

## **SUBMISSION**

### **Implementing reforms to the National Industrial Chemicals Notification and Assessment Scheme**

#### **Consultation Paper 3**

As in each submission NTN has made to this consultation process, we re-state that NTN does not support the 'reform process' as presented to us. It's a fundamentally flawed process focused on furthering corporate interests and does nothing to ensure better protections for the community or environment from the impacts of chemical pollution resulting from the inadequate regulation and use of industrial chemicals in Australia.

As evidence for the need to re-focus this reform process onto health and environmental protections we submit the fact that babies born today in industrialised countries such as Australia have around 232 synthetic chemistries in their bodies, many of which are commonly used and poorly regulated industrial chemicals<sup>1</sup>.

If ever there was a measure to mark the failure of the industrial chemical regulatory scheme, this is it. By feeing up industry further, which these reforms seek to do, it will cause even more pollution with less regulatory oversight and will not solve this problem.

Many of the chemical residues found in babies today are likely to be hormone-disrupting chemicals linked to diseases that are and will continue to impact public health for decades to come. This situation is immoral and costly and yet, it's not part of this 'reform process'. Why is this the case?

Triclosan is just one example of an industrial chemical causing untold damage to people and the environment. It may also be playing a part in the development of super-bugs. What will the proposed reforms do to address the widespread availability and impact of triclosan in Australia? Absolutely nothing.

Triclosan is a bioaccumulative, broad-spectrum antimicrobial agent that is added to personal care soaps and cosmetics and impregnated in numerous materials from athletic clothing, food packaging and cleaning clothes. The constant release of triclosan into the sewage system is creating a major environmental and public health hazard. Significant levels of triclosan are detected in body fluids (urine, breast milk, plasma) in all human age groups. Toxicology studies demonstrate that triclosan exerts adverse effects on

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<sup>1</sup> <http://www.ewg.org/research/body-burden-pollution-newborns>

different biological systems through various modes of action such as impaired thyroid function, developmental disorders, endocrine disruption, liver carcinogenesis etc.<sup>2</sup>

NTN has had concerns from the outset that this is a 'tick the box' consultation process that never intended to seriously consider the issue of industrial chemical contamination and the concerns of the broader community but rather seeks to implement a 'done deal' with the chemical corporations to remove 'red and green tape'.

A number of community/environment/union participants have actively and repeatedly raised concerns throughout this process that have not been addressed by the consultation process and are not reflected in Consultation Paper 3. Our concerns are being ignored.

We oppose the fundamental shift of power that is proposed in these reforms whereby the chemical industry seeks to self-regulate what may end up being between 70-90% of new industrial chemicals released onto the Australian market if these reforms are passed.

The idea the community is being asked to swallow is that by freeing up time on so-called low-medium risk chemicals (and we dispute about how these are determined) the regulatory effort can be more 'efficiently' placed on higher risk chemicals. We are asked to accept the idea that whittling away the records kept and availability of information to the public is acceptable because corporations will save money. NTN strongly rejects these propositions for the reasons stated in the previous submissions.

We are also deeply concerned that by potentially making itself so irrelevant, NICNAS is at risk of being shutdown altogether or drastically scaled back, which the industry has stated is its goal. Industry also states it wishes NICNAS to be controlled by the Minister for Industry rather than the Minister for Health which we also reject.

Market mechanisms will not ensure the safest, cleanest and greenest chemistries are used and promoted by industry. No data has been presented to make this case whatsoever. There are enormous asymmetries in information that make this impossible. A consumer should not have to have a chemistry and legal degree in order to do their shopping. If corporations can make a buck out of cheap toxic chemicals without regulators looking over their shoulders, they will.

The USA is currently re-considering the introduction of chemical control regulations to reign in the serious impacts of unfettered industrial chemical pollution on its people as a result of this free-market approach.

The reforms proposed in Consultation Paper 3 will worsen asymmetries in information by making the consideration of commercial business information (CBI) even less transparent and accountable by removing the input of the Technical Advisory Committee, which previously assisted the NICNAS Director in the consideration of these matters. No definition of the 'public

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<sup>2</sup> Mei-Fei Yueh and Robert H. Tukey, Triclosan: A Widespread Environmental Toxicant with Many Biological Effects, *Ann. Re. Pharmacol. Toxicol.* 2016.

interest' has been provided in the CBI reforms. How will it be determined? We don't support the model where all the power resides with the NICNAS Director to make these decisions as it is open to abuse and corruption.

By not making public records onto the Australian Inventory of Chemical Substances of so-called low-medium risk chemicals that the industry wishes to self-regulate, the community by and large will never know what chemicals are actually being used in Australia. By reducing the requirement for basic information such as the physical-chemical properties of chemicals in publically released assessment statements the community's access to information is once again being denied.

Today's so-called 'low-risk' chemicals will become tomorrow's new pollutants of global concern as advances in toxicology continue to be made but we will have no way of tracing these pollutants as public records will be expunged,

making legal recourse more difficult. Perhaps that is the true purpose of these reforms?

In relation to monitoring and enforcement requirements, YES we want enforceable undertakings to be published. NO we do not support 'de-identified' information published in annual reports.

Previously raised and still answered concerns:

- How will NICNAS engage with state and territory risk managers in relation to accepting international decisions and by what mechanisms will the enforcement of any risk management requirements occur? If risk managers don't step up to the mark, what will happen?
- Why will hazardous cosmetic ingredients in 'low concentrations' be subject to 'light touch regulatory approach'. In some instances, such as EDCs, low concentrations are still highly hazardous. What about nanomaterials? Why rely only on volume data and not hazard data in this instance? It's contrary to the approach taken elsewhere.
- From the outset, community representatives have raised concerns about the proposal for exempted and reported chemicals to not be publically recorded. What happens down the track if one of those exempted chemicals industry has self-assessed as 'low risk' turns out to be a high risk?

For instance, what if a chemical were later discovered to be an EDC or carcinogen? How would anyone be able to trace back to ascertain any details? If chemicals get used in unintended ways down the track, the risk profile also changes and there would be no way to determine that.

- We do not support the downgrading of requirements for introducers to only declare a limited set of information, as we believe volume, type and use is essential information to record. If a use changes, then exposure risks change and this needs to be reported and recorded.
- As with all risk assessments the quality of the data will determine the

robustness of the outcome. We have serious concerns about industry 'self assessing' based on its own data. By allowing this Government will be failing in its commitment to transparency and accountability to the community in regulatory decision-making.

- Why are so many products already in the marketplace that do not list on their labels what the chemical contents are?
- Are there any limits to risk? The fundamental problem with the proposed risk matrices is that there appears to be no limits to risk. It is not acceptable that a chemical that is PBT, EDC or ozone depleting could even be assessed and theoretically permitted for use, albeit with risk management strategies.
- Why are nanomaterials not being treated separately? These are new technologies with very little data available to perform risk assessments

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