



Australian Government

Department of Health

Australian Industrial Chemicals  
Introduction Scheme

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# Confidential business information (CBI)



April 2020



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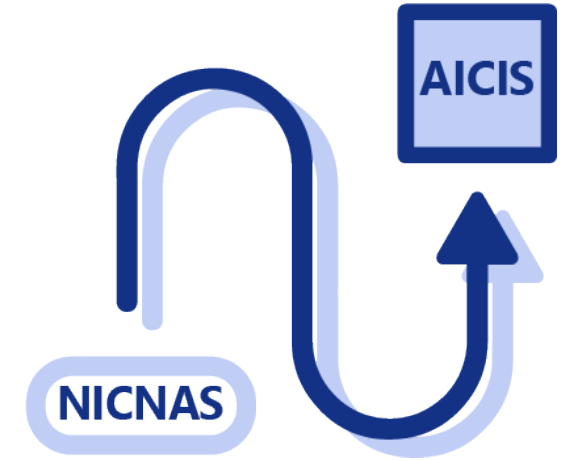
# Agenda

- What we publish
- What you can have “protected”
- How we review your protection
- When we disclose information



## NICNAS to AICIS

- Re-balancing regulatory treatment of information
- Protecting information about commercial / business details
- Publishing more meaningful information about chemical risk
- Making this information more accessible
  - Assessment statements & Evaluation statements
  - Linked to Inventory listings
  - All on one Inventory





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# What we publish

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01



# What we will routinely publish

## Assessed introductions

- Assessment statements – chemical identity, end use, risks, recommendations
- No introducer details
- Summary of assessment
- Will be directly linked to Inventory listing
- Direct access to post-assessment obligations on the Inventory
- 'Assessed' category much narrower (fewer) than NICNAS notifications
  - Risk proportionate publication of information





# What we will routinely publish

## Commercial evaluation authorisations

- Chemical identity, end use
  - No mandatory reporting format
  - Published for the period of the authorisation
- No introducer details
- No Inventory listing





# What we will routinely publish

## Pre-introduction reports

- Internationally assessed Reported introductions only
- Chemical identity, end use, name of international assessment body
- No introducer details
- No Inventory listing

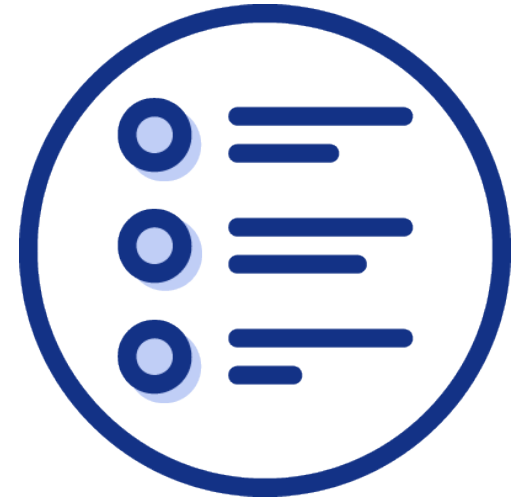




# What we will routinely publish

## Inventory

- 'Terms' of listing include
  - Chemical identity
  - 'Defined scope of assessment' which may include end use
- No introducer details
- Links to assessment/evaluation statements
  - Will include end use







# What we will routinely publish

## Evaluations

- Evaluation statement, which can include
  - chemical identity
  - end use
  - risks
  - risk management recommendations
- No introducer details
- Linked to Inventory listing(s)





## What we might also publish – ‘Other’ CBI

- Other information (besides chemical identity and end use) about industrial chemicals may also be published under AICIS
- Assessment/evaluation statements could include other commercially sensitive information
  - Such as volume and concentration details
  - Particularly if it relates to risks of the introduction



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# Protecting CBI

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# Two different pathways to CBI protection

## Routine CBI: chemical identity and end use

- If AICIS routinely publishes
- Associated with a “related” application / report
- Means of protection:
  - AACN (identity)
  - GEU (end use)
- Pathway: CBI application at time of “related” application



## ‘Other’ CBI: anything else

- AICIS does not always publish
- Means of protection:
  - AACN / GEU
  - Non-disclosure
- Pathway:
  - ‘Flagging’ when submitted
  - Notice if publication proposed
  - CBI application



## CBI application

- Doesn't have to be from the introducer
- Evidence that goes to the **statutory test**
- Consultation with "prescribed bodies" –
  - How much disclosure is required for effective risk management?



- Masks protected CBI
- Risk-proportionate disclosure of info on chemical risk
  - Reviewed 5-yearly



Same as NICNAS



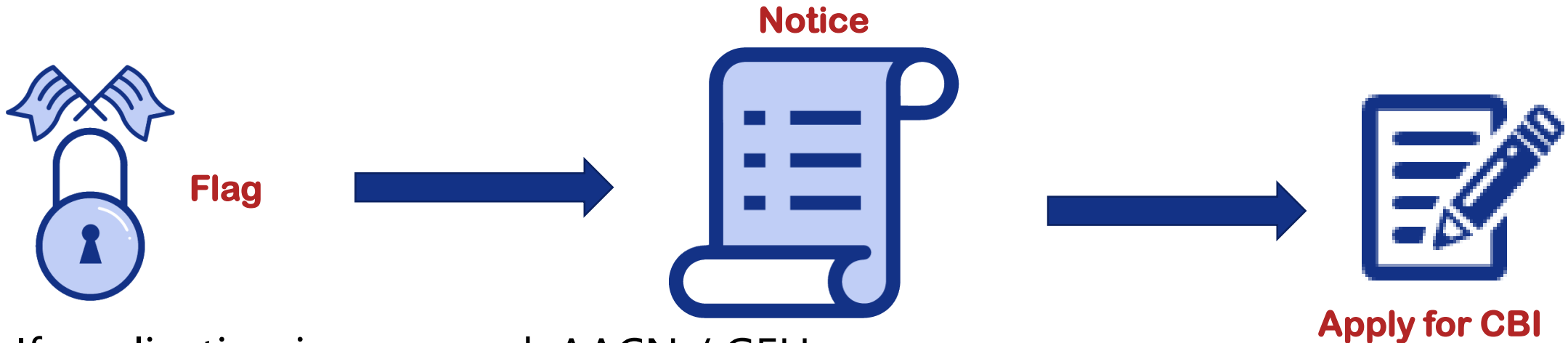
commercial prejudice

public interest



## Flagging 'Other' CBI

- Must be flagged "at the same time as the information is given"
- No application needed unless publication is proposed



- If application is approved, AACN / GEU or
- MUST NOT be published -> No 5-yearly review



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# CBI review

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## You can hide but ... we will review you

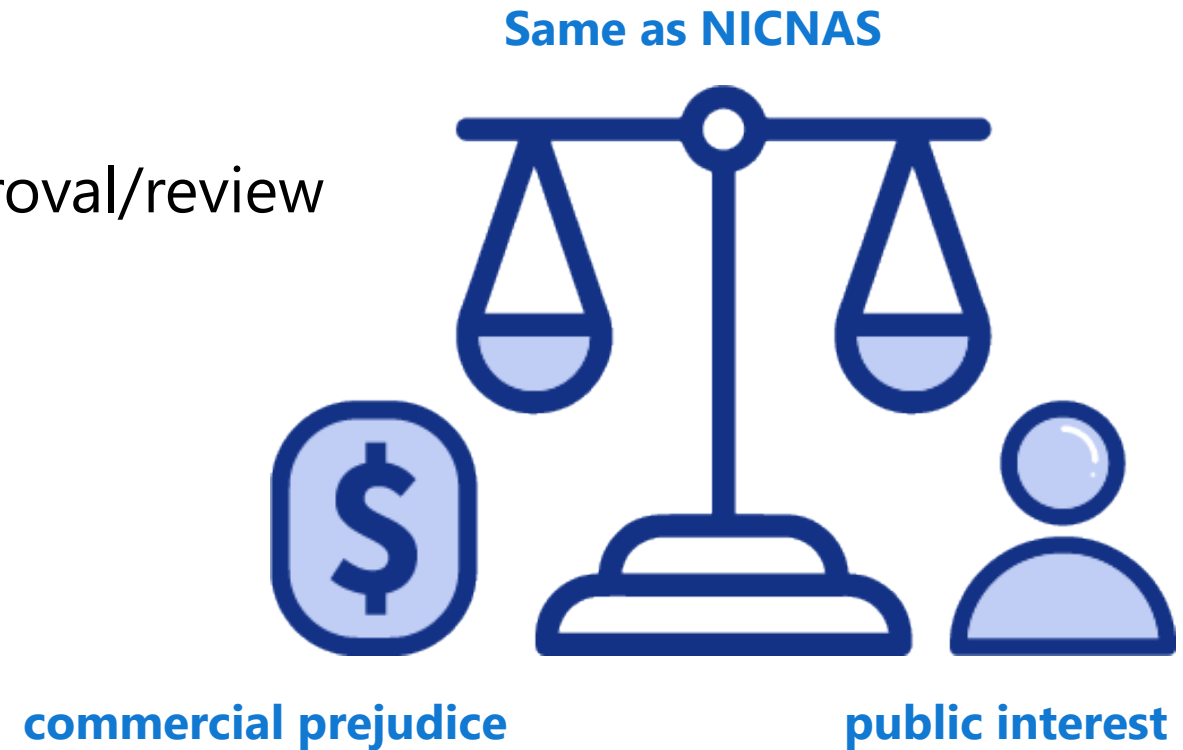
- AACN or GEU only
  - not flagged 'Other' CBI
- CBI protected for 5 years from the date of approval (or re-approval)
  - Unless early review is required after an evaluation
- Notices and rights go to:
  - each holder of the CBI approval
  - someone the approval holder told us about
  - genuine enquirers
  - other holders of certificates, CEAs, evaluation statements
  - other approval holders





# Applying to continue CBI protection

- Same **statutory test**:
  - Focusing on changes since last approval/review
  - Balance may have changed
    - Less commercial prejudice
    - Greater public interest





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## CBI disclosure

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# AICIS officers – “Entrusted persons”



## AICIS won't disclose "Protected information"

- Approved CBI – AACN, GEU or 'Other'
- 'Flagged' information
  - Even if it hasn't been through a CBI approval process yet
- UNLESS the disclosure is authorised by this Act or another Cth Law





## Authorised disclosure of CBI



- While exercising powers, functions, or duties under the Act
- To certain other entities to assist in the exercise of their powers, functions or duties
  - Commonwealth entities
  - State/Territory Health/Environment/WHS bodies
  - International entities
    - ECHA
    - Canada, NZ, USA – Health/Environment bodies re industrial chemicals
- Offence provisions apply to CBI receivers





## Authorised disclosure of CBI



- To a genuine introducer
  - If the chemical is on the Inventory, and the disclosure is necessary for safe introduction and use
- For the purposes of law enforcement / To a Court, tribunal etc
- To reduce serious risk to public health / environment
- If publicly available
- With consent / To the person it came from / To the person to whom it relates



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**Thank you!**