



**Transfer of  
Substances**

ENVIRONMENTAL RISK MANAGEMENT AUTHORITY  
NGĀ KAIWHAKATŪPATO WHAKARARU TAIAO



# **Summary of Submissions: Group Standards for Dyes and Pigments**

April 2006

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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 dyes and pigments. 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 11 group standards for dyes and pigments on 4 November 2005. Consultation closed on 16 December 2005. 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,<sup>1</sup> or a letter advising of the availability of these documents, were provided to 130 parties who were considered likely to have an interest in this consultation. This included companies who notified dyes and pigments 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.<sup>2</sup>

Eleven submissions were received, of which three submitters requested to be heard. The Agency met with these submitters separately on 2 March 2006, and as a result of these meetings two submitters withdrew their request for a hearing and one was non committal at the time of completing the summary of submissions.

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 is given at the start of the table.

The following commonly occurring points were made in the submissions.

- Certain notified products (NOTS) were placed in the wrong group standard and it was requested that they be moved to the correct group standard (see Section 1.2);
- The importance of providing information, tools or other assistance to aid industry classify products and assign them to the appropriate group standard, and to aid compliance activities undertaken by companies;
- Clarification around labelling and safety data sheets, particularly a concern that some conditions were not consistent with the hazardous substances regulations;
- Extending the 2010 alternative compliance measure for labelling to locally manufactured products;

Some submitters also made specific comments regarding certain aspects of the HSNO regime that did not have a direct bearing on the group standard proposals. These comments have been forwarded to the relevant groups within ERMA New Zealand.

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<sup>1</sup> Provided electronically on CD. No paper copies were distributed unless specifically requested.

<sup>2</sup> These documents remain available on the ERMA New Zealand web site:  
<http://www.ermanz.govt.nz/consultations/gd/dp.asp>.

This summary of submissions has been provided to all parties who made a submission on the dyes and pigment group standards, major notifiers of dyes and pigments and related materials<sup>3</sup> and to the Hearings Committee of the Authority.<sup>4</sup> It is also available from the ERMA New Zealand web site:

<http://www.ermanz.govt.nz/hs/groupstandards/standards/scc.html>. A copy will be provided to any other interested party on request. Contact:

Haromi Roberts  
ERMA New Zealand  
PO Box 131  
Wellington  
New Zealand

Phone +64 4 918 4871  
Email NOTS@ermanz.govt.nz and enter “Dyes and Pigments 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](mailto:NOTS@ermanz.govt.nz).<sup>5</sup> 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.

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<sup>3</sup> Notifiers with only a few NOTS have been advised by letter of the availability of this summary of submissions.

<sup>4</sup> 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.

<sup>5</sup> The template and process operate in such a way that requires notifiers to contact ERMA New Zealand. This is to safeguard data confidentiality.

### 1.3 Overlap of Consultation with Chemicals of Concern

The group standard proposals included a condition requiring notification to the Authority if a substance contains a Chemical of Concern. A separate consultation on the concept of developing a list of chemicals of concern was undertaken concurrently with the group standards consultation. Submissions received on the chemicals of concern provision of group standards are included in the summary of submissions from the Chemicals of Concern consultation. This summary of submissions will shortly be available from: <http://www.ermanz.govt.nz/hs/groupstandards/coc.asp>. As a result of this consultation, group standards will no longer contain a Chemicals of Concern notification condition.

### 1.4 Combining Group Standards

As group standards have been finalised following consultation, we have found it advantageous to combine or “roll-up” certain group standards by:

1. application type, and/or
2. hazard.

For dyes and pigments these have been combined with inks, paints and adhesives into a single set of group standards, and renamed as *Surface Coatings and Colourants Group Standards*. Similarly, the Class 3.1B and 3.1C flammable group standards have been combined.

Several submissions were received requesting that group standards be combined to reduce the number of standards industry would otherwise have to deal with. A preference for fewer group standards was confirmed in separate discussions with a number of industry sectors. We also recognised the advantages of rolling up group standards from a management and administrative perspective, provided that, in so doing, the combined group standards were no less user-friendly or the conditions any more or less onerous to comply with.

The rolling-up of group standards has been possible because of the template format on which they are based. Importantly, combining group standards has not meant that there are further requirements on a substance approved under that combined group standard than would have applied if the individual group standards were kept separate. It does, however, mean that, particularly where group standards have been rolled-up across hazard (such as 3.1B and 3.1C), for some conditions, various options are presented, and the relevant option has to be chosen depending on the hazard of the substance concerned.

Parties who read the original group standard proposals will also notice that the group standards have been reformatted to simplify the numbering scheme and to improve their readability and presentation. In addition, some editing and word-smithing has been carried out. Again, this reformatting and editing has not changed the requirements of any aspect of the group standard.

### 1.5 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.<sup>6</sup>

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<sup>6</sup> Group standards that were consulted on will be amended as indicated in Section 2.

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.

The Hearings Committee is scheduled to consider the group standards for Surface Coatings and Colourants on 25 May 2006. A notice of their decision will be placed on the ERMA New Zealand web site as soon as practicable after the consideration.

Because we have identified a need to undertake further consultation on key matters concerning group standard proposals, any decision of the Hearings Committee will only be an interim (provisional) decision at this time (see following section).

## 1.6 Further Consultation Required

### 1.6.1 New Conditions and Amendments to Conditions for Group Standards

Since the release of the original group standard proposals, there is a need for further consultation to:

1. address matters inadvertently omitted from some group standards, particularly with respect to tracking of the most toxic (Classes 6.1A and 6.1B) substances and the labelling of hazardous ingredients; and
2. seek further feedback on certain points raised by submitters from the initial consultation.

A copy of this consultation document is available from the ERMA New Zealand web site: <http://www.ermanz.govt.nz/consultations/gs/addgs.asp>.

### 1.6.2 Additional Group Standards for Surface Coatings and Colourants

A number of submissions from the consultation requested the creation of *additional* group standards with hazard combinations not covered by the existing group standard proposals. Consequently a further 14 group standards have been released for consultation (listed below). Consultation on these group standards closes on 1 June 2006. Refer: <http://www.ermanz.govt.nz/consultations/gs/addcoat.asp>.

- Hazardous Substances (Surface Coatings and Colourants, Flammable, Toxic [6.1, 6.7], Corrosive) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Flammable, Toxic [6.1], Corrosive) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Flammable, Toxic [6.1, 6.7]) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Flammable, Toxic [6.1]) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Toxic [6.1, 6.7], Corrosive, Combustible) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Toxic [6.1], Corrosive, Combustible) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Toxic [6.1, 6.7], Corrosive) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Toxic [6.1], Corrosive) Group Standard Notice 2006

- Hazardous Substances (Surface Coatings and Colourants, Toxic [6.1, 6.7], Combustible) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Toxic [6.1], Combustible) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Toxic [6.1, 6.7]) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Corrosive, Combustible, Toxic [6.7]) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Corrosive, Combustible) Group Standard Notice 2006
- Hazardous Substances (Surface Coatings and Colourants, Corrosive, Toxic [6.7]) Group Standard Notice 2006

As a consequence of undertaking further consultation, there will be a further consideration by the Hearings Committee to address these additional matters and give final approval to the group standards proposed. This consideration is scheduled for June 2006.

## **1.7 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 surface coatings and colourants, and other product types, 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.

## 2. Submitter's Comments and Agency Response and Recommendations

### Code to submitters

No.	Submitter
1	Abstel-Glyde Ltd
2	Ciba Speciality Chemicals NZ Ltd
3	Employers & Manufacturers' (N) Association Inc
4	Ministry of Health
5	3M New Zealand Ltd
6	Colour and Chemical
7	Dye-Chem (1989) NZ Ltd
8	Bayer New Zealand 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
<b>The classification of substances and assigning to group standards</b>			
<i>Assistance in self-classification</i>			
2	ERMA should make available practical and electronically capable decision making tools so as to assist industry with classification. Issues with aligning substances categorised in overseas jurisdictions e.g. EU has different minimum degrees of hazards.	ERMA New Zealand is aware of the need to provide the necessary information and tools to support the classification of substances by industry. Group standards are based on industry being able to assign their products to the appropriate group standard, and the necessary guidance and processes must be in place for this to occur.	No amendment required
2	Request the provision of an online inventory system that provides for matching substances with regulatory database in real-time (especially useful in non-hazardous determination). Current compliance cost for company estimates in excess of \$100,000	The provision of information and supporting tools will be a priority once group standards come into force and during the implementation period. For companies who would prefer not to self-classify or who wish to get confirmation from ERMA New Zealand of their self-classification, we will be offering a product classification service. This will be similar to the SOS process currently provided by ERMA New Zealand.	

Submitter	Submission	Agency response and recommendation	Group standards amended
<i>NOTS not allocated to group standards</i>			
2	ERMA New Zealand must be proactive in providing solutions to issue of 'missing' NOTS, e.g. mis-spelled NOTS and product modifications	Group Standards will (to our knowledge) cover the full scope of formulated NOTS and we have advised notifiers separately that where they are aware of 'missing' NOTS they must ensure that these NOTS are covered by the proposed group standards. Where 'missing NOTS' existed, we indicated to notifiers that we would write group standards to cover those NOTS.	No amendment required
6	Section 4.2.1 Consultation Doc puts onus on companies to assign product to a group standard. Concern NOTS not allocated to group standards will be illegal. ERMA states to the best of their ability they will place existing NOTS into group standards – Colour and Chemical feel original submissions were to best of ability – companies do not want to divulge intellectual property on such a small market.	<p>A major philosophy behind the 2005 “Macropatch” amendment to the HSNO Act was industry self-responsibility. This was to avoid companies having to come to ERMA for approval for new products. This philosophy applies to NOTS and group standards.</p> <p>All NOTS should be covered by at least one group standard. If a NOTS is not covered by an application specific group standard, (i.e. a group standard for surface coatings and colourants [which will include the dyes and pigments group standards consulted on – see Section 1.4]) then it will fall under the generic group standards that are being written to capture the “residual NOTS”.</p> <p>The requirement to provide a notification to ERMA prior to 2001 did not involve divulging intellectual property to a third party. Neither does the need for an industry to self classify and place their products in the appropriate application and hazard based group standard.</p>	No amendment required
<i>Other</i>			
5	Where do products that have been matched via the SOS process fall under and how will this information be conveyed?	Substances that have been matched to NOTS via the Status of Substance (SOS) process have been recorded in our database. Companies who made these SOS applications will be advised (post 1 July 2006) of the group standard under which their product is deemed HSNO approved.	No amendment required
3	Skin/eye irritants should fall under class 8 and all gases should be covered by class 2 only to align with GHS.	<p>The assigning of an irritancy hazard is set out in the HSNO (Classification) Regulations, which has been applied to classifications for group standards. Class 6 irritants are seen as having a reversible toxic effect, whereas class 8 corrosives have irreversible effects. Thus, HSNO has separated irritancy and corrosivity.</p> <p>Flammable gases are covered within class 2 in HSNO, as in GHS. Non-flammable gases are covered under other classes, depending on their hazardous properties. We have recently released group standard</p>	No amendment required

Submitter	Submission	Agency response and recommendation	Group standards amended
		proposals for flammable and non-flammable gases, covering a range of other hazards including toxicity and corrosivity. These are available at: <a href="http://www.ermanz.govt.nz/consultations/consult-gs.asp">http://www.ermanz.govt.nz/consultations/consult-gs.asp</a> .	
<b>The suite of Dyes and Pigments group standards</b>			
<i>Definition of Group Standard</i>			
3	Lack of definition for the dyes needs to be addressed within the group standard	ERMA New Zealand has worked with several companies to develop more comprehensive definitions of a dye and a pigment, and these are included in the additional group standards that have been released for consultation (see Section 1.6.2).	Yes
<i>Scope of Dyes and Pigments Group Standard</i>			
2	Separate Dyes and Pigments Group Standards	ERMA New Zealand's approach has been to consolidate group standards rather than separate them into more product specific applications. This is explained more fully in Section 1.4.	No
2	Adjust scope for flammable solids and other novel products	Separate group standards will be developed for flammable solids. See <a href="http://www.ermanz.govt.nz/consultations/gs/class4.asp">http://www.ermanz.govt.nz/consultations/gs/class4.asp</a> .	No
<b>Nomenclature and structure of group standards</b>			
<i>Product types to be, included or excluded, from adhesive group standards</i>			
5	Acknowledged that sealants are appropriate to include with adhesives.	Comment noted	No amendment required
5	Suggested that products identified as resins be moved to the polymer group standards when these become available.	The adhesive group standard is going to be broadened to include resins. These will become <i>Surface Coatings and Colourants</i> Group Standards (see Section 1.4).	No amendment required
<i>Nomenclature of group standards should be modified</i>			
2	Group standard titles should be reviewed. Scientific terms such as 'highly flammable' or 'carcinogenic' are not suitable for classification or sale. A numbered approach is suggested.	The Group Standards framework aims to be as user-friendly as possible. The title should quickly and clearly inform the user what the group standard covers (i.e. the application type and primary hazards). There is no requirement to use the group standard title for sale purposes, and it has no bearing on the classification of products that fall within a group standard. Nevertheless, and reflecting the concern expressed by a number of submitters over the use of the term "carcinogenicity", we will no	Yes – use 6.7 for carcinogenicity hazard

Submitter	Submission	Agency response and recommendation	Group standards amended
		longer use this term in group standard titles, but will instead address carcinogenicity by reference to the HSNO classification (i.e. 6.7). Hazard descriptors that align with the UN (i.e. flammable, toxic and corrosive) will continue to be used.	
<i>Structure of the group standards should be modified</i>			
1	Request for an index to each group standard to be included to allow easy identification of areas of interest.	The overall layout of group standards is being amended to be more in keeping with the layout and style of regulations. A Contents section will be included in each group standard.	Yes – contents section to be included
<i>Scope of group standards</i>			
6	Many products will be affected by narrow, rigid parameters of group standards	On the contrary, groups of notified products (NOTS) will be simultaneously transferred by the same HSNO approval, so group standards are far more efficient and flexible than the alternative individual transfer approach (under s.160A of the HSNO Act).  This flexibility is also expressed in the ability of companies to develop new products or change the composition of a product without the requirement to obtain a new approval from ERMA, provided that the new product fits within the scope of the group standard or an existing group standard.	No amendment required
<b>Interpretation</b>			
8	If a current product has an active which gives the product the following classification 6.6A, 6.7A, 6.8A and is replaced with a new product with a different active which gives the product only 6.8B classification, under this section would require a new application which may deter the change to a lower risk product.	This is incorrect. A product with a 6.6A, 6.7A, 6.8A would be deemed approved under the <i>Surface Coatings and Colourants (Carcinogenic) Group Standard</i> . If a component were replaced such that the classification was only a 6.8B, the product would be approved under the <i>Surface Coatings and Colourants (Subsidiary Hazard) Group Standard</i> . Group standards do not deter the development of lower risk products. [Note – the names of the ‘rolled-up’ group standards are used in this response. Refer section 1.4].	No amendment required
<b>Conditions for labelling</b>			
<i>Contact information required is excessive</i>			
3, 5, 8	The contact information (i.e. name, full address, phone No) and 24 hour emergency phone number requirements for labelling in the group standards are	This condition is based on the HSNO regulations, but had been made more stringent in a number of aspects. The condition will be amended to align exactly with the current regulatory requirements. Note the need for	Yes – amend to align with HSNO regulations

Submitter	Submission	Agency response and recommendation	Group standards amended
	excessive. These requirements are not in line with GHS intentions, nor are they required by the regulations. The requirement for a 24 hour emergency phone number would be more appropriately met by the NZ Poisons Centre.	a 24 hr emergency phone number is a requirement of the Emergency Management Regulations for certain hazard classifications.	
2	Remove additional NZ specific labelling.	New Zealand specific labelling is appropriate for products sold in New Zealand and available to the New Zealand public. To allow for progressive implementation and minimise compliance costs, a 4 year period is given to overseas products. This timeline will be applied to all products (locally manufactured and imported) provided that they comply with the labelling requirements in Europe, Australia, USA or Canada. Further consultation on this issue is being undertaken (c.f. Section 1.6.1).	No
6	Labelling Pictograms – have removed classes from TDG model. Concerned will cause complacency with higher hazard products, and more future regulation to manage risks	The group standard requirements allow the use of either GHS or TDG pictograms. We expect that where a TDG pictogram exists for a particular hazard classification (and this is for all the higher hazard categories) then this will be used in preference to the GHS one and this is the approach adopted in the draft NZCIC labelling code of practice. GHS pictograms are intended to be used with the corresponding signal words and hazard statements which then fully describe the applicable hazard of the substance.	No
<i>Hazard and precautionary statements</i>			
2	Request that internationally accepted symbols be included as accepted forms of alternative compliance, e.g. Xi, Xn and N.	The group standard does not need to specifically accommodate all types of labelling symbols, but does incorporate this aspect by allowing 4 year implementation period, and the use of code of practices as alternative compliance means.	No
4	Support the use of prescriptive statements on labels, e.g. 'keep out of reach of children', and supportive of contact details being on a label, especially from an enforcement point of view.	Support noted.	No amendment required
<i>Alternative compliance measures</i>			
3	Concern expressed that local manufacturers must comply with labelling regardless of 2010 clause.	The dates will be aligned so that all products (locally manufactured and imported) will receive the 2010 provision provided that they comply with the labelling requirements in Europe, Australia, USA or Canada. Further consultation on this issue is being undertaken (refer Section 1.6.1).	Yes, our current intention

<b>Submitter</b>	<b>Submission</b>	<b>Agency response and recommendation</b>	<b>Group standards amended</b>
2	Add the labelling requirements of Singapore as an alternative compliance measure for labelling	The conditions of the group standard already allow for alternative compliance by means of an approved code of practice. There is no need to cover all countries of origin.	No
2	Remove the rigidity of sunset clause in the alternative compliance measures for labelling	This clause will not be removed, but will be extended to locally manufactured products (see earlier).	No
3	Support the provision recognising the labelling and packaging of our major trading partners. However, believe the 2010 sunset clause should be reviewed for possible extension upon expiry to ensure implementation of GHS in overseas jurisdictions matches New Zealand. Want clearer statement within GS to this effect.	Support noted. The 2010 date has been set based on current expectations of when the GHS will be adopted internationally. A review based on any delay in implementation of GHS globally would only be contemplated in response to that circumstance occurring. The inclusion of a statement to this effect in the group standard is unnecessary.	No
5	Agree with alternative compliance for labelling of substances, i.e. aligned with overseas trading partners adopting GHS.	Support noted	No amendment required
3	Notification to ERMA New Zealand and National Poisons Centre should be allowed for as an alternative compliance measure to the New Zealand specific labelling conditions.	A label is the key means by which information is communicated to the user of a product. The proposed suggestion will not provide users with ready access to such information.	No
7	The EU/EEC labelling standards remain for 5 year period.	We have aligned the proposed date for compliance with labelling from Europe to 31 December 2010.	No
<i>Other</i>			
3	Believe substances assessed under REACH should be accepted automatically if captured under GS.	The basis of REACH is individual chemicals, rather than products as per HSNO. Group standards will be closed to new chemicals (not to be confused with formulated products) that are not on the proposed Inventory of Chemicals. It is proposed that new chemicals not on the inventory will require a separate approval from ERMA New Zealand. A separate consultation on this concept has been released (see Section 1.6.1).	No amendment required
2	Review phrase "where a substance is available to the public". A better phrase is "where a substance is sold to the public".	The label requirements required under this clause are intended to provide information to the public who have access to the substance. Sale is but one way in which members of the public may obtain access to a substance.	No
2	Remove label disposal information requirement.	Correct disposal methods are often not known by consumers and this information is important in the management of hazardous substances.	No

Submitter	Submission	Agency response and recommendation	Group standards amended
		The provision of disposal information is consistent with the requirements of the HSNO regulations, and also reflects current industry practice in many areas, particularly for consumer goods.	
<b>Conditions for safety data sheets</b>			
2	Change the need to supply an SDS from “likely to be used in a place of work” to “used in a place of work”.	The concept of “ <i>likely</i> ” reflects the current HSNO regulations, which state a safety data sheet is required if a person “... is <i>likely</i> to use the substance in a place of work”.	No
2	Mandatory data sheet clauses unnecessary as the HSE Act requirement for safety data in each workplace is adequate.	Safety Data Sheets are an important tool in communicating information on a substance to workers. ERMA believes this requirement to be complementary to the HSE Safety Data Sheet requirements. This also reflects international best practice.	No
2	Accept EU SDS's with a 24 hour NZ phone number.	The group standard requirements for safety data sheets are based on the NZCIC Code of Practice and the GHS. The proposal is standard requirement for 16 header SDS format, with the inclusion of NZ specific information, including NZ contact details and local regulatory requirements. These are appropriate for products used in New Zealand. Staged implementation gives a two year timeframe for compliance with the safety data sheet provisions of the group standard. The conditions also allow for alternative compliance by means of an approved code of practice.	No amendment required
3	HSNO approval number seen as unnecessary on SDS and irrelevant where the GS is stated.	The inclusion of local regulatory information on a safety data sheet is consistent with international best practice, the NZCIC Code of Practice for SDS, and the GHS. Providing information to show that a substance is HSNO approved will assist compliance and enforcement initiatives. As a result of other submissions, the wording of the particular condition will be amended to allow for <i>either</i> the HSNO approval number or the name of the group standard to be provided on the SDS.	Yes – wording amended, but requirement for an indication of HSNO approval remains
2	Approve organisations that issue SDS.	It is not ERMA New Zealand’s role to approve organisations that issue safety data sheets, and neither is it within the bounds of a group standard to impose such a requirement. What is important is that SDS are prepared and are available in accordance with group standard requirements.	No amendment required
3	Disposal and handling conditions not compliant with GHS requirements. Conditions based on regulations	The disposal and handling conditions of the group standard are based on the HSNO regulations, which are designed to manage all levels of risk of	No

Submitter	Submission	Agency response and recommendation	Group standards amended
	designed to manage higher risk substances.	a hazardous substance. These conditions are non prescriptive and therefore allow a variety of means of compliance. The NZCIC is developing a code of practice to assist compliance with the HSNO requirements for disposal.	
5	Disagree with conditions in subsection 5.1.3 (5,a,iii) as this contradicts the current ID regulations..	The Safety Data Sheet requirements to provide contact details and an emergency contact are consistent with the requirements of regulations 39(3) and 39(4)(b) of the Hazardous Substances (Identification) Regulations, the NZCIC Code of Practice and the GHS provisions for safety data sheets.	No
<b>Conditions for advertising</b>			
3	Advertising section perceived as unworkable for business as it imposes unnecessary regulatory burden for no appreciable gain in risk prevention.	These conditions are based on the requirements of the HSNO (Identification) regulations. They also reflect the provisions of the previous Toxic Substances Regulations. We do not agree that providing information on the toxicity of a substance under the requirements of an advertising condition will not result in risk prevention.  Nonetheless, we acknowledge from other submissions that the workability of the current wording is problematic, and are currently reviewing the condition.	An advertising condition will remain, but the wording is currently under review
<b>Site and storage</b>			
1	Where a GS differs from HS (Class 1 to 5 controls) Regulations, including trigger quantities, these should be clearly stated at the front of the GS.	The site and storage conditions are an accurate reflection of the HSNO Class 1 to 5 Controls. There are no changes in trigger quantities or in the compliance requirements.	No
2	Further development required for Site and Storage documents, e.g. increasing scope of class 3 document to include flammable solids and aligning with Building Act and Fire Service requirements to reduce compliance costs; class 6, 8 and 9: improve occupational hygiene considerations, align with HSE Act to current codes of practice.	Separate site and storage documents will be prepared for other hazardous properties, including Class 4 flammable solids.  The group standard conditions do not need to incorporate a consolidated version of all legislative requirements that may apply at a site (for example HSE requirements).	No
6	Site and Storage. Conditions for HSNO 6.1E, 6.3A and 6.4A. Will there be a 10,000 kg restriction on the volume of these we can legally store at any time, before containment and emergency management conditions	Any substance with a 6.1E, 6.3A and 6.4A (and no other hazard classification) does not trigger any requirement for emergency management under the site and storage conditions (i.e. response plans, secondary containment and signage). Note that secondary containment	No

Submitter	Submission	Agency response and recommendation	Group standards amended
	apply?	applies only to liquids and pooling solids. It is unlikely that raw dyes and pigments that are solids will liquefy in a fire.	
<b>Conditions for packaging</b>			
2	Remove the need for permanent packaging markings – only relevant if the substance was sold directly to the Public	This is in essence the requirement specified in the group standard condition. Permanent marking of packaging containing a class 6.1 substance (other than a 6.1E) is not required when the substance as packaged is restricted to a place of work. The condition reflects the current requirement of the HSNO regulations.	No
<b>Notification to ERMA New Zealand</b>			
<i>Chemicals of Concern</i>			
3	Chemicals of concern should be kept as small as possible and based on substances with internationally recognised risks.	The list of Chemicals of Concern is limited, and is based on substances recognised internationally as having the potential to pose significant risk to human health and/or the environment.  Nevertheless, the chemicals of concern notification condition is no longer proceeding under the group standards framework. See also the summary of submissions from the Chemicals of Concern consultation (c.f. Section 1.3).	Yes – chemicals of concern being removed from GS
<i>Inventory of Chemicals</i>			
2	Uncomfortable with Inventory of Chemicals as it may threaten their Intellectual Property rights and provide an appeal process.	The Inventory of Chemicals will not result in any public disclosure of compositional information linked to a particular product, or to any company. It is appropriate that New Zealand is aware of new chemicals that may be introduced into the country. This is consistent with many other developed countries, including Australia, US and Europe.  It is recognised that further work is required on the process by which information on new chemicals should be reported to ERMA New Zealand, and we wish to work with industry in developing this process.	No
<b>Miscellaneous</b>			
1	There is no specific mention of the use of differential pressures or mechanical ventilation methods in controlling hazardous substances locations.	Electrical systems and equipment are included under provisions equivalent to regulation 59(1) of the Hazardous Substances (Classes 1 to 5 Controls) Regulations. Other systems are covered generically by the	No

Submitter	Submission	Agency response and recommendation	Group standards amended
		performance based provisions equivalent to regulations. 61, 63, 65 and 67.	
1	There is no mention of possible dust deflagrations in the control options for hazardous substances locations.	Dust is not a hazard under the HSNO legislation. It is legislated under the Health and Safety in the Employment Act.	No
1	What is the validity of AS/NZS60079.10.2004 where the coverage of AS/NZS2430.3 is inconclusive?	This standard is incorporated by reference into AS/NZS2430.3 and thus it is valid to use.	No
1	ASNZS2430.3 is too harsh for some indoor locations requiring ventilation.	Agree in principle to suggested solution. Use principles of AS/NZS60079.10.2004. AS/NZS2430.3.6 currently includes fume cupboards. AS/NZS2430.3.9 includes spray booths. Gazette Notice 35: Schedule 10, clause 29(4) is a new clause that also deals with flammable liquids in specific circumstances.	No
1	Use of certification by qualified personnel confirming the design and interlocks to assist in the issuing of a hazardous substances location certificate.	Use of AS/NZS60079.10.2004 enables the determination of hazardous atmosphere zones from first principles. This should be by appropriately trained persons. Agree in principle.	No
2	Adopt more meaningful purpose statements, e.g. practical application of HS controls; align with overseas trading partners; align implementation with EU REACH developments etc...	Group standards do not need to set out any Purpose Statement. Their purpose is to ensure that the risks of groups of hazardous substances are effectively managed in accordance with the HSNO Act.	No
2	Implement better accreditation systems for Approved Handlers and Test Certifiers, e.g. so the focus is for a suite of substances.	Comments noted. However, these are separate issues to the development of the group standards framework. Your comments have been passed on to the relevant groups within ERMA New Zealand.	No
2	Align competencies with a NZQA qualification.		
2	Note the lack of competency on ERMA New Zealand's list of recommended consultants.		
2	Encourage the inclusion of Chemical Warfare Components (CRW) into appropriate GS – currently require importation permit as no lower threshold as yet specified.	This is not an area that group standards can address. The initial proposal to combine with the list of chemicals of concern is no longer an option as the chemicals of concern notification is no longer proceeding under the group standards framework (c.f. Section 1.3).	Not directly, but chemicals of concern condition being removed from GS.
2	Review effectiveness of notifying regulatory changes. Gazetted changes are an inadequate communication method.	For any group standard that is issued, amended or revoked, Part 6A of the HSNO Act requires that the Authority: <i>(a) publish the group standard, amendment, or revocation in a publication relevant to affected persons; and</i> <i>(b) make the group standard, amendment, or revocation available to be</i>	No amendment required

Submitter	Submission	Agency response and recommendation	Group standards amended
		<i>inspected free of charge and purchased at a reasonable price; and (c) give public notice of where the group standard, amendment, or revocation can be inspected or purchased</i>	
2	Jointly publish labelling requirements with LTSA, a NZ land transportation document.	This is an issue that should be addressed with respect to the provision of guidance material, rather than within the group standard itself. The group standard requires compliance with the Land Transport Rule 45001/1 (2005). NZS 5433 is shortly to be revised by Standards New Zealand and ERMA New Zealand will be involved in this process.	No amendment required
2	Ensure advertising only applies to direct supply to the Public.	The wording of the group standard condition for advertising is sufficiently clear in that it only applies to 'advertising to members of the public'. Nonetheless, we acknowledge from other submissions that the workability of the current wording is problematic, and are currently reviewing this condition.	Wording of condition currently under review.
4	Generally support the conditions specified and agree they are more user friendly	Support noted.	No
4	Seek clarification around the relationship of GS and existing legislation, especially with respect to the notification process of new substances.	Whilst the conditions of a group standard are based on the regulations, the conditions are the legal means by which compliance with a group standard will be measured. That is, the conditions stand in place of the HSNO regulations, unless the regulations are specifically referenced in the conditions.  In this case of the notification provision, this is a new condition that is not based on any HSNO regulation. It will only apply to substances deemed approved under a group standard that contain that provision. It does not apply to other approvals given under other parts of the Act (e.g. a Part V approval). If such a control were considered appropriate for a Part V approval, it would need to be specifically included in the approval at the time of that approval, or in the case of an existing approval by way of a section 77A amendment to the approval.	No amendment required
5	Require clarification when a new substance requires a Rapid Assessment. Understand that a raw material that did not alter the hazard of a substance would be defined as 'the same as'. Seek clarification where product modification reduces risk, i.e. moves from 3.1B to 3.1C.	If a 'new' substance (such as an existing substance that was reformulated) has the same hazard classification as the original product, then it is covered by the same group standard approval (presuming it is of the same application type and nothing else has been changed that would take it out side the scope of the group standard). Similarly, a product that is reformatted and the hazard profile is changed will also be covered by a	No amendment required

Submitter	Submission	Agency response and recommendation	Group standards amended
		<p>group standard if such a group standard exists.</p> <p>In situations where no group standard exists, a reformulated product may require a rapid assessment. The Act allows for the rapid assessment of a substance that has been formulated such that one or more of its hazardous properties has a lesser degree of hazard than any substance that has been approved under the Act.</p> <p>Further guidance will be provided once Group Standards are issued and the transfer of NOTS complete.</p>	
5	Support for the modification of the ecotoxicological controls in the group standards for non-pesticidal use substances	Support noted	No amendment required
8	Provide companies with a list of where ERMA has grouped all the companies substances prior to the consultation document being issued thus allowing companies to focus their efforts, with such a short consultation period.	ERMA New Zealand provided all notifiers with a list of their NOTS as soon as possible after group standard proposals were released for consultation. As the consultation document explained, the classification assigned to NOTS was not definitive and companies could move their NOTS from one group standard to another. This reassigning of NOTS can take place outside of the submission period (refer Section 1.2).	No amendment required
5	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	Support noted	No amendment required
6	R and S clauses are recognized globally – cost converting to HSNO is not recoverable	<p>R and S phrases are not recognised in all countries (e.g. USA). They are also not used within the GHS framework, upon which HSNO is based. Staged implementation will help to reduce compliance costs. Once group standards are in force, guidance will be provided to industry on the conversion of R and S phrases to HSNO classification. This conversion is currently contained in the NZCIC code of practice for labelling.</p> <p>The R and S phrases are from the EU, which has recently moved to adopt the GHS system into their REACH reforms of their hazardous substances management framework. Australia, which also currently uses R and S phrases, are at present revising their systems and are developing a new labelling code of practice, which uses exactly the same system of GHS labelling elements as proposed in the group standard Hazard and Precautionary Information document.</p>	No
6	General disclaimer statements referring to LTSA, etc typical of difficulties of small business navigating	Persons transporting hazardous substances must comply with the requirements of the Dangerous Goods Rule, regardless of whether those	No

Submitter	Submission	Agency response and recommendation	Group standards amended
	through complex legislation.	<p>requirements are re-specified within a group standard or not. When it comes to the transportation phase of the life-cycle of a substance, group standards essentially defer to the land transport rule.</p> <p>Including all aspects of other relevant legislation within a group standard is unnecessary, and would have resulted in a considerably larger and potentially more confusing document. One of the intents of group standards was to assist compliance by making the HSNO requirements more understandable and accessible, and, in support of the approach followed, other industries have indicated they find group standards easier to follow than the HSNO regulations. However, as noted earlier, the matter raised by the submitter could be addressed via the provision of guidance material on transportation, transit depots etc.</p>	
6	Short submission period means companies may have overlooked important points.	<p>We acknowledge the limited time industry has had to engage in a large number of group standard proposals. The statutory requirement of the Act for a 30 working day period of consultation has been followed in all cases. Unfortunately longer periods could not be provided as a matter of course due to the need to complete group standards and transfer NOTS on 1 July 2006. Where industry asked for an extension, this was assessed on a case-by-case basis, and in all instances, an extension provided. We have also indicated that we will accept on-going feedback from industry and other parties right up until the immediate deadline for a 1 July 2006 transfer.</p>	No amendment required
6	REACH in EU will result in job losses and an increase in compliance costs – concerns HSNO heading in the same direction	<p>ERMA New Zealand is aware of the importance of minimising compliance costs to industry. However the management of hazardous substances under the HSNO Act is a requirement that is outside the scope of the group standard proposals. This was a decision by Government and parliamentarians when the HSNO framework was established. Group standards incorporate a period of staged implementation, which will enable industry to plan and better manage change.</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 dyes, pigments and related 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.

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

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](mailto:dginfo@ermanz.govt.nz)