



Environmental Defenders Office

Regulation of Chemicals & Pesticides in NSW

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Overview

Many substances are potentially dangerous to humans, animals and plants, including:

- agricultural chemicals such as pesticides, fungicides, insecticides; and
- industrial chemicals such as paints, dyes, solvents, cleaning agents and plastics.

This fact sheet explains the Commonwealth's registration and assessment process for industrial chemicals, pesticides and veterinary chemicals, and outlines the NSW regulatory framework for managing hazardous chemicals and pesticides.

Who is responsible for regulating chemicals and pesticides?

Responsibility for regulating chemicals and pesticides is split between the Federal and State governments.

The Federal Government registers and assesses the safety of:

- industrial chemicals; and
- pesticides and veterinary chemicals.

The NSW Environment Protection Authority regulates the safe and correct use of pesticides and hazardous chemicals in NSW.

Part 1 – Commonwealth registration and assessment of industrial chemicals

What are industrial chemicals?

Industrial chemicals are chemicals which have an industrial use.¹

For example, industrial chemicals may include things such as solvents, adhesives, plastics, inks, glues, paints, laboratory chemicals, refrigeration chemicals and cosmetics.

Industrial use of an industrial chemical includes activities such as processing, formulating, storing, transporting and handling an industrial chemical. However, the definition of industrial use does **not** include use as:

- an agricultural or veterinary chemical product (for example pesticides and herbicides are not industrial chemicals);
- A therapeutic good; or
- a human or animal food.²

Industrial chemicals are split into new or existing industrial chemicals:

- new industrial chemicals are those being introduced (i.e. imported) into Australia for the first time and are:
 - not already listed on the [Australian Inventory of Industrial Chemicals \(Inventory\)](#),³ or
 - are a listed chemical subject to a condition of use, but are being introduced for another use.
- existing chemicals are those chemicals which are already available for use in Australia and are listed on the Inventory.

The Inventory

The Inventory is a searchable database which contains information on the chemical identity (for example, the chemical name and molecular formula) of around 40,000 industrial chemicals that are being manufactured or introduced into Australia for

¹ *Industrial Chemicals Act 2019* (Cth), s 10. See also: <https://www.industrialchemicals.gov.au/chemical-information/what-industrial-chemical>

² *Industrial Chemicals Act 2019* (Cth) s. 9 defines 'industrial use'.

³ <https://www.industrialchemicals.gov.au/search-inventory>

industrial use, and the regulatory obligations and conditions relating to their importation and manufacture.

The Inventory does not contain information on toxicity, use, manufacturers or importers. It consists of a non-confidential (public) section and a confidential section.

Visit: The [Australian Inventory of Industrial Chemicals](#) for more information.

How are industrial chemicals notified and assessed?

There is a national system of notification and assessment for industrial chemicals.⁴

The system focuses on the assessment of new chemicals before they can be imported or manufactured in Australia, although existing chemicals can be assessed too if there is a concern.

N.B. The Federal Minister for Health and Aged Care has the overarching responsibility for administering the notification and assessment of industrial chemicals, through the [Department of Health and Aged Care](#).

Importers and manufacturers of industrial chemicals must be registered

Before introducing an industrial chemical, a person must be registered on the Register of Industrial Chemical Introducers⁵ for the registration year.⁶

A person can become registered by application made to the Executive Director, which the Executive Director must grant if satisfied that the application has been made in accordance with the applicable legal requirements.⁷

N.B. The Executive Director is the person appointed as such under s 143 of the *Industrial Chemicals Act 2019* (Cth).

⁴ This system is established by the [Industrial Chemicals Act 2019 \(Cth\)](#).

⁵ Established under the *Industrial Chemicals Act 2019* (Cth), s 14.

⁶ See *Industrial Chemicals Act 2019* (Cth), s. 13.

⁷ *Industrial Chemicals Act 2019* (Cth), s 17; see also ss 16 and 167.

It is an offence to introduce an industrial chemical in a registration year if not registered for that registration year.⁸ Penalties apply.

Visit: The Australian Industrial Chemicals Introduction Scheme (**AICIS**) [website](#) contains further information about the registration process.⁹

Assessment of industrial chemicals

AICIS was established on 1 July 2020 to replace the National Industrial Chemicals Notification and Assessment Scheme (NICNAS).¹⁰ It is administered by the Executive Director.

AICIS is responsible for conducting scientific risk assessments on the introduction and intended use of industrial chemicals in Australia. AICIS maintains the Inventory and issues certificates and authorisations for the introduction of industrial chemicals.¹¹

If a chemical is not listed on the Inventory and the importation or manufacture is in the assessed category, a person must apply for an assessment certificate for the introduction of the industrial chemical. This captures the medium-high risk introductions. Lower risk introductions can be made without being assessed (however, record keeping and reporting obligations apply).¹²

The assessment certificate authorises an introducer to make an assessed introduction of an industrial chemical in Australia. The certificate outlines the terms of the introduction that a holder or person covered must comply with.¹³

The Executive Director issues an assessment certificate after it assesses the chemical introduction. Matters considered include any risks to human health or the environment associated with the proposed introduction or use of the industrial chemical¹⁴ and, before deciding to issue a certificate, it must be satisfied that any risks to human health or the environment can be managed.¹⁵

⁸ *Industrial Chemicals Act 2019* (Cth), s 13.

⁹ <https://www.industrialchemicals.gov.au/business/getting-started-registration-importing-and-manufacturing/what-registration-and-who-must-register>

¹⁰ *Industrial Chemicals Act 2019* (Cth), Part 8 (Administration).

¹¹ <https://www.industrialchemicals.gov.au/about-us/who-we-are-and-what-we-do#what-we-do>

¹² <https://www.industrialchemicals.gov.au/guide-categorising-your-chemical-importation-and-manufacture/you-start-categorising-your-introduction>

¹³ <https://www.industrialchemicals.gov.au/business/apply-assessment-certificate#if-we-approve-your-application>

¹⁴ *Industrial Chemicals Act 2019* (Cth), s. 32(3).

¹⁵ *Industrial Chemicals Act 2019* (Cth), s 37.

Industrial chemicals covered by an assessment certificate are listed on the Inventory after 5 years. However, applications can be made for early listing and industrial chemicals can be listed in certain other circumstances. Any registered person can introduce an industrial chemical that is listed on the Inventory but must comply with the terms of the Inventory listing and record keeping and reporting requirements.

Alternatively, a person may apply for a commercial evaluation of a new chemical when the purpose of introducing the chemical is to assess its potential commercial application and certain other requirements are met.¹⁶ Commercial evaluations are strictly commercial in nature and cannot be used to make an industrial chemical available to the general public.¹⁷ AICIS also has consultation requirements when considering an application for a commercial evaluation.¹⁸

It is an offence to introduce an industrial chemical without an assessment certificate or commercial evaluation unless:¹⁹

- the chemical is a listed introduction;²⁰ or
- the chemical is an exempted introduction;²¹ or

For example, an imported then subsequently exported chemical or posing very low risk is an exempted introduction.

- the chemical is a reported introduction.²²

For example, chemicals used only for research and development or chemicals that are low risk flavour or fragrance blends are a reported introduction.

- the chemical is introduced as an exceptional circumstance introduction, where the Minister authorises a chemical's introduction

¹⁶ <https://www.industrialchemicals.gov.au/business/apply-commercial-evaluation-authorisation>. See also *Industrial Chemicals Act 2019 (Cth)*, s 29.

¹⁷ *Industrial Chemicals Act 2019 (Cth)*, s 53.

¹⁸ *Industrial Chemicals Act 2019 (Cth)*, ss 56 and 57.

¹⁹ *Industrial Chemicals Act 2019 (Cth)*, s. 24.

²⁰ *Industrial Chemicals Act 2019 (Cth)*, s. 25.

²¹ *Industrial Chemicals Act 2019 (Cth)*, s.26.

²² *Industrial Chemicals Act 2019 (Cth)*, s.27.

because it is in the public interest and needed to manage significant human health or environmental risks.²³

Evaluation

The Executive Director may initiate evaluations of industrial chemicals, or matters relating to industrial chemicals to protect human health and/or the environment from any risks associated with industrial chemicals.²⁴

Information can be provided voluntarily by members of the public.

Evaluations may result in changes to assessment certificates or Inventory listings or recommendations being made about the introduction and use of industrial chemicals.

The Executive Director is required to publish assessment statements, evaluation statements and other information. Such statements are published on the AICIS webpage. This may require an assessment certificate to be varied or cancelled if the risk cannot be managed any other way. It may also require an industrial chemical to be removed from the Inventory.

Enforcement

Part 7 of the *Industrial Chemicals Act 2019 (Cth)* vests the Executive Director and authorised inspectors with broad powers to investigate suspected breaches of the legislation, and to take enforcement measures such as instituting civil or criminal proceedings, issuing infringement notices, entering into enforceable undertakings, and seeking injunctions.

Part 2 – Commonwealth registration and assessment of pesticides

What are pesticides?

Pesticides are widely used to control pests on crops and in buildings. They include things such as:

- Baits used for foxes, wild dogs, rabbits and insects;
- Fungicides used to treat mould on fruit trees;
- Herbicides used to kill weeds;
- Insecticides;
- Lures;
- Rodenticides;
- Repellents; and

²³ *Industrial Chemicals Act 2019 (Cth)*, ss 30 and 67.

²⁴ For further information on evaluation process see:

<https://www.industrialchemicals.gov.au/consumers-and-community/about-chemical-evaluations>

- Genetically modified organisms.

For example, cotton modified to resist bollworm is a genetically modified organism.

Pesticides include veterinary chemicals which are used to control external parasites on animals.²⁵

Registration and assessment of pesticides

Like industrial chemicals, there is a national scheme for the registration of pesticides.

Pesticides must be assessed and registered by the Commonwealth Government under the AGVET Act and AGVET Code before they can be sold.²⁶

Australian Pesticides and Veterinary Medicines Authority

The Australian Pesticides and Veterinary Medicines Authority (**APVMA**) is an independent statutory authority²⁷ that is responsible for implementing the AGVET Act and the AGVET Code.²⁸ The APVMA is responsible for the regulation and control of agricultural and veterinary chemicals in Australia up to the point of retail sale.²⁹

Visit: The [Australian Pesticides and Veterinary Medicines Authority](#) for more information.

APVMA approves a product's active constituents and labels for chemical product containers.³⁰

It is an offence to possess or supply unregistered chemical products or unapproved active constituents,³¹ and for an approved chemical product to be supplied in a way that breaches the conditions of its approval.³²

²⁵ *Pesticides Act 1999* (NSW), s. 5.

²⁶ [Agricultural and Veterinary Chemicals Act 1994 \(Cth\)](#) (AGVET Act); [Agricultural and Veterinary Chemicals Code Act 1994 \(Cth\)](#) (AGVET Code).

²⁷ Established under the [Agricultural and Veterinary Chemicals \(Administration\) Act 1992 \(Cth\)](#), Part 2.

²⁸ <https://apvma.gov.au/>

²⁹ <https://www.apvma.gov.au/about/about-us/our-legislative-framework>

³⁰ *Agricultural and Veterinary Chemicals (Administration) Act 1992* (Cth), s. 7.

³¹ *Agricultural and Veterinary Chemicals Code Act 1994* (Cth), Schedule 1, Part 4 (Control of Chemical Products).

³² *Agricultural and Veterinary Chemicals Code Act 1994* (Cth), Schedule 1, s 77.

APVMA is responsible for investigating complaints and this may lead to civil and/or criminal proceedings.³³

APVMA can issue recall notices requiring a person who has stocks of pesticides in their possession to stop supplying those products.³⁴

N.B. Any person can report suspected non-compliance or an adverse experience with a registered chemical to the [APVMA website](#).

National register for pesticides and vet chemicals

Pesticides must be recorded and registered by the APVMA before they can be used.³⁵ Components of the record and register that are not confidential are available to the public on the Chemical Registration Information System (known as the PubCRIS database).³⁶

All registered products are given a unique registration number which is printed on the bottom of the product label along with the conditions of use.³⁷

Visit: The [Chemical Registration Information System](#) for more information.

Part 3 – Regulation of pesticides and chemicals in NSW

Use of pesticides

The storage, use and disposal of pesticides in NSW is administered and enforced by the NSW Environment Protection Authority (**EPA**).

³³ *Agricultural and Veterinary Chemicals Code Act 1994* (Cth), Schedule 1, Part 9A.

³⁴ *Agricultural and Veterinary Chemicals Code Act 1994* (Cth), Schedule 1, Part 6 (Recall notices).

³⁵ *Agricultural and Veterinary Chemicals Code Act 1994* (Cth), ss. 18, 20.

³⁶ <https://portal.apvma.gov.au/pubcris>

³⁷ *Agricultural and Veterinary Chemicals Code Act 1994* (Cth), ss. 20, 21.

Registered pesticides have an approved label³⁸ with instructions for their use, which must be complied with.³⁹ These instructions provide important information on:

- preparing and mixing the pesticide;
- protecting livestock, crops, wildlife, non-target animals or non-target plants, fish or other aquatic life;
- avoiding spray drift, vapour movement and odour; and
- storing or disposing of the pesticide safely.

It is important for safety to carefully follow the instructions provided on the approved label.

Registered pesticides must only be kept in containers bearing an approved label and must be used in accordance with the instructions on the label.⁴⁰

Unregistered pesticides cannot be possessed or used, except in accordance with a permit.⁴¹

The misuse of chemicals or pesticides may result in land becoming contaminated. Contaminated land is tightly regulated in NSW.

Read: Our other factsheets for more information:

[Contaminated Land in NSW](#)

[Water, Air and Noise Pollution in NSW](#)

Spray drift of pesticides

Spray drift is the movement of pesticide spray droplets outside the intended application site during or shortly after application of the pesticides.

Spray drift can cause issues when pesticides cause off-target damage or injury to the health of humans, the environment, animals, and vegetation.

Reducing and managing the risk associated with spray drift is a priority of the EPA in NSW.⁴² It is important for pesticide users to take all reasonable steps possible to minimise spray drift.

³⁸ Section 4 of the *Pesticides Act 1999 (NSW)* provides that an approved label means any label approved under Part 2 of the Agvet Code for or in respect of the pesticide.

³⁹ *Pesticides Act 1999 (NSW)*, s. 15.

⁴⁰ *Pesticides Act 1999 (NSW)*, ss. 14, 15, 16.

⁴¹ *Pesticides Act 1999 (NSW)*, ss. 12, 13.

⁴² <https://www.epa.nsw.gov.au/about-us/publications-and-reports/regulatory-priorities>

Aerial spraying of pesticides

Aerial spraying (commonly referred to as ‘crop dusting’) is the spraying, spreading or dispersing of an agricultural product from an aircraft.

Before engaging in aerial spraying, a pilot must hold an aerial applicator pilot licence issued by the EPA.⁴³

Aerial spraying equipment must not be attached to an aircraft unless the aircraft is approved by the Civil Aviation Safety Authority for agricultural operations.⁴⁴

A pilot is not allowed to discharge pesticide within a distance of 150 metres horizontally from the boundary of any dwelling, school, factory or other public place without prior written permission from the occupier of the premises.⁴⁵

Visit: [Pesticide Control Order Air 1](#) on the EPA’s webpage for more information.⁴⁶

Pesticide control orders

The EPA can issue pesticide control orders which control the way in which certain restricted pesticides can be used.⁴⁷

Pesticide control orders cover things such as the use of 1080 baits for rabbits, feral pigs, wild dogs and foxes; aerial spraying and 1080 liquid concentrate.⁴⁸

Visit: The EPA’s [Pesticide Control Order](#) webpage or call the [EPA Environment Line](#) on 131 555 for more information.⁴⁹

⁴³ *Pesticides Act 1999* (NSW), ss. 45, 46, 47; *Pesticides Regulation 2017* (NSW), cl 7;

<https://www.epa.nsw.gov.au/your-environment/pesticides/licences-and-advice-for-occupational-pesticide-users/aerially-applying-pesticides>.

⁴⁴ *Pesticides Act 1999* (NSW), s. 43; <https://www.epa.nsw.gov.au/your-environment/pesticides/licences-and-advice-for-occupational-pesticide-users/aerially-applying-pesticides>

⁴⁵ <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/pesticides/1987air-1.pdf>

⁴⁶ <https://www.epa.nsw.gov.au/your-environment/pesticides/pesticides-nsw-overview/pesticide-control-orders>

⁴⁷ *Pesticides Act 1999* (NSW), ss. 38, 39.

⁴⁸ <https://www.epa.nsw.gov.au/your-environment/pesticides/pesticides-nsw-overview/pesticide-control-orders>

⁴⁹ <https://www.epa.nsw.gov.au/your-environment/pesticides/pesticides-nsw-overview/pesticide-control-orders>

Pesticide offences

It is an offence to wilfully or negligently use a pesticide in a manner:

- that injures, or is likely to injure another person or their property;⁵⁰
- that harms any animal or plant that is not the target of the pesticide;⁵¹
or
- that materially harms a threatened species or protected animal.⁵²

The maximum penalty for a corporation is \$2,000,000 and for an individual it is \$500,000.

There are also strict liability offences for misusing pesticides, which are subject to lower penalties.⁵³

Pesticide use may also lead to pollution offences unless the use is permitted under an environment protection licence or is conducted in accordance with the *Pesticides Act 1999* (NSW).⁵⁴

It is also an offence to:

- possess or use an unregistered pesticide without a permit;⁵⁵
- fail to read or explain the label on each occasion before using a registered pesticide;⁵⁶
- use a pesticide in contravention of the instructions on the label;⁵⁷ or
- keep a registered pesticide in a container that does not have an approved label.⁵⁸

Penalties up to \$120,000 for a corporation and up to \$60,000 for an individual may be incurred for these offences.

How can I make a complaint about the misuse of pesticides?

Concerns about the misuse of pesticides or chemicals (including reports of spray drift and aerial spraying) can be reported to the [EPA Environment Line](https://www.epa.nsw.gov.au/131555) on 131 555 or at info@epa.nsw.gov.au.

⁵⁰ *Pesticides Act 1999* (NSW), s. 7. This does not apply to damage caused 'on-farm'.

⁵¹ *Pesticides Act 1999* (NSW), s. 8. This does not apply to damage caused 'on-farm'.

⁵² *Pesticides Act 1999* (NSW), s. 9.

⁵³ *Pesticides Act 1999* (NSW), ss. 10, 11, 11A.

⁵⁴ See for example *Protection of the Environment Operations Act 1997* (NSW), ss. 122 and 142D.

⁵⁵ *Pesticides Act 1999* (NSW), ss. 12, 13.

⁵⁶ *Pesticides Act 1999* (NSW), s. 14.

⁵⁷ *Pesticides Act 1999* (NSW), s. 15.

⁵⁸ *Pesticides Act 1999* (NSW), s. 16.

When reporting a matter, you should try to include details (if known) such as:

- where the incident took place;
- when the incident occurred;
- what happened and what damage or injury occurred, what pesticide was used, how it was used, and what crop was involved;
- what the weather conditions were like; and
- the person responsible for the incident.

Photos, video or mobile phone recordings, and notes should be provided, if possible.

Hazardous chemicals

Like pesticides, the use and disposal of hazardous chemicals in NSW is administered by the EPA.⁵⁹

The *Environmentally Hazardous Chemicals Act 1985* (NSW) has been repealed and now the regulation of environmentally hazardous chemicals occurs under the *Protection of the Environment Operations Act 1997* (NSW) (**POEO Act**).⁶⁰

In conjunction with the regulation of the use and disposal of chemicals in NSW by the EPA, the *State Environmental Planning Policy (Resilience and Hazards) 2021* (**Resilience and Hazards SEPP**) imposes restrictions on ‘hazardous and offensive development’ in the context of development in NSW.⁶¹

Visit: The [EPA's webpage](#) for more information.

Chemical control orders

Chemical control orders create extra rules and restrictions for chemicals and chemical wastes that are particularly hazardous.⁶² It is an offence under the POEO Act to not comply with a chemical control order.⁶³

Such orders may prohibit activities in relation to chemicals and chemical wastes or require the phasing out of a particular chemical.

⁵⁹ Under the *Protection of the Environment (Operations) Act 1997*.

⁶⁰ <https://www.epa.nsw.gov.au/your-environment/chemicals/regulating-chemicals-nsw/changes-to-the-regulation-of-industrial-chemicals/streamlining-the-nsw-regulatory-framework>

⁶¹ <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730>

⁶² <https://www.epa.nsw.gov.au/your-environment/chemicals/chemical-control-orders>

⁶³ *Protection of the Environment Operations Act 1997* (NSW), s 296L.

For example, discharge limits under pollution licences, or labelling requirements.

There are currently six chemical control orders in force in NSW.⁶⁴ These orders relate to:

- Aluminium smelter wastes containing fluoride and/or cyanide;
- Dioxin-contaminated waste materials;
- Organotin waste materials;
- Polychlorinated biphenyl compounds;
- Scheduled chemical wastes; and
- Mercury and mercury compounds.

Visit: [Chemical control orders](#) on the EPA's website for more information.

Licence to deal with environmentally hazardous chemicals

Environment Protection Licences (**EPLs**) issued under the POEO Act now regulate activities under a chemical control order.⁶⁵

The EPA may refuse or grant the environment protection licence application, either unconditionally or subject to conditions.

Enforcement

The EPA enforces NSW pesticides legislation and the POEO Act and investigates / responds to breaches of this legislation in NSW.

Read: Our [Enforcement factsheet](#) for further information about enforcement of environmental laws.

Common law remedies

It may be possible to obtain compensation for harm caused to a person or property by the misuse of chemicals or pesticides.

⁶⁴ <https://www.epa.nsw.gov.au/your-environment/chemicals/chemical-control-orders>

⁶⁵ <https://www.epa.nsw.gov.au/your-environment/chemicals/regulating-chemicals-nsw/changes-to-the-regulation-of-industrial-chemicals/new-scheduled-activities-for-environmentally-hazardous-chemicals>

You should seek medical and legal advice as soon as possible if you think you have been injured as a result of exposure to chemicals or pesticides.

Read: Our [Private nuisance factsheet](#) for more information.

Public register

The EPA is required to keep a public register⁶⁶ of:

- All pesticides licences;⁶⁷
- All environment protection licences;⁶⁸
- All convictions and results of civil proceedings under the POEO Act;⁶⁹
- All enforceable undertakings under the POEO Act;⁷⁰ and
- All penalty notices issued under the POEO Act.⁷¹

Visit: The EPA's [public register](#) for more information.

⁶⁶ <https://www.epa.nsw.gov.au/licensing-and-regulation/public-registers>

⁶⁷ <https://app.epa.nsw.gov.au/prrdlapp/plpr.aspx>

⁶⁸ <https://app.epa.nsw.gov.au/prpoeoapp/>

⁶⁹ <https://legal.epa.nsw.gov.au/prpoeo/>

⁷⁰ <https://apps.epa.nsw.gov.au/prpoeoapp/SearchEnforceableUndertaking.aspx>

⁷¹ <https://apps.epa.nsw.gov.au/prpoeoapp/default.aspx?PenaltyNotice=1>

Glossary

AGVET Act means the *Agricultural and Veterinary Chemicals Act 1994 (Cth)*

AGVET Code means the *Agricultural and Veterinary Chemicals Code Act 1994 (Cth)*

AICIS means Australian Industrial Chemicals Introduction Scheme.

APVMA means the Australian Pesticides and Veterinary Medicines Authority.

Environment Minister means the NSW Minister for the Environment.

EPA means the NSW Environment Protection Authority (an independent statutory body).

Inventory means the Australian Inventory of Industrial Chemical kept by AICIS.

POEO Act means the *Protection of the Environment Operations Act 1997 (NSW)*

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