



Victorian Trades Hall Council

Submission to the

NICNAS

(Australian Government
Department of Health and Aging)

A new model for the Existing Chemicals
Assessment Program

June 2006

Contact

Renata Musolino
OHS Information and website officer
rmusolino@vthc.org.au
Ph: 03 962 3511

Introduction

The Victorian Trades Hall Council welcomes the review of Existing Chemicals Assessment Program, and the efforts taken by NICNAS, through the CEF to garner comment from the wider community.

This submission is also on behalf of our affiliates in Victoria, although some affiliates may also choose to submit individual comment.

General Comments

The community can be confident that any new chemicals entering Australia have been properly assessed by NICNAS. However, this is not the case with the chemicals currently in use in industry. There was clearly a need to review the Existing Chemicals Assessment program – due to the large number of chemicals currently on AICS that have had either no or insufficient assessments for their occupational, health or environmental effects in the Australian context. The primary consideration in reviewing the program is to ensure that whatever the new model looks like, it will be able to deliver more assessments, in a more timely manner and that the outcome will be increased protection of Australian workers, the community and our environment.

In participating in the consultation 'road show', it became increasingly clear that many of the proposals are 'common sense' and an obvious way to address the shortcomings identified with the current program.

In order to maximise the effectiveness of any program whose aim is to ensure that chemicals used in Australia are as safe and healthy as possible, it is important that it be adequately resourced, and that NICNAS has the necessary enforcement powers.

Comments: Proposals for Change

Proposal 1 – Improving communications

The VTHC supports all the listed activities, in particular the development of 'layman's guides' to the program and a 'who's who' in relation to chemical regulators. It will be extremely important to ensure that these materials are kept up to date, and if possible made available, where relevant, on a wide range of websites (eg the other agencies).

We note also that despite the difficulties in involving the general community in 'seminars and education programs', these are worthwhile and should go ahead.

Proposal 2 – More public nominations

This proposal has great merit and is supported, however it will be very important that the program is able to increase the number of assessments (of varying types) in order to ensure that the raised community expectations arising from more frequent calls will be met. Otherwise, NICNAS will suffer from a lack of credibility.

Proposals 3 & 4 – Screening of the AICS listed chemicals

Supported

Proposal 5 – Developing criteria

Supported – where possible, use should be made of criteria and modelling already developed internationally. If appropriate, use should be made of the work, including screening, already completed by Canada.

Proposal 6 – surveillance, monitoring and post-market reporting for industrial chemicals

The VTHC and our affiliates **strongly support** NICNAS taking the lead in moving to establish a nationally consistent and coordinated system of surveillance, monitoring and post-market reporting for industrial chemicals. It is not acceptable that there is no such system in place in Australia. Clearly, it will be important to ensure that any current reporting/surveillance schemes/mechanisms are ‘scoped’ in order to prevent unnecessary and costly duplication, but this should be done as quickly as possible. NICNAS will need to seek and secure the cooperation and assistance of all the relevant agencies, authorities and relevant other bodies.

Once such a scheme is developed and established, reporting must be mandatory – there should be no period during which reporting is voluntary. If anything, consideration could be given to waiving of fines for non-compliance (eg failing to report) for a short period of time until industry and the community in general understand the system and their responsibilities within it.

The question of how such a scheme would be funded will need to be considered, and the VTHC believes that the cost should be borne primarily by industry – although it could be supported, particularly in the scoping and establishment phase, by some contribution from public funds (ie Government). Any companies found to be in breach of laws (after incidents are investigated) should also be prosecuted and fined, with any monies collected going back into the scheme.

Surveillance should include exposure surveillance, health effects surveillance, and environmental surveillance.

If the community is to have confidence in Australia’s chemical regulatory system, it needs to have confidence that an efficient reporting system is in place to detect and address potentially serious problems. The scheme should deliver all the listed benefits (p20).

Proposal 7 – develop and modify NICNAS administrative processes

Support – it is important that NICNAS deals efficiently and promptly with the expected increased community awareness and involvement in the regulation and control of industrial chemicals.

Proposal 8 – development of scientifically based criteria for the screening of chemicals for identification and prioritisation for assessment. Publish screening process and decisions on website.

Support. All efforts to increase the transparency of NICNAS processes must be supported and encouraged. Any material published on the website must be written clearly and be suitable for the community (ie not overly technical or complex).

Consideration should be given to producing summary, one-page information sheets on issues such as selection criteria, etc, with the longer more complete documents also available for those wishing to read them.

Proposal 9 – revision of PEC selection criteria

Support

Proposal 10 – amend legislation to broaden NICNAS’s information gathering powers

Strongly support – it is crucial that NICNAS’s ability to assess any AICS-listed chemical not be hampered by an inability to obtain whatever information it needs whenever it needs it, and from whatever source might have it.

The current need to first declare a chemical as either a PEC, or being considered for nomination as a PEC, is unnecessarily bureaucratic and time-consuming.

During the public consultation meetings, it became clear that industry was concerned that granting NICNAS ‘too much power’ to collect information could lead to exaggerated calls for information, which would be costly to industry. NICNAS should investigate means and tools to simplify the provision of information for industry, thus increasing compliance and at the same time minimising cost. It would need to ensure that industry clearly understood the reason and the need for the call for particular information on particular chemicals.

Proposal 11 – engagement of downstream users

Strongly support - It would appear that those who drafted the current legislation overlooked the necessity to include downstream users as major holders of information relevant to any assessment of currently used industrial chemicals. If necessary, the legislation should be amended to ensure that downstream users are covered.

During the public meetings it was noted that by implementing some form of registration, with a fee attached, for users of chemicals of concern, this would also be a disincentive for continuing to use these chemicals, and an incentive to switch to safer ones. The VTHC agrees that this has some merit.

While the proposal is to engage these users on a chemical-specific basis, NICNAS should consider any alternative methods of engagement that may be raised during the public comment period.

Proposal 12 – streamlining the secondary notification process

Support – as this will increase the efficiency of NICNAS and improve turn-around time, but only in cases where such a streamlining would be appropriate

Proposal 13 – broadening MOU arrangements with states and territories; clarify the roles of NICNAS and the state and territory agencies

Strongly support – there is currently inadequate cooperation, sharing of information, and implementation of outcomes of assessments. This would be improved with not only revising the MOUs but also increasing communication between all the relevant agencies in the Commonwealth and states and territories.

If desired outcomes are not achieved following assessments, much of the time, effort and expense is wasted.

There is also too much confusion with regard to what roles each agency plays, not only in the community broadly, but perhaps also within government. If the review indeed leads to amendments to the legislation covering NICNAS, clarification of roles will be crucial.

Proposal 14 – clarify and improve relationships with various federal agencies
Support

With respect to both the above proposals:

Consideration should be given to organising a regular high-level ‘chemicals regulation’ summit where all agencies involved in chemicals regulation (not just industrial chemicals). It could provide a ‘clearing house’ for decisions on any number of chemicals where agency responsibilities overlap.

While this would be difficult to ‘get right’, appropriate high-level participation would greatly improve relationships and outcomes.

Proposal 15 – provide more international information to stakeholders, etc

Support – this proposal, encompassing NICNAS’s desire to make greater use of international assessments, has strong support from the VTHC and also the broader community and industry alike. Care must be taken to ensure that differences in usage patterns, environmental conditions and so on are fully considered when using overseas assessments.

Providing more of the information available internationally is also supported.

Proposal 16 – developing bilateral arrangements for existing chemicals

Support – it is sensible for NICNAS to increase bilateral arrangements, similar to the current relationship it now holds with Canada, where appropriate. The VTHC supports this as long as our current standards with respect to assessments are not in any way reduced.

NICNAS should seek to maximise cooperation and exchange of information (also relevant to proposal 15) with countries it has currently relatively little to do with (eg Scandinavian and other EU countries). This is particularly important if some of these countries have higher standards with respect to some chemicals – we need to ensure that we get the best information and have the best possible protections for workers, the community and the environment.

Proposal 17 – develop new assessment options

Strongly support – currently NICNAS has produced alternative ‘products’ – eg Alerts, Safety Information Sheets, etc – in addition to the full PEC reports. However, these have not been properly ‘sanctioned’ by legislation, and as noted earlier, NICNAS did not have the ability to make calls for information, etc.

The VTHC supports the broadening of NICNAS’s powers to produce a range of assessment products. As well as allowing a greater number of assessments to be completed, according to the level of need and concern with a particular chemical, it

will enhance the organisation's ability to be more responsive to concerns raised by unions and the community.

Proposals 18 & 19 – amend legislation to increase ability of NICNAS to control and, where necessary, ban certain existing chemicals it has assessed

Strongly support: Once again it appears as though in drafting the original legislation insufficient powers were given to NICNAS to ensure that following assessments of particular chemicals, it was able to implement appropriate actions. The powers of NICNAS are less than those of similar regulatory bodies (eg the AVPMAU) and this needs to be addressed urgently.

It has been disappointing to see that at times recommendations resulting from PEC assessments are not picked up, or not picked up in a timely manner, by the relevant state agencies. By increasing the ability of NICNAS to implement the measures as listed in this proposal to control (or even ban) certain high-risk chemicals will improve safety of chemical use in Australia.

NICNAS must ensure that the various agencies are consulted both prior to such changes to legislation being implemented, and also in any proposed control measures with specific chemicals. However, it seems a logical and efficient proposal that certain measures should be implemented centrally.

If some states/territories/agencies wished to implement added measures, with respect to particular uses of certain chemicals, or particular environment concerns, in addition to those introduced by NICNAS, they should maintain the ability to do so.

Proposal 20 – improve the uptake of recommendations

Support – irrespective of any changes resulting from Proposals 18 & 19, NICNAS must continue to facilitate uptake of recommendations by implementing suggestions as outlined in this proposal.