



EPHC
Environment Protection and Heritage Council

Incorporating

NEPC

National Environment Protection Council



Principles for Better Environmental Management of Chemicals

Ministerial Agreement



June 2007



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An arrangement made between environment ministers:

The Hon Malcolm Turnbull MP, Minister for the Environment and Water Resources, Australian Government;

The Hon Phil Koperberg MP, Minister for Climate Change, Environment and Water, New South Wales;

The Hon John Thwaites MP, Minister for Water, Environment and Climate Change, Victoria;

The Hon Lindy Nelson-Carr MP, Minister for Environment and Multiculturalism, Queensland;

The Hon David Templeman MLA, Minister for the Environment; Climate Change; Peel, Western Australia;

The Hon Gail Gago MLC, Minister for Environment and Conservation, South Australia;

The Hon Paula Wriedt MHA, Minister for Tourism, Arts and the Environment, Tasmania;

Mr Jon Stanhope MLA, Minister for the Environment, Water and Climate Change, Australian Capital Territory; and

Ms Marion Scrymgour MLA, Minister for Natural Resources, Environment and Heritage, Northern Territory.

The Environment Protection and Heritage Council believe the sound management of chemicals throughout their life-cycle is essential if we are to achieve sustainable development, including improvements to the environment and human health.

Environment Ministers are resolved to continue working with industry, the community and governments to promote safe and sustainable production and use of chemicals in Australia.

To this effect, Environment Ministers endorse a national approach for better managing the environmental impacts of chemicals – **NChEM** – **National Chemicals Environmental Management**.

NChEM will consist of the following linked action areas:

1. **Environmental Risk Assessment** – strengthening our ability to assess chemical risks by enhancing consultative mechanisms among national chemical assessment agencies and state and territory environment agencies.
2. **Environmental Controls** – improving approaches to and consistency in environmental regulation and management of chemicals.
3. **Feedback of Information** – improving our understanding of chemical impacts and the feedback of information to the national assessment agencies.
4. **Prioritising Action** – establishing an inclusive and transparent process to identify and deal with higher concern chemical issues.

Environment Ministers agree to a staged approach to development and implementation of **NChEM**, with a focus on industrial chemicals and some refinements to agricultural and veterinary chemicals. The package of actions to implement the staged approach is set out in the **Chemicals Action Plan for the Environment** attached to this agreement.

Environment Ministers agree to the following principles to guide Environment Agencies:

- i. improve information and consultation links with national chemical regulators (industrial chemical and agvet) so that environmental considerations are clearly, consistently and comprehensively articulated
- ii. improve coordination with national chemical regulators (*industrial chemical and agvet*) so that environmental considerations are integrated in decision making on the management of chemicals
- iii. improve coordination and enhance synergies with State, Territory and Australian Government counterparts with chemicals management responsibilities
- iv. use best practice approaches when undertaking environmental risk assessments of chemicals and make the methodology transparent to the community and industry
- v. raise industry and community confidence in the effective and efficient environmental management of chemicals
- vi. improve and target mechanisms to collect information on the environmental impacts of chemicals so that governments, industries and the community can make more informed decisions about chemicals and the environment, noting any linkages with health and trade issues
- vii. prioritise using a transparent and inclusive process, environmental chemical issues that require consistent national action
- viii. streamline the environmental regulation of higher risk chemicals to deliver sound and effective outcomes for the environment, industry and the public without unnecessary red tape.

Environment Ministers support COAG's National Reform Agenda and commit to working with COAG to bring system reforms that will help to reduce unnecessary red tape while maintaining or improving protection for the environment.

The Environment Protection and Heritage Council commits to improve, simplify and increase the effectiveness of all elements of NChEM over time as any changes may be needed.

This Agreement should be read in conjunction with the package of actions to improve environmental chemical outcomes, the Chemicals Action Plan for the Environment.

The Environment Protection and Heritage Council notes the Strategic Approach to International Chemicals Management, to which Australia is a party, and notes that NChEM is one means of translating environmental elements of SAICM objectives into action in the domestic Australian management of the environment and chemicals.

Notes:

1. This Agreement will come into force upon its signature by the last of the Environment Ministers who signs this Agreement;
2. Environment Ministers will be advised by the EPHC Chemicals Working Group, via EPH Standing Committee on the development and delivery of the Chemicals Action Plan for the Environment.

In WITNESS WHEREOF this Agreement has been respectively signed for and on behalf of the parties on the second day of June two thousand and seven.

The Hon Malcolm Turnbull MP

Minister for the Environment and Water Resources
(Australian Government)

The Hon Gail Gago MLC

Minister for Environment and Conservation
(South Australia)

The Hon Phil Koperberg MP

Minister for Climate Change, Environment and Water
(New South Wales)

The Hon Paula Wriedt MHA

Minister for the Tourism, Arts and the Environment
(Tasmania)

The Hon John Thwaites MP

Minister for Water, Environment and Climate Change
(Victoria)

Mr Jon Stanhope MLA

Minister for the Environment, Water and Climate Change
(Australian Capital Territory)

The Hon Lindy Nelson-Carr MP

Minister for the Environment and Multiculturalism
(Queensland)

Ms Marion Scrymgour MLA

Minister for Natural Resources, Environment and Heritage
(Northern Territory)

The Hon David Templeman MLA

Minister for the Environment; Climate Change; Peel
(Western Australia)

NATIONAL FRAMEWORK FOR CHEMICALS ENVIRONMENTAL MANAGEMENT - NChEM

CHEMICALS ACTION PLAN FOR THE ENVIRONMENT

The NChEM Chemicals Action Plan for the Environment is attached. The plan contains: some immediate deliverables that EPHC can announce as well as: actions that environment portfolios will take now to improve chemical management processes; action items for further detailed development and costing with stakeholders; and development of proposals to submit to the Productivity Commission and COAG as part of its consideration of broader (not just environmental) chemical management reform.

Action Plan Summary

For immediate delivery:

- Public release of Environmental Risk Assessment Guidance Manuals for industrial and agricultural and veterinary chemicals.

The Manuals are guidance documents that set out nationally agreed best practice for conducting environmental risk assessments for chemicals. The Manuals make the assessment process transparent to stakeholders for the first time in Australia and are keenly awaited by industry and the community. The Guidance Manuals provide information on:

- the steps taken to carry out an environmental risk assessment
- why data are needed and how they are used
- how international considerations are taken into account, and
- how risk assessors come to their recommendations about risk management actions

The Manuals should ensure that the bulk of routine chemical environmental assessments can be completed by the national assessors (staff within the Australian Government Department of the Environment and Water Resources) with little need for additional interaction from other jurisdictional environment agencies. This will enable jurisdictional resources to be directed to higher risk chemical assessments. The Manuals are to be released for public comment. *Copies can be obtained from Department of the Environment and Water Resources (DEW) at <www.environment.gov.au>.*

For action now:

The Plan lists those actions that environment portfolios will pursue immediately. These actions relate primarily to improvements to intergovernmental consultation and information flow processes and have been agreed with stakeholders.

Examples are:

- DEW to consult early with State/Territory counterparts when assessing chemicals of environmental concern, so that State/Territory on-the-ground experience can be incorporated into the assessment process
- State/Territory environment agencies to provide information about adverse environmental impacts to national regulatory bodies
- Chemicals Working Group to commence work on drafting a manual of environmental controls – clearly setting out environmental management tools and how they are/can be used to control environmental risk across the whole life cycle of the chemical(s). This would include, where possible, jurisdictions developing and reaching agreement on preferred wording of control statements relating to waste disposal, discharge to receiving waters etc, and
- Improved environment agency/NICNAS communication, information exchange and consultation arrangements to be put in place on a trial basis.

For future work program – involving further dialogue with external stakeholders:

The Plan lists those issues where implementation details still need further consideration and analysis of their cost effectiveness. The Working Group proposes to carry these forward in collaboration with stakeholders (see consultation below). Examples are:

- Work with NICNAS to scope the feasibility of a centralised national approach to gathering, storing and utilising information on industrial chemicals once they have been made available for use. This could include information from governments, industry and the public on adverse environmental impacts; quantities being used in particular industry sectors or specific information from industry in relation to assumptions made during the assessment. NICNAS is leading this work under its own review program.
- Refine criteria for setting environmental chemical policy priorities and pilot the agreed system using examples provided by stakeholders.
- Work with DEW in developing the environmental monitoring database to ensure that it can incorporate information on environmental chemical impacts and usage. Additional discussions are being sought by NChEM stakeholders in relation to scoping of any future monitoring activities.

For input into COAG National Reform Agenda

The Council of Australian Governments (COAG) has established a Ministerial Taskforce to review chemicals and plastics in the context of better regulation/reduced red tape. The Taskforce will be informed by a Productivity Commission (PC) study.

EPHC and the Working Group have assembled significant amounts of information about chemical management systems in Australia, identified issues in consultation with large numbers of stakeholders over several years and developed proposals for environmental reform. It is proposed that this work be submitted to the COAG Taskforce and the Productivity Commission for their consideration.

It is further proposed that EPHC's views on a simplified regulatory arrangement for environmental management of industrial chemicals be submitted to the PC and COAG.

Finalisation of environmental chemical management regulatory reform will need to await COAG Taskforce outcomes. In the interim, the Working Group will continue to refine its proposals and provide them as input to the COAG process. It is important to note that the types of measures being proposed by NChEM to fill the gaps in environmental management of chemicals will still need to be put in place to prevent environmental harm (and harm to human health through environmental exposure), and contribute to nationally consistent and coordinated approaches, whatever systems/agencies are in place to manage chemicals at the Australian Government, State and Territory levels.

GLOSSARY

AERP	Adverse Experience Reporting Program for agricultural chemicals, administered by the APVMA
Agricultural and veterinary chemicals	Includes pesticides such as herbicides, insecticides, fungicides, termiticides and nematocides, and veterinary medicines
Agvet chemicals	agricultural and veterinary chemicals
APVMA	Australian Pesticides and Veterinary Medicines Authority
COAG	Council of Australian Governments
DEW	Australian Government Department of the Environment and Water Resources
Environment agencies	Departments of the Environment and Environment Protection Authorities of the State, Territory and Australian governments
EPHC	Environment Protection and Heritage Council
Existing chemicals	Industrial and agvet chemicals introduced into Australia by industry prior to 1990 for industrial chemicals (the year NICNAS was established) and prior to 1994 for agvets (the year APVMA was established). Under both the NICNAS Act and AgVet Code, these existing chemicals were permitted to be used in Australia without having to be assessed by NICNAS or the APVMA.
Industrial chemicals	Any chemical used for an industrial use (including an industrial process or product, or consumer product such as cosmetics) and other than agvet chemicals, therapeutic or pharmaceutical chemicals, food additives or radioactive chemicals
National chemicals regulators	NICNAS and APVMA
NChEM	National framework for Chemicals Environmental Management
New chemicals	Industrial chemicals introduced into Australia after 1990
NICNAS	National Industrial Chemicals Notification and Assessment Scheme
SAICM	Strategic Approach to International Chemicals Management

NATIONAL FRAMEWORK FOR CHEMICALS ENVIRONMENTAL MANGEMENT - NChEM

CHEMICALS ACTION PLAN FOR THE ENVIRONMENT

NChEM KEY AREA : Environmental Risk Assessments			
Objectives: A. To promote and ensure environmental risk assessments are consistent with international best practice and that all stakeholders can access (and can comment on) information on how those assessments are carried out. B. To ensure that on-the-ground experience of state and territory agencies is provided upfront into environmental risk assessments and not at the end of the process so that practical and appropriate risk management controls are recommended for environmental protection.			
Action	Responsibility	Milestone	
<u>A. Promote and Use Environmental Risk Assessment Guidance Manuals</u> A(i): Publicly available guidance manuals for comment A (ii): Manuals are to be used when undertaking environmental risk assessments of new and existing chemicals. <i>(N.B. Stakeholders will be able to see that the risk assessment guidance is being followed via publicly available NICNAS and APVMA reports).</i> A (iii): Guidance manuals are to be living documents – comments can be made at any time. Formal review every three years	EPHC DEW Stakeholders comments to DEW Formal review: lead DEW Input from: the EPHC Chemicals Working Group stakeholders	June 2007 Commence June 2007 Ongoing Every three years	

Action	Responsibility	Milestone
A(IV): Action on environmental technical issues (e.g. issues out of development of manuals or emerge from individual assessments, comments by stakeholders on manuals) will be led by DEW, as per procedures developed in B	DEW	Commence June 2007
B. Regular and Co-ordinated Environmental Input B(i): Develop procedures for regular and coordinated input into environmental risk assessments and streamlined intergovernmental interactions. Procedures are to include: • Australian Government consults early with environment agencies - before environmental risk assessment reports are sent to national regulators (e.g. NICNAS/APVMA) for public comment (<i>this applies only for higher concern chemicals that may require environmental risk management controls at the State and Territory level</i>). • State and territory environment agencies provide information to chemical risk assessors when asked and within statutory timeframes. Information could include advice on how specific controls might be implemented or adverse incidents involving a particular chemical. • DEW to be the central point to provide coordinated environmental advice back to NICNAS and APVMA. • Chemical issues are linked and integrated with other policy areas such as waste, water and air. • Technical issues to be addressed and developed in consultation with state and territory environment agencies. Initial work could commence on – Review of STP model currently used, particularly the aspects related to application of sewage sludge and effluent to land – Confirmation of POPs criteria to be used in assessments – development of landfill model for use in assessments – review of adequacy of disposal options covered in assessments – input to technical issues related to policy regarding future management of persistent and bioaccumulative chemicals • Environment agencies to have input into environmental criteria used in priority setting processes by national chemical regulators (APVMA and NICNAS) when being reviewed.	EPHC Chemicals Working Group	Ongoing – implement once agreed between the relevant agencies.

NChEM KEY AREA : Environmental Controls			
Objective: C. To improve environmental controls for chemicals management and achieve national consistency.			
Action	Responsibility	Milestone	
<u>C. Achieving national consistency</u>			
<u>Short to medium term:</u>			
C (i): All jurisdictions are to implement the environmental controls recommended in industrial chemical assessment reports (<i>where such controls have been negotiated with environment agencies</i>) to achieve nationally consistent outcomes.	EPHC	Commence June 2007	
C (ii): Jurisdictions are to report back to EPHC Chemicals Working Group on the implementation of the environmental risk management controls until there is a legislative link in place (<i>Working Group also to report to NICNAS on implementation of controls</i>).	All jurisdictions	Commence June 2007	
C (ii): Develop a manual of environmental controls to assist chemical assessors, national regulators and stakeholders understand the current tools that are in place and how they are used – to take into account when selecting the right tool for the level of risk.	EPHC Chemicals Working Group	Commence June 2007	
C (iii): Manuals are to be publicly available. (N.b. Stakeholders can provide input at any time to the Working Group (e.g. to add information regarding voluntary industry management activities or community education programs). Working Group to advise on changes made).	Release by EPHC	Second half – 2007	
C (iv): Formal update of Manuals	EPHC Chemicals Working Group	Every three years	
C (iv): Scope in collaboration with NICNAS the feasibility of using the Australian Inventory of Chemical Substances as a ‘one stop shop’ for information about environmental controls for industrial chemicals	EPHC Chemicals Working Group to nominate representatives to NICNAS working group on AICS	In accordance with NICNAS Existing Chemical Review Implementation Plan	

Action	Responsibility	Milestone
C (v): Refine proposal for the proposed regulatory link between industrial chemical assessment recommendations and state and territory environment agencies' implementation of controls. The Working Group will consider possible approaches for a legislative mechanism to make NICNAS environment controls mandatory/automatically adopted in states and territories, informed by input from the roundtable discussion. C (vi): EPHC to provide input on the regulatory link, and express support for NICNAS to have a full suite of tools to ensure appropriate management of environmental impacts, into the COAG Ministerial Taskforce and associated Productivity Commission study. C(vi): Implement an appropriate legislative link in each jurisdiction that achieves national consistency for environmental chemical controls	EPHC Chemicals Working Group EPHC EPHC/COAG	In accordance with COAG Ministerial and Productivity Commission study timeframes (dependent on outcomes from COAG Ministerial Taskforce)

NChEM KEY AREA : FEEDBACK OF INFORMATION

Objective:

D.To improve information flow and feedback mechanisms so that governments, industry and the community can make more informed decisions about chemicals and the environment.

Action	Responsibility	Milestone
<u>D. Improving information and feedback (closing the loop)</u> D(i): Australian Government Department of Environment and Water Resources to maintain currency of public reference guide and gateway. D(ii): State and Territory environment agencies to report any available environmental information on adverse impacts for industrial chemicals to NICNAS on request.	DEW State and Territory environment agencies	Ongoing Commence June 2007 Ongoing

Action	Responsibility	Milestone
D(iii): State and Territory environment agencies to report any environmental information on adverse impacts from agvet chemicals through the existing AERP.	State and Territory environment agencies	Commence June 2007 Ongoing
D(iv): Chemicals Working Group to work with APVMA and NICNAS regarding the information that would be most useful to national assessments and management, and to review their data holdings to see if any such data are held	EPHC Chemicals Working Group	Commence June 2007
D(v): National Chemicals Working Group to work with the Australian Government Department of the Environment and Water Resources on the development of the National Chemical Monitoring Database to ensure NChEM needs are fully considered. <i>(n.b - Stakeholders will be able to provide input on the database directly to DEW through established consultation processes)</i>	EPHC Chemicals Working Group	Ongoing
D(vi): Work with industrial chemicals regulator (NICNAS) to scope the feasibility of a nationally coordinated system of surveillance, monitoring and post market reporting. This will be achieved by: • EPHC Chemicals Working Group to nominate representative to participate on NICNAS Working Group • ensuring that all relevant environmental issues are well understood by participants and fully considered during the design of any system.	EPHC Chemicals working Group	In accordance with NICNAS Existing Chemical review Implementation plan
D(vii): Work with NICNAS to improve information about chemicals on the Australian Inventory of Chemical Substances (<i>links to scoping options for a one stop shop</i>) and encourage NICNAS to develop educational material and information relevant to the community and industry, as needed.	EPHC Chemicals Working Group	In accordance with NICNAS Existing Chemical review Implementation plan

NChEM Key Area : Prioritising Action			
Objective: E. Improve and streamline processes to enable priority and emerging environmental chemical issues to be identified and dealt with in a coordinated manner.			
Action	Responsibility	Milestone	
<u>E. Identifying, prioritising and dealing with chemical issues of environmental concern in a strategic and proactive way.</u> E(i): Refer individual chemical issue or closely related groups of chemicals (<i>e.g. brominated flame retardants</i>) to APVMA and NICNAS for consideration	Chair of EPHC Chemicals Working Group. Chair of EPHC Chemicals Working Group to request advice on action taken, including any key forthcoming steps and timeframes by national regulators.	Ongoing	
E(ii): Referral of broader policy issues to relevant Ministerial Councils, working groups or agencies that have the lead on the specific issues of concern. (<i>e.g. spray drift management being considered by the APVMA; applicability in Australia of results from Canada's major industrial chemicals screening program being considered by NICNAS; national training requirements for use of restricted pesticides being considered by Primary Industries Ministerial Council etc</i>).	Chair of EPHC Chemicals Working Group. Chair to seek advice on action/timeframes and incorporation of environmental issues.	Ongoing	
E(iii): Develop mechanism and priority list for emerging and existing chemical issues of environmental concern. Mechanism to include establishment of criteria to determine the priorities and then development of a work plan that deals with the selected highest priorities.	EPHC Chemicals Working Group Seek input from: • NChEM Advisory Group • NICNAS industry and community representative forums • APVMA industry and community representative forums.	Commence June 2007 – Proposal submitted to EPHC – second half of 2007.	

NChEM Key Area : Communication and Evaluation			
Objectives: F. To improve information to the community about chemicals G. Ensure opportunities are provided for further public participation in implementation of NChEM. H. Ensure NChEM is being implemented effectively and providing the expected benefits to coordinated and more sustainable chemicals management.			
Action	Responsibility	Milestone	
<u>F.Communication about chemicals</u> F(i): Finalise pilot household education program resource package to submit to EPHC for consideration.	Lead – NSW DEC	August 2007	
<u>G. NChEM Consultation strategy</u> G(i): Develop appropriate consultation strategy for implementation of NChEM in consultation with stakeholders, including provision of advisory group	EPHC Chemicals Working Group	Commence June 2007	
<u>H. Implementation and Effectiveness</u> H(i): EPHC Chemicals Working Group to be continued, to oversee implementation of the action plan (including coordination with COAG Ministerial Taskforce). H(ii): EPHC Chemicals Working Group to report to EPHC on implementation of NChEM and its effectiveness in promoting ecological sustainable chemicals management.	EPHC Chemicals Working Group EPHC Chemicals Working Group	Progress Report – April 2008 Every two years from 2008	