



**Transfer of
Substances**

ENVIRONMENTAL RISK MANAGEMENT AUTHORITY
NGĀ KAIWHAKATŪPATO WHAKARARU TAIAO



Summary of Submissions: Group Standard for Denatured Ethanol

June 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 a group standard for denatured ethanol. Group standards are a form of hazardous substances approval under Part 6A of the Hazardous Substances and New Organisms (HSNO) Act 1996.

ERMA New Zealand released for public consultation a group standard for denatured ethanol on 28 April 2006. Consultations closed on 12 June 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 proposed group standard, or a letter advising of the availability of these documents, was provided to approximately 100 parties who were considered likely to have an interest in this consultation. This included companies who notified denatured ethanol 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.¹

In addition to the above, ERMA New Zealand engaged a consultant to liaise directly with known manufacturers and distributors of denatured ethanol. This was done because of the limited time available for completion of this group standard, and aimed to identify and, where possible, resolve any significant issues with the standard at an early stage in the consultation process.

A total of seventeen companies or organisations were contacted directly by the consultant. In addition, two submissions were received, which included requests to be heard. The concerns of one submitter were addressed outside of a hearing, and the second submitter presented their submission at a hearing on 14 June 2006.

The comments made by the companies or organisations contacted directly by the consultant, and by the submitters, are summarised in Section 2, along with the Agency's response. Where the comment resulted in a change to the group standard proposal, this is indicated in the table. All of the organisations and the submitters are listed at the beginning of the table.

This summary of submissions has been provided to all parties who were contacted directly by the consultant or made a submission on the denatured ethanol group standard, major notifiers of denatured ethanol² and to the Hearings Committee of the Authority.³ It is also available from the ERMA New Zealand web site at <http://www.ermanz.govt.nz/hs/groupstandards/standards/etoh.html>. A copy will be provided to any other interested party on request.

¹ These documents remain available on the ERMA New Zealand web site: <http://www.ermanz.govt.nz/consultations/gs/etoh.asp>

² Notifiers with only a few NOTS have been advised by letter of the availability of this summary of submissions.

³ 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 “Denatured ethanol Summary of Submissions” in the subject line.

1.2 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.⁴

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 standard for denatured ethanol on **21 June 2006**. A notice of their decision will be placed on the ERMA New Zealand web site as soon as practicable after the consideration.

1.3 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 denatured ethanol 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.

⁴ Group standards that were consulted on will be amended as indicated in Section 2.

2. Submitter's Comments and Agency Response and Recommendations

List of submitters, and companies and organisations consulted

Anchor Ethanol Limited
 Polychem Marketing Limited
 APS Specialty Chemicals (NZ) Ltd
 Australasian Solvents and Chemicals Company Pty Ltd
 Kaneb Terminals Ltd
 TMK Packers Ltd
 Itochu New Zealand
 Amtrade New Zealand Ltd
 Damar Industries (Andrew Chemicals Division)
 Aperio Group
 Mainland Paint and Printing Ink Ltd
 NZ Chemical Industry Council
 Ministry of Health
 NZ Customs Service
 Pharmacy Guild of New Zealand (Inc)
 Transpacific Technical Services Ltd
 Redox Chemicals (Australia)
 HaS Expertise Ltd (submitter)
 3M New Zealand Limited (submitter)

Submission, or matter raised in consultation	Agency response and recommendation	Group standard amended
The list of denaturants		
1% regular or premium grade gasoline should be added to the list (refer Customs approved list)	This was not included in the NOTS database, but we understand it is intended for use in preparing petrol-ethanol blends for use as motor fuel.	Yes - add 1% petrol (unleaded) to the listed of denaturants.
How will new denatured ethanol, manufactured after 1 July 2006, be covered by the group standard? Subclause 4(4) limits the list	The primary focus of the group standard is to transfer existing NOTS. The list of denaturants specified is based on substances	No

of denaturants that can be used and also specifies the concentration levels. Does this mean any variations from the list would require a separate approval?	notified as at 1 July 2001. The group standard can be amended at a later date if new denaturants, or other concentration levels, are required. It should be noted that any new denaturant or change to a concentration would require Customs approval before it could be used in ethanol for sale in New Zealand.	
In addition to the above restrictions, subclause 4(5)(a) is very specific “must only be denatured with...”.	This simply reflects the restrictions previously applied in relation to methylated spirits intended for sale to the public.	No
Can more than one denaturant be used? This is sometimes required when customers are manufacturing consumer products to overseas specifications.	The use of any two of the listed denaturants would have no effect on the hazard classifications, so this restriction is unnecessary.	Yes – amend clause 4(4) to allow “one or more” of the listed denaturants
Restrictions applying to retail sale		
Can you please clarify what is intended by the restrictions on retail sale to the general public, in clause 4(5)?	This reflects the restrictions previously applied under the Toxic Substances Regulations 1983. The requirement may be better addressed by deleting reference to retail sale and providing guidance on ‘general public’.	Yes – delete the word ‘retail’ from clause 4(5)
Specification for methyl violet		
Some industrial grades of methyl violet can contain toxic impurities. Should this be more clearly specified in the group standard?	This point is acknowledged. However, the presence of toxic impurities is effectively controlled by (a) the restriction on hazard classifications in the standard, and (b) the concentration limit of 1.56 ppm.	No
Safety Data Sheet specifications		
<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</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</p>	Yes

be equivalent.	Zealand wishes to encourage compliance for all SDS on the 16 header format.	
Disposal		
Consideration must be given to the disposal of domestic quantities of denatured ethanol.	The clause that has been applied to other group standards for the disposal of household quantities of a substance will be applied to this group standard	No
Many industrial users purchase denatured alcohol in 200 litre drums and are required to dispose of the empty drums using approved "chemical" waste companies. The current disposal conditions are impractical for the user.	Once the user of a substance passes on the packaging to a third party, such as a waste collection company, the disposal conditions no longer apply to the user. It is the third party undertaking the final disposal of the packaging who must comply with the disposal condition. The NZCIC are developing a code of practice on disposal that will assist understanding of these requirements. ERMA New Zealand will also provide guidance following transfer.	No
Other matters noted by ERMA New Zealand		
The definition of Inventory of Chemicals is not required for this group standard	There is no provision for chemicals new to New Zealand to be covered under this group standard.	Yes - delete the definition from Schedule 3
Proposed reassessment of methylated spirits		
<p>The consultation document for this group standard included reference to the proposed reassessment of methylated spirits. The key points arising from the industry consultations on this matter were as follows:</p> <ul style="list-style-type: none"> i) The term methylated spirits is sometimes being used for ethanol denatured with chemicals other than methanol. This is confusing and should be clarified. ii) The ecotoxicity of methyl-iso-butyl ketone was raised as a possible concern if it is seen as an alternative denaturant. However the reasons for this concern are unclear as the hazard classifications for MIBK do not indicate any potential concerns in this respect. 		No action required in relation to the group standard. These points are simply noted here for future consideration in the reassessment process.

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 denatured ethanol 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.