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21 January 2021

Senator the Hon David Fawcett
Chair
Senate Environment and Communications Legislation Committee
Parliament House
Canberra ACT 2601

Dear Senator Fawcett,

Chemistry Australia – Inquiry into the *Industrial Chemicals Environmental Management (Register) Bills 2020 (ICEMRB)* – Submission

Background

1. Chemistry Australia welcomes the opportunity to provide this submission to the Committee's inquiry into the *ICEMRB* and associated legislation.
2. Chemistry Australia (formerly the Plastics and Chemical Industry Association) is the peak national body representing the chemistry industry. Chemistry Australia members include chemicals manufacturers, importers and distributors, logistics and supply chain partners, raw material suppliers, plastics fabricators and compounders, recyclers, service providers to the sector and the chemistry and chemical engineering schools of leading Australian universities. Chemistry Australia's affiliate members include the Australian New Zealand Industrial Gas Association (ANZIGA) and Australian Paint Manufacturers' Federation (APMF).
3. The chemistry industry is the third largest manufacturing sector in Australia. Our industry directly employs more than 61,500 people (FTE) and supports approximately 212,000 FTE jobs across the economy. The industry directly contributes \$11 billion to gross domestic product (or \$38 billion including indirect contributions), supplying inputs to 104 of Australia's 108 industries.
4. Chemistry will be key to addressing and overcoming many of the challenges currently confronting modern society. Chemistry has supported the development, manufacture and transportation of the COVID-19 vaccines. Innovative chemistry plays an active and essential role in: mitigating the impacts of climate change; improving agricultural productivity while supporting more sustainable farming practices; and improving energy efficiency and reducing the emissions associated with vehicles, trains, ships and aircraft (i.e. light-weight composites) as well as dwellings and buildings. Chemistry delivers the battery technologies necessary for electric/hybrid vehicles and for the increased deployment of renewable energy infrastructure. Chemistry related R&D is also focused on the development of alternative fuels, including the development and deployment of hydrogen as an alternative to fossil fuels which offer reduced emissions, enhanced fuel security and greater self-dependence. Chemistry supports mining and minerals production, delivering the solutions needed to extract and refine minerals, including rare-earths. Innovations in materials science have delivered the technological advances that underpin many of the products and devices that have improved productivity and become part of our everyday lives.



Support for the aim of the Bills

5. Chemistry Australia supports the principles to which the ICEMRB is directed – namely:
 - a. the protection of the environment through the appropriate management of risks posed by industrial chemicals; and
 - b. the establishment of nationally consistent, transparent, predictable, streamlined and efficient approaches to the environmental risk management of industrial chemicals. A “single source of truth” as it was described by the Minister in her Second Reading speech.
6. Chemistry Australia also supports those elements of the ICEMRB that provide the framework for Australia to ratify and give effect to the decisions made under the Stockholm Convention on Persistent Organic Pollutants and other international agreements.

The need for uniform and harmonised adoption of the scheme by states and territories

7. As noted at paragraph 120 of the Explanatory Memorandum, clause 22(4) of the ICEMRB clarifies that the prohibitions and restrictions set out in the Register are only enforceable to the extent that they have been adopted by state and territory jurisdictions. The success of the scheme and its ability to provide a “single source of truth” is entirely dependent upon its uniform adoption in state and territory legislation. Without uniform adoption by the states and territories, the scheme will simply introduce an additional layer of regulatory burden/cost and potentially become an obstacle to the availability of newer, innovative and safer chemistry in Australia, undermining all of the benefits of the reforms introduced by the *Industrial Chemicals Act 2019* (“AICIS”).
8. Given that the benefits of the scheme are dependent upon the passage of harmonised implementing legislation by each state and territory, Chemistry Australia believes that consideration should be given to incorporating a provision in the Bills that delays commencement of the scheme until implementing legislation has been passed by every state and territory. This would encourage all states and territories to promptly enact legislation to implement the scheme and avoid a situation under which different rules might continue to apply across jurisdictions for some time.

Cost recovery

9. Chemistry Australia supports the principles of cost recovery as a means to deliver efficient and effective regulatory systems as well as ensure that those that benefit from regulatory schemes contribute appropriately to the cost of administering those schemes. Chemistry Australia would, however, observe that the principal beneficiaries of the scheme established by the ICEMRB are the state and territory governments. The scheme will remove the need for each of the states and territories to establish risk management measures/limits for industrial chemicals and transfer that responsibility to the Commonwealth. State and territory environmental regulators currently impose fees and charges on the regulated industry to cover the costs of establishing risk management measures and limits. It is very unlikely that state and territory governments will reduce the fees that they charge industry to reflect the reduction in their costs associated with this transfer of responsibility to the Commonwealth.

10. As noted above, the ICEMRB scheme and the AICIS are inextricably linked. It is the risk assessments carried out under the AICIS that will give rise to most of the decisions made under the ICEMRB. The current fees and charges imposed on industry under the AICIS already incorporate elements of cost recovery for the environmental assessment of industrial chemicals. Chemistry Australia questions whether it is necessary to establish a separate cost recovery scheme under the ICEMRB. While the collection of the ICEMRB fee might be managed as part of the annual AICIS fee payment arrangements, a separate cost recovery scheme will still require additional work by the Department, including the preparation of annual cost recovery impact statements and consultations with stakeholders. It will also impose additional burdens on industry. The costs associated with the cost recovery regime may well end up being a significant part of the costs of administering the Register.
11. The cost recovery arrangements outlined in the ICEMRB are also premised on the expectation that all states and territories will implement the scheme established by the Bills. Under the proposed arrangements, businesses operating in a jurisdiction that does not implement the scheme may be required to pay for a scheme that has no application to their business operations.

Conclusion

12. Chemistry Australia supports passage of the ICEMRB on the basis that it will be implemented in a uniform and harmonised manner by all Australian jurisdictions.
13. If you require clarification of any of the issues raised above, please don't hesitate to contact me on _____ or by email at _____

Yours sincerely,

Bernard Lee
Director – Policy and Regulation
Chemistry Australia