

Review of the Environmentally Hazardous Chemicals Act 1985

BACKGROUND PAPER



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ABOUT THIS REVIEW

The *Environmentally Hazardous Chemicals Act 1985* (the EHC Act) is almost 20 years old. Changes to the context within which chemicals are managed have taken place and have led to a need to consider updating the EHC Act to remove duplication and improve the efficiency and effectiveness of chemicals management in NSW. Chemicals management is under the microscope internationally and nationally, and NSW needs to ensure it is well placed to face emerging challenges.

When it commenced in 1985, the EHC Act provided, for the first time in Australia, the ability to control a chemical of environmental concern throughout its entire life cycle. The EHC Act established a formal process to assess chemicals and, where necessary, to impose controls on a chemical, or group of chemicals, by making a Chemical Control Order (CCO). At the time it also provided the main tools for regulating contaminated premises.

Since the EHC Act was introduced, there have been significant developments in chemicals management. For example, the introduction of the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) in 1989 meant that the EHC Act assessment provisions have not been used as a broad assessment program. There is a need to ensure that NSW chemicals legislation clearly supports, rather than duplicates, national chemical assessment schemes.

The EHC Act remains a valuable legislative tool for minimising environmental risks from hazardous chemicals and chemical waste in NSW, and to influence national processes. This review will consider whether the EHC Act would benefit from the establishment of clear objectives, minor modifications to reduce duplication, clarification of interactions between the EHC Act and national assessment schemes, and some minor amendments to reflect modern approaches to environmental management.

This paper discusses the above issues and others that affect the efficient and transparent operation of the EHC Act. A number of key questions are boxed throughout the paper. We are seeking community responses to these and to any other matters relevant to the operation of the Act.

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Comments must be received by 22 September 2003.

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INTRODUCTION

Chemicals are present in every aspect of our daily lives and have delivered substantial benefits to agriculture, medicines and manufacturing. However, their capacity to provide significant benefits carries with it a potential risk of harm if they are not used and managed with care.

Human health, environmental quality and economic development depend on effective systems that enable Australians to use chemicals safely and sustainably. The impacts of chemicals on the environment and human health are closely linked: contamination of the environment can affect human health, and adverse human health reactions can warn that environmental contamination has occurred. Effective systems are those that identify the potential risks of chemical exposure – to the environment and human health – and provide governments, industry and the community with the right tools to reduce and manage those risks.

ROLES AND RESPONSIBILITIES IN CHEMICAL REGULATION IN AUSTRALIA

Commonwealth, States, territories and local government authorities all have responsibilities in relation to chemicals regulation and management. Among the spheres of government, responsibilities for chemicals management are generally aligned with stages in the life cycle of a chemical.

Commonwealth agencies are responsible for assessments and, in some cases, registration of therapeutic and industrial chemicals, food additives, and agricultural and veterinary (agvet) chemicals.

There are also national frameworks for managing chemical risks in transport and workplaces, setting residue standards in food produce, limiting access to certain poisons, and managing aspects of environmental quality and monitoring. These frameworks provide consistent standards for implementation by the States and territories. States and territories regulate chemicals after they come into use: specifically, their transport, storage, use, reuse and ultimate disposal.

Local government has a role in implementing some State and Territory regulations relating to chemicals – in particular, those concerned with small to medium industry and aspects of waste disposal.

Industry and community roles

Manufacturers and industrial users of chemicals have broad responsibilities to ensure that the potential adverse impacts of their activities on human health and the environment are minimised. They need to comply with regulatory frameworks that may be prescriptive (for example, providing data for assessments or providing Material Safety Data Sheets (MSDS)) or outcomes-focused (for example, some environmental licence conditions), as well as general legislated or common law requirements to act responsibly and to cause no harm to humans or the environment.

Industry also carries Occupational Health and Safety (OHS) responsibilities to provide safe workplaces, and training where appropriate, to ensure that workplace exposure to chemical risks is reduced and managed appropriately.

Some industry sectors have developed codes of practice (for example, the Responsible Care™ program) to guide members in discharging their responsibilities beyond strict regulatory requirements. Other sectors have taken part in specific product stewardship programs aimed at reducing the post-consumer impacts of their products (for example, the *drumMUSTER* program for collecting farm chemical containers). These initiatives reflect growing trends, both in Australia

and overseas, towards examining the life-cycle impacts of products and extending or sharing producer responsibility for those impacts beyond the point of sale.

Many industrial and agvet chemicals are available for household use as cleaners, insecticides, or pool, pet and garden products. Therapeutic chemicals are also in common household use, with or without prescriptions. Members of the community are responsible for using these chemicals safely and in accordance with directions, and for disposing of any excess chemicals responsibly. Special collection services or drop-off networks are available in many areas for household hazardous wastes and unwanted medicines (for example, the RUM program).

NSW chemicals management legislation administered by the EPA

NSW has a range of legislation relating to chemicals, some of which enacts and gives support to national management systems (for example, OHS legislation). Others are stand-alone Acts for the purposes of NSW management only. The NSW Environment Protection Authority (EPA) administers Acts that seek to minimise environmental harm from the production, use, transport, storage and disposal of chemicals. Over recent years, significant advances in policy and legislation for emissions, discharge controls and waste management in NSW have been realised. Below is an outline of those Acts that support the role of the EPA as a chemicals regulator.

- The ***Protection of the Environment Operations Act 1997 (POEO Act)*** provides key mechanisms for protecting the environment and improving environmental outcomes in NSW. The POEO Act deals with pollution to air, water and land. It provides a regulatory regime for waste management and specifies licensing requirements for activities involving hazardous waste generation, storage and transport. The POEO Act contains a range of offences and enforcement powers. The POEO Act is currently the subject of a separate review.
- The ***Pesticides Act 1999*** contains provisions to manage and control the use of pesticides in NSW after the point of sale. The provisions apply to the use of all pesticides and require users to not only strictly follow product label directions, but also to cause no harm through their use of chemicals. Under the Pesticides Act, enforcement powers include the ability to issue penalty notices and to prosecute for offences.
- The ***Contaminated Land Management Act 1997 (CLM Act)*** establishes a legal framework that enables the EPA to regulate the assessment and remediation of contamination that poses, or is likely to pose, a significant risk of harm to human health or the environment. The CLM Act specifies who is responsible for assessing and remediating the contamination; gives the EPA a range of duties and powers to ensure that the contamination is addressed; and establishes a scheme to ensure that the public has appropriate information about it.
- The ***Waste Avoidance and Resource Recovery Act 2001 (WARR Act)*** sets up the legal framework for state-wide minimisation, recycling and reuse of waste. The WARR Act encourages the most efficient use of resources, reduced environmental harm, and continual reduction in waste generation in line with the principles of Ecologically Sustainable Development. It also provides for the introduction of extended producer responsibility (EPR) schemes that extend manufacturers' and suppliers' responsibilities for their products to the post-consumer stage of the product's life cycle.
- The ***Road and Rail Transport (Dangerous Goods) Act 1997*** regulates the transport of dangerous goods (other than explosives) by road and rail as part of a national scheme for road transport.
- The ***Environmentally Hazardous Chemicals Act 1985 (EHC Act)*** is the State's key chemicals management law. The EHC Act provides a flexible legal framework capable of regulating priority/high-risk chemicals throughout their entire life cycles.

The main provisions of the EHC Act relate to:

- a statutory chemical assessment function
- the regulation and control of chemicals via Chemical Control Orders, licences and regulations
- establishment of a statutory advisory group, the *Hazardous Chemicals Advisory Committee* (HCAC)
- regulation of contamination of premises (now part of the CLM Act).

When established, the EHC Act was a landmark piece of legislation and at the forefront of legislative reform, providing the main tools for the effective regulation of chemicals throughout their whole life cycles. Many features of the EHC Act have, however, been overtaken by events, notably:

- In 1989, the Commonwealth introduced the *Industrial Chemicals (Notification and Assessment) Act*, which established the National Industrial Chemical Notification and Assessment Scheme (NICNAS). As a result, the broad assessment provisions of the EHC Act were not enacted, leaving the control provisions in place.
- In 1997, NSW introduced the *Contaminated Land Management Act 1997* to provide a comprehensive framework for regulating contaminated sites. As a result, the EHC Act is no longer used for this purpose.
- the *Protection of the Environment Operations Act* (POEO Act) was enacted in 1997, with provisions for regulating chemical emissions to air, discharges to water and waste management. The POEO Act also contains a broad suite of compliance and enforcement tools.

THE NEED FOR REVIEW

The international and national context

Recently, there have been growing community and scientific calls for a better understanding of chemical risks and better tools to reduce and manage them.

Issues of concern to the community include access to information about exposure to chemical use and known adverse health effects. Scientists are becoming increasingly concerned about the potential impacts of a range of chemicals on human and animal endocrine systems. New evidence is also emerging about the persistence and bioaccumulation in the environment of some chemicals that have been used widely for some time (for example, brominated fire retardants found in fabric treatments and some electrical appliances; and perfluorooctanoic acid (PFOA), used in the manufacture of non-stick cookware).

Although regulatory agencies are actively engaged in international work in these areas, the community wants early information on these issues and the capacity to participate in decision-making processes about the use and management of these chemicals. Industry wants regulatory responses and management systems that are proportionate to risks and that support good practice. They do not want regulatory systems that create unjustified barriers to trade.

In response to this growing concern, governments throughout the world are working towards systems that support viable chemical and manufacturing industries operating consistently within the principles of Ecologically Sustainable Development.

The 2002 World Summit on Sustainable Development called for renewed efforts to establish internationally harmonised systems to assess and classify chemicals and to facilitate the exchange of information. The European Union and the Organisation for Economic Cooperation and Development are focusing on chemical management as a key issue to address in furthering trade and environmental protection. These efforts will lead to the rapid expansion of information about chemicals and their impacts, as well as a need for regulatory systems that drive rapid risk reduction when new risks are identified.

At a national level, in 2002 the Environment Protection and Heritage Council (EPHC) established a National Chemicals Taskforce (the Taskforce) to reassess Australia's chemical management frameworks and scope the issues associated with a possible national approach to ecologically sustainable chemical management and regulation. The Taskforce has submitted a report to the EPHC, outlining a number of issues and existing gaps requiring action to effectively accelerate Australia's progress towards best practice in chemicals management. The report can be accessed at www.ephc.gov.au.

Following the Taskforce's report, it is timely for NSW to reassess its own chemical management framework to ensure it has the right tools for current and emerging chemicals regulatory issues. This will in turn ensure that its chemical regulation framework leads to safe and sustainable use of chemicals in NSW.

One of the key findings of the Taskforce was the need for mechanisms at the State and territory level that could quickly respond to the findings of national chemical assessments. NSW can use (and has used) the Chemical Control Order provisions available under the EHC Act to rapidly respond to national calls to action.

The underlying mechanisms of the EHC Act to regulate a chemical throughout its entire life cycle continue to provide a useful approach to ensuring desirable environmental outcomes. The review process provides the opportunity to consider:

- whether the EHC Act clearly articulates NSW policy objectives in relation to chemicals management
- whether the link between national assessments and NSW regulation is effective
- whether the tools in the EHC Act are adequate and appropriate, and complement existing legislation provisions
- what consultative mechanisms are optimal for chemicals regulation issues.

THE ISSUES

Although this paper focuses on regulatory issues, it is important to recognise that the EPA's role in relation to chemical management also encompasses a policy function. The policy function can include broad approaches, such as articulating environmental priorities in relation to chemicals in NSW; influencing and contributing towards national assessment processes so that environmental outcomes can be achieved; identifying issues that require management at the State level; fostering innovation through industry partnerships; informing the community about chemicals and personal risk reduction; and working with the community on issues of concern.

The EHC Act provides the legislative underpinning for the EPA's regulatory role. This review provides the opportunity to consider whether the EHC Act provides an effective framework that:

- is consistent with good regulatory practice
- provides a firm foundation for action
- is integrated with national chemical assessment and management schemes

- facilitates rapid and flexible responses to emerging issues that may adversely affect public health and/or the environment
- supports accountability to the community
- supports continuous improvement in the environmental performance of industries that produce or use chemicals.

This paper is designed to seek views on whether the EHC Act provides such a framework or whether changes may be needed to the Act.

Purpose of the EHC Act

As noted above, there are several pieces of legislation in NSW that support the EPA's regulatory function in relation to aspects of chemical use.

For example, the use of pesticides is already dealt with in NSW by way of a separate and stand-alone legislative regime – the *Pesticides Act 1999* – that implements the State's obligations under national frameworks for agricultural and veterinary chemicals. The EPA has found this approach to be very effective in promoting the safe use of pesticides and ensuring that objectives specific to pesticide use and management are clear and accessible to the public and industry. However, other legislation is still required to manage end-of-life pesticides issues. For example, the POEO Act contains general waste provisions, and a Chemical Control Order under the EHC Act provides for the management of obsolete persistent organochlorine pesticides such as DDT.

The EHC Act provides management options not available under other legislation. For example, the full life-cycle approach of Chemical Control Orders (see later discussion) provides a one-stop-shop management tool that complements the emissions, wastes and discharges focus of the POEO Act.

Issue:

Does a separate chemicals Act (the EHC Act) incorporating life-cycle management tools remain the most effective way to improve environmental outcomes relating to hazardous chemicals?

Objectives of the EHC Act

Clear objectives help to promote consistency and certainty in the application of legislation. The 1997 Council of Australian Governments principles of good regulation note the need for regulation to have 'clearly identifiable outcomes and, unless prescriptive requirements are unavoidable in order to ensure public safety in high-risk situations, performance-based requirements...'. The EPHC National Chemicals Taskforce report also noted the need for clearly defined objectives as a feature of best practice chemicals regulation. The EHC Act currently contains no objectives. In the absence of specific objectives the EPA has implemented the Act in accordance with its corporate goal for hazardous substances: to minimise the adverse impacts of chemicals and hazardous substances on the environment and public health.

There may be value in setting out clear objectives within the EHC Act. Objectives could help to clarify the role expected by the community of the NSW Government in relation to chemical management. Clear objectives could also help in monitoring the effective management of chemical risks by providing a benchmark for future reviews.

Agreed objectives could guide the development of broader policy approaches to chemicals management through mechanisms that promote:

- risk reduction, for example through life-cycle management and product stewardship of chemicals
- substitution of hazardous chemicals with more benign products
- community awareness, understanding and responsibility with regard to chemicals.

Issues:

Should the EHC Act contain objectives?

What are appropriate objectives for legislation focusing on chemical risks to the environment?

Are the terms of the EHC Act appropriate for meeting the objectives you propose?

Operation of the EHC Act

Chemical assessments

The EHC Act contains provisions for a formal chemical assessment function for the EPA. These provisions were not implemented following the agreement of the Commonwealth to institute a national industrial chemicals assessment scheme (now known as NICNAS).

NICNAS, together with the national assessment schemes for agricultural and veterinary products (Australian Pesticides and Veterinary Medicines Authority); food additives (Food Standards Australia and New Zealand) and pharmaceuticals (Therapeutics Goods Administration), provides a comprehensive national structure for the assessment of chemicals, and there may not be a need for the EHC Act to provide for a statutory assessment function for NSW.

The EPA has used the Chemical Control Order (CCO) provisions (see later discussion) of the EHC Act to implement appropriate regulatory action in response to national plans to manage environmental risks from chemicals assessed by the Commonwealth. For example, a CCO was amended to give effect to the recommendations of the *Polychlorinated Biphenyl Management Plan* published by the Australian and New Zealand Environment and Conservation Council in 1996.

There may be value in making explicit, in the legislation, the intention that it be used to implement the outcomes of national processes by establishing a clear link between national assessment recommendations and regulatory action under the EHC Act.

Issues:

Should the EHC Act provide a direct link between national assessment processes and NSW regulation?

Is there a need for NSW to maintain a statutory assessment function?

Are there circumstances that should allow NSW to make chemicals management regulations other than in response to the national assessment schemes?

Methods/tools for achieving environmental outcomes

The EPA employs a range of approaches to achieve desired environmental outcomes. These can include specific regulatory action, such as via a regulation or order, the prosecution of offences, licensing, and the imposition of penalty notices. They can also include non-regulatory means such as education, the use of economic instruments, and industry and community partnerships.

Currently the EHC Act provides for the making of regulations and chemical control orders and the issuing of licences. EHC Act regulations set general requirements for fees, provision of information, exemptions and penalties. Chemical Control Orders set controls for specific chemicals both through generic requirements and by requiring that certain processes be subject to particular licence conditions. Licences under the EHC Act set further requirements for particular sites. (See Figure 1.)

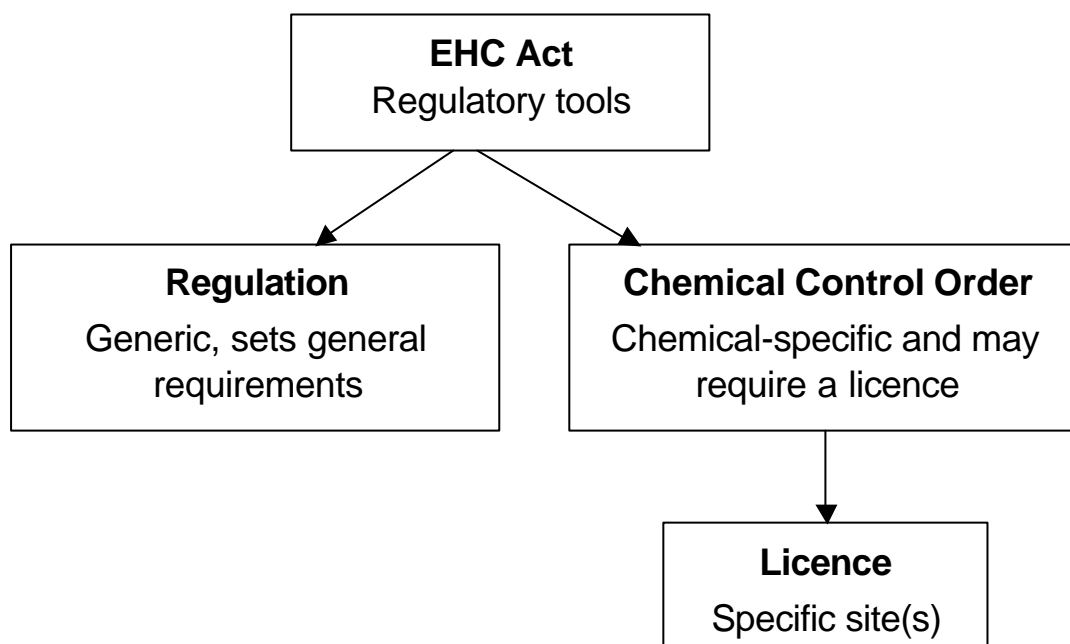


Figure 1. Tools currently used to achieve outcomes under the EHC Act

Regulations. Regulations impose requirements on a whole class of people identified in the regulation (for example, an industry sector), as opposed to individual premises as is the case with a licence. A regulation is most appropriate where operations are very similar across an industry sector and environmental goals can be satisfactorily achieved by imposing the same requirements on everyone. In terms of chemicals management, regulations could be used to ensure consistent outcomes across all chemical users (for example, keeping records) or to ensure consistent environmental outcomes from the use of chemicals that have certain common properties (for example, those with acute aquatic toxicity).

Under the EHC Act, regulations can cover a wide range of matters. However, to date the regulation-making function of the EHC Act has not been used (except for administrative purposes in relation to setting the terms of committee operations, fees, forms and time limits for certain activities).

Some chemical management legislation has been used to adopt a broader approach to regulation. For example, the regulation-making power of the *Pesticides Act 1999* has been used to set down generic requirements for all pesticide users in relation to the keeping of records of pesticide use, and a generic training requirement will shortly be introduced.

Issues:

Are the regulation-making powers of the EHC Act still appropriate?

Is there scope for more generic regulation of hazardous chemicals?

Chemical Control Orders (CCOs). CCOs are the primary regulatory tools of the EHC Act for responding in a rapid and flexible manner to emerging chemical issues. They are the key tools available to NSW if there is a need to impose management restrictions on a specific chemical or class of chemicals. This could, for example, be the mechanism by which NSW implements appropriate recommendations from national assessment schemes such as NICNAS.

A CCO can be made by the EPA, either upon the advice of the Hazardous Chemicals Advisory Committee, or with the Minister's consent. All CCOs are subject to appeal provisions.

A CCO allows for the control of a chemical throughout its life cycle. It can set requirements for a broad range of activities, including the manufacture, processing, distribution, use, sale, transportation, storage and disposal of chemicals and chemical wastes for industrial, commercial and household purposes. It can also be used to require the phasing-out of a particular chemical.

There are currently five chemical control orders in force in NSW, covering Aluminium Smelter Wastes Containing Fluoride and/or Cyanide; Dioxin-Contaminated Waste Materials; Scheduled Chemical Wastes; Organotin Waste Materials; and Polychlorinated Biphenyl (PCB) wastes and materials.

Issues:

Do the CCO provisions of the EHC Act operate efficiently and effectively?

Should CCOs be clearly linked to national assessment processes?

What other factors should trigger the making of a CCO?

Licences. A licence provides a way to identify those who must comply and to tailor requirements to individual circumstances. Licences also help ensure community access to relevant and meaningful information and provide opportunities for public involvement and participation in environment protection.

In situations where requirements need to be tailored to fit individual site-specific circumstances (especially for high-risk activities that are unique), licensing can be an important and effective tool. For example, the EPA needs to meet national notification obligations under the PCB Management Plan. Reporting requirements under EHC licences provide a direct link for the EPA to obtain information on holdings of PCB waste. The licensing approach focuses the information requirement on those known to have PCB holdings and ensures that the EPA has comprehensive information. It would be difficult to ensure compliance and obtain the necessary information under generic regulations.

The EPA has a licensing function under several pieces of legislation and, as examples, currently administers the following:

- POEO licensing: covering all activities under Schedule 1 of the POEO Act
- Dangerous Goods Act licensing: covering both the drivers and the vehicles transporting dangerous goods in bulk. The licence enables the EPA to regulate the handling and transport of dangerous goods.
- Pesticides Act licensing: covers pilots who apply pesticides by air, and their employers

- licences under the *Radiation Control Act 1990*: for radiation apparatus or radioactive substances
- licences under the EHC Act.

Under the EHC Act, the primary driver for licensing has been concern about a particular chemical, requiring specific actions to be undertaken. This is a different approach from the licensing triggers under other legislation. For example, Dangerous Goods and Pesticides Act licences relate to specific activities; POEO Act licences are premises-based and relate to both the scale and type of activity (for example, paint or solvent manufacturers that manufacture more than 5000 tonnes of product a year). By comparison, an EHC Act licence can selectively address an activity of concern. It can cover any, or all, Chemical Control Orders and any, or all, activities regulated under such an order, and it can cover multiple premises. For example, one EHC Act licence under the CCO for PCBs sets out requirements for the handling and storage of PCBs in various quantities across 146 premises. Another EHC Act licence controls the transport within NSW and the storage at one facility of materials or wastes covered by three separate CCOs (for PCBs, Scheduled Chemical Wastes and dioxin-contaminated wastes).

Currently there are about 30 EHC Act licences in operation, regulating the storage, handling, transportation, processing and/or disposal of a range of chemicals and wastes. All have been triggered by a CCO that sets down the requirement for licensing for that specific activity. About 75% of those holding an EHC Act licence also hold an Environment Protection Licence under the POEO Act, either for the same activity, or for the same premises.

The need for EHC Act licences was reviewed through the 1996 Licence Reduction Program. It has since been suggested, however, that EHC licences can in some instances amount to unnecessary duplication, with resulting inefficiencies and increased cost to the community through additional fees and additional reporting requirements without any necessary increase in environmental outcomes.

Issues:

Where licensing is the appropriate regulatory tool, is a separate chemicals licensing regime the most effective way to manage environmental risks of hazardous substances?

Could licences administered by the EPA under other legislation be used to achieve chemical risk reduction outcomes? In what circumstances?

Other regulatory tools: economic instruments and extended product responsibility

Other environmental legislation administered by the EPA provides for economic instruments that incorporate improved valuation, pricing and incentive mechanisms to promote innovative and flexible approaches to achieving explicit environmental goals at low cost. For example, under the POEO Act, the EPA can implement:

- emission trading schemes that ensure explicit environmental targets at minimum cost to industry and the community
- green offset schemes that are complementary to emissions trading schemes and allow licensees to reduce sources of emissions in places other than their premises, instead of carrying out further costly on-site works
- polluter-pays charges such as Load-Based Licensing (LBL), whereby polluting industries are charged fees based on the mass and harmfulness of pollutants emitted and the condition of the receiving environment

- financial assurances, whereby licensees can be required to provide a secured or guaranteed amount of funding to carry out environmental works required by a licence.

The *Waste Avoidance and Resource Recovery Act 2001* provides for the introduction of extended producer responsibility schemes for wastes that the EPA deems to be of high concern, extending manufacturers' and suppliers' responsibility for their products to the post-consumer stage of the products' life-cycle.

Issue:

Should the EHC Act contain provisions for using economic or other instruments to achieve environmental outcomes for chemical regulation?

Enforcement provisions of the Act

Penalty notices are now widely accepted enforcement tools in environmental legislation. They provide an efficient way of managing the minor offences that do not justify court time. Offenders may either pay the fine or contest the matter in the Local Court. Penalty notices are now routinely used by the EPA for minor offences in relation to pollution of waters and dumping waste on land for example.

Enforcement powers under the EHC Act are restricted to court actions for contraventions of Chemical Control Orders and licences, with penalties in the order of up to \$137,500 for corporations and \$66,000 for individuals. This has meant that in order to take action against even minor breaches of the EHC Act the EPA has been required to launch prosecution procedures.

If allowed for under the EHC Act, the EPA could use penalty infringement notices for contravention of licence conditions and compliance notices to require adherence to licence conditions when appropriate.

The EHC Act does not provide for the EPA to step in quickly and take action to clean up or prevent a chemical incident. The more modern environmental legislation provides for environment protection notices such as clean-up notices and prevention notices; these are issued to require clean-up action when pollution has occurred, or to require an activity to be carried out in an environmentally satisfactory manner so as to prevent a potentially adverse environmental event.

Issues:

Should the EHC Act include enforcement tools available under other environmental legislation, such as penalty, clean-up and/or prevention notices?

Do the penalties contained in the EHC Act remain appropriate?

Community and industry involvement

Consultative mechanisms

The Hazardous Chemicals Advisory Committee (HCAC) was established under the EHC Act with a number of functions, including facilitating the coordination of administrative and enforcement activities relating to the control of chemicals; advising the EPA on chemical assessments and priorities to be adopted when investigating chemicals; investigating chemical contamination incidents and reporting on them to the EPA; and carrying out research on chemicals.

Many of these functions have not been exercised, given the establishment of national chemical assessment schemes.

The Hazardous Materials Incidents Sub-Committee (HMISC) of the HCAC has been effective in providing advice on the management of incidents related to the transport (EPA responsibility) and storage (WorkCover responsibility) of dangerous goods. The HMISC provides an effective link between stakeholders and a mechanism for raising and discussing environmental issues relating to HAZMAT incidents. It also helps to maintain the relationship between dangerous goods transport regulation and HAZMAT incident response.

The HCAC committee has broad representation, consisting of 17 members from industry, the community and other government agencies. There is no fixed term for HCAC committee membership, and as a result members may continue to serve after they have retired from active roles in the organisations that they were representing.

The EPA pursues a number of other consultation mechanisms. It liaises regularly with other NSW Government agencies such as NSW Health, NSW Agriculture and WorkCover NSW. In addition, the EPA also consults regularly with peak environment, industry and local government groups on a wide range of environmental issues including chemicals. The EPA also works with a stakeholder advisory committee on implementation of the Pesticides Act (the Pesticides Implementation Committee).

Issues:

Is there a need for an independent advisory body to the Minister for the Environment and/or the EPA specifically on the EHC Act?

If so,

– what should the role of an advisory body be? (for example, general consultation, specific advice)

– who should be on an advisory body?

Are there other government advisory mechanisms or models in NSW or other jurisdictions that could be considered?

CONCLUSIONS

This paper has outlined a number of issues that have arisen over the history of the EHC Act. The review of the EHC Act provides an opportunity for NSW to take a lead in the development and implementation of proactive chemical legislation and to position NSW favourably within the development of international and national approaches to the sustainable use of chemicals.

Your comments on the issues raised in this paper will help identify how the EHC Act can meet its full potential while ensuring ecologically sustainable chemicals use and management in NSW.