ENVIRONMENTAL RISK MANAGEMENT AUTHORITY
NGĀ KAIWHAKATŪPATO WHAKARARU TAIAO

ERMA New Zealand

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Submission on Productivity Commission Study: Chemicals and Plastics Regulation

Compiled by ERMA New Zealand on behalf of New Zealand Government Agencies.

This submission responds to the questions asked directly by the Commission in their Chemicals and Plastics Regulation Issues Paper. As the Commission sees fit the New Zealand government agencies involved in the regulation of chemicals, particularly the Environmental Risk Management Authority, will be willing to provide more detailed information about the New Zealand regime and how hazardous substances are regulated.

Responses to questions given in the Issues Paper

The need for effectiveness
What are the problems that chemicals and plastics regulation address:
Is there a need to make more extensive use of a risk-based approach to regulation in parts of the system? How can such an approach be integrated with the future adoption of the hazard-based Globally Harmonised System?
The GHS provides a "building block approach" that acknowledges that countries may wish to implement it in accord with national requirements. In New Zealand the hazard communication requirements of the GHS can be, if necessary, amended by decisions on specific approvals.
How effective are the regulations in achieving the policy objectives:
Could regulatory objectives be stated more clearly?
Examples from the NZ regime: -Policy base: the purpose of HSNO Act clearly outlines the objectives of the legislation - "…to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms." -Context: The New Zealand Government has set three specific priorities for the next

decade, one of which is Economic Transformation. This builds on the Government's Growth and Innovation Framework (GIF), which provides a framework for lifting New Zealand's innovation and economic performance. Economic Transformation continues the government's long term commitment to improving income per capita through innovation and raising productivity in an environmentally sustainable way. This provides direction to the development of new policy regarding hazardous substance management in order to support environmentally sustainable development of those industries that use chemicals.
Can you identify specific gaps, overlaps or variations in the regulatory structure that make regulations less effective (for example, do variations in the regulation of SSAN undermine the effectiveness of regulations in this area)?
Nanomaterials, emerging issues.
*Do you consider that the current processes for assessing **existing** industrial chemicals (see attachment B) represent a gap in the existing regulatory structure? If so, what new ways are there to prioritise (or categorise) chemicals and identify those chemicals that warrant risk assessment, and who (industry or government) should bear the primary responsibility, and cost, for carrying out those assessments?*
NZ has no comment on the current Australian processes. We do note that the topic is of high priority across many jurisdictions internationally and was a primary driver for the US HPV programme, the Canadian Challenge and the OECD HPV programme. Also the new EU REACH regulatory system was prompted by the need to assess existing chemicals.
Does the focus of some parts of the regulatory system on individual chemicals rather than products represent a gap in the system? If so, what should be done to cover that gap?
We note that in NZ both individual chemicals and products are regulated.
What measures should be adopted to streamline data requirements and assessment processes so that, for example, information and data relating to the same chemical do not have to be provided to multiple agencies (for example developing a common national chemicals database)?
There are existing (e.g. OECD) and emerging (e.g. APEC) opportunities for countries to make use of global access to such databases.
Access to information:
Do regulators have sufficient access to technical information to be effective? If not, what improvements can be made in managing the flow of technical information between regulators?
Cooperation internationally, e.g. OECD.
Consultation:
Are there consultation mechanisms that can be identified as working well in any overseas regimes?
Under the HSNO Act, all applications made to import or manufacture any hazardous substance must be publicly notified. The public may make submissions on the application and if requested, a public hearing may be held. Exempted from this requirement are applications for rapid assessment (section 28A) and applications to import or manufacture into containment (section 31).

ERMA New Zealand also maintains a mailing list of key stakeholders who are regularly sent updates on applications in progress and decisions made.
Regular meetings are held with an Industry Consultative Group and a Community and Environment Group on matters to do with the regulation of hazardous substances.

The need for efficiency

Are you able to articulate alternative regulations that would meet the same objectives, but that would reduce or eliminate the costs you have identified?

The New Zealand HSNO Act uses a 2 pronged process for assessing chemicals. New hazardous substances imported into or manufactured in New Zealand must either gain approval under Part V of the HSNO Act, or fall under a Group Standard approval (Part 6A).
Group Standards are used to approve substances with similar hazard properties or uses. New products that fall under the scope of any Group Standard do not need a separate approval application. The Group Standards set the controls that must be followed in order to import and use these substances. Importers/manufacturers may simply self-classify their products into the appropriate Group Standard and comply with the given controls - as long as they are able to justify their self-assessment to the satisfaction of the enforcement agency.
If a new product does not fall under the scope of any Group Standard, then it must go through a Part V approval process. This process evaluates the effects (both adverse and beneficial) arising from the proposed use of the substance. The application is approved if the beneficial effects outweigh the adverse effects; and controls are assigned to manage those adverse effects. The Part V process also allows for the rapid assessment of those substances deemed to have a low hazard or which are sufficiently similar to an already approved substance. This rapid assessment route has a lower cost and shorter timeframe than a full Part V approval.

Implementation and administration of regulation

Should changes be made to existing LRCC assessment and approval procedures to increase their efficiency and effectiveness, or are there alternative methods to better manage chemicals of low regulatory concern?

While we have no specific comment we note that the NZ Group Standard approval has many similar features to the LRCC assessment.

What scope is there to make greater use of self-assessment processes?

See previous question

Leveraging international linkages

What international regulatory frameworks or benchmarks should Australia seek to participate in and align itself with?

SAICM/OECD Methods/UN GHS Classification System all provide positive value to regulatory systems.

Are there any specific international coordination initiatives that could be progressed or further developed for the benefit of Australia?
TTMRA issues in concluding the special exemption for hazardous substances
Should the GHS be implemented across all sectors of the chemicals and plastics industry, including agricultural and veterinary chemicals and scheduled drugs and poisons?
In NZ the GHS is the basis for all hazard classification across all sectors and provides a means for some of the controls.
What should influence decisions about the timing of the implementation of the GHS? Should Australia wait until the system has been implemented by our major trading partners, or aim to be a leader in adopting the new system?
NZ was a leader in adopting the hazard classification system of GHS but is a "fast follower" in implementing the communication aspects.

Regulation of security sensitive ammonium nitrate
See previous correspondence on this topic.