LRCC Reforms: An Evaluation of the Impact on Industry

Final Report

Prepared For

NICNAS

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In Summary

The National Industrial Chemicals Notification and Assessment Scheme (NICNAS) is the Australian Government regulator of industrial chemicals. The aim of NICNAS is to protect human health and the environment through the regulation of industrial chemicals. Core functions include hazard and risk assessment, implementation of international agreements and the regulation of international trade. Control of the use of chemicals is principally the responsibility of the states.

As part of the NICNAS commitment to improving regulation for industry in the context of protecting of the Australian people and environment from the adverse effects of chemicals, a process of reform has been undertaken. A focus of this reform has been Low Regulatory Concern Chemicals (LRCCs).

Following a period of extensive consultation, The *Industrial Chemicals (Notification and Assessment) (Low Regulatory Concern Chemicals) Act 2004 (LRCC Act)* was proclaimed on 9 August 2004, and allowed a number of LRCC reform initiatives to be implemented

The first tranche of these reforms was implemented in 2004-05 and include specifically:

- Audited self-assessment of polymers of low concern and non-hazardous chemicals (Recommendation 1.1 & 4.1)
- Increased exemptions for low volume, trans-shipment, cosmetic and research and development/analytical chemicals (Recommendations 3.1-3.5, 5.1-5.2)
- Administrative renewals for Low Volume Chemical and Commercial Evaluation permits (Recommendation 9.1)
- Mandatory registration for Tier 1 companies (Recommendation 10.1)
- Improved access to chemical safety information, including the Australian Inventory of Chemical Substances (AICS) online (Recommendation 11.1)
- Option for early listing of notified chemicals on the AICS (Recommendation 9.2)

Campbell Research & Consulting (Campbell Research) was engaged by NICNAS to conduct an evaluation of the LRCC provisions. The evaluation was designed to measure the extent to which the goals and objectives of these reforms have been achieved; the consequences (positive and negative) of the reforms; and the effectiveness of the reforms in terms of balancing inputs and outputs to the relative gains.

The Campbell Research approach to the evaluation involved 23 in-depth, one-on-one stakeholder consultations with peak bodies, industry leaders and a broad range of companies who interact with NICNAS about LRCCs. The findings of these consultations were explored through a series of case studies and were tested across industry using an online survey. Additionally, some limited consultation took place with community, OHS and environmental representatives.

This report presents the findings of the evaluation. The findings primarily represent the views of industry and are intended as a component in a broader evaluative process being undertaken by

NICNAS. In particular, a separate process is being undertaken by NICNAS to address the broader impact of the reforms and address issues raised by the Community Engagement Forum (**CEF**).

'A step in the right direction'

In general, industry stakeholders were positive about the direction of the reform provisions, because, as many said, *'any improvement is better than none'* and they acknowledged that, on balance, the reforms represent an improvement – that they are a '*step in the right direction'*. However, approval of the general intent of the reforms was marred by their implementation. A common theme was that the reforms have been implemented in a way which is too prescriptive and inconsistent with the original intent.

While the LRCC initiative was acknowledged by industry as a positive change, industry stakeholders also believed that it had not gone far enough towards removing the barriers that regulatory burden presents to the introduction of newer, safer chemicals. A substantial proportion of industry still avoid introducing a newer, safer chemical if an alternative chemical existed on the Australian Inventory of Chemical Substances (AICS) which lists chemicals currently in use in Australian industry. AICS listed chemicals are not subject to the same approval process as new chemicals.

There was a recurring request from industry for further reform.

The majority of industry respondents to the survey had low awareness of the reforms, and 'didn't know' whether the reforms had enabled positive outcomes for safer chemicals, the innovation of safer chemicals and flexibility for industry. However, of the smaller proportion of industry that did have an opinion on the matter, the majority had a positive view of the outcomes enabled by the LRCC reforms. While the reform provisions themselves were considered to enable positive outcomes by industry stakeholders, barriers to uptake of the provisions, reflected in the low uptake of the provisions by industry, were considered to substantially reduce these positive outcomes.

Overall, the view of industry is that the reforms have not fulfilled their potential or achieved their objectives of:

- providing a lighter degree of regulation for LRCCs, and
- facilitating the innovation and introduction of newer and safer chemicals.

Ultimately, the provisions, as they have been implemented, often hampered innovation and resulted in some companies continuing to use less safe and older chemicals.

It was reported that some companies were introducing new chemicals without notifying NICNAS. It was proposed by some members of industry that those who operated outside the formal process were in some cases likely to be introducing a safer chemical than the AICS listed alternative.

There was a general view among industry stakeholders that the cost of introducing a new chemical under a LRCC provision was dependent on the ease of obtaining data proving low concern and no unreasonable risk. Accessing provisions was seen as having everything to do with data availability and little to do with how hazardous the chemicals may be, even in low volumes and at low concentrations.

For this reason, industry stakeholders felt that the focus was not on the '*safety*' of the chemical, but the ease of proving that it was of low risk in the intended use. Industry's view was that regulation should be proportionate to the potential risk. However, legislation requires that there is adequate data to prove that the chemical meets the criteria for the low concern category, or that '*no unreasonable risk*' can be demonstrated, thus binding NICNAS to a degree of data requirement. As such, the burden of proof as it exists in the current legislation presents some conflict to the intended objective of the LRCC reforms initiative of providing a lighter regulatory touch.

Among those industry stakeholders with a more extensive understanding of the regulatory system, there was a sense that NICNAS was doing the best it could within the existing legislation, and that any significant reform would be impossible within the constraints of the current Act.

Regardless of the level of criticism of the LRCC provisions by industry stakeholders, there was no suggestion that they should be abandoned. It was clear that the reforms had produced some improvement, including options for greater flexibility which have been able to be used by a small proportion of companies. Also, the administrative burden has been reduced in some cases, and where this has occurred, a simpler introduction process achieved. Likewise, where there has been uptake of the LRCC provisions, NICNAS has experienced some benefit through the application of more efficient processes associated with these provisions.

Industry stakeholders frequently used strong language when discussing the LRCC reforms, and NICNAS regulation more generally. There was considerable anxiety about NICNAS requirements and the potential impact on business. Many stakeholders felt NICNAS was unnecessarily adversarial towards industry. Despite these misgivings by industry stakeholders, Campbell Research found NICNAS staff willing and open to pursuing a cooperative dialogue with industry.

The degree of industry wariness regarding NICNAS in general existed as a backdrop to the industry response to the LRCC provisions. It was not just the experience of using the provisions but the perception of the difficulty and costs that might be entailed, which caused many industry stakeholders to avoid using the regulations. For some in industry the avoidance related to a belief that the legislative and regulatory framework itself posed too great a hindrance regardless of NICNAS attempts to be helpful, for others there was a belief that NICNAS as an organisation was not disposed to be helpful to industry which compounded perceived difficulties. Consequently, rather than attempting to use the LRCC provisions, many would simply try not to introduce new chemicals, so driven were they to avoid having any dealings with the regulator. As such, general perceptions of NICNAS as an organisation, some of which were substantially outdated, presented a barrier to uptake of the LRCC reforms for a proportion of industry.

NICNAS processes associated with the LRCC provisions were still widely perceived as unnecessarily burdensome for industry. Industry stakeholders were concerned that NICNAS resources were focussed too heavily on LRCC chemicals at the expense of regulatory resources being spent on higher risk chemicals. The full cost recovery basis on which NICNAS is funded made the importance of getting a return for investment in compliance important for industry.

There was great confusion within industry about the specific details of the LRCC provisions, even within large and well-resourced companies and among highly experienced consultants

and lawyers dealing with NICNAS matters on a regular basis. Confusion had contributed to much of the frustration about the LRCC provisions. NICNAS has commenced a communications strategy designed to enhance the quality of information made available to industry, and there remains scope for NICNAS to engage industry directly to further increase industry's understanding and uptake of the LRCC reforms.

In general, administrative fees for NICNAS were not a major concern to industry stakeholders, who were more concerned about the administrative burden involved in trying to source data to both meet initial requirements, as well as to answer any repeated NICNAS queries, where companies had experienced this in the past. Basic data requirements remain for LRCCs, in order to demonstrate their low-concern nature.

Time to market for a new product was ultimately the greatest concern for most industry stakeholders and therefore delays in approval were the source of the greatest resentment towards NICNAS. These delays were shown to exist for LRCCs equally to other chemicals. A number of companies were known to be introducing some chemicals outside the formal process or before the formal process was complete, that is, before receiving approval to introduce as a result of this time pressure. Other companies resorted to seeking an alternative AICS listed chemical.

LRCC provisions have been utilised by a small proportion of industry, with Tier 3 companies who import larger volumes of chemicals, more likely to use them than Tier 2 or Tier 1 companies. Additionally, there is some indication that the cosmetics sector receives greater advantage through the LRCC provisions than do other sectors, partly due to the greater applicability of certain provisions. Nevertheless, the cosmetics sector still has considerable concerns about aspects of the LRCC provisions.

Options for Consideration

This section of the report presents a number of considerations for stakeholder comment. It is noted that NICNAS has not had opportunity to provide an official response to this report at this time. Considerations are presented as options pending the opportunity for review and feedback from stakeholders, including NICNAS.

The first options (1-7) relate to specific issues for LRCC reforms.

Option 1: Limit exposure data requirements for PLCs in audited self-assessments

That NICNAS review the feasibility of limiting exposure data requirements of PLCs in audited self-assessments.

Rationale

Limiting the exposure data requirements of PLCs in audited self assessments would acknowledge the very low risk that PLCs are acknowledged to present, both globally and in Australia. Data requirements for audited self-assessments were one of the two major barriers to the uptake of this provision. A proportion of industry that began using audited self-assessment has since reverted to standard notification pathways, as the self-assessments were considered no easier. Reducing the data requirements for PLCs would remove one barrier to audited self-assessments by industry, leaving only the barrier of the statutory declaration in place.

Option 2: Review volume limits for low volume exemptions

That NICNAS review the feasibility of increasing the volume limit for low volume exemptions.

Rationale

Increasing the volume limit for low volume exemptions would substantially increase the uptake of the exemption, such that:

- Half (50%) the Tier 3 companies would gain some benefit at 1000 kg
- One third (33%) of Tier 3 companies would gain some benefit at 500 kg
- One fifth (21%) of Tier 3 companies would gain some benefit at 200 kg.

Any increase in volume limits would need to be carefully considered by NICNAS to ensure that pragmatic considerations regarding standard methods of delivery are taken into account, and to continue to ensure the risk posed by any introduced chemicals at the new volume remains low.

Option 3: Review volume limits for R&D exemptions

That NICNAS review the feasibility of increasing the volume limit for R&D exemptions to allow for pilot testing of chemicals where appropriate.

Rationale

Increasing the volume limit for R&D exemptions would substantially increase the uptake of the exemption, such that:

- Two thirds (68%) of the Tier 3 companies would gain some benefit at 1000 kg
- Two fifths (43%) of Tier 3 companies would gain some benefit at 500 kg
- One quarter (27%) of Tier 3 companies would gain some benefit at 200 kg

Higher volume limits for R&D would also allow for more sophisticated testing in conditions better replicating commercial conditions, resulting in more accurate chemical data. Any increase in volume limits would need to be carefully considered by NICNAS to ensure that the risk posed by any introduced chemicals at the new volume remains low.

Option 4: Extend the exemption for non-hazardous chemicals at 1% concentration or less to products other than cosmetics

That NICNAS extend the exemption for non-hazardous chemicals at 1% volume or less to products other than cosmetics.

Rationale

At present, only cosmetics companies are benefited from this exemption when introducing non-hazardous chemicals at low concentration. As such, cosmetics companies were in general receiving greater benefit from the LRCC than other companies. The development of this specific reform has been attributed to the extent of involvement of cosmetic industry representatives during the development phase of the reforms, rather than addressing chemical characteristics specific to the cosmetics industry. Therefore, extending this exemption to non-cosmetics products should not alter the risk posed by any chemicals introduced through this exemption. A substantial proportion of non-cosmetics companies reported that they would be benefited were the exemption extended to include their products.

Option 5: Extend the trans-shipment exemption to include custom-bonded warehouses

That NICNAS extend the current trans-shipment exemption from Australian ports to also include custom-bonded warehouses.

Rationale

The current trans-shipment exemption has extremely low uptake by industry. Larger companies who have need of such an exemption often prefer to keep goods in their own custom-bonded warehouses. Extending the exemption to these warehouses would allow a greater proportion of industry to benefit from the exemption, without substantial increase to the risk of exposure of any trans-shipment chemicals.

Option 6: Allow flexibility of volume within administrative permit renewals

That NICNAS review the feasibility of allowing companies to increase the volumes of chemicals used within a certain permit category, up to the limit specified by the permit category, as a permit renewal rather than a new permit.

Rationale

At present companies who apply for a permit to introduce a certain volume of a chemical, such as 600 kg under a 1000 kg permit, are not eligible for a permit renewal if they wish to increase their volume to another amount still under the 1000 kg limit. This system presents a disadvantage to companies who initially mis-report to NICNAS at the highest possible amount, simply to avoid chancing a new permit. Allowing increases in volume within the established permit categories within an administrative permit renewal, removes the incentive to industry to mis-report whilst not posing an increased risk, and should improve NICNAS's data quality.

Option 7: Review the efficiency of current annual reporting requirements

That NICNAS reviews the effectiveness of annual reports for LRCCs in light of the time burden for both industry and NICNAS staff in producing and processing these reports, respectively and the value of the reports for the purpose of achieving NICNAS objectives.

Rationale

Annual reporting for audited self-assessments and exemptions was reported by industry stakeholders to require substantial company resources. Similarly, reasonably high levels of resources were reported by NICNAS staff to be given to processing submitted annual reports. This time spent at NICNAS on annual reports for LRCCs is at odds with the increased efficiency and reduced resources the LRCC reforms were designed to have. The relative value of the information gleaned through annual report data was questioned as a disproportionate use of NICNAS resources on LRCCs. An internal review of the resourcing spent on annual reporting and its efficiency and effectiveness as a regulatory strategy is required to fully address these concerns.

Option 8: Increase direct industry engagement

That NICNAS provide an enhanced collaborative environment for communication with industry, by developing a strategy for broad-ranging direct engagement, incorporating liaison with peak bodies, with companies which have frequent involvement with NICNAS, as well as those companies who have a potential interest in introducing new chemicals more frequently than at

present. Successful models of engagement of other regulators such as FSANZ should be considered as part of the development of such a strategy. The increased direct engagement needs to occur with both Tier 3 and Tier 2 companies.

One strategy for direct engagement is for NICNAS to hold a series of industry engagement workshops incorporating industry and peak body stakeholders and NICNAS staff, and mediated by an external expert facilitator. The information gleaned through such workshops would ideally input into further engagement strategies.

Rationale

At present there is substantial wariness towards NICNAS and misunderstanding of the organisation's approach to regulating industry, particularly among Tier 2 companies which tend to simply avoid any dealings with NICNAS (see Section 3.2). Improved engagement across industry as a whole can help to overcome barriers to uptake of the reforms, including overcoming the substantial confusion that presently exists amongst industry regarding the LRCC provisions. The survey conducted for this evaluation revealed that a large proportion of the NICNAS client base, including Tier 3 companies, are not members of industry associations (Section 5.1.4). There is substantial scope for improving relations with industry, and thus increasing introductions of safer chemicals, through direct engagement strategies with industry.

Option 9: Benchmark the impact of LRCC provisions

That NICNAS implement internal measures to monitor the introduction of all chemicals, using a baseline of 2009/10 data for introduced chemicals. The feasibility of the specific measures to be implemented need to be explored by NICNAS, and may include improved tracking systems, as well as classification of chemical risk.

Rationale

The LRCC Reform Initiative was designed to encourage industry to use more low risk chemicals, and fewer high risk chemicals. The absence of comprehensive data on chemical introductions by industry at the commencement of the LRCC process has meant that it is not possible to provide a quantitative measure of the success of the reforms on this point. Creating baseline data will allow future evaluations to efficiently measure the impact of reforms on outcomes for industry.

Option 10: Review NICNAS funding formula in light of reform objectives

That the NICNAS funding formula is reviewed in consideration of its scope to provide resources for NICNAS to fulfil its organisational objectives with regards to legislative reform, such as the LRCC Initiative.

Given NICNAS's full cost recovery status, there is scope to consult with industry about industry's priorities regarding the competing demands of maintaining the cost of NICNAS fees and funding regulatory reform.

Rationale

There is no allowance in the NICNAS funding formula, for the funding of the high cost of reform initiatives. All reform initiatives are funded with finite reserves. In the course of considering preliminary findings from this evaluation, NICNAS advised of their concerns about this matter and how it impacts upon their capacity to lead and implement reform in an area such as LRCCs. A review of how well the funding formula facilitates NICNAS objectives can address this gap.

Option 11: Review the views of community

Conduct an evaluation to measure the views and experiences of the community with regard to the LRCC initiative, through identified community stakeholders and interface with State governments.

Rationale

The scope of this evaluation was limited to industry response to the LRCC provisions. Protecting the health and safety of the public, the workforce and the environment is part of the NICNAS mandate, as carried out through the work of State government agencies. This evaluation has only canvassed a small number of community representatives. There is a need for community input into the evaluation to ensure the goals of protecting public health, OHS and the environment are being maintained in the community's interests.

It is noted that the complexity of NICNAS work will make general community views difficult to identify, particularly in the context of issues relating to high concern chemicals, and as such a survey of the broad community is not recommended. Rather, a focussed testing of concepts including informed and representative stakeholders is recommended.

Option 12: Regulatory model and legislative review

Review the appropriateness of NICNAS's prescriptive approach to regulation and its impact on matters including LRCCs, through measures which may include:

- A process of industry consultation through facilitated workshops, as part of a direct engagement strategy
- Consultation with expert regulations stakeholders, including the development of a program logic tool
- An international literature review incorporating a review of the regulatory system for industrial chemicals in other OECD jurisdictions
- A full review of the legislation on which NICNAS regulation is based.

Rationale

NICNAS's regulatory approach has implications for the implementation of the LRCC reforms, and their subsequent effectiveness and uptake by industry. Through the course of the

evaluation, it was proposed that the data requirements associated with introduction as a result of Australia's '*strong front-gate*' approach to regulation may be undermining NICNAS's risk-based regulatory logic, and consequently generating greater risk from the continued use of older, less safe chemicals. As such, there is scope for reviewing NICNAS's prescriptive regulatory approach, both in terms of industry's preferred model for regulation as well as in light of international best practice in OECD nations.

NICNAS's regulatory framework cannot be considered in isolation of the legislation, which outlines NICNAS's prescriptive approach. Concerns about the restrictiveness of the legislation were raised by industry stakeholders and some NICNAS staff, repeatedly in the course of this evaluation. In particular, there was a perception that NICNAS is constrained in its ability to achieve its organisational objectives within the current legislation. Constraints upon NICNAS include the imposition of mandatory data requirements for the majority of assessment categories, and the inclusion of annual reporting requirements for audited self-assessments and exemptions. Therefore despite the best efforts of NICNAS to implement changes such as the LRCC provisions, substantial change to regulation is made much more difficult due to the complexities of the Act. As further reform adds further complexity to the legislation, it was considered that the Act will further work against NICNAS in achieving its objective of continuous improvement to regulation.

It is not possible to ascertain the extent of flexibility or constraint accorded NICNAS by the Act without expert review. NICNAS expressed concerns about undertaking further reform, at considerable expense, without first assessing the scope for substantial change afforded by the current Act. As such, a review of the Act will allow NICNAS to make informed decisions pertaining to any future reform, and regulatory approach generally.

Reading this Report

This report

This draft report outlines the approach taken by Campbell Research in the evaluation of industry response to the LRCC Reforms and includes findings from consultation with industry and peak bodies, as well as some limited community stakeholders; industry case studies; and an industry-wide online survey.

The findings referred to throughout this draft report represent the views of industry, with few exceptions, and are intended as one component in a broader evaluative process being undertaken by NICNAS.

The contents of this report are for review by stakeholders, including NICNAS. It is noted that NICNAS comment in this report does not constitute an official response from NICNAS.

Reading the tables

The results of the survey conducted for this evaluation are presented using tables and graphs. To improve readability:

- Questions and responses are written in italics.
- The base for each column is given in parentheses under the column header.
- 'n/a' means that the particular cell is not applicable and no result can be reported.
- Subtotals are right justified and printed in parentheses.
- Proportions are rounded to the nearest whole percent.

Reading the graphs

- The relevant survey questions are presented underneath the graph.
- Each column is a percentage of the base.
- The base for the graphs refers to the total number of responses upon which the percentages have been calculated. This is indicated under the left hand corner of the graph.

Terms and acronyms used in this report

Table 1: Terms and acronyms used in this report

AICS	Australian Inventory of Chemical Substances
CEF	Community Engagement Forum
DEWHA	Department of Environment, Water, Heritage and the Arts
DoHA	Department of Health and Ageing
PACIA	Plastics and Chemicals Industry Association
APMF	Australian Paint Manufacturers Federation
ACTU	Australian Council of Trade Unions
VTHC	Victorian Trades Hall Council
EPB	Environmental Protection Branch
I&I	Industrial and Institutional
LRCC	Low Regulatory Concern Chemical
LVC	Low Volume Chemical
NICNAS	National Industrial Chemicals Notification and Assessment Scheme
OHS	Occupational Health and Safety
PLC	Polymer of Low Concern
R&D	Research and Development
Direct barrier	A barrier to the use of the LRCC provisions that related to the specific requirements of the provision.
Global barrier	A barrier to the use of the LRCC provisions by industry that related to the broader regulatory framework for introduction of new chemicals.
Industry Stakeholder	A member of a NICNAS registered company, in any role, who deals with NICNAS
Peak Body Stakeholder	A member of a representative industry association.

Table 1: Terms and acronyms used in this report

AICS	Australian Inventory of Chemical Substances
CEF	Community Engagement Forum
Community-interest Stakeholder	Includes members of the Community Engagement Forum, relevant State Government representatives and Federal Government environmental assessors.

1. Introduction

1.1 Background

The chemicals and plastics industry is an important foundation of Australia's manufacturing sector. The Productivity Commission estimated that, in 2005-06, the industry accounted for 1% of Gross Domestic Product. The important role of the industry for the Australian economy is balanced by the hazardous nature of some chemicals and the risks industrial chemicals pose to the health of Australians and the environment.

The National Industrial Chemicals Notification and Assessment Scheme (NICNAS) is the Australian Government regulator of industrial chemicals. Its mission is:

> The integrated regulation of industrial chemicals for the protection of human health and the environment through scientific excellence and regulatory efficiency to deliver the safe and sustainable use of chemicals.

Core functions include hazard and risk assessment, implementation of international agreements and the regulation of international trade. Control of the use of chemicals is principally the responsibility of the states.

On behalf of the Federal Government, NICNAS aims to ensure the safe and sustainable use of chemicals by conducting risk assessments and making safety information on chemicals and their potential occupational health and safety (OHS), public health and/or environmental risks widely available to workers, the public, industry and other state, territory and Australian Government agencies. NICNAS is responsible for assessing new chemicals and existing chemicals to identify public health, occupational health and safety and environmental risks.

The Department of Health and Ageing Budget Statement 2009 describes the NICNAS aim as:

> The Australian Government, through the National Industrial Chemicals Notification and Assessment Scheme (NICNAS), aims to protect human health, and the environment, associated with the introduction and use of industrial chemicals, including cosmetics, by identifying and providing advice on any identified risks and measures to manage these risks. NICNAS ensures the most effective and efficient regulatory system for industrial chemicals, without compromising the health of the community and with as transparent decision-making as possible.
>
> p53-54

In 2005/2006 Australia imported approximately $14.5 billion of chemicals, and exported $4.4 billion worth of chemicals. Compared with other OECD countries, Australia's chemical production is quite low:

> Australia accounts for around 0.9 per cent of the world's chemical industry output. This compares to 1.6 per cent of world GDP.
>
> (World Bank 2008 in Productivity Commission 2008)

The government has undertaken reform, following extensive industry and community consultation following the Chemicals and Plastics Action Agenda in December 2002. There has also been substantive industry review by the Productivity Commission into Chemicals and Plastics Regulation.[1]

Campbell Research & Consulting (Campbell Research) was engaged by NICNAS to conduct an evaluation of the Low Regulatory Concern Chemicals (LRCC) reform provisions to measure the extent to which the goals and objectives of these reforms have been achieved; the consequences (positive and negative) of the reforms; and the effectiveness of the reforms in terms of balancing inputs and outputs to the relative gains.'

> The new arrangements under the LRCC reform initiative reflect the Government's commitment to ensure that the most efficient regulatory system is in place for industrial chemicals, as well as a system that encourages the introduction of new and safer chemicals. The proposed changes give effect to the Government's response to the recommendations of the Chemicals and Plastics Action Agenda in December 2002. This response indicated the Government's agreement to examine options for flexibility in the assessment processes for industrial chemicals.[2]

The objectives of the LRCC reforms[3] were to:

- Introduce flexibility within the scheme to enable more efficient and effective ways of introducing low risk chemicals on to the Australian market
- Preserve current human health and environmental standards and provision of chemical safety information to the public
- Optimise risk-resource allocation in NICNAS assessment processes.

It should be noted that the impact on human health, environmental standards and provision of chemical safety information to the public were not within the scope of this evaluation, and are being investigated through subsequent evaluations being undertaken by NICNAS at this time.

1.2 The LRCC Reforms

In 2003, the Federal Government commenced reform of the regulation to reduce the burden of regulation on industry. A number of amendments and regulations for LRCCs have been enacted.

NICNAS classifies companies using industrial chemicals by their annual chemical turnover:

- Tier 1: less than $500,000
- Tier 2: $500,000 to less than $5,000,000

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1 Productivity Commission 2008, *Chemicals and Plastics Regulation*, Research Report, Melbourne.

2 *Chemical Gazette*, No C8 Special, 16 August 2004

3 NICNAS LRCC Presentation to Campbell Research, 20 January 2009

- Tier 3: $5,000,000 or more.

The relative size of companies by turnover has been an important guiding principle in the regulatory reform.

The first tranche of these reforms was implemented in 2004-05 and include specifically:

- Audited self-assessment of polymers of low concern and non-hazardous chemicals (Recommendation 1.1 & 4.1)
- Increased exemptions for low volume, trans-shipment, cosmetic and research and development/analytical chemicals (Recommendations 3.1-3.5, 5.1-5.2)
- Administrative renewals for Low Volume Chemical and Commercial Evaluation permits (Recommendation 9.1)
- Mandatory registration for Tier 1 companies (Recommendation 10.1)
- Improved access to chemical safety information, including the Australian Inventory of Chemical Substances (AICS) online (Recommendation 11.1)
- Option for early listing of notified chemicals on the AICS (Recommendation 9.2)

It is this first tranche of implemented measures which are the subject of this evaluation project.

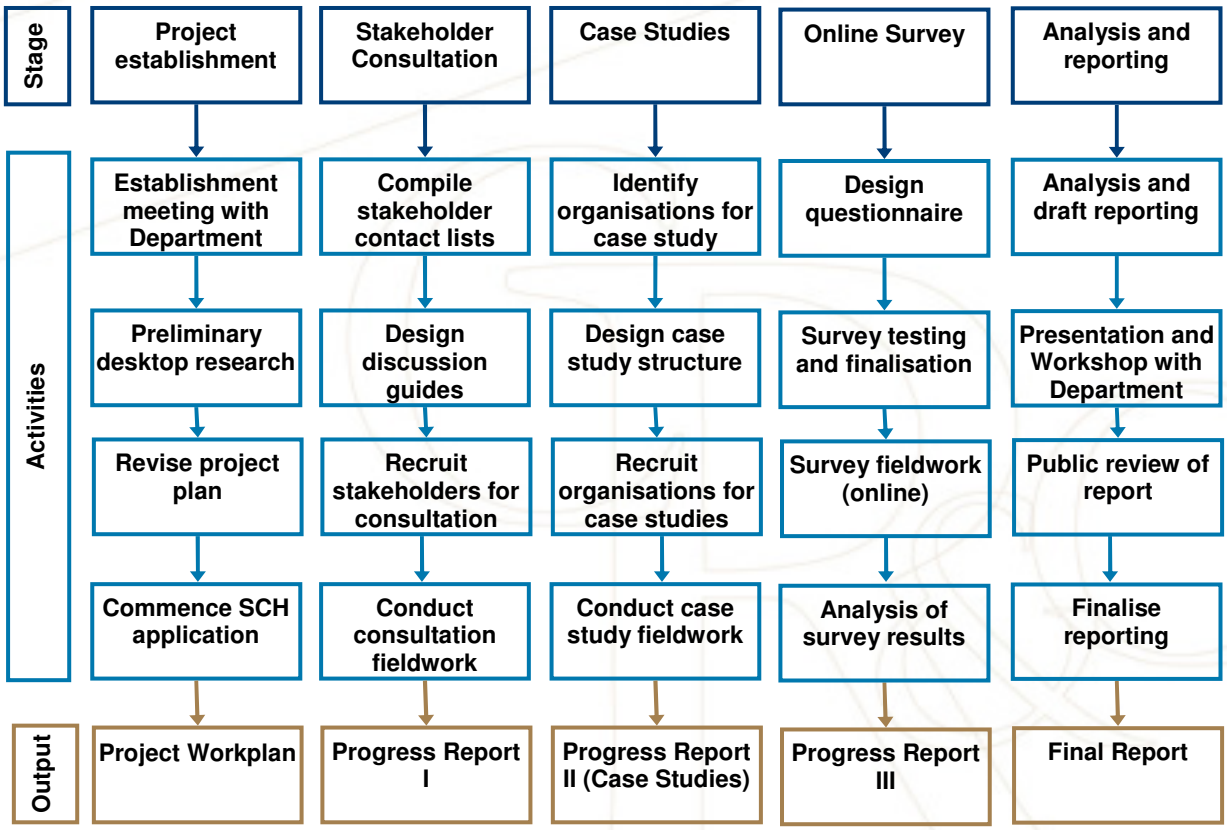
2. Methodology

The Campbell Research approach to this project entailed a multi-phased methodology, including:

- Stakeholder consultation with industry leaders and representatives of peak organisations
- In-depth case studies to empirically identify costs and tangible benefits of regulation
- An on-line survey to identify the extent of costs and benefits across the industry
- A draft report and presentation to the Department which includes actionable options for consideration that will provide a firm evidence base for decision making
- Publication of the report for comment from the sector
- A final report to the Department.

The approach can be summarised as identifying key industry issues in stakeholder consultations with peak bodies and industry leaders. The findings of these consultations were tested across industry using an online survey and in more depth through a series of case studies with organisations that have introduced a new chemical, or attempted introduction, under the reformed process. Additionally, some limited consultation took place with community, OHS and environmental representatives.

Figure 1: The Campbell Research approach



Tier 3 companies were particularly highly represented in the consultation and case study stages, due to the correspondingly large role they play in the industry in Australia, and the consequently greater relevance of NICNAS to their dealings[4].

Stakeholder Consultation

Campbell Research conducted consultations as 23 semi-structured interviews[5]. Of those stakeholders interviewed, three peak bodies were canvassed (including one where two senior staff members were consulted simultaneously), 15 interviews were conducted with members of industry from leading Tier 3 companies (including one where two senior staff members were interviewed simultaneously) across sectors including paint, plastics, solvents and fuel. Other stakeholders were from companies specialising in cosmetics, personal care or related areas. Tier 3 companies canvassed have been in manufacturing, finished products, imports or exports or a combination of some or all of these.

A further two interviews were conducted with Tier 2 companies involved in local manufacturing, importing and distribution.

Three interviews were conducted with community-interest stakeholders, from the NICNAS Community Engagement Forum (CEF); the Environmental Protection Branch (EPA) of the Department of Environment, Water, Heritage and the Arts (DEWHA) and one State Government OHS official. Campbell Research aimed to recruit more non-industry stakeholders, to provide a balance to the perspectives of industry, and to gauge the consequences of the reforms provisions for environmental protection, occupational health and safety and public health. However, repeated attempts to recruit non-industry stakeholders were unsuccessful. Refusals indicated the interview of little relevance to their role. This was particularly so at the State Government level.

Industry Case Studies

Four case studies were conducted with industry, including three Tier 3 companies and one Tier 2 company. All case studies were conducted in person. Case studies took place with a member of the company who is responsible for managing NICNAS regulatory requirements, and examined the process of introduction of a specific product within the company. Initially, Campbell Research aimed to complete two Tier 3 case studies and two Tier 2 case studies, however, despite protracted efforts to recruit Tier 2 companies, no suitable companies could be located and none who were introducing new chemicals at all. As such, the Tier 2 case study is an exception to the case study structure, and examines the rationale within the company for avoiding introducing new chemicals.

[4] See Appendix A for a breakdown of companies consulted

[5] See Appendix B for the Consultation Discussion Guide

Online Survey of Industry

Emails were sent to key contacts for companies registered on the NICNAS database. Each of these email address contacts received email invitations intended for the person at the business who is responsible for meeting NICNAS regulatory requirements. The email advised of a forthcoming opportunity for participation in an on-line survey[6]. All companies, apart from those refusing to take part and those where email contact was unsuccessful, were sent an on-line survey three days later.

The survey instrument was designed by Campbell Research using its online survey tool. It was submitted to and approved by the Statistical Clearing House of the ABS, prior to distribution.

The survey was conducted between 30 April 2009 and 13 May 2009, with a total of 872 companies completing the survey.

[6] For the email invitation see Appendix C

3. Stakeholder Consultation

3.1 Commercial in Confidence

Individual companies were wary of their practices being brought to the attention of NICNAS. In particular, they were afraid of the prospect of being singled out as an example by NICNAS, or of being targeted for audit, both of which were perceived as major problems for the business and the individual manager. NICNAS provided a written assurance of confidentiality and Campbell Research is confident that this written assurance was instrumental in respondents providing full and frank responses and discussion of issues.

3.2 Consultation Findings

When discussing the LRCC provisions, industry stakeholders frequently referred to broader issues of regulation as impacting on their decisions to introduce new chemicals, and therefore LRCCs, and their use of the LRCC provisions. Many industry stakeholders identified barriers to uptake of the LRCC provisions, and these barriers occurred at two levels:

- Direct Barrier.
  The specific requirements of a LRCC provision were considered too onerous to undertake, or the provision was not relevant to the company (for example where volume limits apply)
- Global Barrier.
  The regulatory framework for introducing new chemicals in general was considered too onerous to undertake introduction by any pathway.

In order to address both types of barriers, the findings include discussion of concepts broader than the LRCC reform initiative, addressed in Section 3.5.

These barriers resulted in three distinct outcomes for industry:

- Low uptake.
  Low uptake of the LRCC provisions for introducing LRCC chemicals throughout industry
- Non-introduction.
  A general aversion to dealing with NICNAS including the introduction of new chemicals for some companies
- Non-compliance.
  A minority of companies reported bringing in new chemicals outside the specific notification and assessment requirements of NICNAS. More commonly, companies referred to the actions of unidentified third parties when reporting non-compliance.

Examples of each of these outcomes are given throughout the stakeholder consultation findings, where relevant.

3.3 The reforms as a package

When referring to the reforms initiative as a whole, both industry stakeholders and industry bodies identified that the total package of reforms represented an improvement for industry's ability to introduce LRCCs. However, they were more reticent about the extent of that improvement, with many indicating that, while most of the reforms are good, they don't go far enough.

> I don't think anything they've done has changed anything substantial, but I do think that the reforms have made what they do more workable.
>
> Industry Stakeholder

The LRCC reform initiative was uniformly perceived by industry stakeholders to represent an improvement to industry's capacity to introduce LRCCs.

Industry stakeholders uniformly requested further reform.

Many industry stakeholders who expressed a wide range of frustrations at specific aspects of the reforms still acknowledged '*the positive steps that have been made'*. However, stakeholders were commonly so overwhelmed by their frustration with NICNAS, that any positives they did report about the reform initiatives were coloured by the more general grievances.

It was reported by some industry stakeholders that NICNAS sometimes undermined potential benefits of the reforms, through the way the provisions were implemented. The main comments on this related to:

- Repeated data requests perceived as excessive and unnecessary
- Imposing delays so that the advantages of shorter timelines became redundant
- Reinterpreting definitions to industry's disadvantage.

Some industry stakeholders indicated that NICNAS responses were inconsistent, making it difficult to anticipate them.

Global Barrier
NICNAS processes and implementation of the reform provisions is perceived by some industry stakeholders as being unnecessarily onerous, thus undermining the intended benefits of the provisions to industry.
Outcome of barrier
Low uptake of the LRCC provisions
Non-introduction of new LRCC chemicals.

3.4 The specific reforms

3.4.1 Audited self-assessments

Industry stakeholders were divided on the usefulness of the audited self-assessments. Some companies which regularly dealt in polymers and cosmetics stated that they utilised the self-assessments regularly and found them useful.

> Self-assessments are our most common type of application. We deal mainly in polymers so it's been a great help.
>
> Industry Stakeholder

> Companies who were regularly using self-assessments found them an improvement and were pleased with the provision.

Other industry stakeholders stated that the reporting and data requirements were no easier than for a non-self-assessed notification. It was suggested that NICNAS could potentially make limitless data requests for self-assessments. Some companies responded by only utilising self-assessments for the '*obviously easy'* chemicals (where '*obviously easy*' referred to the ease with which data on the chemical can be accessed from the international supplier). For others the apparent open-ended process presented an insurmountable barrier when considering using self-assessment.

> We used self-assessments then stopped. Our consultant thought they were actually more expensive once all the reporting and auditing requirements were factored in. So if you have to generate that data anyway you may as well go for a standard notification.
>
> Industry Stakeholder

> We believed the self-assessment would be used more. It's not used nearly as much as anticipated. Industry is time poor so self-assessments are not worth it for minimal savings.
>
> Community-interest Stakeholder

Direct barrier to Self-Assessment 1
Perceived difficulty obtaining data required for self-assessment acts a barrier to companies' decision to introduce.
Outcome of barrier
Non-introduction of the chemical.

Direct barrier to Self-Assessment 2
Time involved in reporting and auditing requirements for self-assessment is considered to be more expensive to the company than the cost of introducing using a standard notification.
Outcome of barrier
Low uptake of the provision for self-assessment.

Direct barrier to Self-Assessment 3

NICNAS is perceived by some companies as making potentially limitless data requests for self-assessed chemicals.
Outcome of barrier
Low uptake of the provision for self-assessment.

Industry Stakeholders who were involved in the development of the reforms initiative cited the self-assessment provision as an example of the reforms '*going wrong*'. The annual reporting requirement that was added to this provision as it passed through Parliament came as a shock to those who had contributed to the development of this provision.

> When the annual reporting was introduced we didn't really have an opportunity to comment on or influence it.
>
> Industry Stakeholder

One industry body felt that the reporting requirement was contradictory, as these chemicals were still seen as assessed by NICNAS despite the moniker of self-assessment. A community-interest stakeholder's comments appeared to support this view.

> At the end of the day, using a self-assessment or a regular assessment is the same quality of assessment.
>
> Community-interest Stakeholder

Direct barrier to Self-Assessment 4
Annual reporting requirements are perceived by industry stakeholders as contradicting the moniker of self-assessment, counteracting other advantages of the provision.
Outcome of barrier
Low uptake of the provision for self-assessment.

One industry stakeholder who was a regulatory consultant to industry reported that the requirement to provide a statutory declaration signed by CEOs as part of a self-assessment was a disincentive to use of the provision, as CEOs perceived this as making them personally liable in the event of any negative outcomes of introduction, and were unwilling to sign the statutory declarations.

Direct barrier to Self-Assessment 5
Company CEOs perceive statutory declarations as implicating them personally in the outcomes of introduction.
Outcome of barrier
Low uptake of the provision for self-assessment.

NICNAS reported that there had been a drop-off in the use of this provision after the first two years, which is consistent with the views expressed by industry. The potential benefits of self-

assessments to NICNAS staff, through a streamlined process, have not been well realised due to the relatively small degree of uptake by industry.

> SA <self assessment> numbers aren't huge but anything where you spend less time is still an improvement.
>
> NICNAS staff member

3.4.2 Transhipment Exemptions

The majority of industry stakeholders interviewed had no use for the transhipment exemption. Multi-national companies also indicated that they had little use for the transhipment exemption.

> It's a positive change but quite limited and very specific. Not a useful category for us.
>
> Industry Stakeholder

> I'm a consultant to about 20 cosmetics companies and I don't know of anyone using the transhipment exemption.
>
> Industry Stakeholder

Direct barrier to Transhipment Exemption
The exemption was perceived by most industry stakeholders to be irrelevant to their needs.
Outcome of barrier
Low uptake of the provision for transhipment exemptions.

While there was little negativity about the transhipment exemption, few were using it. There was a general sense that it may well benefit others. Several stakeholders commented that if this exemption were extended to include custom bonded warehouses they would be likely to make further use of it.

Expansion of the exemption conditions to include use in custom bonded warehouses would increase the use of the provision by multi-national companies.

3.4.3 Exemptions for non-hazardous chemicals at 1% volume or less in cosmetics products

Of the industry stakeholders interviewed, a small number reported using the 1% volume or less exemption. Some companies used it *'where they could'*, while several cosmetics companies reported using it regularly. Those that did use this exemption felt that it was a *'step in the right direction'*.

> It saves time up front, and also on costs, but not a significant amount.

Industry Stakeholder

Cosmetics companies who reported using the provision regularly found that it saved time and costs.

The exemption for non-hazardous chemicals at 1% volume or less in cosmetics products was favoured by importers of finished cosmetics products. A regular problem for chemical suppliers was that they did not know what the final formulation of a product would be when they sold a constituent chemical to a company, and so they were unable to utilise this exemption. However, this exemption was intended to benefit those who were importing finished products only.

The exemption for non-hazardous chemicals at 1% volume or less in cosmetics products was the subject of resentment towards NICNAS from those who used non-hazardous chemicals in finished products, at 1% volume or less, within products other than cosmetics. These companies were unable to access this provision yet believed it would be very useful for their company and would address some of the limitations arising when other exemptions only related to volume and not to concentration. The anomaly of this exemption existing for cosmetics only was indicated by NICNAS to relate to the extent of involvement of cosmetics industry representatives when the reform provisions were developed.

The limitation of this exemption provision to cosmetics products only is a source of resentment for some importers of non-cosmetics products.

Expansion of the exemption conditions to include use in finished products other than cosmetics would increase the use of the exemption provisions.

3.4.4 Increased general exemption for low volume chemicals from 10 kg to 100 kg

There were divergent views on the value and usefulness of this exemption.

A number of companies, particularly within cosmetics, had found it to be a valuable exemption.

We're very happy with that.

Industry Stakeholder

Some industry stakeholders were very happy with the low volume exemption provision.

Cosmetics companies were more likely to be satisfied with this provision.

Some were using the exemption but were unhappy with the volume limit and others had been unable to make any use of this exemption provision.

Amongst those who did not find this exemption useful, reasons included:

- Working in the mining or petroleum industries, which deal with much larger volumes so 100 kg was an insignificant amount – volumes required would be much higher, into the several thousand kgs
- With low profit margins in play, volumes of 100 kg were considered uneconomic (yet the potential profits also do not justify going to the greater expense of seeking a full permit).

Direct barrier to low volume exemption 1
Low volumes are irrelevant to some industry sectors, which only deal in very large quantities of chemicals.
Outcome of barrier
Low uptake of the low volume exemption provision.

Direct barrier to low volume exemption 2
Low profit margins make volumes of 100 kg or less uneconomic, and the cost of a permit equally uneconomic.
Outcome of barrier
Non-introduction of the chemical.

Even when companies were using this exemption, they often expressed frustration at the ramifications of the perceived low limits. These ramifications were reported to include the following:

- Artificial restrictions being placed on sales volumes, in order to keep within the annual limit
- Seeing key clients forced to obtain supplies from major competitors in order to achieve a higher volume than the limit allowed from one company (ie going to four suppliers so that each could provide the maximum under the limit, multiplying the amount available to the end user)

Use of the low volume exemption provision resulted in some frustrations for a number of industry stakeholders, who felt that at times the volume limit of the provision negatively affected the company's profitability.

There was a general request that the volume be increased to be much higher than 100 kg. NICNAS is open to some review of volume limits, however expressed some initial concerns relating to the properties of the chemicals eligible for this exemption. Particularly, it was pointed out by NICNAS that chemicals with hazardous properties were potentially eligible for this exemption, as it was the volume that provided the safe-guard, rather than some other property intrinsic to the chemical.

> The chemicals themselves aren't necessarily non-hazardous. They're low risk **because** they're low volume.
>
> NICNAS staff member

Industry stakeholders requested an increase in the volume limit for the low volume exemption.

Any increase in volume would need to be reviewed by NICNAS to ensure that the risk posed by eligible chemicals remains low.

The low volume exemption provision was also one which appeared to be related to higher degrees of confusion, particularly in relation to changes to permit categories made as part of reform provisions introduced in the past 12 months. Stakeholders were often uncertain about whether the applicable limit was 100 kg or 1000 kgs or were convinced that it was in fact 1000 kgs.

There is confusion between the volume limits permitted by the low volume exemption and low volume permits.

3.4.5 Increased R&D threshold from 50 kg to 100 kg

A large number of industry stakeholders from multi-national companies reported that R&D is done offshore, and so the R&D exemption increase had no bearing on them. Others reported that their company consciously decided to conduct little to no R&D in Australia specifically because of the restrictive nature of NICNAS requirements, despite the introduction of this provision.

Global barrier to R&D exemption
Perceptions of the Australian regulatory framework as onerous regarding introductions, has lead many companies to perform R&D offshore.
Outcome of barrier
Low uptake of the R&D exemption provision.

Of those that were using the exemption, a further number reported that they were introducing in quantities less than 50 kg, and so the increase had no effect on them, although several noted that they may bring in larger quantities in future.

Several industry stakeholders explained that the 100 kg limit impacted on the type of R&D they could undertake. One reported that they were limited to laboratory scale testing as opposed to

pilot scale testing of products, where pilot scale testing provides more accurate data on concentrations and risk. Another (manufacturer of chemical products) indicated that testing would need to take place in a specially modified plant which would be either unable to function on such small volumes or be too expensive to commission when the chemical could not be tested on the existing plant. Specific cases were encountered in this evaluation, where such frustrations had led to a decision to not proceed. In these instances, the R&D volume limits had a direct negative impact on the ability of the business to both innovate and grow.

These industry stakeholders proposed that the volume limit for R&D needed to be greater to allow for best practice in R&D, as well as to facilitate testing which enhanced the testing for any risk factors.

The R&D exemption volume limit impacts upon the scale of chemical testing that can be performed, limiting many companies to laboratory scale testing. This smaller scale of test can impact upon the accuracy of chemical data generated during testing.

There was confusion amongst industry stakeholders about the distinction between the use of a chemical for R&D and under a Commercial Evaluation (CE) permit. Industry stakeholders also saw some overlap between the two options and where this occurred, they would generally default to a CE permit as this allowed for greater volumes to be introduced.

Direct barrier to R&D exemption
Where the volume limit is regarded as too low, companies will default to a CE permit, or choose to not proceed with the R&D.
Outcome of barrier
Low uptake of the exemption provision.
Non-introduction of the chemical.

3.4.6 Administrative renewals for LVC and CE permits

There was extensive confusion amongst industry stakeholders around the issue of administrative renewals and how they differed from full permit applications, as well as confusion with related provisions which will be introduced under the implementation of the second round of reforms.

> We don't really deal in the administrative renewals – I'm not sure why, I think we decided that the requirements are a bit onerous.
>
> Industry Stakeholder

Global barrier to administrative renewals
Confusion pertaining to the requirements of the provision lead some companies to decide against using it.
Outcome of barrier

Low uptake of the provision for administrative renewals.

Stakeholders who were utilising the administrative renewals felt that they were a small improvement.

> Administrative renewal for LVCs saves time but not a hell of a lot, not a significant amount.
>
> Industry Stakeholder

Administrative renewals result in a small time and cost saving for companies who use them.

There was some frustration expressed at a lack of flexibility when renewing, as any change in volume required a new permit. Several industry stakeholders reported that they coped with this inflexibility by always applying for the maximum limit even if they were not planning to meet it, so that they had room to increase volumes within the scope of the permit without having to resubmit the paperwork. While NICNAS considered this to be an inaccuracy in data, they did not view this course as non-compliance. However, stakeholders who falsely reported volumes introduced perceived this as an act of non-compliance and reported some anxiety about doing so. There was a feeling by industry stakeholders that this was unfair.

> Companies are punished for being honest.
>
> Industry Stakeholder

Direct barrier to administrative renewals
Administrative renewals do not accommodate a change of chemical volume within the limit of the permit category.
Outcomes of barrier
Low uptake of the provision for administrative renewals, as companies apply for a new permit when slightly increasing volume.

One NICNAS staff member indicated that these provisions were successful, as they were regularly utilised by industry and resulted in benefits in terms of NICNAS resources, as well as perceived benefits for industry.

> Permit renewals has been a huge gain. The process is faster, but also they can be processed by a lower level staff member – so admin staff rather than a high level assessor for example.
>
> NICNAS staff member

3.4.7 Increased access to chemical safety information and the AICS online

The introduction of the AICS online was uniformly considered a great improvement to industry.

> The AICS online is a great help.

Industry Stakeholder

I don't want to imagine a time when it wasn't online.

Industry Stakeholder

The AICS online is uniformly regarded as a substantial improvement to industry stakeholders' capacity to search the AICS.

While having the AICS online was generally lauded, stakeholders expressed concern at some of the functional search aspects of the system.

Many noted that without access to an accurate CAS number, it is easy to miss a chemical that is on the inventory.

The AICS online technical search is not easy to use – it has very tight parameters and is easy to muck up.

Industry Stakeholder

One example is where there are two different names. So for example, I think bitumen is listed but asphalt is not.

Industry Stakeholder

The concern of industry stakeholders was that there was little functional searchability. For example, it would ideally pick up asphalt when a searcher puts in bitumen.

Another concern was there is no direct linkage between the CAS numbers through AICS online and the various publicly available reports about different chemicals which become available. So for example the report may refer to the product by its trade name, yet it contains certain AICS listed chemicals, and there is no way of establishing these correlations.

Direct barrier to searching AICS online
Little correlation between multiple search terms for the same chemical results in difficulty for industry stakeholders to accurately identify chemicals on the AICS online.
Outcome of barrier
Lower uptake of online AICS searches, as some company stakeholders opt for making a direct enquiry to NICNAS to ensure the accuracy of information.

Overall, companies were concerned that a laborious process of seeking approval for a new chemical could potentially be commenced as a result of a slight error in the matching information on the AICS listing.

3.4.8 Early Listing on AICS

The option for early listing on the AICS online was well received. While industry stakeholders reported that it was not always appropriate due to issues of confidentiality, it was considered very helpful when working as part of a supply chain.

> Early listing on AICS has been good. Especially when using distributors, we would make a joint application.
>
> Industry Stakeholder

> It's fantastic for us if we have multiple customers.
>
> Industry Stakeholder

> Early AICS listing is a definite advantage, you can demonstrate to your clients that a product is registered.
>
> Industry Stakeholder

The option for early listing on the AICS was uniformly regarded as an improvement to industry's capacity to introduce LRCCs.

3.5 Other issues impacting on industry's uptake of the LRCC provisions

3.5.1 Communications and Transparency to Industry

With very few exceptions, a great degree of confusion exists within industry regarding the details of the LRCC reform provisions. Confusion was regardless of the tier or sector of the company, or whether the interviewee was a company employee or a senior consultant. Confusion existed even among very senior staff members of global companies.

The confusion came through in various ways:

- There is confusion about which provisions are related to the reforms
- There is confusion about which provisions have been able to be used by industry since 2004-05 and which have only been introduced since late 2007 or 2008
- There is confusion about what can and cannot be done under the LRCC reform provisions
- There is confusion about what the requirements are for each provision
- There is confusion in some cases between one provision and another
- There is confusion about the relationship between the provisions and the closely related permit categories
- There is confusion about what NICNAS does with the data provided by industry
- There is confusion between the legislation and the regulation.

The difficulty for stakeholders was related, in part, to the backdrop of frustration and at times, exasperation, at NICNAS requirements. Companies often opted to revert to the pre-existing

introduction pathways, because at least then they knew what they were dealing with, even though they knew they would find it onerous. With the 'old' pathways, industry stakeholders often had a clearer sense of what they could expect in terms of NICNAS response.

Direct barrier
Confusion about the specifics of the LRCC provisions hampers company decisions to use the provisions.
Outcome of barrier
Low uptake of the LRCC provisions.
Unintentional non-compliance.

Global barrier
Confusion about the development process of the LRCC provisions and the reform process generally, contributes to misconceptions and frustrations held by industry towards NICNAS.
Outcome of barrier
Low uptake of the LRCC provisions.
Non-introduction of new chemicals.

NICNAS undertakes ongoing consultation around Australia with a view to improving communications. However, NICNAS believes that while there has been clear engagement with industry around existing chemical reforms, this has been less so for the LRCC reforms.

There is scope for greater engagement with industry on LRCCs and new chemicals in general, to improve uptake of the LRCC provisions.

Industry stakeholders uniformly perceived that there had been an improvement in the communication methods of NICNAS. Yet while most respondents were aware of some of the communication channels available to them, few were aware of all. Improvements to communication from NICNAS were reported to include:

- Direct telephone and email contacts
- Better use of the website and online materials
- Notifier training workshops
- The use of the gazette and newsletters.

One direct outcome of the LRCC reforms was perceived to be a marked increase in traffic on the NICNAS website.

> Website usage has dramatically gone up since the LRCC provisions came in.
>
> NICNAS staff member.

The LRCC reforms have resulted in a significant increase in website traffic for NICNAS.

The increase in website usage was attributed to the mandatory registration of Tier 1 companies, which had increased the NICNAS audience by several thousand companies, the implementation of the AICS online and the chemical gazette online. The majority of visitors to the NICNAS website spent their time reading the Chemical Gazette, and the website recently received monthly figures of 100,000 unique visitors and 2.5 Million hits.

NICNAS has recognised that the current handbook for notifiers is too long and too complex, and this handbook is currently being completely revised to be both more user friendly as well as searchable online. This process remains one year from finalisation, due to the scale and resourcing of the exercise. Members of the IEG are also being asked to contribute comment as part of this process.

However issues around communication from NICNAS are by no means restricted to the methods used to communicate. Despite perceiving an improvement, most industry stakeholders requested greater communication from NICNAS.

There was an overwhelming request from industry stakeholders for transparency from NICNAS with regards to the uses to which chemical data and annual reports are put, as most felt that it was 'just sitting gathering dust'. The query about the use of data was most commonly related to annual reports, however some members of industry queried the data that was provided for chemical assessments as well.

> My gripe is what happens to the data? What are the benefits for industry or consumers?
>
> Industry Stakeholder

NICNAS publishes assessment reports that outline uses put to chemical assessment data. There is scope for greater communication of this data usage to industry.

There is scope for greater communication of NICNAS data usage to industry.

Industry stakeholders also felt that additional burdens such as extra data requests, where imposed by NICNAS, did little to contribute to the final risk assessment of the chemical in question, and felt dismayed and angered by them. This contributed to a sense of pointlessness about the regulatory framework, which in turn led in some instances to decisions not to introduce, or non-compliant introduction.

Some members of industry attributed this to the legislation to which NICNAS's regulatory framework is bound.

> You only need to submit data because that's what the law says, not because there's any kind of outcome or reason behind it. They're not telling us anything new.
>
> Industry Stakeholder

These stakeholders perceived the onerous process of application to be pointless, and felt frustrated that their time was being wasted. Stakeholders felt vindicated in this belief as they perceived that NICNAS 'always approves everything in the end anyway'.

Global barrier
Some industry stakeholders perceive NICNAS processes as pointless.
Outcome of barrier
Non-introduction of a new chemical.
Non-compliant introduction of a new chemical.

While the majority of industry stakeholders were supportive of the role of regulation in protecting public health, workplace safety and the environment, it was perceived that extensive auditing achieved little towards these goals, yet it created considerable burden for companies.

Industry stakeholders proposed that the outcome of these impediments was that the risk-based approach of NICNAS was contradicted, with a disproportionately large amount of resources spent by both industry and NICNAS on chemicals of low concern.

> I think resourcing is imbalanced at NICNAS – too much is spent on low concern chemicals.
>
> Industry Body

> They assume it's hazardous until we prove otherwise – this is not a risk-based approach.
>
> Industry Stakeholder

Industry stakeholders questioned NICNAS's prioritising of resources, and requested a shift away from the regulation of LRCC towards greater focus on higher concern chemicals.

Industry stakeholders tended to believe that their company had a significant internal motivation to use chemicals safely. Protection of the investment in brand value was particularly strong among Tier 3 companies where the brand name was well known among consumers.

> The first principle that needs to be acknowledged is that people don't ever knowingly introduce toxic chemicals.
>
> Industry stakeholder

Some industry stakeholders considered there to be a tension between NICNAS and industry, purely because of NICNAS's cost-recovery and regulatory mandate. This tension meant that industry stakeholders would monitor and scrutinize NICNAS.

> The concern is that NICNAS are using the money properly. I think that it's important that industry continually challenge NICNAS in order to justify that expense.
>
> Industry Stakeholder

The tension was balanced by a view that there was a need for industry and NICNAS to work more collaboratively.

> We need to bear in mind that we're a small economy and the dialogue between NICNAS and industry is important.
>
> Industry Stakeholder

Industry stakeholders reported that their companies comprised significant chemical expertise, and that based on this expertise NICNAS needed to heed the views and needs of industry.

NICNAS staff indicated that education formed the basis of their compliance activities, and that within the organisation, communication was regarded as important. Further, where a company had approached NICNAS with a problem or query, the best outcomes were felt to be achieved through face to face meetings. NICNAS communications staff agreed, stating:

> Small scale management has worked most effectively.
>
> NICNAS staff member

As such, there was some agreement by NICNAS that more targeted and personalised contact with industry would be of benefit. Particularly, NICNAS was supportive of more direct engagement, and activities to ensure that people understood the information that was imparted.

There is scope for further direct engagement with industry.

There is a need to ensure that information imparted to industry is clearly understood.

3.5.2 Data requirements

Industry stakeholders reported that the cost of having a new chemical introduced was dependent on the ease with which data could be obtained to prove that it was of low concern or that it posed 'no unreasonable risk'. Many industry stakeholders believed that their ability to introduce a new chemical, had everything to do with data availability and little or nothing to do with how hazardous the chemical was or may be, even when using the provisions which are the focus of this evaluation. Industry had particular concerns about the requirement to provide data related to polymers.

Global barrier
Difficulty obtaining chemical data is reportedly the most burdensome factor to a company introducing a new chemical.

Outcome of barrier
Non-introduction of the new chemical.

Industry stakeholders considered the administrative requirements of the LRCCs to be of minimal concern, however they considered that the data requirements of the LRCC provisions were at times excessive. Industry stakeholders don't see the purpose of the provision of large amounts of information (ie in annual reports or self-assessments) when the risks are considered to be minimal.

While the annual reporting requirement associated with a number of the reform provisions was troublesome to industry, it was the auditing provisions which applied to the self-assessments which tended to provoke the greatest concern for company regulatory managers, as they believed there may be no end to the amount of data they may be required to provide. The general power of NICNAS to audit a company at any time added to the bac kground of wariness towards NICNAS, even when the LRCC provisions were applicable. Perceptions about data requirements were an area where considerable confusion existed amongst industry.

There is scope to focus educational activities on data requirements, to address the present confusion held by many members of industry. Education activities should specifically focus on the detail required for initial chemical data, as well as specification of the conditions of NICNAS audits of chemical data

3.5.3 Pressures of the global marketplace

There is considerable frustration about the requirement for assessment of chemicals in Australia where they have been previously assessed and approved for use in other jurisdictions. Industry feels that the risks of these LRCCs will not change across jurisdictions and therefore they should be treated as the same across all jurisdictions.

When challenged about the need for Australia to assess independently because of the different characteristics in this country, this argument was flatly rejected by all industry stakeholders.

> The laws of chemistry are the same wherever you are. They are no different just because we have kangaroos.
>
> Industry body

Companies that operate across multiple jurisdictions were acutely aware of the difficulties that were specific to the Australian regulatory system. These were largely that:

- Fees are higher in Australia than elsewhere
- There are more onerous notification requirements in Australia, particularly for polymers; and

- The Australian regulators at times are perceived as asking questions 'just for the sake of it'.

Frustrations about particular conditions of the Australian regulatory framework were exacerbated by the awareness that Australia is a very small market in comparison with other jurisdictions, and there was often little incentive to global companies to introduce new products here.

> The Australian industry can't afford this scheme. We need to be an affiliate or subsidiary of the US or EU.
>
> Industry stakeholder

> We are part of a world economy and we have to compete worldwide.
>
> Peak body stakeholder

Global barrier
The scale of the Australian marketplace for industrial chemicals is at times considered too small for introduction of a new chemical to be viable.
Outcome of barrier
Non-introduction of new chemicals.

The minute scale of the AICS compared with the inventories of larger jurisdictions was a particular concern in terms of how many chemicals are considered 'new' in Australia. For example, one stakeholder claimed there were 50,000 paint chemicals approved in the EU whereas only 3,000 can be currently used here.

Globally operating companies wanted greater acceptance of assessments across jurisdictions.

> The best solution is if authorities can agree with each other.
>
> Industry Stakeholder

> As far as possible we need to align with world best practice, and ensure that NICNAS is compatible with EU and US regulations.
>
> Peak body stakeholder

> Too often we've reinvented the wheel.
>
> Peak body stakeholder

> I do not accept the premise that something that has been reasonably used in a country like the US suddenly turns into this big bogeyman that is dangerous to Australia.
>
> Industry Stakeholder

> If you're telling me that the Europeans are allowing products that will harm their people, then that's just crazy.
>
> Industry Stakeholder

NICNAS's regulatory model is based on the notion of a *'strong front gate'*, with the majority of assessment taking place at introduction. The 'front gate' model is common to most areas of Australian regulation of industry. It was noted that other jurisdictions who operated with a

'weaker front gate' generally had much more stringent 'back end' measures in place, regulating and assessing chemicals beyond introduction. Reciprocity of data between jurisdictions has the potential to pose dilemmas for industry because of the proprietary nature of data and the costs that international companies may have incurred in their original introduction of that chemical.

NICNAS reported that it was currently exploring options for greater reciprocity with other OECD jurisdictions, and is open to the possibility of other modes of recognition.

The second tranche of LRCC reforms, recently implemented, includes a provision for greater recognition of assessments from other jurisdictions, particularly those from Canada.

It was noted that the process for exploring mutual recognition was slow due to a range of factors, many beyond the control of NICNAS.

3.5.4 Timeliness of the reforms

Industry stakeholders expressed concern about the perceived slow pace of implementation of the reforms, with some noting that it was now five years since the commencement of the reform process. These industry stakeholders saw little justification for these delays.

> The reform implementation is urgent to industry, and NICNAS's commitment to that urgency is very poor.
>
> Industry body

NICNAS staff reported that benefits of more streamlined processes took up to 18 months to be realised, as the new procedures relating to the reform provisions were navigated and staff familiarised themselves with the requirements. It was noted that considerable time and resources are invested in implementing a reform program such as the LRCC by NICNAS. There was a recognition by some NICNAS staff that the positive outcomes of any reform, through greater streamlining and efficiency, requires some time, education and training before benefits can be fully realised. NICNAS noted that the extent of positive outcomes for NICNAS was ultimately dependent on the extent of uptake of the reform provisions by industry, and as such NICNAS had a vested interest in industry's perception and use of the provisions.

There was also considerable comment from industry stakeholders about the length of time taken over the assessment process for applications made using some of the reform provisions, and this comment was divergent.

Some industry stakeholders indicated that NICNAS was improving both the speed at which they processed applications and their approach more generally:

> NICNAS has sped up their processes in the last few years which is a big improvement.
>
> Industry Stakeholder

> I know that they'll continue to work towards more flexibility.
>
> Industry Stakeholder

Others expressed the opposite view: that NICNAS was becoming more difficult to work with:

> There's been a definite increase in the red tape.
>
> Industry Stakeholder

NICNAS reported that it has limited resources for reform, which is generally very costly and funded from finite reserves, and therefore prioritises the full acquitting and evaluating of current or pending reform processes before commencing a new stage. It was expressed by a NICNAS staff member that the effectiveness of reform is greatly dependent on how well it is implemented, and the main goal for NICNAS was ensuring that any reform was the 'right' reform, rather than hastily implementing a rapid succession of changes.

While reform is considered urgent to industry, NICNAS indicated that it is a timely process and their main priority is ensuring the best mode of implementation of reform, rather than the speed of implementation.

3.5.5 Impact of the development phase of the reforms

Given that the NICNAS consultation process with industry regarding the development of the reforms took place six years ago, there is little direct relevance to many of those in current industry roles. Most company stakeholders (as distinct from those from industry bodies) were entirely unaware of any consultation. When industry stakeholders were informed of the collaborative development of the reforms, their level of concern with elements of the provisions was not substantially reduced. This highlights the need for consultation to occur on a periodic basis.

In the course of the industry evaluation, it emerged that those industry sectors where the relevant industry bodies had been most actively engaged in the original NICNAS consultation process had gained a greater benefit, as the reform provisions met their sector's requirements more closely, even though considerable frustrations remained. This was particularly noted to be the case for the cosmetics sector. Conversely, those sectors which had not participated as actively in original consultations were among the stakeholders with the greatest frustrations at the lack of applicability of the LRCC provisions.

A variable degree of representation and involvement by different sectors during the development of the reforms, has impacted on the degree of suitability of the reforms provisions for various sectors.

It should be noted that stakeholders from peak bodies were well aware of the original NICNAS consultations and praised the process widely. One peak body stakeholder did however express surprise and disappointment at what was considered an increasing trend by NICNAS to be more rigid in its implementation of the reform provisions. The peak body stakeholder felt this was occurring increasingly and was against the 'spirit of the reforms'. This peak body had gained feedback from its members and indicated this was a strong view arising from that process. Having taken part in the reform development process, peak bodies were dismayed at some of the unforeseen consequences of the LRCC provisions which they had helped develop, notably the annual reporting requirement for audited self-assessments.

Peak bodies were better informed about the development of the reforms that industry stakeholders generally.

3.5.6 Impact of the reforms on innovation of new safer chemicals

Despite the introduction of the LRCC provisions, NICNAS was still widely regarded as having a negative impact on the innovation of new, safer chemicals in the Australian chemical industry. It was considered by some industry stakeholders that NICNAS is often taking actions which run counter to its objective to encourage the introduction of new, safer chemicals, specifically because those NICNAS actions are leading many companies to abandon efforts to bring in new, safer chemicals. Many industry stakeholders reported that if data is readily available for a chemical that is less safe, the company will tend to provide this and get the application done, rather than revert to a new process for which they do not have the data to demonstrate low risk. Tier 1 and Tier 2 companies were regarded as the least likely to consider bringing in new, safer chemicals. Many Tier 2 companies reported working almost exclusively with Australian Inventory of Chemical Substances listed chemicals, the majority of which are at least 20 years old.

Where companies were compelled to innovate to remain competitive, the necessary chemicals would be introduced regardless of the available introductory pathway. Where companies were not compelled to innovate, the provisions introduced through the LRCC reforms were considered by industry stakeholders to not present enough incentive to overcome other introductory burdens.

The LRCC provisions are not significantly impacting on companies' decisions to innovate new, safer chemicals.

Encouraging industry to use new, safer chemicals, and fostering innovation of these chemicals, were primary objectives of the LRCC reforms, and in general the evidence identified during stakeholder consultation was that these objectives were not met, based on reports from industry.

NICNAS lacks a comprehensive baseline of data from 2004 against which to compare current data on introduction of safer chemicals. Data which is available is currently being compiled by NICNAS to provide at least an indication of the quantity of new chemicals introduced to Australia, however the extent to which this data will be meaningful will be limited by its retrospective nature.

The development of comprehensive baseline chemical introduction data at 2009/2010 will allow NICNAS to qualitatively measure the industry's use and innovation of new, safer chemicals.

Industry stakeholders cited numerous examples of stopping a decision to introduce a new chemical because of the difficulties involved in introducing it, even though they were adamant that it would be assessed a low risk chemical by NICNAS. This was commonly where the product fell within the self-assessment category and self-assessment was ruled out as an option, or because it did not fall within one of the exemption categories due to the required volume. Reported outcomes included:

- Products in common use overseas – sometimes for as long as 20 or 30 years - don't make it into Australia
- A product containing older, more hazardous chemicals is used instead of a newer safer one
- An older more energy inefficient chemical is used instead of a newer more energy efficient one
- Australian consumers bear the expense of introduction, and have to pay more to access safer products when they are introduced
- Manufacturing is moving offshore and a contributing factor relates to chemicals – as value-adds can be handled more easily, without requiring new chemical assessments. A specific example of this was the use of certain innovative paints, not registered here, but registered throughout Europe and in parts of Asia and so the painting of a major product would be done in Asia, rather than Australia.
- R&D is conducted offshore rather than in Australia
- When R&D is conducted in Australia it is to laboratory scale only, limiting its accuracy and usefulness
- Companies are unable to grow and develop into new areas easily, resulting in a stifling of their ability to employ more staff
- Tier 2 and Tier 1 companies operating on low overheads and low margins are limited to out-of-date, AICS listed chemicals.

> Australian regulation is a hindrance. You can't get products and materials you'd be able to use elsewhere in the world.
>
> Industry Stakeholder

The barrier to innovation of newer chemicals was considered to be stronger for smaller companies, with one Tier 2 stakeholder claiming that the company would never introduce a new chemical as a matter of course, solely because they were too small to absorb the regulatory burden.

> The fact is that they have forced upon Australia technology which is 20 years old.
>
> Industry Stakeholder

Global barrier
Low overheads for Tier 2 and Tier 1 companies reportedly make the cost of introduction unviable, even where the LRCC provisions apply.
Outcome of barrier
Non-introduction of new chemicals.

3.5.7 Non-compliance

Some companies reported opting to 'fly under the radar' rather than deal with perceived onerous requirements of NICNAS. This presented a source of frustration and resentment from the companies who maintain full compliance. These companies maintained that non-compliant companies had a definite competitive advantage.

> There are no benefits for those who do the right thing.
>
> Industry Stakeholder

However it was also often a source of frustration and resentment from the companies who were non-compliant, with industry stakeholders from these companies reporting they would feel much more comfortable if they were able to 'do the right thing'. Industry stakeholders were often conscious of the onerous responsibility they bore when not following the correct procedures. Stakeholders from non-compliant companies stated that they would prefer to work within the regulatory system, but felt that they simply did not have the resources to do so, particular where extensive data was required. Pressures which were reported to drive non-compliance included:

- Competition, particularly where a threat to loss of custom was perceived
- Economic realities of smaller business, including low overheads and low profit margins
- Marketing timelines
- Pressures from international headquarters to keep to global timelines, in some cases.

While a minority of industry stakeholders reported acting in non-compliance at times, many more industry stakeholders indicated second-hand knowledge of non-compliant practices within industry.

Global barrier
Concerns relating to the time to market of a new product, or the cost of introduction of a new chemical, would lead a small number of companies to non-compliant behaviour.
Outcome of barrier
Non-compliant introduction of a new chemical.

Companies who reported having acted non-compliantly invariably felt that they were not generating any risks by doing so, as their brand reputation was reported to be their greatest asset.

> We can't tolerate any side-effects. Brand image is imperative.
>
> Industry Stakeholder

It is noted that it was possible that companies who operated non-compliantly were potentially still introducing a safer chemical to the alternative that was previously in use.

Avoidance of NICNAS regulations included:

- Introducing a chemical or polymer as soon as the application process commenced (sometimes a year before approval), as there was confidence that it would be approved anyway as it posed such a low risk
- Generating CAS numbers to use, by identifying a reasonably similar chemical and simply using that chemical's CAS number instead
- Where two CAS numbers exist for a product, knowingly opting for the older CAS which is on the AICS, rather than the newer more detailed CAS that is not listed on the AICS.

Industry stakeholders from both compliant and non-compliant companies claimed that if time to market was assured (where extensive time was commonly associated with the company's difficulties involved in sourcing or generating data), more companies would comply.

Time to market of a new product was the greatest driver of non-compliance reported by industry stakeholders.

3.5.8 Preliminary consideration of impacts on the community

Preliminary considerations of the impacts on the community were investigated through limited consultation with representatives from the community and State Government. Due to the scope of this consultation, it was not possible for the community stakeholders to provide a comprehensive view on how the LRCC reforms have impacted the community. However, preliminary views were given, and data of the sort considered necessary in order for the community to provide further feedback was identified. These areas of data are included below. Investigation of the impact of the LRCC reforms on the community will therefore need to be addressed separately.

Stakeholders providing their preliminary views included members of the CEF, DEWHA's Environmental Protection Branch (EPB) and a state government OHS inspector. Views expressed by community-interest stakeholders, while preliminary only, were noted to be divergent. Representatives from the EPB and CEF were both proponents of a rigorous regulatory approach. Another community-interest stakeholder within an OHS inspection agency reported little concern about the regulatory performance of industry with concern to LRCCs. OHS activities were reported to focus on high risk chemicals.

It was felt by the community stakeholders that further data would need to be available in order for a judgement on the success of the reforms to be made in terms of benefits to the community.

The data requested, which will be considered in the next phase of the evaluation, was as follows:

- What have been the predominant types and quantities of LRCCs that have utilised this new LRCC approvals process, including a list of the chemicals introduced at the highest quantities?
- What have been the predominant chemical uses and workplace/industry environment that have utilised this new LRCC approvals process?
- Have there been any instances where an adverse impact for public and /or worker health and /or the environment has arisen through the introduction of LRCCs and the associated approvals process, especially when meeting the NICNAS “low risk” criteria?
- Have there been any alerts or data from other countries of adverse impacts or any problems associated with the introduction of LRCCs that may also affect Australia?
- Can NICNAS provide details or examples of the increased downstream, post assessment reporting and record keeping by industry? That is, what types of industry have participated in these activities and how has this data benefited NICNAS?
- What evidence does NICNAS hold that the introduction of LRCCs has resulted in the reduction of more toxic chemicals? What evidence exists of real life substitution of chemicals with safer alternatives?
- Also, given the objectives of introducing LRCC amendments, how have these enabled NICNAS to better focus their activities on more pressing needs? Has this been measurable?
- What evidence of increased compliance does NICNAS hold in relation to LRCCs?
- What evidence of increased community participation in regulation decisions and access to information does NICNAS hold in relation to LRCCs?
- How is the emerging issue of nanomaterials that might be introduced through the LRCC process currently being managed?

While these questions were outside the scope of this stage of the evaluation, these issues will be considered in a separate phase of the evaluation.

3.6 Conclusions of stakeholder consultation

3.6.1 Positive impacts of the LRCC reforms

The LRCC reform initiative was uniformly perceived by industry stakeholders to represent an improvement to industry's capacity to introduce LRCCs.

LRCC provisions that elicited positive comments from industry stakeholders were:

- Audited self-assessments
- Exemption for non-hazardous chemicals at 1% volume or less in a cosmetic product
- Low volume exemption
- Administrative renewals
- AICS online
- Option for early listing on the AICS

Positive comments pertaining to audited self-assessments, exemptions and administrative renewals were limited to companies who were regularly using the provisions.

Positive comment pertaining to the AICS and option for early listing of chemicals on the AICS were common to all industry stakeholders.

3.6.2 Barriers to use of the LRCC provisions

There remain a considerable number of barriers to the adoption of the reforms and the impact on industry. These barriers are summarised in Table 2.

Table 2: Barriers identified during Stakeholder Consultation

Applicable provision	Direct barriers
Audited self-assessment	Perceived difficulty pertaining data required for self-assessment acts a barrier to companies' decision to introduce.
Audited self-assessment	Time involved in reporting and auditing requirements for self-assessment is considered to be more expensive to the company than the cost of introducing using a standard notification.
Audited self-assessment	NICNAS is perceived by some companies as making potentially limitless data requests for self-assessed chemicals.
Audited self-assessment	Annual reporting requirements are perceived by industry stakeholders as contradicting the moniker of self-assessment, counteracting other advantages of the provision.
Audited self-assessment	Company CEOs perceive statutory declarations as implicating them personally in the outcomes of introduction.

Table 2: Barriers identified during Stakeholder Consultation

Applicable provision	Direct barriers
Transhipment exemption	The exemption was perceived by most industry stakeholders to be irrelevant to their needs.
Low volume exemption	Low volumes are irrelevant to some industry sectors, which only deal in very large quantities of chemicals.
Low volume exemption	Low profit margins make volumes of 100 kg or less uneconomic, and the cost of a permit equally uneconomic.
R&D exemption	Perceptions of the Australian regulatory framework as onerous regarding introductions, has lead many companies to perform R&D offshore.
R&D exemption	Where the volume limit is regarded as too low, companies will default to a CE permit, or choose to not proceed with the R&D.
Administrative renewals	Administrative renewals do not accommodate a change of chemical volume within the limit of the permit category.
AICS online	Little correlation between multiple search terms for the same chemical results in difficulty for industry stakeholders to accurately identify chemicals on the AICS online.
All provisions	Confusion about the specifics of the LRCC provisions hampers company decisions to use the provisions.
	Global barriers
All provisions	NICNAS processes and implementation of the reform provisions is perceived by some industry stakeholders being unnecessarily onerous, thus undermining the intended benefits of the provisions to industry.
All provisions	Confusion about the development process of the LRCC provisions and the reform process generally, contributes to misconceptions and frustrations held by industry towards NICNAS.
All provisions	Some industry stakeholders perceive NICNAS processes as pointless, as a result of a perceived lack of transparency of NICNAS activities.
All provisions	Difficulty obtaining chemical data is reportedly the most burdensome factor for a company introducing a new chemical.
All provisions	The scale of the Australian marketplace for industrial chemicals is at times considered to small for introduction of a new chemical to be viable.
All provisions	Low overheads for Tier 2 and Tier 1 companies reportedly make the cost of introduction unviable, even where the LRCC provisions apply.
All provisions	Concerns relating to the time to market of a new product, or the cost of introduction of a new chemical, would lead a small number of companies to non-compliant behaviour.

3.6.3 Industry proposals to overcome the barriers

The LRCC reforms represented a small improvement for industry but there is a strong argument that there is more to be done. Industry stakeholders uniformly requested further reform. In particular, it was considered by industry stakeholders that the LRCC provisions were not significantly impacting on decisions to introduce and innovate new, safer chemicals. The industry stakeholders argue that the benefits of the reforms for the community are not being realised.

Many industry stakeholders suggested changes to the current LRCC provisions, for the consideration of NICNAS, and these included:

- Expansion of the transhipment exemption conditions to include use in custom bonded warehouses would increase the use of the provision by multi-national companies.
- Allowing a concentration based exemption for non-hazardous chemicals in non-cosmetics products
- An increase in volume limits for low volume and R&D exemptions

Any changes to the current LRCC provisions would need to be reviewed by NICNAS to ensure that the risk posed by eligible chemicals remains low.

Industry stakeholders demonstrated high levels of confusion around the LRCC reforms, and this confusion impacted on companies' use of the LRCC provisions. There was shown to be scope for further direct engagement of industry by NICNAS, as well as a need to review communications to industry to ensure that information is correctly understood.

Other factors impacting on companies' decisions to use the LRCC provisions were demands on time to get a product to market, and difficulties associated with sourcing data.

Some industry stakeholders indicated non-compliance with NICNAS regulations at times. Time to market of a new product was the greatest driver of non-compliance reported by industry stakeholders.

There was shown to be scope for greater transparency of NICNAS activities, as industry would frequently question NICNAS's regulatory logic, processes and prioritising of resources. NICNAS publishes assessment reports that utilise data provided by the notifier and as noted, there is scope for greater communication of this data usage to industry.

3.6.4 Implementation of the reforms

While reform is considered urgent to industry, NICNAS indicated that it is a lengthy process and their main priority is ensuring the best mode of implementation of reform, rather than the speed of implementation.

A variable degree of representation and involvement during the development of the reforms by different sectors, has impacted on the degree of suitability of the reforms provisions for various sectors. Peak bodies were better informed about the development of the reforms than industry stakeholders generally, and they demonstrated a significant contribution to the development of the reforms.

3.6.5 Other issues

Global reciprocity was indicated to be a priority for industry. The second tranche of LRCC reforms, recently implemented, includes a provision for greater recognition of assessments from other jurisdictions, particularly those from Canada.

There is a need for further review of the impact of the reforms on the community, and this review is to be addressed seperately by NICNAS.

4. Industry case studies

Campbell Research conducted four case studies with NICNAS registered companies. Three companies were Tier 3 and one was Tier 2. The stakeholders interviewed for the case studies were those involved in the introduction of chemicals and products in Australia. The case study stakeholders were in a variety of roles such as scientific adviser, product manager, regulatory manager or business partner.

Case studies explored the introduction of an LRCC chemical using one of the LRCC provisions. These case studies highlighted factors that contributed to the introduction process, as well as costs incurred above and beyond NICNAS fees and other administrative costs such as consultant fees.

Limitations of findings

The information provided in the case study findings represents the version of events as recalled by the industry stakeholders interviewed on behalf of their companies, and is not necessarily an indication of actual NICNAS fees and practice, nor the actual sequence of events which occurred in each case. These findings represent the views of industry, relating to specific episodes of introduction or decisions not to introduce and are not intended to represent the views of NICNAS or any other parties. They are intended as examples of the range of issues encountered by companies in relation to the LRCC provisions.

4.1 Commercial in confidence

Companies participating in the case studies were provided with a written assurance of confidentiality from NICNAS. Much of the information divulged during the case studies was of a highly sensitive nature, and companies contributed generously and openly, having received this reassurance.

Given the specificity and sensitivity of much of the information garnered throughout the case studies, only overall findings are included in this report, to ensure the confidentiality of participating companies.

4.2 Case study findings

4.2.1 Case study 1 – Tier 3

The company introduced a Polymer of Low Concern (**PLC**) by an audited self-assessment.

The company reported several areas of difficulty when introducing the chemical, and these related to:

- Establishing that the chemical was a PLC with NICNAS
- The acquisition of required chemical data for the self-assessment, which had to be obtained from an international competitor
- A delay in the application timeline resulting from an additional data request from NICNAS. The company reported that the additional data requested was irrelevant, as it

pertained to the solubility properties of the chemical, which the company claimed was insoluble.

The delay of the product to market resulting from these difficulties was estimated to be a total of 17 months from the initial inquiry to the time of application approval. As a result of delays, the company lost a regular customer to a competitor. The opportunity losses experienced by this company through loss of sales were estimated to be over $600,000. Administrative costs relating to the self-assessment, such as NICNAS fees and consultant fees, were considered negligible by the company.

Stakeholders from this company reported non-compliantly introducing the chemical at the time the initial application was made, as they were confident that the chemical would ultimately be approved by NICNAS. This act of non-compliance allowed the company to sell the chemical two months earlier than if they had waited for approval from NICNAS.

The acquisition of chemical data was the greatest difficulty experienced by the case study company.

The time of the product to market incurred the greatest cost for the case study company.

Time of the product to market was a driver for non-compliance for the case study company.

4.2.2 Case study 2 – Tier 3

The company introduced a new chemical by combination of audited self-assessment and an exemption provision.

Difficulties experienced by the company during introduction were reported to include:

- Competing pressures including internal pressure to meet product release timelines as directed by an international head office
- Acquiring and translating chemical data from international offices, taking several months and costing several thousand dollars
- Time involved in post-compliance auditing.

The pressures to meet international timelines were felt strongly by one company stakeholder, who expressed a belief that global launches were a major imperative for the company. As these launch timelines were derived globally they did not always accord with NICNAS assessment timelines, and in this case the company introduced the chemical via an exemption provision to ensure introduction at the time of product launch. The case study company stakeholder reported that introducing compliantly through several mechanisms to meet company timelines involved a great deal of complexity and was a ‘ very difficult juggling act to manage’. .

It was considered by the company stakeholder that the cost of fully complying with the exemption, while the permit was being assessed and ceasing introduction and product sales

once the volume limit of the exemption was met, would be 'catastrophic' and result in hundreds and thousands of dollars in opportunity costs.

Both auditing and annual reporting associated with the self-assessment and exemption provisions were reported to be of concern due to the burden on the company. However auditing was reported to be the greater concern as company stakeholders were unable to plan for the additional workload associated with an audit, and the interruption to their daily work was considered very costly.

Time to market was the greatest pressure experienced by the case study company.

Acquiring data from overseas was a difficulty, and involved delays and translation costs of several thousand dollars.

4.2.3 Case study 3 – Tier 3

This company reported investing considerable resources investigating the possibility of using an LRCC provision to introduce a product. This included a lawyer who examined the legislation relating to the limit for low volume exemptions extensively, seeking to confirm whether a provision did apply. The degree of investigation undertaken was due in part to high levels of confusion surrounding the specifics of various provisions and the way these related to the Act. Despite these investigations, the company was unable to utilise a LRCC provision and introduced the chemical through a pre-existing introduction pathway.

Difficulties encountered by the company included:

- LRCC provisions relating to volume limits were inadequate to the company's needs
- The company experienced considerable confusion in seeking to understand the parameters of the provision which may have applied to their product, including which volume limits applied. This confusion continued despite extensive efforts by the company's legal adviser to determine whether the provision could be applicable. This confusion ultimately related to the complexity of the Act and was not overcome until discussions took place at a much later date, directly with senior management of NICNAS.
- Inability to access a concentration-related exemption due to the product in question not being a cosmetic.
- The company's ultimate decision that it could not access the provision led to what the company considered to be a 'restriction on competition'. This perception arose because the company considered the NICNAS regulations to be the ultimate reason that it (the company) needed to purchase its product from a single international supplier which was able to provide the chemical data required by NICNAS.
- Restriction to purchase from this one supplier prevailed despite the case study company's view that the alternative suppliers may indeed have been including an even

safer chemical. This was reported to be creating a market disadvantage for the case study company because it was then required to pay higher and higher prices to the supplier of the product containing the AICS-listed chemical, as that supplier was aware that the case study company had no other option.

- The case study company believed that the strong position of the supplier was driving up costs of the imported product, ultimately increasing the price of the final product for Australian consumers, due to the limited number of major retailers in the Australian marketplace.

> Clarity with simplicity brings compliance. At the moment it is a complex regulatory framework. The more complex it is, the more likely it is to bring unintended consequences, such as misunderstanding, confusion, red tape, increased risk of exposure, because more and more companies will simply not go through any process. When the requirements are clear and concise, it is easier to comply.
>
> Despite having access to high level legal advice we still struggle at times to follow the requirements for compliance. It is very complex legislation, the laws are overlapping, with so many variables and so much paperwork required.
>
> Case study company stakeholder

NICNAS data requirements restricted the number of potential product suppliers to those who could provide the required data, driving up company costs and consequently costs to the consumer.

NICNAS requirements and legislation contained a level of complexity that made them extremely difficult to negotiate and understand, despite access to high level legal expertise. This complexity adversely affected the company's ability to introduce chemicals within NICNAS requirements.

The case study company felt that this restriction would be alleviated if the exemption for non-hazardous chemicals at 1% volume or less in cosmetics products was also applicable for products other than cosmetics, thus reducing the data requirement for the product's chemical.

4.2.4 Case study 4 – Tier 2

The company stakeholder reported that the company did not introduce any new chemicals, including LRCCs, as a matter of policy. This was stipulated to be the result of the small size of the company, which was a Tier 2 company. The company stakeholder stated that the company remained viable by maintaining low overheads, and that the administrative costs of introduction were too great to be absorbed by these overheads.

This company stakeholder reported that the company's standard practice was to offer the newer chemical as well as an existing AICS listed chemical to the customer, with the new chemical

having an inflated cost to absorb the cost of introduction. The company stakeholder reported that the customer always opted for the older, cheaper chemical.

In the operation of this Tier 2 company, the cost of notification and assessment was the barrier to introduction.

The administrative costs of introduction were the major barrier to introduction.

The Tier 2 company survived on low overheads, and did not have the capacity to absorb the costs of introduction.

4.3 Case study conclusions

Administrative costs associated with the introduction of new chemicals were regarded as negligible by Tier 3 companies. However these costs were presented as the major barrier to introduction for the Tier 2 company, which did not introduce any new chemicals as a result of these costs. This finding was consistent with the stakeholder consultation findings, in which Tier 2 companies also reported aversion to the introduction of new chemicals.

While administrative costs were considered minor to Tier 3 companies, opportunity costs associated with delays to introduction were reported to be potentially in the hundreds of thousands of dollars.

For one company, substantial resources were invested as a result of confusion pertaining to the LRCC provisions.

Overall, factors which impacted on the burden of introduction for Tier 3 companies included:

- Costs associated with the acquisition of data, including company time, and the translation of data
- Additional data requests from NICNAS
- Restriction of competition amongst potential suppliers resulting from the requirement for specific chemical data
- Delay of a new product to market, resulting in loss of sales and additional opportunity costs
- Staff time associated with tracking chemicals for annual reporting and auditing requirements of self-assessment.

As was found during the stakeholder consultation, difficulties associated with introduction were reported by companies to be greatly associated with difficulties accessing chemical data, and poorly associated with the actual risk presented by the chemical.

For one case study company, the restriction of the exemption provision for non-hazardous chemicals at 1% concentration or less to cosmetics products was a grievance that resulted in inflated costs for customers.

One company reported an incidence of non-compliance and for that company, pressures upon time to market for the new product, and the aversion of opportunity costs associated with a delay to market, were the major drivers of non-compliance.

5. Industry survey

The objective of the industry survey was to assess the extent to which the issues identified in the qualitative stage of the research held across the population of companies that were registered with NICNAS.

5.1 Respondent characteristics

5.1.1 Tiers

All companies surveyed were allocated a Tier by NICNAS, according to their annual chemical turnover – Tier 1 having the lowest chemical turnover and Tier 3 the highest. The number of companies surveyed in each tier was as follows:

- Tier 1 (up to $500,000) – 612 (70%)
- Tier 2 (greater than $500,000 - $5,000,000) – 172 (20%)
- Tier 3 (greater than $5,000,000) – 88 (10%)

Within each tier, Tier 3 companies had the highest response rate, followed by Tier 2 and then Tier 1 companies:

- 18% of all Tier 1 companies responded
- 23% of all Tier 2 companies responded
- 29% of all Tier 3 companies responded

5.1.2 Sectors

A fifth (21%) of all companies surveyed were in the Cosmetics sector. This was the largest sector represented, followed by the Surface Coatings sector (14%), Engineering (10%) and Plastics (9%).

Table 3: Sectors

Q4. *Which of the following describe the sectors the company is involved in? If you are a consultant, please tell us about the company you most frequently represent in relation to NICNAS.*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Cosmetics	21	18	26	31
Surface coatings	14	9	22	32
Engineering	10	12	7	9
Plastics	9	6	12	27
Electrical/electronic	8	8	5	14
Fuel and oil	8	7	10	17
Mining and metal extraction	8	7	6	25
Domestic/cleaning	7	5	9	19

Table 3: Sectors

Q4. Which of the following describe the sectors the company is involved in? If you are a consultant, please tell us about the company you most frequently represent in relation to NICNAS.

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Printing	7	4	13	11
Packaging, paper and pulp	5	4	6	11
Water treatment	5	4	8	11
Other	50	54	45	38

(multiple response question)

Base: All respondents

5.1.3 Company Activities

The majority of companies surveyed (59%) import finished products while over a third (36%) are involved in manufacturing. Close to one third of companies traded in finished products (32%) and conducted business to business sales (30%).

Table 4: Company Activities

Q5. Which of the following does the company do?

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Import finished products	59	61	56	51
Manufacturing	36	32	43	56
Trade in finished products	32	31	34	38
Business to Business sales	30	30	30	28
Import raw materials	27	19	39	59
Exports	25	21	30	40
Direct to Market sales	16	16	15	16
Formulating	11	6	21	32
Trade in raw materials	10	7	13	27
Contract manufacturing	9	6	17	15
Industrial and Institutional	6	5	9	12
Other	2	2	2	-

(multiple response question)

Base: All respondents

5.1.4 Industry Association Membership

Most of the companies surveyed (78%) are not members of any of the industry associations listed, particularly the Tier 1 companies where only 12% have membership. In contrast, 61% of Tier 3 companies have industry association membership.

Amongst Tier 3 companies, PACIA was the most representative organisation, with almost one third (32%) of companies as members. Other associations representing around one tenth of Tier 3 companies included ACCORD (12%), The Surface Coatings Association of Australia (11%), Australian Chamber of Commerce and Industry (8%) and Australian Paint Manufacturers Federation (9%).

Table 5: Industry Membership

Q3. Is the company a member of any of the following industry associations?

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Australian Chamber of Commerce & Industry	7	6	13	8
Plastics & Chemicals Industries Association	5	1	6	32
Surface Coatings Association of Australia	5	2	10	11
ACCORD	3	1	3	12
Australian Society of Cosmetic Chemists	2	2	5	3
Australian Paint Manufacturers Federation	2	0	3	9
Printing Industries Association of Australia	2	1	3	-
Australian Mines& Metals Association	1	1	1	6
Australian Institute of Petroleum Ltd	1	0	1	6
Packaging Council of Australia (PCA)	1	0	3	-
Australian Petroleum Production & Exploration Association (APPEA)	1	0	2	1
Minerals Council of Australia (MCA)	1	1	-	3
Australian Plantation Products and Paper Industry Council (A3P)	0	0	1	-
Australian Food and Grocery Council (AFGC)	0	-	-	2
None	78	88	63	39

(multiple response question)

Base: All respondents

5.1.5 State

Most of the companies surveyed, across all tiers, came from New South Wales (38%) and Victoria (35%). Other companies were located in Queensland (11%), Western Australia (8%), and South Australia (6%). The remaining 2% of companies were from Tasmania, The ACT and the Northern Territory.

5.1.6 Respondent role in company

The respondents who answered the questionnaire were asked what their role was in the company. Over one third (36%) were the CEO or owner – 43% of the Tier 1 company respondents. The Regulatory Managers were the most likely to be answering the survey for the Tier 3 companies (30%).

Other respondent roles included Technical Managers (13%) and Product Managers (11%). The remaining respondents (7% or less) were Other Managers, Administrative/Accounts Managers, Accountants/Finance Managers, OHS/Environment Officers, Operations/Production Managers, Sales/Marketing Staff and Scientific Advisors.

Few respondents (2%) were independent consultants.

5.1.7 Period Dealing With NICNAS

Most respondents (80%) had been dealing with NICNAS for over two years. The majority (62%) of Tier 3 companies had been dealing with NICNAS for over five years, beyond the period of the LRCC reforms. Fewer Tier 2 and Tier 1 respondents had been dealing with NICNAS for over five years (17% and 4% respectively).

The majority of respondents were Tier 1 companies, yet Tier 3 companies had the highest response rate.

Tier 3 companies were more likely to have a longer history of dealing with NICNAS, and a dedicated regulatory manager for NICNAS affairs.

Cosmetics and Surface Coatings were the most represented sectors in survey findings.

The majority of companies surveyed were importers of finished products.

Peak body associations were not highly representative of industry, with over one third of Tier 3 companies not belonging to any industry associations. PACIA was the most representative industry association, representing nearly a third of surveyed companies. This is not supported by the consultation findings, where a majority of companies were industry association members. However, given that the majority of consulted companies were Tier 3 companies, who generally have higher levels of peak body membership, the finding is consistent.

5.2 Introducing LRCCs

5.2.1 How Often Introduced LRCCs

The majority (62%) of the companies surveyed reported that they have introduced (manufactured, formulated or imported) a low regulatory concern chemical (LRCC) in the last two years. One quarter (28%) had introduced an LRCC fewer than 6 times, and 13% more than 50 times. The rate of introduction of LRCCs was distributed evenly across industry sectors.

The definition of LRCCs provided by NICNAS in the questionnaire was as follows:

> There is no absolute definition of Low Regulatory Concern Chemicals (LRCCs).
>
> For the purposes of this survey, please consider LRCCs to be: *chemicals requiring reduced regulatory input due to meeting defined criteria of low risk, or because they have been previously assessed*.
>
> Low risk chemicals in this context include chemicals of low (or no) hazard, chemicals used in highly controlled situations and those chemicals introduced in low volumes or low concentrations that pose no unreasonable risk.

Given this definition, NICNAS considers that there was some scope for confusion amongst survey respondents as to whether new and existing chemicals were reported as LRCCs. The clarity of information provided to industry is identified as an area for further review.

5.2.2 Awareness and Usage of the LRCC Provisions

All respondents were asked about their awareness of the LRCC provisions brought in during 2004. They were then asked if they had used those provisions.

Awareness was highest (27%) for the provision:

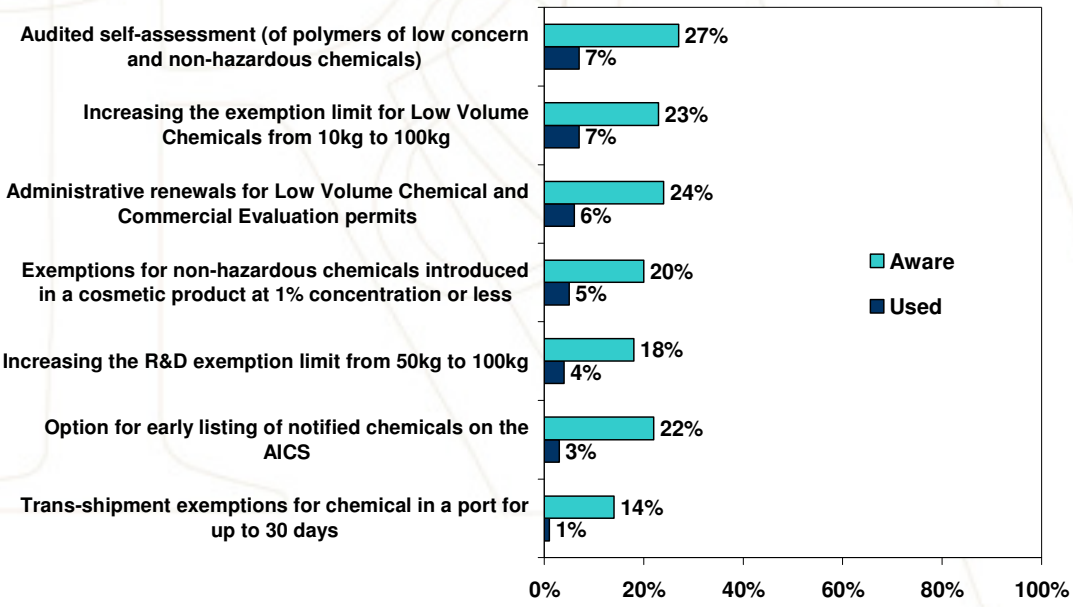
Audited self-assessment (of polymers of low concern and non-hazardous chemicals)

and lowest (14%) for:

Trans-shipment exemptions for chemical in a port for up to 30 days

None of the listed LRCC provisions have, in the last 2 years, been used by more than 7% of the companies surveyed.

Figure 2: Awareness and Usage of LRCC Provisions



Q7 Prior to this survey, were you **aware** of the provision for…
Q8. Below is a list of the LRCC provisions that were brought in during 2004. In the last 2 years, has the company used any of the following?

Base: All respondents (n=872)

5.2.3 Awareness of LRCC Provisions, by sector and tier

Awareness of the LRCC provisions was significantly higher among the Tier 3 respondents than both the Tier 1 and Tier 2 companies.

Amongst companies in the Cosmetics sector, the exemption provision for cosmetics: "*exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less*" was the provision these companies were most aware of (48% awareness).

Table 6: Awareness of LRCC Provisions, by Tier

*Q7. Prior to this survey, were you **aware** of the provision for…?*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Audited self-assessment (of polymers of low concern and non-hazardous chemicals)	27	20	32	67
Administrative renewals for Low Volume Chemical and Commercial Evaluation permits	24	20	26	51
The increased exemption limit for Low Volume Chemicals from 10 kg to 100 kg	23	13	34	66
Option for early listing of notified chemicals on the AICS	22	14	28	59
Exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less	20	14	24	49
The increased Research & Development (R&D) exemption limit from 50 kg to 100 kg	18	9	26	58
Trans-shipment exemptions for chemical in a port for up to 30 days	14	9	19	36

Base: All respondents

Overall, over half (54%) were not aware of any of the provisions and only 5% were aware of all seven of the provisions.

The Tier 1 companies were the least aware (only 38% aware of at least one of the provisions) while Tier 3 companies were the most aware (85% aware of at least one).

5.2.4 Introduced Chemicals Using LRCCs Provisions

Most (82%) of the companies surveyed have not introduced a chemical using one of the provisions for LRCCs in the last two years. The Tier 3 companies were the most likely to have used the LRCC provisions with 42% having used them at least once compared to only 15% of all other companies.

Table 7: Introduced Chemicals using LRCCs Provisions

Q10. *In the last two years, how many times has the company introduced a chemical **using** one of the **provisions for LRCCs**?*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
None	82	86	80	58
1 or 2 times	8	7	8	15
3 to 5 times	3	3	3	9
6 to 10 times	2	2	3	3
11 to 25 times	1	1	1	5
26 to 50 times	1	0	1	2
More than 50 times	2	1	3	8

Base: All respondents

5.2.5 Not Introduced Chemicals Because of LRCC Provisions

When asked if their company had **not** introduced a LRCC in the last two years because of the requirements of the provisions, almost one tenth (9%) said that this had occurred - 18% of the Tier 3 companies.

Table 8: Not Introduced Chemicals Because of LRCC Provisions

Q36. *In the last two years, has the company **decided against** introducing a LRCC **because of the requirements of the LRCC provisions**?*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Yes, decided against introducing LRCC	9	6	16	18
No	62	65	55	57
Don't know	28	29	28	25

Base: All respondents

5.2.6 Ceased using the provision

Companies who had used the LRCC provisions in the last two years were asked whether they had ceased using any LRCC provisions. Approximately one in ten (8%) reported ceasing using an LRCC provision. Provisions that had ceased being used included:

- Audited self-assessments
- Exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less
- Administrative renewals for Low Volume Chemical and Commercial Evaluation permits
- Option for early listing of notified chemicals on the AICS

5.2.7 Usage of specific provisions

Tier 3 companies were significantly more likely to have used the listed LRCC provisions in the last 2 years, with the provision for the increased exemption limit for Low Volume Chemicals from 10 kg to 100 kg used by almost a third (30%) of the Tier 3 companies.

The exemption provision for cosmetics "*exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less*" was the listed provision most likely to be used by companies in the Cosmetics sector (21% using it in the last 2 years).

Table 9: Usage of the LRCC Provisions

Q8. Below is a list of the LRCC provisions that were brought in during 2004. In the last 2 years, has the company used any of the following?

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Audited self-assessment (of polymers of low concern and non-hazardous chemicals)	7	5	8	19
Increasing the exemption limit for Low Volume Chemicals from 10 kg to 100 kg	7	5	6	30
Administrative renewals for Low Volume Chemical and Commercial Evaluation permits	6	5	6	10
Exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less	5	3	6	18
Increasing the Research & Development (R&D) exemption limit from 50 kg to 100 kg	4	2	5	14
Option for early listing of notified chemicals on the AICS	3	1	2	11
Trans-shipment exemptions for chemical in a port for up to 30 days	1	1	1	5

Base: All respondents

The following table shows how many of the seven listed LRCC provisions the respondents had used in the last two years. Overall, a fifth (19%) have used at least one of the provisions – 11% having used only one.

Four in ten (41%) of the Tier 3 companies have used at least one of the provisions compared to 22% of the Tier 2 companies and 15% of the Tier 1 companies.

Table 10: Number of LRCC Provisions Used

Q8. Below is a list of the LRCC provisions that were brought in during 2004. In the last 2 years, has the company used any of the following?

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Used only 1 of the provisions	11	10	14	11
Used 2 of the provisions	4	3	5	10
Used more than 2 of the provisions	4	2	3	20
Used **at least one** of the provisions	19	15	22	41
Not used any of them	81	85	78	59

Base: All respondents

5.2.8 Introducing Non-AICS Listed LRCCs

All respondents were asked what would be their **first** action if their company wanted to introduce a LRCC that was not listed on the AICS. Almost a fifth (18%) said they would *not* introduce the chemical or product, highest among the Tier 1 companies (21%). Only a few (6%) Tier 3 companies said they wouldn't introduce the chemical but were more likely to say they would look for an alternative product or chemical that was listed.

There were three exemptions provisions listed, i.e.

- *Increasing the exemption limit for Low Volume Chemicals from 10 kg to 100 kg*
- *Exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less*
- *Increasing the Research & Development (R&D) exemption limit from 50 kg to 100 kg*

Awareness of these exemption provisions appears to have made an impact on intended behaviour. Of those aware of the three exemption provisions, a sixth (16%) said they would use a LRCC exemption as their first action compared to only 3% of those not aware.

Table 11: First Action to Introduce an Unlisted LRCC

Q35. If the company wanted to introduce a LRCC that was not listed on the AICS, what would you do first?

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Look for an alternative product or chemical that is listed	21	19	23	31
Apply for a Standard, Limited or Permit NICNAS Certificate	17	19	11	18
Do further research on the costs involved	16	15	20	12
Use a Self Assessment	10	10	12	10
Use a LRCC Exemption	7	6	9	16
Reformulate	3	2	5	1
Other	5	4	5	5
Wouldn't introduce the chemical or product	18	21	13	6
Doesn't apply to us	3	4	2	1

Base: All respondents

After being asked what would be their **first** action if their company wanted to introduce a LRCC that was not listed on the AICS, the respondents (those who did not answer "*wouldn't introduce the chemical or product*") were asked what would be their **second** action.

Responses varied fairly equally between the various options offered while a quarter (26%) said they *didn't know* what they would do. The most common response among the Tier 3 group of companies was to *use a self assessment* (24%).

Table 12: Second Action to Introduce an Unlisted LRCC

Q35a. What would you do second?

	Total (717) %	Tier 1 (484) %	Tier 2 (150) %	Tier 3 (83) %
Apply for a Standard, Limited or Permit NICNAS Certificate	16	17	15	14
Look for an alternative product or chemical that is listed	15	16	19	6
Do further research on the costs involved	15	15	15	18
Use a Self Assessment	10	8	10	24
Use a LRCC Exemption	10	10	10	12
Reformulate	6	4	13	7
Don't know	26	30	18	18

Base: Respondents who did not say that their first action would be to not introduce the chemical or product

Less than a third of those who reported using LRCCs in their business also use the LRCC provisions.

In general, use of the provisions was related to the degree of awareness for each provision by respondents. Given low levels of awareness for many of the LRCC provisions, there is scope for improving uptake of the provisions through increased awareness.

The definition of LRCCs is potentially confusing to industry.

Despite a majority of Tier 3 companies being aware of the provision for audited self-assessment, it was not the most used provision. Concerns identified by industry stakeholders during the stakeholder consultation indicated that a number of companies who were aware of the provision for audited self-assessment deliberately chose not to use this provision.

The low volume exemption was the most used provision.

One third of companies would look for an alternative AICS listed product as their first preference, rather than use an LRCC provision.

One quarter of Tier 3 companies reported they would use a self-assessment only if an alternative AICS listed product was not available.

5.3 Non-compliance

On assurance of confidentiality, all respondents were asked if they had ever introduced LRCCs without exactly following NICNAS procedures.

Only 2% (19 respondents) said they had done so – 7% of the Tier 3 companies.

Table 13: Introducing LRCCs Without Following NICNAS Procedures

Q37. Has the company ever introduced LRCCs **without following** the NICNAS procedure **exactly***?*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Yes	2	2	2	7
No	68	69	61	70
Rather not say	2	2	1	3
Don't know	28	28	36	19

Base: All respondents

5.3.1 How Often Acted Outside NICNAS Procedures

These 19 respondents were asked what percentage of all the LRCCs they had introduced in the *last 2 years* did not exactly follow the NICNAS procedures.

Four preferred not to answer. Of the remainder,

- 3 said none in the last 2 years,
- 8 said from 1% - 5%,
- 1 said 20%,
- 3 said 100% of them.

5.3.2 Actions outside NICNAS procedures

Asked what they had done outside the NICNAS regulations, 6 of the 19 respondents said they would rather not say. The remaining responses included:

- *Applied the relevant LRCC provision and introduced the chemical before it was approved*
- *Introduced it under a listed CAS number for a similar chemical*
- *Introduced product without being aware of the annual reporting requirements*
- *Just brought it in*
- *Stopped importing*
- *Took advice from paid consultants, no need to register due to low percentage*

- *Unaware the chemical was in our particular product*
- *Acted in ignorance*
- *Sought NICNAS advice and worked with agreed solution*

5.3.3 Why work outside NICNAS procedures

Asked what would make them work outside the NICNAS regulations, 7 of the 19 respondents said the reason would be:

- *they were unable to get the required data.*

and 7 of the 19 also said:

- *Uncertainty of NICNAS timelines*

Other comments made less often include:

- *The cost of complying*
- *Pressure to meet customers' expectations*
- *Management directive*
- *Internal marketing pressures*
- *Timelines are decided internationally*
- *We have over 400 ingredients not on AICS that are used in over 8000 finished products - mostly under 1%. To get NICNAS approval before import is out of the question.*
- *We have an internal policy to meet the requirements under law. It needs to be understood first though which is at times overly complex.*
- *Difficulty in keeping up with all the regulatory controls and changes to these*
- *Misunderstood the requirements for using the exemption*
- *Unaware of chemicals*
- *Oversight*

A minority of companies reported working outside full compliance with NICNAS requirements. This is consistent with the stakeholder consultation findings, in which most reports of non-compliance were second-hand.

The main driver of non-compliance for survey respondents was reported to be a perceived inability to acquire chemical data, followed by uncertainty of introduction timelines within NICNAS processes. Difficulty accessing chemical data and pressures relating to introductory timelines were similarly reported as the main drivers of non-compliance during the case studies and stakeholder consultations, and this finding is consistent across the evaluation.

5.4 Specific Provisions

5.4.1 Low Volume Exemption Limit

Under half (44%) of the companies surveyed believed the Low Volume Exemption limit of 100 kg is of some benefit to them – 13% believing it is a *great benefit*. A quarter (26%) said it was of no benefit to them and almost one third (30%) didn't know. The Tier 3 companies, with two-thirds (65%) agreeing, were the most likely to believe the low volume exemption was of some benefit.

The companies in sectors most likely to say the Low Volume Exemption limit was beneficial were those companies in domestic cleaning (60%), printing (58%), cosmetics (55%) and plastics (54%).

The companies whose activities include *formulating* (63%) and *trading in raw materials* (56%) were the most likely to believe the low volume exemption was of some benefit.

Table 14: Benefit of Low Volume Exemption Limit

Q11. *The Low Volume Chemical exemption for chemicals that pose no unreasonable risk **currently has a limit of 100 kg**. Is this exemption of benefit to the company, given this limit?*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Great benefit	13	14	9	13
Some benefit	19	16	23	32
Little benefit	12	11	13	20
A benefit	***44***	***41***	***45***	***65***
No benefit	26	27	24	23
Don't know	30	32	31	12

Base: All respondents

All respondents were asked what the volume, in kilograms, would be for the company to gain some benefit from the Low Volume Exemption:

- Half (50%) the Tier 3 companies would gain some benefit at 1000 kg
- One third (33%) of Tier 3 companies would gain some benefit at 500 kg
- One fifth (21%) of Tier 3 companies would gain some benefit at 200 kg.

Table 15: Minimum Volume for Low Volume Exemption to be of Benefit by Tier

*Q12. At what volume would the Low Volume Exemption be of **some benefit** for your company?*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
0-99 kg	29	32	21	17
100 kg	25	28	18	18
101-999 kg	23	24	25	15
1000+ kg	23	16	35	50

Base: All respondents

Over one third (37%) of companies who currently received little or no benefit from the 100 kg exemption limit, and one fifth (20%) of those who currently receive no benefit from the current limit, reported they would received *some benefit* from an exemption limit of 999 kg. However, confusingly, one third of those who currently receive no benefit from the 100 kg limit nominated a limit under 100 kg at which they would receive *some benefit*.

Table 16: Minimum Volume for Low Volume Exemption to be of benefit by Current Benefit

*Q 12. At what volume would the Low Volume Exemption be of **some benefit** for your company?*

	TOTAL (872) %	Great benefit (112) %	Some benefit (162) %	Little benefit (108) %	No benefit (228) %	Don't know (262) %
0-99 kg	29	35	19	9	34	36
100 kg	25	38	34	18	11	28
101-999 kg	23	16	28	37	20	21
1000+ kg	23	11	18	37	35	16

5.4.2 R&D Exemption Limit

Under a third (29%) of the companies surveyed believe the R&D Exemption Limit of 100 kg is of some benefit to them – 7% believing it is a *great benefit*. A fifth (22%) said it was of no benefit to them and 13% didn't know. The remaining 36% said they don't perform R&D. Half (49%) the Tier 3 companies believed the R&D exemption was of some benefit.

Table 17: Benefit of R&D Exemption Limit

Q13. *The R&D exemption **currently has a limit of 100 kg**. Is this exemption of benefit to the company, given this limit?*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %
Great benefit	7	6	6	9
Some benefit	14	12	16	27
Little benefit	8	7	11	13
A benefit	29	25	33	49
No benefit	22	22	21	21
Don't know	13	13	15	11
Don't perform R&D	36	40	31	19

Base: All respondents

All respondents who perform R&D were asked what the volume, in kilograms, would be for the company to gain some benefit from the R&D Exemption.

- Two thirds (68%) of the Tier 3 companies would gain some benefit at 1000 kg
- Two fifths (43%) of Tier 3 companies would gain some benefit at 500 kg
- One quarter (27%) of Tier 3 companies would gain some benefit at 200 kg

Table 18: Minimum Volume for R&D Exemption to be of benefit

Q12. *At what volume would the exemption for R&D be of **some benefit** for your company?*

	Total (554) %	Tier 1 (365) %	Tier 2 (118) %	Tier 3 (71) %
0-1 kg	20	23	14	12
2-99 kg	13	13	11	13
100 kg	29	32	25	23
101-999 kg	21	21	24	20
1000+ kg	17	11	26	32

Base: Respondents who perform R&D

One third (34%) and almost one fifth (18%) of those who currently received *little benefit* and *no benefit* respectively, from the current 100 kg R&D limit, reported they would receive *some benefit* from a limit of 999 kg. As with the low volume exemption, a substantial number (45%) of those receiving no benefit reported an ideal volume limit of less than 100 kg.

Table 19: Minimum Volume for R&D Exemption to be of benefit by Current Benefit

*Q 12. At what volume would the R&D Exemption be of **some benefit** for your company?*

	TOTAL (872) %	Great benefit (112) %	Some benefit (162) %	Little benefit (108) %	No benefit (228) %	Don't know (262) %
0-99 kg	33	36	16	15	45	37
100 kg	29	38	41	27	16	34
101-999 kg	21	18	28	34	18	14
1000+ kg	17	7	14	24	20	15

5.4.3 Non-Hazardous Exemption Limit

Asked about the benefit of the 1% concentration exemption limit for non-hazardous chemicals in a cosmetic product, the majority (55%) of companies in the Cosmetics sector said the exemption was of some benefit. A fifth (21%) said it was of no benefit and a quarter (24%) didn't know. Few companies (6%) outside the Cosmetics sector said this exemption was of any benefit to them.

Asked about the benefit of extending the 1% volume exemption limit for non-hazardous chemicals to include other products, a quarter (27%) of all companies said that it would be of benefit to them – 41% amongst those already in the Cosmetics sector and 23% amongst all other companies.

Tier 3 companies were the most likely to say this extension would be of benefit to them – 47% of Tier 3 companies, 34% of Tier 2 companies and 22% of Tier 1 companies.

The companies whose activities include formulating (49%) and Industrial & Institutional (42%) were the most likely to believe this exemption extension would be of benefit to them.

Table 20: Benefit of Non-Hazardous Cosmetic Product Chemical 1% Concentration Limit

Q15. *The exemption for non-hazardous chemicals in a cosmetic product currently has a limit of 1% volume or less Is this exemption of benefit to the company?*

	Total (872) %	Cosmetic Sector (181) %	Non-Cosmetics (691) %
Great benefit	4	15	1
Some benefit	7	28	2
Little benefit	5	12	3
A benefit	16	55	6
No benefit	57	21	66
Don't know	27	24	28

Base: All respondents

Over half of companies (54%) in the domestic/cleaning sector, and one third of companies in the electrical/electronic (34%), plastics (32%), surface coatings (32%) and water treatment (35%), believe this extension would be of benefit to them. At least one quarter of all other sectors also believed this extension would be of benefit to them.

Table 21: Benefit of Extending Non-Hazardous Chemical 1% Volume Limit to Other Non-Cosmetic Products

Q16. *Would the company benefit if the exemption for non-hazardous chemicals at 1% volume or less was extended to include use in products other than cosmetics?*

	Total (872) %	Cosmetic Sector (181) %	Non-Cosmetics (691) %
Yes, would benefit	27	41	23
No	32	27	33
Don't know	41	31	44

Base: All respondents

5.4.4 AICS online

Four in ten (40%) respondents used the AICS online on the NICNAS website. Most (76%) of the Tier 3 companies search the AICS online compared to half (54%) of the Tier 2 companies and a third (32%) of the Tier 1 companies.

Of those 40% who used the AICS online, 82% found searching the AICS online *easy* and 18% found it *difficult*. Among the Tiers, 79% of Tier 1 companies, 88% of Tier 2 companies and 82% of Tier 3 companies found searching the website *easy*.

Table 22: Ease of Searching AICS on NICNAS Website

Q17. *The AICS is the Australian Inventory of Chemical Substances. In 2004 the AICS was placed online on the NICNAS website. How **easy or difficult is it to search** the AICS?*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %	Used AICS online (355) %
Very easy	7	5	10	16	17
Easy	26	21	37	46	65
Easy	***33***	***26***	***47***	***62***	***82***
Difficult	6	5	6	14	3
Very difficult	1	1	1	-	15
Difficult	***7***	***6***	***7***	***14***	***18***
Don't use the AICS online	60	68	46	24	-

Base: All respondents

Survey respondents reported that increasing volume limits would result in a substantial increase in the usefulness of the low volume and R&D exemptions to industry. This finding is supported by comment from the stakeholder consultation. As noted in the consultation findings, any increase in volume limits would require review by NICNAS to ensure low risk status is maintained.

Extending the exemption for non-hazardous chemicals at 1% concentration or less to include non-cosmetics products would substantially increase the applicability of this provision to industry.

5.5 Impact of LRCC Provisions on use of chemicals

5.5.1 Flexibility

Most respondents (75%) didn't know whether the LRCC provisions enabled flexibility when they were introducing new chemicals. Of the remaining 25%, most (72%) believed that the provisions were *good* at enabling flexibility with 28% believing they were *poor*.

Those companies who have actually introduced new chemicals using the LRCC provisions were the most likely to praise their flexibility, particularly those who have done so frequently. Half (50%) of those who have introduced chemicals *more than two times* in the last two years said the flexibility was *good* or *very good*. This equates to 74% of those with an opinion. Conversely, there were still 26% (of those with an opinion) who believed the flexibility was *poor* or *very poor*.

Table 23: The LRCC Provisions and Flexibility in Introducing New Chemicals by How Often Introduced Chemicals Using LRCC Provisions in Last 2 Years

Q20. *Overall, how would you rate the way the LRCC provisions have enabled **flexibility** for the company when introducing new chemicals?*

	Total (872) %	Never (717) %	1-2 Times (71) %	More than 2 Times (84) %
Very Good	1	0	4	10
Good	17	12	41	40
Poor	5	3	11	11
Very Poor	2	2	-	7
Don't Know	75	83	44	32

Base: All respondents

5.5.2 Safety

Most respondents (73%) didn't know whether the LRCC provisions enabled the company to introduce safer chemicals. Of the remaining 27%, most (77%) believed that the provisions were *good* at enabling safety with 23% believing they were *poor*.

Those companies who have actually introduced new chemicals using the LRCC provisions were the most likely to believe the provisions enabled introduction of safer chemicals. Half (48%) of those who have introduced chemicals in the last two years said the provisions were *good* or *very good*. This equates to 79% of those with an opinion and means that 21% (of those with an opinion) believed the provisions were *poor* at enabling the introduction of safer chemicals.

Table 24: The LRCC Provisions and Safety in Introducing New Chemicals by How Often Introduced Chemicals Using LRCC Provisions in Last 2 Years

Q21. *Overall, how would you rate the way the LRCC provisions have enabled the company to introduce safer chemicals?*

	Total (872) %	Never (717) %	1-2 Times (71) %	More than 2 Times (84) %
Very Good	2	1	7	7
Good	19	14	41	42
Poor	4	3	11	7
Very Poor	2	2	1	6
Don't Know	73	81	39	38

Base: All respondents

5.5.3 Innovation

Most respondents (75%) didn't know whether the LRCC provisions enabled the company to be innovative. Of the remaining 25%, two-thirds (65%) believed that the provisions were *good* at enabling the company to be innovative with 35% believing them to be *poor*.

Those companies who have actually introduced new chemicals using the LRCC provisions were more likely to believe the provisions enabled them to be innovative. Four in ten (39%) of those who have introduced chemicals in the last two years said the provisions were *good* or *very good* for innovation. This equates to 66% of those with an opinion, with a third (34%) believing the provisions were *poor* at enabling the company to be innovative.

Table 25: The LRCC Provisions and Innovation in Introducing New Chemicals by How Often Introduced Chemicals Using LRCC Provisions in Last 2 Years

Q22. *Overall, how would you rate the way the LRCC provisions have enabled the company to be innovative?*

	Total (872) %	Never (717) %	1-2 Times (71) %	More than 2 Times (84) %
Very Good	2	1	7	12
Good	14	10	32	27
Poor	6	4	15	12
Very Poor	3	3	1	8
Don't Know	75	82	44	40

Base: All respondents

5.5.4 Overall

Rating how the LRCC provisions have enabled their company to introduce new chemicals, most respondents (74%) didn't know how the provisions helped them. Of the remaining 26%, three-quarters (74%) believed that the provisions were *good* at enabling the company to introduce new chemicals with 26% believing them to be *poor*.

Those companies who have actually introduced new chemicals using the LRCC provisions were more likely to believe the provisions enabled the company to introduce chemicals. Over half (52%) of those who have introduced chemicals in the last two years said the provisions were *good* or *very good*. This equates to 78% of those with an opinion, with a fifth (22%) (of those with an opinion) believing the provisions were *poor* at enabling the company to introduce chemicals.

Table 26: The LRCC Provisions and Enabling the Company to Introduce New Chemicals by How Often Introduced Chemicals Using LRCC Provisions in Last 2 Years

Q19. *Overall, how would you rate the way the LRCC provisions have enabled the company to* ***introduce new chemicals****?*

	Total (872) %	Never (717) %	1-2 Times (71) %	More than 2 Times (84) %
Very Good	2	-	6	11
Good	18	12	42	44
Poor	5	4	14	10
Very Poor	2	1	1	6
Don't Know	74	82	37	30

Base: All respondents

The majority of respondents did not know whether the LRCC provisions had improved outcomes for chemical safety, flexibility and innovation.

Respondents who had used the LRCC provisions were more likely to have an opinion, positive or negative, on the impact of the LRCC provisions.

The majority of respondents who expressed an opinion reported that the LRCC provisions were *good* for chemical safety, flexibility and innovation.

5.6 Financial Impact of the LRCC provisions

5.6.1 Savings

Overall, 7% of companies were aware they had made savings when using the LRCC provisions. Amongst those companies who have introduced more than two chemicals in the last two years using the LRCC provisions, 38% said they had made savings.

The Tier 3 companies were the most likely to have made savings using the LRCC provisions - 23% of Tier 3 companies compared to 9% of Tier 2 companies and only 4% of Tier 1 companies.

The companies in sectors most likely to have made savings using the LRCC provisions were those companies in domestic cleaning (26%) and cosmetics (19%).

The companies whose activities include *formulating* (15%) were the most likely to have made savings using the LRCC provisions.

Table 27: Savings from the LRCC Provisions by How Often Introduced Chemicals Using LRCC Provisions in Last 2 Years

Q23. Has the company experienced savings when using the LRCC provisions?

	Total (872) %	Never (717) %	1-2 Times (71) %	More than 2 Times (84) %
Yes	7	2	18	38
No	39	41	35	27
Don't know	54	57	46	35

Base: All respondents

5.6.2 Areas of Savings

Those corporations who have made savings from using the LRCC provisions said their savings mostly came from getting the product to market faster (64%), from requiring less data (57%) and reduced administration (57%).

A third (34%) said the area of greatest saving was getting the product to market faster while 23% said it was requiring less data.

Table 28: Where Savings Made from Using the LRCC Provisions

Q24. What have these savings been due to?
Q25. Of these, which is the greatest saving?

	Areas of Savings (61) %	Greatest Saving Area (61) %
Product to market faster	64	34
Less data required	57	23
Reduced administration	57	21
Lower consultant fees	44	15
Able to generate sales	33	7
Lower NICNAS fees	3	-
Not clear where	2	-

Base: Respondents who made savings using the LRCC provisions

5.6.3 Savings and LRCC Provisions

Almost half (46%) of those corporations who have made savings from using the LRCC provisions (and had used those provisions in the last two years), said the provision which produced the greatest saving was the option for early listing of notified chemicals on the AICS.

Table 29: LRCC Provisions Which Produced Greatest Saving

*Q26. Thinking back on the LRCC provisions you have used, which one has produced the **greatest saving** for the company?*

	Total (50) %
Option for early listing of notified chemicals on the AICS	46
Exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less	24
Audited self-assessment (of polymers of low concern and non-hazardous chemicals)	22
Administrative renewals for Low Volume Chemical and Commercial Evaluation permits	8

Base: Respondents who made savings using the LRCC provisions and used the provisions in last two years

5.6.4 Savings Made

Over a third (36%) of the corporations who made savings, said they had saved over $10,000. Under half (43%) said they had saved between $1,001 and $10,000. The remaining 21% had saved less than $1,000.

5.6.5 Costs

Overall, 50% of companies who had used one or more of the LRCC provisions in the last two years said they had incurred some costs when using the LRCC provisions. Among companies who had used the LRCC provisions more than two times in the last two years, the figure increased to 61%.

One third (34%) of all companies who had used the provisions in the last two years said they had incurred *administration costs* – this equates to 68% of those companies which had incurred a cost using the provisions (see Table 2).

The Tier 2 companies were the most likely to have incurred costs when using the LRCC provisions - 67% of Tier 2 companies compared to 55% of Tier 3 companies and 41% of Tier 1 companies.

Table 30: Costs incurred from the LRCC Provisions by How Often Introduced Chemicals Using LRCC Provisions in Last 2 Years

Q28. Has the company incurred any costs (in addition to the NICNAS fee) when using the LRCC provisions? Please tick all that apply.

	Total (111) %	Never (16) %	1-2 Times (41) %	More than 2 Times (54) %
Incurred a cost	50	31	41	61
Not incurred costs	50	62	59	39
Costs				
Administration	34	19	27	44
Delay of product to market	29	12	27	35
Sourcing required data	27	25	20	33
Consultant fees	22	12	17	28
Loss of customer / client	10	12	7	11

Base: Respondents who had used the LRCC provisions in the last two years

5.6.6 Greatest Cost

The companies that incurred costs using the LRCC provisions were divided on which cost was the greatest for them. One quarter (27%) said it was administration and a quarter (27%) said it was the delay of the product to market.

The Tier 1 companies that had incurred costs were most likely to cite administration as their greatest cost (38%), Tier 2 companies were more likely to name delay of product to market (38%) and the Tier 3 companies were evenly split between all the costs mentioned.

Table 31: Where Costs Incurred from Using the LRCC Provisions

Q28.	*Has the company incurred any costs (in addition to the NICNAS fee) when using the LRCC provisions? Please tick all that apply.*
Q29.	*Of these, which is the greatest cost?*

	Areas of Costs (56) %	Greatest Cost Area (56) %
Administration	68	27
Delay of product to market	57	27
Sourcing required data	54	12
Consultant fees	43	12
Loss of customer / client	20	9
Unclear	-	12

Base: Respondents who incurred costs using the LRCC provisions

5.6.7 Costs and LRCC Provisions

Those companies that had incurred costs were divided over which of the LRCC provisions incurred the greatest cost. Four of the provisions were mentioned by around one quarter of the companies. These were the option for early listing of notified chemicals on the AICS (30%), audited self-assessment of polymers of low concern and non-hazardous chemicals (26%), administrative renewals for Low Volume Chemical and Commercial Evaluation permits (21%) and exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less (19%).

The option for early listing of notified chemicals on the AICS was mentioned by nearly half (45%) of the Tier 3 companies as the main cost area while 39% of Tier 1 companies named audited self-assessment (of polymers of low concern and non-hazardous chemicals) as their greatest cost. Among the Tier 2 companies, 35% named administrative renewals for Low Volume Chemical and Commercial Evaluation permits and another 35% named exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less.

Table 32: LRCC Provisions Which Produced Greatest Cost

Q30.	*Thinking back on the LRCC provisions you have used, which one has produced the **greatest cost** for the company?*

	Total (70) %
Option for early listing of notified chemicals on the AICS	30

Audited self-assessment (of polymers of low concern and non-hazardous chemicals)	26
Administrative renewals for Low Volume Chemical and Commercial Evaluation permits	21
Exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less	19
Increasing the exemption limit for Low Volume Chemicals from 10kg to 100kg	1
Increasing the Research & Development (R&D) exemption limit from 50kg to 100kg	1
Trans-shipment exemptions for chemical in a port for up to 30 days	1

Base: Respondents who incurred costs using the LRCC provisions

5.6.8 Costs Incurred

One tenth (11%) of the corporations who incurred costs because of the LRCC provisions, said those costs were over $100,000. Only 2% of companies reported costs between $50,001 and $100,000. A further 21% had costs between $10,001 and $50,000. Just over a third (38%) had incurred costs between $1,001 and $10,000 and the remaining 28% had incurred costs under $1,000.

Two in five companies who were using the LRCC provisions experienced savings. Slightly more companies, one in two, who were using the LRCC provisions experienced costs over and above the NICNAS fee.

Greater use of the LRCC provisions was related to a greater likelihood of experiencing savings for companies who were experiencing savings, and a greater likelihood of incurring costs for companies who reported experiencing costs.

Tier 2 companies who were using the LRCC provisions were more likely to incur costs than Tier 3 or Tier 1 companies.

The option for early listing of chemicals on the AICS was identified as the LRCC provision most likely to incur additional costs, as well as the most likely to produce overall savings.

Volume exemptions, R&D exemptions and Trans-shipment exemptions were the LRCC provisions least likely to incur additional costs.
Costs reported were generally greater amounts than savings made, with a small number of companies reporting costs well above the maximum reported savings.

Savings were most commonly attributed to getting a product to market more quickly. Similarly, costs were most commonly attributed to delays getting a product to market, and administration. Tier 3 companies were equally likely to attribute costs to sourcing data and consultant fees. These areas of cost are consistent with findings from the case studies and stakeholder consultations, where time to market and sourcing data were identified as financially significant to Tier 3 companies, and administration of NICNAS requirements was considered a barrier to Tier 2 and Tier 1 companies.

5.7 Post-compliance reporting

5.7.1 Awareness Through Mandatory Registration of Tier 1 Companies

Respondents were asked whether the *mandatory registration of Tier 1 companies* made them *more aware* of the company's NICNAS obligations.

Of the 612 Tier 1 respondents, 40% said the mandatory registration did make them *more aware* of their NICNAS obligations, 22% said it did not make them more aware and 38% said they were not a Tier 1 company. The latter indicates a high degree of confusion amongst Tier 1 company respondents, regarding the NICNAS Tier system.

Of the 379 Tier 1 respondents who knew they were a Tier 1 company, 65% said the mandatory registration did make them *more aware* of their NICNAS obligations and 35% said it did not.

5.7.2 Annual Reporting

Under half (46%) of the companies surveyed said they were required to produce annual reports – 38% of Tier 1 companies, 63% of Tier 2 companies and 69% of Tier 3 companies. It is noted that given the low numbers of Tier 1 and Tier 2 companies who reported using the LRCC provisions, there may be confusion amongst these smaller companies pertaining to NICNAS's annual reporting requirements.

Respondents who produced annual reports were asked if the annual reporting requirement outweighed the potential benefits of the LRCC provisions. Almost one fifth (17%) said the reporting requirement did outweigh the potential benefits. Over one fifth (22%) answered it did not outweigh the potential benefits while the majority (61%) didn't know the answer. Of those who had an opinion, slightly more than half (56%) felt that the annual reporting requirements did not outweigh the benefits of the LRCC provisions, and less than half (44%) thought that the benefits were outweighed by annual reporting.

The Tier 1 and Tier 2 companies were fairly evenly split between those for and against the proposition while twice as many Tier 3 companies believed the reporting requirement did *not* outweigh the potential benefits than those who did.

Table 33: Annual Reporting Requirement and Benefits of the LRCC Provisions

Q32. *Does the annual reporting requirement outweigh the potential benefits of the LRCC provisions?*

	Total (403) %	Tier 1 (233) %	Tier 2 (109) %	Tier 3 (61) %
Yes	17	16	17	20
No	22	18	18	41
Don't know	61	65	64	39

Base: Respondents required to produce annual reports

5.7.3 Concerns About Annual Reporting

Those companies who believed the annual reporting requirement outweighed the potential benefits of the LRCC provisions (44% of those who produced annual reports) were asked what their biggest concern was about annual reporting.

The main concern was mostly about the time that has to be spent on the report and in obtaining the required data.

Other concerns were experienced by 4% or fewer respondents, and included:

- *The format of the reports*
- *Waste of money / Costs involved*
- *Time (unclear)*
- *Have to do it but same each year*
- *Electronic format didn't work*
- *Only import iron oxide*
- *My time, staff time, obtaining data, formatting and loss of competitive advantage against NZ and HK*
- *Waste of time and costs for the little we import*

5.7.4 Preferred Method of Reporting

Asked about their preferred method of post-market compliance, most respondents (78%) said they either have no preference between annual reporting and a once-off report with spot check audits or didn't know which one they preferred. Of the remaining companies, more preferred the annual report to the once-off with audits (14% to 8%).

Overall, the Tier 1 and 2 companies preferred the annual reporting while the Tier 3 companies were evenly split on their preferred method.

Those companies who said the reporting requirement *did not* outweigh the potential benefits of the LRCC provisions (Q32) strongly preferred the *annual reporting* option (41% for annual reports, 15% for the once-off report, 44% no preference/don't know).

Of companies who had reported using the LRCC provisions, one third (33%) had no preferred method of post-market compliance, three in ten (29%) indicated a preference for *annual reporting* and two in ten (19%) opted for *once-off report with greater possibility of spot-check auditing of records.*

Table 34: Preferred Method of Reporting

Q34. *Use of the exemption categories have post-market compliance requirements, including annual reporting and record keeping, which are subject to NICNAS audit. What is your preferred method of post-market compliance?*

	Total (872) %	Tier 1 (612) %	Tier 2 (172) %	Tier 3 (88) %	Used LRCC (157) %
Annual reporting	14	11	22	20	29
Once-off report with greater possibility of spot-check auditing of records.	8	6	9	19	19
No preference	35	35	34	39	33
Don't know	43	47	36	22	19

Base: All respondents

5.7.5 Post Market Compliance Requirements

All respondents who, in the last two years, had used the LRCC provision:

Audited self-assessment (of polymers of low concern and non-hazardous chemicals)

were asked about post market compliance requirements. Specifically they were asked:

Audited self-assessments have post-market compliance requirements, including annual reporting and record keeping, which is subject to NICNAS audit. Which of these requirements is the greater burden on your company?

Almost half (44%) the respondents answering the question couldn't say whether the annual reporting or the NICNAS audit was the more burdensome. Almost as many (39%) said they were the same burden while 13% said annual reporting was the greater burden and 5% said the NICNAS audit was worse.

Table 35: Post Market Compliance Requirements

Q33. Which of these requirements is the greater burden on your company?

	Total (62) %
Annual reporting	13
NICNAS audit of records	5
Both the same	39
Don't know	44

Base: Respondents who have used the Audited self-assessment LRCC provision in last two years

There is considerable confusion among Tier 1 companies about the NICNAS tier system. However, a majority of Tier 1 companies with an opinion reported that mandatory registration had improved their awareness of NICNAS regulatory requirements.

A small majority of companies reported that the requirement for annual reporting did not outweigh the benefits of the LRCC provisions.

For those who considered annual reporting to outweigh the benefits of the LRCC provisions, the main concern was with the time taken to gather necessary data and prepare reports.

Those companies who were using the LRCC provisions indicated a preference for annual reporting over once-off spot checks with a greater chance of auditing. This is consistent with case study and consultation

findings, where the burden associated with auditing was reported to be higher than that of annual reporting.

However, a majority of companies using audited self-assessments reported that annual reporting was a greater burden than audits.

5.8 Relationship to NICNAS

5.8.1 Implementation Consistency

All respondents were asked to rate the consistency of NICNAS's implementation of the LRCC provisions. A fifth (22%) said the question didn't apply to them. These were respondents who hadn't introduced a chemical using the LRCC provisions in the last two years. Over half (56%) didn't know enough to give an answer.

Of the companies who responded, (83%) found NICNAS to be either *consistent* or *very consistent* while 17% found them *inconsistent* or *very inconsistent*.

Attitudes towards NICNAS's consistency were uniform across all Tiers.

Table 36: NICNAS Implementation Consistency

*Q41. How would you rate the **consistency** of NICNAS's implementation of the LRCC provisions?*

	Total (189) %	Tier 1 (114) %	Tier 2 (38) %	Tier 3 (37) %
Very Consistent	6	6	3	11
Consistent	77	77	82	73
Consistent	***83***	***83***	***85***	***84***
Inconsistent	10	9	10	11
Very Inconsistent	7	8	5	5
Inconsistent	***17***	***17***	***15***	***16***

Base: Respondents who have an opinion on NICNAS's consistency

5.8.2 Impact on Company

The final question asked the respondents to describe the impact NICNAS has had on their company. It was an open-ended question and called for spontaneous responses.

Almost half (45%) said that NICNAS has had little or no impact on their company and a further 19% mentioned the cost. Only 12% of respondents made positive comments, for example *positive impact/helpful* (8%), *good source of information* (3%) and *helped ensure all safety measures were in place* (1%).

Other comments made less often varied from *extremely low impact* to *devastating*, and included:

- *Annoying*
- *Saves money*
- *Determines which products we can import*
- *Too costly to import*
- *Provides a useful annual review*
- *Good to deal with*
- *Impact varies by NICNAS officer.*

Of those who responded there was an impact, some felt that NICNAS requirements were simply part of responsible business conduct:

> A necessary evil

Many Tier 1 companies reported that they felt NICNAS registration and fees to be excessive in relation to the amount of chemicals they used:

> They need to offer more guidance and assistance to small business.

There were also requests for NICNAS requirements to be simplified:

> NICNAS requirements are very time consuming to understand and complicated to apply to the company, so it causes great delays and difficulty in introducing products to market.

A majority of companies reported that NICNAS was consistent in their implementation of the LRCC reforms. This finding of consistency is at odds with comment made during the stakeholder consultation, where NICNAS implementation was reported to be inconsistent at times.

Almost half of companies reported that NICNAS had a neutral impact on their business. One fifth of companies noted a financial impact from NICNAS regulatory requirements, and one tenth noted a positive impact.

Tier 1 companies questioned the burden of their NICNAS fees given the small role of chemicals in their business.

A small number of companies noted frustrations and confusion arising from the complexity of NICNAS regulatory requirements, and this supports findings from the stakeholder consultation, where high levels of confusion were prevalent.

6. Conclusions

6.1 Use of the LRCC provisions

There is a low uptake of the LRCC provisions. The evidence supporting the low uptake has been identified in the survey, the stakeholder consultation and case studies. Less than a third of those surveyed who reported using LRCCs in their business used the LRCC provisions. The stakeholder consultation and case studies identified numerous barriers to industry's use of the LRCC provisions.

A key barrier is high level of confusion around the specific requirements of the provisions and in the definition of a LRCC.

In general, use of the provisions was related to the degree of awareness for each provision by respondents surveyed. Given low levels of awareness for many of the LRCC provisions, there is scope for improving uptake of the provisions through increased awareness. Across all the provisions, awareness was shown to be substantially higher among Tier 3 companies, who were generally regarded as those most likely to utilise the provisions. Even so, partial awareness and high levels of confusion were present amongst industry stakeholders from Tier 3 companies during the stakeholder consultation and case studies.

Even where companies were aware of provisions, numerous barriers remained to their use of the provisions. One third of companies surveyed indicated they would look for an alternative AICS listed product as their first preference to sourcing a chemical, rather than use a LRCC provision to introduce a new chemical. Surveyed companies indicated that the LRCC provisions often acted as a second preference for introduction, with one quarter of Tier 3 companies reporting they would use a self-assessment only if an alternative AICS listed product was not available. This finding is supported by comment made during the stakeholder consultation and case studies, where numerous companies reported opting for non-introduction of a new chemical in various circumstances, and Tier 2 companies indicated they almost always opted for non-introduction.

The survey identified that increasing volume limits would result in a greater breadth of industry accessing the low volume and R&D exemptions. This is supported by comment from the stakeholder consultation. As noted in the consultation findings, it is recognised that any increase in volume limits would require review by NICNAS to ensure low risk status is maintained.

Extending the exemption for non-hazardous chemicals at 1% concentration or less to include non-cosmetic products would substantially increase the applicability of this provision to industry, based on survey responses. This finding is also supported by comment made during stakeholder consultation and case studies.

Across all stages of the evaluation, industry stakeholders and survey respondents reported that the AICS online and option for early listing of chemical on the AICS represented a substantial improvement to industry's capacity to access chemical information.

Of the companies surveyed who had to produce annual reports, the majority held the view that the requirement for annual reporting did not outweigh the benefits of the LRCC provisions. For

those surveyed who considered that annual reporting did outweigh the benefits of the LRCC provisions, the main concern was with the time taken to gather necessary data and prepare reports.

Those companies who were using the LRCC provisions indicated a preference for annual reporting over once-off spot checks with a greater chance of auditing. This was consistent with stakeholder consultation and case study findings, where both processes were reported to be burdensome, but a preference was shown for annual reporting because it could be factored for in company timelines.

However an exception to the preference for annual reporting was those companies using audited self-assessments, who reported that annual reporting was a greater burden than audits. This is supported by comment made during both stakeholder consultation and case studies, where many industry stakeholders indicated that annual reporting represented a substantial burden which at times outweighed the benefits of the provision.

A minority of companies surveyed reported working outside full compliance with NICNAS requirements. This is consistent with the stakeholder consultation findings, in which most reports of non-compliance were second-hand. It is not unreasonable to assume that any reporting of non-compliance will be an underestimate of the true occurrence in industry. The fact that companies identified any non-compliance at all is an indication of significant problem that industry considers to lie with the regulations.

The main driver of non-compliance for survey respondents was a perceived inability to acquire chemical data, followed by uncertainty of introduction timelines within NICNAS processes. Difficulty accessing chemical data and pressures relating to introductory timelines were similarly reported as the main drivers of non-compliance during the case studies and stakeholder consultations. The finding is consistent across the evaluation.

6.2 Impact of the provisions on industry

The majority of survey respondents did not know whether the LRCC provisions had improved outcomes for chemical safety, flexibility and innovation. However, survey respondents who had used the LRCC provisions were more likely to have an opinion, positive or negative, on the impact of the LRCC provisions. Of those who expressed an opinion when surveyed, a majority reported that the LRCC provisions were *good* for chemical safety, flexibility and innovation. This reflects comment made during the stakeholder consultation that the positive outcomes of the reforms appear to be limited by the extent of uptake of the reform provisions. While the reform provisions themselves were considered to enable positive outcomes by industry stakeholders during consultation, barriers to uptake of the provisions, reflected in the low uptake of the provisions by industry, were considered to substantially reduce these positive outcomes.

Two in five companies surveyed who were using the LRCC provisions experienced savings. In general, greater reported use of the LRCC provisions was related to a greater likelihood of experiencing savings for companies surveyed. In particular, the option for early listing of chemicals on the AICS was identified as the LRCC provision most likely to produce savings for companies. This is consistent with findings from the stakeholder consultation, where numerous industry stakeholders reported a degree of savings associated with several of the provisions.

Three in five companies experiencing savings also reported experiencing costs associated with the LRCC provisions. Costs reported were in a similar range to savings made, with more companies reporting costs at the high end of the range than for savings. While extremely high costs weren't common, a minority of companies reported costs of approximately $100,000 or greater. Findings from the case studies indicated that opportunity costs associated with introduction of a new chemical when using the LRCC provisions could potentially be in the hundreds of thousands of dollars, and the few reports of high costs in the survey responses should be considered in light of this.

While both savings and costs were associated with use of the LRCC provisions, the levels of costs were reported to be higher than those of savings in the survey responses. This is consistent with findings of the stakeholder consultation and more particularly the case studies.

Both savings and costs were indirect but attributable to the LRCC provisions. Savings were most commonly attributed to getting a product to market more quickly. Similarly, costs were most commonly attributed to delays getting a product to market, sourcing data and administration. These areas of cost are consistent with findings from the case studies and stakeholder consultations, where time to market and sourcing data were identified as financially significant to Tier 3 companies, and administration of NICNAS requirements was considered a barrier to Tier 2 companies.

6.3 Industry's relationship to NICNAS

There was considerable confusion among Tier 1 companies surveyed, pertaining to the NICNAS tier system. Those Tier 1 companies who reported an opinion stated that mandatory registration had improved their awareness of NICNAS regulatory requirements. As the survey was the only stage of the evaluation to address Tier 1 companies it is not possible to draw further conclusion as to the reasons for their confusion. However, open-ended comment on NICNAS's impact on their company, made during the survey, indicated that many sought further clarification of their responsibilities under NICNAS. Tier 1 companies also questioned the burden of their NICNAS fees given the small role of chemicals in their business.

In general, Tier 3 companies were more likely to have a longer history of dealing with NICNAS, and a dedicated regulatory manager for NICNAS affairs. While Tier 3 company stakeholders who participated in the stakeholder consultation had a more sophisticated understanding of options under NICNAS and NICNAS processes generally, there was nevertheless considerable variation in understanding of the LRCC provisions, even within Tier 3 company stakeholders.

A majority of companies surveyed reported that NICNAS was consistent in their implementation of the LRCC reforms. This finding of consistency is at odds with comment made during the stakeholder consultation, where NICNAS implementation was reported to be inconsistent at times. There is scope for addressing concerns about consistency of assessments through increased transparency, as was requested by industry stakeholders during consultations.

Overall, almost half of companies surveyed reported that NICNAS had a neutral impact on their business. One fifth of companies noted a financial impact from NICNAS regulatory requirements, and one tenth noted a positive impact.

A small number of companies noted frustrations and confusion arising from the complexity of NICNAS regulatory requirements, and this supports findings from the stakeholder consultation

and case studies, where high levels of confusion were prevalent, indicating scope for enhanced industry engagement with regulatory affairs.

6.4 Other issues impacting on the LRCC reforms

Peak body associations were shown to be not highly representative of industry in survey findings, with over one third of Tier 3 companies not belonging to any industry associations.

PACIA was the most representative industry association, representing nearly a third of surveyed companies. This is not supported by the consultation findings, where a majority of companies were industry association members. However, given that the majority of consulted companies were Tier 3 companies, who generally have higher levels of peak body membership, the finding is consistent.

Given the substantial involvement of industry associations during the development of the reforms, and in ongoing dialogue with NICNAS, there is additionally scope for increased direct engagement with industry to ensure thorough representation of industry to NICNAS.

7. Appendices

7.1 Appendix A: Breakdown of industry consultations

Organisation	Tier	Location
PACIA	NA	NSW
ACCORD	NA	NSW
Australian Paint Manufacturers Federation (APMF)	NA	NSW
Environmental Protection Branch	NA	ACT
Worksafe Victoria	NA	VIC
Community Engagement Forum	NA	VIC
Industry	Tier 3	Switzerland
Industry	Tier 3	NSW
Industry	Tier 3	NSW
Industry	Tier 3	NSW
Industry	Tier 3	NSW
Industry	Tier 3	NSW
Industry	Tier 3	VIC
Industry	Tier 3	VIC
Industry	Tier 3	VIC
Industry	Tier 3	VIC
Industry	Tier 3	VIC
Industry	Tier 3	VIC
Industry	Tier 3	VIC
Industry	Tier 3	VIC

Organisation	Tier	Location
Industry	Tier 3	VIC
Industry	Tier 2	VIC
Industry	Tier 2	VIC

7.2 Appendix B: Discussion guides

7.2.1 Discussion Guide for Industry

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
INTRODUCTION	Introduction about the nature of the interview. Confidentiality, privacy, recording, non-identifiable.	
OVERVIEW OF YOUR BUSINESS AND THE USE OF CHEMICALS WITHIN THE BUSINESS	Tell me something about your business and your key customers Location Staff numbers Core business	Bac kground
BUSINESS SYSTEMS FOR TRACKING AND REPORTING	Does your business have a system for: Managing/tracking chemicals? Reporting? Are these systems: Local to Australia? Global? Are there hierarchical controls	Who manages regulatory affairs? Dedicated or shared role?
LRCCs IN YOUR BUSINESS	Are they a user/importer of chemicals/polymers of low concern? Are they a producer of chemicals/polymers? How key are these chemicals/polymers to their business? Degree of use of chemicals in your business	Business relationship to LRCCs
IMPORTANCE OF INNOVATION IN YOUR BUSINESS	Degree of innovation Importance of chemicals in relation to innovation	

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
AWARENESS/ OF THE REFORMS WITHIN THE BUSINESS	Awareness of the LRCC reforms within the business (probe for level of awareness, ie top of mind, minimal, in detail) Among managers – (note specific roles) Among staff Among customers – (note type of customer) **Provide overview of reforms if needed:** Audited self-assessment of PLCs and non-hazardous chemicals Option for early listing on the AICS Administrative renewals for low volume exemptions and Commercial Evaluation permits Transhipment exemptions Exemptions for non-harzardous chemicals at 1% volume or less in cosmetic products Increased general low volume exemptions from 10 kg to 100 kg Increased R&D threshold from 50 kg to 100 kg AICS online Mandatory Registration for Tier 1 companies Transhipment exemption	
AWARENESS OF **RECORD KEEPING REQUIREMENTS**	Awareness of introduced record keeping requirements. Note any preference indicated for sample auditing vs annual reporting	

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
DEGREE OF ACTIVE INVOLVEMENT WITH ASPECTS OF THE REFORMS	Degree of active involvement with the reforms to date. Development: Did you contribute input to the development of the reforms? Were you originally happy with them, as they were designed? Outcomes: How would you describe your individual level of involvement with outcomes of the reforms? Key processes relevant to your business. Explore for relevance to the specific business under each of the following headings: Self assessment Has this occurred to date under the new approach? Increased exemptions Have you made use of the increased exemptions for low volume/ trans-shipment/ cosmetic/R&D/analytical chemicals? (As relevant to this business Administrative renewals for low volume exemptions, CECs Option for early listings on AICS Do you think the reforms work as they were initially intended?	
USEFULNESS OF AICS ONLINE	Do you regularly refer to the AICS online? Has the public listing of the AICS changed your business practices? How?	

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
IMPORTS	Impact of regulatory compliance on imported product. Does your business regularly import LRCCs? If so, where from? If not, why not? (probe for barriers to importing) What are the costs to your business in relation to compliance for imported LRCCs? What is the administrative/business structural impact on your business in relation to compliance for imported LRCCs? How have the new reforms affected your competitiveness in the market? Has you company had need of the transhipment exemption? Can you foresee a possibility of this exemption being useful? If it were modified to incorporate custom-bonded warehouses would you be more likely to make us of it?	

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
PERCEIVED AND ACTUAL **IMPACT** OF THE LRCC REFORMS: POSITIVE AND NEGATIVE	**Explore actual impacts of the LRCC reforms on:** The business Positive Negative The staff Positive Negative The customers Positive Negative Explore any specific examples of actual negative impacts and discuss how the business was able to be clear about the connections to the reforms. **Explore views on potential impacts of the 1st tranche of LRCC reforms on:** The business Positive Negative The staff Positive Negative The customers Positive Negative Explore any specific examples of **potential negative** impacts and evidence that has led to these concerns by business.	Perceptions of impacts and evidence of impacts

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
OVERALL, WHAT WORKS AND WHAT DOES N'T WITH THE REFORMS	What works well with the LRCC reforms and what does not work so well? **Prompt for each specific reform if necessary.**	Overview – top of mind response
COSTS, TIME SAVINGS **APPROPRIATENESS** **EFFECTIVENESS**	What are your views on the following specific aspects of the reforms? Cost savings to your business as a result? Time savings for your business? Reduction in compliance burden on your business?	
REGULATORY BURDEN	Is there a regulatory burden over and above the everyday operations of the business? If so, to what extent? Could you quantify or describe the burden upon your business? Has this burden changed as a result of the reforms? Do you believe these burdens vary for your business in any way related to the scale and turnover of your business?	Investigating any differences by Tier 1,2 or 3
PRACTICAL BARRIERS/ ENABLERS TO **INNOVATION**	Are there any ways in which the reforms have assisted in enabling innovation in your company? Are there any ways in which the reforms are creating barriers to innovation in your company? What solutions do you see to this?	
PRACTICAL BARRIERS/ ENABLERS TO **PRODUCTIVITY**	Are there any ways in which the reforms have assisted in enabling productivity in your company? Are there any ways in which the reforms are creating barriers to productivity in your company? What solutions do you see to this?	

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
COMPARISONS WITH REQUIREMENTS **PRIOR** TO THE REFORMS	Now, thinking about the requirements upon your business in relation to LRCCs, **prior** to the reforms, how would you compare the following aspects: Comparative: Ease of administration? Appropriateness? Effectiveness in encouraging best practice handling and management of LRCCs (note that LRCCs were undefined as a group prior to reforms)? Efficiency? Cost to your business? Regulatory burden? Overall, would you say the reforms are better or worse for your business than the prior set of regulatory requirements?	
SUGGESTED **ENHANCEMENTS**	Any modifications you would like to see? Reasons for these suggestions Awareness of second round of reforms? Awareness of the Community Engagement Forum	Touching on these aspects briefly.
CONCLUSION	Anything else you'd like to mention? Thank you for your time.	

7.2.2 Discussion Guide for Stakeholders

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
INTRODUCTION	Introduction about the nature of the interview. Confidentiality, privacy, recording, non-identifiable.	
OVERVIEW OF YOUR ORGANISATION AND THE INDUSTRY IT REPRESENTS	Tell me something about your organisation and your key members Location Staff numbers Core business	Bac kground
PRIORITY OF LRCCs TO REPRESENTED ORGNISATIONS	How important are LRCCs to business outcomes of orgnisations?	Business relationship to LRCCs
IMPORTANCE OF INNOVATION TO INDUSTRY	Degree of innovation Barriers to innovation Importance of chemicals in relation to innovation	

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
AWARENESS/ OF THE REFORMS WITHIN THE ORGANISATION	Awareness of the LRCC reforms within the organisation (probe for level of awareness, ie top of mind, minimal, in detail) Among staff (note specific roles) Among represented orgs – (note type of business) **Provide overview of reforms if needed:** Audited self-assessment of PLCs and non-hazardous chemicals Option for early listed on the AICS Administrative renewals for low volume exemptions and Commercial Evaluation permits Transhipment exemptions Exemptions for non-harzardous chemicals at 1% volume or less Increased general exemption for low volume chemicals from 10 kg to 100 kg Increased R&D threshold from 50 kg to 100 kg AICS online	

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
DEGREE OF ACTIVE INVOLVEMENT WITH ASPECTS OF THE REFORMS	Degree of active involvement with the reforms to date. Development: Did you contribute input to the development of the reforms? Were you originally happy with them, as they were designed? Outcomes: How would you describe your individual level of involvement with outcomes of the reforms? Key processes relevant to your business. Explore for relevance to the specific business under each of the following headings: Self assessment Has this occurred to date under the new approach? Increased exemptions Have you made use of the increased exemptions for low volume/ trans-shipment/ cosmetic/R&D/analytical chemicals? (As relevant to this business Administrative renewals for low volume exemptionss, CECs Option for early listings on AICS Do you think the reforms work as they were initially intended?	

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
PERCEIVED AND ACTUAL **IMPACT** OF THE LRCC REFORMS: POSITIVE AND NEGATIVE	**Explore actual impacts of the LRCC reforms on:** Businesses Positive Negative The industry's competitiveness Positive Negative Explore any specific examples of actual negative impacts and discuss how the business was able to be clear about the connections to the reforms. **Explore views on potential impacts of the 1st tranche of LRCC reforms on:** Businesses Positive Negative Individual staff Positive Negative The industry as a whole Positive Negative Explore any specific examples of **potential negative** impacts and evidence that has led to these concerns by business.	Perceptions of impacts and evidence of impacts
OVERALL, WHAT WORKS AND WHAT DOES N'T WITH THE REFORMS	What works well with the LRCC reforms and what does not work so well? **Prompt for each specific reform if necessary.**	Overview – top of mind response

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
COSTS, TIME SAVINGS **APPROPRIATENESS** **EFFECTIVENESS**	What are your views on the following specific aspects of the reforms? Cost savings to business as a result? Time savings for business? Reduction in compliance burden on business?	
OUTCOMES OF THE REFORMS	Do you consider that the reforms have had an impact upon: OH&S Community Safety Environment Protection? Note for improvements as well as problems. Provide examples of how including specific chemical types and the impact had.	Maintainence of outcomes
PRACTICAL BARRIERS/ ENABLERS TO **INNOVATION**	Are there any ways in which the reforms have assisted in enabling innovation in business? Are there any ways in which the reforms are creating barriers to innovation in business? What solutions do you see to this?	
PRACTICAL BARRIERS/ ENABLERS TO **PRODUCTIVITY**	Are there any ways in which the reforms have assisted in enabling productivity in business? Are there any ways in which the reforms are creating barriers to productivity in business? What solutions do you see to this?	

STAKEHOLDERS	Qualitative Research Discussion Guide	Logic
Topic	Points to cover	
COMPARISONS WITH REQUIREMENTS **PRIOR** TO THE REFORMS	Now, thinking about the requirements for regulation in relation to LRCCs, **prior** to the reforms, how would you compare the following aspects: Comparative: Ease of administration? Appropriateness? Effectiveness in encouraging best practice handling and management of LRCCs (note that LRCCs were undefined as a group prior to reforms)? Efficiency? Cost to your business? Regulatory burden? Overall, would you say the reforms are better or worse for your business than the prior set of regulatory requirements?	
SUGGESTED **ENHANCEMENTS**	Any modifications you would like to see? Reasons for these suggestions Awareness of second round of reforms? Awareness of the Community Engagement Forum	Touching on these aspects briefly.
CONCLUSION	Anything else you'd like to mention? Thank you for your time.	

7.3 Appendix C: Survey emailed invitation

7.3.1 Notification email

Dear < ….>,

Campbell Research is conducting an online survey of industrial chemicals companies, on behalf of NICNAS. This survey will be emailed to you on Wednesday April 29.

Please see this link: Letter from NICNAS for further information about why this survey is taking place

If you do not manage the company's obligations to NICNAS, please forward this letter, and the ensuing survey link, to the staff member or consultant who does.

Your participation in this survey is valued. Thank you in anticipation of your time.

Campbell Research & Consulting

To opt of the NICNAS survey, click unsubscribe

7.3.2 Survey link email

Dear < >,

Earlier this week we advised of a survey to be conducted by Campbell Research & Consulting on behalf of the National Industrial Chemicals Notification and Assessment Scheme. Attached is a link to the online survey.

Campbell Research is an independent research company, and not part of NICNAS or the government. All information you provide will be completely confidential, and no individual or company will be identified to either Campbell Research or NICNAS as a result of your participation in the survey.

If you do not manage the company's obligations to NICNAS, please forward this letter, and the survey link, to the staff member or consultant who does.

Your participation in this survey is valued and provides an opportunity for you to provide feedback to NICNAS Thank you in anticipation of your time.

Click here to begin the survey

Campbell Research & Consulting

7.3.3 Reminder email

Dear < >,

Last week we advised of a survey conducted by Campbell Research & Consulting on behalf of the National Industrial Chemicals Notification and Assessment Scheme (NICNAS).

This is a reminder to please complete the survey by close of business, Wednesday May 13th.

Your participation in this survey is valued and is an opportunity for you to provide feedback to NICNAS.

Campbell Research is an independent research company, and not part of NICNAS or the government. Participation in the survey is voluntary. All information you provide will be completely confidential, and no individual or company will be identified to either Campbell Research or NICNAS as a result of your participation in the survey.

If you do not manage the company's obligations to NICNAS, please forward this letter, and the survey link, to the staff member or consultant who does.

If you have already completed the survey, please ignore this email.

Attached is a link to the online survey.

Click here to begin the survey

Campbell Research & Consulting

7.4 Appendix D: Online survey – questionnaire

intro. **Welcome to the National Survey of Low Regulatory Concern Chemicals Reforms. This is a survey conducted by Campbell Research & Consulting on behalf of NICNAS (the National Industrial Chemical Notification and Assessment Scheme). Campbell Research is an independent research company, and not part of NICNAS or the government. All information you provide will be completely confidential, and no individual or company will be identified to either Campbell Research or NICNAS. Our privacy policy is available here . This survey is an opportunity for you to provide feedback to NICNAS. The results of this survey will be presented in a report to NICNAS. The survey will take about 10 minutes to complete. If you need to you can save your survey part way through and return to it later, by clicking the 'quit and resume later' button at the top of each screen. Participation in the survey is entirely voluntary. Campbell Research obtained your email address through the NICNAS database of registered companies. If you do not deal with NICNAS yourself, please forward this survey to the person in your company who does, or to your NICNAS consultant. Please complete this survey by Wednesday May 13th . If you have any questions, you can contact Natasha Ludowyk at Campbell Research on 1300 368 113 or at response@campbellresearch.com.au**

This section is about your role in an industrial chemicals company.

Q1. **Which of the following best describes your role in the company?**

Scientific advisor	1
Regulatory Affairs manager	2
Product manager	3
CEO	4
Consultant	5
Technical manager	6
Other (please describe)	777

Q2. **How long have you been dealing with NICNAS (National Industrial Chemicals Notification and Assessment Scheme)?**

Less than 2 years	1
More than 2 to 5 years	2
More than 5 to 10 years	3
More than 10 to 20 years	4

Do not answer If Attribute "Technical manager" from Q1 is SELECTED OR
Do not answer If Attribute "CEO" from Q1 is SELECTED OR
Do not answer If Attribute "Product manager" from Q1 is SELECTED OR
Do not answer If Attribute "Regulatory Affairs manager" from Q1 is SELECTED OR
Do not answer If Attribute "Scientific advisor" from Q1 is SELECTED

Qstaff. **The next section is about the general characteristics of the company you work for.**

Do not answer If Attribute "Consultant" from Q1 is SELECTED

. **The next section is about the characteristics of the company you most frequently represent in relation to NICNAS.**

Q3. **Is the company a member of any of the following industry associations? Please tick all that apply**

ACCORD	1
Australian Chamber of Commerce & Industry (ACCI)	2
Australian Food and Grocery Council (AFGC)	3
Australian Institute of Petroleum Ltd (AIP)	4
Australian Mines & Metals Association (AMMA)	5
Australian Paint Manufacturers Federation Inc. (APMF)	6
Australian Plantation Products and Paper Industry Council (A3P)	7
Australian Petroleum Production & Exploration Association (APPEA)	8
Australian Society of Cosmetic Chemists (ASCC)	9
Minerals Council of Australia (MCA)	10
Packaging Council of Australia (PCA)	11
Plastics & Chemicals Industries Association Inc (PACIA)	12
Printing Industries Association of Australia	13
Surface Coatings Association of Australia (SCAA)	14
None	15

Q4. Which of the following describe the sectors the company is involved in? Please tick all that apply

Cosmetics/personal	1
Domestic/cleaning	2
Education, Research and Development	3
Electrical/electronic	4
Engineering	5
Fuel and oil	6
Leather processing	7
Mining and metal extraction	8
Office supplies	9
Packaging, paper and pulp	10
Photographic	11
Plastics	12
Printing	13
Refrigeration	14
Surface coatings	15
Textile processing	16
Water treatment	17
Other (please specify)	777

Q5. Which of the following does the company do? Please tick all that apply

Trade in raw materials	1
Import raw materials	2
Trade in finished products	3
Import finished products	4
Manufacturing	5
Contract manufacturing	6
Formulating	7
Direct to Market sales	8
Business to Business sales	9
Industrial and Institutional (I&I)	10
Exports	11
Other (please describe)	777

This section is about introducing Low Regulatory Concern Chemicals (LRCCs). There will be an opportunity later for you to tell us about your general experiences with NICNAS. There is no single definition of Low Regulatory Concern Chemicals (LRCCs). For the purposes of this survey, please consider LRCCs to be: chemicals requiring reduced regulatory input due to meeting defined criteria of low risk. Low risk chemicals in this context include chemicals of low (or no) hazard, or those chemicals introduced in low volumes or low concentrations that pose no unreasonable risk.

Q6. How many times has the company introduced (manufactured, formulated or imported) a low regulatory concern chemical (LRCC)?

None	1
1 or 2 times	2
3 to 5 times	3
6 to 10 times	4
11 to 25 times	5
26 to 50 times	6
More than 50 times	7

In the next questions you will be presented with the LRCC provisions that were brought in during 2004.

Q7. Prior to this survey, were you aware of the provision for:

	aware	not aware
Audited self-assessment (of polymers of low concern and non-hazardous chemicals)	1	2
Increasing the exemption limit for Low Volume Chemicals from 10 kg to 100 kg	1	2
Increasing the Research & Development (R&D) exemption limit from 50 kg to 100 kg	1	2
Exemptions for non-hazardous chemicals introduced in a cosmetic product at 1% concentration or less	1	2
Trans-shipment exemptions for chemical in a port for up to 30 days	1	2
Administrative renewals for Low Volume Chemical and Commercial Evaluation permits	1	2
Option for early listing of notified chemicals on the AICS (Australian Inventory of Chemical Substances)	1	2

Q8. Below is a list of the LRCC provisions that were brought in during 2004. In the last 2 years, has the company used any of the following?

	Yes	No	Don't Know
Audited self-assessment (of polymers of low concern and non-hazardous chemicals)	1	2	999
The increased exemption limit for Low Volume Chemicals	1	2	999

from 10 kg to 100 kg			
The increased Research & Development (R&D) exemption limit from 50 kg to 100 kg	1	2	999
Exemptions for non-hazardous chemicals at 1% volume or less in cosmetics products	1	2	999
Trans-shipment exemptions for chemical in a port for up to 30 days	1	2	999
Administrative renewals for Low Volume Chemical and Commercial Evaluation permits	1	2	999
Option for early listing of notified chemicals on the AICS (Australian Inventory of Chemical Substances)	1	2	999

Q9. Which of these LRCC provisions, if any, has the company ceased using?

Answer If Attribute "Audited self-assessment (of polymers of low concern and non-hazardous chemicals)" from Q8 is Yes

Audited self-assessment (of polymers of low concern and non-hazardous chemicals)	1

Answer If Attribute "The increased exemption limit for Low Volume Chemicals from 10 kg to 100 kg" from Q8 is Yes

The increased exemption limit for Low Volume Chemicals from 10 kg to 100 kg	7

Answer If Attribute "The increased Research & Development (R&D) exemption limit from 50 kg to 100 kg" from Q8 is Yes

The increased Research & Development (R&D) exemption limit from 50 kg to 100 kg	6

Answer If Attribute "Exemptions for non-hazardous chemicals at 1% volume or less in cosmetics products" from Q8 is Yes

Exemptions for non-hazardous chemicals at 1% volume or less in cosmetics products	4

Answer If Attribute "Trans-shipment exemptions for chemical in a port for up to 30 days" from Q8 is Yes

Trans-shipment exemptions for chemical in a port for up to 30 days	5

Answer If Attribute "Administrative renewals for Low Volume Chemical and Commercial Evaluation permits" from Q8 is Yes

Administrative renewals for Low Volume Chemical and Commercial Evaluation permits	6

Answer If Attribute "Option for early listing of notified chemicals on the AICS (Australian Inventory of Chemical Substances)" from Q8 is Yes

Option for early listing of notified chemicals on the AICS (Australian Inventory of Chemical Substances)	7
None	2

Q10. In the last two years, how many times has the company introduced a chemical using one of the provisions for LRCCs?

None	1
1 or 2 times	2
3 to 5 times	3
6 to 10 times	4
11 to 25 times	5

26 to 50 times	6	
More than 50 times	7	

Q11. The Low Volume Chemical exemption for chemicals that pose no unreasonable risk currently has a limit of 100 kg. Is this exemption of benefit or no benefit to the company, given this limit?

Great benefit	4	
Some benefit	3	
Little benefit	2	
No benefit	1	
Don't know	999	

Q12. Thinking about the exemption for Low Volume Chemicals (currently limited to 100 kg) what is the minimum volume, in Kilograms, for the company to gain some benefit?

Q13. The R&D exemption currently has a limit of 100 kg . Is this exemption of benefit or no benefit to the company, given this limit?

Great benefit	4	
Some benefit	3	
Little benefit	2	
No benefit	1	
Don't know	999	
Not applicable - don't perform R&D	555	Go to Q15

Q14. Thinking about the exemption for R&D (currently limited to 100 kg), what is the minimum volume, in Kilograms, for the company to gain some benefit ?

Q15. The exemption for non-hazardous chemicals introduced in a cosmetic product currently has a limit of 1% concentration or less . Is this exemption of benefit or no benefit to the company, given that it is limited to cosmetics?

Great benefit	4
Some benefit	3
Little benefit	2
No benefit	1
Don't know	999

Q16. Would the company benefit if the exemption for non-hazardous chemicals at 1% concentration or less was extended to include introduction in finished products other than cosmetics ?

Yes	1

No	2
Don't know	999

Q17. The AICS is the Australian Inventory of Chemical Substances. In 2004 the AICS was placed online on the NICNAS website. How easy or difficult is it to search the AICS ?

Very easy	4
Easy	3
Difficult	2
Very difficult	1
Not Applicable – I don't use the AICS online	555

Q18. Has the mandatory registration of Tier 1 companies made you more aware of the company's obligations to NICNAS?

Yes	1
No	2
Not applicable - not a Tier 1 company	555

. The next questions are about the kinds of chemicals the provisions for Low Regulatory Concern Chemicals (LRCCs) have enabled.

Q19. Overall, how would you rate the way the LRCC provisions have enabled the company to introduce new chemicals ?

Very Good	4
Good	3
Poor	2
Very Poor	1
Don't Know	999

Q20. Overall, how would you rate the way the LRCC provisions have enabled flexibility for the company when introducing new chemicals?

Very Good	4
Good	3
Poor	2
Very Poor	1
Don't Know	999

Q21. Overall, how would you rate the way the LRCC provisions have enabled the company to introduce safer chemicals?

Very Good	4
Good	3
Poor	2
Very Poor	1
Don't know	999

Q22. Overall, how would you rate the way the LRCC provisions have enabled the company to be innovative ?

Very Good	4	
Good	3	
Poor	2	
Very Poor	1	
Don't Know	999	

. **This section is about the Costs and Savings of using the LRCC provisions. The following questions are about any savings your company may have incurred.**

Q23. Overall, has use of the LRCC provisions led to savings for your company, compared with the cost of using an alternative notification pathway?

Yes	1	
No	2	Go to Q32
Don't know	999	Go to Q32

Q24. What have these savings been due to? Please tick all that apply

Lower consultant fees	1
Reduced administration	2
Less data required	3
Product to market faster	4
Able to generate sales	5
Other (please describe)	777

Q25. Of these, which is the greatest saving?

Lower consultant fees	1
Answer If Attribute "Lower consultant fees" from Q24 is SELECTED	
Reduced administration	2
Answer If Attribute "Reduced administration" from Q24 is SELECTED	
Less data required	3
Answer If Attribute "Less data required" from Q24 is SELECTED	
Product to market faster	4
Answer If Attribute "Product to market faster" from Q24 is SELECTED	
Able to generate sales	5
Answer If Attribute "Able to generate sales" from Q24 is SELECTED	

Q26. Thinking back on the LRCC provisions you have used, which one has produced the greatest saving for the company? If the company uses more than one of the LRCC provisions, please tell us about the LRCC provision which has generated the greatest savings for the company.

Audited self-assessment (of polymers of low concern and non-hazardous chemicals)	1

Answer If Attribute "Audited self-assessment (of polymers of low concern and non-hazardous chemicals)" from Q8 is Yes

The increased exemption limit for Low Volume Chemicals from 10 kg to 100 kg	7

Answer If Attribute "The increased exemption limit for Low Volume Chemicals from 10 kg to 100 kg" from Q8 is Yes

The increased Research & Development (R&D) exemption limit from 50 kg to 100 kg	6

Answer If Attribute "The increased Research & Development (R&D) exemption limit from 50 kg to 100 kg" from Q8 is Yes

Exemptions for non-hazardous chemicals at 1% volume or less in cosmetics products	4

Answer If Attribute "Exemptions for non-hazardous chemicals at 1% volume or less in cosmetics products" from Q8 is Yes

Trans-shipment exemptions for chemical in a port for up to 30 days	5

Answer If Attribute "Trans-shipment exemptions for chemical in a port for up to 30 days" from Q8 is Yes

Administrative renewals for Low Volume Chemical and Commercial Evaluation permits	6

Answer If Attribute "Administrative renewals for Low Volume Chemical and Commercial Evaluation permits" from Q8 is Yes

Option for early listing of notified chemicals on the AICS (Australian Inventory of Chemical Substances)	7

Answer If Attribute "Option for early listing of notified chemicals on the AICS (Australian Inventory of Chemical Substances)" from Q8 is Yes

Q27. Q1. How much did the company save (through lower consultant fees, reduced administration, less data required, product going to market faster, able to generate more sales or other)? Please estimate to the nearest $1,000

. **The next questions are about any costs your company may have incurred when using the LRCC provisions.**

Q28. Has the company incurred any costs (in addition to the NICNAS fee) when using the LRCC provisions? Please tick all that apply

Direct Costs<h>	1
Consultant fees	2
Administration	3
Sourcing required data	4
Opportunity Costs <h>	5
Delay of product to market	6
Loss of customer/client	7
Not applicable - have not incurred costs	555
Other (please describe)	777

Q29. Of these, which is the greatest cost?

Direct Costs<h>	1

Answer If Attribute "Direct Costs<h>" from Q28 is SELECTED

Consultant fees	2
Answer If Attribute "Consultant fees" from Q28 is SELECTED	
Administration	3
Answer If Attribute "Administration" from Q28 is SELECTED	
Sourcing required data	4
Answer If Attribute "Sourcing required data" from Q28 is SELECTED	
Opportunity Costs <h>	5
Answer If Attribute "Opportunity Costs <h>" from Q28 is SELECTED	
Delay of product to market	6
Answer If Attribute "Delay of product to market" from Q28 is SELECTED	
Loss of customer/client	7
Answer If Attribute "Loss of customer/client" from Q28 is SELECTED	
Not applicable - have not incurred costs	555
Answer If Attribute "Not applicable - have not incurred costs" from Q28 is SELECTED	

Q30. Thinking back on the LRCC provisions you have used, which one has produced the greatest cost for the company? If the company uses more than one of the LRCC provisions, please tell us about the provision which has generated the greatest cost for the company.

Audited self-assessment (of polymers of low concern and non-hazardous chemicals)	1
Answer If Attribute "Audited self-assessment (of polymers of low concern and non-hazardous chemicals)" from Q8 is Yes	
The increased exemption limit for Low Volume Chemicals from 10 kg to 100 kg	7
Answer If Attribute "The increased exemption limit for Low Volume Chemicals from 10 kg to 100 kg" from Q8 is Yes	
The increased Research & Development (R&D) exemption limit from 50 kg to 100 kg	6
Answer If Attribute "The increased Research & Development (R&D) exemption limit from 50 kg to 100 kg" from Q8 is Yes	
Exemptions for non-hazardous chemicals at 1% volume or less in cosmetics products	4
Answer If Attribute "Exemptions for non-hazardous chemicals at 1% volume or less in cosmetics products" from Q8 is Yes	
Trans-shipment exemptions for chemical in a port for up to 30 days	5
Answer If Attribute "Trans-shipment exemptions for chemical in a port for up to 30 days" from Q8 is Yes	
Administrative renewals for Low Volume Chemical and Commercial Evaluation permits	6
Answer If Attribute "Administrative renewals for Low Volume Chemical and Commercial Evaluation permits" from Q8 is Yes	
Option for early listing of notified chemicals on the AICS (Australian Inventory of Chemical Substances)	7
Answer If Attribute "Option for early listing of notified chemicals on the AICS (Australian Inventory of Chemical Substances)" from Q8 is Yes	

Q31. How much did the company lose (through consultant fees, administration, sourcing of required data, delay of product to market and loss of sales)? If more than $20,000 please estimate to the nearest $10,000

Annual reporting is a requirement of many of the reform provisions. The next questions are about annual reporting requirements.

Q32. Does the annual reporting requirement outweigh the potential benefits of the LRCC provisions?

Yes	1	
No	2	Go to Q33
Don't Know	999	Go to Q33
Not Applicable - not required to provide annual reports	555	Go to Q33

Q32a. What is your biggest concern about annual reporting?

The amount of time I have to spend on each report	1
The amount of time my staff have to spend on each report	2
Obtaining the required data	3
The format of the reports	4
Other (please specify)	777

Q33.1. Audited self-assessment (of polymers of low concern and non-hazardous chemicals) have post-market compliance requirements, including annual reporting and record keeping, which is subject to NICNAS audit. Which of these requirements is the greatest burden on your company?

Annual reporting	1
NICNAS audit of records	2
Both the same	3
Don't know	999

Q34. Use of the exemption categories have post-market compliance requirements, including annual reporting and record keeping, which are subject to NICNAS audit. What is your preferred method of post-market compliance?

Annual reporting	1
Once-off report with greater possibility of spot-check auditing of records	2
No preference	3
Dont know	999

The next section is about the decision to introduce a Low Regulatory Concern Chemical (LRCC). DEFINITION OF LRCCs - REMINDER There is no single definition of Low Regulatory Concern Chemicals (LRCCs). For the purposes of this survey, please consider LRCCs to be: chemicals requiring reduced regulatory input due to meeting defined criteria of

low risk. Low risk chemicals in this context include chemicals of low (or no) hazard, or those chemicals introduced in low volumes or low concentrations that pose no unreasonable risk.

Q35. If the company wanted to introduce a LRCC that was not listed on the AICS, what would you do first ?

Apply for a NICNAS Certificate (Standard, Limited or Permit certificate)	1	
Use a Self Assessment	2	
Use an LRCC Exemption	3	
Do further research on the costs involved	4	
Look for an alternative product or chemical that is listed	5	
Reformulate	6	
Wont introduce the chemical or product	7	Go to Q36
Other (please describe)	777	

Q35a. What would you do second?

Do not answer If Attribute "Apply for a NICNAS Certificate (Standard, Limited or Permit certificate)" from Q35 is SELECTED

Apply for a NICNAS Certificate (Standard, Limited or Permit certificate)	1
Do not answer If Attribute "Use a Self Assessment" from Q35 is SELECTED	
Use a Self Assessment	2
Do not answer If Attribute "Use an LRCC Exemption" from Q35 is SELECTED	
Use an LRCC Exemption	3
Do not answer If Attribute "Do further research on the costs involved" from Q35 is SELECTED	
Do further research on the costs involved	4
Do not answer If Attribute "Look for an alternative product or chemical that is listed" from Q35 is SELECTED	
Look for an alternative product or chemical that is listed	5
Do not answer If Attribute "Reformulate" from Q35 is SELECTED	
Reformulate	6
Do not answer If Attribute "Wont introduce the chemical or product" from Q35 is SELECTED	
Wont introduce the chemical or product	7

Q36. In the last two years, has the company decided against introducing a LRCC because of the requirements of the LRCC provisions?

Yes	1
No	2
Don't Know	999

. The next few questions are about compliance with regulatory requirements. All information you provide will be completely confidential, and no individual or company will be identified to

NICNAS or any other organisation or individual. For Campbell Research's full privacy policy, see the Campbell Research website.

Q37. Has the company ever introduced LRCCs without following the NICNAS procedure exactly ?

Yes	1	
No	2	Go to Q41
Don't Know	999	Go to Q41
I'd rather not say	666	Go to Q41

Q38. When the company has acted outside NICNAS regulations, what do you do? Please tick all that apply

Apply the relevant LRCC provision and introduce the chemical before it's approved	1
Introduce it under a listed CAS number for a similar chemical	2
I'd rather not say	666
Other (please describe)	777

Q39. What would make you consider working outside the NICNAS procedures? Please tick all that apply

Internal marketing pressures	1
Timelines are decided internationally	2
Uncertainty of NICNAS timelines	3
Management directive	4
You're unable to get the required data	5
The cost of complying	6
Pressure to meet customers' expectations	7
I'd rather not say	666
Other (please describe)	777

Q40. Thinking of all the instances in the last 2 years that the company has introduced LRCCs, what percentage of these instances has the company not exactly followed the NICNAS procedure?

Percentage of the instances:	1
I'd rather not say	555

The next section is about your company's relationship with NICNAS. Please tell us how you feel about NICNAS generally.

Q41. How would you rate the consistency of NICNAS's implementation of the LRCC provisions?

Very Consistent	4
Consistent	3
Inconsistent	2

Very Inconsistent	1
Don't Know	999
Not Applicable	666

Q42. How would you describe NICNAS's impact on the company generally ?

This is the end of the survey. Thank you for taking the time to participate, your feedback is appreciated. .

7.5 Appendix E: Summary of submissions to the report

In August 2009 NICNAS published the Campbell Research report *LRCC Reforms: An Evaluation of the Impact on Industry* on the NICNAS website. Submissions were invited from interested stakeholders. A total of six submissions were received in total, with submissions received from ACCORD, PACIA, the APMF, the Victorian Trades Hall Council on behalf of the Australian Council of Trade Unions (**ACTU/VTHC**), Unilever Australasia and Haztech Environmental. All submissions have been delivered to NICNAS in their entirety.

Overall, submission comment was supportive of the evaluation findings and the direction of the recommendations. PACIA, Unilever and Haztech each noted general ongoing concerns regarding the risk resource allocation of NICNAS, suggesting that NICNAS is continuing to spend a disproportionate amount of resources on LRCCs. Each of PACIA, Unilever and Haztech generally supported the options for consideration provided in the report. The APMF were similarly supportive, and considered that:

> These initiatives, if implemented, will reduce the regulatory burden of our industry whilst maintaining the community protections as required under the NICNAS Charter.
>
> APMF submission

The ACTU/VTHC expressed a concern that the options for consideration may result in decreased protections for the community and environment, and these are spelt out in their comments on specific recommendations. The ACTU/VTHC was concerned that nanomaterials were not considered when the LRCC exemption limits were set.

NICNAS has indicated that the regulatory requirements for nanomaterials are the subject of a separate review, which is currently underway with advice from an advisory group consisting of industry, government and community representatives. NICNAS will consult widely on this review in due course. As the regulatory requirements for nanomaterials are outside the scope of this evaluation, these options for consideration have not been addressed.

The ACTU/VTHC also expressed concern about industry requests for greater reform given the low extent of awareness and high extent of confusion prevailing amongst industry at present. They stated that:

> It is crucial that information that is clear and of high quality be effectively disseminated to both industry and the community – and that the communications strategy be redesigned to ensure this.
>
> ACTU/VTHC submission

The ACTU/VTHC further noted that they had limited capacity to contribute useful input to this evaluation because NICNAS had not responded to specific questions put by the ACTU/VTHC at the time this evaluation was being conducted. These questions are included in the evaluation report (see Section 3.5.8). NICNAS considered the ACTU/VTHC's questions to be beyond the scope of the current evaluation as its focus was on the impact on industry. It was considered by the ACTU/VTHC that further options for consideration may arise from the planned community consultation phase of the LRCC Reforms evaluation.

Not all submitters commented on each option for consideration. Where comment was made by a submitter on a specific option for consideration, those comments are summarised below:

7.5.1 Option 1: Limit exposure data requirements for PLCs in audited self-assessments

That NICNAS review the feasibility of limiting exposure data requirements of PLCs in audited self-assessments.

Rationale

Limiting the exposure data requirements of PLCs in audited self assessments would acknowledge the very low risk that PLCs are acknowledged to present, both globally and in Australia. Data requirements for audited self-assessments were one of the two major barriers to the uptake of this provision. A proportion of industry that began using audited self-assessment has since reverted to standard notification pathways, as the self-assessments were considered no easier. Reducing the data requirements for PLCs would remove one barrier to audited self-assessments by industry, leaving only the barrier of the statutory declaration in place.

Comment

This option was fully supported by four of the six submitters. A fifth submitter raised concerns.

Specifically, Haztech and Unilever considered that the current data requirements for PLCs were not proportionate to the risk they posed. ACCORD stated that reduced data requirements for PLCs for self-assessments would rectify the current contradiction around the term 'self-assessment', meaning that these notifications would be truly self-assessed, with regulation achieved through auditing of data by NICNAS post introduction. PACIA considered the option to be sound.

The ACTU/VHTC queried how the acknowledgement of low risk could be made if no or limited data were provided. ACCORD felt that 'history of safe use' would be one means of assessing risk as an alternative to exposure data, as was practiced in the US and EU.

The APMF specifically supported further investigation of the potential to limit exposure data requirements.

Campbell Research notes the concerns of the ACTU/VTHC, and emphasises that the option does not state any specific treatment of current exposure data requirements, but calls for NICNAS to 'review the feasibility of limiting exposure data requirements of PLCs in audited self-assessments'.

In consideration of all the submissions, there remains scope for NICNAS to ensure more proportionate regulation of PLCs through further investigating the feasibility of limited exposure data requirements with a view to maintaining current low risk levels.

No change has been made to this option.

7.5.2 Option 2: Review exemption limits for low volume exemptions

That NICNAS review the feasibility of increasing the volume limit for low volume exemptions.

Rationale

Increasing the volume limit for low volume exemptions would substantially increase the uptake of the exemption, such that:

- Half (50%) the Tier 3 companies would gain some benefit at 1000 kg
- One third (33%) of Tier 3 companies would gain some benefit at 500 kg
- One fifth (21%) of Tier 3 companies would gain some benefit at 200 kg.

Any increase in volume limits would need to be carefully considered by NICNAS to ensure that pragmatic considerations regarding standard methods of delivery are taken into account, and to continue to ensure the risk posed by any introduced chemicals at the new volume remains low.

Comment

This option was supported by five of the six submitters. A sixth submitter raised concerns.

Haztech noted that:

> 100 kg does not recognise that it is best to deliver in standard 200 L drums on standard pallets.
>
> Haztech submission

Haztech suggested that a 200 litre drum may be a more sensible exemption limit.

The ACTU/VTHC expressed a concern that the current 100 kg limit was already too high in some cases. They further stated:

> Under no circumstances can 1,000 kg be considered low volume!
>
> ACTU/VTHC submission

Campbell Research acknowledges the concerns of the ACTU/VTHC and notes that a review of the feasibility of increasing the volume limit for low volume exemptions is expected to include a review of the impact on the community and environment. This expectation is made explicit in the rationale for the option for consideration, where the need to ensure that the risk posed by any volume exemption remains low is acknowledged.

Campbell Research notes the proposition by Haztech that exemption limits take into account pragmatic factors, such as safe standardised methods of delivery.

The rationale for the option for consideration has been *amended* to include reference to practical considerations regarding chemical volumes.

7.5.3 Option 3: Review volume limits for R&D exemptions

That NICNAS review the feasibility of increasing the volume limit for R&D exemptions to allow for pilot testing of chemicals where appropriate.

Rationale

Increasing the volume limit for R&D exemptions would substantially increase the uptake of the exemption, such that:

- Two thirds (68%) of the Tier 3 companies would gain some benefit at 1000 kg
- Two fifths (43%) of Tier 3 companies would gain some benefit at 500 kg
- One quarter (27%) of Tier 3 companies would gain some benefit at 200 kg

Higher volume limits for R&D would also allow for more sophisticated testing in conditions better replicating commercial conditions, resulting in more accurate chemical data. Any increase in volume limits would need to be carefully considered by NICNAS to ensure that the risk posed by any introduced chemicals at the new volume remains low.

Comment

The option was fully supported by four of the six submitters. A fifth submitter raised concerns.

The ACTU/VTHC acknowledged that development needs overlapped with pre-production needs, and that:

> There may be circumstances when a larger volume of a chemical is legitimately needed.
>
> ACTU/VTHC submission

However the ACTU/VTHC reiterated concerns regarding a 1,000 kg volume as not being 'low'. They also expressed a concern at a 'blanket increase'.

Campbell Research acknowledges the concerns of the ACTU/VTHC and note that the option stipulates the need to confirm whether risk would remain low if limits were adjusted.

No change has been made to this option.

7.5.4 Option 4: Extend the exemption for non-hazardous chemicals at 1% concentration or less to products other than cosmetics

That NICNAS extend the exemption for non-hazardous chemicals at 1% volume or less to products other than cosmetics.

Rationale

At present, only cosmetics companies are benefited from this exemption when introducing non-hazardous chemicals at low concentration. As such, cosmetics companies were in general receiving greater benefit from the LRCC than other companies. The development of this specific reform has been attributed to the extent of involvement of cosmetic industry representatives during the development phase of the reforms, rather than addressing chemical characteristics specific to the cosmetics industry. Therefore, extending this exemption to non-cosmetics products should not alter the risk posed by any chemicals introduced through this exemption. A substantial proportion of non-cosmetics companies reported that they would be benefited were the exemption extended to include their products.

Comment

This option was fully supported by four of the six submitters. Two other submitters raised concerns.

Haztech noted that Tox and Ecotox data was not usually available for chemicals at 1% concentration, and was unsure whether such an exemption would benefit many as:

> The cost to obtain will generally outweigh any economic return for many years.
>
> Haztech submission

The ACTU/VTHC objected to the statement that the original exemption had arisen partially through targeted lobbying by the cosmetics industry. Campbell Research notes that this comment was made by various stakeholders who had participated in the development of the reforms.

The ACTU/VTHC also noted that chemicals introduced at 1% concentration or less in cosmetics were:

> Usually in a consumer pack, <and> is not comparable to the volume of 1% or less in a product used in an industrial setting.
>
> ACTU/VTHC submission

PACIA also noted the different setting of chemicals in cosmetics products to other finished products, and felt that the cosmetics setting involved greater risk than the industrial setting, not less, stating:

> Cosmetics products by their nature are intended to be applied directly to the human body. The ≤ 1% exemption was conservative to match the product category. For non-cosmetic products the concentration level could be slightly increased.
>
> PACIA submission

Campbell Research acknowledges the difference between chemicals in cosmetics and their use in an industrial setting. In considering the inclusion of this option, issues around risk comparisons were taken into account.

No change was made to this option.

Option 5: Extend the trans-shipment exemption to include custom-bonded warehouses

That NICNAS extend the current trans-shipment exemption from Australian ports to also include custom-bonded warehouses.

Rationale

The current trans-shipment exemption has extremely low uptake by industry. Larger companies who have need of such an exemption often prefer to keep goods in their own custom-bonded warehouses. Extending the exemption to these warehouses would allow a greater proportion of industry to benefit from the exemption, without substantial increase to the risk of exposure of any trans-shipment chemicals.

Comment

This option was supported by four of the submitters.

Two submitters who supported the option demonstrated some confusion pertaining to the current exemption, stating their belief that this was presently the case.

The ACTU/VTHC expressed support for the option on the condition that risk of exposure to an unassessed chemical was not increased. They specifically requested information pertaining to customs-bonded warehouses:

- What controls would be in place to *ensure* the chemical/product did not leave these premises and/or that there would be no increase in risk of exposure to workers/etc?
- Who has access to such premises? Is there movement in/out of product from these premises?
- How would compliance be assured?

Campbell Research acknowledges the relevance of the ACTU/VTHCs questions, and further understands that the conditions of operations of customs bonded warehouses remain the property of Australian Customs as Under Bond Goods, and that a range of licences for these warehouses are

available depending on the level of risk involved and the type of operations being conducted.[7]

As such, Campbell Research understands that goods stored in customs bonded warehouses receive the same protections as those under control of customs in Australian ports.

No change has been made to this option.

7.5.5 Option 6: Allow flexibility of volume within administrative permit renewals

That NICNAS review the feasibility of allowing companies to increase the volumes of chemicals used within a certain permit category, up to the limit specified by the permit category, as a permit renewal rather than a new permit.

Rationale

At present companies who apply for a permit to introduce a certain volume of a chemical, such as 600 kg under a 1000 kg permit, are not eligible for a permit renewal if they wish to increase their volume to another amount still under the 1000 kg limit. This system presents a disadvantage to companies who initially mis-report to NICNAS at the highest possible amount, simply to avoid chancing a new permit. Allowing increases in volume within the established permit categories within an administrative permit renewal, removes the incentive to industry to mis-report whilst not posing an increased risk, and should improve NICNAS's data quality.

Comment

All submitters supported this option.

The ACTU/VTHC stipulated support on condition that any increase remained within the initial permit volume limit, and that the change in volume be reported to NICNAS, both of which requirements are addressed in the option as it currently stands.

No change has been made to this option.

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[7] Australian Customs and Border Protection Service website, http://www.customs.gov.au/site/page.cfm?u=4271 accessed on 17 September 2009

7.5.6 Option 7: Review the efficiency of current annual reporting requirements

That NICNAS reviews the effectiveness of annual reports for LRCCs in light of the time burden for both industry and NICNAS staff in producing and processing these reports, respectively and the value of the reports for the purpose of achieving NICNAS objectives.

Rationale

Annual reporting for audited self-assessments and exemptions was reported by industry stakeholders to require substantial company resources. Similarly, reasonably high levels of resources were reported by NICNAS staff to be given to processing submitted annual reports. This time spent at NICNAS on annual reports for LRCCs is at odds with the increased efficiency and reduced resources the LRCC reforms were designed to have. The relative value of the information gleaned through annual report data was questioned as a disproportionate use of NICNAS resources on LRCCs. An internal review of the resourcing spent on annual reporting and its efficiency and effectiveness as a regulatory strategy is required to fully address these concerns.

Comment

This option was supported by four of the six submitters. The ACTU/VTHC emphasised their view of the importance of NICNAS collecting information through annual reporting, however they supported any means of easing the burden of reporting on both industry and NICNAS.

Both ACCORD and the ACTU/VTHC expressed the need for the information provided in annual reports to be analysed and communicated to both industry and the community for the reports to be of value.

Unilever stated that the current annual reporting requirements 'undermined the supposed simplification' intended by the reforms.

Campbell Research acknowledges the views of all submitters with regard to both the administrative burden of annual reports and the current and potential value of information included therein.

It is noted that the current option for consideration includes a review with reference to both the time burden associated with reporting, and the value of the reports towards NICNAS objectives.

No change has been made to this option.

7.5.7 Option 8: Increase direct industry engagement

That NICNAS provide an enhanced collaborative environment for communication with industry, by developing a strategy for broad-ranging direct engagement, incorporating liaison with peak bodies, with companies which have frequent involvement with NICNAS, as well as those companies who have a potential interest in introducing new chemicals more frequently than at present. Successful models of engagement of other regulators such as FSANZ should be considered as part of the development of such a strategy. The increased direct engagement needs to occur with both Tier 3 and Tier 2 companies.

One strategy for direct engagement is for NICNAS to hold a series of industry engagement workshops incorporating industry and peak body stakeholders and NICNAS staff, and mediated by an external expert facilitator. The information gleaned through such workshops would ideally input into further engagement strategies.

Rationale

At present there is substantial wariness towards NICNAS and misunderstanding of the organisation's approach to regulating industry, particularly among Tier 2 companies which tend to simply avoid any dealings with NICNAS (see Section 3.2). Improved engagement across industry as a whole can help to overcome barriers to uptake of the reforms, including overcoming the substantial confusion that presently exists amongst industry regarding the LRCC provisions. The survey conducted for this evaluation revealed that a large proportion of the NICNAS client base, including Tier 3 companies, are not members of industry associations (Section 5.1.4). There is substantial scope for improving relations with industry, and thus increasing introductions of safer chemicals, through direct engagement strategies with industry.

Comment

This option was supported by four of the six submitters. Another two submitters expressed some concerns.

Unilever suggested that in addition to the measures identified in this option, NICNAS could look to other models of engagement such as those of FSANZ.

The ACTU/VTHC and ACCORD both noted the specific training and awareness strategies currently employed by NICNAS, and the ACTU/VTHC supported further measures for direct engagement with industry by NICNAS. ACCORD considered that:

> We are unsure what would be achieved by holding a series of individual company engagement workshops as described in the report.
>
> In the first instance NICNAS should evaluate its existing stakeholder processes, identify weaknesses, then fill in the gaps.
>
> ACCORD submission

> Campbell Research notes ACCORD's desire for strategies that address existing gaps. Campbell Research considers that the evaluation findings report a demonstrated engagement gap for Tier 2 companies and those who are not members of representative industry associations, and that when

coupled with the high degree of wariness and misunderstanding that exists towards NICNAS amongst industry, there is sufficient ground for a direct industry engagement strategy.

Campbell Research notes Unilever's suggestion of considering alternative models for engagement.

The option has been *amended* to include consideration of successful engagement models of other regulatory agencies when developing an engagement strategy.

7.5.8 Option 9: Benchmark the impact of LRCC provisions

That NICNAS implement internal measures to monitor the introduction of all chemicals, using a baseline of 2009/10 data for introduced chemicals. The feasibility of the specific measures to be implemented need to be explored by NICNAS, and may include improved tracking systems, as well as classification of chemical risk.

Rationale

The LRCC Reform Initiative was designed to encourage industry to use more low risk chemicals, and fewer high risk chemicals. The absence of comprehensive data on chemical introductions by industry at the commencement of the LRCC process has meant that it is not possible to provide a quantitative measure of the success of the reforms on this point. Creating baseline data will allow future evaluations to efficiently measure the impact of reforms on outcomes for industry.

Comment

This option was supported by five of the six submitters.

In addition to their support, ACCORD disputed the assertion that no benchmarking data existed at NICNAS.

PACIA supported the option but suggested that the scope of benchmarking be broadened to the whole of NICNAS operations rather than focussing solely on LRCCs, so as to ascertain risk-resource allocation across the entire risk spectrum.

Campbell Research notes ACCORD's disputation. It is noted that benchmarking activities refer to additional analysis of currently available information, rather than the gathering of extra or new information. Retrospective analysis for the creation of benchmarks is considered to be resource intensive for NICNAS.

Campbell Research further notes that this option stipulates benchmarking across all chemicals, in line with PACIA's comment.

No change has been made to this option.

7.5.9 Option 10: Review NICNAS funding formula in light of reform objectives

That the NICNAS funding formula is reviewed in consideration of its scope to provide resources for NICNAS to fulfil its organisational objectives with regards to legislative reform, such as the LRCC Initiative.

Given NICNAS's full cost recovery status, there is scope to consult with industry about industry's priorities regarding the competing demands of maintaining the cost of NICNAS fees and funding regulatory reform.

Rationale

There is no allowance in the NICNAS funding formula, for the funding of the high cost of reform initiatives. All reform initiatives are funded with finite reserves. In the course of considering preliminary findings from this evaluation, NICNAS advised of their concerns about this matter and how it impacts upon their capacity to lead and implement reform in an area such as LRCCs. A review of how well the funding formula facilitates NICNAS objectives can address this gap.

Comment

This option was supported by five of the six submitters.

The ACTU/VTHC specifically noted the need for periodic review of the funding formula.

ACCORD and PACIA both cited Productivity Commission findings relating to the comparative expense of chemicals regulation in Australia by global standards. Both ACCORD and PACIA also explicitly stated a request for the consideration of Government funding support for reform activities.

Campbell Research notes the suggestion of ACCORD and PACIA, and iterates that the option is for a review of the funding formula, and that any stipulation regarding the outcome of such a review is premature.

No change has been made to this option.

7.5.10 Option 11: Review the views of the community

Conduct an evaluation to measure the views and experiences of the community with regard to the LRCC initiative, through identified community stakeholders and interface with State governments.

Rationale

The scope of this evaluation was limited to industry response to the LRCC provisions. Protecting the health and safety of the public, the workforce and the environment is part of the NICNAS mandate, as carried out through the work of State government agencies. This evaluation has only canvassed a small number of community representatives. There is a need for community input into the evaluation to ensure the goals of protecting public health, OHS and the environment are being maintained in the community's interests.

It is noted that the complexity of NICNAS work will make general community views difficult to identify, particularly in the context of issues relating to high concern chemicals, and as such a survey of the broad community is not recommended. Rather, a focussed testing of concepts including informed and representative stakeholders is recommended.

Comment

This option was supported by three of the six submitters. Another two submitters expressed some concerns.

The ACTU/VTHC felt that it was:

> Crucial that community stakeholders and government agencies are given the opportunity to provide considered input.
>
> ACTU/VTHC submission

ACCORD and Unilever commented that it was the role of the CEF to communicate the views of the community, and that this mechanism should be refined without reference to the broader community.

Campbell Research notes that a survey of the broad community was specifically not recommended within this option. A focus on high level stakeholders including the CEF, government agencies and other informed stakeholders was considered to be the most appropriate means of reviewing views of the community because of the complexity of the technical issues involved.

It is further noted that inclusion of CEF views was not possible within the scope for the evaluation, through no fault of the procedures surrounding the CEF.

No change has been made to this option.

7.5.11 Option 12: Regulatory model and legislative review

Review the appropriateness of NICNAS's prescriptive approach to regulation and its impact on matters including LRCCs, through measures which may include:

- A process of industry consultation through facilitated workshops, as part of a direct engagement strategy
- Consultation with expert regulations stakeholders, including the development of a program logic tool
- An international literature review incorporating a review of the regulatory system for industrial chemicals in other OECD jurisdictions
- A full review of the legislation on which NICNAS regulation is based.

Rationale

NICNAS's regulatory approach has implications for the implementation of the LRCC reforms, and their subsequent effectiveness and uptake by industry. Through the course of the evaluation, it was proposed that the data requirements associated with introduction as a result of Australia's '*strong front-gate*' approach to regulation may be undermining NICNAS's risk-based regulatory logic, and consequently generating greater risk from the continued use of older, less safe chemicals. As such, there is scope for reviewing NICNAS's prescriptive regulatory approach, both in terms of industry's preferred model for regulation as well as in light of international best practice in OECD nations.

NICNAS's regulatory framework cannot be considered in isolation of the legislation, which outlines NICNAS's prescriptive approach. Concerns about the restrictiveness of the legislation were raised by industry stakeholders and some NICNAS staff, repeatedly in the course of this evaluation. In particular, there was a perception that NICNAS is constrained in its ability to achieve its organisational objectives within the current legislation. Constraints upon NICNAS include the imposition of mandatory data requirements for the majority of assessment categories, and the inclusion of annual reporting requirements for audited self-assessments and exemptions. Therefore despite the best efforts of NICNAS to implement changes such as the LRCC provisions, substantial change to regulation is made much more difficult due to the complexities of the Act. As further reform adds further complexity to the legislation, it was considered that the Act will further work against NICNAS in achieving its objective of continuous improvement to regulation.

It is not possible to ascertain the extent of flexibility or constraint accorded NICNAS by the Act without expert review. NICNAS expressed concerns about undertaking further reform, at considerable expense, without first assessing the scope for substantial change afforded by the current Act. As such, a review of the Act will allow NICNAS to make informed decisions pertaining to any future reform, and regulatory approach generally.

Comment

This option was fully supported by four of the six submitters.

ACCORD additionally requested that review of the ICNA Act be a priority for NICNAS.

The ACTU/VTHC did not indicate support for the option, but commented that substantial review was already underway.

At the time of writing, Campbell Research is not aware of a current review of the ICNA Act.

No change has been made to this option.
