

Summary of the Nitrous Oxide Regulatory Reform Process

Purpose

This document provides a summary of the policy context, development process, key regulatory measures, and proposed implementation approach for amendments to the Medicines, Poisons and Therapeutic Goods Regulation 2026 relating to nitrous oxide.

Background and policy context

Nitrous oxide is a legally available substance with legitimate uses in food preparation, medical, and industrial settings. However, in recent years it has increasingly been misused for its psychoactive effects, particularly among young people.

Harms associated with misuse include acute risks such as hypoxia, loss of consciousness, and injury, as well as longer-term neurological damage linked to vitamin B12 depletion. Increased availability of large canisters and online sales has enabled high-volume use, contributing to more severe harms. While deaths associated with nitrous oxide are thought to be rare, there has been a 23-fold increase in associated harm over the previous decade.

Concerns about nitrous oxide misuse have been raised through multiple channels, including:

- community and stakeholder concerns
- presentations at the Volatile Substances Use Roundtable (2024)
- submissions to the 2024 Drug Summit
- coronial matters and clinical reporting.

Existing regulatory controls in New South Wales have not adequately addressed the increasing availability of nitrous oxide, particularly through online sales and the availability of large-capacity cylinders.

Other Australian jurisdictions have introduced restrictions on sale and supply, highlighting the need for a strengthened and contemporary regulatory response in NSW.

Policy development and consultation

NSW Health developed a targeted regulatory response under the Medicines, Poisons and Therapeutic Goods Regulation 2026 to address nitrous oxide misuse while preserving access for legitimate uses.

NSW Health undertook extensive consultation to inform the reforms. A public consultation was conducted through the NSW Government Have Your Say website from 2 April to 10 May 2024. A total of 1,327 submissions and survey responses were received. Most responses were received through the online survey, while key stakeholder organisations provided detailed written submissions. Survey respondents were predominantly community members (85%), with additional input from health professionals (12%), industry representatives, businesses and retailers. Overall, 63% of respondents indicated support or strong support for the proposed reforms, and 82% supported prohibiting sales to people under 18 years of age.

Consultation also occurred through the Volatile Substance Use Roundtable in July 2024, which brought together representatives from government, health, research, industry and community sectors. A further targeted consultation on draft regulatory amendments was undertaken from 17 November to 5 December 2025 with industry, health services and government stakeholders.

Feedback highlighted strong support for action to address nitrous oxide-related harms while maintaining access for legitimate uses. The measures were viewed as practical, consistent with community standards, and would be effective in reducing harm.

Stakeholders also provided valuable input regarding exemptions, implementation timeframes, retailer obligations and practical compliance considerations. This feedback informed refinement of the final regulatory approach.

Overview of regulatory amendments

The amendments introduce a range of controls on the retail sale and supply of nitrous oxide.

Key measures include:

Restriction on retail sale volumes

Limits apply to the quantity of nitrous oxide that can be sold (up to 250g per day), reducing the ability to purchase large amounts for misuse.

Prohibition on supply of large-capacity cylinders

The sale and supply of large nitrous oxide canisters (over 10g) for non-legitimate use is prohibited, addressing a key driver of high-volume consumption.

Age-based restrictions

Retail supply to persons under 18 years is prohibited.

Restrictions on supply practices

- Same-day delivery is prohibited.
- Supply is prohibited before 5am or after 10pm.
- Storage requirements prevent nitrous oxide products or packaging from being kept on visible display to customers.

Exemptions for legitimate use

Exemptions apply to ensure continued access for legitimate purposes, including:

- food and beverage businesses
- certain industrial and commercial applications
- therapeutic use of nitrous oxide.

These exemptions are targeted and based on objective eligibility criteria.

Record-keeping and compliance requirements

Suppliers are required to meet certain conditions to demonstrate lawful supply.

The amendments are designed to be proportionate and specific, focusing on high-risk supply rather than restricting general consumer products broadly.

Implementation approach

Commencement and transition period

The Regulation will commence on 5 November 2026. NSW Health will take a six-month educative approach, working with affected sectors to provide guidance and resources to support awareness, understanding and compliance with the new arrangements.

Compliance and education

NSW Health has developed guidance materials, including:

- a retailer and supplier fact sheet and point-of-sale signage
- clear advice on legal obligations and exemptions
- communication materials for industry and the community

Materials are accessible and, where appropriate, translated.

Stakeholder engagement

NSW Health is engaging with key sectors, including retail, hospitality, and industry groups, to support understanding and compliance during implementation.

Enforcement

Compliance and enforcement activities are undertaken in partnership with NSW Health's Centre for Regulatory Enforcement and complement existing illegal tobacco and vape efforts. Enforcement is risk-based and focus on high-risk supply practices, including large-volume sales, rapid delivery and non-compliant retailers.

Monitoring and evaluation

NSW Health is monitoring implementation and emerging issues, including:

- compliance trends
- stakeholder feedback
- indicators of harm and service demand

Findings will inform any future policy refinement.

Summary

The regulatory amendments are a targeted and evidence-informed response to reduce harms associated with nitrous oxide misuse in NSW. The reforms will reduce high-risk supply pathways while maintaining access for legitimate uses and are supported by a structured implementation, education and compliance program.

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