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Working globally for a toxic free future

Submission to the National Standard for Environmental Risk Management of Industrial Chemicals Discussion Paper

Introduction

Thank you for the opportunity to comment on the proposed National Standard for Environmental Risk Management and for facilitating a teleconference to enable those not located in a capital city to take part in a consultative process without incurring direct expenses.

While a national standard is a good idea in theory, and we understand it seeks to address a serious problem identified by the Productivity Commission way back in 2008, the proposal in this discussion paper is fundamentally flawed and cannot be supported by the National Toxics Network.

We are fully aware of the regulatory failure, the 'gap', in the management of industrial chemicals in Australia and have been advocating for genuine reform for over 25 years. Frankly, we don't have any tolerance for more political stalling or 'small steps' in this process.

Essentially we view this proposal as an extension of the agenda driving the NICNAS 'reform' process, which effectively seeks to de-regulate the industrial chemical industry in Australia under the guise of 'regulatory efficiency'. Industry profits are being put before the health and safety of people and the environment.

If the NICNAS 'reforms' as they stand become law, up to 90% of new industrial chemicals entering the market in Australia will be self-assessed by industry with little follow up and no public accountability or transparency. The national standard, as it is proposed, will echo this distortion by perpetuating a totally inadequate regulatory regime.

Today's so-called 'low-risk' chemicals *will be* tomorrow's toxic pollutants as we have seen over and over again. Think phthalates, BPA/BPS, PFCs, BFRs etc. What's worse is that by excising so called 'low risk' chemicals from regulatory and public view, as the NICNAS 'reforms' and this national standard will do, we'll be even worse off in the future because no-body will readily know what's causing the pollution and disease.

The discussion paper illustrates how far Government has strayed from the principles that should underpin chemical reform ie: community's right to know; no data/no market; the precautionary principle; and, substitution and elimination of toxic chemicals.

For example, the discussion paper makes the most astounding assertion that:

'Most industrial chemicals are not harmful to the environment'. It's hard to know where to begin with such a statement, which reads like it's straight out of a chemical industry PR manual. It's totally unsubstantiated for starters. What science is it based on? Is our air so clean, our waterways so pristine and our bodies so free of chemical pollution that we shouldn't be concerned? No. Everywhere we sample we find industrial chemical pollution from breast-milk to the world's cleanest air at Cape Grim in Tasmania. Not just a few chemicals either – babies are now born with over 200 industrial chemical residues in their bodies.

There are 38,000 unassessed industrial chemicals in use in Australia today with very little use and exposure data available. Data in relation to ecotoxicology is even scarcer. Doing risk assessments under these circumstances is practically impossible and yet risk assessment is the foundation of the proposed national standard and is given as the justification for the statement that 'Most industrial chemicals are not harmful to the environment'.

If the science can't be done because there is inadequate data, then governments need to compel registrants to produce the data or, find another basis on which to make decisions about chemical regulation in the absence of reliable risk assessment data. What is being proposed here is fudging it. The proposal will build on a very shaky base and deal with a limited number of chemicals and as such looks set to not achieve much at all accept the illusion that something is being done.

Our concerns can be summarised as:

- Meaningful environmental risk assessment and risk management of chemicals requires understanding of the use and release of industrial chemicals throughout their life cycle and the exposure and impacts of industrial chemicals on Australian ecosystems and species. This data is not available;
- The approximately 38,000 chemicals currently in use may never be assessed by NICNAS, hence never included in the National Standard;
- The vast number of industry self assessed new chemicals which will not have a formal risk assessment and not covered by the proposed national standard, making the national standard a grand scheme for a few chemicals;
- No mention is made of the data gaps and how they are to be addressed in either risk assessment of risk management measures;
- The proposed risk assessment and risk management processes will not assess mixtures, their interactions nor the cumulative impacts of chemicals used within particular environments;
- The proposed criteria for scheduling are out of sync with international GHS directions in chemical hazard characterisation. Bioaccumulation, perfluorinated functionality and endocrine disruption are serious hazards and can in no way be associated with 'moderately hazardous chemicals';
- Nanomaterials are inappropriately placed in schedule level 3 yet they have little if any environmental data or ecotoxicology available;

- How would an advisory committee review high concern chemicals and determine their net benefit, or otherwise, in the absence of meaningful data?
- There is no 'feedback loop' reviewing the validity of either the risk assessment or risk management; and
- As the States are given the role of enforcement and monitoring it is likely the inconsistency across state borders will continue.

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