



**Plastics and Chemicals Industries Association** INC ARBN: 063 335 615

Level 1, Unit 7, Skipping Girl Place, 651 Victoria Street, Abbotsford, VIC, 3067  
PO Box 211, Richmond, VIC 3121, Australia

Telephone +61 3 9429 0670  
Email [info@pacia.org.au](mailto:info@pacia.org.au)

Facsimile +61 3 9429 0690  
Website: <http://www.pacia.org.au>

16 August 2010

Dr Marion Healy  
Director  
NICNAS  
GPO Box 58  
Sydney NSW 2001

Email: [Marion.Healy@NICNAS.gov.au](mailto:Marion.Healy@NICNAS.gov.au)

Dear Dr Healy

### **Proposed amendments to the Schedule of the Act and the requirement to prepare and publish summary reports**

The Plastics and Chemicals Industries Association (PACIA) is the peak national body representing the chemicals and plastics industry in Australia. PACIA members include chemicals manufacturers, importers and distributors, logistics and supply chain partners, raw material suppliers, plastics fabricators and compounders, plastics and chemicals recyclers and service providers to the sector.

#### **Context of the sector**

The chemicals and plastics industry is the third largest manufacturing industry in Australia:

- Turnover in the sector is approximately \$32.5 billion
- Industry value added is \$9.6 billion
- Wages and salaries are \$4.7 billion
- The sector directly employs approximately 85,000 people
- The sector represents between 9 and 10 per cent of total Australian manufacturing activity.

The domestic chemicals and plastics industry is not only important in its own right, it has a multiplier effect on productivity and cost saving benefits to the broader economy that would be foregone if sections of the sector moved offshore.

The industry is arguably the most diverse and broad in its reach across Australian society, environment and industry. It can be broadly categorized as follows:

- Basic Chemicals (organic and inorganic industrial chemicals, fertilisers, industrial gases, and synthetic resins)
- Specialty Chemicals (explosives, paints, rubber products, plastics, other polymers and inks)
- Consumer Chemicals (pesticides, soaps and detergents, cosmetics, personal care, medicinal and pharmaceutical)

The chemicals and plastics industry, with its supply chain relationships, R&D and skilled workforce are central to Australia's current high income economy.

The industry continues to work actively with its product and service chains to deliver solutions for the many challenges facing humanity, including climate change, water shortage, population

increases, and resource constraints. It is uniquely placed to provide the solutions needed for a sustainable future.

PACIA is a significant stakeholder to this review and welcomes the opportunity to provide this submission.

## **Regulatory principles**

The PACIA Board has endorsed the following *Regulatory Principles* as the basis for PACIA's approach to regulatory proposals:

### **Regulatory outcomes** that conform to the following **regulatory principles**:

- be science-based
- the minimum required to achieve the stated objectives;
- be efficient and effective;
- adopt a risk management approach to forming and administering regulation;
- minimise the impact on competition;
- be nationally consistent in content, implementation, interpretation and timeframes;
- be compatible with international standards and practices, where appropriate;
- not unnecessarily restrict trade;
- be developed in consultation with the groups most affected and be subject to regular review;
- be flexible, not prescriptive and be compatible with the business operating environment;
- standardise the exercise of bureaucratic discretion; and
- have a clear delineation of regulatory responsibilities and effective and transparent accountability mechanisms
- apply Regulatory Impact Analysis including clear identification of costs and benefits

## **Best Practice Regulation Making**

*“Regulations are essential for the proper functioning of society and the economy. The challenge for Government is to deliver effective and efficient regulation – regulation that is effective in addressing an identified problem and efficient in terms of delivering benefits while minimising the costs to the economy.”*

*To help deliver better regulation both the Australian Government and the Council of Australian Governments (COAG) have best practice regulation making processes in place. Central to both processes is the preparation of a Regulation Impact Statement (RIS), which documents the regulatory impact analysis and the process undertaken.”*

<http://www.finance.gov.au/obpr/proposal/index.html>

*“A RIS is mandatory for all decisions made by the Australian Government and its agencies that are likely to have a regulatory impact on business or the not-for-profit sector, unless that impact is of a minor or machinery nature and does not substantially alter existing arrangements. This includes amendments to existing regulation and the rolling over of sunseting regulation.”*

*Australian Government 2010, Best Practice Regulation Handbook, Canberra, p.8*

*“Regulation is any ‘rule’ endorsed by government where there is an expectation of compliance. It includes primary legislation and legislative instruments (both disallowable and non-disallowable) and international treaties It also comprises other means by which*

*governments influence businesses and the not-for-profit sector to comply but that do not form part of explicit government regulation (for example, industry codes of practice, guidance notes, industry-government agreements and accreditation schemes)."*

*Australian Government 2010, Best Practice Regulation Handbook, Canberra, p.9*

*'Minor' changes refer to those changes that do not substantially alter the existing regulatory arrangements for businesses or not-for-profit organisations, such as where there would be a very small initial one-off cost to business and no ongoing costs. 'Machinery' changes refer to consequential changes in regulation that are required as a result of a substantive regulatory decision, and for which there is limited discretion available to the decision maker.*

*Australian Government 2010, Best Practice Regulation Handbook, Canberra, p.10*

## **Considerations of the NICNAS proposals in context of Best Practice Regulation Making**

PACIA contends that the NICNAS proposals for *amendments to the Schedule of the Act* are neither minor, nor do they meet the description of "*minor changes*" as they do not represent "*very small initial one-off cost to business and no ongoing costs*".

It is PACIA's position that consideration of the proposals for *amendments to the Schedule of the Act* must be informed through a Regulatory Impact Analysis process.

### **Comments on individual proposals**

- **Assessment of new active ingredients (UV filters) in secondary sunscreens**
  - UV filters are not defined. It needs to be very clear than non-cosmetic uses of UV filters are not captured. Any definition needs to be considered with respect to international definitions
  - There is need for alignment of requirements between TGA and NICNAS and an assessment undertaken by either TGA or NICNAS should be mutually recognised
- **Screening of all new industrial chemicals for their potential to be persistent, bioaccumulative and toxic (PBT)**
  - The January 2004 NICNAS Chemical Gazette identified the following:

*"This notice applies to applications for an assessment certificate. In the interim period, before amendment of the Schedule, NICNAS will request additional information under section 27 of the Act when required, for example, if POPS characteristics are identified in the prescreening phase of the assessment. Alternatively, applicants can submit additional data under section 28 of the Act when notifying possible POPS chemicals."*
  - Chemicals with POPs characteristic are expected to represent a very small sub-set of potential notifications, if at all in the future. The imposition of new requirements for all new chemicals is not a proportionate response. There has been no information presented that the current system has failed to the extent necessary to support a cost/benefit for change.
  - This change is not minor in nature and mean additional burden to notifiers

## Other amendments

- clarification of information requirements on ways in which the public at large may be exposed to the chemical;
- clarification of requirements for some physical and chemical properties, including flammability;
- addition of requirement to provide information about the reaction scheme used to manufacture a polymer, and
- removal of the option to provide the International Union of Pure and Applied Chemistry (IUPAC) chemical name as part of the chemical's identity.

There has been no information presented to demonstrate failure of the current information requirements. Nor has there been presentation of any information on cost/benefit of the changes.

With regard to proposed removal of IUPAC names PACIA believes that NICNAS has misinterpreted Regulation 5 of the Industrial Chemicals (Notification and Assessment) Regulations 1990:

### 5 Prescribed form of Inventory

For the purposes of subsection 11 (2) of the Act, the Inventory must:

- (a) be divided into a confidential section and non-confidential section; and
- (b) consist of lists of chemicals in the following form:
  - (i) the names of the chemicals in the same order as the sequence of the names followed by the Chemical Abstracts Service;
  - (ii) the Chemical Abstracts Service numbers of the chemicals in the same order as those numbers or, if those numbers are not available, **in accordance with an alternative numbering system**;
  - (iii) the molecular formulas of the chemicals in the same order as the sequence of the formulas followed by the Chemical Abstracts Service.

Regulation 5(b)(ii) provides for the acceptance of an alternate numbering system.

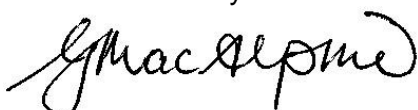
## Conclusions

The nature of proposed amendments to the Schedule of the Act are not "minor" in nature and represent increased burden to industry. No quantification of regulatory failure has been demonstrated. The proposals have not been subjected to the rigour of the Government's own process of regulatory impact analysis.

PACIA is unable to support the proposed amendments to the Schedule of the Act at this time.

Should you wish clarification of any of the matters raised please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read "G MacAlpine", written in a cursive style.

Geoff MacAlpine  
**Director Industry Development**