



**Transfer of
Substances**

ENVIRONMENTAL RISK MANAGEMENT AUTHORITY
NGĀ KAIWHAKATŪPATO WHAKARARU TAIAO



Summary of Submissions: Group Standards for Additives, Process Chemicals and Raw Materials

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1. Introduction

1.1 Background to the Consultation

This document reports on the submissions that were received on proposals to establish group standards for additives, process chemicals and raw materials.¹ Group standards are a form of hazardous substances approval under Part 6A of the Hazardous Substance and New Organisms (HSNO) Act 1996.

ERMA New Zealand released for public consultation 24 group standards for additives, process chemicals and raw materials on 29 March 2006. Consultation closed on 15 May 2006. Notification of this consultation was via public notice in the four main metropolitan newspapers and the ERMA New Zealand web site.

The consultation document and draft group standards,² or a letter advising of the availability of these documents, were provided to 430 parties who were considered likely to have an interest in this consultation. This included companies who notified additives, process chemicals and raw materials or related products under the Toxic Substances Act 1979, other industry sectors and associations, government departments, enforcement agencies and territorial authorities. The documentation was also available on the 'consultation page' of the ERMA New Zealand website.³

Fifteen submissions were received, of which five submitters requested to be heard. A hearing was held on 7 June 2006.

The comments made by submitters are summarised in Section 2, along with the Agency's response. Where a submitter's comment resulted in a change to the group standard proposal, this is indicated in the table. Each submitter is identified numerically, and the name of the submitter given at the beginning of the table.

This summary of submissions has been provided to all parties who made a submission on the additives, process chemicals and raw materials group standards, major notifiers of additives, process chemicals and raw materials,⁴ and to the Hearings Committee of the Authority.⁵ It is also available from the ERMA New Zealand web site: <http://www.ermanz.govt.nz/hs/groupstandards/standards/aipcr.html>. A copy will be provided to any other interested party on request.

¹ These group standards were initially consulted on as *Additives, Intermediates, Process Chemicals and Raw Materials*.

² Provided electronically on CD. No paper copies were distributed unless specifically requested.

³ These documents remain available on the ERMA New Zealand web site: <http://www.ermanz.govt.nz/consultations/gs/aipcr.asp>.

⁴ Notifiers with only a few NOTS have been advised by letter of the availability of this summary of submissions.

⁵ The Authority is the decision making body of ERMA New Zealand. It is made up of up to eight members appointed by the Minister for the Environment. The Hearings Committee is made up of selected members of the Authority with relevant experience in the subject area being considered for approval under the HSNO Act.

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Email NOTS@ermanz.govt.nz and enter “Additives, Process Chemicals and Raw Materials Summary of Submissions” in the subject line.

1.2 Moving NOTS

When group standards were released for consultation, notifiers were given a list of their products notified under the Toxic Substances Act 1979 (NOTS) associated with each standard. If a NOTS had been incorrectly assigned by ERMA New Zealand to a specific group standard, the notifier is able to reassign it to the appropriate group standard. If a notifier moves a NOTS from one group standard to another (or removes the NOTS from a group standard because they determine it to be non-hazardous) we asked in the consultation document for the notifier to advise us.

To assist notifiers reassign their NOTS, ERMA New Zealand has developed an excel template that can be accessed by emailing us at: NOTS@ermanz.govt.nz.⁶ Once the notifier has recorded on the template the NOTS that need to be moved, they must email the completed template back to us for processing. This template will be available up until 30 June 2006.

Where a submitter requested that a NOTS be moved, this information is not provided in Section 2 because it is specific to that notifier and, in some cases, could result in the disclosure of confidential information. This moving of NOTS is independent of the scope and conditions of a group standard, and consequently has not resulted in any change to any of the group standard proposals.

Where notifiers requested as part of their submission that NOTS be reassigned, we will move them to the group standard(s) they indicated, and they do not need to use the template unless they have further changes to make.

1.3 Approval of Group Standards

The Hearings Committee of the Authority is responsible for considering and approving group standards. Copies of amended group standards will be provided to the Committee for consideration.⁷

As noted earlier, a copy of this summary of submissions has been provided to the Hearings Committee. Although Section 2 of this summary may indicate that an amendment has been made to the group standards as consulted on, it is the Hearings Committee that is the decision maker. That is, the Agency’s recommendation that a group standard be changed as indicated in Section 2 requires final approval by the Authority.

⁶ The template and process operate in such a way that requires notifiers to contact ERMA New Zealand. This is to safeguard data confidentiality.

⁷ Group standards that were consulted on will be amended as indicated in Section 2.

The Hearings Committee is scheduled to consider the group standards for additives, process chemicals and raw materials in mid June 2006. This consideration will follow the public hearing which has been requested by submitters.⁸ A notice of the Committee's decision will be placed on the ERMA New Zealand web site as soon as practicable after the consideration.

1.4 Gazetting of Group Standards and Staged Implementation

Following final approval by the Authority, group standards will be established by publication of a notice in the *New Zealand Gazette*, and will come into force on 1 July 2006. All NOTS that fit the scope of a group standard will become deemed approved hazardous substances at this time.

A full list of group standard proposals for additives, process chemicals, raw materials and related products, is available from:

<http://www.ermanz.govt.nz/hs/groupstandards/list.html>.

Coinciding with the transfer of NOTS will be the commencement of a period of staged implementation. The details of staged implementation are given in Annex 1.

After 1 July 2006, ERMA New Zealand will write to all notifiers with a list of their NOTS that are deemed approved under group standards and the HSNO approval number for each group standard.

⁸ This hearing is scheduled for the morning of 7 June 2006 at the offices of ERMA New Zealand, 666 Great South Road, Auckland.

2. Submitter's Comments and Agency Response and Recommendations

Code to submitters

No.	Submitter
1	Chemical Specialties Ltd
2	Materials Optimization
3	Cresta Composites Ltd
4	Fibreglass Developments Ltd
5	Reflex Products Limited
6	Ecolab
7	Raybo Chemical Co
8	3M New Zealand Ltd
9	PJ Hobbs Industries Limited
10	Composite Association of New Zealand
11	Goldschmidt AG
12	HaS Expertise Ltd

This list of submitters does not include submitters who only requested that a NOTS be moved from one group to another (see Section 1.2).

Submitter	Submission	Agency response and recommendation	Group standards amended
The classification of substances and assigning to group standards			
11	ERMA has slightly different classifications results for some substances than what our company has.	As explained in the consultation document, the classification of NOTS provided to companies was indicative only. Industry is able to reclassify and reassign products to different group standards (assuming the appropriate group standard exists) without seeking any further approval from ERMA New Zealand. See Section 1.4 on moving notifications between group standards. Guidance will be provided after transfer on the classification of products.	No amendment required

Submitter	Submission	Agency response and recommendation	Group standards amended
Definition, scope and explanatory notes of group standard			
6	There is no definition in explanatory notes covering disinfectants in the group standard. Disinfectants are already expressly covered in the Group Standards for Institutional and Industrial Cleaners and there is no need to include these materials within the scope of these Group Standards.	The definitions have been reviewed and simplified. There is no longer any reference to disinfectants or to oxidising agents in the group standards. Further guidance on the types of products covered by the Additives, Process Chemicals and Raw Materials Group Standards will be provided after transfer.	Yes - wording amended
6	Amend the explanatory Note for Oxidising Agents to read: "Substances that remove hydrogen from other substances, or accept electrons in chemical reactions, and are used for such purposes, excluding substances that have a Class 5.1 or Class 5.2 classification".		
6	Inclusion of metallic corrosivity, HSNO 8.1A subsidiary hazard in the scope of the Group Standards (consistent with all other Group Standard with a primary 8.2B/8.2C classification).	An 8.1A classification was included as a subsidiary hazard in some but not all of the 8.2B/8.2C group standards for additives, raw materials and process chemicals. This will be amended and all corrosive group standards will allow an 8.1A hazard.	Yes
Conditions for labelling			
6	Have a mandatory requirement for notification of a 24-hour emergency telephone number on all labels and SDS, with no specific exclusions.	This is contrary to the requirement of the identification regulations, and contrary to many submissions on the current requirement to provide a 24-hour emergency phone number.	No
6	Correct an omission from the "Hazard and Precautionary Information for Group Standards" document which accompanies all group standards. The specific omission notes is the absence of any requirement for a Tracked Pictogram for certain HSNO classifications in Table 1, and the absence of the Tracked Pictogram from the GHS symbols in Table 2.	Pictograms relate to priority identifiers in the HSNO regulations. There is no requirement in the regulations for a tracked pictogram. Recording (whether by a pictogram or some other means) that a substance is required to be tracked is neither hazard nor precautionary information. Whilst the NZCIC have proposed a pictogram for tracked substances, this does not fit within the GHS criteria on which the <i>Hazard and Precautionary Information for Group Standards</i> document is based. Note that the this document has been renamed to <i>Labelling of Hazardous Substances: Hazard and Precautionary Information</i> , and updated to reflect recent changes by the GHS. This updated document will be available when group standards are published on 1 July 2006.	No

Submitter	Submission	Agency response and recommendation	Group standards amended
8	<p>Labelling requirements are prescriptive. Consideration should be given to accepting the terminology of the Identification Regulations where “an required” is required to identify that care in use is to be applied and the precaution needed.</p>	<p>One of the intents behind the development of group standards was a recognition of the need to provide more prescriptive information to users of hazardous substances, particularly small to medium sized enterprises. That is, small companies were asking to be told more useful information than leaving it up to them to try and interpret the non-prescriptive HSNO regulations. The labelling provisions of the group standards achieve this purpose.</p> <p>Recognising that some companies would prefer the non-prescriptive approach, the labelling section of the group standards provides a number of alternative means of compliance, including</p> <ul style="list-style-type: none"> ➤ relevant identification provisions the HSNO Identification, Emergency Management and Disposal Regulations; ➤ an approved Code of Practice, and ➤ the GHS system of classification and labelling of chemicals. 	No
Conditions for safety data sheets			
12	<p>The Safety Data Sheet (SDS) clauses in all of the group standards are unnecessarily prescriptive and allow no flexibility with regard to their preparation. There is no benefit to be gained from this inflexibility. In addition, the requirement to comply with a code of practice that is not currently available is not consistent with the consultation process (i.e., how can we comment on the group standard requirements for SDS when we are not able to view one of the compulsory parts to the clauses).</p> <p>Changes to SDS clauses to allow greater flexibility and reference to the code of practice as one option for compliance. To ensure consistency internationally, it would be appropriate to include SDS information in the exemption which allows for labelling and packaging to comply with international standards/legislative requirements.</p> <p>At the minimum, compliance with the HSNO regulations should be equivalent.</p>	<p>The inflexibility referred to by this submitter was in regard to clause 3(5) of the group standard, which required that: <i>“Information required on a safety data sheet must be provided under the following headings”</i>. This has been amended to <i>“... must be provided under the following general headings”</i> (emphasis added).</p> <p>The condition that required a safety data sheet to be consistent with the requirements of a code of practice approved by the Authority has been removed.</p> <p>The group standards set out the requirements for SDS that are consistent with the GHS, which are based on the 16 header format. This format is recognised as international best practice. The HSNO regulations, in contrast, do not stipulate the 16 header format. For this reason, we will not provide an alternative means of compliance by way of the HSNO regulations. ERMA New Zealand wishes to encourage compliance for all SDS on the 16 header format.</p>	Yes

Submitter	Submission	Agency response and recommendation	Group standards amended
Conditions for packaging			
8	Section 2, Clause 16 permits “the relevant labelling and packaging requirements of Australia, USA, Canada and EU or any other approved country”. This clause should also be included with in part 4, packaging.	<p>The current packaging provisions of the group standards are aligned with the UN Recommendations on the Transport of Dangerous Goods Model Regulations. Thus, for example, classifications that currently, under the HSNO Packaging Regulations, trigger a PGIII requirement (Class 6.5A, 6.6A, 6.7A, 6.8A, 6.9A and 8.3A) do not trigger this requirement in the group standards, which is consistent with the UN Model Regulations.</p> <p>Therefore, any goods that are imported into New Zealand in accord with the Model Regulations should be compliant with the provisions of the group standards. Consequently, it is not necessary to give any alternative means of compliance of the type put forward by the submitter.</p> <p>See also Section 1.4.2 of the document available at: http://www.ermanz.govt.nz/consultations/gs/addqs.pdf</p>	No
Conditions for disposal			
8	Part 7 should make reference to approved Trade Waste Disposal companies. This applies to both the product and its packaging.	<p>The disposal condition for packaging (Part 7 of the group standard) has been amended by the inclusion of a new subclause that provides for disposal via domestic refuse collections. This subclause states:</p> <p><i>Packaging (that may or may not contain any residual substance) that is lawfully disposed of by householders or other consumers through a public or commercial waste collection service is a means of compliance with subclause (2).</i></p> <p>[Subclause (2) being the requirements that are set for disposal]. No similar provision is given in the disposal of substance section as a consumer is unlikely to dispose of the substance other than in the package. The new subclause (above) allows for residual levels of a substance to be in the package.</p>	Yes
Miscellaneous			
1, 2, 3, 4, 5, 10	<p>Change to the classification of Styrene to a possible carcinogen.</p> <p>Unsaturated polyester resin systems would be classified as possible human carcinogens (because of the presence of styrene monomer in these products).</p>	<p>The issue raised by submitters is one of substance classification, not of the provisions of the group standards.</p> <p>Styrene is an HSNO approved substance (approval code HSR001221; http://www.ermanz.govt.nz/appfiles/orgctrl/pdf/HSR001221con.pdf)</p>	No

Submitter	Submission	Agency response and recommendation	Group standards amended
	<p>New Zealand legislature should adopt the same classification status for styrene as the US and Australia until firm scientific evidence has been established.</p> <p>What is the justification for this proposed change and what information has become available to make this change reasonable?</p>	<p>and has been assigned a 6.7B classification (suspect human carcinogen). This classification was assigned in April 2004 when styrene was transferred from the transitional provisions to the main framework of the HSNO Act.</p> <p>The basis of this classification is the International Agency for Research on Cancer (IARC) 2B classification. The European Chemical Bureau (ECB) has an indication in their working database that they are proposing to assign a risk phrase, indicating they have also assessed this substance as a carcinogen. See http://ecb.jrc.it/classification-labelling/. Note: The proposed classification is visible if the working database is searched using the styrene CAS number 100-42-5.</p> <p>The HSNO classification of styrene is not something that the current consultation on group standards can address. Any change to this 6.7B classification would require a review and possible reassessment.</p>	
9	<p>Removal of the classification of Styrene to a possible carcinogen.</p> <p>Classification which is not used by other countries, if adopted would place New Zealand at a distinct disadvantage against imported products.</p>	<p>The basis of this classification is the International Agency for Research on Cancer (IARC) 2B classification. The European Chemical Bureau (ECB) has an indication in their working database that they are proposing to assign a risk phrase, indicating they have also assessed this substance as a carcinogen. See http://ecb.jrc.it/classification-labelling/. Note: The proposed classification is visible if the working database is searched using the styrene CAS number 100-42-5.</p> <p>The HSNO classification of styrene is not something that the current consultation on group standards can address. Any change to this 6.7B classification would require a review and possible reassessment.</p>	
7	<p>Request that NOTS be able to be moved between group standards or reclassified as non hazardous.</p>	<p>As explained in the consultation document, the classification of NOTS provided to companies was indicative only. Industry is able to reclassify and reassign products to different group standards (assuming the appropriate group standard exists), or remove a NOTS from a group standard because they determine it to be non-hazardous, without seeking any further approval from ERMA New Zealand. See Section 1.4 on moving notifications between group standards.</p> <p>Guidance will be provided after transfer to assist industry in the classification of products.</p>	No amendment required
8	<p>Support for the modification of the eco-toxicological controls in the group standards for non-pesticidal use substances</p>	<p>Support noted</p>	No amendment required
8	<p>General support for applying group standards to deal with product types of similar hazard to simplify ERMA's management of hazardous substances and reduce compliance costs for industry.</p>	<p>Support noted</p>	No amendment required

Annex 1: Staged Implementation for NOTS

All group standards will contain provisions for staged implementation. These provisions will apply to notified toxic substances (NOTS) that are transferred from the transitional provisions to the main framework of the HSNO Act. The purpose of staged implementation is to allow importers, manufacturers and users of additives, process chemicals and raw materials a period of time to become familiar with the new group standard conditions, and to progressively implement these conditions.

The key dates for staged implementation are set out in the table below.

1 July 2006	NOTS transferred to HSNO. Six month period commences before any group standard conditions apply. Persons continue to comply with current regulatory requirements
1 January 2007	Approved handler test certificates required (either deemed ¹ or full five year certificate) ² Compliance required with all group standard conditions, with the exception of conditions for: <ul style="list-style-type: none"> ➤ Test certificates for hazardous substance locations² ➤ Stationary bulk container systems ➤ Emergency management² ➤ Signage² ➤ Labelling, safety data sheets and packaging
1 July 2007	Compliance required with emergency management conditions ² (fire extinguishers, response plans and secondary containment)
1 January 2008	Test certificates required for hazardous substance location ²
1 July 2008	Report required from test certifier for existing stationary bulk container systems Compliance required with conditions for: <ul style="list-style-type: none"> ➤ Labelling^{3,4} ➤ Safety data sheets ➤ Signage² ➤ Packaging
1 January 2009	Full 5 year approved handler test certificate required
1 July 2009	Test certificate required for existing stationary bulk container systems
31 December 2010	Product labels are compliant to this date if they comply with the labelling requirements of Europe, Australia, USA or Canada ⁴

1. A person with two years experience in handling hazardous substances can deem themselves as an approved handler to 31 December 2008.
2. Staged implementation provisions may not apply for approved handler test certificates, location test certificates, emergency management and signage if compliance is already required for a similar class of hazardous substance (see section 'If existing HSNO Provisions Apply').
3. Other than for substances that comply with the labelling requirements of Europe, Australia, USA or Canada.
4. A group standard condition proposes that a 4 year period be allowed for compliance with labelling, provided that the product labels comply with the regulatory requirements for labelling that apply in these countries. This provision will apply to new products as well as NOTS.

If Existing HSNO Provisions Apply

Where existing HSNO provisions apply for approved substances (e.g. dangerous goods transferred on 1 April 2004), then there will be no staged implementation for an approved handler test certificate, location test certificate, emergency management or signage if persons are already required to hold test certificates or have emergency management provisions and signage in place for the same class of substance. In this situation, compliance should have already been achieved. Therefore, full compliance for the NOTS is required by 1 January 2007. All other provisions for staged implementation (e.g. labelling, packaging etc) will apply as set out above. Full staged implementation (including for test certificates, emergency management and signage) will apply if **new classes** of substances are transferred as NOTS.

For example, a person who imports or manufacturers a class 3.1 flammable NOTS will not receive staged implementation for test certificates, emergency management or signage if they also store class 3.1 flammables that are already HSNO approved substances and for which they require test certificates, emergency management and signage. If, however, they are manufacturing or storing NOTS that are of a different class (e.g. class 5 oxidising substances), then staged implementation will apply as set out above, but only for that new class.

Further Information

Further details on staged implementation and general compliance requirements will be provided to notifiers in the lead-up to transfer. For other compliance information, you can contact the ERMA New Zealand Hazardous Substance Compliance Line, by:

Phone: 0800 376 234, or

Email dginfo@ermanz.govt.nz.