



**Australian Government**  
**Department of Health and Ageing**

*Discussion Paper: Review of the National Industrial Chemicals Notification and Assessment Scheme (NICNAS), June 2012*

**Wacker Chemicals Australia submission on the Review of NICNAS, 27 July 2012**

**Submissions must be received by the Department of Health and Ageing by 5pm, Friday 27 July 2012**

The [Word version of 'Making a submission form' \(Word 332 KB\)](#) is at:

[www.health.gov.au/internet/main/publishing.nsf/Content/ohp-nicnas-discussion-paper-june-2012](http://www.health.gov.au/internet/main/publishing.nsf/Content/ohp-nicnas-discussion-paper-june-2012)

Please use this form to make your submission in response to the discussion paper. You may delete any sections that you do not wish to comment on.

While submissions may be lodged electronically or by post, electronic lodgment by email is preferred. For accessibility reasons, please email responses in a Word or RTF format, not as a .pdf.

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**Mail:** NICNAS Review  
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- Submissions will remain on our website as public documents indefinitely.

**Confidentiality**

<b>This submission:</b> contains NO material supplied in confidence
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Date: 27<sup>th</sup> July 2012

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**Wacker Chemicals Australia submission on the Review of NICNAS, 27 July 2012**, on the reform of NICNAS, and on the questions raised in the Discussion Paper.

**Note 1:** Many of the questions raised in the Discussion Paper are primarily based on tweaking the existing industrial chemicals system. The suggestions below recommend a cost-effective pragmatic system so that many of the options and questions in the Discussion Paper are not directly able to be answered.

**Note 2:** This submission is based on the submission circulated to industry on 23 July 2012 by Jeff Simpson, Haztech Environmental and adjusted as appropriate.

### ***New Chemicals:***

In Australia we need a more workable and effective approach to introducing new chemicals in Australia, with an appropriate level and cost of reviewing these chemicals by NICNAS, particularly where safer and more environmentally benign chemicals are then able to be used in Australia, replacing more hazardous chemicals already on the AICS.

The current NICNAS processes try to achieve the goal of safer, more sustainable chemicals but they are not working, due to the cost structure, particularly for small businesses, which is prohibitive, with just 5 years to create a market and recover the introduction costs. This means most small businesses just keep supplying, and industry and consumers keep using, the more hazardous chemicals already on NICNAS, as the “cheaper” option!

For such chemicals to be introduced we may need to reduce the cost recovery even further and maybe to nil for NICNAS charges (since there are still significant business costs to bring the information together for an application), where there is a clear benefit to Australia and other community costs are reduced (e.g. Health care costs and environmental clean-up costs).

**Option B2/** Wacker Chemicals Australia (WCA) is in agreement with extending the <1% concentration exemption for non-hazardous chemicals in products. WCA would ALSO suggest including being able to trace Hazardous Chemicals at <0.1% in products, where these will not classify the product as hazardous (at the concentration present) to the GHS hazard classification categories (including aquatic environmental hazards).

**Extend Option B2/** One way of achieving a significant cost effective approach of assessing ONLY hazardous chemicals or hazardous formulations of concern is to look closely at the pragmatic approach taken by New Zealand where:

- a/ products and substances not classified with any GHS Chemical Hazards are allowed without controls, and
- b/ where hazardous products that fit an agreed hazard profile can be allocated to agreed controls under NZ Group Standards (these controls are similar to controls advised in NICNAS Assessments) are allowed.

Then c/, only IF a pure hazardous substance; or IF a formulation that does not fit an existing Group Standard is imported, is the substance or formulation then assessed by the NZ EPA, and the substance added onto their inventory of hazardous substances or a new Group Standard created.

This approach concentrates the NZ efforts onto just the hazardous chemicals (to the GHS criteria) needing to be allocated controls not already covered by the Group Standards.

For chemicals that are very hazardous, I support a similar approach of controls as are being implemented by REACH in Europe, but that these controls **MUST** be enacted at all levels of regulation across Australia, rather than the current system which allows States and Territories to implement or not.

**BUT one extra requirement is needed for this NZ style system:** WCA want Australia to track all chemicals that added to the Industrial Chemicals system, that are not hazardous; hazardous but brought in non-hazardous product, or the hazardous formulation fits a Group Standard, but the chemicals in the formulation are not on the Inventory.

This should occur by each company being required to add these chemicals to an on-line database, similar to what we currently do now for No Unreasonable Risk Chemicals imported at <100kg, plus internally in each company the customers of these chemicals are required to be tracked (and the records kept for at least 30 years).

**Reason:** IF new hazards become known in 10, 20 years or 30 years, this tracking (at minimum cost), then allows the Industrial Chemical Authority to initially approach the importer for information, and then approach customers who have used the chemical.

**Option B5/** The 5 years allowed for exclusive use by the notifier, before being added to the AICS, is unrealistically short for most chemicals in order to justify the original costs and then recover them. WCA suggest changing this to seven or more years.

### ***Existing Chemicals:***

There also needs to more appropriate levels and cost effective ways to review of existing chemicals controlled by NICNAS. Australia is just not resourced to carry out an extensive Priority Existing Chemical review for every chemical issue which we may need to look at, within reasonable timeframes, to protect workers, the community and the environment.

**Option C2/** The Inventory Multi-tiered and Prioritisation framework for what we look at needs to be clear and easy to make a decision with. We need the Industrial Chemical Authority to get on with the **actual** simplified reviews of the prioritised chemicals, to completed within an acceptable timeframe (say 1 year), whilst alerting users to the chemicals that are subject to a Priority Review.

**Option C3/ Broaden the Mandatory Information-Gathering Powers:** In this internet and database age the community and workers expect our Industrial Chemical Authority to have such an ability to gather information about down-stream uses of hazardous chemicals under review.

WCA supports setting up tightly defined circumstances where manufacturers & importers would be required to provide such information. The community and workers expect this already.

Currently the request to provide such information is only responded to by the leading edge companies as good practice as it demonstrates their commitment to managing chemicals safely in Australia.

### **Option C5/ Remove Existing Chemicals from AICS that are no longer being introduced:**

**This option is not realistic.**

Currently, industry obtains statements for manufacturing companies from overseas which confirm that they have checked the AICS database on-line and that all the chemicals in their formulation are on the AICS.

So local industry have no way of knowing whether a particular chemical that might be considered for being withdrawn is actually in one of their confirmed ingredients in their products. The ability to get confirmation from overseas on such confidential ingredients would be very difficult.

**New Option C7/** There is also a need for NICNAS to be allowed under the ICNA Act to help businesses (on a fee for service basis) to classify the chemical hazards of their industrial products.

NICNAS is the only Authority in Australia that has expertise to help resolve industrial chemical hazard classification dilemmas. With GHS now in Australia and multitude of different classifications for some chemicals by different suppliers, this is important service we need to have available.

**Option D1 Secondary Notification:**

**D1/** Due to confidentiality issues, finding out whether Secondary Notification of a chemical is needed is currently difficult to achieve, as the 2<sup>nd</sup> manufacturer or importer have no idea of the scope of the original requirements, since there is no link.

IF we are to keep this requirement, we need to be adequately clear about the original circumstances, and what sort of change of quantity or different handling/use invokes a Secondary Notification.

**D2/** An APVMA style adverse effects reporting program for industrial chemical ingredients is not appropriate approach and is likely to add significant cost for limited benefit.

WCA suggest a similar system that occurs for Scheduled Poisons would be more appropriate for Industrial Chemicals, and that adverse effects be reported through the Worksafe Authority and Environmental Authority in each State / territory and who are then required to pass these reports onto the Federal levels of such Authorities and NICNAS.

**Use of Foreign Schemes / International Assessments:**

**Options F1/ & F2/** Our industrial chemicals authority needs to be pragmatic and allow most of these assessments to be automatically used, where the level of risk is appropriately managed. Then only assessments where there is concern, will NICNAS or Industry be required to do an additional review.

**FINISH Comment**