



Industrial Chemicals

An introduction to Industrial Chemicals

Industrial chemicals are widely used in Australian manufacturing, processing and mining industries. Many of these chemicals can be dangerous to humans, plants and animals. As a result of the dangers posed by these chemicals, laws have been developed to control their sale, use, storage and transport.

This fact sheet explains the laws relating to industrial chemicals in Western Australia, and identifies the bodies responsible for its management. (See also [Fact Sheet 28: Pesticides](#), [Fact Sheet 30: Contaminated sites](#) and [Fact Sheet 27: Pollution and environmental harm](#).)

What is an industrial chemical?

A Chemical is defined in the *Industrial Chemicals (Notification and Assessment) Act 1989* (Cth) to be a chemical element or a compound of an element, a substance of unknown or variable composition, a complex product of a chemical reaction, biological material, or a naturally occurring chemical. The definition doesn't include a manufactured article (such as plastic), a radioactive chemical or a physical mixture of chemicals. An *industrial* chemical is a chemical that has an industrial use.

Some industrial chemicals may also have an "excluded use". If the chemical is intended for use in this way, then it is not a "relevant industrial chemical" for the purposes of some parts of the Act. An excluded use is:

- as an agricultural chemical or a constituent of an agricultural chemical;
- as a veterinary chemical or a constituent of a veterinary chemical;
- a therapeutic use or use as an ingredient or component in the preparation or manufacture of goods for therapeutic use; or
- use as food (or a food additive) intended for consumption by humans or animals or a constituent of such food.

How are industrial chemicals regulated?

Industrial chemicals are regulated under both State and Commonwealth laws. Commonwealth laws establish a national system of identification and assessment of industrial chemicals; provide for registration of certain persons proposing to introduce industrial chemicals;

and provide national standards for cosmetics imported into, or manufactured in, Australia. State laws regulate the safe storage, handling and transport of dangerous goods and regulate and control the possession, sale and use of poisons and other substances.

Important disclaimer:

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Assessment of industrial chemicals

The *Industrial Chemicals (Notification and Assessment) Act 1989* (Cth) ("**ICNA Act**") establishes a system for the identification and assessment of industrial chemicals known as the National Industrial Chemicals Notification and Assessment Scheme (NICNAS). NICNAS was established to regulate chemicals for the protection of human health and the environment and to deliver the safe and sustainable use of chemicals.

Chemicals are classified into the categories of new and existing. Existing chemicals are substances that are listed on the Australian Inventory of Chemical Substances ("the Inventory"). Chemicals that are listed on the Inventory are permitted to be imported and manufactured in Australia, without the need to obtain assessment criteria or a permit. Some chemicals may be listed on the Inventory with conditions that must be adhered to if they are imported or manufactured.

Chemicals that are not on the Inventory are classified as new chemicals and must be assessed in accordance with the assessment certificate system before they can be imported into Australia or manufactured in Australia. Some existing chemicals also need to be assessed if they become classified as "priority existing chemicals". Existing chemicals will be classified as priority if the NICNAS has reasonable grounds for believing that the chemical may give rise to adverse health or environmental risks.

If an assessed chemical meets health and environmental safety standards, an assessment certificate can be granted to permit the holder to import or manufacture the chemical in Australia. Other persons wishing to import or manufacture the chemical in Australia may apply to NICNAS to have the certificate extended to cover their proposed activities. Five years after the certificate is issued, the chemical is entered onto the Inventory. This means it can be imported and manufactured in Australia without the need for a further certificate or permit.

The Inventory is available on the NICNAS website.

Permits to import or manufacture industrial chemicals

As a means of by-passing the assessment certificate system, a permit may be granted for a person to introduce a new chemical where it is being introduced for the sole purpose of commercial evaluation, or where the total quantity of the chemical to be introduced within any 12 month period will not exceed 100 kilograms. The grant of a permit does not lead to the chemical being automatically entered onto the Inventory.

Sale of industrial chemicals

A person must not manufacture, distribute, supply, or sell any poison (other than a poison included in Schedule 6 of the *Poisons Act 1964* (Cth) ("**Poisons Act**") unless they are licensed under the Poisons Act. The Governor, on the recommendation of the Poisons Advisory Committee may also prohibit the sale, supply or use of any poison or substance either absolutely or subject to conditions.

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General duty to minimise risk

A person who is involved directly or indirectly in storing, handling or transporting dangerous goods must take all reasonably practicable measures to minimise the risk to people, property and the environment from the goods. Failure to do so results in a penalty of \$100,000, 4 years imprisonment, or both, for an individual and \$500,000 for a body corporate.

Dangerous goods are defined to include a substance or article that is prescribed by the *Dangerous Goods Safety (General Regulations) 2007 (WA)* (“*DGS Regulations*”) to be dangerous goods; or determined by the Chief Dangerous Goods Officer to be dangerous goods.

Occupational health and safety

The National Occupational Health and Safety Commission provide national standards to protect workers with respect to hazardous substances. Under the *National Code of Practice for the Labelling of Workplace Substances [NOHSC:2012(1994)]*, persons supplying hazardous substances must ensure that they are labelled in accordance with the relevant requirements of the code of practice. Containers of poisons are not to be sold unless the package or container immediately containing it is marked or labelled as prescribed.

Public water supply areas

It is an offence for a person to defile or pollute any water supply or catchment area available for human consumption. There are also offences relating to ships discharging chemicals into water (see [Fact Sheet 20: Marine Pollution](#)).

Pollution

If the use of an industrial chemical causes pollution or environmental harm, the person responsible may face significant penalties under the *Environmental Protection Act 1986 (WA)*. In addition to the pollution offences, certain premises handling industrial chemicals must be licensed by the Department of Environment and Conservation (see [Fact Sheet 27: Pollution and environmental harm](#)).

Transport of industrial chemicals

Some industrial chemicals are classified as dangerous goods under the *Dangerous Goods Safety Act 2004 (WA)* (“**DGS Act**”). Depending upon the quantity of the chemical transported, the carriage of such chemicals on public roads may require the vehicle to carry placards, protective suits for the driver or the chemical to be packaged in a certain way. Documents explaining the type of chemical being transported must be carried on all vehicles, irrespective of quantity. For further information on the rules applying to specific chemicals, contact the Dangerous Goods Division of the Department of Mines and Petroleum.

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Storage of industrial chemicals

A place where dangerous goods were, are, or are intended to be, stored or handled is defined as a "dangerous goods site". A person who has the control or management of a dangerous goods site commits an offence if the DGS Regulations require the site to be licensed; and the site is not licensed. This offence attracts a penalty of \$50,000, two years imprisonment, or both for an individual, or \$250,000 for a body corporate.

A poison must not be stored unless the immediate container in which it is stored complies with Part 2 of the *Standard for the Uniform Scheduling of Medicines and Poisons*.

Chemical spills

A person storing, handling or transporting dangerous goods (including many industrial chemicals) is required to report spills and other dangerous events to a dangerous goods officer within the Department of Mines and Petroleum as soon as practicable.

Where a chemical spill is likely to cause pollution or environmental harm (i.e. because of the quantity, characteristics of the chemical or sensitivity of the location of the spill), the owner or occupier of the land on which the spill occurred is required to inform the Department of Environment and Conservation. There are actions that the Department of Environment and Conservation can take against a person who causes pollution or environmental harm (see [Fact Sheet 27: Pollution and environmental harm](#)).

Disposal of industrial chemicals

The sanctions on causing pollution and environmental harm considered above also apply to the disposal of unused industrial chemicals. Some types of industrial chemicals are defined to be controlled waste and must only be disposed of in accordance with the requirements of the *Environmental Protection (Controlled Waste) Regulations 2004 (WA)* (see [Fact Sheet 31: Waste management](#)).

The *Poisons Regulations 1965 (WA)* make it an offence to dispose of a poison in a place or manner that is likely to constitute a risk to the public.

How can you become involved?

If you are concerned about chemical use, transport or storage, or you are concerned a spill has occurred, there are a number of things you can do:

- Contact the person causing the problem and ask them to modify their activity.
- Report the behaviour to the environmental health officer at your local government, the Department of Environment and Conservation, or the Department of Mines and Petroleum.
- Report pollution spills in water catchment areas to the Department of Water.
- Contact the Western Australian Poisons Information Centre if you believe you have been affected by a chemical.

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- Report death of native plants and animals from spraying of pesticides or herbicides to the Department of Environment and Conservation.

Contacts and further information

Department of Environmental and Conservation www.dec.wa.gov.au/ Tel: (08) 6467 5000

Emergency pollution response hotline, Tel: 1300 784 782

Environmental Protection Authority www.epa.wa.gov.au/ Tel: (08) 6467 5000

National Industrial Chemicals Notification and Assessment Scheme www.nicnas.gov.au/ Tel: 1800 638 528

Standard for the uniform scheduling of medicines and poisons www.tga.gov.au/ndpsc/susdp.htm#susdp

Department of Health and Ageing (Cth) www.health.gov.au/ Tel: 1800 020 103

Department of Health (WA) www.health.wa.gov.au/ Tel: (08) 9222 4222

Department of Health, Pesticide Safety Section Tel: (08) 9285 5500

Safe Work Australia (Cth) www.safeworkaustralia.gov.au

Department of Water www.water.wa.gov.au Tel: 6364 7600

Western Australian Poisons Information Centre, Tel: 131 126

Department of Mines and Petroleum, Dangerous Goods Division, www.dmp.wa.gov.au/6682.aspx/
Tel: (08) 9358 8001

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The Environmental Defender's Office WA (Inc)

The Environmental Defender's Office WA (EDO) is a community legal centre specialising in public interest environmental law.

The objects of the EDO include:

- to provide community groups and individuals with legal advice and representation to help protect the environment;
- to promote law reform that improves environmental protection; and
- to provide community education about environmental law.

The EDO is a non-profit, non-government organisation. The EDO receives its principal funding from the Federal and State Attorney-General's Departments.

However, these funds are limited and donations from the public provide a vital source of funds for many of our activities. Donations over \$2 are fully tax deductible. The EDO also welcomes people with a commitment to the environment to join as members.

If you require legal advice on an environmental issue or wish to find out more about the EDO, please contact us at the following address:

Environmental Defender's Office WA (Inc)

Suite 4, 544 Hay Street, Perth WA 6000

Tel: (08) 9221 3030

Fax: (08) 9221 3070

Freecall: 1800 175 542 (for WA callers outside the Perth metropolitan region)

Email: edowa@edowa.org.au

Thank you to our donors

The EDO is grateful for the funding provided by the following organisations to create and maintain these fact sheets.



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