

## 2. Legislative Framework and Approvals

### 2.1 Northern Territory

#### 2.1.1 Environmental Assessment Act

The *Environmental Assessment Act* (EA Act) provides for 'the assessment of the environmental effects of development proposals and for the protection of the environment'. The Minister for Natural Resources, Environment and Heritage is responsible for administering the act and determines the appropriate level of assessment, which depends upon the sensitivity of the local environment, the scale of the proposal and its potential impact upon the environment. The OEH assists the Minister in undertaking the assessment.

The assessment process is initiated by submission of a Notice of Intent (NOI) by the proponent to the Department of Primary Industry, Fisheries and Mines (DPIFM)<sup>1</sup> (Figure 2.1). The NOI is evaluated by DPIFM to determine whether assessment under the EA Act is required, in which case it is referred to the Minister for Natural Resources, Environment and Heritage and the Department of Natural Resources, Environment and the Arts (DNRETA). The proposal is then assessed by a Project Assessment Committee (PAC), comprising representatives from DPIFM, DNRETA, Department of Infrastructure and Planning (DIP)<sup>2</sup> and, when required, the Parks and Wildlife Commission. The PAC recommends the level of assessment as involving either a Public Environmental Report (PER) or an Environmental Impact Statement (EIS). The Minister for Natural Resources, Environment and Heritage then advises the proponent of the required level of assessment.

A PER is generally recommended for projects where potential environmental impacts are considered significant but limited in extent. An EIS is undertaken for projects that require a higher level of assessment. In February 2005, the Minister for Natural Resources, Environment and Heritage determined that, under the EA Act, the Browns Oxide Project was to be assessed via the PER process.

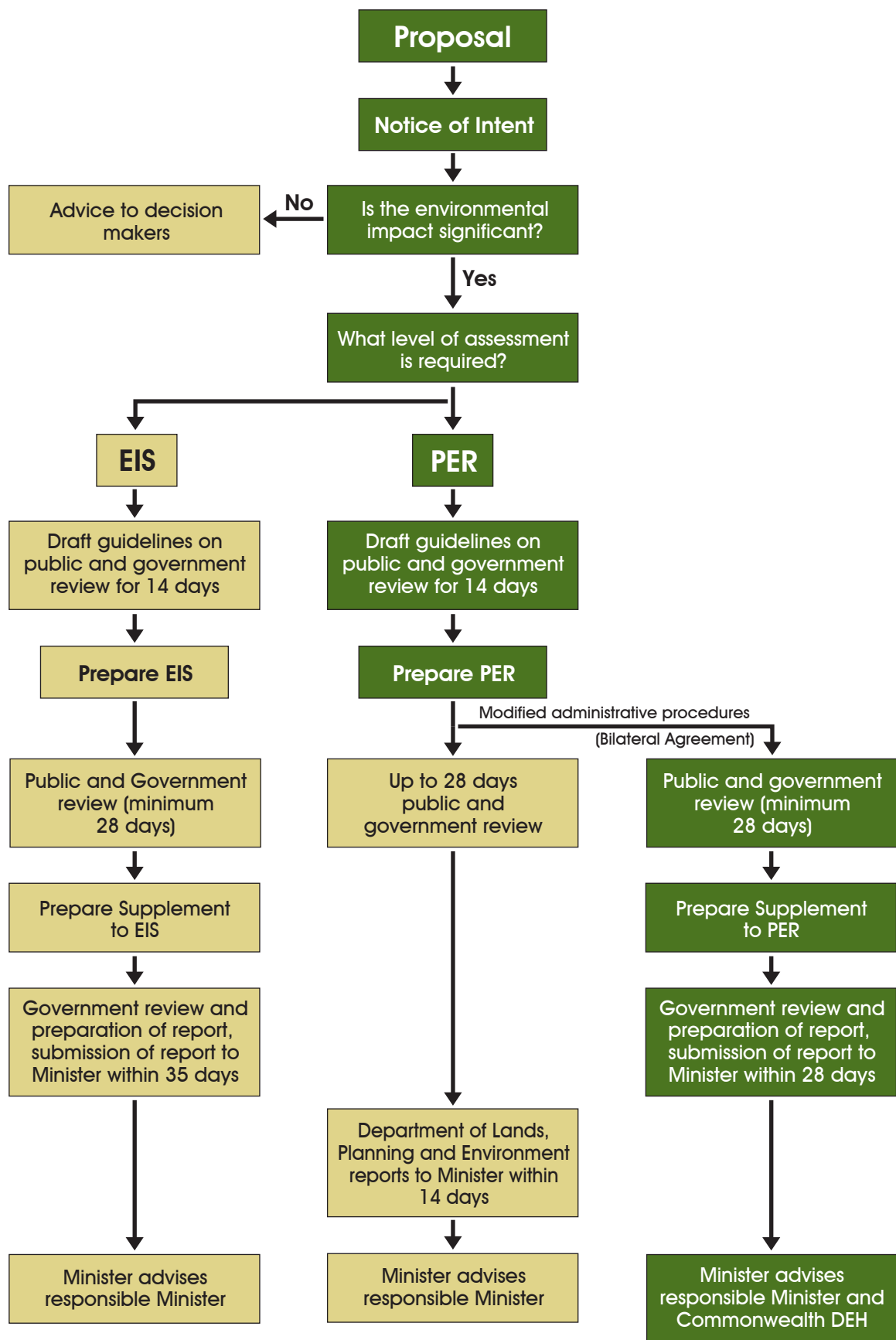
In February 2005, draft PER guidelines were published for public comment for a 14-day period. The guidelines were then finalised and issued to Compass in May 2005. Because the project is being assessed under a Bilateral Agreement between the Northern Territory and the Commonwealth (see Section 2.2), modified EA Act administrative procedures are in place (see Figure 2.1).

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<sup>1</sup> Formerly the Department of Business, Industry and Resource Development (DBIRD).

<sup>2</sup> Formerly the Department of Infrastructure, Planning and Environment (DIPE).

 Process applicable to the Browns Oxide Project



Following submission of the PER, the document is exhibited for public comment for a minimum period of 28 days, during which time advisory bodies also provide comment. Compass then prepares a PER supplement document that addresses the submissions received from both the public and advisory bodies. The supplement is then submitted to OEH for assessment (and a copy is also sent to other respondents). This is followed by a 28-day period in which OEH prepares an assessment report and the Northern Territory Minister for Natural Resources, Environment and Heritage signs off on the report and makes an assessment decision.

The complete PER (main document and supplement), together with the OEH assessment report and ministerial decision, is then reviewed by the Commonwealth Department of the Environment and Heritage (DEH). The Commonwealth review period is 30 business days, after which an assessment decision is published.

The Northern Territory Minister for Mines and Energy notifies DPIFM of the determination and recommendations, after which DPIFM proceeds with the approval process under the *Mining Management Act* (MM Act) and the *Mining Act* (MA Act).

### 2.1.2 Mining Legislation

The principal legislation for the regulation of mining in the Northern Territory comprises the MM Act and the MA Act, both of which are administered by DPIFM.

Under the MM Act, the proponent submits an Application for an Authorisation of Mining Activities, supported by a Mining Management Plan (MMP). Once granted, the authorisation (accompanied by the MMP) becomes the key operational document for the mine. The MM Act requires that the MMP has the following as a basis:

- A description of the mining activities to be carried out.
- Safety, health and environmental issues relevant to the mining activities and the management system to be implemented at the mine site.
- Plan and costing of closure activities.

In accordance with the PER guidelines, the strategic environmental management plan provided in this document (Chapter 9) is designed for inclusion in the MMP.

### 2.1.3 Other Relevant Legislation

Northern Territory legislation relevant to the project includes the following acts and associated amendments and regulations:

- *Aboriginal Land Act.*
- *Bushfires Act.*
- *Control of Roads Act.*
- *Dangerous Goods Act.*
- *Dangerous Goods (Road and Rail Transport) Act.*
- *Darwin Port Corporation Act.*
- *Environmental Offences and Penalties Act.*

- *Heritage Conservation Act.*
- *Local Government Act.*
- *Mineral Royalty Act.*
- *National Environment Protection Council (Northern Territory) Act.*
- *National Trust (Northern Territory) Act.*
- *Northern Territory Aboriginal Sacred Sites Act.*
- *Ozone Protection Act.*
- *Planning Act.*
- *Soil Conservation and Land Utilisation Act.*
- *Territory Parks and Wildlife Conservation Act.*
- *Traffic Act.*
- *Waste Management and Pollution Control Act.*
- *Water Act.*
- *Water Supply and Sewerage Act.*
- *Weeds Management Act.*

## **2.2 Commonwealth**

### **2.2.1 Environment Protection and Biodiversity Conservation Act**

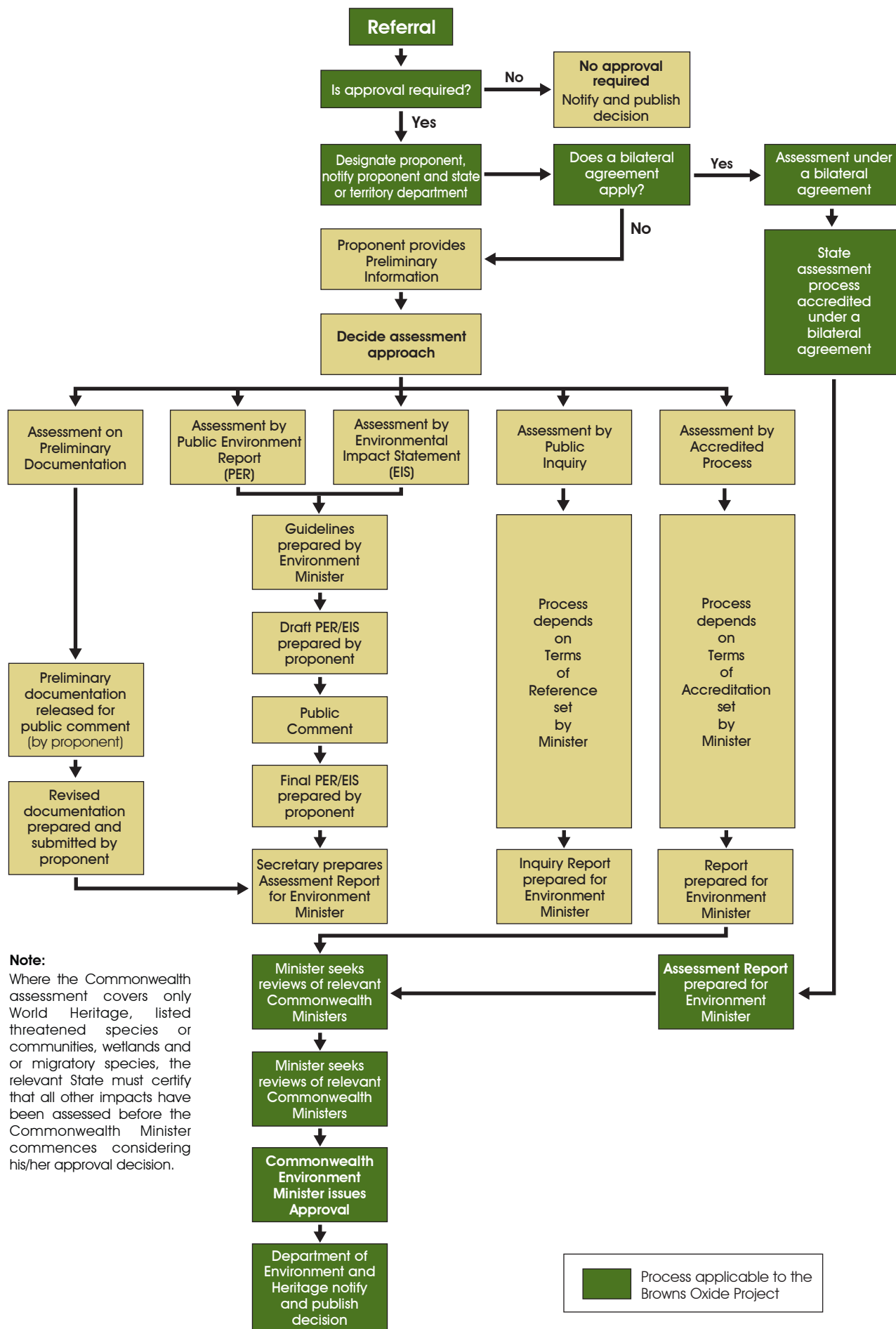
The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), in force since 16 July 2000, enables the Commonwealth to join with the states and territories to provide a national scheme of environment protection and biodiversity conservation.

The EPBC Act replaces five Commonwealth statutes: *Environment Protection (Impact of Proposals) Act 1974*; *Endangered Species Protection Act 1992*; *National Parks and Wildlife Conservation Act 1975*; *World Heritage Properties Conservation Act 1983*; and *Whale Protection Act 1980*.

Under the EPBC Act, actions that are likely to have a significant impact on a matter of national significance are assessed. The DEH is responsible for administering the act. Matters that are considered to be of national environmental significance are:

- World Heritage properties.
- National Heritage places.
- Ramsar wetlands of international significance.
- Threatened species and ecological communities.
- Migratory species.
- Nuclear actions.
- Commonwealth marine areas.
- Additional matters of national environmental significance (prescribed actions).

A referral and assessment process has been established to determine the application of the EPBC Act (Figure 2.2). The first step in this process is referral of the project to DEH, and the project is then assessed as to whether or not it is a controlled action. If the project is a controlled action, approval under the act is required. A bilateral agreement



Source: DEH (2005a).



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**Compass Resources NL**  
**Browns Oxide Project**

**EPBC Act assessment process**

Figure No:  
**2.2**

under Section 45 of the act exists between the Commonwealth and the Northern Territory, the aim of which is to minimise duplication of the assessment process. Under this agreement, the Northern Territory assessment process is accredited and, once the assessment has been undertaken under this process, a report is prepared for the Commonwealth Environment Minister, who then seeks views of other relevant Commonwealth ministers. The Commonwealth assessment decision is then announced (see Section 2.1.1).

This project was referred under the EPBC Act on 21 February 2005 and declared a controlled action under sections 18 and 18A (listed threatened species and communities) of the act on 29 March 2005.

## 2.2.2 Other Relevant Legislation

Other Commonwealth legislation relevant to the project includes the following acts and associated amendments and regulations:

- *Aboriginal Land Rights (Northern Territory) Act 1976.*
- *Aboriginal and Torres Strait Islander Heritage Protection Act 1984.*
- *Dangerous Goods Amendment Act 2000.*
- *Heritage Act 1975.*

## 2.3 International Conventions and Agreements

The following international conventions, protocols and agreements (with relevant enabling legislation provided in square brackets) have been considered in the course of the preparation of the PER:

- Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar, 1971) [EPBC Act provisions].
- Protection of World Cultural and Natural Heritage (World Heritage Convention, 1972) [EPBC Act provisions].
- International Migratory Bird Agreements (JAMBA, 1974, and CAMBA, 1986) [EPBC Act provisions].
- Conservation of Nature in the South Pacific (Apia Convention, 1976).
- Conservation of Migratory Species of Wild Animals (Bonn Convention, 1979) [EPBC Act provisions].
- Protection of the Natural Resources and Environment of the South Pacific Region (SPREP, 1986).
- Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol, 1987) [Ozone Protection Act].
- United Nations Convention on Biological Diversity (1992).

- Declaration of the United Nations Conference on Environment and Development (Rio Declaration) and Agenda 21 (1992).
- United Nations Framework Convention on Climate Change (1992).
- Kyoto Protocol to the United Nations Framework Convention on Climate Change (1997).

## 2.4 National Policies and Strategies

The following national policies have been considered in the course of the preparation of the PER:

- Intergovernmental Agreement on the Environment (1990).
- National Strategy for Ecologically Sustainable Development (1992).
- National Strategy for the Conservation of Australia's Biological Diversity (1996).
- National Greenhouse Strategy (1998).
- National Environment Protection Measures.

## 2.5 Standards and Codes of Practice

The construction and operation of the Browns Oxide Project will take into consideration all applicable standards and codes of practice including those listed below.

### **Standards**

- National Standard for Manual Handling [NOHSC:1001(1990)].
- National Occupational Health and Safety Certification Standard for Users and Operators of Industrial Equipment, 3rd Edition [NOHSC: 1006(2001)].
- National Standard for Occupational Noise [NOHSC:1007 (2000)].
- National Standard for the Control of Inorganic Lead at Work [NOHSC:1012 (1994)].
- National Standard for the Control of Major Hazard Facilities [NOHSC:1014 (2002)].
- Safe working in a confined space (AS/NZS 2865:2001).
- Recommended practices for eye protection in the industrial environment (AS/NZS 1336:1997).
- Selection, use and maintenance of respiratory protective devices (AS/NZS 1715:1994).
- Occupational protective helmets – selection, care and use (AS/NZS 1800:1998).
- Occupation protective gloves – selection, use and maintenance (AS/NZS 2161.1:2000).
- Occupational protective footwear: guide to selection, care and use (AS/NZS 2210.1:1994).

- Guide to the selection, care and use of clothing for protection against heat and fire (AS 2375-1980).
- Industrial safety belts and harnesses – selection, use and maintenance (AS 2626-1983).
- Occupational noise management – hearing protector program (AS/NZS 1269.3:2005).
- Classification of hazardous areas – examples of classification – general (AS/NZS 2430.3.1:2004).
- Evaluation of human exposure to whole-body vibration – general requirements (AS 2670.1-2001).
- Fixed platforms, walkways, stairways and ladders – design, construction and installation (AS 1657-1992).
- Earthmoving machinery – seat belts and seat belt anchorages (AS 2664-1983).
- Power-actuated hand-held fastening tools - charges (AS/NZS 1873.3:2003).
- Power-actuated hand-held fastening tools - fasteners (AS/NZS 1873.4:2003).
- Clearing saws, brushcutters and grass trimmers – safety requirements (AS 3575-1995).
- In-service safety inspection and testing of electrical equipment (AS/NZS 3760:2003).
- Portable fire extinguishers and fire blankets – selection and location (AS 2444-2001).

### ***Model Regulations***

- National Model Regulations for the Control of Workplace Hazardous Substances [NOHSC:1005(1994)].
- National Model Regulations for the Control of Scheduled Carcinogenic Substances [NOHSC:1011 (1995)].

### ***Codes of Practice***

- National Code of Practice for the Control of Workplace Hazardous Substances [NOHSC:2007(1994)].
- National Code of Practice for the Control of Major Hazard Facilities [NOHSC:2016 (1996)].
- National Code of Practice for the Prevention of Occupational Overuse Syndrome [NOHSC:2013 (1994)].
- National Code of Practice for the Control and Safe Use of Inorganic Lead at Work [NOHSC:2015 (1994)].



- National Code of Practice for the Labelling of Workplace Substances [NHOSC:2012 (1994)].
- National Code of Practice for Manual Handling [NOHSC:2005 (1990)].
- National Code of Practice for Management and Protection of Hearing at Work [NOHSC:2009 (2000)].
- National Code of Practice for the Control of Scheduled Carcinogenic Substances [NOHSC:2014 (1995)].