



**Australian Government**

**Department of Health**

National Industrial Chemicals Notification and Assessment Scheme

## Proposed fees and charges for the Australian Industrial Chemicals Introduction Scheme (AICIS) - Consultation paper

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Attachment A updated 04 February 2020

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# 1. Introduction

Within the Department of Health, the Office of Chemical Safety (OCS) is responsible for regulating the introduction of industrial chemicals. OCS currently administers the National Industrial Chemicals Notification and Assessment Scheme (NICNAS).

On 26 May 2015, the Australian Government announced its decision to implement a range of reforms to the regulation of industrial chemicals. These reforms streamline the assessment process for industrial chemicals to reduce the regulatory burden on the sector, while also maintaining Australia's robust chemical safety standards.

To implement these reforms, there is now a new Australian industrial chemicals law — the *Industrial Chemicals Act 2019*, associated legislation and delegated legislation — that provides the legal framework for a new regulatory scheme for the importation and manufacture of industrial chemicals in Australia. From 1 July 2020, NICNAS will be replaced by the Australian Industrial Chemicals Introduction Scheme (AICIS).

The main purpose of AICIS will remain the same as the current scheme: to protect the Australian people and the environment by assessing the risks from the introduction and use of industrial chemicals.

AICIS has been designed to make regulatory effort more proportionate to the risks posed by industrial chemicals and to promote safer innovation by encouraging the introduction of lower risk chemicals. A high level comparison of capabilities and processes under the old scheme and new scheme, as well as the benefits of the new model of regulation were presented in the consultation paper on [Principles for Cost Recovery of the Australian Industrial Chemicals Introduction Scheme](#).

More detailed information on the new scheme is available on the NICNAS website: <https://www.nicnas.gov.au/New-scheme-1-July-2020>

Introducers of industrial chemicals will be subject to cost recovery fees and levies under AICIS from 1 July 2020. This is consistent with the current cost recovery arrangements for NICNAS and reflects the Government's decision to continue full cost recovery for the new regulatory scheme.

Cost recovery involves government entities charging individuals or non-government organisation some or all of the efficient costs of specific government activities. The [Australian Government Charging Framework](#) (AGCF), which incorporates the [Australian Government Cost Recovery Guidelines](#) (CRGs), sets out the framework under which government entities design, implement and review regulatory charging arrangements.

## 2. Purpose of this consultation paper

This consultation paper provides information on how we propose to recover the costs of regulatory activities from 1 July 2020. Before finalising charging arrangements, we seek feedback from interested stakeholders on the proposed charging arrangements for AICIS. All feedback received will be reviewed and considered, to inform fees and charges which will be finalised through a Cost Recovery Implementation Statement (CRIS).

In September 2019, stakeholder feedback was sought on the [principles that will inform the construction of cost recovery arrangements for AICIS](#). Stakeholder comments were taken into account in developing the proposed charging arrangements outlined in this consultation paper. [Attachment A](#) summarises stakeholder comments and OCS responses to those comments.

### 3. Timeframes for key events

The proposed timeframes for key events are outlined below. These timeframes are provisional and may be subject to change, depending on adjustments or other actions required in response to feedback received and government considerations.

**Table 1 - Timeframes for key events**

Event	Timeframe
Cost recovery principles paper published for public consultation	September 2019 (completed)
Consultation feedback period closed	October 2019 (completed)
Proposed fees and charges paper published for public consultation	February - March 2020
Relevant Government approvals for charging arrangements	April - June 2020
Publication of Cost Recovery Implementation Statement	June 2020
New 2020-21 fees and charges come into effect	1 July 2020

### 4. How to submit feedback

Feedback on AICIS proposed cost recovery arrangements can be submitted:

- online at <https://www.nicnas.gov.au/have-your-say/current-consultations>
- via email to [info@nicnas.gov.au](mailto:info@nicnas.gov.au)
- via post at NICNAS GPO Box 58 Sydney NSW 2001

Submissions will be accepted until 13 March 2020.

Feedback received in response to the [Principles for Cost Recovery of the Australian Industrial Chemicals Introduction Scheme](#) consultation paper is summarised at [Attachment A](#). Stakeholders need not reiterate previous feedback in this round of consultation.

For the purposes of the current consultation, we encourage submissions addressing issues such as:

- In response to earlier feedback regarding the abrupt increases in levies when transitioning between registration levels, through this consultation paper we are exploring a range of options for calculating registration levies.

- What is your preferred option for calculating the registration levy from those proposed in Tables 6 – 9 of this consultation paper and for what reasons?
- Earlier feedback expressed concern about the potential business impact of increased fees and charges, particularly for small businesses.
  - Now that fees and charges have been quantified in this consultation paper, what are the potential impacts of the proposed fees and charges on your business?
- Are there other economic conditions, or changes to fees and charges payable to the Australian Government that will have business impacts in addition to those arising from AICIS's proposed fees and charges? Please provide details.
- Do you anticipate a change in the frequency and type of interaction with the regulator over the next three years? Please provide details.

## 5. Regulation of the introduction of industrial chemicals

The primary objective of AICIS is to protect the Australian people and environment by assessing the risks of industrial chemicals and promoting their safe use by providing information and making recommendations for risk management. A full list of activities undertaken to support this objective were provided in the [Principles for Cost Recovery of the Australian Industrial Chemicals Introduction Scheme](#) consultation paper.

AICIS will contribute to Outcome 5 (Regulation, Safety and Protection) of the Health Portfolio Budget Statements. Outcome 5 relates to the protection of the health and safety of the Australian community through the regulation of therapeutic goods, chemicals, gene technology and blood and organ products.

## 6. Cost recovery framework

Since April 2015, the Australian Government has applied the AGCF, which incorporates the CRGs, across the government sector. The AGCF provides that where an individual or organisation creates the demand for a government activity, they should generally be charged for it, unless the Government has decided to fund the activity.

Consistent with the cost recovery arrangements currently in place for NICNAS, we will recover costs associated with regulating the introduction of industrial chemicals under AICIS by imposing fees and charges on activities associated with the import and manufacture of industrial chemicals.

Fees and charges have been designed in accordance with cost recovery principles of:

- Efficiency and effectiveness;
- Transparency and accountability; and
- Stakeholder engagement.

For more information on how the cost recovery principles have been applied, refer to the [Principles for Cost Recovery of the Australian Industrial Chemicals Introduction Scheme](#) consultation paper.

## AICIS cost recovery requirement

The new regulatory scheme does not change the Government policy position that the full cost of regulatory activities will be recovered through fees and charges paid by regulated entities (predominantly introducers of industrial chemicals). Policy authority for full cost recovery of NICNAS activities was provided for in the 1994–95 Budget under the measure “Implementing full cost recovery in 1996–97 for National Industrial Chemicals Notification and Assessment Scheme”.

Statutory authority for cost recovery of AICIS is provided for in the following Acts and charging arrangements will be reflected in rules and regulations made under these Acts:

- *Industrial Chemicals Act 2019*
- *Industrial Chemicals Charges (Customs) Act 2019*
- *Industrial Chemicals Charges (Excise) Act 2019*
- *Industrial Chemicals Charges (General) Act 2019*.

Cost recovery is considered appropriate because:

- Introducers will continue to create the need for the regulatory activity by introducing industrial chemicals in the market;
- To effectively regulate the introduction of industrial chemicals under the *Industrial Chemicals Act 2019*, AICIS requires skilled staff and sufficient technical resources to undertake a number of activities. and
- Charging will provide transparency about the cost of resources involved in regulating the introduction of industrial chemicals. It will also promote equity by ensuring that those who use, or create the need for Australian Government regulatory services, bear the costs.

## 7. AICIS cost estimates 2020-21 to 2023-24

### Estimated cost base for AICIS

The key cost drivers in estimating the cost base for AICIS are:

- the **resources** needed to conduct each business activity
- the **annual volume** of each business activity performed.

While the objective of the new scheme will remain the same as the current scheme, the way in which this objective is achieved is shifting significantly under AICIS. The new scheme has been designed to make regulatory effort more proportionate to the risks posed by industrial chemicals and to promote safer innovation by encouraging the introduction of lower risk chemicals.

This fundamentally changes the way introducers interact with AICIS and changes the capabilities and processes required to achieve improved regulatory outcomes under the new scheme. These changes were outlined in the [Principles for Cost Recovery of the Australian Industrial Chemicals Introduction Scheme](#) consultation paper.

Where possible, historical data are used to determine the cost of AICIS activities, that is, resources required and frequency (annual volume). However, due to the significant changes in activities to be conducted under the new scheme, assumptions based on management

estimates are required to estimate the resourcing requirements and frequency for some new and changed activities.

The Department of the Environment and Energy (DoEE – to be known as the Department of Agriculture, Water and the Environment from February 2020), will continue to undertake the environmental component of risk assessments, the costs of which will continue to be included within the AICIS cost base. In accordance with the CRGs, the fees and charges will be set to recover the efficient costs of providing these services.

Table 2 details the estimated cost base for the 2020-21 financial year and forward estimates for the following three years.

**Table 2 - AICIS estimated cost base, 2020-21 to 2023-24**

Expenses	2020-21	2021-22	2022-23	2023-24
<b>Employee and contractor expenditure</b>	<b>11,983,816</b>	<b>13,016,326</b>	<b>14,357,907</b>	<b>15,838,703</b>
<b>Non-employee expenses</b>	<b>9,292,504</b>	<b>9,927,892</b>	<b>10,450,482</b>	<b>10,732,922</b>
Supplier (including DoEE)	7,350,383	7,985,771	8,508,361	8,790,801
Depreciation	1,942,121	1,942,121	1,942,121	1,942,121
<b>Cost recovery reserve<sup>1</sup></b>	<b>560,936</b>	<b>571,935</b>	<b>582,934</b>	<b>593,932</b>
<b>Total</b>	<b>21,837,257</b>	<b>23,516,153</b>	<b>25,391,323</b>	<b>27,165,557</b>

The cost base is comprised only of the costs related to delivering regulatory functions. No other costs such as those incurred for policy functions by areas in the Department of Health other than OCS are included in the cost base.

## 8. Design of regulatory charges

The cost base for AICIS is comprised of several activities which, when taken together, are necessary to efficiently and effectively regulate the introduction of industrial chemicals under the *Industrial Chemicals Act 2019*. These activities can be aggregated and grouped into two categories: regulatory outputs and support activities.

Regulatory outputs are activities provided to an individual or organisation or those provided to a broader group of individuals and organisations. In accordance with the AGCF, OCS will continue to recover the costs of undertaking regulatory activities using a combination of fees and levies based on the demand for a government activity or intervention.

OCS will continue to charge **fees for services** where a direct relationship exists between the AICIS regulatory activity being performed and the individual or organisation requesting that

<sup>1</sup> A reserve is maintained with 3 months operating expense to manage fluctuations in revenue and expense relating to regulatory activity.

activity. Under these circumstances, the activities performed and their associated costs are driven by a specific need created by the applicant.

When the cost of the AICIS activity can be reasonably and accurately attributed to a broader group of organisations (or individuals) rather than a single entity, the activity is proposed to be funded through an **cost recovery levy**. In these instances, the level of demand for Government activity or intervention is collectively driven by the broader industry rather than a single entity.

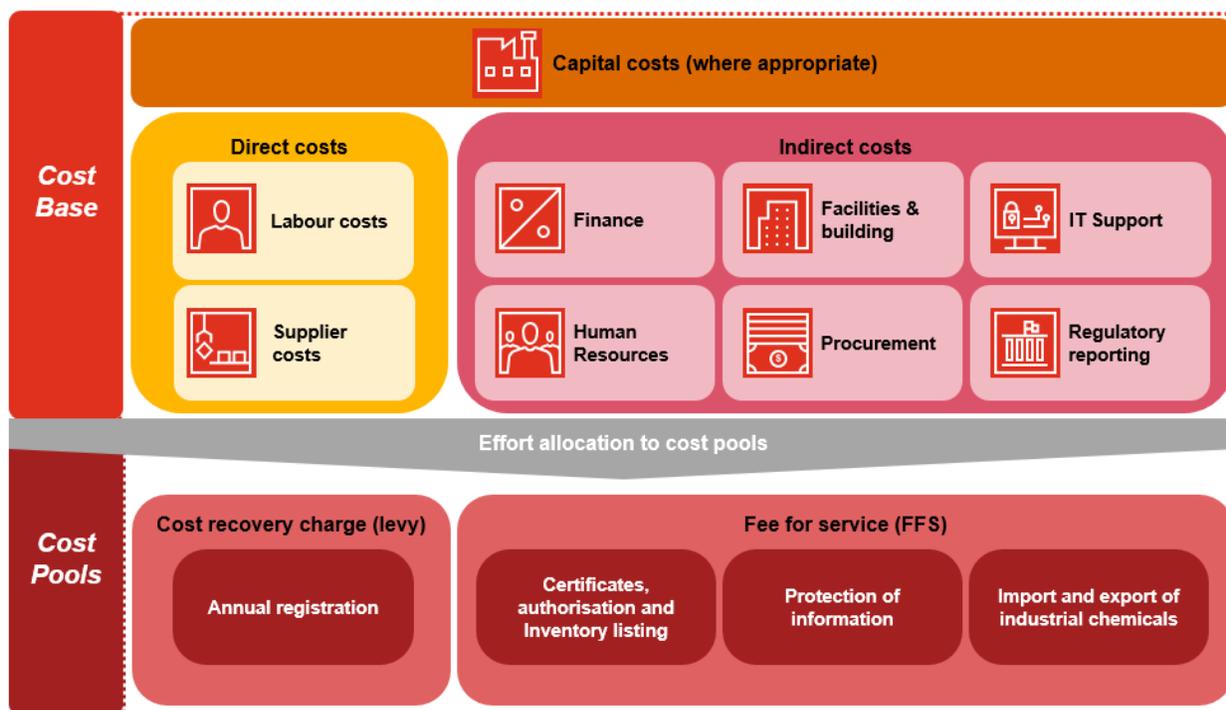
Table 3 outlines regulatory outputs and support activities classified as direct costs and support activities that are classified as indirect costs (refer below for details).

**Table 3 – Examples of AICIS outputs as direct and indirect costs**

Regulatory outputs: Direct costs (fees for services)	Regulatory outputs: Direct costs (cost recovery levies)	Support activities: Indirect costs
Registration of introducers	Compliance monitoring and enforcement	Management of Special Account
Certificate applications	Post market assessments of listed chemicals	Human resources management
Authorisation applications	Pre-introduction reports and post-introduction declarations	Corporate governance
Inventory Listing applications	Maintenance of Inventory	Freedom of Information requests
Confidential Business Information Protection applications	Stakeholder engagement/education	IT support
Applications for import / export of industrial chemicals into or out of Australia	Enquiries and complaints management	Regulatory and business reporting

AICIS has used an activity-based costing (ABC) methodology to allocate all direct and indirect costs to each activity and subsequently each charge point. This is demonstrated in Figure 1 below. The cost base will primarily be comprised of direct, indirect and capital costs, in line with the AGCF.

Figure 1 – Activity Based Cost Model



**Direct costs:** can be easily traced to a cost object with a high degree of certainty. Direct costs include labour costs and some supplier costs and relate to the regulatory activities described above.

**Indirect costs:** cannot be easily linked to a cost object. These relate to supporting functions and include corporate costs such as finance, human resources and property, which will be driven to activities using relevant activity drivers that will reflect the link between the cost of the services and the likely amount of those services absorbed to the amount allocated.

**Capital costs:** include depreciation and capital investment where appropriate.

As outlined above, the model is informed by assumptions where equivalent historical data is limited. To facilitate transparency and ongoing accuracy of cost calculations, from 1 July 2020, data will be collected to determine up-to-date measures of the cost base and cost drivers, including volumes of various business activities and the effort expended on each regulatory activity. These data will be used to inform the annual rolling CRIS (commencing 2021-22) and future pricing reviews to ensure transparency and ongoing accuracy of costs and detect any upward or downward variations.

Table 4 shows the estimated total cost of delivering a sample of regulatory activities inclusive of supporting function costs.

**Table 4 - Estimated costs of AICIS by regulatory output for 2020-21**

Regulatory activities	Fee or levy	Cost (\$)
Registration applications	Fees for service	535,953
Certificate applications	Fees for service	1,948,298
Authorisation applications	Fees for service	71,260
Listing applications	Fees for service	117,741
CBI Protection applications	Fees for service	461,807
Import / export of industrial chemicals into or out of Australia applications	Fees for service	55,948
Other regulatory outputs*	Levy	18,646,250
<b>Total</b>		<b>21,837,257</b>

Figures include direct and indirect costs

\*Other regulatory outputs include all activities recovered through the cost recovery levies as summarised in Table 3

## 9. Proposed schedule of AICIS fees and charges

The proposed schedule of fees and charges has been developed to align with the CRGs and recover the costs of AICIS activities for 2020-21. The proposed fees and charges will apply to introducers of industrial chemicals.

The proposed charge points for AICIS can broadly be grouped by relevant activities:

- Registration – Levy and Fee for service
- Certificates and authorisations – Fee for service
- Protection of Confidential Business Information (CBI) – Fee for service
- Import and export of certain industrial chemicals subject to international agreements – Fee for service

Further details on the design of regulatory charges are provided in Section 8.

### Annual registration fee

Registrants will be subject to a registration fee and levy (where relevant). As discussed in Section 8, the registration fee recovers the costs of registering individuals and maintaining the Register of Industrial Chemical Introducers, which are activities provided to the individual or organisation, while the registration levy recovers the costs of activities provided to a broader group of individuals and organisations.

The registration fee shown in Table 5 applies to **all introducers** of industrial chemicals. The 2019-20 NICNAS charges have been placed in Table 5 for comparison purposes only.

**Table 5 – Registration fee 2020-21**

AICIS Fee for service	Fee per application (\$)	
	2019-20 (NICNAS)	2020-21
Application for registration	200	72

### Annual registration charge (levy)

Stakeholder feedback on the cost recovery principles paper indicated that many respondents were concerned about the current four tier structure under NICNAS. Predominantly, feedback related to the increase in levy experienced when a registrant crosses over tiers. Further details are available at [Attachment A](#).

Taking this feedback into consideration, we are seeking feedback on four options for the annual registration levy. All options are based on **introduction value** using **prior financial year** introductions to calculate the levy payable. [Attachment A](#) includes further details on the rationale for the use of introduction value and prior financial year introductions.

The four proposed AICIS levy options (Options 1-4) are presented below.

### Option 1 - Current four tier structure

The first option leaves the tier levels (and thresholds) as they currently apply under NICNAS. This structure will continue to exempt Level A (less than \$100,000 introduction value) registrants from paying a registration levy. The proposed levies payable by registrants at Levels B to D are outlined in Table 6.

**Table 6 - Option 1 AICIS Registration levy 2020-21**

Registration tier	Charge per registration (\$)
	2020-21
Registration – level A (\$1 - \$99,999)	NIL
Registration – level B (\$100,000 - \$499,999)	504
Registration – level C (\$500,000 - \$4,999,999)	3,331
Registration – level D (\$5,000,000+)	35,170

## Option 2 - Eight-tiered model

The second option changes the current tier structure by increasing the number of tiers. An exemption (from paying the levy) for introduction values less than \$50,000 in the previous financial year and a capped levy of \$40,000 are proposed under this option. The proposed fee structure is presented in Table 7 below.

**Table 7 - Option 2 AICIS Registration levy 2020-21**

Registration tier (prior year introduction value)	Charge per registration (\$)
	2020-21
Registration – level A1 (\$1 - \$49,999)	NIL
Registration – level A2 (\$50,000 - \$74,999)	75
Registration – level A3 (\$75,000 - \$99,999)	100
Registration – level B1 (\$100,000 - \$249,000)	250
Registration – level B2 (\$250,000 - \$499,999)	500
Registration – level C1 (\$500,000 - \$2,999,999)	3,000
Registration – level C2 (\$3,000,000 - \$4,999,999)	5,000
Registration – level D (\$5,000,000+)	40,000

## Option 3 - Flat levy

The third option removes all tiers and requires all registrants to pay the same registration levy. This can be seen in table 8 below.

**Table 8 - Option 3 AICIS Registration levy 2020-21**

Single registration level	Charge per registration (\$)
	2020-21
Registration levy	2,511

We note that this option does not align with the CRGs as it does not reflect the alignment of regulatory effort with value of introduction. However, it is presented for completeness.

## Option 4 - Percentage based levy

The fourth option removes all tiers and implements a charge as a percentage of the annual (prior financial year) introduction value. Introducers with introduction values less than \$50,000 will be exempt from paying a charge (levy) under this option. The amount payable will be capped at \$60,000. Table 9 demonstrates the percentage to be applied.

**Table 9 - Option 4 AICIS Registration levy percentage charge 2020-21**

	2020-21
Registration levy as a percentage of introduction value	0.22%

For example, a registrant with an introduction value of \$250,000 would pay a levy of \$550.00. The calculation is demonstrated below:

Introduction value x registration levy percentage = levy payable

Introduction value = \$250,000

Registration levy percentage = 0.22% or 0.0022

Example calculation is \$250,000 x 0.0022 = \$550.00

Table 10 demonstrates the total amount payable by registrants (both the registration fee and charge) under the four options by introduction value range. For comparative purposes (only), the 2019-20 NICNAS fee and charge is included in this table.

**Table 10 - Comparison of total amount payable for annual registration (fee and levy) 2020-21**

AICIS Levy	Fee and charge per registration (\$)				
	2019-20 (NICNAS)	2020-21 Option 1	2020-21 Option 2	2020-21 Option 3	2020-21 Option 4
Registration – level A1 (\$1 - \$49,999)	200	72	72	2,583	72
Registration – level A2 (\$50,000 - \$74,999)	200	72	147	2,583	182 – 237
Registration – level A3 (\$75,000 - \$99,999)	200	72	172	2,583	237 – 292
Registration – level B1 (\$100,000 - \$249,999)	550	576	322	2,583	292 – 622
Registration – level B2 (\$250,000 - \$499,999)	550	576	572	2,583	622 – 1,172
Registration – level C1 (\$500,000 - \$2,999,999)	2,515	3,403	3,072	2,583	1,172 – 6,672

AICIS Levy	Fee and charge per registration (\$)				
	2019-20 (NICNAS)	2020-21 Option 1	2020-21 Option 2	2020-21 Option 3	2020-21 Option 4
Registration – level C2 (\$3,000,000 - \$4,999,999)	2,515	3,403	5,072	2,583	6,672 – 11,072
Registration – level D (\$5,000,000+)	24,660	35,242	40,072	2,583	11,072 – 60,072

## Certificates and authorisation fees

Table 11 below outlines the proposed AICIS fees for services.

**Table 11 – Certificate and authorisation fees 2020-21**

AICIS Fees for services	2020-21
<b>Certificate Applications</b>	
Application for a certificate – very low to low risk	7,599
Application for a certificate – health focus or environment focus	23,643
Application for a certificate – health and environment focus	34,967
Application for a certificate - comparable hazard assessment	17,545
Consolidated application	5,385
Application to vary the terms of an existing Assessment Certificate (without reassessment)	4,743
Application to vary the terms of an existing Assessment Certificate (with reassessment)	10,667
<b>Authorisation Applications</b>	
Application for a Commercial Evaluation Authorisation (CEA)	6,280
Application to vary the terms of an authorisation	2,819
<b>Listing Applications</b>	
Application for listing on the Inventory before 5 years	1,499
Application for variation of listing	8,638

## Protection of Confidential Business Information (CBI)

**Table 12 - Protection of Confidential Business Information (CBI) 2020-21**

AICIS Fees for services	2020-21
Application for protection of proper name	1,807
Application for protection of end use	554
Application for continued protection	4,587
Application for protection of Confidential Business Information (CBI) other	1,063

## Import and export of certain industrial chemicals subject to international agreements

**Table 13 - Import and export of certain industrial chemicals subject to international agreements 2020-21**

AICIS Fees for services	2020-21
Application for Category A export of industrial chemicals out of Australia	1,865
Application for Category B export or import of industrial chemicals into or out of Australia	3,730

## Example fee calculation

The charge for any specific regulatory output should recover the full efficient cost of delivering that specific service. This section outlines the methodology used to cost one such regulatory output: "*Registration of industrial chemical introducers*", broken down into business processes and activities.

**Table 14 - Cost calculation: processing an ‘Application for registration’**

Regulatory output	Business process	Effort required (hrs)	Average cost per hour (\$)	Cost per delivery of regulatory output (\$)	Volume delivered annually	Total cost of regulatory output (\$)
Registration of industrial chemical introducers	Maintaining register of industrial chemical introducers	0.54	\$132.58	\$71.46	7,500	\$535,953

Table 15 breaks down the component tasks of the business process, showing the role that performs each task, the effort required to complete each task, and the cost of each task.

**Table 15 - Cost calculation breakdown of the business processes for ‘Maintaining register of industrial chemical introducers’**

Business process	Activities involved	Role performing task	Hours of effort	Cost per role (\$)	
Maintaining register of industrial chemical introducers	Responding to enquiries from registrants Manual processing of hard copy registration forms submitted by some registrants Payment processing Assessment and processing of write-offs/refund Maintaining integrity of register Supervision of registration and administration processes	Compliance Support Officer	0.35	\$46.67	
	Development and maintenance of outreach and communication products Responding to enquiries regarding legislative obligations to register a business Management of registration related correspondence	Compliance officer	0.09	\$11.67	
	Management of registration related campaigns (e.g. renewal, reassessment, unregistered introducers) Maintenance of registration related components of IT system	Assistant Director of Compliance	0.09	\$11.67	
	Refund/write-off approvals Overall responsibility for registration processes and systems	Director of Compliance	0.01	\$1.46	
	<b>Total hours of effort per application</b>			<b>0.54</b>	<b>\$71.46</b>

Table 16 breaks down the component tasks performed by the Compliance Support Officer showing the hours of effort required to complete the tasks, the cost per hour of the role, which produces the cost of the task.

**Table 16 - Cost calculation breakdown of 'Compliance Support Officer'**

Activities	Role performing task	Role cost per hour (\$)	Hours of effort per task	Cost per task (\$) [Role cost per hour] x [Hours of effort per task]
Responding to enquiries from registrants Manual processing of hard copy registration forms submitted by some registrants Payment processing Assessment and processing of write-offs/refund Maintaining integrity of register	Compliance Support Officer	\$132.58	0.35	\$46.67

Table 17 breaks down the cost per hour of the role Compliance Support Officer.

**Table 17 - Cost calculation breakdown of Compliance Support Officer by direct and indirect cost**

Role	Direct cost per hour (\$)	Indirect cost per hour (\$)	Total cost per hour (\$)
Compliance Support Officer	\$78.01	\$54.57	\$132.58

## 10. Background information (available at [www.nicnas.gov.au](http://www.nicnas.gov.au))

- Information about current NICNAS cost recovery arrangements is included in the [2019-20 Cost Recovery Implementation Statement](#) which includes:
  - current schedule of fees and charges
  - government policy approval and statutory authority to cost recover
  - historical financial and non-financial performance.
- The NICNAS 2018-19 report is in the following sections of the [Department of Health Annual Report 2018-19](#):
  - Appendix 3: Report from the Director of the National Industrial Chemicals Notification and Assessment Scheme on the operation of the Industrial Chemicals (Notification and Assessment) Act 1989
  - Outcome 5: Regulation, Safety and Protection
- [Regulatory performance framework – NICNAS self assessment report](#)

## Attachment A - Cost Recovery Principles Paper: summary of stakeholder comments and responses

Stakeholder Comment	Response
<i>General comments</i>	
<p>The draft consultation paper needs to be clearer, as certain aspects of the proposed changes are not easily understood. There is a lack of detail and examples for the cost recovery principles that are proposed.</p> <p>The Principles Paper is very clear, informative and there are no issue with the process.</p> <p>Until the quantum of the proposed cap is known, responders are not in a position to see if they will be adversely affected.</p>	<p>Stakeholder views are noted.</p> <p>The purpose the principles paper was to provide stakeholders with an opportunity to comment on the overarching principles that will be used to inform and construct the cost recovery arrangements for Australian Industrial Chemicals Introduction Scheme (AICIS).</p> <p>Detailed information on proposed cost recovery arrangements, including any cap on levies, is included in this consultation paper for public comment.</p>
<p>The fundamental change in the design of the scheme requires some key assumptions to be made on volumes of various activities and attendant regulatory effort.</p>	<p>The changes to capabilities and processes under the new scheme have substantially changed the way activities will be undertaken.</p> <p>Where possible, historical data will be used to inform the costs of activities. However, where significant changes are required, assumptions such as management estimates regarding resourcing requirements will be used. These assumptions will be reviewed in 2021-22 to determine whether they remain appropriate.</p>
<i>Policy – cost recovery</i>	

<p>Supports cost recovery of AICIS functions – industry benefits from a more risk based scheme.</p> <p>It is clear that the objective of AICIS is to assess and manage the risks of industrial chemicals for all Australians whether they are imported or manufactured. It not the responsibility of introducers to bear the costs of AICIS. As a federal government department that manages and monitors an area of the economy that impacts every individual in Australia it should be a cost borne by the entire nation. Do not try to recover costs, offer AICIS as a free and comprehensive national service.</p> <p>Supports the principles of cost recovery, particularly the notion that the users/beneficiaries of regulatory services should to the maximum extent possible pay the cost of providing those services.</p> <p>The imposition of fees hinders technological development in Australia.</p>	<p>Government policy is that the full cost of administering AICIS will be recovered from the regulated industry, in accordance with the Australian Government Charging Framework. It is proposed to recover the costs of regulatory activities using a combination of fees for services and charges (levies). This approach is consistent with the full cost recovery arrangements currently in place for administering the National Industrial Chemicals Notification and Assessment Scheme (NICNAS).</p> <p>The cost recovery of all AICIS activities through fees for services and annual levies was reconfirmed by Government through the reform process and supported by legislation.</p>
<i>Governance</i>	
<p>AICIS will only start to understand the volume of activity after the end of the 2nd year of operation. There will need to be an agreed basis of review by Industry and Government to determine if costs need to be adjusted for several years until AICIS is fully in place.</p>	<p>The assumptions applied to the development of fees and charges will be first reviewed in 2021-22 to determine whether they remain appropriate.</p> <p>Under the Australian Government Charging Framework, annual reviews of cost recovery arrangements are undertaken and charging arrangements revised, where required, through rolling CRISs.</p>

<p>Should there be a delay in application of revised to annual charges until 2021/22, as some companies have already budgeted for 2020/21.</p>	<p>Parliament has decided that the <i>Industrial Chemicals Act 2019</i> will commence on 1 July 2020. The three Charges Acts that provide the statutory authority for charging arrangements under AICIS also commence on 1 July 2020.</p> <p>The registration year will remain unchanged (from 1 September to 31 August) and therefore new levies will first be payable by 1 September 2020.</p>
<p>How can the regulated sector be certain that the costs imposed are the minimum required to achieve the policy objective in the absence of benchmarking data.</p> <p>Activities funded by levies must be subject to normal government budget oversight to ensure that agency operates efficiently and only undertakes appropriate activities.</p> <p>The resourcing level (cost) for AICIS should be similar to NICNAS.</p> <p>If the current tier structure was to be maintained then a mechanism needs to be put in place such that the levels can be adjusted on a yearly basis to reflect GDP or some other such measure.</p> <p>The costs imposed should accurately reflect the actual costs incurred by the regulatory agency. The AICIS reforms shift significant regulatory burden to registrants, there should be a corresponding reduction in administrative costs for government.</p>	<p>Transparency and accountability are principles set out in the Cost Recovery Guidelines (CRGs), which is the overarching framework under which government entities design, implement and review cost recovered activities on behalf of the Australian Government.</p> <p>To facilitate transparency, OCS proposes to continue to document key information relating to cost recovery arrangements and to provide quarterly financial and performance (non-financial) reports to the Strategic Consultative Committee (SCC), which comprises community and industry stakeholders.</p> <p>Actual and forecast costs in the proposed cost model will be underpinned by the proper and efficient use of government resources. This means that the cost borne by the regulated group will be the minimum cost that continues to achieve the agreed policy objectives and give effect to relevant legislative requirements.</p> <p>The administration of AICIS will be governed by the <i>Public Governance, Performance and Accountability Act 2013</i>, which imposes obligations regarding the proper (efficient, effective, ethical and economical) use of resources required to regulate the introduction of industrial chemicals in Australia.</p> <p>Documentation is key to achieving transparency and accountability. This will be achieved through stakeholder</p>

	consultation such as this document and the CRIS that is developed to support the scheme as well as annual CRIS reviews.
<i>Proposed cost recovery construct</i>	
The proposed fee structure appears fair and reasonable. General support for design of the cost recovery construct outlined in the paper.	Stakeholder comments are noted.
The Australian Government Cost Recovery Guidelines do not include the issue of equity and fairness – an important principle, particularly in terms of tax design. These principles should be strengthened through obligations under the <i>Public Governance and Accountability Act 2013</i> .	<p>The Australian Government Charging Framework is underpinned by the following principles that assist in establishing the most appropriate basis for charging arrangements:</p> <ul style="list-style-type: none"> <li>• transparency</li> <li>• efficiency</li> <li>• performance</li> <li>• equity</li> <li>• simplicity</li> <li>• policy consistency.</li> </ul> <p>As detailed above, AICIS will also be governed by the <i>Public Governance, Performance and Accountability Act 2013</i></p>

<p>Fees and charges should be based on the level of risk associated with the chemicals being introduced, not based on the value of imports and the preferred levy option does not take into account the risk of the introduced chemicals.</p>	<p>Of the principles underpinning the Australian Government Charging Framework (refer above), the use of risk of a chemical as a basis for setting charges, only meets the principle of equity. The use of risk profile as a proxy does not meet the other principles: transparency, efficiency, performance, simplicity and policy consistency, because AICIS will not have sufficient information regarding the risks of all chemical introductions to charge on this basis.</p>
<p>Currently, companies have to report the combined financial values of industrial and non-industrial, which is not fair, as a minute quantity of industrial chemicals means that the entire substance will be taxed.</p>	<p>The registration charge is calculated on the value of industrial chemicals introduced. Industrial chemicals may be imported as discrete chemicals or finished products consisting of a mixture of industrial chemicals.</p> <p>There is no requirement to report values of chemicals that are not industrial chemicals. This position will continue under AICIS.</p>
<p>Currently, under NICNAS, registration does not recognise a corporate group that operates largely as a single entity. This means that, in some cases, members are paying for multiple registrations as a result of their existing business structures – for the same products.</p>	<p>Stakeholder views are noted.</p> <p>The registration obligations under the Industrial Chemicals Act 2019 apply to any ‘person’, which includes a body politic or corporate as well as an individual (<i>Acts Interpretation Act 1901</i>).</p>
<p>Small businesses that only manufacture soap on a small-scale should be exempt from paying fees and charges, including hobbyists, provided that they have liability insurance. Their only interaction with the regulator is to pay the registration fee.</p>	<p>Stakeholder views are noted.</p> <p>In establishing levies payable by small-scale introducers, the principles referred to above will be applied. This consultation paper sets out fees and charges payable by the full range of registrants.</p>

<p>The introduction of Executive Director initiated activities brings together two income streams and these two funds combined should be adequate to fund the program.</p> <p>Comparable economies such as Canada and the USA fund their existing chemicals programs rather than make industry bear the burden.</p>	<p>While the objective of the new scheme will remain the same as the current scheme, the way in which this objective is achieved is shifting significantly. The cost of delivering the new scheme will be independently costed using a combination of historical data and management estimates. These charging arrangements will be reviewed annually.</p> <p>The Australian Government policy is that the full cost of administering AICIS will be recovered from the regulated industry.</p>
<p>There has been much confusion about who is required to pay the registration fees. It should be made very clear in future so that all companies are either eligible to pay fees or not.</p>	<p>Stakeholders will be advised of their regulatory obligations through the website, stakeholder newsletters and stakeholder education activities.</p> <p>In addition, telephone and online information services are available to stakeholders wishing to seek clarification of their legal obligations.</p>
<p>Imported finished goods should not be considered industrial chemicals and should not be included in the charging structure.</p> <p>Classification of “industrial chemicals” should be revised- specialist products that are used for life science research and imported under strict AQIS guidelines and permits to be used by scientists under very controlled conditions should not be classified as industrial chemicals.</p> <p>The funding of the program ignores the way manufacturers and importers are defined according to the Competition &amp; Consumer Act 2010.</p> <p>Companies with current ISO certified status are far more likely to ensure that their chemistry does not have unintended adverse impacts.</p>	<p>The <i>Industrial Chemicals Act 2019</i> defines the following terms: industrial chemical, industrial use, import, manufacture and introduce.</p> <p>These definitions are broadly consistent with those under the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>.</p> <p>Cost recovery arrangements will be applied consistently with these legislative definitions.</p>

<p>The reform is meant to provide for a more streamlined approach which should result in a more efficient use of resources. Many of the AICIS capabilities should reduce the regulatory effort required by staff such as the refocusing of regulatory effort proportionate to the risk, the introduction and reliance of IT capability and greater use of international risk assessments.</p>	<p>As detailed in Figure 4 of the Principles paper, an activity based costing (ABC) methodology will be used to allocate all direct and indirect costs associated with delivering the new scheme, to each activity and subsequently each charge point.</p> <p>The cost base will primarily be comprised of:</p> <ul style="list-style-type: none"> <li>• Direct costs such as labour costs and some supplier costs that can be directly traced to a specific activity.</li> <li>• Indirect costs including corporate costs such as finance, human resources and property, which will be driven to activities using relevant activity drivers that will reflect the link between the cost of the services and the likely amount of those services absorbed to the amount allocated.</li> <li>• Capital costs including depreciation and capital investment, where appropriate.</li> </ul>
<p>Public interest activities should be government funded - such activities include performance and financial reporting; public interest disclosure activities and freedom of information requests; Executive Director initiated evaluations; referral or risk recommendations arising from Executive Director initiated evaluations; stakeholder engagement; giving effect to Australia's obligations under international agreements; and advice to the government and the responsible Minister.</p> <p>Where government decides to incentivise certain outcomes, the cost associated with the provision of those incentives should be funded from normal government appropriations.</p> <p>The cost of staff training to develop the necessary skills to interpret the data (for example non-animal test data) should not be borne by industry.</p>	<p>Government policy is that the full cost of administering the Australian Industrial Chemicals Introduction Scheme (AICIS) will be recovered from the regulated industry, in accordance with the Australian Government Charging Framework.</p> <p>The cost recovery of all AICIS activities through fees for services and annual levies was reconfirmed by Government through the reform process and supported by legislation.</p>

<p>Full details regarding the total costs – including upfront capital as well as ongoing costs – of the new scheme, and the investment required for the additional ICT functionality and transitioning to AICIS, should be made available at the next stage of the consultation process.</p>	<p>Further information on cost recovery arrangements is included in this consultation paper on which further public comment is sought.</p>
<p>A levy should not be a major source of funding - it should only be used to fund activities that cannot be directly cost recovered in the form of fees for services.</p>	<p>The characteristics of each AICIS activity will determine the type of cost recovery mechanism used.</p> <p>There are two types of cost recovery mechanism that will be applied as defined in the CRG's:</p> <ul style="list-style-type: none"><li>• Cost recovery fees—fees charged when a good, service or regulation is provided directly to a specific individual or organisation.</li></ul> <p>Cost recovery levies—charges imposed when a good, service or regulation is provided to a group of individuals or organisations (e.g. an industry sector) rather than to a specific individual or organisation.</p>

<i>Annual Registration charge – general</i>	
<p>There is no value for the payment - only interaction with NICNAS has been through request for payment each year.</p>	<p>Registration allows chemical introducers (importers and manufactures) to legally introduce industrial chemicals into Australia to understand their obligations to understand the risks of the chemicals.</p> <p>Registration application fees (currently \$200 under NICNAS) reflect the cost of administering the activities associated with the registration of industrial chemical introducers. The registration charge funds regulatory activities where a direct beneficiary of the service cannot be identified.</p> <p>Under AICIS, in addition to registration, introducers will interact with the scheme through the additional obligations under the Act such as pre-introduction reporting, post-market declarations, responding to requests for information associated with compliance monitoring activities, and utilising a range of resources on the AICIS website to promote compliance with the <i>Industrial Chemicals Act 2019</i>.</p>
<p>Collecting the previous financial year's introduction value will increase the regulatory burden on industry as they will be required to separate the introduction value from other financial values.</p>	<p>Introducers are currently required to keep records associated with the introduction of relevant industrial chemicals. The use of the previous year's introduction value provides certainty to both AICIS and the introducer with regard to the amount payable.</p> <p>This reduces the regulatory burden associated with the current estimation of the forthcoming year's registration value, a reassessment of the registration charge, and in many cases a second payment at the end of the registration year.</p>

<p>Currently, increases in levies when transitioning between registration levels, especially from category C to D, is too high.</p>	<p>Stakeholder views are noted.</p> <p>In establishing the most appropriate basis for charging arrangements the principles that underpin the Australian Government Charging Framework will be applied (refer above for details). These principles include equity.</p>
<p>Given the complex nature of the chemistry supply chain, a levy will lead to many instances of double/multiple taxation.</p>	<p>Registration obligations apply only to the importer or manufacturer of relevant industrial chemicals and not downstream formulators and distributors.</p>
<p>The commencement date of the new scheme is before the end of the registration year under NICNAS. Will a partial refund be offered for fees and charges already paid?</p>	<p>The Parliament has decided that the <i>Industrial Chemicals Act 2019</i> will commence on 1 July 2020. While the Charges Acts giving statutory authority for charging arrangements under AICIS also commence on 1 July 2020, the registration year will remain unchanged (from 1 September to 31 August) and therefore new levies will first be payable by 1 September 2020. Transitional arrangements mean that NICNAS registration for 2019-20 will automatically convert to AICIS registration for the period 1 July – 31 August 2020.</p>

<i>Annual Registration charge – preferred option</i>	
<p>The preferred levy option of a 0.26% of introduction value could work well however this would depend on the maximum cap.</p> <p>If a levy is to be introduced, it must be capped no higher than the current category D levy, otherwise the preferred 0.26% flat rate will be unreasonable, especially for small businesses or business that operate on small margins.</p> <p>The preferred sliding scale based on a fixed percentage is not justified because</p> <ul style="list-style-type: none"> <li>- This approach adversely impacts high volume yet low margin chemicals in competitive markets</li> <li>- There is no justification for costs increasing by multiple of x10.48 under the preferred option</li> </ul>	<p>Stakeholder views will be taken into account when establishing the most appropriate basis for charging arrangements.</p> <p>The principles underpinning the Australian Government Charging Framework (refer above for details) will be considered in establishing the most appropriate basis for charging arrangements.</p> <p>Further information on cost recovery arrangements, including a cap on levies is included in this consultation paper on which further public comment is sought.</p>
<i>Annual Registration charge – impact on small business</i>	
<p>Fees are out of proportion for small businesses.</p> <p>The current level A with an upper threshold of \$100,000 is not equitable as very small hobbyists pay the same fee as small to medium sized businesses.</p>	<p>Stakeholder views and the principles underpinning the Australian Government Charging Framework (refer above for details) will be taken into account in establishing the most appropriate basis for charging arrangements, and will be subject to further public consultation.</p>
<i>Annual Registration charge –alternate options proposed in submissions</i>	
<p>An alternative option could be a tiered annual registration charge based on the previous financial year's introduction.</p>	<p>Stakeholder views and the principles underpinning the Australian Government Charging Framework (refer above for details) will</p>

<p>A modification of the current tiered structure with more tiers will reduce regulatory burden.</p>	<p>be taken into account in establishing the most appropriate charging arrangements.</p>
<p>Imports of \$5 million (the current threshold for (Level D) at the current AUD/USD exchange rate does not equate to a large business. Small to medium size businesses have been paying the same levy as major corporate companies. An additional tier at around \$25 – 30 million would be more equitable.</p>	
<p><i>Fees for services</i></p>	
<p>General support for fees for services identified in the Principles Paper.</p> <p>Agree with a tiered fee for assessed introductions based on effort required, however introducers may not be aware of the assessment effort upfront.</p>	<p>Stakeholder views are noted.</p> <p>Guidance material and training will be made available to stakeholders to better understand the requirements of the new scheme.</p>
<p>There should not be a flat fee for listing a chemical on the inventory before 5 years, as the notifier has effectively granted the opportunity for other companies to introduce the chemical without assessment.</p> <p>The applicable fee should be a basic administrative fee, where the applicant is only the Certificate holder or and CBI Holder.</p>	<p>Under the <i>Industrial Chemicals Act 2019</i>, the holder of an assessment certificate may apply for the chemical to be listed on the Inventory before 5 years. Before listing the chemical, there are legislative processes to be undertaken, particularly to protect commercially sensitive information. The beneficiaries of the protections granted through undertaking these processes are the certificate holders and therefore setting a flat fee is consistent with the Cost Recovery Guidelines.</p>

<p>Other regional regulators do not charge fees for protection of commercially sensitive information. AICIS should do the same.</p>	<p>Government policy is that the full cost of administering the Australian Industrial Chemicals Introduction Scheme (AICIS) will be recovered from the regulated industry, in accordance with the Australian Government Charging Framework.</p> <p>This includes recovering the cost of regulatory effort associated with undertaking legislative processes to protect commercially sensitive information.</p>
<p>Possible activities which could be funded by the applicant rather than the levy as a flat fee - receiving an annual declaration (direct beneficiary); changes to persons covered by certificates, changes to certificate holders and cancelling certificate (direct beneficiary).</p>	<p>Historical evidence suggest that the volumes of these activities will be low. In such cases, it is not efficient to fund these activities through fees for services. They have been included in the levy pool for the first year of AICIS operation. A review of cost recovery arrangements will be undertaken in 2021-2022 and if volumes of these activities in the first year are significant, fees for services will be determined and they will be moved out of the levy pool. The annual CRIS will indicate any proposed change and stakeholder views will be sought.</p>
<p><i>Funding compliance monitoring and enforcement activities</i></p>	
<p>General support for the greater emphasis on post-market monitoring in a risk based framework to protect human health and the environment. There should be significant fines in place to deter under-reporting by industry.</p> <p>Monitoring and enforcement will be ineffective without a separate dedicated budget for the activities.</p>	<p>Stakeholder views are noted.</p>

<p>There will be an increased compliance and monitoring role with increased powers, but will remain an activity which NICNAS currently undertakes.</p>	<p>The new scheme is significantly different from NICNAS. It has been designed to be a more risk proportionate regulatory scheme, while maintaining Australia's robust health, safety and environmental standards. For example, lower risk chemical introductions will have streamlined introduction pathways, resulting in reduced regulatory burden for industry and greater use of international assessment materials, including through a streamlined introduction pathway for introductions that have been assessed by a trusted international body.</p> <p>In order to maintain health and environmental protections, new and contemporary compliance tools powers, are available to support a risk proportionate enforcement effort. New powers are also available to the regulator to intervene where the risks from a chemical introduction cannot otherwise be managed. The application of these compliance powers require greater compliance resources.</p>
<p><i>Miscellaneous issues</i></p>	
<p>Accurate information regarding the chemical composition of products should come from the manufacturer. In most cases the importer has little technical information about the chemical, except what the manufacturer supplies.</p> <p>The new scheme will require introducers to provide more information for categorisation (Exempted and reported introductions) than currently required to determine exemptions.</p>	<p>Stakeholder views are noted.</p> <p>However, these issues are unrelated to the cost recovery arrangements for the new scheme.</p>
<p>AICIS fees and charges should include an additional level of accountability for unauthorised distributors and that it be compulsory for an industrial chemical introducer to lodge a complete record of SDS sheets with NICNAS.</p>	<p>The <i>Industrial Chemicals Act 2019</i> does not require industrial chemical introducers to lodge SDSs with AICIS.</p> <p>Worker Health and Safety matters are governed by the <i>Safe Work Australia Act 2008</i>, administered by Safe Work Australia.</p>

<p>Does AICIS plan to offer paid-for-training for industry specialists in new areas of toxicology?</p>	<p>No, this is not a regulatory function under the <i>Industrial Chemicals Act 2019</i>. It is the responsibility of introducers to understand the risks (hazards and exposures) of their chemical introductions.</p>
<p>There may be security issues when providing commercially sensitive financial introduction value data to AICIS.</p>	<p>The Department of Health complies with Australian Government security policies such as the:</p> <ul style="list-style-type: none"><li>• Attorney-General Department's Protective Security Policy Framework</li><li>• Department of Defence's Information Security Manual</li></ul> <p>There are offences under the <i>Industrial Chemicals Act 2019</i> for disclosing protected information obtained in the course of administering Act.</p>
<p>Cost sharing mechanism for data sharing and for managing data for components in a mixture with multiple components are not clear.</p>	<p>This is a function outside the remit of the <i>Industrial Chemicals Act 2019</i>.</p> <p>Similar to the current scheme, AICIS will not intervene in commercial arrangements between industrial chemicals introducers.</p>