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**Sent:** Friday, 9 May 2008 2:24 PM

**To:** Chemicals and Plastics Xternal Email

**Subject:** Comments on Draft Productivity Commission Research Report (

The APMF has studied the Productivity Commission's draft research report and chemicals and plastics regulations.

The APMF commends the Commission on an excellent study and excellent report.

The APMF offers the following comments on the draft report and hopes that it is not too late to have these comments taken into account when the final report and recommendations are drafted.

## **CHEMICALS AND PLASTICS REGULATION** **PRODUCTIVITY COMMISSION DRAFT RESEARCH REPORT**

### **Comments by the Australian Paint Manufacturers Federation**

The Australian Paint Manufacturers Federation (APMF) welcomes the opportunity to comment on the above report.

### **National Policy Formulation and System Governance**

The APMF concurs that chemical regulation is fragmented and inconsistent. As a result the States and Federal Government are unable to deliver a seamless and effective control of chemicals used in the workplace. An example of this is the APMF's attempt to obtain government regulation of a number of lead compounds which are predominantly used in a range of paints mainly in the industrial area.

The APMF attempted in the first instance to have the legislative controls imposed through the powers of the National Occupational Health and Safety Commission – now the Australian Safety and Compensation Council (ASCC). This proposal was rejected by NOHSC on the basis that its regulatory powers were inappropriate. The APMF was then referred to the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) which does have power to regulate the importation and manufacture of products containing the specified chemicals. In due course NICNAS gazetted the required restrictions but only after a lengthy delay resulting from objections being lodged by the Plastics and Chemicals Industry Association (PACIA) and ACCORD.

The resulting annotation of the Australian Inventory for Chemical Substances fails however to control the use of paints containing the specific lead compounds in the workplace. To rectify this omission the APMF has been referred back to the ASCC who are to consider incorporating the restrictions in the National Code of Practice for Storage and Handling of Hazardous Substances through which the desired restrictions will be picked up by State Governments. At the same time the Commonwealth Department of Health and Ageing has been asked to consider the amendment of *Appendix I "Uniform Paint Standard"* of the Standard for the Uniform Scheduling of Drugs and Poisons. At this time the APMF has no indication at all of when these regulatory amendments will be effected.

The APMF is of a view therefore that a new regulatory system should be created with the Office of Chemical Safety (OCS) exercising a coordinating role on advice from NICNAS, ASCC and the Commonwealth Department of Health's Drugs and Poisons Scheduling Committee.

### **National Hazard and Risk Assessment**

The APMF agrees that national hazard and risk assessment should be the core function of NICNAS. The APMF is concerned however that at present the notification criteria for low regulatory concern chemicals (LRCC) is excessive. The risk model employed by NICNAS has become inflexible and out of line with the true risks as may be seen by noting the relative disparity of risk assessments of other OECD jurisdictions i.e. the EU and USA. This is particularly so in regard to chemicals of low regulatory concern such as polymers of low concern (PLC) which are the life blood of new products in the Australian paint Industry.

There are a number of examples where NICNAS have sustained a pattern of risk minimization rather

than risk management and applied to the lowest risk categories.

Examples of excessive risk analysis being required in regard to LRCC and PLC chemicals are:

- narrow use of analogues,
- unwritten but enforced requirement for full MW data and reports,
- physiochem data points and solubility data may require experimental reports,
- no acceptance of 99% plus identical molecules should all be considered registered with a nominal fee and paperwork,
- requirement to supply an Australian notification data when a bilateral is functional.

NICNAS have justified some of the above based on the legislated requirement for a public report then so that NICNAS resources are reallocated on a risk to more hazardous chemicals.

The reason for this is that the annual reporting impost added after the system was initially designed has cancelled out much of the anticipated productivity gains.

The APMF proposes that where assessments have been carried out in other OECD jurisdictions they should be adopted by NICNAS unless there is a clear case for conducting a comprehensive Australia based assessment. The onus should be on NICNAS to establish that the overseas assessments are inadequate or inappropriate for Australian conditions.

The Commission proposals for formalising and strengthening the current consultative mechanisms established administratively by NICNAS are endorsed. However it is essential that the advisory panels are constituted by persons having expertise in the relevant fields.

### **Public Health**

The APMF endorses the Commission's proposals to establish the need for a single national system for the regulation of industrial and consumer product chemicals.

The APMF agrees that the SUSDP is effective in dealing with risks arising from household chemicals but notes that many states and territories have confirmed to the APMF in writing that the legislation through which it is called up in their jurisdictions does not extend to the use of such chemicals in the workplace.

The Commission is justifiably concerned about the absence of a single national system of generic consumer product safety regulation. By establishing a single national consumer public safety framework supported by advice from the ASCC, NICNAS and other interested bodies the government will significantly improve chemical regulation and public health in Australia.

### **Occupational Health and Safety**

The APMF supports the Commission's recommendations that GHS Labeling be deferred until these protocols have been finalized and adopted by our major trading partners. The APMF believes however that products entering Australia, when labeled in accordance with the GHS Labeling Regulations of the country of origin, should be accepted.

### **Transport Safety**

The APMF agrees that the states and territories should uniformly reference the Australian Dangerous Goods Code. The APMF also agrees with draft recommendation 7.2 that responsibility for policy development and monitoring should remain with the National Transport Commission.

Kind Regards,

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