In addition, details that need to be recorded vary slightly between jurisdictions and include either some or all of: name, address, occupation, telephone number, signature, date of purchase, the name of the poisonous chemical, its strength and quantity and purpose. Most jurisdictions require the records to be retained for a period of two years.

This option is not preferred as there are currently clear inconsistencies between jurisdictions. These inconsistencies and associated costs from national inconsistency would remain if the status quo were maintained.

78. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Two: Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP

Implementation of the provisions of the SUSMP would have a similar effect on stakeholders as Option Six: Remove the provisions of the SUSMP and any State or Territory variations, as the SUSMP does not contain any explicit requirements for record keeping.

Costs and benefits

The removal of current regulations would likely reduce the regulatory burden and compliance costs in each state. The degree of this reduction would depend on the level of detail prescribed by existing controls.

There is no evidence to suggest that there have been issues in New South Wales without explicit record keeping regulation to supplement other legislation such as Agricultural and Veterinary Acts and Regulations.[68] Agricultural and Veterinary Acts and Regulations require maintenance of accurate records for agricultural use of all chemical products.[69]

With the removal of current regulations and standards all States may be able to rely on Agricultural and Veterinary Acts and Regulations to some extent, although these regulations do not always regulate chemicals at the 'point of sale'.

It would be expected that at least some form of record keeping would take place as standard business practice to maintain stock control, and computerised systems for small business are increasingly enabling firms to readily track which customers purchased which products. However, normal business processes may not involve retention of records for a minimum of two to five years as required by the majority of jurisdictions, which allows tracing of transactions.

There is no evidence to suggest that this option would have any substantial impact on consumers.

This is not the preferred option as it would not necessarily facilitate regulatory oversight over the supply chain for poisonous chemicals. The details kept by businesses would be at their discretion which may not involve sufficient information for suppliers and purchasers to be identified or located if necessary.

78. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

[68] NSW have undertaken to provide more information on record-keeping for Agricultural and Veterinary Acts and Regulations.
[69] Department of Primary Industries, *Agriculture,* Keeping Records, viewed March 2012, <http://www.dpi.vic.gov.au/agriculture/farming-management/chemical-use/veterinary-chemicals/recording-veterinary-chemical-use/keeping-records-legal-requirements-for-agvet-chemical-use-in-vic>

Option Three: Adopt a prescriptive control **[Preferred Option]**

This option would involve the adoption of regulatory requirements for record keeping that are prescribed in the majority of jurisdictions. The information required would be as follows:

- Name and address of supplier and purchaser
- Date of order and supply
- Trade or approved name of chemical
- Quantity of chemical

In addition, records should be kept for five years, in either paper or electronic form.

Costs and benefits

The above requirements would ensure that clear transaction records were maintained to allow identification and location of suppliers and purchasers. Gathering this information means that there are consistent details being recorded about the individuals in possession of poisonous chemicals along the supply chain. This would make it easier for information or evidence to be gathered where there is need to investigate the misuse of chemicals.

There is no evidence to suggest that consumers would be substantially affected by the adoption of a new prescriptive standard to regulate record keeping of chemicals.

Prescriptive regulation for this level of record keeping is likely to reduce the additional regulatory burden for businesses, as it is expected that they would typically include this level of information in tax invoices.

79. Is this level of information ordinarily recorded on tax invoices or other standard business records, and if not, what is the additional cost of capturing and retaining this information?

The retention of records requirements would be consistent with the length of time that businesses are required to retain taxation documents for potential audit by the Australian Tax Office,[70] which means that there is no additional regulatory requirement to keep the records.

The main benefit of prescriptive regulation is that it provides clear guidelines for compliance, therefore reducing the risk of inconsistencies in interpretation by businesses and compliance officers.

[70] Australian Tax Office business guidance on retention of records http://www.ato.gov.au/businesses/content.aspx?doc=/content/60587.htm],

80. Are there any costs or benefits that have not been outlined in any of the options above?
81. Are you able to provide any evidence of the benefits of any of these controls?
82. Which option do you believe best delivers the policy objective, and why?
83. Other requirements prescribed in some jurisdictions, but not the majority, are as follows:

    a. Phone number of supplier and purchaser
    b. Occupation of purchaser
    c. Form of chemical
    d. Strength of chemical
    e. Purpose of purchase
    f. Signature of supplier and purchaser
    g. Issuer authority
    h. Accessibility of records

84. Should any of these be included in a new control? If so, why?
85. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

This is the preferred option because it is a practical option to achieve uniformity. The majority of jurisdictions currently require that the listed details and the period of retention aligns with the requirements of the ATO which would indicate minimal impact on businesses.

Option Four: Adopt an outcome-based control

This option would involve adopting an outcome-based standard. This would require businesses to document the inward and outward movement of Schedule 7 chemicals in a manner they saw fit to ensure clear recording of transactions. This option would ensure extraction of information when required without prescribing direct requirements for doing so.

Costs and benefits

This option would be likely to increase the regulatory burden on businesses within New South Wales, as currently minimal regulatory controls exist.

However, it would be expected that documenting inward and outward movement of chemicals would be standard business practice, and therefore this increase is likely to be marginal.

Businesses within jurisdictions with existing legislation would experience greater flexibility and therefore may have reduced regulatory and compliance costs. However, Western Australia already has an outcome-based standard in place; therefore for businesses operating in that State the effect would be neutral.

There is no evidence to suggest that this option would have any direct impact on consumers.

This is not the preferred option as this would leave record keeping at the discretion of businesses which would not necessarily facilitate an adequate level of government oversight over the supply chain for dangerous chemicals.

86. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

This option would provide businesses with the choice of adhering to the prescriptive requirements or determining their own appropriate record-keeping system.

Costs and benefits

This option would offer businesses with the flexibility of complying with a prescriptive requirement, or keeping records in the manner they saw fit.

However, by providing the option of an outcome-based standard, there is a risk that some businesses may not retain sufficient information to trace suppliers and purchasers if necessary. In addition, an outcome-based standard would not ensure clear record keeping that could be understood by a third party.

Therefore, this option is not the preferred option as it provides flexibility to businesses which may not facilitate the achievement of the objective.

87. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

This option would result in no regulatory control over recording the inward and outward movement of Schedule 7 chemicals. This would affect seven of the eight jurisdictions as most jurisdictions have existing regulations, except for New South Wales.

Costs and benefits

The removal of current regulations would likely reduce the regulatory burden and compliance costs in each state. The degree of this reduction would depend on the level of detail prescribed by existing controls.

There is no evidence to suggest that there have been issues in New South Wales without explicit record keeping regulation to supplement other legislation such as Agricultural and Veterinary Acts and Regulations.[71] Agricultural and Veterinary Acts and Regulations require maintenance of accurate records for agricultural use of all chemical products.[72]

With the removal of current regulations and standards all States may be able to rely on Agricultural and Veterinary Acts and Regulations to some extent, although these regulations do not always regulate chemicals at the 'point of sale'.

It would be expected that at least some form of record keeping would take place as standard business practice to maintain stock control, and computerised systems for small business are increasingly enabling firms to readily track which customers purchased which products. However, normal business processes may not involve retention of records for a minimum of two to five years as required by the majority of jurisdictions, which allows tracing of transactions.

There is no evidence to suggest that this option would have any substantial impact on consumers.

This is not the preferred option as it would not necessarily facilitate regulatory oversight over the supply chain for dangerous chemicals. The details kept by businesses would be at their discretion which may not involve sufficient information for suppliers and purchasers to be identified or located if necessary.

[71] NSW have undertaken to provide more information on record-keeping for Agricultural and Veterinary Acts and Regulations.
[72] Department of Primary Industries, *Agriculture,* Keeping Records, viewed March 2012, <http://www.dpi.vic.gov.au/agriculture/farming-management/chemical-use/veterinary-chemicals/recording-veterinary-chemical-use/keeping-records-legal-requirements-for-agvet-chemical-use-in-vic>

88. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	↓ (except NSW)	↓(except NSW)	↓(except NSW)	↓(except NSW)	↓ (except NSW)
Consumers	-	-	-	-	-	-
Government	-	-	-	↑	↑	↑

89. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

In conclusion, Option Three: Adopt a prescriptive control is the preferred option as it will facilitate uniformity whilst achieving the objective of the control. In addition, the majority of jurisdictions currently require the details listed in this option and the period of retention aligns with the requirements of the ATO indicating minimal impact on businesses.

4.9 Advertising of Schedule 7 chemicals

Advertising requirements stipulate control of activities that may draw attention to Schedule 7 chemicals in a public medium, in order to promote sales. There is currently only one jurisdiction that has regulation regarding advertising. Consequently, the preferred option to achieve uniformity has been identified as the removal of that existing regulation.

The options to achieve uniformity are described and assessed below by considering their general impact on government, consumers and industry.

This section will consider the different options to achieve uniformity of the control.

Purpose of the regulatory control

The purpose of advertising controls is to prevent inappropriately targeted advertising of Schedule 7 chemicals. These chemicals are prohibited from domestic use and therefore advertising of these chemicals to the domestic market would be inappropriate.

The options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP
3. Adopt a prescriptive control
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations **[Preferred Option]**

Options analysis

Option One: Maintain the status quo

Currently seven of the eight jurisdictions have no standard outlined in their respective relevant Act or regulations. Therefore, the status quo would mean that there are no explicit regulatory controls over the advertising of Schedule 7 chemicals in any jurisdiction except for Queensland.

Costs and benefits

This is not the preferred option as this would maintain national inconsistency and its associated costs.

90. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP

There are no outlined restrictions on advertising Schedule 7 chemicals in the SUSMP. Hence, implementation of the SUSMP would have much the same effect on stakeholders as the removal of existing standards and provisions.

Costs and benefits

As there are no outlined restrictions on advertising Schedule 7 chemicals in the SUSMP requiring the implementation of the provisions of the SUSMP would

require reference to a regulatory requirement that does not exist. This would be likely to cause confusion for industry in identifying requirements. However, this option would facilitate national consistency and thereby reduce current costs caused by inconsistencies.

This option is not the preferred option as it would have much the same effect as Option Six: Remove the provisions of the SUSMP and any State or Territory variations. Option Six provides a clearer intention explicitly noting that advertising of Schedule 7 chemicals will be removed.

91. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

This option would involve outlining specific requirements for the regulatory control. It would specify in detail the permitted form, media, language, format and location of advertising of Schedule 7 chemicals.

Costs and benefits

This may hinder the promotion of new chemicals to specialist users; however it is unlikely to affect public advertisements for Schedule 7 chemicals due to their hazardous nature and associated risk.

The costs to government may increase slightly due to increased costs associated with enforcing compliance. It is likely that this increase would be minor as currently advertising of Schedule 7 chemicals is not common practice.

Consumers are also unlikely to be affected by this option due to the improbability of current advertising benefitting consumers. Due to the nature of these chemicals it is expected that consumers of the product are aware of their availability in the market place.

This option is not preferred as it would significantly increase the level of legislation in each jurisdiction and increase costs to government associated with enforcing compliance.

92. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

This option would require that businesses do not inappropriately target advertising of Schedule 7 chemicals. In addition, businesses would be required to avoid activities that may draw attention to Schedule 7 chemicals in a public medium, in order to promote sales. The level of advertising would be at the discretion of businesses.

At present, it is unlikely that industry would advertise Schedule 7 chemicals in a public medium to unauthorised persons due to the risks associated with misuse. In addition, this is unlikely to affect the majority of jurisdictions as the lack of regulatory control in this area indicates that businesses already achieve an appropriate level of advertising.

Costs and benefits

This option would offer businesses with the flexibility of complying with the regulation in the manner they saw fit. However, adopting an outcome-based control would increase regulation with no clear benefit. At present, there are no regulatory controls regarding advertising of schedule 7 chemicals in the majority of jurisdictions and there is no evidence to suggest that this has led to undesired public health and safety outcomes.

Therefore, this option is not preferred as it would increase the level of legislation whilst having the same effect as having no regulatory controls due to the unlikelihood of businesses advertising Schedule 7 chemicals inappropriately.

93. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

This option would see advertising controls as an outcome-based standard, with an additional provision that would outline the specific activities businesses could do to comply with the standard.

Costs and benefits

This option would impose a regulatory cost on seven of the eight jurisdictions that do not currently have any advertising controls for Schedule 7 chemicals. However, much of this cost would seem to align with standard business practices, as advertising Schedule 7 chemicals may pose risks to public health and safety due to misuse by unauthorised persons.

This option, while offering both certainty and flexibility to businesses by providing the choice on how businesses comply, would be considered excessive as there is no evidence to suggest that no regulatory controls is problematic.

This option is not preferred as results in a substantial increase in the amount of regulation for the majority of jurisdictions. The substantial increase would appear to be unjustified as no evidence exists to suggest that no regulatory control over advertising of Schedule 7 chemicals is problematic.

94. 9For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations **[Preferred option]**

This option would result in no explicit regulatory controls over advertising of Schedule 7 chemicals. This would only impact Queensland as no other jurisdiction has a control in place.

It is unlikely that industry would advertise Schedule 7 chemicals to persons not endorsed to buy use or sell the chemical due to their dangerous nature and the risks associated with misuse. Furthermore, Schedule 7 chemicals are not purchased widely and therefore suppliers are unlikely to benefit from advertising to the public.

Costs and benefits

This option would facilitate a nationally consistent approach to control over advertising of Schedule 7 chemicals. There is no evidence to suggest that an absence of regulatory controls regarding this practice poses a risk to public health and safety. While chemical suppliers may wish to advertise in specialist trade magazines or other media that are read by users of these chemicals, any public advertisement of Schedule 7 chemicals would also be likely to attract the concern of the Advertising Standards Bureau (ASB) due to the hazardous nature of these chemicals. The ASB has withdrawn tobacco and alcohol advertisements due to the health issues associated with their consumption and therefore it would be expected that the advertisement of products that could cause serious harm, such as Schedule 7 chemicals, would unlikely be permitted.[73]

This option is preferred as the majority of jurisdictions currently do not have regulatory controls over advertising. In addition, it is unlikely that removal of this

[73] Advertising Standards Bureau, < http://www.adstandards.com.au/ >

control would increase the level of advertising; it would be unlikely to have an impact on consumers or businesses in Queensland.

95. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	- (except QLD)	↑	-	↑	- (except QLD)
Consumers	-	-	-	-	-	-
Government	-	-	↑	-	↑	-

In conclusion, Option Six: Remove the provisions of the SUSMP and any State or Territory variations is preferred, as the majority of jurisdictions currently do not have regulatory controls over advertising and there is no evidence to suggest that this is problematic.

96. Are there any costs or benefits that have not been outlined in any of the options above?
97. Are there any risks associated with these options?
98. Are you able to provide any evidence of the benefits of any of these controls?
99. Which option do you believe best delivers the policy objective, and why?

4.10 Hawking or supply of product samples (S5, 6 and 7)

Hawking and supply of product samples regulation controls selling chemicals through the act of hawking, or calling aloud in public. There are jurisdictional differences that currently exist for Schedules 5, 6 and 7 chemicals, which are regulated under the same standards for each State. This section describes and analyses options to harmonise these controls. The preferred option identified is to partially prohibit hawking or supply of product samples.

Definitions:

These controls relate to restrictions – typically bans – on:

- **Product Samples**: the supply of sample sized packages of Schedule 5, 6 and 7 chemicals. Consumer samples are a means by which businesses, particularly new entrants, introduce consumers to new products, and consequently restrictions on such samples can adversely affect competition; and/or
- **Hawking:** the sale of Schedule 5, 6 and 7 chemicals door-to-door or in a public place. Hawking is an alternative form of retail distribution, and could cover sales at public event such as fairs, markets or agricultural shows. Restrictions on hawking affects retail competition and the ability of new suppliers to enter markets by bypassing established retailers.

The Galbally Review examined the issue of product samples and recommended that:

> *State and Territory drugs and poisons legislation be amended to provide that, for consumer samples of Schedule 5 and 6 poisons, distribution should be permitted provided such supply takes place in accordance with a Code of Conduct for the Supply of Consumer Samples of Poisons (p. 100).*[74]

The Review also recommended that an industry developed code should include standards for: the substance which may be supplied as consumer samples; the way in which the consumer samples may be distributed; to whom they may be distributed; the size of the sample packs and the quantities which may be distributed to a consumer; the labelling and packaging requirements for the samples; and disposal.

The AHMAC working party that developed the response to the review noted that it supported the concept that it is not unreasonable for poisonous chemicals included in Schedules 5 and 6 to be supplied as a free sample to the general public in a public place where they have a right of refusal.

The working party noted that there would be a need to prohibit any unsolicited supply such as through letterbox drops, or supply to children. Supply of these chemicals, free of charge, could always occur at the retail premises normally supplying the chemical where the supply would be subject to the usual restrictions for labelling, packaging and age of purchaser.[75]

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[74] [74] Galbally, R 2000, *National Competition Review of Drugs, Poisons and Controlled Substances Legislation: Final Report Part B,* 2000,p.100

[75] Australian Health Ministers' Advisory Council Working Party 2003, *Response to the Review of Drugs, Poisons and Controlled Substances Legislation*, p.32

However, the working party concluded that it would be impractical to develop, implement, and enforce an industry developed code. Instead, it recommended rejection of the review's proposals to relax restrictions on distribution of product samples of Schedule 5 and 6 chemicals. The AHMAC working party's response to the Galbally Review was unanimously approved by COAG on 28 June 2005[76].

The alternative of adopting national regulatory controls that allow the distribution of product samples to consumers, subject to specified restrictions such as those outline above, has not been pursued to date, and a variety of state and territory based controls remain in place.

Purpose of the regulatory control

The purpose of hawking and supply of product sample controls is to control for inappropriate public access to Schedule 5, 6 and 7 chemicals. Hawking and provision of product samples in public places is likely to provide access to chemicals by children. In the case of Schedule 7 chemicals, which are prohibited from domestic use, it may also provide access to chemicals by the domestic market.

Options for the regulatory control

The options that will be assessed for hawking and supply of samples are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP
3. Adopt a prescriptive control **[Preferred Option]**
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations

Options impact analysis

Option One: Maintain the status quo

Six of the eight jurisdictions prohibit hawking and supply of samples. For each of those jurisdictions the prohibition is differently set out and uses differing terms and definitions. Although the outcome may be the same, this presents a complex set of requirements for businesses to be aware of, which in turn creates unnecessary costs.

[76] Therapeutic Goods Administration 2008, *Review of drugs, poisons and controlled substances legislation*, viewed 30 March 2012, <http://www.tga.gov.au/archive/review-legislation-galbally-050628.htm>

This option is not preferred as it would maintain a level of national inconsistency around the level of prohibition over hawking and supply of product samples for chemicals.

100. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: implement the provisions of the SUSMP as they are written

There are no outlined restrictions on door to door sales or provision of product samples of Schedule 5, 6 or 7 chemicals in the SUSMP. Implementation of the SUSMP would have the same effect as Option Six.

Costs and benefits

This option would facilitate national consistency and thereby reduce current costs caused by inconsistencies. However, as there are no outlined restrictions on door to door sales or provision of product samples of Schedules 5, 6 or 7 chemicals in the SUSMP requiring the implementation of the provisions of the SUSMP may cause confusion. The requirement to reference the SUSMP would indicate that a requirement exists in the SUSMP, which may be misleading.

This is not a preferred option as it would allow hawking and provision of samples of dangerous poisonous chemicals, without the controls that apply in retail settings.

101. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three A: Adopt a prescriptive control: control permits some hawking and supply of product samples **[Preferred Option]**

Under this option the States and Territories could allow the supply of product samples of Schedule 5 and 6 chemicals under specified restrictions, and prohibit the supply of product samples for Schedule 7 chemicals. The controls could also prohibit hawking of products in Schedules 5, 6 and 7.

This would align with the view relating to samples of the AHMAC Working Party that believed it was not unreasonable for Schedules 5 and 6 chemicals to be supplied as samples in public where members of the public have the right of refusal and under reasonable restrictions.

This option, by including proposed national (and mostly less restrictive controls) in the form of traditional government regulation rather than by industry

developed self-regulation, would also address the Working Group's concerns about the means that Galbally proposed to develop and enforce controls.

These proposed restrictions would include:

- those substances which may be supplied as consumer samples
- the size of the sample packs and the quantities which may be distributed
- the prohibition of any unsolicited supply, particularly where access by children cannot be controlled, such as through letterbox drops or attached to magazines.
- samples would be subject to restrictions on labelling and packaging; and
- provisions relating to disposal.

The specifics of these restrictions would be settled in consultation with industry.

Costs and benefits

This option would result in uniform controls that allow provision of samples, consistent with the recommendations of the Galbally Review. This would allow manufacturers, distributors and retailers for the first time to introduce samples as part of national marketing strategy, particularly when introducing new products. Consequently, this option is considered to be less costly than the status quo with respect to samples.

In addition, this option would retain the controls on hawking of poisonous chemicals that currently exist in most jurisdictions which would minimise the costs to industry of identifying requirements as current requirements would be maintained in many cases. Consequently, this option is considered to impose similar costs to the status quo with respect to hawking.

102. Can you provide any information on the costs and/or benefits of the current bans on hawking? Could these benefits be achieve at a lower cost?

This would result in an increase in the level of regulation for the Australian Capital Territory and the Northern Territory, who do not currently have any controls over hawking or sample supply. This could reduce flexibility for businesses in New South Wales and Tasmania which currently can seek exemptions within their current legislation.

This option is the preferred option as it would include mostly less restrictive controls, whilst maintaining requirements to reduce the risk of negative impacts on public health and safety.

103. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three B: Adopt a prescriptive national control: Control prohibits all hawking and product samples

This option would involve a blanket national ban on hawking and supply of product samples.

This would result in an increase in the level of regulation for the Australian Capital Territory and the Northern Territory, who do not currently have controls over hawking or sample supply. This would potentially reduce flexibility for businesses in New South Wales and Tasmania which currently have exemptions within their legislation. It would also reduce flexibility for businesses in jurisdictions in which legislation only exists in relation to hawking or in which no legislation exists for hawking or supply of product samples.

Furthermore, a blanket ban would incorporate hawking and supply of product samples for Schedule 5, 6 and 7 chemicals. Currently the regulation in Queensland only refers to Schedule 7 chemicals, therefore regulatory and compliance costs may increase for businesses in Queensland in relation to Schedule 5 and 6 chemicals.

Costs and benefits

This option could potentially have a negative impact on competition as it would restrict the introduction of products to consumers by way of hawking or supply of product Schedule 5 and 6 chemicals as samples including domestic use products such as hair dye and rat chemicals. This is unlikely to restriction competition in the market for Schedule 7 chemicals as these restricted access products are considered to be less likely to be offered as free samples or sold via hawking.

The benefits of strengthening restrictions on hawking and supply of product samples would largely be to consumers as it would reduce the likelihood of access by children (and, in the case of Schedule 7 chemicals, to members of the public) to whom the products should be restricted. Furthermore, in the case of samples it is considered that consumers that do not actively seek out the product are less likely to consider the risks outlined on the labelling of the products and therefore the risk of misuse are higher.

This is not the preferred option as it would impose a greater regulatory burden on industry and increase costs associated with compliance.

104. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

An outcome-based control option would focus on the outcome that restrictions on provision of samples and hawking was aiming to achieve.

No alternative outcome-based controls have been identified.

105. Can you suggest an outcome-based control that would achieve the objectives of the current restrictions on hawking and distribution of product samples at a lower cost?

106. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

This option would be based on an outcome-based control, with a prescriptive deemed to comply provision. As no outcome-based controls have been identified for this control, no option along these lines is provided.

107. If supply of samples is permitted, subject to restrictions, are the proposed restrictions appropriate?

108. If they are not appropriate, why are they not appropriate?

109. Are proposed restrictions such as a restriction on labelling and packaging, feasible?

110. Are there alternative restrictions that could be proposed?

The majority of jurisdictions already prohibit hawking; therefore the reduction in flexibility for businesses in relation to hawking would only apply to the ACT. In the Northern Territory under the Therapeutic Cosmetics Act hawking is also prohibited, therefore there would be no change for businesses in this jurisdiction.[77] Businesses that have existing legislation on supply of product samples of Schedules 5 and 6 chemicals will have increased flexibility in supply of product samples.

[77] Currently, this legislation is in place; however, it will soon be repealed with the introduction of new legislation.

Costs and benefits

This option would facilitate the national marketing of new products to consumers which is currently challenging for business to conduct.[78] This could benefit consumers by increasing competition and making them aware of new products which they may not have actively sought out. However, this may also increase safety concerns for consumers as they may not observe labelling and packaging warnings and restrictions if they have not sought out the products independently.

Furthermore, the potential increase in availability of product samples of Schedule 5 and 6 chemicals could unintentionally increase access by children or members of the public to whom the products may pose risk.

The prohibition of supply of product samples of Schedule 7 chemicals is unlikely to affect businesses in any jurisdiction. Their use is prohibited by the domestic market; therefore, due to their specialist nature, supplying product samples is unlikely to be a common business activity.

This is not the preferred option as an outcome-based control has not been identified for this control.

111. Can you provide examples of where the existing restrictions limit your organisation's ability to market its products?
112. Are there any costs or benefits that have not been outlined in any of the options above?
113. Are you able to provide any evidence of the benefits of any of these controls?
114. Are there any risks associated with these options?
115. Are there jurisdictions overseas that allow product samples, and if so, under what conditions?
116. Is there evidence of increased access by children to dangerous chemicals through product sampling?
117. Which option do you believe best delivers the policy objective, and why?
118. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

[78] ACCORD 2011, Response to Industry Survey.

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

Removing existing provisions or standards would result in no regulatory controls over hawking or supply of product samples. This would impact the majority of jurisdictions as currently six of the eight prohibit hawking.

Currently, hawking and supply of product samples is prohibited in the Northern Territory under the Therapeutic Cosmetics Act; however, this act will be removed after the adoption of new legislation. Therefore, there will be no explicit legislation to prohibit hawking or supply of product samples if existing provisions or standards are removed.

Costs and benefits

The removal of current regulations would be likely to provide greater freedom to industries in those six States by allowing hawking and supply of product samples. This may allow the introduction of consumers to new products providing easier access to the market for new suppliers, which would facilitate greater competition.

However, there is considerable risk involved in deregulating hawking and provision of product samples as this may facilitate access by children and other members of the public to whom the products may pose a risk. Samples may include hazardous products such as hair dye which, when used without appropriate knowledge of the product, could cause significant harm.

For some poisonous chemicals, labels and packaging should be sufficient to prevent misuse. However, if consumers do not actively seek out the product they may not observe nor understand potential risks.

Deregulating hawking and supply of product samples may also allow the domestic market to gain access to Schedule 7 chemicals. This is problematic as Schedule 7 chemicals are prohibited for domestic use. However, there is no evidence to suggest that in States or Territories where there are currently no regulatory controls regarding hawking and supply of product samples that this is a problem.

In addition, removal of explicit regulatory controls regarding hawking and supply of product samples of chemicals may have the consequence of allowing suppliers to provide access to chemicals in vending machines, which would give the public unrestricted access.

This is not the preferred option as it may increase risks to public health and safety by facilitating greater access by children or members of the public to whom products may pose a risk.

119. Is there any interaction between hawking/supply controls with controls by regulators such as the APVMA?

120. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	↓ (except ACT)	↓ (except ACT)	↑ (except SA)	- (except ACT)	- (except ACT)	↓ (except ACT)
Consumers	↑	↑	↓	-	-	↑
Government	↑	↑	↓	-	-	↑

In conclusion, the preferred option for this control is Option Four: adopt an outcome-based approach. This option would deliver national consistency of control; it would not represent a material regulatory increase in the ACT or the Northern Territory, and it would maintain an acceptable level of benefit to consumers in terms of restricting access to chemicals by children.

4.11 Appendix C: substances other than those included in Schedule 9, of such danger to health as to warrant prohibition of sale, supply and use

Appendix C in the SUSMP contains a list of poisonous chemicals or preparations which should be prohibited from sale, supply or use due to their dangerous nature. The SUSMP recommends that the provisions of Appendix C be included in appropriate State and Territory legislation. Some general exemptions, listed in Appendix A of the SUSMP, may apply to these poisonous chemicals. However, the nature of any variations in these exemptions is not considered by this report.

Purpose of the regulatory control

The purpose of Appendix C in the SUSMP is to outline dangerous poisonous chemicals that ought to be prohibited from sale, supply or use. This is to prevent misuse and to reduce risks of harm caused by these hazardous chemicals.

Options for the regulatory control

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP

3. Adopt a prescriptive control **[Preferred Option]**
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations

Options analysis

Option One: Maintain the status quo

The outcome of maintaining the status quo would be that all jurisdictions refer to Appendix C and effectively adopt the list as restricted or prohibited poisonous chemicals. The exception is Western Australia, which has not updated its reference to Appendix C since a proclamation in 2008. However, jurisdictions do not always refer to the Appendix and use different mechanisms to adopt it. These can be seen in more detail in the regulatory mapping outlined in Appendix C of this RIS.

Costs and benefits

The status quo is not preferred as it leads to a level of national inconsistency. This may lead to a level of ambiguity or confusion, and additional costs, which can mean that the purpose of Appendix C may not be achieved.

121. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written

This option would involve the adoption of Appendix C across all jurisdictions as it is written in the SUSMP. The general exemptions set out in Appendix A of the SUSMP would be expected to continue.[79]

Costs and benefits

This would result in more understandable legislation for businesses, consumers and compliance officers as the legislation would be consistent, clearer and simplified across jurisdictions.

The costs of adopting this option to all stakeholders would be minimal as the majority of States refer to Appendix C in some form and acknowledge that these chemicals are highly dangerous and require special precautions or prohibition.

[79] As previously noted, the exemptions in Appendix A are not being considered in this Regulatory Impact Statement.

Benefits of this option are that the system will be less confusing and therefore potential risks of misuse or misunderstandings regarding the nature of the chemicals will be reduced.

For Western Australia, New South Wales and Tasmania it would be simpler to directly adopt Appendix C into their current or future legislation if they were able to find a mechanism for doing so. However, in these jurisdictions there are legislative drafting and style restrictions on adopting appendices.

South Australia has specific exemptions under certain therapeutic use circumstances for Amygdalin, a chemical listed in Appendix C. These exemptions are for activities conducted under therapeutic goods and customs regulations. The adoption of Appendix C may have an effect on businesses in South Australia; however, these exemptions are outside the scope of this discussion.

122. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control [**Preferred option]**

This option would involve removing Appendix C from the SUSMP and creating a new Schedule of poisonous chemicals in the SUSMP.

The purpose of the new Schedule would be to list poisonous chemicals that are banned for a specific purpose and to list the purpose for which they have been banned.

Decision-making around moving poisonous chemicals into or out of a Schedule involves a risk or hazard based assessment. This is similar to the type of assessment required to determine if a poisonous chemical should be in or out of what is now Appendix C. Therefore it may be considered more appropriate for decisions about prohibitions to be included in scheduling decisions.

Furthermore, inclusion of the Appendix into a Schedule may make it easier for some States and Territories to directly reference this part of the SUSMP in their legislation or regulations. This would assist to increase uniformity.

The impact of this decision on business would be minimal – it is not expected that the levels of control will materially change with the creation of a new Schedule.

Costs and benefits

The cost of this option will revolve around the decision-making framework. The option will likely deliver the benefit of harmonisation and further clarity around the poisonous chemicals that are banned.

Although this is the preferred option, it is appropriate that a decision to implement this option should be considered by the planned review of the current chemical and medicines scheduling arrangements, which are due for review in 2013.

123. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

This option would involve creating a new control that sets out general outcomes for the prohibition of certain poisonous chemical.

Costs and benefits

There would be a cost from this control to business and consumers as they would be required to know and understand the general nature of the prohibition. This would deliver a benefit of national consistency; however it is not certain that this option would deliver the desired outcome due to the possibility of differing interpretations of an outcome based control.

This option is not preferred. Where prohibitions on particular poisonous chemicals are decided upon, it is not appropriate to make the provisions of those prohibitions general in nature, or open to interpretation.

124. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply' provision

This option would involve creating a new control that sets out general outcomes for the prohibition of certain poisonous chemicals, alongside a prescriptive control setting out conditions of the prohibition.

Costs and benefits

Having both an outcome and prescriptive based control may create confusion in terms of banned poisonous chemicals without providing a clear benefit.

The impact of this option would not be materially different in outcome from the status quo. However, it is not preferred. Where prohibitions on particular poisonous chemicals are decided upon, it is not appropriate to make the provisions of those prohibitions general in nature. Further to this, having both general and specific conditions could make the regulatory control more confusing and ambiguous for industry and consumers.

125. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

This option would remove all existing provisions or standards, including Appendix C in the SUSMP. This would potentially create health and safety risks due to misuse or misunderstandings regarding the degree of risk associated with the use of these chemicals.

Costs and benefits

To some extent, this would be a regulatory simplification. However, some of the associated risks may prove too high, as removal of regulation may be insufficient to ensure public health and safety.

With this option, costs to consumers would increase as Appendix C chemicals may not be explicitly identified as highly dangerous chemicals in any form of legislation. This has a small potential to cause misunderstandings regarding the level of toxicity of these chemicals. This may lead to insufficient caution being applied, increasing the likelihood of misuse.

Due to the increased risks associated with misuse, the costs to government may also increase. The outcomes of misuse or misunderstanding could cause public health and safety concerns which would outweigh the benefits associated with regulatory simplification.

Conversely, removing regulation over these chemicals may decrease costs to industry. This would be caused by an increase in flexibility over sale, supply or use of Appendix C chemicals.

126. Are you able to provide any evidence of the benefits of any of these controls?

127. Are there any risks associated with these options?

128. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	-	-	*NA*	-	↓
Consumers	-	-	-	*NA*	-	↑
Government	-	-	-	*NA*	↑	↑

Option Three: adopt a prescriptive standard is the preferred option for Appendix J. This option means that Appendix J would be updated, and inclusion of the Appendix into a Schedule may make it easier for some States and Territories to directly reference this part of the SUSMP in their legislation or regulations.

4.12 Appendix I: Uniform Paint Standard

This section provides a detailed outline of how Appendix I of the SUSMP is implemented differently by the States and Territories. It then describes the purpose of the Uniform Paint Standard, and considers the available options for achieving uniformity of regulation.

This section will consider the different options to achieve uniformity of the control.

Purpose of the regulatory control

The objective of Appendix I: Uniform Paint Standard is to limit the proportion of dangerous chemicals in paint that is applied to specific surfaces. The Uniform Paint Standard specifies the dangerous chemical to paint ratio that must not be exceeded. This proportion differs according to the toxicity of the chemical. The two most toxic chemicals, and hence most stringent restrictions that are included in the Uniform Paint Standard, are cadmium and lead. Exceeding these proportions is expected to pose a risk to public health and safety, especially to manufacturers and consumers. The Australian Paint Manufacturers' Federation

has confirmed that the system is unevenly effective with regard to ensuring public health outcomes.[80]

Seven of the eight jurisdictions place some restrictions on the chemicals contained in paints, and four of the eight jurisdictions reference the Uniform Paint Standard.

Options for the regulatory control

The options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP **[Preferred Option]**
3. Adopt a prescriptive control
4. Adopt an outcome-based control
5. Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provisions of the SUSMP and any State or Territory variations

Options analysis

Option One: Maintain the status quo

If the status quo were maintained, there would be a continuation of national inconsistency, with not all of the States and Territories implementing the Uniform Paint Standard, and those jurisdictions who do implement the paint standard implementing the standard differently from each other. Three of the eight jurisdictions have no standard or lower requirements for chemicals in paint. Four jurisdictions reference the SUSMP. The ACT has a number of clauses in the relevant regulation, some mirroring those in the standard and some with differing requirements

This option is not preferred as it does not lead to a nationally consistent approach to control over chemical concentrations in paints and does not remove the costs to businesses created by national inconsistency.

129. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

[80] Australian Paint Manufacturers' Federation Inc. 2008, *Submission in response to the Productivity Commission's Study into Chemicals and Plastics Regulation*

Option Two: Implement the provisions of the SUSMP as they are written with no additions **[Preferred Option]**

The regulatory control would require that all jurisdictions adopt the wording of Appendix I in the SUSMP. This will see the continued prohibition on importation, manufacture and use of lead and cadmium in paint.

Costs and benefits

Implementing this option would require four states to adopt the Uniform Paint Standard. The regulatory burden will increase for three of these jurisdictions, however as the Australian Capital Territory has relatively similar requirements in their current legislation, it appears that changing legislation to reference the Uniform Paint Standard will have little, if any, regulatory change impact. However, it would be beneficial, by providing greater clarity and certainty to business and consumer stakeholders.

This Option would deliver national consistency as well as greater consumer protection from paints, and is the preferred option.

130. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

A prescriptive control for paint standards is not likely to be materially different from what is currently outlined in Appendix I of the SUSMP. That means that this option is not different from Option Two, which is the preferred option.

Costs and benefits

The costs and benefits of this option will be largely similar to those of Option Two. The regulatory burden will increase for three of these jurisdictions, however as the Australian Capital Territory has relatively similar requirements in their current legislation, it appears that changing legislation to reference the Uniform Paint Standard will have little, if any, regulatory change impact. However, it would be beneficial, by providing greater clarity and certainty to business and consumer stakeholders.

131. For your industry or firm, do you consider the transitional or future costs of this option could exceed any benefits of achieving a nationally consistent approach? If so, can you please provide details of the costs that you expect you would incur.

Option Four: Adopt an outcome-based control

The regulatory control would require that paint does not contain dangerous levels of toxic chemicals and is not applied to certain surfaces. It would then be up to individuals or businesses to decide what concentrations of dangerous chemicals constitute a dangerous level and to what surfaces the paint can be applied.

Costs and benefits

This option would impose costs and an additional regulatory burden on industry in the jurisdictions that do not currently have any regulation, namely Victoria. However, it may provide a benefit by way of flexibility to jurisdictions that currently adopt the Uniform Paint Standard.

Given the potential for dangerous proportions of chemicals in paint to result in a risk to public health and safety, sufficient evidence would be required to show that this option is viable.

132. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, with a prescriptive 'deemed to comply' provision

The regulatory control would contain a high-level outcome that would require that paint does not contain dangerous levels of toxic chemicals and is not applied to certain surfaces, alongside a prescriptive provision that would explain the black-letter rules that a business could do to be deemed to be in compliance with the outcome.

A prescriptive provision for paint standards is not likely to be materially different from what is currently outlined in Appendix I of the SUSMP, which means that this option is not materially different from the preferred option of implementing the SUSMP as it is currently written with no amendments. Therefore Option Two is preferred above Option Five.

Costs and benefits

As this option seeks to achieve largely the same aim as Option Two, the costs and benefits would also be largely similar.

133. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions in the SUSMP and any State or Territory variations

This option would mean that there are no explicit regulatory controls of the proportion of dangerous chemicals contained in paint. This would require seven of the eight jurisdictions to remove their reference to the Appendix I: Uniform Paint Standard from their legislation, as well as any other associated legislation.

134. Is there an alternative regulatory control that could be used to manage the concentration of chemicals in paints?

135. If there is an alternative regulatory control, is this level of control effective?

Costs and benefits

The removal of this legislation would mean that there are no regulatory costs for dangerous chemicals in paints across all jurisdictions. However, as seven jurisdictions currently have legislation regarding the level of dangerous elements in paint; it would appear that removing this legislation may increase the risk of public health and safety. For this option to be chosen, evidence would need to show that the cost of the regulatory burden of having a Uniform Paint Standard outweigh the cost to public health and safety that would result if the Uniform Paint Standard were removed.

The removal of this Appendix would still allow other areas of legislation to control the contents of paint. Other legislation that may impose restrictions on the contents of paint may include: Workplace Health and Safety legislation (will vary between jurisdictions), Environmental Protection legislation (will vary between jurisdictions), and the *Competition and Consumer Act 2010.* Regulators in this area also include the ACCC, which involved in chemical and product safety aspects of the regulatory regime that controls the importation of products into Australia.

The removal of this Appendix would also have no impact on the other Appendices that currently control lead and lead-based products such as Appendix C of the SUSMP.

136. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

137. Are there any alternative chemicals which should be included in the Uniform Paint Standard?

138. Are the proportions of chemical allowed in paint reflective of dangerous toxicity?

139. Could these proportions be amended to achieve a better outcome?

140. If an alternative standard was identified above, what would be the associated costs and benefits?

141. Are there any costs or benefits that have not been outlined in any of the options above?

142. Are there any risks associated with these options?

143. Which option do you believe best delivers the policy objective, and why?

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	↑	↓	↑	↓	↑
Consumers	-	-	-	↑	-	↑
Government	-	-	-	-	-	↑

The preferred option for Appendix I is Option Two: to implement the provisions of the SUSMP as they are currently written, with no amendment. This option will achieve national consistency with minimal change from States and Territories, and is an appropriate level of control over dangerous chemicals in paints.

4.13 Appendix J: Conditions for availability of Schedule 7 chemicals

Appendix J ensures that only authorised or licensed persons are given access to certain chemicals.

Purpose of the regulatory control

The focus of the Appendix J – Conditions for availability and use of Schedule 7 chemicals is to ensure that only authorised or licensed persons are given

access to certain chemicals. Authorising certain people access to certain Schedule 7 chemicals is intended to reduce misuse.

All of the eight jurisdictions control the availability and use of the listed Schedule 7 chemicals in Appendix J of the SUSMP. However the way this is achieved by each jurisdiction differs. Some jurisdictions refer to Appendix J, some jurisdictions mirror the Appendix in their legislation, and some achieve the same goals through licensing provisions.

Options to achieve uniformity

The four options outlined in this section are as follows:

1. Maintain the status quo
2. Implement the provisions in the SUSMP as they are currently written with no additions
3. Adopt a prescriptive control **[Preferred option]**
4. Adopt an outcome-based control
5. Adopt an outcome-based control, with a prescriptive 'deemed to comply or satisfy' provision
6. Remove the provision in the SUSMP and any State or Territory variations

Options Analysis

Option One: Maintain the status quo

Seven out of eight States and Territories are consistent with the standard set out in Appendix J, as they require that a person or business be licensed or otherwise authorised to be able to access certain or all Schedule 7 chemicals. Victoria has a separate list for regulated Schedule 7 chemicals. There are substantial differences between the types of licences that the States offer, which creates a separate complication, and in turn a cost for business in terms of ensuring compliance with the requirements of the States and Territories in which they operate.

144. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written with no additions

The regulatory control would require that businesses in all jurisdictions adopt the wording of the Appendix J in the SUSMP.

Costs and benefits

The requirement that all jurisdictions adopt Appendix J in the SUSMP will only change the structure of the legislation. Currently, all jurisdictions are aligned and achieve the same objectives of Appendix J, whether it be through explicit reference or through other means, such as licensing requirements. In cases where licensing or other legislation duplicates Appendix J, duplication will be a cost of achieving uniformity across jurisdiction. If all jurisdictions adopt the wording of the Appendix J in the Poison Standard, this does not necessitate the updating of chemicals included in Appendix J – as is achieved in Option 3, and therefore is not the preferred option.

145. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control **[Preferred option]**

For this option, Appendix J would be retained. However, the recommendation would be to review the chemicals that are currently included in Appendix J, and to update the list as appropriate. The review would include an assessment of the risk posed by the chemicals. It is anticipated that the update would mean that Schedule 7 chemicals included in the Appendix would reflect those chemicals which are currently subject to chemical regulatory controls. This would clarify the Appendix.

Costs and benefits

Appendix J has not been an actively used or amended component of the SUSMP in recent years. A review, reassessment and update would ensure that this aspect of the SUSMP would be current and relevant to business and consumers.

There would be an administrative impact on the jurisdictions that do not currently reference Appendix J, as they would then have to refer to it or implement it in some way.[81]

146. Are there any alterations that could be made to Appendix J to better achieve the desired outcomes?

[81] Options for implementation of agreed controls are discussed in Chapter Five of this RIS

147. Are there any costs or benefits that have not been outlined in any of the options above?

148. Which option do you believe best delivers the policy objective, and why?

149. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

This option would involve creating a new control that sets out general outcomes for the conditions of availability of Schedule 7 chemicals.

Costs and benefits

This option is not preferred because it is not viable for this particular control. Where particular conditions are being placed on particular poisonous chemicals, it is not appropriate to make the provisions of those restrictions or conditions general in nature, or open to interpretation.

The cost of implementing this control would require legislative change in all jurisdictions with no real associated benefit.

150. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply' provision

This option would involve creating a new control that sets out general outcomes for the prohibition of certain chemicl, alongside a prescriptive control setting out conditions of the prohibition.

Costs and benefits

The impact of this option would not be materially different in outcome from the status quo. Where conditions or restrictions are placed upon particular chemicals, it is not appropriate to make the provisions of those prohibitions general in nature. Further to this, having both general and specific conditions could make the regulatory control more confusing and ambiguous for industry and consumers.

Therefore, this option would impose a regulatory cost with no perceived associated benefit.

151. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove provisions from the SUSMP and any State or Territory variations

This option would mean that Appendix J would be removed from the SUSMP and all jurisdictions would remove it from their legislation. The removal of this Appendix J however, would still allow other areas of legislation to influence the availability of certain Schedule 7 chemicals.

Costs and benefits

In order to fully understand the true costs of removing Appendix J, it is necessary to understand what, if any, licensing requirements in jurisdictions, or any other legislation, achieves the same goal as Appendix J seeks to achieve. If there is regulatory duplication, that is, if jurisdictions already prohibit the availability and use of those chemicals listed in Appendix J, then removing it will reduce duplication and therefore provide a benefit to the regulated community. If however, no other regulation or licensing requirement achieves the outcomes of Appendix J, removing Appendix J may increase the chance of misuse or create a risk to the public health and safety.

152. Of the chemicals in Appendix J currently, are any of them being regulated by another regulatory agency at a state or federal level (e.g. APVMA)?

153. If Appendix J Schedule 7 chemicals are being regulated elsewhere, is this level of control effective?

154. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

In conclusion, a prescriptive control is preferred for a consistent approach to Appendix J. The prescriptive control outlined above would effectively retain Appendix J. A review of the chemicals that are currently included in Appendix J, would allow an update to the list. The indicative impact of each option on stakeholder groups is highlighted in the table below.

Indicative impact of each option on stakeholder groups

Indicative Impact	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Industry	-	↑	↓	n/a		
Consumers	-	-	-	n/a		
Government	-	-	-	n/a		

5 Implementation and decision-making

This chapter outlines the options and impact of implementation and decision-making arrangements that will deliver the preferred regulatory controls outlined in the previous chapter. The discussion is separated between the institutional approach and the decision-making arrangements. Institutional approach is defined in terms of the legislative or regulatory approach that will be used to deliver reform. Decision-making arrangements have been defined according to the persons who would be authorised to make decisions, and aspects such as how decisions should be made, timeliness and frequency of decisions and decisions in emergency situations.
In considering the relative merits of each option, attention has been paid to the potential preferences of each key stakeholder group, which are set out in the table below.

Government	Industry	Consumers
• Clear roles and responsibilities • Authority to act • Responsive to emerging issues • Is the system effective at delivering public health objectives?	• Clear rules and expectations • Degree of consistent uniformity • Responsive to new products and issues	• Clear guidance on dangers • Protection from health risks • Uniformity, to make it easier to understand rules • A system able to respond to any problems

155. Are the key issues for each stakeholder group an accurate reflection of the considerations that each stakeholder would make?

156. Have any key considerations been missed?

5.1 Options for implementing preferred regulatory controls

Options for implementation of national regulatory reform were considered by the Productivity Commission in its 2009 *National Approaches to Regulation* supplement to the Plastics and Chemicals Regulation research report. The Commission noted that in general chemicals regulation, the most common legislative mechanisms for achieving national consistency have been to use template or model legislation, regulations and codes of practice.

Options for the implementation of agreed regulatory controls that are considered in this chapter are:

1. Maintain the status quo
2. Template 'reference' legislative approach
3. Model legislation and regulations
4. Referral of powers
5. Adoption of a national standard by reference ***[Preferred option]***
6. Harmonising subordinate law
7. Mutual recognition
8. Implementing agreed principles
9. Memorandums of Understanding
10. Service level agreements
11. Industry self-regulation

157. Do you think there are particular benefits or disadvantages from using one institutional framework over another?
158. Is there a framework you support more than others?
159. Are the described impacts accurate?
160. Are there any other impacts on stakeholders not detailed here?

Options analysis

The purpose of considering the structural approach is to ensure that the controls are nationally consistent across the States and Territories, and that the agreed approach can be maintained into the future.

Option One: Maintain the status quo

Under the status quo, decisions on controls would continue to be made independently by each State and Territory Government.

Under this model, even if Governments were to agree on consistent national controls, overtime as new information about risks, and the effectiveness (or ineffectiveness) of controls emerged, States and Territories could make different changes, or the same changes at different times. This would impose additional costs on businesses that operate across borders, and States and Territories which would have to each repeat some or all of the analysis and prepare the regulatory changes.

Option Two: Template legislative approach

The template approach would involve one jurisdiction enacting a law that is then applied by other jurisdictions as their law. This approach can be applied to regulations, standards or codes of practice.

The Galbally Review recommended that all regulatory controls (including scheduling/risk assessments) for chemicals and poisons be implemented by reference legislation. Although COAG supported the policy of regulatory consistency, in their response they agreed at the time to aim for uniformity via 'other means' as an alternative to template legislation. No reasons were given for preferring an alternative approach, but it would allow States and Territories to continue to implement variations if they wish.

The template and reference approaches have strengths and weaknesses. Their greatest advantage is that if the original legislation is applied or referred to without amendment by the states and territories, regulation is nationally uniform. Also, if all jurisdictions reference the template regulation as amended from time to time, these approaches facilitate the consistent uptake of amendments.

On the other hand, the use of template legislation constrains the scope that individual state (and territory) parliaments have in enacting laws for the good governance of their jurisdictions. It also limits the role of individual regulatory assessment procedures in the oversight of regulation. Another potential weakness of the template and reference approaches is that the development of templates that are acceptable to all jurisdictions can be time consuming, and adoption can be staggered over time.

Option Three: Model legislation and regulations

The 'model' approach to legislation, regulations, standards and codes of practice involves the drafting of a model document that each participating jurisdiction draws on in drafting its own legislative instruments.6 The model may be drafted in various ways: as a bill of a particular jurisdiction, or as an attachment to an agreement or an act. The jurisdictions might also decide that there are core provisions that need to be adopted consistently and non-core provisions that don't.

This approach allows jurisdictions to adapt the model to suit their circumstances (including their regulatory architecture), drafting styles and political priorities, without necessarily creating inconsistencies between jurisdictions.

The flexibility of the model approach can, however, result in inconsistencies. These can arise in the first instance when adapting the model, and over time as each jurisdiction sees fit to amend its own legislation, and do so in its own timeframe.

The Productivity Commission noted that overall, the experience in chemicals and plastics suggests that the model approach can be sufficient to deliver nationally consistent outcomes, although consistency has not always been achieved.

Work health and safety reform is ongoing. States and Territories are committed to the adoption of model Work Health and Safety legislation and related regulations through a COAG intergovernmental agreement in 2008. Safe Work Australia prepared the model act and model regulations for adoption by the jurisdictions, based on feedback from the Workplace Relations Ministerial Council.

Although a model law can seem a straightforward option, there remains a problem with inconsistency of adoption by the jurisdictions. Under this approach, the legislation must pass through the Parliament of each jurisdiction. This process gives each State or Territory the opportunity to amend the legislation to suit local issues or policy priorities. While this approach can help to achieve a greater level of uniformity, model laws can still lead to inconsistencies between jurisdictions.

Option Four: Referral of powers

States may refer legislative powers to the Commonwealth. For example, all States having referred powers to the Commonwealth relating to trade measurement.[82]

While this option would provide for nationally consistent controls, it may be deemed more appropriate for control over poisonous chemical use and supply to remain a state-level control.

Option Five: Adoption of a national standard by reference ***[Preferred option]***

This is an approach that is closely related to template legislation and involves jurisdictions referring in primary or subordinate legislation to instruments that have not been enacted by any jurisdiction. Each State and Territory calls up a national standard or code into its own regulations.[83]

This option would address an issue raised by stakeholders that decision-making and adoption of the SUSMP do not always occur in a timely manner.[84]

The Australian Building Codes Board uses a reference model for the adoption of the National Construction Code by the States and Territories. The Australian Building Codes Board is responsible for the maintenance and drafting of the code, which was developed to incorporate all on-site building construction

[82] Productivity Commission *Chemicals and Plastics Regulation: Lessons for National Approaches to Regulation* (2009)
[83] ibid.
[84] Responses to NCCTG Industry Survey, 2011.

requirements into a single code. The published Code is updated annually, after being approved by a national ministerial council (Legislative and Governance Forum on Food Regulation).

States, Territories and local Governments are responsible for the legislative and regulatory framework for the regulation of building construction, using the Code as a technical reference. This means that States and Territories retain some autonomy with respect to the regulatory, compliance and enforcement framework they set up; but the building standards themselves are nationally consistent.

Food safety standards have seen the successful adoption of many regulatory controls by reference. There is an inter-governmental agreement between the Commonwealth and the States and Territories that stipulates that food safety standards, agreed to by the ministerial council, will be adopted by reference.

This provides certainty for food businesses operating across the States and Territories as to what basic standards they are required to comply with, particularly with regard to labelling, chemicals added to food and processing requirements.

This was reformed to ensure uniformity of key food standards across Australia. Local, State and Territory Governments remain responsible for enforcement.

Option Six: Harmonising subordinate law

Where it is too challenging to harmonise legislation, an option is available of harmonising regulations and subordinate legislation. Significant levels of national consistency can be achieved through harmonising subordinate legislation.[85]

Differences in regulatory architecture can be a barrier to harmonising subordinate laws – each jurisdiction has its own legislative drafting conventions, structure, etc.

- jurisdictions may have Acts that do not exist in other jurisdictions
- the scope of legislation can vary
- penalties for non-compliance and appeal mechanisms may differ
- interpretation Acts vary across jurisdictions
- terms use in legislation may have different definitions in different jurisdictions
- sections of Acts are numbered differently

[85] ibid.

Option Seven: Mutual recognition

Mutual recognition of standards and approvals of other jurisdictions can deliver many of the benefits of national uniform regulation. It needs to be underpinned by an acceptance that the regulations and standards in one State or Territory meet community expectations in another.[86]

Mutual recognition reduces the burden on businesses that operate in more than one jurisdiction by removing some of the technical barriers they face. Firms only need to satisfy one set of regulations to be permitted to sell a good in all jurisdictions. This has the potential to increase opportunities for trade and economies of scale.

Broader mutual recognition of qualifications, accreditations and products that comply with regulations in one of the participating Australian jurisdictions would make a significant contribution to national consistency in chemicals and plastics regulation. Mutual recognition offers a workable but limited form of cooperation across independent jurisdictions. In this respect it is relevant not only to harmonising regimes in Australia, but also some international harmonisation.

Option Eight: Implementing agreed principles

This option was seen by the Productivity Commission as less rigorous than the other methods, as it involves agreeing on a set of principles that governments would then implement as they see fit.[87]

The agreed principles approach can establish a high-level commitment to national consistency. However, while this can be a useful starting point in situations where urgent national regulatory action is warranted, unless backed by effective institutions and incentives for implementation, it may not deliver nationally consistent regulations

Option Nine: Memorandums of Understanding

These tend to operate horizontally (within a single layer of government) rather than vertically. Memorandums of Understanding (MOUs) are generally not used to establish governance frameworks. They can; however, be effective for laying the foundations for successful coordination between regulatory agencies. MOUs in chemicals regulation include one between the APVMA and FSANZ, which includes a protocol for risk assessments used in the determination of maximum residue limits for agricultural and veterinary chemicals.[88]

Vertical MOUs in chemicals and plastics regulation have not been widely used. The only example identified by the Commission — the NICNAS MOU— has had limited impact. A States and Territories Memorandum of Understanding

[86] ibid.
[87] ibid.
[88] ibid

Group was established to assist in the flow of information between NICNAS and the states and territories on OHS, environmental and health matters. However, the members of this group all come from OHS agencies, and its focus has been predictably narrow. Even then, it has not been a very effective forum for promoting the national uptake of NICNAS recommendations.

Option Ten: Service level agreements

These are also often used for coordination and cooperation between government agencies. They could assist to achieve a uniform approach to regulation. If, for example, the APVMA were to take responsibility for control of use regulation for agvet products, they could enter into service agreements with the State agencies to also enforce the regulations.[89]

Option Eleven: Industry self-regulation

Standards for the control of chemicals could be set and administered directly by the relevant industries. This would allow business to set its own regulatory requirements within particular parameters.

Although the Productivity Commission considered this option, it is not viable. It would only be feasible if the preferred option for all controls were to remove regulation.

This option is also not preferred because there is no clear single peak body for businesses that use chemicals. It would be a challenge to identify the most appropriate group of people to set up the system. Retail storage of Schedules 5 and 6 chemicals was previously the subject of industry work to create a code of practice for storage. This process was unsuccessful in creating a new code

Indicative impacts on stakeholders

The table on the next page describes the impact that each option would have on each of the three key stakeholder groups.

[89] ibid.

Indicative impact of each option on stakeholder groups

Indicative regulatory Impact	Reference to regulatory control handbook	Model legislation
Industry	No direct impact	Can still lead to variation between states and this becoming more different over time, is a cost to industry
Consumers	No direct impact	No direct impact
Government	Requires giving up some level of state government sovereignty Difficult to vary for local issues	Allows for some variation (potentially positive from State and Territory Govt perspective)

161. Are the key issues for each stakeholder group an accurate reflection of the considerations that each stakeholder would make?

162. Have any key considerations been missed?

5.2 Options for decision-making

As well as the institutional arrangements, decision-making for scheduling and the SUSMP is due to be reviewed in the 2013 review of the governance of chemicals and medicines scheduling. However, one of the issues for this paper and the RIS to discuss is how and by whom decisions will be taken in future, after the preferred approach for national consistency has been agreed to or implemented.

Currently, the DOHA Secretary (or delegate) takes into account matters of public health and the advice from the ACCS and the ACMS in making decisions relating to scheduling. Other decisions in the SUSMP are also made by the DOHA Secretary (or delegate) under the Therapeutic Goods Act.

Scheduling decisions are risk assessments that are generally based on a technical understanding of the chemicals, while decisions on regulatory controls could generally be characterised as policy decisions.

Options available include whether decisions about future changes to regulatory controls should be made by a:

- Committee of technical experts,
- Commonwealth Secretary (or delegate),

- Committee of State and Territory officials, or
- Ministerial Council.

The following section considers the different types and aspects of decisions that are commonly made by government in relation to regulatory controls over chemicals, and assesses what type of decision maker would be best placed to make the decision. The following aspects are considered:

- Technical decisions
- Policy decisions
- Timeliness of decisions
- Frequency of decisions
- Emergency powers

Policy versus technical decisions
The decision on scheduling is made by the DoHA Secretary (or delegate), as more a technical judgement. Controls are more consistent with policy choices that might best be made by Ministers. The technical decisions and regulatory control decisions are discussed below.

- *Technical decisions*

Poisons are scheduled by the DoHA Secretary or delegate, with advice from the ACCS and the ACMS. The ACCS committee membership is made up of State and Territory officials from health departments with a level of experience in chemical and medicines policy and other chemicals or medicines experts. These scheduling decisions are largely technical in nature and are based on a risk assessment of the nature of the chemical itself, and then by making a Risk/Benefit Analysis against the following questions:

- What is the hazard?
- How widespread is the hazard?
- In what circumstances will the hazard arise?
- What is the likelihood of the hazard occurring?
- Who or what is at risk?
- What are the consequences of the hazard in terms of severity (morbidity and mortality) and duration?

Because these decisions are technical in nature and require detailed thinking about individual chemicals, it is arguably more appropriate for these decisions to be made at an official rather than a ministerial level.

Regulatory controls

While scheduling can be said to be a technical or objective decision, decisions about regulatory controls such as packaging, labelling, storage and other controls are generally more reflective of the policy priorities of a jurisdiction. This is often based on the appetite for risk in a particular jurisdiction and could be considered to be more of a policy decision than a technical decision.

For this reason it may not be as appropriate to allow decisions like this to be made by a committee of officials and signed off by a Commonwealth official. While the Advisory Committees are well-placed to offer advice as to the appropriate level of regulatory control, it may be preferable to allow these policy decisions to be agreed to at a ministerial level, either by an individual minister or a Ministerial Council.

Timeliness- addressing urgency

National approaches to regulation and legislation are inherently complicated. This means that the process to make decisions can sometimes be quite time-consuming and potentially insufficiently responsive to changes or emerging issues.

While this is not necessarily a problem, it means that there need to be contingencies set out for making rapid decisions in a timely fashion in particular circumstances. This may mean, for example, that urgent decisions are able to be made by a delegated official, but that these decisions must be reviewed by Ministers within a prescribed length of time.

Frequency of change

When setting out the structure and governance of decision making in a new environment, one of the factors to consider will be how often the relevant officers or ministers should meet, and how often they should be able to make changes to schedules or to a standard. Currently the NCCTG meets twice per year. The 2011 SUSMP was amended five times in 2011, mostly to account for new chemicals and other chemicals being added to Part 4 of the Standard.

Emergency powers

Immediate risks to public health that may require emergency or out-of-session decision making. Broadly these decisions relate to:

- The rescheduling of chemicals to reflect a higher risk and need for more stringent controls on particular chemicals.
- The possibility for emergency recall controls applying to control a perceived risk from particular chemicals or products that contain particular chemicals that requires immediate attention.

The principles for making some of these 'emergency' or rapid decisions are outlined below. These would need to be clearly articulated in the legislation or regulation governing the decision maker, and would include:

- Who is the most appropriate decision maker in an emergency situation?
- What are the criteria that should determine emergency decisions?
- Should decisions be temporary? If so, for how long should they apply?
- How should decisions be included into a formal standard?

163. What alternative options could there be for rapid decision making in the future?

Purpose of decision-making

The purpose of decision-making arrangements is to ensure that decisions are made by the most suitable person or body, in an appropriately timely and responsive fashion.

Options for allocation decision-making authority[90]

The following options for decision-making have been considered.

1. A Commonwealth delegate to make decisions, on the advice of an Advisory Committee (this is the status quo)
2. Establish a statutory board as the decision-maker.
3. Establish a standard-setting body (based on a model such as food regulation
4. Through an intergovernmental arrangement (via a committee similar to the NCCTG) with a Ministerial Council (such as the SCOH) as the decision-maker. **[Preferred Option]**

Options Analysis

If a nationalised process is commenced, careful consideration needs to be given as to who is the most appropriately placed decision-maker for the process. It has been noted that a dedicated decision-maker may be the best option, as Health Ministers and bureaucrats often have other priorities.[91]

[90] The preferred option for decision-making of regulatory controls is best chosen by Health Ministers at SCoH. The preferred option will be noted in the final Consultation RIS when it is published in August.
[91] PACIA 2007, Submission to the Productivity Commission Plastics and Chemicals Research Report

Indicative impact of each option on stakeholder groups

Indicative regulatory Impact	Commonwealth Delegate	Statutory board or authority	Standard-setting body	Inter-governmental arrangement
Industry	No direct impact	No direct impact	No direct impact	No direct impact
Consumers	No direct impact	No direct impact	No direct impact	No direct impact
Government	May not be best placed to sign off on future policy standards Is a slow system	Most likely option to have clear roles and responsibilities, be responsive and act in a timely fashion One or two statutory bodies able to conduct both policy and scientific analysis	Requires that Governments still refer to or adopt the standard somehow Decisions likely to be timely	Can be unresponsive and slow Can be unclear who is decision maker, what to do with disagreement

164. Are there any aspects of decision-making that have not been captured in this analysis?

6 Options summary

This chapter summarises the recommended options for testing in the consultation phase.

Table 6.1 – Preferred options for uniformity of structure and governance of chemical controls

Area of reform	Preferred option	Details
Governance arrangements	Five	Adoption of a national standard by reference
Decision making structures for controls	Four	Intergovernmental arrangement (via a committee similar to the NCCTG) with a Ministerial Council (such as the SCOH) as the decision-maker.

Note: The preferred option for decision-making of regulatory controls is best chosen by Health Ministers at SCoH. The preferred option will be noted in the final Consultation RIS when it is published in August 2012.

Table 6.2 – Preferred options for each regulatory measure

Regulatory control	Preferred Option	Details and impact
Storage of Schedule 5 chemicals	Four	Adopt an outcome-based control This option will assist to achieve national consistency and help prevent access to chemicals by children, while not representing a material increase in the regulatory burden on business.
Storage of Schedule 6 chemicals	Four	Adopt an outcome-based control This option will achieve a nationally consistent approach that retains flexibility for business.
Storage of Schedule 7 chemicals	Five	Adopt an outcome-based control, with a prescriptive 'deemed to comply or satisfy' provision. The impact of this option would be that Schedule 7 chemicals are kept in a facility or area which is secured, along with detailed guidance provisions for how this may be implemented.

Regulatory control	Preferred Option	Details and impact
Disposal of Schedule 5, 6 & 7 chemicals	Four	Adopt an outcome-based control for disposal Reduction in the overall amount of regulation covering chemicals, while still requiring that public and environmental health and safety standards are upheld.
Labelling of Schedule 5, 6 & 7 chemicals	Two	Implement the labelling provisions of the SUSMP as they are written with no additions This option would achieve greater national consistency while still achieving the objective of the regulatory control. There is not expected to be any additional regulatory burden for businesses in the majority of States and, for Tasmania, the Australian Capital Territory and New South Wales, the increase in regulatory burden would be minimal.
Packaging of Schedule 5, 6 & 7 chemicals	Two	Implement the provisions of the SUSMP as they are written with no additions For jurisdictions that offer alternatives or include additional requirements the impact of adopting the SUSMP would be minimal while still achieving the objective of the control.
Record keeping of Schedule 5, 6 & 7 chemicals	Three	Adopt a prescriptive control Minimal impact: the majority of jurisdictions currently require the listed details and the period of retention aligns with the requirements of the Australian Tax Office.
Advertising of Schedule 5, 6 & 7 chemicals	Six	Remove existing provisions or controls This option would achieve national consistency. It is unlikely that removal of this control would have a material impact on consumers or businesses in Queensland

Regulatory control	Preferred Option	Details and impact
Hawking/Supply of product samples of Schedule 5, 6 & 7 chemicals	Four	Adopt a prescriptive control This option is preferred because it would deliver national consistency of control; it would not represent a material regulatory increase in the ACT or the Northern Territory, and it would maintain an acceptable level of benefit to consumers in terms of restricting access to chemicals by children.
Appendix C	Three	Adopt a prescriptive control This option would involve removing Appendix C from the SUSMP and creating a new Schedule of chemicals in the SUSMP. The impact of this decision on business would be minimal – it is not expected that the levels of control will materially change with the creation of a new Schedule.
Appendix I	Two	Implement the provisions of the SUSMP as they are written with no additions This option will achieve national consistency with minimal change from States and Territories, and is an appropriate level of control over dangerous poisonous chemcials in paints.
Appendix J	Three	Adopt a prescriptive standard This option will achieve national consistency, and includes a requirement to review, evaluate and update the chemicals that are currently included in Appendix J.

7 Implementation and review

This chapter provides an outline of the expected implementation process, and other transitional or monitoring arrangements.

7.1 Implementation

This RIS will lead to a decision on what should be the key regulatory controls for poisonous chemicals in Schedules 5, 6 and 7, and the manner in which they are implemented. The consequent change that will occur is that some of those controls will no longer be included in the SUSMP, and may not be decided upon by the DoHA Secretary.

Comments will be considered and the final decision RIS will be submitted to the Australian Health Ministers' Advisory Council and the Standing Council on Health for approval on Friday 19 October 2012, following which a decision will be made on Friday 9 November 2012.

Subject to approval by the Standing Council on Health, regulatory or legislative change that needs to occur to effect the decision of SCoH will be implemented by all States and Territories and the Commonwealth. The tables in the next pages provide a summary of indicative potential timelines for implementation that will occur as a result of the preferred options outlined in Chapter Four of this RIS.

Table 7.1 – Summary of expected implementation processes for each preferred option in each jurisdiction

Jurisdiction	Legislative change required (Y/N)	Regulatory change required (Y/N)	Time required (months/years)
Commonwealth	-	-	There is some difficulty in providing you with a time frame for the legislative and regulatory changes to Commonwealth legislation. Depending on the agreed options and what COAG decides to do, changes to the Therapeutic Goods Act and Regulations may need to occur. With any primary legislative change this could take up to 12-24 months if not longer. In relation to the SUSMP (SUSMP), changes will most definitely need to occur. The SUSMP is a legislative instrument registered on FRLI and we currently update this 3 times a year.
Australian Capital Territory	No	Yes	Refer to table 7.2
New South Wales	Refer to table 7.2	Refer to table 7.2	Refer to table 7.3
Northern Territory	TBC	TBC	TBC
Queensland	Yes	Yes	12 – 18 months estimated to complete
South Australia	Refer to table 7.3	Refer to table 7.3	Refer to table 7.4
Tasmania	Refer to table 7.4	Refer to table 7.4	Refer to table 7.5
Victoria	Yes	Yes	Within 2 years* *Timeline for any legislative or regulatory change will depend upon: • Ministerial approval; and • Requirement, if any, for a regulatory impact statement under the Victorian Subordinate Legislation Act 1994
Western Australia	Refer to table 7.5	Refer to table 7.5	Refer to table 7.5

Table 7.2 – Australian Capital Territory– Expected implementation process for each preferred option

Control	Preferred Option	Legislative Change	Regulatory Change	Time Frame
Storage S5	Outcome based for children	None anticipated	Yes	18 months subject to resources and ACT legislative processes.
Storage S6	Outcome based for children	None anticipated	Yes	
Storage S7	Secure area, access under authorised supervision	None anticipated	Yes	
Disposal	Outcome based	None anticipated	Yes	
Labelling	SUSMP provision – states adopt	None anticipated	Yes	
Packaging	SUSMP provision – states adopt	None anticipated	Yes	
Record Keeping S7	New control – agreed data set	None anticipated	Yes	
Advertising	Remove state provisions	None anticipated	None anticipated	
Hawking	New control for samples – states adopt	None anticipated.	Yes- new restrictions on hawking may be included in regulation and linked to existing supply offences in legislation.	
Appendix C	Banned substances in new schedule – states adopt	None anticipated	Yes	
Appendix I: Paint	SUSMP provision	None anticipated	Yes	
Appendix J: S7	Amend SUSMP	None anticipated	None anticipated	

Table 7.3 – New South Wales – Expected implementation process for each preferred option

Control	Preferred Option	Legislative Change	Regulatory Change	Time Frame
Storage S5	Outcome based for children	Requires change to Reg. to implement storage requirements		12 months
Storage S6	Outcome based for children	Requires modification to Reg. wording of existing requirements		12 months
Storage S7	Secure area, access under authorised supervision	Requires modification to Reg. wording of existing requirements	Change in wording of authorities	12 months
Disposal	Outcome based	Minor Reg. wording amendment for national consistency?		12 months
Labelling	SUSMP provision – states adopt	NSW currently adopts SUSMP. Will required removal of cl 8 of the Regulation		12 months
Packaging	SUSMP provision – states adopt	NSW currently adopts SUSMP. Will require removal of cl 21 of the Regulation		12 months
Record Keeping S7	New control – agreed data set	Will require specific change to wording and duration of keeping records	Will require longer duration of record keeping	12 months
Advertising	Remove state provisions	No impact		N/A
Hawking	New control for samples – states adopt	Change to Act required – would need to see what is proposed		12-24 months
Appendix C	Banned substances in new schedule – states adopt	It is unclear what will be the effect. Possible Act amendment		12 -24 months
Appendix I: Paint	SUSMP provision	Will require adoption of this by reference in the Reg. plus removal of cl 22 of the Regulation		12 months
Appendix J: S7	Amend SUSMP	Will require adoption of this by reference in the Reg.		12 months

Table 7.3 – South Australia – Expected implementation process for each preferred option

Control	Preferred Option	Legislative Change	Regulatory Change	Time Frame
Storage S5 / 6	Outcome-based standard for restriction of access by children	Changes to Poisons Regulations required to refer to this standard and remove current requirements that protect food from contamination **		12 months*
Storage S7	Secure area, access under authorised supervision	Changes to Poisons Regulations required to mirror model wording and remove current requirements that protect food from contamination **	Changes to licence conditions	12 months* (1-3 yr licence cycle)
Disposal	Outcome-based standard for safe disposal	Changes to Poisons Regulations required to refer to this standard **		12 months*
Labelling	SUSMP provision	SA complies by referring to SUSMP as written with no additions		N/A
Packaging	SUSMP provision	SA complies by referring to SUSMP as written but with additions: Changes to Poisons Regulations required to remove these additions **		12 months*
Record-keeping S7	New control to record agreed data set	Changes to **Controlled Substances Act** and Poisons Regulations to refer to the new control and remove additional requirements and to extend duration of record-keeping **	Changes to licence conditions	24months+ (1-3 yr licence cycle)
Advertising	Remove existing provisions	SA complies		N/A
Hawking/Supply of product samples	New control to permit controlled provisions of S5 and S6 product samples	Changes to Poisons Regulations required to refer to this new control **		12 months*
Appendix C	Banned substances in new schedule	Changes to Poisons Regulations required to refer to this new schedule **		12 months* (after schedules are changed)
Appendix I	SUSMP provision	Changes to Poisons Regulations required to enable enforcement of Appendix I provisions **		12 months*
Appendix J	Amend SUSMP (review, evaluate and update chemical list)	Possible changes to Poisons Regulations if chemicals listed in SUSMP Pt 3 para 41(3) are affected by the review		12 months*

* SA election in 2014 will impact on time frame for legislative amendments – it is not possible to predict the exact time impact
** wording of all legislative (Act and Regulation) amendments need to be acceptable to State drafters

Table 7.4 – Tasmania – Expected implementation process for each preferred option

Control	Preferred Option	Legislative Change	Regulatory Change	Time Frame
Storage S 5 / 6	Outcome based for Children	Needs a regulation change		6 months from National agreement
Storage S 7	Secure area, access under authorised supervision	Possible wording change required as Tas already require separate storage and out of access by Public		6 months
Disposal	Outcome based	Regulation change as currently rely on environmental legislation		6 months from National agreement
Labelling	SUSMP provision – states adopt	Tas complies / references SUSMP		N/A
Packaging	SUSMP provision – states adopt	Tas complies / references SUSMP		N/A
Record Keeping	New control – agreed data set	Reg change required to model wording Change to duration of record keeping in licences	Change to permit / licence conditions	6 months Leg from National agreement 12 months (permit cycle)
Advertising	Remove state provisions	Tas complies		N/A
Hawking	New control for samples – states adopt	Change to Act required		12-24 months
Appendix C	Banned substances in new schedule – states adopt	Change to Act may be required – We now adopt Part 4 of the SUSMP by reference in a recent change to the Poisons Act, however this lists the schedules as 1 to 9 so if there is a new schedule this would need an Act amendment.		12-24 months (after schedules changed)
Appendix I: Paint	SUSMP provision – states adopt	Tas complies / references SUSMP in the Public health Act		N/A
Appendix J: S7	Amend SUSMP – states adopt	Tasmania adopts appendix J. As long as changes do not alter there being an appendix J no changes required. If a new appendix then there would need to be a regulatory change.		6 months (if a new appendix)

Table 7.5 – Western Australia – Expected implementation process for each preferred option

Control	Preferred Option	Legislative Change	Regulatory Change	Time Frame
Storage S 5 / 6	Outcome based for Children	WA complies. May need minor wording amendment for national consistency?		3- 6 months
Storage S 7	Secure area, access under authorised supervision	Reg change required to model wording – wording would need acceptable to State drafters		3 - 6 months
Disposal	Outcome based	WA may comply. Minor wording amendment for national consistency?		3-6 months
Labelling	SUSMP provision – states adopt	WA complies / references SUSMP		N/A
Packaging	SUSMP provision – states adopt	WA complies / references SUSMP for industry 5,6,7 poisons: Removal of prohibited containers (redundant if SUSMP compliant) ? some tidy amendment required for public / health professionals		3-6 months
Record Keeping	New control – agreed data set	Reg change required to model wording Change to duration of record keeping (major increase)	Change to permit / licence conditions	3-6 months Leg 12 months (permit cycle)
Advertising	Remove state provisions	WA complies		N/A
Hawking	New control for samples – states adopt	Change to Act required – would need to see what is proposed (and required by WA - defence clause etc)		12-24 months +
Appendix C	Banned substances in new schedule – states adopt	Change to Act required		12-24 months + (after schedules changed)
Appendix I: Paint	SUSMP provision – states adopt	WA complies / references SUSMP		N/A
Appendix J: S7	Amend SUSMP – states adopt	Changes required - or amend Section 24 notice to adopt by reference ? WA interprets authorised person as permit/licence holder.		3-6 months (after appendix changed) notice – 12-24 months if Act requires changes

Implementation will be overseen by SCoH through the NCCTG. It will be NCCTG members' responsibility to establish a work plan for implementing the options outlined in this RIS, and regularly reporting against the plan.

Implementation will involve the establishment of reporting arrangements to the NCCTG, and the clear articulation of the objectives for and indicators of this policy change.

7.2 Monitoring

The implementation of this regulatory reform will be monitored. There are currently monitoring arrangements in place through the Standing Committee on Chemicals' reporting to the BRCWG. Further to this, the COAG Reform Council will continue their monitoring of the reform against previously agreed milestone dates as part of their continuous monitoring of the implementation of the Seamless National Economy National Partnership.

7.3 Evaluation and review

The NCCTG, acting for SCoH and SCoC[92] will conduct an Evaluation Review, two years following implementation of legislation and regulations by States and Territories. This review will focus on identifying any areas in which inconsistencies still exist between States and Territories.

It would be useful to enhance the comprehensiveness of this evaluation if an evaluation review were designed to include some monitoring of public health outcomes and costs to business, the indicators for which were decided on and initially measured in the implementation phase for benchmarking purposes.

[92] SCoC was established with a five-year expected duration, so may not be available to be involved in evaluation of the implementation.

8 Opportunity for further comment

This chapter will outline the method and timeframe for consultation and responses to the RIS.

8.1 Stakeholders

Chemical regulation affects a large number of people and organisations. It is anticipated that feedback on this RIS will be received by:

1. Government entities
2. Industry stakeholders
3. Consumer groups
4. Environmental and public health groups
5. Trade unions
6. Educational institutions

8.2 Consultation and submission process and timeline

Policy development

In developing options for uniform regulatory controls of chemicals across Australia, the NCCTG considered options for uniform controls and how to implement them.

Preparation of the RIS

In preparing this RIS, the NCCTG has engaged with stakeholders. In addition, members of State and Territory departments and regulators have provided ongoing advice and feedback.

Industry stakeholders and regulators responded to surveys, designed to obtain data to inform the analysis of options by identifying key concerns with current inconsistencies in chemical regulation across jurisdictions.

8.3 Industry survey

In the initial stages of this project, Queensland Health conducted an industry survey on behalf of the NCCTG. The short survey was sent out to 25 industry and other stakeholders. Responses were received by Queensland Health from:

- ACCORD – an organisation representing chemical and cosmetics manufacturing firms
- Australian Competition and Consumer Commission (ACCC)
- Australian Self-Medicating Industries (ASMI) – an organisation representing sponsors of non-prescription medicines
- National Industrial Chemical Notification and Assessment Scheme (NICNAS)
- Plastics and Chemicals Industry Association (PACIA) – an organisation representing plastics and chemicals manufacturing firms

A summary of responses to the questions is detailed below:

What are the most significant issues you experience with inconsistency and non-uniformity of regulatory controls and scheduling decisions over poisonous chemicals?

Respondents identified misinterpretation, non-compliance and enforcement as the most significant issues experienced with inconsistency and non-uniformity in chemical regulation across jurisdictions.

The main areas of confusion and inconsistencies were identified as:

- licensing and storage requirements
- requirements for sampling of medicines
- variations in definitions and terminology

Respondents highlighted public health risks and costs to businesses as significant consequences of misinterpretation and non-compliance. These risks were not considered to be sufficiently managed to ensure public health protection.

In addition, approaches to regulation across jurisdictions were also identified as problematic due to inconsistencies in timeliness of dealing with non-compliance and resolution of compliance matters.

Describe in detail any particular issues or problems you have with the interaction between different legislation across jurisdictions to provide consistent and uniform controls?

Communication with the collective jurisdictional health agencies responsible for chemical regulation and enforcement, as well as communication amongst the collective, was noted as a key concern for respondents. This issue prevents efficient and effective communication of risk notifications to the media and public. It was further noted that the variation in terminology and definitions across jurisdictions contributed to communication problems.

The absence of efficient lines of communication inhibits the achievement of uniform responses from the collective in addressing risks and hazards and uniform enforcement of breaches of regulation. Inconsistency in compliance monitoring is largely attributable to the perceived lack of clarity surrounding responsibilities of the varying regulatory authorities.

Timeliness in setting public health standards and the adoption of these standards across jurisdictions was also a matter of concern. To facilitate timeliness across national borders, it is noted that efficient lines of communication are required.

Where possible, provide any estimates or other evidence of the additional compliance or transaction costs to your organisation of inconsistent and non uniform regulation over poisonous chemicals?

No quantitative responses were given by respondents, however a number of qualitative answers were provided. Answers included:

- Compliance costs and penalties associated with non-compliance such as:
  - interpretation of nine different sets of Acts and Regulations (8 jurisdictions plus the Commonwealth) plus any additional requirements in the Therapeutic Goods legislation. Respondents identified that significant amounts of time are spent clarifying the requirements set out in legislation and communicating these, particularly with respect to sampling to health professionals and consumers and the definition of a healthcare professional
  - staff training
- multiple licensing costs for States and Territories
- confusion between differences of a Schedule 5 and a Schedule 6 chemical. Further, some retailers demand that all Schedule 5 and Schedule 6 chemicals adopt the most stringent standard when it comes to packaging. They therefore require substances to be provided in child resistant packages to ensure every State and Territory meets their requirements

What are the three key outcomes you would like to see result from uniform regulatory controls over poisonous chemicals?

The results of the survey showed that there are many outcomes that could be achieved through uniform regulatory controls over poisons. The most common answers included:

- increased compliance and reduced business costs
- timely and consistent investigation and enforcement of non-compliance by businesses

- a single central and accessible contact point for matters relating to SUSMP, including interpretation and advice
- timeliness of decision making and adoption of standards
- enhanced reputation of the poisons regulatory system, with a perception that it is responsive and effective

Do you have any initial ideas or suggestions for improving the efficiency and effectiveness of regulatory controls over poisonous chemicals?

Respondents suggested that the development of efficient lines of communication within the collective of jurisdictional health agencies responsible for regulating chemicals was a crucial step in achieving national cohesiveness in compliance and enforcement.

Furthermore, uniformity in areas such as licensing and storage, in which considerable inconsistencies exist between jurisdictions, would simplify aspects of regulation that cause the most confusion and consequently pose the highest risk.

Terminology and definitions used in legislation should be uniform, which would be assisted by the expansion of the glossary of terms in the SUSMP.

In addition, the development of a clear framework outlining the roles and responsibilities of regulatory authorities would not only streamline communication by avoiding the deference of queries and concerns to multiple agencies, but also increase the efficiency of monitoring and enforcement. In doing so, it would also aim to reduce the inconsistencies in compliance monitoring.

Concerns regarding the inconsistencies in the scope and criteria of scheduling should be clarified to allow potential risks to be properly addressed and not overlooked.

8.4 Consultation on the RIS

This RIS has been published to invite public comment on the proposals described in the impact analysis on. Feedback will be considered in determining whether to further amend the draft proposals and if further policy development is required.

Following this process, the final RIS will be submitted to the Standing Council on Health for consideration in October 2012.

Who can make a submission?

Any individual or organisation can make a submission to the NCCTG.

How to Submit

Submissions may be submitted to the NCCTG via email or mail. The submission period will be four weeks, and will close on Monday, 17 September 2012.

Please email submissions to:

poisonproject@health.qld.gov.au

Please address hardcopy submissions to:

Poisons Control Project
C/- Drugs and Poisons Policy and Regulation
Chief Health Officer Branch
PO Box 2368
FORTITUDE VALLEY BC Q 4006

Information can be found on the consultation RIS website:
http://www.health.qld.gov.au/ph/ehu/drugs_poisons.asp

Important - confidentiality

Before submitting confidential material you are encouraged to contact the NCCTG.

If there is no clear indication that submissions are confidential, the NCCTG may publish them online unless there is a request for withdrawal made by the author/s.

Submissions will not be published if content is considered defamatory or offensive.

Note that access to confidential material is determined in accordance with the Freedom of Information Act 1982.

Copyright of submissions will not reside with the NCCTG, but with the submission author(s).

Consultation details

The NCCTG will conduct two stakeholder consultation and briefing sessions in Sydney and Melbourne at the end of August. The purpose of the session will be to brief stakeholders on the project and to step them through the RIS. This will be with a view to assisting stakeholders to prepare written submissions. Session details are outlined below. Early registration is strongly encouraged.

Sydney details

Date	Monday, 27 August 2012
Time	2.00 pm – 5.00 pm
Location	KPMG Sydney 10 Shelley Street Sydney NSW 2000

Melbourne details

Date	Friday, 31 August 2012
Time	10.00 am – 1.00 pm
Location	KPMG Melbourne 147 Collins Street Melbourne Victoria 3000

Please email the NCCTG or contact Jennifer Duke, Government Advisory Services at KPMG to register your interest.

Email: poisonproject@health.qld.gov.au

Phone: (03) 9288 5258

Key Dates

Key dates for the Consultation RIS are set out below.

Date	Process
Friday, 17 August 2012	Public release of Consultation RIS
Monday, 27 August 2012	Stakeholder consultation session in Sydney
Friday, 31 August 2012	Stakeholder consultation session in Melbourne
Monday, 17 September 2012	Closing date for submissions

Appendices

A Compiled list of questions for consultation

A.1 Chapter 2: Statement of the problem

2.4 Considering the cost of the problem

1. Are you able to quantify the nature and extent of the burden on your business of the additional compliance activities that arise from the inconsistencies associated with chemicals regulation?

2.5 Benefits or rationale behind maintaining variations across jurisdictions

2. Are there benefits from variations that have not been identified in this paper?
3. Are you aware of any examples where a variation between jurisdictions has led to a reduction in cost or delivered benefits (i.e. better health and safety outcomes)?

2.6 Rationale for government intervention in this project

4. Are there any controls missing from the list of identified controls that should be included in the scope of a project to achieve uniformity?

2.7 Rationale for government regulation of chemicals

5. Have the objectives of consistent poisonous chemical controls been accurately outlined?

A.2 Chapter 4: Poisonous chemical controls: options and impact analysis

4.1 Identification of options for the regulatory controls

6. Are there any other high-level approaches available to States and Territories that could be adopted to achieve the objectives?

4.2 Storage of Schedule 5 chemicals

Option One: Maintain the status quo

7. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP

8. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

9. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control ***[Preferred Option]***

10. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy provision

11. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

12. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

13. Is there an alternative level of regulation that has not been discussed here that could be used to control storage of Schedule 5 chemicals?
14. Are there any costs or benefits that have not been considered above?
15. Are there any risks associated with these options?
16. Are you able to provide any evidence of the benefits of any of these controls?
17. Which option do you believe best delivers the policy objective, and why?

4.3 Storage of Schedule 6 chemicals

Option One: Maintain the status quo

18. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written

19. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

20. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control ***[Preferred Option]***

21. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control containing a prescriptive 'deemed to comply or satisfy' provision

22. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

23. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?
24. Is there an alternative level of regulation that has not been discussed here that could be used to control storage of Schedule 6 chemicals?
25. Are there any costs or benefits that have not been considered above?
26. Are there any risks associated with these options?
27. Are you able to provide any evidence of the benefits of any of these controls?
28. Which option do you believe best delivers the policy objective, and why?

4.4 Storage of Schedule 7 chemicals

Option One: Maintain the status quo

29. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written

30. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

31. What criteria should be used to categorise someone as an appropriately deemed person?
32. How beneficial is it to allow members of the public to have supervised access to Schedule 7 chemicals?
33. Is there any evidence that allowing public access to Schedule 7 chemicals results in a material risk to the community?
34. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

35. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control containing prescriptive 'deemed to comply or satisfy' provisions ***[Preferred option]***

36. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State and Territory regulations

37. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?
38. Is there an alternative level of regulation that has not been discussed here that could be used to control storage of Schedule 7 chemicals?
39. Are there any costs or benefits that have not been considered above?
40. Are there any risks associated with these options?

41. Are you able to provide any evidence of the benefits of any of these controls?
42. Which option do you believe best delivers the policy objective, and why?

4.5 Disposal of Schedules 5, 6 and 7 chemicals

Option One: Maintain the status quo

43. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the SUSMP as it is written

44. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

45. Are there pre-existing industry standard practices for disposal of Schedule 5, 6 and 7 chemicals?
46. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control ***[preferred option]***

47. Do you see any potential for an outcome based standard for disposal of chemicals to be seen as regulatory duplication?
48. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control that contains a 'deemed to comply or satisfy' provision

49. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State and Territory variations

50. How effective are controls over disposal of poisons, where they exist?
51. What other incentives exist for business to adhere to the standards intended in the disposal requirements (i.e. are there environmental regulations or do general corporate responsibility and sustainability practices influence behaviour) if there were no explicit regulation of disposal of Schedules 5, 6 and 7 chemicals?
52. Is there alternative legislation or regulation that could be relied upon to control disposal of scheduled chemicals?
53. Are there any costs or benefits that have not been outlined above?
54. Are there any risks associated with these options?
55. Are you able to provide any evidence of the benefits of any of these controls?
56. Which option do you believe best delivers the policy objective, and why?
57. For your industry or firm, do you consider the transitional or future costs of this option could exceed any benefits of achieving a nationally consistent approach? If so, can you please provide details of the costs that you expect you would incur.

4.6 Labelling of Schedules 5, 6 and 7 chemicals

Option One: Maintain the status quo

58. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP ***[Preferred Option]***

59. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

60. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

61. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

62. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

63. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?
64. Are there any costs or benefits that have not been outlined in any of the options above?
65. Are there any risks associated with these options?
66. Are you able to provide any evidence of the benefits of any of these controls?
67. Which option do you believe best delivers the policy objective, and why?

4.7. Packaging of Schedules 5, 6 and 7 chemicals

Option One: Maintain the status quo

68. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP ***[Preferred Option]***

69. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

70. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

71. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

72. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove existing provisions or standards

73. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

74. Are there any costs or benefits that have not been outlined in any of the options above?
75. Are there any risks associated with these options?
76. Are you able to provide any evidence of the benefits of any of these controls?
77. Which option do you believe best delivers the policy objective, and why?

4.8 Record keeping for Schedule 7 chemical transactions

Option One: Maintain the status quo

78. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Two: Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP

79. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control ***[Preferred Option]***

80. =Is this level of information ordinarily recorded on tax invoices or other standard business records, and if not, what is the additional cost of capturing and retaining this information?
81. Are there any costs or benefits that have not been outlined in any of the options above?
82. Are you able to provide any evidence of the benefits of any of these controls?
83. Which option do you believe best delivers the policy objective, and why?

84. Other requirements prescribed in some jurisdictions, but not the majority, are as follows:
    - Phone number of supplier and purchaser
    - Occupation of purchaser
    - Form of chemical
    - Strength of chemical
    - Purpose of purchase
    - Signature of supplier and purchaser
    - Issuer authority
    - Accessibility of records

85. Should any of these be included in a new control? If so, why?

86. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

87. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

88. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

89. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

90. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

4.9 Advertising of Schedule 7 chemicals

Option One: Maintain the status quo

91. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written with no additions or amendments to the SUSMP

92. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

93. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

94. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

95. 9For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations ***[Preferred option]***

96. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

97. Are there any costs or benefits that have not been outlined in any of the options above?

98. Are there any risks associated with these options?

99. Are you able to provide any evidence of the benefits of any of these controls?

100. Which option do you believe best delivers the policy objective, and why?

4.10 Hawking or supply of product samples (S5, 6 and 7)

Option One: Maintain the status quo

101. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: implement the provisions of the SUSMP as they are written

Costs and benefits

102. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

*Option Three A: Adopt a prescriptive control: control permits some hawking and supply of product samples**[Preferred Option]***

103. Can you provide any information on the costs and/or benefits of the current bans on hawking? Could these benefits be achieve at a lower cost?

104. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three B: Adopt a prescriptive national control: Control prohibits all hawking and product samples

105. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

106. Can you suggest an outcome-based control that would achieve the objectives of the current restrictions on hawking and distribution of product samples at a lower cost?

107. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply or satisfy' provision

108. If supply of samples is permitted, subject to restrictions, are the proposed restrictions appropriate?

109. If they are not appropriate, why are they not appropriate?

110. Are proposed restrictions such as a restriction on labelling and packaging, feasible?

111. Are there alternative restrictions that could be proposed?

112. Can you provide examples of where the existing restrictions limit your organisation's ability to market its products?

113. Are there any costs or benefits that have not been outlined in any of the options above?

114. Are you able to provide any evidence of the benefits of any of these controls?

115. Are there any risks associated with these options?

116. Are there jurisdictions overseas that allow product samples, and if so, under what conditions?

117. Is there evidence of increased access by children to dangerous chemicals through product sampling?

118. Which option do you believe best delivers the policy objective, and why?

119. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

120. Is there any interaction between hawking/supply controls with controls by regulators such as the APVMA?

121. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

4.11 Appendix C: substances other than those included in Schedule 9, of such danger to health as to warrant prohibition of sale, supply and use

Option One: Maintain the status quo

122. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written

123. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

*Option Three: Adopt a prescriptive control [**Preferred option**]*

124. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

125. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply' provision

126. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions of the SUSMP and any State or Territory variations

127. Are you able to provide any evidence of the benefits of any of these controls?

128. Are there any risks associated with these options?

129. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

4.12 Appendix I: Uniform Paint Standard

Option One: Maintain the status quo

130. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are written with no additions ***[Preferred Option]***

131. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control

132. For your industry or firm, do you consider the transitional or future costs of this option could exceed any benefits of achieving a nationally consistent approach? If so, can you please provide details of the costs that you expect you would incur.

Option Four: Adopt an outcome-based control

133. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, with a prescriptive 'deemed to comply' provision

134. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove the provisions in the SUSMP and any State or Territory variations

135. Is there an alternative regulatory control that could be used to manage the concentration of chemicals in paints?

136. If there is an alternative regulatory control, is this level of control effective?

137. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

138. Are there any alternative chemicals which should be included in the Uniform Paint Standard?

139. Are the proportions of chemical allowed in paint reflective of dangerous toxicity?

140. Could these proportions be amended to achieve a better outcome?

141. If an alternative standard was identified above, what would be the associated costs and benefits?

142. Are there any costs or benefits that have not been outlined in any of the options above?

143. Are there any risks associated with these options?

144. Which option do you believe best delivers the policy objective, and why?

4.13 Appendix J: Conditions for availability of Schedule 7 chemicals

Option One: Maintain the status quo

145. Are you able to provide information on the nature and magnitude of the costs (if any), over and above the costs of normal business practices, that the status quo places on your business?

Option Two: Implement the provisions of the SUSMP as they are currently written with no additions

146. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Three: Adopt a prescriptive control ***[Preferred option]***

147. Are there any alterations that could be made to Appendix J to better achieve the desired outcomes?

148. Are there any costs or benefits that have not been outlined in any of the options above?

149. Which option do you believe best delivers the policy objective, and why?

150. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Four: Adopt an outcome-based control

151. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Five: Adopt an outcome-based control, containing a prescriptive 'deemed to comply' provision

152. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

Option Six: Remove provisions from the SUSMP and any State or Territory variations

153. Of the chemicals in Appendix J currently, are any of them being regulated by another regulatory agency at a state or federal level (e.g. APVMA)?

154. If Appendix J Schedule 7 chemicals are being regulated elsewhere, is this level of control effective?

155. For your industry or firm, do you consider there will be transitional or future additional costs of this option? If so, can you please provide details of the costs that you expect might be incurred. Would the costs of this option exceed the savings to your industry or firm of the resulting nationally consistent controls?

A.3 Chapter 5: Implementation and decision-making

156. Are the key issues for each stakeholder group an accurate reflection of the considerations that each stakeholder would make?

157. Have any key considerations been missed?

5.1 Options for implementing preferred regulatory controls

158. Do you think there are particular benefits or disadvantages from using one institutional framework over another?

159. Is there a framework you support more than others?

160. Are the described impacts accurate?

161. Are there any other impacts on stakeholders not detailed here?

162. Are the key issues for each stakeholder group an accurate reflection of the considerations that each stakeholder would make?

163. Have any key considerations been missed?

5.2 Options for decision-making

164. What alternative options could there be for rapid decision making in the future?

165. Are there any aspects of decision-making that have not been captured in this analysis?

B Scheduling of chemicals in Australia

Variations in chemical scheduling between the States and Territories are considered to be a problem of the current chemical regulation arrangement. The scheduling arrangements that were put in place following the Galbally Review will be the subject of review by the NCCTG in 2013, as per an agreement between the States and Territories. At this time the decision-making processes and practices will be assessed, which means that they are out of the scope of this RIS. However, brief description of the problem of inconsistent scheduling has been provided below.

The Productivity Commission recommended that State and Territory Governments should 'adopt poisons scheduling decisions made by the Department of Health and Ageing directly by reference, as published in the SUSMP.' COAG agreed this recommendation in 2008 and consider it is no longer a problem.[93]

However, scheduling decisions from the SUSMP are not consistently directly referenced by all States and Territories.

The differences that occur with the scheduling of chemicals are:

- additions and deletions to the schedule
  - For example, Western Australia has added groups of carcinogenic substances and chemical precursors to Schedule 7.
- differences in legislative drafting styles across the jurisdictions leading to inconsistent references to the schedules in legislation and regulations.
  - For example, Appendix C chemicals are included in Schedule 7 in New South Wales, and Tasmania and New South Wales use a separate Poisons List or Code, which is not always immediately updated to reflect changes in Part 4 of the SUSMP.

Before a chemical is subject to regulatory controls by the Commonwealth and the States and Territories, its relative risk levels are assessed by the Advisory Committee on Chemicals Scheduling. The substance is then included in a schedule of the SUSMP if that is the advice of Committee and subsequently the decision of the delegate of the Commonwealth Secretary. The Productivity Commission recommendation (5.1) that scheduling of drugs (medicines) and poisons (chemicals) be informed by different specialist committees has been achieved: the Advisory Committee on Chemicals Scheduling and the Advisory Committee on Medicines Scheduling were established in 2010 under the new scheduling structure.

[93] Council of Australian Governments, *COAG Communiqué*, 29 November 2008.

Some variation in the adoption of the schedules remains. Consultation with government and industry has suggested that variations are not extensive; however they still need to be understood by industry so that compliance can be achieved. Local issues often lead to variations in chemical scheduling. For example, in Western Australia several precursor chemicals (that is, chemicals used in illicit drug manufacture) are regulated through poisons controls. In all other jurisdictions these regulatory controls are implemented through alternative specific controlled substances legislation.[94]

Variations have been reported to the TGA by the NCCTG since 2008 and published on the TGA website, and any proposed additional variations are a standing item on agendas for meetings of the Standing Council on Health.[95] However, there is no comprehensive information published on the rationale behind these differences, nor evidence that they are delivering benefits to the jurisdiction that are in excess of the cost of the inconsistency.

While reporting of the variations has helped to make the process more open and transparent, in a recent submission industry stakeholders have indicated that there has not been a lot of effort put into potentially removing some of these differences.[96]

There are also differences in the way the schedules in the SUSMP are put into effect in each jurisdiction. Victoria is able to adopt the schedules and appendices in the SUSMP by reference. However New South Wales is not able to adopt the appendices of the SUSMP by reference. For example, in order to put a sufficient level of control on the poisons listed in Appendix C into effect, they have added those chemicals referred to in Appendix C of the SUSMP to a subsection of Schedule 7. This allows them to place controls on those chemicals. Differences such as this may further add to the administrative cost to industry due to the inconsistency and the complexity of the regulatory framework.

[94]This is still to be confirmed with Western Australia.
[95] Therapeutic Goods Administration 2011, *Pathways to a scheduling decision,* viewed February 2012, <http://www.tga.gov.au/industry/scheduling-pathway.htm >
[96] ACCORD 2011, Response to Industry Survey

Figure 2: Additions to Schedules in the SUSMP.

Schedule 5	Schedule 6	Schedule 7
Consistent among all Australian jurisdictions	Consistent among all Australian jurisdictions	Poisons in Appendix C of the Poisons Standard (NSW + TAS)
		"Nicotine in tobacco prepared and packed as nasal snuff" (Western Australia)
		Chemical precursors: Gamma-Butyrolactone Pheylacetic Acid 1-Phenyl 2 – Chloropropane 1-Phenyl 2 – Nitroprepene 1-Phenyl 2 – Propanol 1-Phenyl 2 – Propanone 1-Phenyl 2 – Propanone Oxime (Western Australia)
		Carcinogenic substances: 2-Acetlyl Aminofluorene Alphanaphthylamine 4-aminobiphenyl Benzidine Benzo (A) Pryrene Betanaphthlamine Beta Propriolactone Bis-chloromethyl Ether 3,3'-Dichlorobenzidine Methyl Chloromethyl ether 4-Nitrobiphenyl N-Nitrosodimethylamine Toxaphine (Camphechlor) (Western Australia)

C Mapping of chemical controls

C.1 Sources referenced in legislative mapping

Standard for Uniform Scheduling of Medicines and Poisons – SUSMP

Australian Capital Territory legislation

Medicines, Poisons and Therapeutic Goods Act 2008
Medicines, Poisons and Therapeutic Goods Regulations 2008

New South Wales legislation

Poisons and Therapeutic Goods Act 1966
Poisons and Therapeutic Goods Regulation 2008

Northern Territory legislation

Poisons and Dangerous Drugs Act
Poisons and Dangerous Drugs Regulation

Queensland legislation

Health Act 1937
Pest Management Act 2001
Health (Drugs and Poisons) Regulation 1996
Health Regulation 1996
Pest Management Regulation 2003

South Australia legislation

Controlled Substances Act 1984
Controlled Substances (Poisons) Regulations 2011
Controlled Substances (Pesticides) Regulations 2003

Tasmania legislation

Poisons Act 1971
Poisons Regulations 2008

Victoria legislation

Drugs, Poisons and Controlled Substances Act 1981
Drugs, Poisons and Controlled Substances Regulation 2006

Western Australia

Poisons Act 1964
Poisons Regulations 1965

D Regulatory controls over chemicals

D.1 Retail storage of Schedule 5 chemicals

Storage Schedule 5	**Poison Standard – There is no Poison Standard prescribed for storage of Schedule 5 poisons.**	
Jurisdictions	**Summary**	**Details**
ACT	-	No standard outlined in the relevant Act or regulations.
NSW	-	No standard outlined in the relevant Act or regulations.
NT	-	No standard outlined in the relevant Act or regulations.
QLD	↑	Safe keeping of poisons A person must not store a poison within reach of children. A person must not carry, handle or store a poison in a way that may allow the poison to mix with, or contaminate, food, drink or a condiment or a drug or poison for human or animal use even if the container in which the poison is carried, stored or handled breaks or leaks.
SA	↑	Must not be stored in a retail premises unless: • it is stored in an area where the public is not permitted access; or • if it is stored in an area where the public has access: - it is stored not less than 1.2m above the floor level; or - is enclosed in a child-resistant package or container approved by the Minister; or - enclosed in a blister pack; or - is stored in a container that has a capacity of not less than 5 litres; or - stored in a container that has a gross weight of not less than 5 kg. Must not be transported in a vehicle in which any food or component of food for human or animal consumption is being transported unless the poison is carried in a part of the vehicle effectively separated from that part of the vehicle containing the food.
TAS	-	No standard outlined in the relevant Act or regulations.
VIC	-	No standard outlined in the relevant Act or regulations.
WA	↑	Any person having a poison, other than those specified in regulation 56 (drugs of addiction), in or on any premises for the purpose of sale or use in his profession, business, trade or industry shall keep that poison in such a manner as to preclude contamination of any food, drink or condiment by the poison; and to preclude access to the poison by children.
Jurisdictional differences		
Only SA, QLD and WA have specific storage requirements for Schedule 5 poisons.		

Storage Schedule 5	Poison Standard – There is no Poison Standard prescribed for storage of Schedule 5 poisons.
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	**Notes:**

D.2 Retail storage of Schedule 6 chemicals

Storage Schedule 6	Poison Standard – There is no SUSMP prescribed for storage of Schedule 6 chemicals.	
Jurisdictions	**Summary**	**Details**
ACT	-	No standard outlined in the relevant Act or regulations.
NSW	↑	Must be kept in a place where: • the public does not have access; or • in a place that is at least 1.2m above the floor and at least 1.2m away from any step, stairway, ramp or escalator to which the public has access.[1]
NT	-	No standard outlined in the relevant Act or regulations.
QLD	↑	Safe keeping of poisons A person must not store a poison within reach of children. A person must not carry, handle or store a poison in a way that may allow the poison to mix with, or contaminate, food, drink or a condiment or a drug or poison for human or animal use even if the container in which the poison is carried, stored or handled breaks or leaks.
SA	↑	Must not be stored in a retail premises unless: • it is stored in an area where the public is not permitted access; or • if it is stored in an area where the public has access: - it is stored not less than 1.2m above the floor level; or - is enclosed in a child-resistant package or container approved by the Minister; or - enclosed in a blister pack; or - is stored in a container that has a capacity of not less than 5 litres; or - stored in a container that has a gross weight of not less than 5 kg.[2] Must not be transported in a vehicle in which any food or component of food for human or animal consumption is being transported unless the poison is carried in a part of the vehicle effectively separated from that part of the vehicle containing the food.
TAS	-	No standard outlined in the relevant Act or regulations.
VIC	-	No standard outlined in the relevant Act or regulations.

WA	↑	Any person having a poison, other than those specified in regulation 56 (drugs of addiction), in or on any premises for the purpose of sale or use in his profession, business, trade or industry shall keep that poison in such a manner as to preclude contamination of any food, drink or condiment by the poison; and to preclude access to the poison by children.
Jurisdictional differences		
ACT, VIC, NT, and TAS do not impose specific storage requirements in the Acts or regulations for poisons. NSW and SA regulations provide that Schedule 6 poisons are kept out of reach from children and are not accessible to the public. WA and QLD requires that poisons are kept out of the reach of children and that they are stored in a way that does not allow contamination of any food, drink, condiment or any other substance intended for human or animal (QLD only) use.		
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	Notes: 1. This clause does not apply to any of the following: any therapeutic substance for internal use in animals, any substance in a container that is fitted with a child resistant closure, any substance in a pressurised spray dispenser that is fitted with a cap that can be removed only be using a levering instrument applied through a slot in the cap, any substance in a container that has a capacity of 5 litres or more or a weight of 5 kilograms or more, any hair dye in a container that has a capacity of 50 millilitres or less, any cockroach bait that is enclosed in a complex welded plastic structure. . In this clause, child-resistant closure means (a) a child-resistant closure within the meaning of the current SUSMP, or (b) a closure of a design approved for the time being by the Director-General. 2. This does not apply to hair colouring preparation Schedule 6 poisons.	

D.3 Storage of Schedule 7 chemicals

Storage Schedule 7	**SUSMP –** **"A person who sells or supplies Schedule 7 poisons must keep these poisons in a part of the premises to which the public does not have access."** **Paragraph 44 of SUSMP 2011.**	
Jurisdictions	**Summary**	**Details**
ACT	-	The poison must be kept in a part of the premises to which the public does not have access, and so that the prescribed person, or a person under the supervision of the prescribed person, has access to the poison.
NSW	-	A dealer in possession of a schedule 7 poison must keep the substance in a room or enclosure to which the public does not have access.[1]
NT	↑	Should be stored in an area in such a manner to prevent unauthorised access to it and take measures that are reasonably necessary to prevent unauthorised access to that substance, whether or not the premises are open for business.
QLD	↑	Safe keeping of poisons A person must not store a poison within reach of children. A person must not carry, handle or store a poison in a way that may allow the poison to mix with, or contaminate, food, drink or a condiment or a drug or poison for human or animal use even if the container in which the poison is carried, stored or handled breaks or leaks.

Storage Schedule 7	**SUSMP –** **"A person who sells or supplies Schedule 7 poisons must keep these poisons in a part of the premises to which the public does not have access."** **Paragraph 44 of SUSMP 2011.**	
Jurisdictions	**Summary**	**Details**
		A person who sells a schedule 7 poison by retail must store the poison in a receptacle or storeroom that is kept locked, or in another place the chief executive is reasonably satisfied is a secure place and keep personal possession of the key to the place or ensure the key is in the possession of another responsible adult authorised by the person. A poison wholesaler must store the poison in a way that ensures the poison is not accessible to the public.
SA	↓	The poison must not be stored in premises where such a poison is sold by retail unless it is stored in part of the premises to which the public is not permitted access. Must not be transported in a vehicle in which any food or component of food for human or animal consumption is being transported unless the poison is carried in a part of the vehicle effectively separated from that part of the vehicle containing the food.
TAS	-	The poison must be kept in a part of the premises that is partitioned off or otherwise separated from any part of the premises that is readily accessible to the public.
VIC	↓	A person who sells or supplies by retail all Schedule 7 poisons in his/her possession in a storage facility which is not accessible to the public, unless access to that area or facility is under the personal supervision of that person or a person acting under his or her direction.
WA	↑	Any person having a poison, other than those specified in regulation 56 (drugs of addiction), in or on any premises for the purpose of sale or use in his profession, business, trade or industry shall keep that poison in such a manner as to preclude contamination of any food, drink or condiment by the poison; and to preclude access to the poison by children. Must not be stored in any area or in any manner that allows physical access to that substance by any person other than: • the owner of the business; • employees of the premises; and • a person authorised to purchase substances in Schedule 7.
Jurisdictional differences		
Despite wording differences, most jurisdictions are aligned to the standards and require Schedule 7 poisons to be kept away from public access. QLD requirements differ according to the method of sale (wholesale vs retail) and are more prescriptive of the method of storage. WA explicitly specifies the individuals who are able to access the area where Schedule 7 poisons are stored. VIC allows access under supervision.		

Storage Schedule 7	**SUSMP –** **"A person who sells or supplies Schedule 7 poisons must keep these poisons in a part of the premises to which the public does not have access."** **Paragraph 44 of SUSMP 2011.**
Jurisdictions	**Summary** / **Details**
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	Notes: 1. Poison must also be kept away from food intended for consumption by humans or animals, and in such a way that, if its container breaks or leaks, the poison cannot mix with or contaminate any food intended for consumption by humans or animals.

D.4 Disposal of Schedules 5, 6 and 7 chemicals

Disposal Schedule 5,6 and 7	**SUSMP – There are no standards set out in the Poison Schedule for disposal for Schedule 5, 6 or 7 poisons.**	
Jurisdictions	**Summary**	**Details**
ACT	-	No standard outlined in the relevant Act or regulations.
NSW	↑	Poisons must be disposed of safely: a person must not use or dispose of a poison in any place or in any manner likely to constitute a risk to the public.
NT	-	No standard outlined in the relevant Act or regulations.
QLD	↑	A person must not discharge, place or otherwise dispose of a poison: • in or on an alley, street, public land or public place; or • in or on other land or premises or another place without the permission of the owner or occupier of the land, premises; or • place or into or on a channel, creek, dam, drain, river, road, street, watercourse or another body of water.[97] Further, a person must not discharge, place or otherwise dispose of a poison in a way that: • endangers the life or safety of a person or a domestic animal; or • exposes food, drink or a condiment or another poison or a drug to the risk of contamination by the poison; or • gives access to the poison to someone not endorsed to possess it.
SA	↑	A person must not dispose of or use, or cause to be disposed of or used, a poison in any place or manner that constitutes or is

Disposal Schedule 5,6 and 7	**SUSMP – There are no standards set out in the Poison Schedule for disposal for Schedule 5, 6 or 7 poisons.**	
		likely to constitute, a risk to public health or safety.
TAS	-	No standard outlined in the relevant Act or regulations.
VIC	-	No standard outlined in the relevant Act or regulations.
WA	↑	Poisons must not be disposed in any place or manner likely to constitute a risk to the public. The CEO has the power to order the quarantine or destruction of poisons in certain circumstances.
Jurisdictional differences		
NSW, SA and WA, despite slight wording differences, are aligned and require that poisons are disposed of in a manner that does not pose a risk to public health and / or safety. While this is an outcome-based approach, QLD has adopted a more prescriptive approach. **It is possible that the States with no specific references to disposal in their respective poisons acts have controls through other legislative instruments, such as environmental health and protection legislation or regulation, or in the case of Schedule 7 poisons through the associated licences.**		
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	**Notes:** Regulations regarding disposal, if any, are uniform across all schedules of poisons. 1 This does not apply to: • a person laying baits for pest destruction; or • a person applying herbicides for the destruction of noxious weeds or unwanted vegetation; or • a local government applying insecticides for horticultural purposes; or • a person applying insecticides to a creek, dam, river, watercourse or other body of water for the control or destruction of mosquitoes; or • a person applying insecticides to an alley, lane, place, public place or public land, road or thoroughfare for the control or destruction of midges or mosquitoes. It only does not apply if the person is doing the aforementioned act: • under a permit or approval granted by the chief executive or a local government; or • under the Land Protection (Pest and Stock Route Management) Act 2002.	

D.5 Labelling of Schedule 5, 6 and 7 chemicals

Labelling Schedule 5,6 and 7	**Poison Standard – *See Part 2 (Labels and Containers) of the SUSMP outlines the full detailed list of requirements for labelling of poisons.*** **Standards require the wording on a label:** • **"Caution" (for Schedule 5 poisons);** • **"Poison" (for Schedule 6 poisons); and** • **"Dangerous Poisons" (for Schedule 7 poisons)** **Part 2 Paragraph 13 of the SUSMP exempts the following poisons from the labelling requirements of the SUSMP** • **Poisons packed and sold solely for dispensary, industrial, laboratory or manufacturing purposes and is labelled in accordance with workplace regulation.**	
Jurisdictions	**Summary**	**Details**

Labelling Schedule 5,6 and 7	**Poison Standard – *See Part 2 (Labels and Containers) of the SUSMP outlines the full detailed list of requirements for labelling of poisons.*** **Standards require the wording on a label:** • **"Caution" (for Schedule 5 poisons);** • **"Poison" (for Schedule 6 poisons); and** • **"Dangerous Poisons" (for Schedule 7 poisons)** **Part 2 Paragraph 13 of the SUSMP exempts the following poisons from the labelling requirements of the SUSMP** • **Poisons packed and sold solely for dispensary, industrial, laboratory or manufacturing purposes and is labelled in accordance with workplace regulation.**	
ACT	↑	A person commits an offence if- • the person uses a container for a regulated substance; and • the container is permanently marked with the name of a different regulated substance.
NSW	↓	A dealer must not supply any substance in a container that has a label that states or implies that the substance is a poison, unless the substance is a poison.
NT	-	Part 2 of the SUMP applies in relation to labels and containers for Scheduled substances. A person must not contravene Part 2 of the SUSMP. Food in poison containers: A person shall not use a container as a container for food or drink where words indicating that the container is not to be used as a food container or the contents of the container are not the be taken are clearly and prominently embossed or clearly, prominently and indelibly written on it. Food not to be placed in container where words indicate that the container is not to be used as a food container or the contents of the container are not to be taken are clearly and prominently embossed or clearly, prominently and indelibly written on it.
QLD	-	A package containing a controlled drug, restricted drug or a poison must bear a label that complies with part 2 of the current SUSMP. A person must not use an immediate container permanently marked with the name of a controlled or restricted drug or a poison as a container for a different drug or poison. (Immediate container includes all forms of containers in which a poison is directly packed but does not include any such container intended for consumption or any immediate wrapper.) Drugs and poisons to be labelled: • Every package containing any drug or poison for sale shall bear a label which complies in all respects with what is prescribed under a regulation. • A person shall not sell a package containing any drug or poison unless the package bears such a label complying in all respects as aforesaid. Regulations state that: • A person must not change, cover, deface or remove a brand, declaration, label, mark or statement that is required under this

Labelling Schedule 5,6 and 7	**Poison Standard – *See Part 2 (Labels and Containers) of the SUSMP outlines the full detailed list of requirements for labelling of poisons.*** **Standards require the wording on a label:** • **"Caution" (for Schedule 5 poisons);** • **"Poison" (for Schedule 6 poisons); and** • **"Dangerous Poisons" (for Schedule 7 poisons)** **Part 2 Paragraph 13 of the SUSMP exempts the following poisons from the labelling requirements of the SUSMP** • **Poisons packed and sold solely for dispensary, industrial, laboratory or manufacturing purposes and is labelled in accordance with workplace regulation.**	
		chapter to be fixed or shown on the container of a poison. • A person must not soak, wash or otherwise treat a bottle or container used, or of a type commonly used, to hold a poison, or that has a brand, mark or label on it stating that the bottle or container has been used to hold a poison, in a tank or receptacle used to soak, wash or treat bottles or other containers of a type commonly used to hold human or animal food or drink or condiment.
SA	-	A package or container in which a poison for human or animal therapeutic use is sold by retain on prescription, or is supplied on prescription must: • Have affixed to it a label that complies with Appendix L part 1 of the Uniform SUSMP; and • In the case of a poison that is listed in column 1 of Appendix L Part 2 of the Uniform Poison Standard have affixed to it a label that contains the warning statements prescribed for the poison by Appendix F Part 1 of that Standard; and • In the case of a preparation for internal use by humans that contains a poison listed in Appendix K of the Uniform SUSMPs, have affixed to it a label that contains the sedation warning statement 39, 40 or 90 as specified in Appendix F Part 1 of that Standard. For the purposes of section 24(c) of the Act, a package or container in which a poison designed for human or animal therapeutic use (other than a prescribed S3 poison) is sold by retail or is supplied— • must have affixed to it the label appearing on the package or container for the poison as supplied by the manufacturer (being a label that complies with the Uniform SUSMP); or • must have affixed to it— - a label that complies with Appendix L Part 1 of the Uniform SUSMP; and - in the case of a preparation for internal use by humans that contains a poison listed in Appendix K of that Standard—a label that contains the sedation warning statement 39, 40 or 90 as specified in Appendix F Part 1 of that Standard. For the purposes of section 24(c) of the Act, a package or container in which a poison (other than a poison designed for human or

Labelling Schedule 5,6 and 7	**Poison Standard – *See Part 2 (Labels and Containers) of the SUSMP outlines the full detailed list of requirements for labelling of poisons.*** **Standards require the wording on a label:** • **"Caution" (for Schedule 5 poisons);** • **"Poison" (for Schedule 6 poisons); and** • **"Dangerous Poisons" (for Schedule 7 poisons)** **Part 2 Paragraph 13 of the SUSMP exempts the following poisons from the labelling requirements of the SUSMP** • **Poisons packed and sold solely for dispensary, industrial, laboratory or manufacturing purposes and is labelled in accordance with workplace regulation.**	
		animal therapeutic use or a prescribed S3 poison) is sold by retail or is supplied (other than on prescription) must have affixed to it a label that complies with the Uniform SUSMP.
TAS	↓	Labelling of poisons in poison book A person must not sell any poison, the sale of which requires an entry to be made in the poisons book, unless the person so selling has first affixed to the container in which the poison is sold a label on which is written the seller's name and address which may appear on a label separate from the principal label.
VIC	-	A person must not sell or supply a poison or controlled substance with a label that does not comply with the SUSMP. Except in the course of actual use of a poison or controlled substance, a person must not remove that poison or controlled substance from the container in which it was dispensed, sold or supplied to put that poison or controlled substance- • into a unlabelled receptacle or container; or • into a receptacle or container which does not accurately identify that poison or controlled substance.
WA	-	Containers of poisons are to be marked or labelled: A person shall not sell any poison unless the package or container immediately containing it is marked or labelled in such a manner and with such particulars as are prescribed. Leaving poisons unlabelled an offence: A person who being in charge or possession of any poison leaves it in any place (whether that place is or is not ordinarily accessible to other persons), unless the package or container in which the poison is contained is marked clearly and legibly with the word "Poison" or with other prescribed words, and otherwise duly labelled in the manner provided by section 46 (above paragraph) Containers and their labels must comply with SUSMP • Except as provided by these regulations a person shall not store, supply or transport a poison unless the immediate container in which the poison is stored, supplied or transported complies with Part 2 of the SUSMP. • Except as provided by these regulations a person shall not store, supply or transport a poison unless the container referred to in subregulation (1) bears or has securely affixed to it a label which complies with Part 2 of the SUSMP.

Labelling Schedule 5,6 and 7	**Poison Standard – *See Part 2 (Labels and Containers) of the SUSMP outlines the full detailed list of requirements for labelling of poisons.*** **Standards require the wording on a label:** • **"Caution" (for Schedule 5 poisons);** • **"Poison" (for Schedule 6 poisons); and** • **"Dangerous Poisons" (for Schedule 7 poisons)** **Part 2 Paragraph 13 of the SUSMP exempts the following poisons from the labelling requirements of the SUSMP** • **Poisons packed and sold solely for dispensary, industrial, laboratory or manufacturing purposes and is labelled in accordance with workplace regulation.**	
		• For the purposes of this regulation, the interpretation provisions of Part 1 of the SUSMP shall be used to interpret Part 2 of the SUSMP as adopted by this regulation.
Jurisdictional differences		
Labelling of poisons is uniform across Schedule 5, 6 and 7. ACT, NSW and TAS generally only require that poisons are labelled and correctly identified. VIC requires labelling to be as per the SUSMP; decanted containers must at least have a label that accurately identifies the chemical or controlled substance. NT, QLD, SA and WA require that labelling procedures follow those set out in the SUSMP. QLD and WA, whilst aligned to the SUSMP, also provide for an extra specification, however under most circumstances, these do not pose an extra burden.		
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	**Notes:**	

D.6 Packaging of Schedule 5, 6 and 7 chemicals

Packaging Schedule 5, 6 and 7	**SUSMP – The requirements of the Poison Standard refer to parts of the Australian Standard or require the poison to be packaged in a manner that achieves the same objectives of the Poison Standard.** **Camphor and Naphthalene are subject to specialised packaging requirements.** **The SUSMP sets have unique requirements for Schedule 5 poisons.**	
Jurisdictions	**Summary**	**Details**
ACT	-	• Section 17 of the *Medicines, Poisons and Therapeutic Goods Act 2008* automatically adopts packaging standards from the SUSMP. • A person commits an offence if – • the person is authorised to supply a regulated substance; and • the person supplies the substance to someone else; and • the substance is not packed – - as prescribed by regulation or; - in accordance with an approval under section 193 (approval of non-standard packaging and labelling) • A manufacturer's pack of a supplied low harm or dangerous poison or moderate harm poison must be packaged— • in accordance with the medicines and SUSMP, paragraphs 21 to 27; or • in a container in which the poison may be sold under a relevant law. • However, if the poison is camphor or naphthalene for domestic use, it must also be packaged in a way that, in normal use, prevents— • removal of the camphor or naphthalene from the packaging; or • ingestion of the camphor or naphthalene. • Section 193 of Act - Approval of non-standard packaging and labelling: • The chief health officer may approve the packaging or labelling of a regulated substance that does not comply with the medicines and SUSMP if satisfied that the use of the packaging or labelling is as safe as using the packaging or labelling allowed under the standard for the substance. • The chief health officer may approve a form of packaging or labelling for a regulated therapeutic good if satisfied that the use of the packaging or labelling is safe. • An approval may be conditional. • An approval is a notifiable instrument.

Packaging Schedule 5, 6 and 7	**SUSMP – The requirements of the Poison Standard refer to parts of the Australian Standard or require the poison to be packaged in a manner that achieves the same objectives of the Poison Standard.** **Camphor and Naphthalene are subject to specialised packaging requirements.** **The SUSMP sets have unique requirements for Schedule 5 poisons.**	
NSW	-	A dealer who supplies a poison must ensure that the poison is packaged and labelled in accordance with the relevant provisions of the current SUSMP. "Particular use" poisons may only be supplied in original containers: This clause applies to any schedule 5,6 or 7 substance that is specified in the Poisons List as being a substance that is manufactured or supplied for a particular use. A dealer (other than an authorised practitioner or pharmacist) who supplied a substance to which this clause applies must supply the substance, unopened, in the container in which it was received by the dealer.
NT	-	Part 2 of SUSMP: labels and containers • Part 2 of the SUSMP applies in relation to labels and containers for Scheduled substances. • A person must not contravene Part 2 of the SUSMP.
QLD	-	Packaging of controlled or restricted drugs or poisons • A person must not sell a controlled drug, restricted drug or a poison, unless the way it is packed complies with part 2 of the current SUSMP. • However, subsection (1) (above paragraph) does not apply to a person if the controlled or restricted drug or poison is packed in a way certified under this section. • The chief executive may certify a container for packing a controlled or restricted drug or a poison only if— - it does not comply with the current SUSMP because—it is uncoloured; or its shape or dimensions differ from a shape or dimension permitted under the current SUSMP; or it is designed for a particular purpose; and - the chief executive is reasonably satisfied using the container as a package for a controlled or restricted drug or a poison is as safe as using a container permitted under the current SUSMP. Certain containers not to be used: A person must not sell any of the following in a container of a kind mentioned in paragraph 21, 22 or 23 of the current SUSMP or a container that is a certified container under section 10(3) of this regulation – • a drug for internal human use; • a medicine for internal human use; • a poison for internal human use; • food; • drink; • a condiment.

Packaging Schedule 5, 6 and 7	**SUSMP – The requirements of the Poison Standard refer to parts of the Australian Standard or require the poison to be packaged in a manner that achieves the same objectives of the Poison Standard.** **Camphor and Naphthalene are subject to specialised packaging requirements.** **The SUSMP sets have unique requirements for Schedule 5 poisons.**	
		Camphor and naphthalene A person must not sell camphor or naphthalene in ball, block, disc or pellet form for domestic use, unless it is in a device that, in normal use, prevents removal or ingestion of the camphor or naphthalene.
SA	-	A person must not store a poison in a container that— • is normally used for containing food or beverages; or • is similar to a container that is normally used for containing food or beverages. A person must not sell camphor or naphthalene in ball, block, disc or pellet form for domestic use, unless the blocks, balls, discs or pellets are enclosed in a device that restricts removal or ingestion of its contents. A person must not sell by wholesale or by retail or supply to a person a poison, medicine or medical device unless - it is enclosed in a package or container, and the package or container conforms with the regulations, and the package or container is labelled in accordance with the regulations. The package or container must comply with the requirements set out in the Uniform SUSMP, and must – • be impervious to, and incapable of chemical reaction with, the poison when the package or container is under conditions of temperature and pressure that are likely to be encountered in normal use; and • have sufficient strength and impermeability to prevent leakage of the poison during handling, transport and storage of the package or container under normal handling conditions; and • in the case of a package or container intended to be opened more than once - be able to be securely and readily closed and reclosed.
TAS	-	Subject to subregulation (3) and to any provision to the contrary in these regulations, Part 2, paragraph 41 in Part 3 and Appendices E, F and J in Part 5 of the Uniform Standard (in this regulation referred to as "the applied provisions") have effect as if they were provisions of these regulations. Subregulation (3) - The Minister may, by permit signed by the Minister, in such circumstances as the Minister thinks fit, authorise the sale or supply of a scheduled substance the labelling or packaging of which does not comply with a requirement of the applied provisions. A person must comply with paragraph 2 in Part 2 of the Uniform Standard. Child-resistant packaging of certain medicines If goods to which the Therapeutic Goods Order No. 65, made under the Therapeutic Goods Act 1989 of the Commonwealth, as amended from time to time, applies consist of, or include, a scheduled substance, the provisions of that order, or any order made in substitution of that order, have effect for the purposes of the Act in relation to those goods as if those provisions were provisions of these regulations.

Packaging Schedule 5, 6 and 7	**SUSMP – The requirements of the Poison Standard refer to parts of the Australian Standard or require the poison to be packaged in a manner that achieves the same objectives of the Poison Standard.** **Camphor and Naphthalene are subject to specialised packaging requirements.** **The SUSMP sets have unique requirements for Schedule 5 poisons.**	
VIC	-	• A person must not sell or supply a poison or controlled substance that has not been stored or packaged or known to be stored or packaged otherwise than in accordance with the SUSMP. A person shall not sell or supply any drug or medicine which is for internal use or any food drink or condiment in a container- • of the like description to that prescribed by the regulations for a container in which any poison or controlled substance intended for external use may be sold; or • of such a description as not to be readily distinguishable by sight and touch or by either sight or touch from a container in which a poison or controlled substance intended for external use may be sold. Nothing in this section shall affect any other requirements of this Act, the Commonwealth standard, the Poisons Code or the regulations with respect to the containers in which drugs or medicines which are or contain poisons or controlled substances may be sold. A person who sells or supplies a poison or controlled substance by wholesale or retail must sell or supply that poison or controlled substance only in the original unopened pack as received from the person who supplied that wholesaler or retailer.
WA	↑	• Containers and their labels to comply with SUSMP: • Except as provided by these regulations a person shall not store, supply or transport a poison unless the immediate container in which the poison is stored, supplied or transported complies with Part 2 of the SUSMP. • Except as provided by these regulations a person shall not store, supply or transport a poison unless the container referred to in subregulation (1) bears or has securely affixed to it a label which complies with Part 2 of the SUSMP. • For the purposes of this regulation, the interpretation provisions of Part 1 of the SUSMP shall be used to interpret Part 2 of the SUSMP as adopted by this regulation. • Use of certain containers prohibited: • An immediate container on which the name of any poison is embossed or otherwise permanently marked shall not be used except to contain that poison. • A paper or plastic bag or envelope, or a cardboard box shall not be used as a container for a Schedule 2, 3, 4**,** 8 or 9 poison whether dispensed or not, unless the poison is also presented to the purchaser in foil or in individually sealed, measured amounts, commonly described as strip packaging, or unless the container is approved by the CEO.

Packaging Schedule 5, 6 and 7	**SUSMP – The requirements of the Poison Standard refer to parts of the Australian Standard or require the poison to be packaged in a manner that achieves the same objectives of the Poison Standard.** **Camphor and Naphthalene are subject to specialised packaging requirements.** **The SUSMP sets have unique requirements for Schedule 5 poisons.**	
		• A paper bag shall not be used as the sole container of any poison unless it has been approved by the CEO. • Food etc. containers to be distinguishable from poison containers • A person shall not sell any food, drink, or condiment, or any drug or medicine for internal use, in a container — • of a description which is not readily distinguishable by sight and touch from a container in which a poison intended for external use may be sold; or • of a like description to that prescribed for a container in which a poison intended for external use may be sold.
Jurisdictional differences		
The Australian Standards which are referenced in the SUSMPs were unavailable, which has prevented us from having a clearer understanding of how jurisdictional standards vary. **However, jurisdictional standards have similarities. All of the jurisdictions reference the SUSMP, with four jurisdictions allowing for an alternative if consent is given by the relevant chief officer or Minister. Three of the jurisdictions require adherence to further standards, however these appear to be simple and would therefore impose little or no extra burden.** **Packaging standards do not vary significantly for Schedules 5, 6 and 7. They have therefore been presented in a single table. Differences result from the treatment of Camphor and Naphthalene. This is further discussed in the "Notes" section below.**		
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	**Notes:** • Note: Camphor may be a Schedule 5 or Schedule 6 poison • Note: Naphthalene is a Schedule 6 poison • Due to the unavailability of the Australian standards, it is unclear what the differences are between the SUSMP and jurisdictional standards.	

D.7 Record keeping of Schedule 7 chemicals

Record keeping Schedule 7	**SUSMP – The SUSMP does not contain any provision relating to record-keeping**	
Jurisdictions	**Summary**	**Details**
ACT	↑	• A person commits an offence if— the person must keep a register for regulated substance; and the person does not keep the register as prescribed by regulation. • (1)A person mentioned in table 740, column 2 who possesses a dangerous poison must keep a dangerous poisons register. A person to whom subsection (1) applies must keep a dangerous poisons

<table>
<tr><td>Record keeping Schedule 7</td><td colspan="2">SUSMP – The SUSMP does not contain any provision relating to record-keeping</td></tr>
<tr><td></td><td></td><td>register for a dangerous poison at the place prescribed in table 740, column 3 for the person.
• Table 740 Keeping dangerous poisons registers
<table>
<tr><td>• column 1
• item</td><td>• column 2
• prescribed person</td><td>• column 3
• place where register to be kept</td></tr>
<tr><td>• 1</td><td>• approved analyst</td><td>• the analyst's laboratory</td></tr>
<tr><td>• 2</td><td>• dangerous poisons manufacturers
• licence-holder</td><td>• the licensed premises under s 675</td></tr>
<tr><td>• 3</td><td>• dangerous poisons suppliers licence-holder
•</td><td>• the licensed premises under s 685
•</td></tr>
<tr><td>• 4</td><td>• medicines and poisons
• inspector (other than
• police officer)</td><td>• the place directed in writing by the
• chief health officer</td></tr>
<tr><td>• 5</td><td>• person mentioned in
• sch 4, col 2</td><td>• the person's business premises</td></tr>
<tr><td>• 6</td><td>• supervisor of program
• under dangerous poisons
• research and education
• program licence</td><td>• the premises where program is being
• conducted</td></tr>
<tr><td>• 7</td><td>• supervisor of program
• under dangerous poisons
• research and education
• authorisation under
• div 17.3.3</td><td>• the premises where program is being</td></tr>
</table>
• Each page in a dangerous poisons register must relate to a single form and strength of a dangerous poison. If a dangerous poisons register is kept</td></tr>
</table>

Record keeping Schedule 7	**SUSMP – The SUSMP does not contain any provision relating to record-keeping**	
		electronically, a separate record must be used for each form and strength of dangerous poison kept. • The following details for a dealing with a dangerous poison are • prescribed: • the nature of the dealing; • the date of the dealing; • the poison, and the form, strength and quantity of the poison, dealt with; • if the dealing is receiving the poison—the name and address of the supplier; • if the dealing is supplying the poison—the name and address of the person to whom it is supplied; • if the poison is supplied on a purchase order—the date of the purchase order; • the quantity of the poison held after the dealing. • A dealing with a dangerous poison must be entered in the dangerous • poisons register the person must keep. • A person commits an offence if - the person is required under this Act to record something in relation to a regulated substance, and the person does not record the thing in writing and in a way that is easily retrievable. Supplying dangerous poisons[1] on purchase orders: The following are the requirements for the supply of a dangerous poison on a purchase order: • if the dangerous poison is delivered in person by the supplier to the buyer - the poison is delivered to an adult, and the delivery is acknowledged by the adult signing and dating a copy of the purchase order; • if the dangerous poison is not delivered in person by the supplier to the buyer - the poison is delivered to the buyer by a person whose procedures require the delivery of the poison to be signed for by the buyer or an adult employee of the buyer. • General requirements for dangerous poisons purchase orders – • A purchase order for a dangerous poison must be – - signed by the person (the issuer) issuing the order; and - if the issuer amends the order - initialled and dated by the issuer beside the amendment. • A purchase order for a dangerous poison must include the following: - the issuer's name and business address and telephone number; - the issuer's authority to issue the order; - the dangerous poison, and the form, strength and quantity of the

Record keeping Schedule 7	SUSMP – The SUSMP does not contain any provision relating to record-keeping	
		poison, to be supplied on the order. Recording supply of dangerous poisons on purchase orders: A person who supplies a dangerous poison to someone else on a purchase order must make a written record of the following information: • the date of the order; • the issuer's authority to issue the order; • the name, and the business address and telephone number, of the person to whom the dangerous poison is supplied; • the date the order is supplied; • the dangerous poison, and the form, strength and quantity of the poison supplied. • Dangerous poison in ACT is defined as a Schedule 7 poison.
NSW	-	• No standard outlined in the relevant Act or regulations. • However records of supply for all regulated foods must be kept for two years.
NT	↑	Manufacturers to keep records: A person responsible under this Act for the operations carried out on premises registered under Part 2 shall keep a record, in a form approved by the Chief Health Officer, of: • the date of receipt and the quantity and the name and address of the supplier, of each shipment of a poison received into the premises, • the quantities of poisons manufactured, produced or compounded with other substances on the premises, together with the quantities of preparations containing a poison that are produced on the premises, • the date and quantity of each supply as a poison from the premises, together with the name and address of the person to whom the supply was made. • Such other matters as the Chief Health Officer requires to be recorded. Wholesalers to keep records: A person responsible for the storage of poisons on premises registered, or deemed to be registered, under part 3 shall keep a record, in a form approved by the CHO of: • the date of receipt and the quantity, and the name and address of the supplier, of each shipment of a poison received into the premises, • the date and quantity of each supply of a poison from the premises, together with the name and address of the person to whom the supply was made, and • such other matters as the CHO requires to be recorded. Retailers to keep records: A licensed retailer shall: • retain all delivery dockets and invoices relating to the receipt by the retailer of a poison, • enter in a register kept for that purpose, in a form approved by the CHO, details of each receipt and supply by the retailer of a Schedule 7 substance, and

Record keeping Schedule 7	**SUSMP – The SUSMP does not contain any provision relating to record-keeping**	
		• where the retailer supplies a Schedule 7 substance to fill a written order, retain the written order. Pharmacists to keep records: The pharmacist shall: • retain all delivery dockets or invoices relating to the receipt by the pharmacist of a Schedule 7 substance; and • enter in a register kept for that purpose, in a form approved by the CHO, details of each supply by the pharmacist. Authorised persons to keep records: A person authorised by or under this Act to possess and use a Schedule 7 substance, other than a person obtaining that substance on the prescription of a medical practitioner, dentist or veterinarian, must: • retain all delivery dockets or invoices relating to the receipt by him or her of that substance, • enter in a register kept for that purpose, in a form approved by the CHO, details of the supply or administration by him or her of that substance, and • where that substance is supplied or administered by him or her to fill a written prescription retain the prescription. Retention of records: A record, invoice, delivery docket, written order or prescription required by this Part to be kept or retained shall be retained for 2 years after the date of the last entry in the record in which it is recorded.
QLD	↑	When a poison manufacturer or wholesaler sells an S2, S3 or **S7** poison to a person, the manufacturer or wholesaler must give the person an invoice for the poison sold. The manufacturer or wholesaler must ensure the invoice has a unique number and states— • the date of the sale; and • the name and address of the person to whom the poison is sold; and • the name of the poison and the quantity or volume of it sold. The manufacturer or wholesaler must keep a record of the details contained in an invoice for 2 years after the date of the invoice. If the manufacturer or wholesaler has more than 1 licence and the manufacturer's or wholesaler's records are kept on a computer at the manufacturer's or wholesaler's central or main office, records for each licence must be kept at the relevant business premises. A person must not sell an Schedule 7 poison by retail unless, at the time of the sale, the person makes an accurate record of the sale • by making an entry in a book (a poisons sale book), or • by giving the person buying the poison (the purchaser) an invoice that has a unique number. A person selling the Schedule 7 poison must include in the poisons sale book or invoice • the date of sale; • the name and quantity or volume of the poison sold; • the purpose for which the poison is required;

Record keeping Schedule 7	**SUSMP – The SUSMP does not contain any provision relating to record-keeping**	
		• the purchaser's name and address; • if the purchaser buys the poison in person, the purchaser's signature; • if the order for the poison was a telephone or written order - a note about the way the order was placed where the purchaser would sign the book or invoice if it was a personal sale; and • for a record of the sale made by giving the purchaser an invoice - keep a copy of the invoice. If the order for the Schedule 7 poison was a written order, the person selling the poison must keep the written order for 2 years from the day the person received it. Keeping records A person who, under this chapter, must keep a document or record of transactions in poisons must— • ensure it is kept in good condition, as far as practicable; and • keep it for 2 years after the last entry that is made in it.
SA	↑	A person who sells poisons to which this section applies must keep a record of - the names of the purchasers of those poisons, and the stated purposes for which they were purchased, and such other matters as may be prescribed. The additional matters that a person who sells Schedule 7 poisons must keep a record of are - the dates of the purchases, and the addresses and usual occupations of the purchasers, and the trade names or approved names of the poisons purchased, and the forms, strengths and quantities of the poisons purchased. Keeping of records etc: Subject to these regulations, a person who is required by these regulations to keep records must – • in respect to any entry in the records, retain the records at the registered address of the business in this State for a period of 2 years from the day on which the entry was made, and • have the records readily available for inspection at all reasonable times, and • during that period, take all reasonable steps to ensure that the records are protected against deterioration, loss, theft and unauthorised access, modification or use. If the information contained in the records is available only after the record is subjected to an electronic or other process, it is sufficient for the purposes of subregulation for the person to produce for inspection a reproduction or computerised record of any entry in the records. If details are to be recorded under these regulations in respect of drugs of dependence, they must, unless otherwise specified, be recorded in a drugs of dependence register in a form by the Minister. A receipt required to be provided to a person under these regulations must be kept by that person in the manner set out in this regulation as if it were a record.
TAS	↑	A person who sells or supplies any poison or restricted substance must keep any invoice and prescription record relating to that poison or

Record keeping Schedule 7	**SUSMP – The SUSMP does not contain any provision relating to record-keeping**	
		restricted substance for no less than 2 years from the latest date on which the invoice or prescription record was made or acted upon.
VIC	↑	A person who sells or supplies by retail any Schedule 7 poison must keep an accurate record of the sale or supply, setting out the following details- • the name and address of the person who purchases or obtains the poison or controlled substance; • the date of sale or supply; • the name and quantity of the poison or controlled substance purchased or obtained. No legislative time limit for maintaining the record, but charges for an offence must be filed within three years from when the matter occurs.
WA	↑	A person who sells, by retail, any poisons included in Schedule 7 shall, in addition to any conditions and restrictions imposed by notice issued in accordance with these regulations, keep a record of sale by keeping and maintaining a register in accordance with this regulation. (2) A person recording a sale for the purposes of subregulation (1) shall, before delivering the poison to the purchaser, record in a register kept for that purpose particulars of — (a) the date of sale; and (b) the name and address of the purchaser; and (c) the nature and quantity of the poison sold; and (d) the address to which the poison is to be delivered, if that address differs from the address recorded under paragraph (b); and (e) the place of intended use, and obtain the signature of the purchaser to the entry in the register. (3) The register shall be kept in one of the following forms — (a) a book with each recording written in ink; or (b) in a form of electronic means; or (c) such other form as the CEO approves in writing. (4) A person keeping a register for the purposes of this regulation shall — (a) keep that register for a period of at least 2 years at the licensed premises; and (b) produce the register for inspection on demand by an authorised officer.
Jurisdictional differences		
Seven of the eight jurisdictions require some form of record keeping. There is slight variation across jurisdictions, as some jurisdictions require records to be kept for the sale of all poisons, and some jurisdictions only require records for, or extra details to be noted for Schedule 7 poisons. Details that need to be recorded vary slightly between jurisdictions and include either some or all of: name, address, occupation, telephone number, signature, date of purchase, the name of the poison, its strength and quantity and purpose. Most jurisdictions require the records to be retained for a period of two years.		

Record keeping Schedule 7	**SUSMP – The SUSMP does not contain any provision relating to record-keeping**
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	**Notes:**

D.8 Advertising of Schedule 7 chemicals

Advertising Schedule 7	**Poison Standard – No standard**	
Jurisdictions	**Summary**	**Details**
ACT	-	• No standard outlined in the relevant Act or regulations..
NSW	-	No standard outlined in the relevant Act or regulations..
NT	-	No standard outlined in the relevant Act or regulations..
QLD	↑	A person must not advertise, or cause someone else to advertise, an offer to obtain or sell a Schedule 7 poison unless the person is endorsed under this regulation to sell the poison.
SA	-	No standard outlined in the relevant Act or regulations
TAS	-	No standard outlined in the relevant Act or regulations..
VIC	-	No standard outlined in the relevant Act or regulations..
WA	-	No standard outlined in the relevant Act or regulations..
Jurisdictional differences		
QLD is the only jurisdiction that prohibits the advertisement of Schedule 7 poisons.		
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	**Notes:**	

D.9 Hawking and supply of product samples

Hawking/Supply of product samples Schedule 5,6 and7	**Poison Standard – There is no provision included in the SUSMP for Hawking or product samples.**	
Jurisdictions	**Summary**	**Details**

Hawking/Supply of product samples Schedule 5,6 and7	**Poison Standard – There is no provision included in the SUSMP for Hawking or product samples.**	
ACT	-	• The *Medicines, Poisons and Therapeutic Goods Act* and regulations are silent on the selling of poisons through an act of hawking. The Act and regulation contain restrictions for persons dealing with dangerous poisons. Selling or supplying a dangerous poison outside these restrictions is an offence, which would include the act of hawking or calling aloud in public.
NSW	↑	• Hawking of poisons and therapeutic goods • (1) A person who: • goes from house to house supplying regulated goods, or • while in a public street or other public places, supplies regulated goods, • is guilty of an offence. • (2) Subsection (1) does not apply to a person or a person of a class of persons, or regulated goods or regulated goods of a class, exempted by an order under subsection (3). • (3) The Minister may, by order published in the Gazette, exempt any person or class of persons, or any regulated goods or class of regulated goods, from the operation of subsection (1). Such an exemption may be unconditional or subject to conditions.[1] • Any person: • Who is engaged in the manufacture, or supply by wholesale, of any poison or restricted substance for therapeutic use, or • Who is acting as an agent of a person so engaged, must not supply any such poison or restricted substance by way of distribution of free samples otherwise than in a manner approved for the time being by the Director-General. 1 House means any premises where people reside, whether permanently or not. Public place means any place where members of public are lawfully entitled, invited or permitted to be present in their capacity as members of the public, whether conditionally or unconditionally, but does not include: • a shop, or • premises where a medical practitioner, nurse practitioner authorised under section 17A, midwife practitioner authorised under that section, dentist, optometrist, veterinary practitioner or pharmacist carries on the practice of his or her profession.
NT	-	No standard outlined in the relevant Act or regulations.

Hawking/Supply of product samples Schedule 5,6 and7	**Poison Standard – There is no provision included in the SUSMP for Hawking or product samples.**	
QLD	↑	Hawking of poisons A person must not sell an S7 poison in a street or from place to place unless the person has an approval to sell the poison in a street or from place to place. Samples of poisons A person must not distribute a sample of a poison in a street or from place to place.
SA	↑	Offences relating to sale or supply of poisons A person must not sell or supply a poison in any residential premises, or from door to door, or in a public place.[2] [2] Public places include: • a place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of that place; and • a place to which the public are admitted on payment of money, the test of admittance being the payment of money only; and a road, street, footway, court, alley or thoroughfare that the public are allowed to use, notwithstanding that the road, street, footway, curt, alley or thoroughfare is on private property.
TAS	↑	Hawking [...] of scheduled substances prohibited A person shall not: • sell or supply a scheduled substance, or distribute a scheduled substance free or as a sample, in any street or from place to place; • hawk or peddle a scheduled substance; or • whether by appointment or otherwise, go from place to place selling, supplying, or distributing (whether free or as a sample) a scheduled substance. This does not apply to any wholesale dealing or in relation to the free distribution of clinical samples of a scheduled substance (other than a narcotic substance) to medical practitioners, dentists, or veterinary surgeons by persons engaged in the manufacture of, or dealing in, any such substance, where the distribution is made to the medical practitioner, dentist, or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.
VIC	↑	House to house sale of poisons or controlled substances prohibited (1) A person shall not - • sell or supply in any street or from house to house; or • hawk or peddle, or distribute or cause to be distributed as samples, in any street or public place or from house to house any poison or controlled substance. A person shall not purchase or accept or offer to purchase or accept any poison or controlled substance offered for sale or hawked or peddled pursuant to subsection (1).

Hawking/Supply of product samples Schedule 5,6 and7	**Poison Standard – There is no provision included in the SUSMP for Hawking or product samples.**	
WA	↑	Prohibition against hawking etc: A person shall not • sell or attempt to sell, or • hawk or peddle, or distribute or cause to be distributed as a sample, any poison in any street or public place or from house to house.
Jurisdictional differences		
Six of the eight jurisdictions prohibit hawking and supply of samples.		
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	**Notes:**	

D.10 Appendix C: substances other than those included in Schedule 9, of such danger to health as to warrant prohibition of sale, supply and use

Appendix C	**SUSMP**	
Jurisdictions	**Summary**	**Details**
ACT	-	Appendix C is adopted as it appears in the SUSMP by virtue of Section 17 of the Medicines, Poisons and Therapeutic Goods legislation (MPTG.) Appendix C is defined as a regulated substance under Section 13 in Chapter 3 of the MPTG. • The meaning of an Appendix C substance is described in Chapter 3 of the MPTG. • Controls for prohibited and Appendix C substances are described in Chapter 21 of the MPTG.
NSW	↓	The NSW Poisons List is constituted under Section 8 of the NSW Poisons and Therapeutic Goods Act 1966. Section 8 (1… The Poisons List shall contain 8 Schedules and the substances included in the list shall be classified as follows: …. Schedule Seven Substances of exceptional danger which require special precautions in their manufacture or use.

Appendix C	SUSMP	
		S… (6) The Poisons List may be amended or replaced by proclamation made on the recommendation of the Minister and published on the NSW legislation website. (7) An amendment of the Poisons List may be made by applying, adopting or incorporating, with or without modification, the current SUSMP (within the meaning of Part 5B of the Commonwealth Act) or any other published standard, as in force at a particular time or as in force from time to time." (Proclamations amending the Poisons List were previously published in the Government Gazette – references to these are given under "Historical Notes" at the end of the Act.) Schedule 7 of the NSW Poisons List is currently as follows: – Each entry appearing in Schedule 7 of Part 4 and Appendix C of Part 5 of the current SUSMP (known as the "*Standard for the Uniform Scheduling of Medicines and Poisons"*) prepared for the purposes of the Therapeutic Goods Act 1989 of the Commonwealth. EXEMPTIONS: Any substance listed in this Schedule is exempted from the operation of this Schedule when contained in any product listed or described in Appendix A of Part 5 of the current SUSMP."
NT	-	Section 6A (3) (b) of the Poisons and Dangerous Drugs Act applies Appendix C in the NT (3) Each of the following Appendices in Part 5 of the SUSMP applies in relation to poisons or hazardous substances in the manner specified in the Appendix: (a) Appendix A; (b) Appendix C; (c) Appendix D (excluding item a); (d) Appendix G; (e) Appendix J; (f) and any other Appendix specified by the Minister by notice in the Gazette PaDDA Regulations includes other Appendices – E, F and I Our Medicines, Poisons and Therapeutic Goods Bill as follows: Subdivision 2 Medicines and SUSMP 14 Meaning of medicines and SUSMP (1) The medicines and SUSMP is the SUSMP as in force from time to time as modified under this section. (2) A regulation may declare a substance is taken to be included in, or excluded from, a provision of the medicines and SUSMP. (3) The declaration may impose restrictions in relation to dealings with the substance. (4) For subsection (1), but subject to a modification under this section: (a) an amendment of a current SUSMP takes effect on the date of effect of the instrument of amendment under the Legislative Instruments Act 2003 (Cth); and (b) a new SUSMP takes effect on the date of effect of the standard under

Appendix C	SUSMP	
		the Legislative Instruments Act 2003 (Cth). (5) In this section: current SUSMP means the current SUSMP as defined in section 52A of the Therapeutic Goods Act. New SUSMP means a document prepared under section 52D(2)(b) of the Therapeutic Goods Act. SUSMP means the document prepared under section 52D(2) of the Therapeutic Goods Act. 15 Interpretation provisions in medicines and SUSMP – application to Act (1) A term defined in the medicines and SUSMP has the same meaning in this Act. (2) A provision of the medicines and SUSMP relating to the interpretation of the standard applies in the interpretation of this Act. Examples for subsection (2) 1 Subject to stated exceptions, a reference in the medicines and SUSMP to a substance in a Schedule or Appendix to the standard includes: (a) a substance prepared from natural sources or artificially; and (b) every salt, active principle or derivative of the substance; and (c) a preparation or admixture containing any proportion of the substance. 2 Accordingly, subject to the exceptions, a reference to the substance in this Act includes a reference to those things. 3 In addition, unless there is a contrary intention, the standard does not apply to the following: (a) a substance in stated preparations or products; (b) stated substances; (c) some low concentrations of stated substances; (d) some impurities in pesticides. Note for section 15 Under section 30, this Act prevails if there is an inconsistency between this Act and the medicines and SUSMP. 16 When medicines and SUSMP applies to substances For this Act, a Schedule or Appendix to the medicines and SUSMP applies to a substance in a circumstance if: (a) the substance is included in the Schedule or Appendix; and (b) either: (i) the standard does not, in the circumstance, exclude the substance from the operation of the Schedule or Appendix; or (ii) a restriction in the standard applies in relation to the substance in the circumstance. Example for paragraph (b)(ii) If a Schedule 2 substance is listed as restricted "for human therapeutic use" and the substance is included only in that schedule, the standard applies to the substance only for human therapeutic use. 30 Inconsistency between Act and medicines and SUSMP This Act prevails if there is an inconsistency between this Act and the medicines and SUSMP. *Note: the Northern Territory is going through a period of legislative change at present, adoption of Appendix C will be different after the bill has passed.*
QLD	-	Queensland's *Health (Drugs and Poisons) Regulation 1996* incorporates Appendix C of the SUSMP through its definition of poison in its Appendix 9 Dictionary. The definition of poison is: (a) an S2, S3, S5, S6, S7 or S9 substance; or (b) a substance mentioned in appendix C of the standard [where standard is defined as the SUSMP].

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SA	-	*Controlled Substances Act 1984* Section 12 - Declaration of poisons, prescription drugs, drugs of dependence, controlled drugs etc (1) The Governor may, by regulation, declare, individually or by class, any substance that in the Governor's opinion has the potential to be harmful to humans to be a poison for the purposes of this Act. Section 27—Use A person must not— (a) use a poison, medicine or medical device for a purpose or in a manner prohibited by the regulations; or (b) sell, supply, prescribe, or purchase a poison, medicine or medical device for a purpose prohibited by the regulations. *Controlled Substances (Poisons) Regulations 2011* Part 2—Controlled substances Regulation 5—Declaration of poisons (section 12(1) of Act) (1) Pursuant to section 12(1) of the Act, the following substances (whether in a pure form, or contained in a preparation or admixture) are declared to be poisons: (a) the primary substances listed in Schedules 1 to 8 and Appendix C of the Uniform SUSMP; Regulation 30 Prohibition on use of certain poisons for certain purposes (section 27 of Act) (1) For the purposes of section 27 of the Act, a person must not sell, supply, purchase or use an S7 poison for a domestic purpose or domestic gardening purpose. (2) For the purposes of section 27 of the Act, a person must not sell, supply, prescribe or use a poison listed in Appendix C of the Uniform SUSMP for the purpose or purposes indicated in relation to that poison in that Appendix (other than amygdalin for human therapeutic use). Regulation 31—Prohibition on use of certain poisons (1) A person must not sell, supply, prescribe or use amygdalin for human therapeutic use unless— (a) special access to amygdalin has been authorised in accordance with the requirements of sections 18 and 31A of the Commonwealth Act and regulation 12A of the *Therapeutic Goods Regulations 1990* made under that Act; and (b) permission for the importation of amygdalin (subject to special access authorisation) has been granted under regulation 5H and Schedule 8 item 12AA of the *Customs (Prohibited Imports) Regulations 1956* of the Commonwealth. 32—Restrictions on advertising (section 28 of Act) (1) Section 28 of the Act applies to— (a) all poisons listed in Appendix C of the Uniform SUSMP; and (b) all S3 poisons other than those listed in Appendix H of the Uniform Poisons Standard; and

Appendix C	SUSMP	
		(c) all S4 poisons and S8 poisons; and (d) all controlled drugs other than drugs of dependence.
TAS	-	Inclusion of Appendix C by reference under Regulation 73 of the Poisons Regulations 2008. Namely a person may not have possession of a substance in Appendix C of the Uniform Standard otherwise than in accordance with the approval in writing of either the Secretary or the Secretary of the Commonwealth Department. Further Appendix C substances are included in our Schedule 7 (Part 2) for the provisions of the Act and Regulations. We are in the process of amending our Act which will allow for adoption parts 1-4 of the SUSMP and Appendix C by reference, this means that we do not have to update our Poisons List when changes occur in the SUSMP. The Bill has passed the lower house but is yet to go through the Legislative Council (upper house)
VIC	-	The way Vic implements Appendix C of the Standard for the Uniform Scheduling of Medicines and Poisons is as follows: 1 Drugs, Poisons and Controlled Substances Act 1981 Section 4 Definitions poison or controlled substance means: (j) a regulated poison other than a Schedule 7 poison; regulated poison means: (a) a Schedule 7 poison; or (b) a substance included in the Poisons Code in the list of substances that are not for general sale by retail; Poisons Code means the Poisons Code prepared under section 12 as amended or substituted and in force from time to time; 2 Drugs, Poisons and Controlled Substances Regulations 2006 Regulation 4 Definitions special Schedule 7 substance means a substance listed as a special Schedule 7 substance in Part 2 of Chapter 1 of the Poisons Code; 67 Licences, permits or warrants required for special Schedule 7 substances A person must not possess or use a special Schedule 7 substance unless he or she holds a licence, permit or warrant issued under the Act. Penalty: 100 penalty units. PS Licences, permits and warrants are covered under the Drugs, Poisons and Controlled Substances Act 1981, Division 4. 3 Poisons Code Chapter 1 - Poisons list Part 1 - The poisons list Part 2 - List of substances that are not for general sale by retail 1.2 The substances that are not for general sale by retail are the substances listed below - SPECIAL SCHEDULE 7 SUBSTANCES, the following - the substances listed in Appendix C of Part 5 of the Commonwealth

Appendix C	SUSMP	
		standard as in force from time to time. Part 3 - Exemptions 1.3 A substance is not included in a Schedule of the Commonwealth Standard in the circumstances described in items (h), (i), (j) and (k) of paragraph 1(2) of Part 1 and Appendices A and G of Part 5 of the Commonwealth standard as in force from time to time. Chapter 2 - Interpretation 2.1 The interpretations included in Part 1 of the Commonwealth standard as in force from time to time are incorporated by reference for the purposes of this Code. Chapter 3 - Revocation 3.1 Previous Poisons Code revoked The Poisons Code prepared under sections 12 and 12E of the Drugs. Poisons and Controlled Substances Act 1981 on 10 July 1997, that became effective on 1 August 1997, and was subsequently amended on 20 September 1997, 19 December 1997, 19 March 1998, 19 June 1998, 20 September 1998, 21 September 1998, 23 September 1998, 19 December 1998, 18 March 1999, 18 June 1999, 29 July 1999, 19 September 1999, 3 February 2000, 17 March 2000, 2 May 2004, 10 November 2004, 1 October 2006, 1 January 2008 and 1 January 2009 is revoked.
WA	↓	*The only mechanism to adopt Appendix C is under the Poisons Act which allows the Governor to make a proclamation. This requires the substances to be individually listed by WA from time to time as they change. Last proclamation to add to the list was 2008.* *22. Sale of any poison may be prohibited* (1) The Governor, on the recommendation of the Advisory Committee, may at any time and from time to time by proclamation prohibit the sale, supply or use of any poison or substance, whether included in a Schedule or not, either absolutely or except upon and subject to such conditions and for such period or periods as the Governor may think fit. (2) A proclamation made under this section may be cancelled or from time to time varied, or an error in a proclamation may be rectified, by a subsequent proclamation. *[Section 22 amended by No. 48 of 1995 s. 9.]*
Jurisdictional differences		
All jurisdictions refer to Appendix C and effectively adopt the list as restricted or prohibited substances except for WA which has not updated its reference to Appendix C since a proclamation in 2008.		

Key	**Note:**
↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	NT will adopt the SUSMP with minor exceptions in a bill that is currently before the Parliament; therefore Appendix C will soon be adopted to NT legislation in its current form.

D.11 Appendix I: Uniform Paint Standard

Uniform Paint Standards	**Poison Standard – this outlines the appropriate concentrations of chemicals that can be included in paints and the circumstances under which the paint can be used.**	
Jurisdictions	**Summary**	**Details**
ACT	-	Manufacture, supply and use of paints containing white lead—Act, s 70 (1) (b), (2) (b) and (3) (b) A paint containing basic lead carbonate (white lead) may be manufactured, supplied or used for application as a mirror backing if the paint— • contains not more than 15% lead in the non-volatile content of the paint; and • is applied not more than 40µm thick; and • is covered by a paint that does not contain lead. • Manufacture, supply and use of paints for certain purposes—Act, s 71 (1) and (3)
	-	• A first schedule paint must not be manufactured, supplied or used for application to— • a roof or other surface to be used for the collection or storage of potable water; or • furniture; or • a fence, wall, post, gate or building (including the interior of a building), other than a building that is used only for industrial purposes or mining or as an oil terminal; or • premises used for the manufacture, processing, preparation, packing or serving of products intended for human or animal consumption.
	↓	• A third schedule paint must not be manufactured, supplied or used for application to— • a roof or other surface to be used for the collection or storage of potable water; or • furniture; or • a fence, wall, post, gate, building (including the interior of a building), bridge, pylon, pipeline, storage tank or similar structure; or • premises, equipment or utensils used for the manufacture, processing, preparation, packing or serving of products intended for human or animal consumption. • Manufacture, supply and use of paints for toys—Act, s 72 (b)
	-	• A paint that complies with the specification for coating materials in AS/NZS ISO 8124.3:2003 (Safety of toys - Migration of certain elements), as in force from time to time, may be manufactured, supplied or used for application to toys.

Uniform Paint Standards	Poison Standard – this outlines the appropriate concentrations of chemicals that can be included in paints and the circumstances under which the paint can be used.	
		• Manufacture, supply and use of paints containing pesticides—Act, s 73 (b) • The following pesticides are prescribed: • an algicide; • an antifouling agent; • a bactericide; • a fungicide. • This does not apply in relation to paint for human therapeutic use.
NSW	↓	No. Not by reference. Supply of art materials, toys, furniture and the like containing poisons A person must not supply any pencil, crayon, finger colour, poster paint, school pastel or show card colour or other such article or substance if the article or substance contains a Schedule 2, 3, 5, 6 or 7 substance. (2) This does not apply to the supply of artists' oil colours. (3) A person must not supply any painted toy, furniture or other item of household goods if the paint contains a Schedule 6 or 7 substance.
NT	-	Appendix I: paint standards (1) Appendix I applies in relation to the manufacture, supply and use of paint. (2) A person must not contravene Appendix I.
QLD	↓	Prohibition of sale of chalk etc. containing poison A person must not— • sell chalk, crayons, finger colours, pencils, poster paints, school pastels or show-card colours containing a poison; or • sell an artist's brush or pencil containing a poison in the outside lacquer of the brush or pencil.
SA	↓	The Uniform Paint Standard means the current SUSMP as defined in the Commonwealth Act and as modified by deleting Part 3 and Appendices B, D and J but there are no associated regulations referring to Appendix I to enable enforcement of controls over paint in accordance with Appendix I.
TAS	-	Tasmania adopts the Uniform Paint Standard by reference in its Public Health Act.
VIC	↓	No standard outlined in the relevant Act or regulations.
WA	-	Certain paints, restrictions on manufacture, sale and use of • If a paint contains a substance listed in the First, Second or Third Schedule to Appendix I of SUSMP, a person shall not manufacture, sell or use that paint except in accordance with that Appendix. • For the purposes of this regulation the interpretation provisions of Part 1 of the SUSMP shall be used to interpret Appendix I of the SUSMP.

Uniform Paint Standards	**Poison Standard – this outlines the appropriate concentrations of chemicals that can be included in paints and the circumstances under which the paint can be used.**
Jurisdictional differences	
Three of the eight jurisdictions have no standard or lower requirements for chemicals in paint. Four jurisdictions reference the SUSMP. The ACT has a number of clauses in the relevant regulation, some mirroring those in the standard and some with differing requirements.	
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	**Notes:**

D.12 Appendix J: Conditions for availability of Schedule 7 substances

Conditions for availability Schedule 7	**SUSMP – requires that certain chemicals must not be available except to an authorised or licensed person.**	
Jurisdictions	**Summary**	**Details**
ACT	-	• Yes.
NSW	-	Yes. However this is not done by reference.
NT	-	Yes.
QLD	-	Yes. Not by reference, however Appendix J provisions are largely mirrored in Appendix 7 of the Health (Drugs and Poisons) Regulation 1996.
SA	-	Yes. Not by reference, however Appendix J provisions are largely mirrored in section 22 of the Controlled Substances Act 1984.
TAS	-	Yes.
VIC	-	No. However, the Victorian list of Regulated Schedule 7 poisons contain substances that can only be supplied by a wholesale licence holder if they check that the person they are supplying the substance to is authorised under the Victorian Act/Regulations or holds a permit, licence of warrant issues under the Act to obtain the substance by wholesale.
WA	-	Yes.
Jurisdictional differences		
Seven out of eight States and Territories are consistent with the standard set out in Appendix J, as they require that a person or business be licensed or otherwise authorised to be able to access certain or all Schedule 7 chemicals. Victoria has a separate list for regulated Schedule 7 substances. There are substantial differences between the types of licences that the States offer, which creates a separate complication for business in terms of ensuring compliance with the requirements of the States and Territories in which they operate.		
Key ↑ **More onerous than Poison Standard** - **Consistent with Poison Standard** ↓ **Less onerous than Poison Standard**	**Notes:**	

E Part 2 of the SUSMP – Labels and containers

PART 2

LABELS AND CONTAINERS

LABELS

2. A person must not sell or supply a poison unless it is labelled in accordance with paragraphs 3 to 19 of this Standard.

General requirements

3. Any word, expression or statement required by this Standard to be written on a label or container must be written:

(1) on the outside face of the label or container; and

(2) in the English language; and

(3) in durable characters; and

(4) in a colour or colours to provide a distinct contrast to the background colour; and

(5) in letters at least 1.5 millimetres in height.

4. Sub-paragraph 3(5) does not apply to a word, expression or statement on a container which has a capacity of 20 millilitres or less, or on the label of such a container if:

(1) an appropriate authority approves the use of smaller letters; and

(2) the letters are at least 1 millimetre in height.

5. The label must be printed on, or securely attached to:

(1) the outside of the immediate container; and

(2) if the immediate container is enclosed in a primary pack, the outside of that primary pack.

Immediate wrapper

6. (1) A poison enclosed in an immediate wrapper must be contained in a primary pack labelled in accordance with paragraph 7 of this Standard; and

(2) the immediate wrapper must be conspicuously labelled with:

(a) the name of the manufacturer or distributor or the brand name or trade name used exclusively by the manufacturer or distributor for that poison; and

(b) the approved name of the poison; and

(c) a statement of the quantity or strength of the poison in accordance with paragraph 8.

Primary packs and immediate containers

7. (1) The primary pack and immediate container of a poison must be labelled as follows:

(a) with the signal word or words relating to the Schedule in which the poison is included and the purpose for which it is to be used, as shown in the following table:

Schedule Purpose Signal words required

2 for any purpose **PHARMACY MEDICINE**

3 for any purpose **PHARMACIST ONLY MEDICINE**

4 for human use **PRESCRIPTION ONLY MEDICINE**

4 for animal use **PRESCRIPTION ANIMAL REMEDY**

5 for any purpose **CAUTION**

6 for any purpose **POISON**

7 for any purpose **DANGEROUS POISON**

8 for any purpose **CONTROLLED DRUG**

written:

(i) on the first line or lines of the main label; and

(ii) in bold-face sans serif capital letters of uniform thickness; and

(iii) in letters at least half the height of the largest letter or numeral on the label but need not be larger than:

(A) 6 millimetres on labels for packages having a nominal capacity of 2 litres or less; or

(B) 15 millimetres on labels for packages having a nominal capacity of more than 2 litres;

and

(iv) if the poison:

(A) is a Schedule 5 poison, with nothing, other than a Class label as specified in the *Australian Code for the Transport of Dangerous Goods by Road and Rail* or a statement of the principal hazard of the poison, written on that line; or

(B) is not a Schedule 5 poison, with nothing, other than a Class label as specified in the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, written on that line;

(b) if the poison is a Schedule 8 poison, with the cautionary statement –

POSSESSION WITHOUT AUTHORITY ILLEGAL

written:

(i) on a separate line or lines immediately below the signal words required by sub-paragraph 7(1)(a); and

(ii) in bold-face sans serif capital letters of uniform thickness; and

(iii) in letters at least four tenths the height of the letters used for the signal words; and

(iv) with no other statement written on the same line;

(c) with the cautionary statement –

KEEP OUT OF REACH OF CHILDREN

written:

(i) on a separate line or lines:

(A) immediately below the signal word or words required by sub-paragraph 7(1)(a); or

(B) where the cautionary statement "POSSESSION WITHOUT AUTHORITY ILLEGAL" is required by sub-paragraph 7(1)(b), on the line immediately below that statement; and

(ii) in bold-face sans serif capital letters of uniform thickness; and

(iii) in letters at least four tenths the height of the letters used for the signal word or words; and

(iv) with nothing, other than a Class label as specified in the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, written on the same line;

(d) if the poison is a dry chlorinating compound containing more than 10 per cent of available chlorine, **except** for preparations certified by a relevant State or Territory authority as not being a Dangerous Good of Class 5.1

(oxidising substances) as specified in the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, with the cautionary statement –

FIRE AND EXPLOSION HAZARD

written:

(i) on a separate line or lines immediately below the cautionary statement —KEEP OUT OF REACH OF CHILDREN‖ as required by sub-paragraph 7(1)(c); and

(ii) in bold-face sans serif capital letters of uniform thickness; and

(iii) in letters at least four tenths the height of the letters used for the signal word or words; and

(iv) with nothing, other than a Class label as specified in the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, written on the same line;

(e) if the poison is an alkaline salt in a dishwashing machine product, with the cautionary statement –

BURNS SKIN AND THROAT

written:

(i) on a separate line or lines immediately below the cautionary statement —KEEP OUT OF REACH OF CHILDREN‖ as required by sub-paragraph 7(1)(c); and

(ii) in bold-face sans serif capital letters of uniform thickness; and

(iii) in letters at least four tenths the height of the letters used for the signal word; and

(iv) with nothing, other than a Class label as specified in the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, written on the same line of the main label;

(f) if the poison is an aqueous solution of paraquat, with the cautionary statements –

CAN KILL IF SWALLOWED

DO NOT PUT IN DRINK BOTTLES

KEEP LOCKED UP

written:

(i) on separate lines immediately below the cautionary statement —KEEP OUT OF REACH OF CHILDREN‖ as required by sub-paragraph 7(1)(c); and

(ii) in bold-face sans serif capital letters of uniform thickness; and

(iii) in letters at least four tenths the height of the letters used for the signal words; and

(iv) with nothing, other than a Class label as specified in the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, written on the same lines of the main label;

(g) for any poison other than a poison for human therapeutic use labelled in accordance with the

Required Advisory Statements for Medicine Labels, if safety directions are required on the label by sub-paragraph 7(1)(n), with the cautionary statement –

READ SAFETY DIRECTIONS BEFORE OPENING

OR USING

or with the cautionary statement –

READ SAFETY DIRECTIONS

written:

(i) on a separate line or lines;

(A) immediately below the cautionary statement —KEEP OUT OF REACH OF CHILDREN ‖ as required by sub-paragraph 7(1)(c); or

(B) if one or more other cautionary statements is required to be on the line immediately below KEEP OUT OF REACH OF CHILDREN ‖ , immediately below that statement or those statements; and

(ii) in bold-face sans serif capital letters of uniform thickness; and

(iii) in letters at least four tenths the height of the letters used for the signal word or words; and

(iv) with nothing, other than a Class label as specified in the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, written on the same line;

(h) if the poison meets the criteria for a _flammable liquid' in the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, with the cautionary statement –

FLAMMABLE

written on the main label in bold-face sans serif capital letters of uniform thickness, unless already present in accordance with the requirements of the *Australian Code for the Transport of Dangerous Goods by Road and Rail*;

(i) if the poison is for the treatment of animals, with the cautionary statement –

FOR ANIMAL TREATMENT ONLY

written on the main label in bold-face sans serif capital letters of uniform thickness;

(j) if the poison is a Schedule 5 poison intended for any purpose other than internal or pesticidal use, with the cautionary statement –

DO NOT SWALLOW

written in sans serif capital letters on the main label or as part of the directions for use;

(k) with the approved name of the poison and a statement of the quantity, proportion or strength of the poison in accordance with paragraph 8:

(i) if the poison is for human therapeutic use, written in accordance with orders made under section 10(3) of the Commonwealth *Therapeutic Goods Act, 1989*; or

(ii) if the poison is not for human therapeutic use, written in bold-face sans serif capital letters on the main label, unless:

(A) a list of approved names is required; and

(B) it is impractical to include the list on the main label; and

(C) an appropriate authority has authorised its inclusion on another part of the label; or

(iii) if the poison is a Schedule 5 poison referred to in column 1 of the following table the appropriate name opposite thereto in column 2 may be used as the approved name:

TABLE

Column 1	**Column 2**
Alkaline salts	Alkaline salts
Amines for use as curing agents for epoxy resins (unless separately specified in the Schedules)	Aliphatic amines or aromatic amines
Epoxy resins, liquid	Liquid epoxy resins
Hydrocarbons, liquid	Liquid hydrocarbons
Quaternary ammonium compounds	Quaternary ammonium compound(s)

(iv) if a poison contains a mixture of designated solvents in excess of 25 per cent of the total volume of the poison but the proportion of one or more individual designated solvents in the mixture is equal to or less than 25 per cent, the approved names of those solvents may be expressed as follows:

(A) where the designated solvent is a liquid hydrocarbon as liquid hydrocarbons; or

(B) where the designated solvent is a ketone as ketones; or

(C) in any other case as solvents ‖ or other solvents;

(l) if the poison is an organophosphorus compound or carbamate for pesticidal use or for the treatment of animals, with the following expression written immediately below the approved name or the list of declared contents –

AN ANTICHOLINESTERASE COMPOUND

(i) the requirements of sub-paragraph 7(1)(l) do not apply to:

(A) dazomet, mancozeb, metiram, propineb, thiram, tri-allate, zineb or ziram; or

(B) an organophosphorus compound or carbamate contained in impregnated plastic resin strips, medallions or granules; or

(C) an organophosphorus compound or carbamate contained in a pressurised spray pack for household use;

(m) for any poison other than a poison for human therapeutic use labelled in accordance with Therapeutic Goods Order 69 *General requirements for labels for medicines* or in an agricultural or veterinary chemical product labelled in compliance with the *Agricultural and Veterinary Chemicals Code Act 1994*, if the poison is prepared, packed or sold for a specific purpose, with clear and adequate directions for use unless:

(i) the poison is included in Schedule 4 or Schedule 8; or

(ii) it is impractical to include such directions on the label and:

(A) the primary pack and the immediate container are labelled with the statement —DIRECTIONS FOR USE: See package insert ‖ ; and

(B) an appropriate authority has authorised the directions for use to be written on a package insert instead of the label; and

(C) the insert is enclosed in the primary pack;

(n) for any poison other than a poison for human therapeutic use labelled in accordance with the *Required Advisory Statements for Medicine Labels,* if use of the poison may be harmful to the user, with appropriate safety

directions (see Appendix F), grouped together as a distinct section of the label and prefaced by the words –

SAFETY DIRECTIONS

written in bold-face capital letters;

(o) for any poison other than a poison for human therapeutic use labelled in accordance with the *Required Advisory Statements for Medicine Labels,* if any warning statement or statements are required for the poison (see Appendix F), with that warning statement or those statements grouped together:

(i) if safety directions are included on the label, immediately after the words ―SAFETY DIRECTIONS ‖ ; or

(ii) if there are no safety directions, immediately preceding the directions for use;

(p) if the poison is not for human internal use and is not a Schedule 3, Schedule 4 or Schedule 8 poison, with appropriate first aid instructions (see Appendix E):

(i) grouped together and prefaced by the words –

FIRST AID

written in bold-face capital letters; or

(ii) if a primary pack contains two or more immediate containers of poisons each requiring different first aid instructions:

(A) written on each immediate container as specified in sub-paragraph 7(1)(p)(i); and

(B) replaced on the primary pack with the statement –

FIRST AID: See inner packs;

(q) with the name and address of the manufacturer or distributor.

(2) For the purposes of sub-paragraph 7(1)(a)(iii) the term ―largest letter or numeral ‖ does not include:

(a) a single letter or numeral which is larger than other lettering on the label; or

(b) an affix forming part of the trade name; or

(c) in the case of a poison for therapeutic use, numerals used to distinguish the strength of a

preparation from the strengths of other preparations of the same poison.

Statements of quantity, proportion or strength

8. The statement of the quantity, proportion or strength of a poison must be expressed in the most appropriate of the following forms:

(1) if the poison is for human therapeutic use, in the manner prescribed by orders made under section 10(3) of the Commonwealth *Therapeutic Goods Act 1989*;

(2) if the poison is for a purpose or purposes other than human therapeutic use and:

(a) if the poison is in a pressurised spray aerosol preparation, as the mass of the poison per stated mass of the preparation;

(b) if the poison is a liquid in a liquid preparation, as the mass or volume of the poison per stated volume of the preparation;

(c) if the poison is a liquid in a solid or semi-solid preparation, as the mass or volume of the poison per stated mass of the preparation;

(d) if the poison is a solid or semi-solid in a liquid preparation, as the mass of the poison per stated volume of the preparation;

(e) if the poison is a solid or semi-solid in a solid or semi-solid preparation, as the mass of the poison per stated mass of the preparation;

(f) if the poison is a gas in a liquid preparation, as the mass of the poison per stated volume of the preparation;

(g) if the poison is a gas in a solid or semi-solid preparation, as the mass of the poison per stated mass of the preparation;

(h) if the poison is a gas in a gaseous preparation, as the mass of the poison per stated mass of the preparation;

(3) if the poison is a solution of a mineral acid, the proportion of the acid (un-neutralised by any bases present in the preparation) in a preparation may be expressed as the un-neutralised mass of the acid per stated mass of the preparation;

(4) if the poison is an inorganic pigment, the proportion may be expressed as a percentage of the metal present using one of the following expressions as appropriate: contains not more than 10 per cent (*name of the metal*); or contains not more than 30 per cent (*name of the metal*); or contains more than 30 per cent of (*name of the metal*);

(5) if the poison is included in a paint, other than a paint for therapeutic or cosmetic use, the proportion may be expressed as a range provided

that the limits of the range do not differ by more than 5 per cent of the product;

(6) if the poison is a lead-based pigment included in automotive paint, the proportion may be expressed as the maximum content of the lead that may be present in the non-volatile content of the paint;

(7) if a preparation contains more than one derivative of a poison, the quantity or proportion of the poison may be expressed as the equivalent quantity or proportion of one of the derivatives present which it would contain if all of the derivatives were that derivative.

(8) For the purposes of sub-paragraph 8(7) —derivative ‖ includes alkaloid.

Exemptions

Selected containers and measure packs

9. The requirements of paragraph 7 do not apply to an immediate container that is a measure pack or a selected container (other than an ampoule, a pre-filled syringe or an injection vial to which paragraphs 10 or 11 apply) when:

(1) the immediate container is for a therapeutic good and is labelled in the manner prescribed by orders made under section 10(3) of the Commonwealth *Therapeutic Goods Act 1989*; or

(2) the immediate container is:

(a) packed in a primary pack labelled in accordance with paragraph 7; and

(b) labelled with:

(i) the signal word or words relating to the Schedule in which the poison is included and the purpose for which it is to be used, as shown in the table to sub-paragraph 7(1)(a); and

(ii) the approved name of the poison and the quantity, proportion or strength of the poison in accordance with paragraph 8; and

(iii) the name of the manufacturer or distributor or the brand name or trade name used exclusively by the manufacturer or distributor for the poison; and

(iv) if the poison is for the treatment of animals, with the cautionary statement –

FOR ANIMAL TREATMENT ONLY

written in sans serif capital letters.

Ampoules, pre-filled syringes and injection vials

10. The requirements of paragraph 7 do not apply to a selected container, or an ampoule (other than an ampoule to which paragraph 11 applies) when:

(1) the selected container or ampoule is for a therapeutic good and is labelled in the manner prescribed by orders made under section 10(3) of the Commonwealth *Therapeutic Goods Act 1989*; or

(2) the selected container or ampoule is:

(a) packed in a primary pack labelled in accordance with paragraph 7; and

(b) labelled with:

(i) the approved name of the poison and the quantity, proportion or strength of the poison in accordance with paragraph 8; and

(ii) with the name of the manufacturer or distributor or the brand name or trade name used exclusively by the manufacturer or distributor for the poison; and

(iii) if the poison is for the treatment of animals, with the cautionary statement –

FOR ANIMAL TREATMENT ONLY

written in sans serif capital letters.

11. The requirements of paragraph 7 do not apply to a selected container that is a plastic ampoule that is continuous with a strip of the same material and opens as it is detached from the strip when:

(1) the selected container is a plastic ampoule that is continuous with a strip of the same material and opens as it is detached from the strip, is for a therapeutic good and is labelled in the manner prescribed by orders made under section 10(3) of the Commonwealth *Therapeutic Goods Act 1989*;

or

(2) the selected container is a plastic ampoule that is continuous with a strip of the same material and opens as it is detached from the strip, is:

(a) packed in a primary pack labelled in accordance with paragraph 7; and

(b) the strip is labelled in accordance with paragraph 10; and

(c) the ampoule is labelled with:

(i) the approved name of the poison or the trade name of the product; and

(ii) the quantity, proportion or strength of the poison in accordance with paragraph 8.

Transport containers and wrappings

12. The labelling requirements of this Standard do not apply to a transparent cover, or to any wrapper, hamper, packing case, crate or other cover used solely for the purposes of transport or delivery.

Dispensary, industrial, laboratory and manufacturing poisons

13. The labelling requirements of this Standard do not apply to a poison that:

(1) is packed and sold solely for dispensary, industrial, laboratory or manufacturing purposes; and

(2) is labelled in accordance with Worksafe Australia's *National Code of Practice for the Labelling of*

Workplace Substances [NOHSC: 2012 (1994)].

Exemptions from label requirements in certain circumstances

13A.(1) The labelling requirements of paragraphs 7-12 do not apply to a poison where an appropriate authority has granted a labelling exemption in whole or in part for these sections for a specified product; and

(2) the labelling exemption from an appropriate authority referred to in sub-paragraph (1) is limited to no more than 12 months from the effective date of the decision for retail supply of the product; and

(3) for the avoidance of doubt this paragraph does not apply to exemptions issued under sub-paragraph 7(1)(m)(ii)(B) of this Standard.

Dispensed medicines

14. Unless otherwise specified by regulation:

(1) The labelling requirements of this Standard do not apply to a medicine that:

(a) is supplied by an authorised prescriber or other person authorised to supply and is labelled in accordance with the requirements of Appendix L Part 1 of this Standard; or

(b) is supplied on and in accordance with a prescription written by an authorised prescriber and is labelled in accordance with the requirements of Appendix L Part 1 of this Standard; or

(c) is prepared and supplied by a pharmacist for an individual patient and is labelled in accordance with the requirements of Appendix L Part 1 of this Standard.

(2) A person must not supply a dispensed medicine for human use containing:

(a) a poison listed in column 1 of the table at Appendix L Part 2 of this Standard unless it is clearly labelled with the warning statement(s) specified in column 2 of that table; or

(b) a poison listed in Appendix K unless it is clearly labelled with a sedation warning (being statement 39, 40 or 90 as specified in Appendix F Part 1 of this Standard).

Gas cylinders

15. The requirements of sub-paragraphs 7(1)(a)(iv), 7(1)(c)(iv), and 7(1)(g)(iv) do not apply to a cylinder containing a poison that is a compressed gas.

Paints

16. The requirements of paragraph 7 do not apply to:

(1) paint (other than a paint for therapeutic or cosmetic use) which:

(a) contains only Schedule 5 poisons; or

(b) is a First Schedule or Second Schedule paint that is labelled with:

(i) the word —WARNING ‖ , written in bold-face sans serif capital letters, the height of which is not less than 5 mm, on the first line of the main label with no other words written on that line; and

(ii) the expression —KEEP OUT OF REACH OF CHILDREN ‖ , written in bold-face sans serif capital letters, the height of which is not less than 2.5 mm, on a separate line immediately below the word —WARNING ‖ ; and

(iii) the appropriate warnings specified for the paint in Appendix F, written immediately below the expression —KEEP OUT OF REACH OF CHILDREN ‖ ; and

(iv) the name and proportion of the First Schedule or Second Schedule poisons it contains, provided that where the substance is a metal or metal salt the proportion is expressed as the metallic element present —calculated on the non-volatile content ‖ or —in the dried film ‖ of the paint; or

(2) a tinter which contains:

(a) only Schedule 5 poisons; or

(b) a poison included in the First Schedule or Second Schedule to Appendix I, provided that it is labelled with the name and proportion of that poison, and where the poison is a metal or metal salt, the proportion is expressed as the metallic element present as —calculated on the non-volatile content ‖ or —in the dried film ‖ .

Camphor and naphthalene

17. The labelling requirements of sub-paragraph 3(4) and paragraph 7 do not apply to a device that contains camphor or naphthalene in block, ball, disc or pellet form if the device:

(1) complies with paragraph 28; and

(2) is sold or supplied in a primary pack labelled in accordance with paragraphs 3 and 7.

Prohibitions

18. A label used in connection with any poison must not include:

(1) any reference to this Standard, or any comment on, reference to, or explanation of any expression required by this Standard that directly or by implication contradicts, qualifies or modifies such expression; or

(2) any expression or device suggesting or implying that the poison is safe, harmless, non-toxic, nonpoisonous, or is recommended or approved by the Government or any government authority unless required by legislation; or

(3) any expression or device which is false or misleading in any particular concerning the safety of the poison or any of its ingredients; or

(4) any trade name or description that:

(a) represents any single constituent of a compound preparation; or

(b) misrepresents the composition or any property or quality of the poison; or

(c) gives any false or misleading indication of origin or place of manufacture of the poison.

19. A label must not be attached to the immediate container or primary pack used in connection with any poison in such a manner as to obscure:

(1) any expression required by this Standard to be written or embossed on the container or pack; or

(2) any of the ribs or embossed or printed words required by paragraph 21, 22 or 23 as appropriate.

F Packaging (containers) of the Poison Standard

CONTAINERS

20. A person must not sell or supply a poison unless the immediate container complies with the requirements of paragraphs 21 to 28 of this Standard.

Containers for poisons other than Schedule 5 poisons

21. If a poison, other than a Schedule 5 poison, is sold or supplied in a container with a nominal capacity of 2 litres or less, the container must comply with Australian Standard AS 2216-1997, entitled *Packaging for poisonous substances*.

21a. Notwithstanding subparagraph 21, a poison which is in Schedule 6 and is an essential oil may be packed in an amber glass container which does not comply with the tactile identification requirements of Australian Standard AS 2216-1997, entitled *Packaging for poisonous substances,* if:

(1) the other safety factors are not diminished; and

(2) the container has a restricted flow insert and a child-resistant closure.

22. If a poison, other than a Schedule 5 poison, is sold or supplied in a container with a nominal capacity of more than 2 litres, the container must:

(1) comply with sub-section 1.4 (General Requirements) of Australian Standard AS 2216-1997 entitled *Packaging for poisonous substances*; and

(2) have the word —POISON || :

(a) in sans serif capital letters the height of which is at least one thirty second part of the length,\ height or width of the container, whichever is the greatest:

(i) embossed; or

(ii) indelibly written in a colour in distinct contrast to the background colour;

(b) on the side or shoulder of the container.

Containers for Schedule 5 poisons

23.(1) The container in which any Schedule 5 poison is sold or supplied must:

(a) comply with the container requirements of paragraph 21 or paragraph 22; or

(b) be readily distinguishable from a container in which food, wine or other beverage is sold; and

(i) comply with sub-section 1.4 (General Requirements) of Australian Standard AS 2216-1997 entitled *Packaging for poisonous substances*, excluding paragraph 1.4.3;

(ii) be securely closed and, except when containing a preparation for use on one occasion only, be capable of being re-closed to prevent spillage of its contents; and

(iii) have the expression —POISON‖ , —NOT TO BE TAKEN‖ or —NOT TO BE USED AS A FOOD CONTAINER‖ embossed or indelibly written thereon, or printed on a permanent adhesive label designed to adhere to a substrate without lifting and which cannot be removed without damaging either the label or the substrate.

(2) Notwithstanding sub-paragraph 23(1), the following Schedule 5 poisons namely:

(a) methylated spirit(s);

(b) liquid hydrocarbons when packed as kerosene, lamp oil, mineral turpentine, thinners, reducers, white petroleum spirit or dry cleaning fluid;

(c) petrol;

(d) toluene; or

(e) xylene,

must not be sold or supplied in a bottle or jar having a nominal capacity of 2 litres or less, unless the immediate container complies with the container requirements specified in paragraph 21.

Approved containers

24. Notwithstanding sub-paragraphs 21, 22 and 23 a poison may be packed in a container that does not comply with the tactile identification requirements of Australian Standard AS2216-1997 entitled *Packaging for poisonous substances* or the requirements of paragraphs 22(2) or 23(1)(iii) if:

(1) the other safety factors are not diminished;

(2) the container is for a specific purpose; and

(3) an appropriate authority has approved the use of the container for that purpose.

Child-resistant closures

25.(1) If a poison, other than a poison included in a therapeutic good packaged in a manner compliant with orders made under section 10(3) of the Commonwealth *Therapeutic Goods Act 1989*, listed in column 1 of the following table is sold or supplied in a container having a nominal capacity specified for that poison in column 2 it must be closed with a child-resistant closure.

TABLE

Name of the poison	**Nominal capacity**
Alkaline salts included in Schedule 5, when packed and labelled as dishwashing machine tablets.	All sizes
Alkaline salts included in Schedule 5, when packed and labelled as dishwashing machine liquids, solids or gels.	5 litres / kilograms or less
Alkaline salts included in Schedule 5, when packed and labelled as a food additive.	2.5 litres or less
Anise oil when included in Schedule 5.	200 millilitres or less
Basil oil when included in Schedule 5.	200 millilitres or less
Basil oil when included in Schedule 5.	200 millilitres or less
Cajuput oil when included in Schedule 6.	200 millilitres or less
Cassia oil when included in Schedule 5.	200 millilitres or less
Cineole when included in Schedule 6.	2 litres or less
Cinnamon bark oil when included in Schedule 5.	200 millilitres or less
Cinnamon leaf oil when included in Schedule 6.	200 millilitres or less

Name of the poison	**Nominal capacity**
Clove oil when included in Schedule 6.	200 millilitres or less
Essential oils when included in Schedule 6 because of their natural camphor component.	200 millilitres or less
Ethylene glycol when included in Schedule 6.	5 litres or less
Ethylene glycol when included in Schedule 5 in preparations containing more than 50 per cent of ethylene glycol.	5 litres or less
Eucalyptus oil when included in Schedule 6.	2 litres or less
Eugenol when included in Schedule 6.	200 millilitres or less
Hydrocarbons, liquid, when packed as kerosene, lamp oil, mineral turpentine, thinners, reducers, white petroleum spirit or dry cleaning fluid.	5 litres or less
Hydrochloric acid when included in Schedule 6.	5 litres or less
Leptospermum scoparium oil (manuka oil) when included in Schedule 6	200 millilitres or less
Marjoram oil when included in Schedule 5.	200 millilitres or less
Melaleuca oil (tea-tree oil) when included in Schedule 6.	200 millilitres or less
Methylated spirit excluding preparations or admixtures.	5 litres or less
Methyl salicylate and preparations containing more than 50 per cent of methyl salicylate.	200 millilitres or less
Nutmeg oil when included in Schedule 5.	200 millilitres or less
Oil of turpentine.	5 litres or less
Pennyroyal oil when included in Schedule 6.	200 millilitres or less
PoTASsium hydroxide as such.	2.5 litres or less
PoTASsium hydroxide in oven, hot plate or drain cleaners when included in Schedule 6 **except** when in pressurised spray packs.	5 litres or less
d-Pulegone when included in Schedule 6.	200 millilitres or less

Name of the poison	**Nominal capacity**
Sage oil (Dalmatian) when included in Schedule 6.	200 millilitres or less
Sodium hydroxide as such.	2.5 litres or less
Sodium hydroxide in oven, hot plate or drain cleaners when included in Schedule 6 **except** when in pressurised spray packs.	5 litres or less
Thujone when included in Schedule 6.	200 millilitres or less
Thyme oil when included in Schedule 5.	200 millilitres or less

(2) The manufacturer or packer of a poison must ensure that the child-resistant closure is appropriate for the container and the poison and that it retains its child-resistant properties for the expected life of the poison.

Schedule 8 poisons

25A.(1) A person who supplies any Schedule 8 poison must ensure that the Schedule 8 poison is packaged in such a way that its primary pack is so sealed that, when the seal is broken, it is readily distinguishable from other sealed primary packs.

(2) This paragraph does not apply to the supply of a Schedule 8 poison by an:

(a) authorised prescriber or other authorised supplier;

(b) pharmacist on the prescription of an authorised prescriber;

(c) pharmacist employed at a hospital, on the written requisition of a medical practitioner, a dentist or the nurse or midwife in charge of the ward in which the Schedule 8 poison is to be used or stored; or

(d) nurse or midwife on the direction in writing of an authorised prescriber.

Exemptions

26. (1) Paragraphs 21, 22 and 23 do not apply to the immediate container of a poison prepared, packed and sold:

(a) for human internal or animal internal use; or

(b) as a solid or semi-solid preparation for human external or animal external use; or

(c) as a paint, other than a paint for therapeutic or cosmetic use; or

(d) in containers having a nominal capacity of 15 millilitres or less; or

(e) for use in automatic photographic or photocopy processing machines if the container is specifically designed to fit into the machines; or

(f) solely for dispensary, industrial, laboratory or manufacturing purposes.

(2) Paragraph 25 does not apply to a poison prepared, packed and sold solely for dispensary, industrial, laboratory or manufacturing purposes.

27. The tactile identification or embossing required by paragraphs 21, 22 or 23 of this Standard or Australian Standard AS 2216-1997 entitled *Packaging for poisonous substances* do not apply to a container that is an aerosol container, a collapsible tube, or a measure pack which is a flexible sachet.

Camphor and naphthalene

28. The container requirements of paragraph 21 do not apply to a device that contains only camphor or naphthalene in block, ball, disc or pellet form for domestic use, if the device:

(1) in normal use, prevents removal or ingestion of its contents; and

(2) is incapable of reacting with the poison; and

(3) is sufficiently strong to withstand the ordinary risks of handling, storage or transport; and

(4) has the word —POISON‖ and the approved name of the poison embossed or indelibly printed on it.

Prohibitions

29. A person must not sell or supply camphor or naphthalene in ball, block, disc or pellet form for domestic use unless the balls, blocks, discs or pellets are enclosed in a device which prevents removal or ingestion of its contents.

30. A person must not sell or supply a poison in a container which has the name of another poison embossed or indelibly marked thereon.

31. A person must not sell any poison which is for internal use or any food, drink or condiment in a container prescribed by paragraphs 21, 22 or 23 of this Standard.

31A. A person must not sell any poison in a container used expressly for any food, drink or condiment.

G Scheduling Policy Framework

G.1 Factors for label use of "warning" (Schedule 5)

1. The substance is non-corrosive and has a low toxicity.

Acute oral toxicity (rat) is between 2000 mg/kg – 5000 mg/kg. Acute dermal LD50 is more than 2000 mg/kg. Acute inhalation LC50 (rat) is more than 3000 mg/m^3 (4 hours).

Dermal irritation is slight to moderate. Eye irritation is slight to moderate. Immediate, prolonged or repeated contact with the skin or mucous membranes may cause slight to moderate inflammation. Skin sensitisation is slight or nil.

2. The substance has a low health hazard.

The substance presents a low hazard from repeated use and is unlikely to produce irreversible toxicity. There is no other significant toxicity (e.g. respiratory sensitisation, mutagenicity, carcinogenicity, reproductive toxicity etc).

3. The substance is capable of causing only minor adverse effects to humans in normal use.

Specialised equipment should not be necessary for safe use.

4. The likelihood of injury in handling, storage and use can be mitigated through appropriate packaging and simple label warnings.

Adequate packaging and labelling protects the consumer from the known danger(s) of the substance if it is inhaled, taken internally or if it penetrates the skin. Potential harm is reduced through labelling which informs the consumer about the safety measures to apply during handling and use (including safety directions) and child resistant packaging (where appropriate).

5. The substance has a low potential for causing harm.

Potential harm is reduced through the use of appropriate packaging with simple warnings and safety directions on the label.

G.2 Factors for label use of "Poison" (Schedule 6)

1. The substance has a moderate to high toxicity, which may cause death or severe injury (including destruction of living tissue) if inhaled, taken internally, or in contact with skin or eyes.

Acute oral LD50 (rat) is between 50 mg/kg – 2000 mg/kg. Acute dermal toxicity is between 200 mg/kg and 2000 mg/kg. Acute inhalation LC50 (rat) is between 500 mg/m3 and 3000 mg/m3 (4 hours).

Dermal irritation is severe. Eye irritation is severe. Skin sensitisation is moderate to severe.

2. The substance has a moderate health hazard.

The substance presents a moderate hazard from repeated use and moderate risk of producing irreversible toxicity.

3. Reasonably foreseeable harm to users can be reduced through strong label warnings, extensive safety directions and child-resistant packaging (where appropriate).

Adequate packaging and labelling protects the consumer from the known danger(s) of the substance. Potential harm is reduced through labelling which informs the consumer about the safety measures to apply during handling and use (including safety directions) and child resistant packaging.

4. The substance has a moderate potential for causing harm.

Potential harm is reduced through the use of distinctive packaging with strong warnings and safety directions on the label.

G.3 Factors for dangerous poisons (Schedule 7)

1. The substance has a high to extremely high toxicity.

Acute oral LD50 (rat) is 50 mg/kg or less. Acute dermal LD50 is 200 mg/kg or less. Acute inhalation LC50 (rat) is 500 mg/m3 (4 hours) or less. Dermal irritation is corrosive. Eye irritation is corrosive.

2. The substance has a high health hazard.

The substance presents a severe hazard from repeated and unprotected use or a significant risk of producing irreversible toxicity, which may involve serious, acute or chronic health risks or even death if it is inhaled, taken internally or penetrates the skin.

3. The dangers of handling the poison are such that special precautions are required in its manufacture, handling or use.

The dangers associated with handling the substance are too hazardous for domestic use or use by untrained persons and warrant restrictions on its availability, possession or use.

4. The substance has a high potential for causing harm at low exposure.

The substance should be available only to specialised or authorised users who have the skills necessary to handle the substance safely. Restrictions on their availability, possession, storage or use may apply.