

Inquiry into the Industrial Chemicals Bill 2017 & related Bills

Jeff Simpson, Haztech Environmental

To: Senate Committee on NICNAS Reforms

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Dear Senate Committee,

Thankyou for the opportunity to make comment to your Senate Committee on the Industrial Chemicals Bill 2017 and related Bills.

Over the several comment stages I have informed the Dept of Health and NICNAS, that their "reforms":

1/ are very likely to be more costly (in the longer term) than the current system, due the required yearly re-checking, plus

2/ need proper tracking of "non hazardous" new chemicals to satisfy the community that NICNAS knows all the industrial chemicals in Australia.

plus

3/ need to put in place an industrial chemicals system that can also be reasonably implemented by New Zealand under the TTMRA, so Australia & New Zealand can eventually be one system for introducing industrial chemicals.

As a concerned specialist chemical regulatory consultant and also a concerned member of the community, we need an industrial chemicals system that will work for at least several decades, with minimum ongoing costs, whilst achieving proper management of ALL chemicals.

Comments on 1/. We need more pragmatic and less costly classification processes and a less costly ongoing re-confirmation process for chemicals that will no longer be notified to NICNAS (i.e. Reported Chemicals & Exempted Chemicals).

The basis and calculations for the "cost savings" the Dept of Health claims, has never been made available, just the figures that state a cost saving! So we may be reforming to a system that will end up costing more (particularly over the long term of decades where specialists need to re-check tox and ecotox data on a yearly basis). At this stage I do not know of anyone in industry, including PACIA (now Chemistry Australia) and Accord, who have participated in preparing the underlying basis and calculations of these cost savings.

Actions Suggested for 1/:

a/ The Federal Dept of Health need to be asked for the underlying basis and calculations for the savings they have determined for the "reforms" (over 5 years, 10 years, 15 years and 20 years).

b/ Change the classification process to be more aligned with the pragmatic NZ classification process, then have NICNAS become the entity that tracks the hazard classifications for each chemical (against reputable world tox, ecotox & other hazard databases it has ready access to) and then alerts all businesses to any change in hazard classification categories. This tracking by NICNAS would then be paid for by our industry levy and create a level playing field for all companies introducing the same new industrial chemical into Australia.

Comments on 2/. It is the "non hazardous" chemicals that have ended up causing the largest concerns in the community (e.g. Phthalate Ester plasticizers), when we finally determine they are actually hazardous, so as a minimum we need to track them (with just chemical names &/or CAS No) against each introducer each year.

Compared to the current <100kg No Unreasonable Risk Exemption chemicals reporting, this REMOVES the requirement to report the actual quantity to AICIS, each AICIS year. Currently, adding up the quantities across many products the ingredient is in, is the BIG cost in the current NICNAS process, that needs to be removed.

Action Suggested for 2/: Track "non hazardous" new chemicals by Name, CAS No. and Introducer, each year.

Comments on 3/. Australia originally agreed to align its industrial chemicals management system with NZ by 2019. The proposed reforms have NOT addressed this in any way. IF we are more pragmatic about our classification process using hazard classification categories, and then relying on NICNAS to track changes in them, this would move Australia to a lower cost system. NZ also needs to manage its "non-hazardous" chemicals.

Action Suggested for 3/: Put in place an industrial chemicals system that can eventually be reasonably implemented by New Zealand. Request NZ to also manage its "non-hazardous" chemicals.

Additional Comment: I am hoping that NICNAS is setting up an IT system that will accommodate all introducers maintaining their Reported and Exempted chemical information in it, that can then be made available (as appropriate) to AICIS (for example for a detailed audits that will be needed), which will overcome the long term (decades plus) maintenance of IT databases within businesses around Australia or businesses in other countries.

The 3 key concerns I have submitted in the past, but which have not been taken into account, follow:

Note: I rearranged the order of my concerns to match the order of my points on page 1.

From my Hazmat & Environment Notes – August to October 2016 (p8-9)

NICNAS “Reforms” – My 3 Key Concerns

I continue to have three Key Concerns about the Reforms.

A/ The proposed “Reform” scheme essentially transfers the internal NICNAS toxicologist review costs to external qualified toxicologists working for every business in Australia. This is because the underlying tox data will need to be accessed, retained and reviewed by a person with certified toxicological experience.

The business's chemical review Databases to hold this data will need to be highly robust, to last over several decades. This means they are still likely to need to be hard copy as well with significant hardcopy and electronic storage.

This cost could be minimised IF NICNAS would accept GHS Classification Outcomes from agreed databases (such as the ECHA Registered Substances Database), AND enable all businesses to store their data in a suggested “NICNAS Central Chemical Review Database” (where a business could allow NICNAS to have agreed levels of access, making NICNAS Audits simpler). This would then enable chemical hazard classification specialists with experience (who are not qualified toxicologists) to review and decide whether a new chemical fits in the Exempted Chemicals or Reported Chemicals Categories.

IF the NICNAS Reforms go through as they currently propose, I don't expect to be able to offer my hazardous chemicals classification services in this New Chemical area, as I don't regard I have adequate toxicological experience to offer this service as consultant under my Professional Indemnity Insurance, at the data level NICNAS wants. I suggest such services will be like the sign-off of an Environmental Auditor, with bigger risks of claims when NICNAS audits a business.

B/ Exempted Chemicals are not required to be individually alerted by each importing or manufacturing business (as they are currently under the No Unreasonable Risk Exemption Categories), so where some “non hazardous” chemicals are found to have hazards, NICNAS will NOT know which businesses are importing the specific chemical, and will need a Call for Information. Their proposal to have a declaration that an Exempted Chemical Category is being imported, will not be of much use to calm down a concerned community (including Unions and Groups concerned about chemicals) that NICNAS is appropriately managing Exempted Chemicals coming into Australia.

There are Several Direct Benefits for businesses to have the individual chemical in the Exempted Chemical Category tracked by NICNAS:

1/ The proposed NICNAS Audit system would be able to be focussed on chemicals with possible issues IF NICNAS knows which chemicals each business is introducing in this category. So broad brush audits would be not necessary.

2/ If NICNAS knows which chemicals are being introduced into Australia by which business in the Exempted Category, the NICNAS computer can be set up to track when they gain a Hazard Category (e.g. from the ECHA Registered Substance Database classification outcomes change) and the computer would then alert NICNAS and the businesses introducing that chemical that a change had occurred. This would lift a large “checking for change” requirement off the introducing businesses as they could then rely on the NICNAS computer for this.

3/ NOTE: Individually alerting these chemicals to NICNAS is NOT a Pre-Assessment of the chemical, it just allows a very efficient management system to occur, which will minimise Businesses having to reassess these “Exempted Chemicals” every year, because the NICNAS computer should then be set up to track these chemicals, as I have identified in 2/ above and do this yearly checking work for Businesses.

C/ Australia has not come up with a New Industrial Chemical process that can also be implemented in New Zealand where the TTMRA is ALSO meant cover Industrial Chemicals by 2019, just at the time when our NICNAS “Reforms” are finally in place!

To do this Australia would need to have a pragmatic process similar to New Zealand, but with an appropriate increase in Health, Safety and Environmental management outcomes (for our Excepted Chemicals and Reported Chemicals categories) that the New Zealand community is likely to expect.

Such an approach would be an opportunity to promote a “reasonable balance model” to the rest of the world, with reasonable internal costs to introduce chemicals in the Exempted Chemicals and Reported Chemical Categories.