



**Transfer of  
Substances**

ENVIRONMENTAL RISK MANAGEMENT AUTHORITY  
NGĀ KAIWHAKATŪPATO WHAKARARU TĀIAO



# **Summary of Submissions: Group Standards for Fire Fighting Chemicals**

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 fire fighting chemicals. 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 one group standard for fire fighting chemicals on 23 January 2006. Consultation closed on 6 March 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 standard, or a letter advising of the availability of these documents, was provided to 50 parties who were considered likely to have an interest in this consultation. This included companies who notified fire fighting chemicals 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>1</sup>

Four submissions were received, of which two submitters requested to be heard. Following further consultation with parties who requested a hearing, their points of concern were addressed, and no hearing was held.

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 fire fighting chemicals group standard, major notifiers of fire fighting chemicals<sup>2</sup> and to the Hearings Committee of the Authority.<sup>3</sup> It is also available from the ERMA New Zealand web site: <http://www.ermanz.govt.nz/consultations/gs/firefighting.asp>. 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](mailto:NOTS@ermanz.govt.nz) and enter "Fire Fighting Chemicals Summary of Submissions" in the subject line.

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

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

<sup>3</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.

## **1.2 Overlap of Consultation with Chemicals of Concern**

The group standard proposal 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. Copies of this summary of submissions will be provided to all submitters on the group standards.

## **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.<sup>4</sup>

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 fire fighting chemicals on 12 April 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).

## **1.4 Further Consultation Required**

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, such as 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 will be available in early April 2006 from <http://www.ermanz.govt.nz/consultations/consult-gs.asp>.

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.

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

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

## **1.5 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.

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	3M New Zealand Ltd
2	Department of Conservation Regional Fire Depot
3	National Rural Fire Authority
4	Wilbur-Ellis Co NZ Ltd

Submitter	Submission comment	Agency response and recommendation	Group standards amended
3	Classification will be critical as to whether or not it remains viable to continue with the use of certain fire fighting chemicals, given that the use is always under emergency situations that cannot be hindered by compliance requirements.	A subsidiary hazard group standard should place no additional requirements on a product to prevent use of a substance in an emergency situation over and above what the industry is already doing. After discussion with industry we understand the current practice is to have fully labelled products and safety data sheets on a fire appliance during an emergency response.	No amendment required
1	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 approved.	No amendment required
2	Definition of products allowed in the group standard is clear but believes definition should be repeated again under the Scope section	The product name will now be included under the scope clarifying exactly what products fit under the group standard.	Yes

<b>Submitter</b>	<b>Submission comment</b>	<b>Agency response and recommendation</b>	<b>Group standards amended</b>
1	The contact information (i.e. name, full address, phone No) and 24 hour emergency phone number requirements for labelling in the group standards are excessive to the requirements in the HS (Identification) Regulations. Contact details can be found in regional phone books.	This condition is based on the HSNO regulations, but has 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 a 24 hr emergency phone number is a requirement of the Emergency Management Regulations for certain hazard classifications.	Yes
1	Agree with alternative compliance for labelling of substances, i.e. aligned with overseas trading partners adopting GHS.	Support noted	No amendment required
1	Disagree with conditions in subsection 5.1.3 (5,a,iii) as this contradicts the current ID regulations.	The Safety data sheet requirement to provide full contact details and an emergency contact are consistent with the requirements of the Hazardous Substances (Identification) Regulations.	No
2,3	Found difficult to comment on specific conditions particularly transport and storage because did not have access to classifications. Also could not obtain them from suppliers because of difficulty in converting MSDS information into HSNO codes.	Information was provided to all notifiers regarding their classifications and the group standard. Information on products could not be provided to non-notifiers for data confidentiality reasons.	No
3	Rural fire agencies in NZ use only the USDA Forest Service approved fire chemicals; this approval requires a very strict assessment on toxicity and environmental effects. This approval further endorses that the product is safe to use.	Provided that these substances fit the scope of the group standard, they will also be approved under HSNO.	No
3	Appreciates liaison with ERMA to date regarding this subject, has been beneficial and wishes it to continue.	Support noted	No amendment required
1	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
1	Require clarification when a new substance requires a Rapid Assessment. Understand that a raw material that	We have provided a response to this in other summary of submissions. See for example the Summary of Submission	No amendment required

Submitter	Submission comment	Agency response and recommendation	Group standards amended
	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.	for Leather and Textiles.	
1	Support for the modification of the ecotoxicological controls in the group standards for non-pesticidal use substances	Support noted	No amendment required
3	More consideration needed on the maximum amount of a product allowed under the group standard.	There are no restrictions on the maximum amount of product allowed under the group standard. Substances will need to conform to requirements for site and storage including requirements for response plans, secondary containment and signage depending on the hazard classification and quantity of the product involved.	No
2	Think compliance costs will not necessarily be cheaper under the group standard approach, while there is greater guidance and user friendly language, the actual costs of applying these controls may not necessarily be cheaper, only easier from a process point of view.	The consultation document emphasised that the analysis of cost effectiveness was not a comprehensive assessment of the full costs associated with an approval.	No amendment required
2	With regard to notifying ERMA when importing a new chemical, agree concept is sound – a new substance needs notifying to assess its hazard potential to users and environment. In not doing so, there is a risk of dangerous chemicals being 'piggy backed' into the country under the guise of seemingly innocuous product.	Support noted	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 fire fighting chemicals 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@erманz.govt.nz](mailto:dginfo@erманz.govt.nz).