Submission on the Draft Research Report
to the Study into Chemicals & Plastics Regulation

Dear Commissioner,

I have read the March 2008 Draft Research Report with great interest and I am very pleased (in general) with its recommendations.

I wish to add my agreement for various points, but there is a need to adjust some points and add to some points, in order to properly manage chemicals in Australia

Recommendation 4.1

I strongly agree that NICNAS be accountable in a cost benefit manner to ensure we spend our limited funds on evaluating chemicals which have at least GHS hazards (at the full GHS & New Zealand level) and not on unnecessarily reviewing low or no hazardous effect chemicals.

There is a strong case to be made that chemical ingredients that do not have any hazardous effects to the lowest level of the full GHS, be allowed to be added to the NICNAS AICS, with an annotation of each company that has provided a data package detailing this lack of GHS effects, and each company that can provide such a data package be allowed to be annotated on the AICS and import the ingredient. The level of evaluation by NICNAS staff be a simple review that provide data package is adequately complete (as REACH data becomes available this will enable a simple addition of chemicals with no-full GHS hazardous effects).

This would enable a fast track process for chemicals with no-full GHS hazardous effects to be added to the AICS at a minimal additional cost and minimal time incurred with the current NICNAS evaluation process.

It would also allow chemicals that are now able to enter NZ without any controls (except that the company must be able to support the chemical product and its ingredients are not classified with any full GHS hazardous effects) to have a simple but minimal control in Australia. This would also allow partial alignment for Polymers of Low Concern that currently have minimal evaluation in the EU and the USA.

Recommendation 4.2

I agree the role of NICNAS be for the scientific assessment of hazards and risks of industrial chemicals.

However chemical hazard and risk classification specialists working for industry need NICNAS to have the ability to provide specialist advice on classification of hazardous effects, when classification of a chemical product is unclear. This would require a change to the NICNAS Act (such advice could be for no charge or on a fee for service basis depending on the general relevance to the whole of the industry). If done for no charge, such deliberations could then be published and made available to all classification specialists. In late 2005 NICNAS carried such an evaluation for me (as a pilot) for a product I was having difficulty classifying. This proved highly useful and I passed on the classification principle to the Chemical Hazard Classification Network at the time.

Submission from Jeff Simpson, Haztech Environmental, 27 April 2008

Recommendation 4.3

I strongly agree that a technical advisory committee be established within NICNAS as a statutory requirement. This would also align it with a similar committee recently created for the Director of the Office of Chemical Safety and would provide a peer review process for technical advice used by NICNAS. However I am wondering just who these technical, classification and evaluation specialists will be, as we are quite limited in Australia for specialists with appropriate experience.

Recommendation 4.4

I agree with 4.4 to accelerate the assessment of existing chemicals, but we need to be careful not duplicate overseas assessments by Authorities and recognise that REACH will generate a good dataset for many chemicals.

We need to focus on chemical concerns of immediate impact on Australians, such as the past and present use of Beryllium alloys in products and the impact of Be containing fumes possibly generated on workers.

There needs to a feed back mechanism to NICNAS and the ASCC of at least acute incidents involving industrial chemicals that require medical intervention, so that a database is formerly built up. NOTE: This should extend, enhance and harmonise the existing incident reporting processes, not start a new one.

New Draft Recommendation 4.7

Where control regulations overlap then there should be a simpler process to bring these chemicals under the non-allowed scheme.

Where one control scheme allows a chemical but another doesn't but should (e.g there are some allowed food chemicals (e.g. some emulsifiers) that aren't allowed as industrial chemicals because they are not on the AICS), there should be a simple and cheap process to enable there use under the other control schemes.

Recommendation 5.1

Scheduling of Poisons – I am very pleased to hear that a committee be appointed based on their knowledge and experience (rather than just who they represent).

But I am wondering just who these classification and evaluation specialists will be, as we are quite limited in Australia for specialists with appropriate experience.

I also regard that the chosen specialists in each State and Territory be obligated to organise regular meetings in each State, so that other specialists can readily liase with them over classification issues.

Add two extra points:
The SUSDP should be available free on the internet and at avoidable cost for hard copies.

The resultant revenue loss for the TGA/OCS should be offset by increased jurisdictional contributions.
A comprehensive CAS No. cross-reference to SUSDP entry should be prepared

Reason: It is difficult to search the hard copy SUSDP except by specialists with long experience. An electronic version would significantly help. A CAS No. cross-reference would be even better, to help minimise time taken to classify Scheduled Poisons.

Recommendation 5.2

I strongly agree that we need a model regulation and model code for how Scheduled Poisons are to managed identically in each State and Territory.

Recommendation 5.3

I agree with Scheduled Poisons used industrially being handled under the proposed Workplace Hazardous Chemicals regulations.

However we also need to ensure that Hazardous Substances not currently in the SUSDP used domestically are managed to advise domestic users of the hazardous effects using the same information as would be provided for industrial use.

And that these hazardous ingredients (but not as yet SUSDP ingredients) used in domestic products be notified to the NDPSC committee for evaluation and classification.

There is also a good case to be made, that except for Poisons where the community want special controls over (e.g. highly alkaline detergents that should not be used domestically or Schedule 7 Poisons), that all chemicals with hazardous effects could be reasonably handled under the EU or GHS hazardous effects criteria with hazardous effects labelling common to industry.

Recommendations 5.4 & 5.5

I strongly agree that chemicals in consumer articles and able to be released should be properly covered by the regulations, as these chemicals currently fall through the regulatory cracks and are effectively not controlled in any way at the present time.

Recommendation 6.2

I agree we need to follow on the implementation of the GHS, however we need to allow for any products that are already classified, labelled, and with an SDS to the GHS, to be seamlessly allowed to be used in Australia as they come into our possession.

We do not want a system of having to convert from the GHS Haz Subs classification back to the EU Haz Subs classification system. NZ products coming to Australia from July 2008 must be classified to the NZ GHS criteria.

On this basis we can introduce the GHS Haz Subs to start in 2009 but allow much longer phase in times (say an extra 3 years for single substances and then following with and extra 3 years for mixtures, both compared to the EU), which will mean when

the current EU Haz Subs system is closed down (expected end 2015) we can realistically allow until end 2018 for industry in Australia to continue classify mixtures to the old EU system (as it will only be 3-5 years out of date).

Recommendation 6.3

I agree that APVMA labels are sufficient for workplace requirements, but with the proviso that all the hazardous effects of the mixture are reasonably shown.

I have found an APVMA product that had approved labelling for the concentrate that did not advise reproductive hazards (whereas this serious health effect would have been required for industrial use). I don't regard the avoidance of information for such a serious health effect on the APVMA label as acceptable.

New Recommendation 6.5

I suggest that whilst environment authorities get their act together, that the workplace hazardous chemicals framework be formally set-up to include Environmental classification, labelling and MSDSs, along with simple requirements to minimise environmental contamination in the event of an incident.

Recommendation 7.2

The ADG Code should not remain with the National Transport Commission as the whole process to create the ADG 7 was handled very poorly by the NTC and they do not have any Dangerous Goods specialists in their organisation. At several crucial times over the years it took to create ADG 7 the NTC lost key staff or key personnel, which caused unacceptable delays to getting the Code completed. The NTC then have published a document that is flawed from a sustainability requirement where they added an unnecessary wide black band at the top of each page, which wasted significant amounts of black ink when printing and copying each page of the Code.

I suggest that the ADG Code along with the Australian Explosives Code be managed by the ASCC (formerly NOHSC) and that a clear link to the NTC and Environment Authorities be set up.

Recommendations 7.4

I strongly agree that the ADG Code and AEC Code be available for free electronic download and the hard copies for avoidable cost.

This would mean that all the small companies (consignors, courier companies, prime contractors) who current avoid purchasing the ADG Code (and piggy back off whatever information they can scrounge) would now have clear access to the requirements of the ADG Code 7th Edition. This would clearly facilitate much better compliance in the bottom end of the system and make it clear to those what they need to do if they want to work in this area.

Submission from Jeff Simpson, Haztech Environmental, 27 April 2008

Recommendations 8.1

I am very concerned about the inability of the various environmental acts at Federal, State and Territory level to require environmentally hazardous chemicals to be classified, labelled and have MSDSs provided. Even now NChEM only addresses what happens at the NICNAS level, but not down at the crucial need for information provision to customers level (which is in MSDSs and on labels).

Environmental hazardous effects of chemical product have been not managed by Australian authorities in an acceptable manner (for many years 10+)**.**

In order to meet our duty of care responsible chemical industry has already implemented the EU Environmentally Hazardous Effects labelling for chemical products (helped along by the NOHSC (ASCC) publishing the criteria and including the suggestion for information in the MSDS Code).

I suggest that whilst our environment authorities get their act together, there needs to be an agreement that they inform industry on their various websites that classification, labelling and an MSDS with the EU or GHS environmentally hazardous effects is a good way for industry to meet its duty of care to inform its customers.

Recommendations 9.1, 9.2, & 9.3

I agree with these recommendations. I have put recommendations into the Chemicals of Security Concern proposal along the lines of your recommendations.

Comment: It is important that there be only ONE list of chemicals of concern covering chemical weapon precursors, illicit drug precursors and chemicals of security concern.

For this to work well, it must be very easy for chemicals listed or chemicals that easily form these listed chemicals, to be identified by administrative chemical company staff.

New Draft Recommendation 10.1

New Areas of Chemical Regulation (with no existing regulatory coverage)

e.g. provision of sustainability data on chemical products to help users to make an informed comparison and a better choice (probably).

When a individual State, Territory or Federal Authority decides to start a new area of regulation, this has to be discussed across Australia, before it is first implemented, with an in principle agreement that when introduced into another jurisdiction that they will follow the initially set up approach, and if changes are needed, then the original will need to be changed rather than having a variation.

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New Draft Recommendation 10.2

Funding for persons to review chemical regulations. I am very pleased to see that Authorities are expected to have technical specialists / experts. However in industry there is a significant problem as key specialists now work in small or one person organisations. If the Authorities and Standards are to obtain real and valuable comment there is a need to approach these specialists and provide funding for their comment.

New Draft Recommendation 10.3

How do ensure our senior personnel from directors, CEO, senior managers, specialists are competent to make decisions so as to avoid incidents. E.g. how was it possible that water soluble lead carbonate was misclassified only as environmentally hazardous rather than as Class 6.1 Toxic dangerous good and then not transported correctly as a dangerous good?

All our regulations need to address this requirement to be competent at all levels in an organisation, in particular at the senior level.

Final Comment: If we can't harmonise inside Australia how can we expect to harmonise with the rest of the world. These simple changes will make significant cost savings without any reduction in protection.

Regards

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My submission contains NO confidential material