



NGIA Response to the Consultation Regulation Impact Statement “Chemical Security – Precursors to homemade explosives”

A Submission by
**Nursery & Garden Industry Australia
(NGIA)**

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Nursery & Garden Industry Australia is the peak national industry body representing producers, retailers and allied traders involved in the production of plants across all states and territories of Australia. In partnership with state and territory peak bodies, NGIA is responsible for overseeing the national development of the Australian nursery industry. The nursery industry is a significant sector of the Australian horticultural industry and employs over 45,000 people in over 20,000 small to medium sized businesses with a combined supply chain market value in excess of \$15 billion dollars annually. Depicted in Table 1 is the wide range of end users supported by the Australian nursery and garden industry.

Table 1: National value of horticultural sectors supplied by production nurseries

Production Nursery	Horticultural markets	Economic value
Container stock ¹	Ornamental/urban horticulture	\$2 billion retail value
Foliage plants ¹	Indoor display/hire	\$87 million industry
Seedling stock ²	Vegetable growers	\$3.3 billion industry
Native and exotic forestry stock ³	Plantation timber	\$1.7 billion industry
Fruit and nut tree stock ²	Orchardists (citrus, mango, etc)	\$5.2 billion industry
Landscape stock ¹	Domestic & commercial projects	\$2 billion industry
Plug and tube stock ²	Cut flower growers	\$700 million industry
Revegetation stock ¹	Farmers, Government, Landcare	\$109 million industry
Mine site revegetation	Mine site rehabilitation	Value unknown
Total Horticultural Market Value		\$15.0 billion

¹ Freshlogic (2008) Australian Garden Market Monitor for the Year Ending 30 June 2008

² Horticulture Australia Limited (2004) Australian Horticultural Statistics Handbook

³ Australian Bureau of Agricultural and Resource Economics (2008). Australian Forest and Wood Products Statistics

Nursery & Garden Industry Australia (NGIA) welcomes the opportunity to comment on the Consultation Regulation Impact Statement (CRIS) “Chemical Security – Precursors to homemade explosives”. The industry is reliant upon several of the precursor chemicals identified in this CRIS, namely potassium nitrate and sodium nitrate which are commonly blended into coated and uncoated fertilisers and hydrogen peroxide which is routinely used as a sterilising agent in tissue culture.

It should be made clear that NGIA supports the intent of government to enhance security in relation to the 11 chemicals that are precursors to homemade explosives that threaten the health and safety of the Australian public. However, the industry is adamant that any action undertaken to achieve this should be done with minimal disruption and costs to industry as well as the Australian public whilst at the same time reducing the risk of attack from homemade explosives that threaten the health and safety of the Australian public.

With regards to the four board approaches detailed within the CRIS, NGIAs preferred option is number one ‘a targeted awareness campaign’. This option will limit the costs borne by industry while at the same time; deliver a comparable reduction in number of terrorist attacks in line with options two and three as detailed in the CRIS. NGIA supports the Australian Security and Intelligence Organisation who indicate firm support for measures that are not cost prohibitive and would help educate businesses on how to better identify and report suspicious transactions in a timely and effective manner.

Although NGIA supports option one, and recognises that option one through to three are voluntary, there are certain treatment measures that fall under all three options which would be inflexible, impractical, costly and onerous for businesses within the Australian nursery industry to implement. In supporting option one, NGIA requests that industry ownership of the development and promulgation of the proposed treatment measures and communication of the targeted campaign is required. Indeed, NGIA requests ongoing consultation irrespective of the preferred option chosen following the current round of consultation. The proposed treatment measures that would require due consideration before implementation includes:

1. Verification of identity and determining trustworthiness of new and existing employees would be cost prohibitive (particularly if police checks are involved) and time consuming as the industry has high staff turnover/attrition. These costs would be amplified for itinerate, casual and English as a second language workers. Moreover, > 60% of Australian nursery and garden industry businesses have less than 10 staff and this process could place significant administrative burden on these small businesses. Industry estimates that there would be a two-fold increase in administration costs.
2. Inability for smaller businesses to absorb the costs for mandatory ‘personal security training’. Refresher training on a 12 monthly basis would also be difficult and potentially costly. Should this progress, government subsidies to assist with training would be desirable.
3. Development and implementation of an inventory control system may be cost prohibitive depending on its complexity (e.g. paper based verse electronic). Industry

‘best practice’ programs must be considered when considering this approach. Further details on this are provided in a later section of this submission.

4. Development of a theft diversion plan and risk assessments for each product would place added strain on resources, both time and money.
5. Excessive security measures required restricting physical unauthorised access to chemicals including monitoring access points, CCTV and photo ID badges would be excessive and impractical. The majority of nursery businesses do not have access to sophisticated packages that facilitate development of photo IDs, nor have the need for the installation of CCTV.
6. Inability to regulate point of sale in retail situations. Industry is not in a position to use ‘end user declarations’ for every chemical being sold for several reasons. For instance, in the case of potassium nitrate, all blended fertilisers that contain this chemical would require declarations which would be impractical to administer. The CRIS is unclear in that it does not specify if the ‘end user declarations’ apply to the chemicals when they are components of such blended products.
7. Impracticality of retailers to keep products behind a suitable barrier or within line of sight of the seller at all times. This would be difficult, particularly in large retail big box stores which would not be able to dedicate a resource to keep products within line of sight. In addition, the majority of smaller retailers do not have adequate floor space to designate and cordon off behind a suitable barrier.
8. Impracticality of retailers to accept non-cash methods of payment only. Again, this would be particularly difficult in large retail big box stores.
9. Impracticality for businesses to keep all chemicals purchased under lock and key from point ‘a’ to point ‘b’ during transport. In many cases, it would also be difficult for businesses to remain with the products at all times during transport and the use of a tracking system would be cost prohibitive.

Notwithstanding the industry concerns with the proposed treatment measures, option one could be used to inform and educate relevant businesses about existing relevant industry codes that inform businesses about ‘best practice’ approaches to managing the security risks associated with the 11 precursor chemicals of this CRIS. NGIA would be willing to work with the Attorney Generals

Department (AGD) to tailor promotional material and/or support tools where applicable to ensure they are relevant to industry. Industry believes that this would also ensure that very small 'backyard businesses' involved in the use and handling of the precursor chemicals are appropriately informed as there would be a variety of resources developed by the AGD to ensure maximum penetration. Industry believes that option one will sufficiently aid in reducing the risk of homemade explosive use for criminal purposes relative to the status quo.

Existing voluntary industry codes relevant to production nurseries and retail nurseries are available which can be easily adapted to address some of the proposed treatment measures that are detailed under Appendix H of the CRIS. In relation to production nurseries, an ideal medium to use is through the industry Nursery Production Farm Management System (FMS). This industry owned system incorporates the Nursery Industry Accreditation Scheme Australia (NIASA) – Best Management Practices, EcoHort®, which promotes best practices in environmental and natural resource management and BioSecure HACCP, which promote best practice in pest and disease management and biosecurity risk assessment. Section 1.2.4 of NIASA and section 5.2 of EcoHort would be the most applicable sections. In the case of retail nurseries, the Australian Garden Centre Accreditation Scheme (AGCAS) would be a suitable medium. Section D10 and D11 would be the most applicable sections. By referring to these programs, costs of the proposed treatment measures outlined in the CRIS could be minimised as duplication would be avoided in some areas such as inventory control.

NGIA does not support the CRIS preferred option - option three 'a government code of practice (quasi-regulation)'. Industry is concerned that they would not be appropriately consulted with as NGIA is not a participant of the National Industry Reference Group for chemical security. In addition, a one-size-fits-all approach proposed by the AGD would be problematic due to the diversity of the businesses that fall within the industries that will adopt the code, not to mention the diversity of businesses represented by the Australian nursery and garden industry. Although this option could be seen as more practical and manageable, it would be seen as alienating industry and would not be reflective of the diversity of stakeholders. Furthermore, NGIA does not see how only a three per cent higher adoption of proposed treatment measures under option

three justifies quasi-regulation. Moreover, utilizing a 1997 document to validate a quasi-regulation rather than self-regulation is dated at out of touch with industry in the 21st century.

With this in mind, NGIA believes option two addresses some of these concerns as production nurseries would fall under the key grouping ‘the agricultural use of chemicals’ and retail nurseries would fall under ‘retail sale of chemicals’. Chemical manufacturers who are also represented by industry would adequately fall under the key grouping ‘the importation, manufacture, processing supply and supply of fertilisers’. As specified in the CRIS, option two would involve industry ownership of the development and promulgation of the proposed treatment measures. Although there is no formal mechanism how the AGD has to communicate and distribute the industry codes, NGIA has well established communication networks which include written, verbal and social media that would ensure wide penetration with all relevant parties. In addition, NGIA requests that the \$0.12 million specified under ‘option one – administrative costs’ is added to the estimated administrative costs funded by government under option two to ensure the industry codes are effectively communicated should this option be the preferred option following consultation.

As for option four, NGIA does not support ‘regulation’ for reasons outlined in the CRIS including the significant costs that would be borne by industry as well as the unreasonable likelihood of this option resulting in a reduction of up to 6.77 terrorist attacks.

In summary, NGIA supports option one delivering a targeted awareness campaign. The industry is willing to provide further information upon request.

Further Information:

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