



**THE ROYAL
AUSTRALIAN CHEMICAL INSTITUTE Inc**

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Mr Bob Graf
NICNAS Team Leader, Reform
NICNAS Existing Chemicals Program Review
GPO Box 58
Sydney
NSW 2001

22 June 2006

Re Discussion paper; Promoting safer chemical use: towards better regulation of chemicals in Australia

Dear Mr Graf

The Royal Australian Chemical Institute Inc (RACI) is the professional organisation of chemists in Australia, with a current membership of more than 6000 chemists working variously in education (universities, TAFE, schools), research (universities, CSIRO, R&D organisations), industry, consulting laboratories and government.

The RACI expresses its thanks to NICNAS for the circulation of the Discussion Paper "Promoting safer chemical use: towards better regulation of chemicals in Australia" for the opportunity to contribute to its final version and subsequent outcomes.

Owing to the diversity of the Institute's membership and their employers it is not appropriate for the RACI to advise a single view regarding each the issues raised in the Discussion Paper as representing all members on an individual basis. The comments provided here are based on the broad experience of members. No doubt individuals and companies with the specific expertise will submit their views to NICNAS.

The RACI also takes this opportunity to express to NICNAS its continuing concern regarding the many disparate legislation, both Federal and State, addressing the storage, labelling (especially), transportation, use and disposal of chemicals. While this concern appears to be recognised and shared among the various agencies, nevertheless implementation and administration of legislation regarding the storage, use and transport of chemicals remains fragmented. This is acknowledged in the discussion paper in its reference to other agencies and in particular acknowledgement in Appendix 2 in reference to the regulation to Poisons and Material Safety Data Sheets. We understand, of course, that the ceding of some State and Territory responsibilities to NICNAS and other national agencies was an incomplete process that left many functions for administration by the various jurisdictions.

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We support greater harmonisation of the functions listed above, whether this is achieved by consensus between the States, territories and the Commonwealth and/or by further transfer of powers to central agencies. The consequence of the present diversity of responsibilities for professional chemists to ensure compliance as they attend to the implementation of these legislations in the workplace and wider community is onerous. Initiatives by NICNAS and other interested Government agencies, Federal and State, for improved co-ordination, dissemination and distribution of legislation and accompanying guidelines applying to chemicals are welcomed.

As implemented, the proposals will necessitate a considerable expansion of NICNAS's expenditures and resources. It is apparent on a worldwide basis that many Agencies have introduced more detailed legislation and then found that these are too cumbersome to administer in a timely manner. NICNAS must be efficient in the administration of these proposals so as not to burden further already stretched educational, R&D analytical servicing and many industrial faculties.

In summary, it is the Institute's contention that new Regulation must collate and replace that of other Agencies; it must not be additional to or duplicate existing and on-going (Federal and State) legislation.

It is recognised that the principles and classification system for Hazardous Substances in the Workplace is well established. It is outside the scope of this RACI submission to comment on the relationship of animal/toxicological data and classification schedules *per se*.

Some comments on the twenty proposals are attached to this covering letter.

With regards to any query or for further information please contact Dr Elizabeth Gibson at the RACI National Office. (email elizabeth@raci.org.au)

Yours sincerely



Dr Greg Simpson
President



David Edmonds
Past President

Above signatories also signed on behalf of:

Prof. Ian D. Rae
President-Elect

Dr Elizabeth Gibson
Executive Director

Responses to the Proposals

Proposal 1

Community concerns are that the storage and use of chemicals in products in the workplace must be safe to people and to the environment; chemical industry concerns are that the storage and use of chemicals in the workplace, both in products and use of chemicals in their testing are safe to workplace personnel, the community and to the environment. These objectives are in common and not mutually exclusive as are sometimes presented.

The Institute agrees with greater community involvement and understanding of benefit of chemicals and chemistry to the community, necessitating appropriate precautions are taken in the prevention of harm to the community and the environment with such use.

NICNAS needs to be aware that there are widely held perceptions that chemicals are only pollutants but that products do not comprise chemicals. That is, that chemicals are not in foods, cosmetics, paints, adhesives and other consumer products. Increased stakeholder involvement should help to reduce these misconceptions. Opportunities need to be taken to explain the necessity and benefits of chemicals as well as concerns.

Proposal 2

It is not clear whether calls for assessment are every 2 years or whether publically nominated chemicals should be re-assessed every two years.

Proposal 3

There is an implication that the ASCC List of Hazardous Substances will remain an official list. Is this interpretation correct? Will HSIS be in common with and administered by both Agencies?

Proposal 4

Availability of good quality animal data, especially for non-therapeutics is critical for NICNAS assessments. The determination of toxicological data on chemicals, not intended for therapeutic use is rightly now very restricted. How will new materials eg polymers be invented, evaluated and introduced to the market?

Proposal 5

Quantities of chemicals to be further addressed, since a risk management approach (which it is recommended that NICNAS adopt) places emphasis on exposure – and therefore on quantity – as well as hazard (= toxicity).

(What is “*structure-activity relationship modeling*”? Such unclear jargon should be either defined or avoided.)

Proposal 6

Proposal 19 states NICNAS intends to “*legislate to increase NICNAS’s powers to control the use of industrial chemicals*”.

A system of surveillance implies a licensing system for the manufacture and use of industrial chemicals. We understand that (unlike TGA and APVMA) NICNAS regulates the ingredients of products but not the products themselves. These agencies do not audit with regards to workplace or environmental requirements.

Is NICNAS intending to establish an audit unit and what authority, responsibilities and lines of demarcation with other Agencies will this have ?

Proposal 7

Agree – responsibilities of all (Federal and State) Agencies involved in the administration of legislation for chemicals is currently unclear and require clarification.

Proposal 8

Agreed

Proposal 9

Agreed – who (or what organisations) would be represented on the committee ?

Proposal 10

This is a very broad proposal; RACI would wish to comment when its detail is announced.

Proposal 11

This data base would comprise some tens if not hundreds of thousands of entries.

Proposal 12

Agreed

Proposal 13

Raw materials and consumer and/or workplace product labelling requirements need to be co-ordinated with all relevant agencies.

There should be a joint Agency website established as a “one point reference”, which advises the compliant design of labels encompassing NICNAS, TGA, APVMA, Poisons, Hazardous Substances, Dangerous Goods etc regulations.

Proposal 14

Very much agreed.

How is this to be implemented ? Does NICNAS intend to take the lead and will the other Agencies agree ? “*Establish the appropriate forums to ensure proper regulation of industrial chemicals at the national level*” – There is an implication that this will override state requirements – is this correct ?

In particular the responsibility for managing MSDS - whether NICNAS or OASCC and labelling design to satisfy all Agencies needs to be clarified.

Proposal 15

Agreed

Proposal 16

This is unclear as written. Is this to exchange information and data or is this in the assessment of materials to import physically ?

Proposal 17

Distinctions need to be drawn between large industrial use of chemicals, small industrial use (dry cleaners, photographic labs etc), educational facilities (school and tertiary), research and development (universities, CSIRO and “industrial”) and consumer products.

Proposal 18

As written this is too restrictive. There are occasions where (say) hydrofluoric acid may be used under appropriately trained staff, in small quantities and under contained conditions.

The mode of use of high hazard/high risk industrial chemicals can only be made on a case by case basis.

(On the basis of this paragraph the use of live HIV in AIDS research might well be banned.)

Proposal 19

This Proposal is the core of the Discussion Paper in that NICNAS proposes to increase its legislative powers to administer the storage, use and distribution of chemicals on a national basis.

As outlined in the covering letter, in principle, the Institute agrees with this *provided that there is no duplication (more likely confusion) of powers with another Agency(ies)*. This is likely to entail other Agencies, particularly States, ceding various powers to NICNAS. This precedent was established in 1989 with the Therapeutic Goods Act and subsequently with the establishment of National Registration Authority (subsequently APVMA).

The title of the document encapsulates ideal ie better regulation , not more regulation, so sweeping statements about increasing NICNAS legislative power seem inappropriate. Reference should be made to the previous Chemicals and Plastics Action Agenda, especially in its recommendations to reduce overlapping or conflicting requirements. Appendix 2 shows the necessity of involving other agencies; it is unclear what NICNAS is adding and what is to be subtracted from other agencies.

What comes under Office of the Australian Safety and Compensation Council (formerly NOHSCH and Worksafe) and under NICNAS needs clearer definition.

Opportunities need to be taken to Licence trained professionals in the storage, transport and use of chemicals, especially “Hazardous”, “Dangerous” and “Scheduled Poisons” and for government Agencies to formally recognise their professional organisations and accreditations.

Proposal 20

Need to fit with current Dangerous Goods, Hazardous Substances and Poisons legislations and guidelines. The concept is good but in practice how will APVMA interface with TGA, APVMA, AQIS, Poisons and State Workcovers having unified legislation with regards to Workplace chemicals and chemicals used in educational organisations and laboratories.

Other comment; points not directly related to any proposal

Stakeholders need to be better identified – the definition given (page 2) is very broad.

Industrial chemicals needs to be better defined. This applies particularly to chemical laboratories; variously educational, R&D, servicing food, therapeutics (human and animal), agricultural chemicals and other workplace and consumer products. Many laboratories service food and therapeutics and their status and obligations in relation to NICNAS is not clear.

It is not clear how educational institutions may be affected by any proposed changes to NICNAS operation.

TGA and APVMA regulate products, these NICNAS proposals regulate ingredients. New Zealand also regulates industrial chemical products, not the ingredients. The justification for the NICNAS approach needs to be spelled out.

The capacity to protect IP for “new” chemicals needs to be retained. There appears to be a risk that disclosure of a newly invented chemical to NICNAS might jeopardise patent protection.

Should NICNAS be dealing with formation of chemicals in situ eg innocuous soaps from acids and alkalies, and possibly the converse – generation of hazardous substances from non- or low-hazard chemicals ?