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1997B02908

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Department.



Statutory Rules 1997 No. 1

419/

Industrial Chemicals (Notification and Assessment) Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Industrial Chemicals (Notification and Assessment) Act 1989*.

Dated 1 1997.

18 December/

WILLIAM DEANE/
Governor-General

By His Excellency's Command,

1

PETER REITH/

Minister for Workplace Relations and Small Business

1. Commencement

1.1 These Regulations commence on 30 December 1997.

2. Amendment

2.1 The Industrial Chemicals (Notification and Assessment) Regulations are amended as set out in these Regulations.

3. Regulation 2 (Definitions)

3.1 Insert the following definitions:

“**natural waterway**’ includes:

- (a) a stream (permanent or ephemeral), river, lake, estuary or coastal water:
 - (i) that is natural; and
 - (ii) where water is present naturally or may flow through or gather; and
- (b) an artificial structure including an irrigation channel, a dam, reservoir, impoundment or holding pond from which water may reach a natural waterway directly;

‘**water treatment works**’ means a sewer or similar structure where a chemical is diluted, held or treated before discharge into a natural waterway.”.

4. New regulation 4AA

4.1 After regulation 4, insert:

Hazardous substance (Act, s. 5)

“**4AA.** For the definition of ‘hazardous substance’ in section 5 of the Act, a hazardous substance is a substance that:

- (a) is included in the *List of Designated Hazardous Substances [NOHSC: 10005 (1994)]*, published by the Australian Government Publishing Service for the National Occupational Health and Safety Commission; or
- (b) is classified as a hazardous substance in accordance with the *Approved Criteria for Classifying Hazardous Substances [NOHSC: 1008 (1994)]*, published by the Australian Government Publishing Service for the National Occupational Health and Safety Commission.”.

5. Regulation 4A (Synthetic polymer of low concern)

5.1 Paragraph 4A (1) (a):

Omit “number average”, substitute “number-average”.

6. New regulation 6AB

6.1 After regulation 6AA, insert:

Low volume introduction (Act, s. 21)

“**6AB. (1)** For paragraph 21 (4) (b) of the Act, the requirements set out in this regulation are prescribed.

“(2) The chemical must not be used in the cosmetic as:

- (a) a preservative; or
- (b) a colouring agent; or
- (c) an ultraviolet filter.

“(3) The chemical must not be prohibited or restricted for use as a cosmetic, or for use in cosmetics:

- (a) in the European Union under Council Directive 76/768/EEC as amended to 30 December 1997; or
- (b) in the United States of America under the *Food, Drugs and Cosmetics Act 1938* as amended to 30 December 1997.

“(4) The chemical must comply with any law of the Commonwealth, a State or a Territory that relates, whether expressly or by implication, to the manufacture or importation of the chemical.

“(5) If the chemical is present in the cosmetic at a concentration of 1% or more, the person who introduces the chemical must have information that indicates that the chemical will be safe for use by potentially high-risk groups (including, for example, infants, elderly persons and atopic persons), consistent with the anticipated pattern of consumer exposure.

“(6) The person who introduces the chemical must:
(a) notify the Director in writing of the introduction; and
(b) keep in writing, for 5 years after the introduction, all information available to the person about occupational health and safety and public health matters about the chemical.

“(7) The notification under paragraph (6) (a) must include:
(a) a statement setting out each requirement of subregulations (2) to (5) and stating how each requirement is complied with; and
(b) a declaration that the contents of the notification are correct as far as the person knows.

“(8) The information kept under paragraph (6) (b) must be produced to the Director on request.

“(9) For paragraph (6) (b), information is taken to be available to a person if, having regard to the person’s abilities, experience, qualifications and other attributes, the person ought reasonably to have been aware of the information.”.

7. New regulations 7B and 7C

7.1 After regulation 7A, insert:

Environmental effect of chemical—prescribed criteria (Act, s. 30A)

“**7B. (1)** For paragraph 30A (3) (c) of the Act, the criteria set out in this regulation are prescribed.

“(2) A chemical to which subsection 23 (4) or (8) of the Act applies, must:

- (a) have 1 of the following characteristics:
 - (i) if the chemical dissolves in water without dissociation or association and is not surface-active, the partition coefficient (n-octanol/water) at 20°C expressed as log P_{ow} must not exceed 3;
 - (ii) the chemical’s solubility in water must be more than 1mg/litre;

- (iii) the chemical's number-average molecular weight (in the case of a polymer) or the chemical's molecular weight (in any other case) must be more than 1,000; and
- (b) be readily biodegradable in accordance with the test known as a Ready Biodegradability Test mentioned in paragraph (q) of Part C of the Schedule to the Act;
- (c) not have a toxicity:
 - (i) to fish, using the test mentioned in paragraph (m) of Part C of the Schedule to the Act, and expressed as an LC_{50} , that is less than 100 mg/litre; and
 - (ii) to aquatic invertebrates, using the test mentioned in paragraph (n) of Part C of the Schedule to the Act, and expressed as an EC_{50} , that is less than 100 mg/litre; and
 - (iii) to algae, using the test mentioned in paragraph (p) of Part C of the Schedule to the Act, and expressed as an EC_{50} , that is less than 100 mg/litre.

“(3) A chemical to which subsection 23 (7) or (9) applies must meet the criterion mentioned in paragraph (2) (a).

“(4) For a chemical to which section 24A of the Act applies, carbon or silicon must be its largest component.

Introduction of chemical—prescribed matters (Act, s. 30A)

“7C. (1) For paragraph 30A (4) (g) of the Act, the Director must take account of the likelihood of the chemical being released:

- (a) into a water treatment works at a rate more than:
 - (i) 10 kilograms each year from an individual source; or
 - (ii) 50 kilograms in total; or
- (b) directly into a natural waterway.

- “(2) However, paragraph (1) (a) does not apply to a chemical:
- (a) to which subsection 23 (7) or (9) of the Act applies if:
 - (i) the chemical meets the criteria mentioned in paragraphs 7B (2) (b) and (c); and
 - (ii) the person who introduces the chemical has information available that shows that those criteria are met; or
 - (b) to which subsection 23 (4) or (8) of the Act applies.”.

8. Regulation 15 (Remission of fees (Act, s. 110))

8.1 Add at the end:

“(5) The Director may remit 15% of the fee paid for an application under section 23 of the Act if satisfied that the applicant has submitted with the application a draft assessment report, for the chemical, that contains:

- (a) a determination under section 32 of the Act that takes into account the matters mentioned in subsection 32 (2) of the Act; and
- (b) the summary and recommendations mentioned in section 33 of the Act.”.

9. Regulation 17 (Appeal to the Administrative Appeals Tribunal)

9.1 Subregulation 17 (1):

Omit “(1) or (4),”, substitute “(1), (4) or (5)”.

10. Schedule 1

10.1 Form 1A:

Omit “number average”, substitute “number-average”.

10.2 Form 1A:

Omit “Number Average”, substitute “Number-Average”.

11. Schedule 2 (Fees)

11.1 After item 7, insert:

“7A Paragraph 110 (1) (ha) 500”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 24 December 1997.
2. Statutory Rules 1990 No. 231 as amended by 1990 No. 440; 1991 No. 165; 1992 Nos. 29, 245 and 282; 1993 No. 35; 1994 Nos. 21, 320, 368 and 454; 1995 Nos. 81 and 358; 1997 Nos. 181, 193 and 203.