



**Transfer of
Substances**

ENVIRONMENTAL RISK MANAGEMENT AUTHORITY
NGĀ KAIWHAKATŪPATO WHAKARARU TĀIAO



Summary of Submissions: Group Standards for The Leather and Textiles Industry

April 2006

Prepared: 6 April 2006

File reference: TRFR-01-02-02-26-06

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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 the leather and textiles industry. 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 six group standards for the leather and textiles industry on 20 January 2006. Consultation closed on 3 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 standards,¹ or a letter advising of the availability of these documents, were provided to 59 parties who were considered likely to have an interest in this consultation. This included companies who notified leather and textiles 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.²

Two submissions were received, of which one submitter requested to be heard. Following further consultation with the party 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 leather and textiles industry group standards, major notifiers of leather and textile products³ and to the Hearings Committee of the Authority.⁴ It is also available from the ERMA New Zealand web site: <http://www.ermanz.govt.nz/consultations/gs/leather.asp>. A copy will be provided to any other interested party on request. Contact:

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ERMA New Zealand
PO Box 131
Wellington, New Zealand

Phone +64 4 918 4871
Email NOTS@ermanz.govt.nz and enter “The Leather and Textiles Industry Summary of Submissions” in the subject line.

¹ Provided electronically on CD. No paper copies were distributed unless specifically requested.

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

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

⁴ 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 Moving NOTS

Where a submitter requested that a NOTS be moved from one group standard to another, 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.

To assist notifiers reassign their NOTS, ERMA New Zealand has developed an excel template that can be accessed by emailing us at: NOTS@ermanız.govt.nz.⁵ 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.

1.3 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 the leather and textiles industry, the Class 3.1B and 3.1C flammable group standards have been combined.

From the consultation on other sets of group standards, 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.

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

1.4 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.⁶

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 the leather and textiles industry 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).

1.5 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, particularly with respect to tracking of the most toxic (Class 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 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.

1.6 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.

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

2. Submitter's Comments and Agency Response and Recommendations

Code to Submitters

No.	Submitter
1	Ministry of Health
2	3M New Zealand Ltd

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

Submitter	Submission comment	Agency response and recommendation	Group standards amended
The classification of substances and assigning to group standards			
2	Have new substances that have been matched via the SOS process been added to our listings and under what name and or number?	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
Conditions for labelling			
2	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. 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.	This proposed 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 – amend to align with HSNO regulations

Submitter	Submission comment	Agency response and recommendation	Group standards amended
1	Support for contact information (i.e. name, full address, phone No).	Support noted.	No amendment required
<i>Hazard and precautionary statements</i>			
1	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
Conditions for safety data sheets			
2	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 amendment required
Miscellaneous			
1	Generally support the conditions specified and agree they are more user friendly	Support noted.	No amendment required
1	Seek clarification around the relationship of GS and existing legislation, especially with respect to the notification process of new substances.	<p>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.</p> <p>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</p>	No amendment required

Submitter	Submission comment	Agency response and recommendation	Group standards amended
		existing approval by way of a section 77A amendment to the approval.	
2	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 or 6.1D to 6.1E.	<p>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 group standard if such a group standard exists. For example, a 3.1B leather without any other primary hazard that is reformulated to lower the flammability hazard of 3.1C (and not introduce any other primary hazard) will not require any approval from the Authority because a 3.1C leather and textiles 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 it's hazardous properties has a lesser degree of hazard than any substance that has been approved under the Act.</p>	No amendment required
2	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

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 the leather and textiles industry 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@erманz.govt.nz.