



**Transfer of
Substances**

ENVIRONMENTAL RISK MANAGEMENT AUTHORITY
NGĀ KAIWHAKATŪPATO WHAKARARU TAIAO



Summary of Submissions: Group Standards for Lubricants

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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 lubricants. 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 ten group standards for lubricants on 2 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,¹ or a letter advising of the availability of these documents, were provided to 135 parties who were considered likely to have an interest in this consultation. This included companies who notified lubricant 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.²

Fourteen submissions were received, of which one submitter requested a hearing. 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 start of the table.

This summary of submissions has been provided to all parties who made a submission on the lubricants group standards, major notifiers of lubricants and related materials³ 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/hs/groupstandards/lubricants.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 “Lubricants 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/lubricants.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.

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.

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.

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@ermanz.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.

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

1.3 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 for lubricants 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 lubricants, many of the group standards have been combined, so that the number of group standards currently sits at four (i.e. the 10 original proposals have been

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

consolidated into four group standards). How these group standards have been combined is illustrated schematically in Annex 1.

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 selected 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.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 lubricants on 4 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:

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

1. address matters inadvertently omitted from some group standards, particularly with respect to conditions for the 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 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 lubricants

At the time of the original consultation on the ten group standards for lubricants, a carcinogenicity (HSNO 6.7B) hazard was included in these group standards as a subsidiary hazard. This was in contrast to other group standards where carcinogenicity was treated as a primary hazard. This inconsistency has resulted in some confusion.

To maintain consistency, it has been necessary to separate out carcinogenicity and treat it as a primary hazard. This has resulted in the release for consultation of the following three additional group standards for lubricants:

1. Hazardous Substances (Lubricants, Flammable, Toxic [6.7]) Group Standard Notice 2006
2. Hazardous Substances (Lubricants, Combustible, Toxic [6.7]) Group Standard Notice 2006
3. Hazardous Substances (Lubricants, Toxic [6.7]) Group Standard Notice 2006

These group standard proposals are available from the ERMA New Zealand web site: <http://www.ermanz.govt.nz/consultations/gs/addlubricants.asp>.

These additional group standards include the new conditions and amendments to conditions discussed in Section 1.6.1.

As a consequence of undertaking further consultation, including on new group standards for lubricants, 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 mid 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 lubricants 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 2.

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	Infineum Australia Pty. Ltd
2	Shell New Zealand Limited
3	Colour & Chemicals (NZ) Ltd
4	BP Oil NZ Ltd
5	Gelita NZ Ltd
6	Afton Chemical Corporation
7	Mobil Oil New Zealand Ltd
8	Associated Octel Co. Ltd
9	Motor Trade Association
10	Klueber Lubrication Munchen KG
11	Associated Octel Co. Ltd
12	Ministry of Health
13	Union Chemicals
14	Harrison Manufacturing Co. Pty Ltd

Submitter	Submission	Agency response and recommendation	Group standards amended
The classification of substances and assigning to group standards			
<i>NOTS not allocated to group standards</i>			
3	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 lubricants) 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</p>	No amendment required

Submitter	Submission	Agency response and recommendation	Group standards amended
		appropriate application and hazard based group standard.	
13	Believe many of our lubricants have been missed by these GS reports. Can we assume ERMA is making GS for less hazardous lubricants? Can we be expected to comment on GS with little idea on what products will be subjected to proposed controls? Thus believe consultation should be kept open until notifiers can see where their NOTS have been classified.	ERMA will not be making group standards for less hazardous lubricants. If products do not have any of the hazards in the Least Degree of Hazard Lubricants group standard (not including hazards of a higher degree than those) then products will be not hazardous under HSNO. Product classifications which were circulated with the group standard reports are based on product data given to us by notifiers. If no such information was given then notifiers will need to check existing hazard data for their products and decide which group standard and conditions apply. As explained in the consultation document, NOTS can be moved between group standards (see also section 1.2 of this summary of submissions)	No amendment required
<i>Other</i>			
4	Classification of Base Oils as Toxic in Aquatic Environment incorrect – CONCAWE recommends no classification (supplies supporting documents)	Agree that highly-refined base oils are not toxic to aquatic organisms. Notifiers are advised not to apply the generic 9.1D classification as a default unless product data suggests otherwise. The 9.1D classification will still remain within the scope of the Least Degree of Hazard Lubricants group standard.	No amendment required
4	Trigger point for 6.1E (20.5cSt) does not mesh well with ISO standards. ISO regards VG22 products with KV40 19.8 – 24.2 as having no aspiration hazard. Suggest to lower to 19.5. BP Europe state that EU cut-off is still 7.0 cSt.	Chapter 3.10 of the GHS Classification and Labelling of Chemicals – Aspiration Hazard states an aspiration hazard at 20.5 cSt for hydrocarbon liquids. The HSNO regulations will be amended at some future date to reflect this. Note that this is for hydrocarbon liquids – the 6.1E classification may not apply for some synthetic lubricants with viscosity below 20.5 cSt.	No amendment required
5	Product classified as 6.4A, 9.1D; it should be non hazardous	Submitter responded to individually on this classification query.	No amendment required
The suite of lubricant group standards			
<i>New group standards are required to cover additional hazard combinations</i>			
13	Sufficient group standards must be created, of sufficient breadth, to allow necessary substances to exist.	To the best of our knowledge, group standards will be issued to cover all products that were notified (unless the product is deemed not to be suitable for inclusion in a group standard – http://www.ermanz.govt.nz/hs/groupstandards/individual.html – or is being transferred as a single component NOTS. New products may also be deemed HSNO approved under a group standard provided that they meet the scope of the group standard.	No amendment required
<i>Interpretation section of group standards</i>			
6	Annex 8 covers additives/packages for use in industrial and automotive lubricants, not sub-grouping of use categories	Original grouping of end-use has been rolled up into the definition “additives and additive packages designed for use in industrial and	Yes – included information in

Submitter	Submission	Agency response and recommendation	Group standards amended
	like automatic transmission, metalworking fluid additives. Is this stated elsewhere?	automotive lubricants”, as the hazards of each type of additive were identical regardless of the end use. The group standard will include common types of additives in the Explanatory Notes section. Further information on the rolling-up of group standards is provided in section 1.4.	Explanatory Notes.
1	Suggestions on scope description (explanatory notes) to better reflect lubricant additives use types	Lubricant additives scope description will remain, but we will include the information provided in the Explanatory Notes	Yes – included information in Explanatory Notes.
2	Need further explanation in description of highly refined mineral oils to include base oil groups I-IV, and possibly group V. Concerns that scope currently excludes groups III and IV (synthetics)	The group standard does not exclude non-mineral oil based products. The suggestions will be incorporated in the Interpretations section.	Yes – amended Interpretation and Explanatory Notes to show suggested definition
2	Aspiration hazard – first occurrence in HSNO documentation of an expressed concern of aspiration hazard. If to remain need to be clearer on numerical limit of that concern. Would be helpful to include aspiration hazard interpretation in the body of the text, rather than interpretations.	Group standards have provided a means to bring HSNO up to date with GHS classification thresholds. It is expected that the HSNO regulations will be amended at a later date. Chapter 3.10 of the GHS Classification and Labelling of Chemicals – Aspiration Hazard states an aspiration hazard at 20.5 cSt for hydrocarbon liquids. This has been incorporated into the group standards in the interpretation section (Schedule 3). The HSNO Classification Regulations will be amended to reflect this.	No
<i>Scope of group standards</i>			
3	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
1	Suggestion for inclusion of 6.8B within Lubricant additives group standard	At the time of consultation this classification was not included because of the limited number of notifications with this hazard. However, the “rolling-up” of group standards (refer Section 1.4) has resulted in new standards for the hazard combinations suggested by submitters.	Yes
10	Annex 8: Additives should also contain “target organ toxicity”	At the time of consultation this classification was not included because of the limited number of notifications with this hazard. However, the “rolling-up” of group standards (refer Section 1.4) has resulted in new standards for the hazard combinations suggested by submitters.	Yes
10	The coverage of group standards should be extended. They should include lubricating fluids, emulsions, waxes, pastes (not just metalworking) and dry lubricants	ERMA New Zealand’s intention is that these product types are included in the group standard. Further information will be provided in the Explanatory Notes.	Yes

Submitter	Submission	Agency response and recommendation	Group standards amended
10	All other group standards should have the same range of hazards as additives, as it is usually additives which drive the classification of a lubricant. Under normal use, lubricants would not come into contact with human body, therefore group standard (e.g. Greases) scope are too restrictive with their narrow range of hazards.	The “rolling-up” of group standards (refer Section 1.4) has resulted in new standards for the hazard combinations suggested by submitters. The Least Degree of Hazard lubricants group standard covers >90% of lubricants notified in NZ. A narrow scope was requested by industry in general, to discourage the use of unnecessarily hazardous products. A higher hazard Lubricants Subsidiary Hazard group standard has now been established. Group standards covering carcinogenicity hazards have also been developed and are currently out for consultation (see http://www.ermanz.govt.nz/consultations/gs/addlubricants.asp).	Yes – via the rolling up of group standards plus new standards to include a carcinogenicity hazard
13	ERMA has ignored subsidiary that would have caused the need for more group standards	The <i>Hazardous Substances (Hydraulic, Brake, Crankcase and Circulating Fluids, Medium Risk) and (Metalworking Fluids and Pastes, Medium Risk) Group Standard Notices 2006</i> covered most subsidiary hazards, but not all. These have been rolled up into a Lubricants, Subsidiary Hazard group standard (which also includes lubricant additives, coolants and anti-freeze agents), in which all subsidiary hazards are catered for in the scope (see Section 1.4).	Yes – via the rolling up of group standards
13	ERMA is using narrowly defined group standards as an easy option to transfer large amounts of NOTS, neglecting low volume hazardous specialties.	This may have been the perception initially, because group standards in the first round of consultation did cover high-volume product types. Subsequent group standards released for consultation have addressed more specific low volume product types. As noted earlier all NOTS should be covered by at least one group standard (unless the product is deemed not to be suitable for inclusion in a group standard – http://www.ermanz.govt.nz/hs/groupstandards/individual.html – or is being transferred as a single component NOTS). If a NOTS is not covered by an application specific group standard, (e.g. a group standard for lubricants) then it will fall under the generic group standards that are being written to capture the “residual NOTS”. These are the NOS (Not Otherwise Specified) group standards that are currently out for consultation; http://www.ermanz.govt.nz/consultations/gs/nos.asp .	No amendment required
2	Exclusions – need to look further at (2), which was taken straight from Regs. Should include “industrial machinery” as well as “vehicle, etc”. Emphasise that HSNO only comes under control when substance is being supplied, disposed of or stored.	Point noted. The conditions mirror the current HSNO Regulation provisions. Any change would only be driven through a change in the regulations. We will raise this matter to the attention of the Ministry for the Environment	No
Conditions for labelling			
<i>Information required on label</i>			
12	Greases: Clause 5.1.2.2(2) – suggest including “Keep out of reach of children” statement on label	Because of the rolling-up of group standards (see Section 1.4), the Grease group standard has now been consolidated into a Low Hazard group standard. The consolidated group standard will require the precautionary statement “Keep out of reach of children” on a product label	Yes – via the rolling up of group standards

Submitter	Submission	Agency response and recommendation	Group standards amended
		for any substance that is classified as 6.1E.	
2	Suggest exemptions from subsection 5.1.2.2 (1) (c) for small volumes <1L. Also note costs involved with over labelling large quantities of imported products as international numbers may not be accessible.	As a result of internal review, this condition has been amended so that the requirement for a 24 hour phone number is now only required for certain HSNO classifications, in accordance with the regulations. The group standard provides for a number of alternative compliance measures, including the HSNO Identification regulations, and approved codes of practice. Staged implementation also provided for 4 years before compliance is required with the labelling conditions if a product label complies with the labelling requirements of Europe, Australia, USA or Canada (see Annex 2).	No further amendment required
3	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
7	Change pack size limits on 5.1.2.3 – change 5 L to 10 L. 10 L packs are currently in use – benefits are reduced waste, more efficient to store and manage	A reason for this exemption was because of the practical limitations on the size of small containers. Such limitations do not exist for containers greater than 5 litres. Further, as the quantity of the material increases, it is appropriate that these label statements are provided.	No
1	Section 5.1.2.1 regarding labeling, has a section of duties of suppliers and he must not sell or supply a substance covered by this group standard to another person unless the substance is labeled. I understand this need to fix label applies to the local importer, and not the foreign exporter or supplier. Appreciate your confirmation.	It will be up to the original supplier or importer to ensure the labels comply with labelling conditions of the group standard. Effectively, whoever is responsible for the labels at present will need to ensure that the labels are compliant. If the material is repackaged by the importer (e.g. into smaller quantities for sale), then the importer will be responsible for ensuring the repackaged product is labelled in accord with the group standard conditions. As noted earlier, the group standard provides for a number of alternative compliance measures, including the HSNO Identification regulations, and approved codes of practice. Staged implementation also provided for 4 years before compliance is required with the labelling conditions if a product label complies with the labelling requirements of Europe, Australia, USA or Canada (see Annex 2).	No amendment required
<i>Alternative compliance measures</i>			
12	Will labelling conditions be applied to previously transferred substances not in group standards?	Generally no, although the labelling conditions themselves have not differed greatly from the HSNO regulations. What is different is the more prescriptive requirements via the use of pictograms, hazard and precautionary information statements supplied in the <i>Hazard and</i>	No amendment required

Submitter	Submission	Agency response and recommendation	Group standards amended
		<p><i>Precautionary Information for Group Standards.</i> This document could be used as a means of compliance for already transferred substances.</p> <p>If an already transferred substance, such as a dangerous good (e.g. a solvent), were to be placed under a group standard approval (i.e. one of the solvents group standards), then the labelling conditions of the group standard would apply to that substance.</p>	
Conditions for safety data sheets			
2	<p>Clause 5.1.3.2(b): amend text from “every person handling the substance has access to a safety data sheet for that substance” by using modified text of clause 12 &14 of HS&E “every person will have access to safety information and safety procedures in such a form and manner that the employee is reasonably likely to understand it”. SDS need to be part of integrated safety plan supported at this level in conjunction with HS&E. Each workplace has it’s own peculiarities and this needs to be acknowledged in the related legislation. Language of MSDS are intended for people with specialist knowledge and will be of little use to non-HSSE staff</p>	<p>The wording of the SDS condition provision has been amended slightly, and does now include a requirement that the information “be readily understandable by any fully trained worker required to have access to it”.</p> <p>The concept of a 16 header format SDS is aligned with the GHS and currently being adopted as international best practice. This does not preclude a SDS being part of an integrated HS&E package, and we believe that the HSNO requirement is complementary to obligations under the Health and Safety in Employment Act.</p>	No amendment required
13	<p>ERMA insisting on stating CAS Numbers of all ingredients on MSDS – would harm business in NZ to have this requirement, as too risky to publicise components. At very least CAS No. should be waived especially of low hazard.</p>	<p>The requirement to identify components on a SDS is adopted from the current HSNO Identification regulations. This is also consistent with the provisions to for SDS under GHS and the NZCIC Code of Practice for SDS. Staged implementation does provide for a 2 year transitional period for SDS.</p>	No
1	<p>Section 5.1.2 regarding Safety Data Sheet. I understand it is the local importer who needs to provide the SDS according to format in this section. Appreciate your confirmation.</p>	<p>The safety data sheet conditions place a requirement for a SDS to be available from a manufacturer or supplier when the substance is in a place of work. In practice an importer of a substance is likely to request that SDS from their overseas supplier. Alternatively, it will be the responsibility of that importer to provide a HSNO compliant SDS to any party when the substance is to be used in a place of work and when requested to do so.</p>	No amendment required
2	<p>Group Standards Paragraph 5.1.3 - Safety Data Sheets Is the intent of section (1) that a paper document is supplied or is it acceptable to provide a public internet link to a permanent website instead of a paper copy?</p>	<p>In a place of work, if an employee asks to view a SDS, the person in charge must be able to provide them with access to one. The intent is for an SDS to be available if requested – this could mean making them available electronically (e.g. on a website), or holding them on file in the workplace. A SDS is only required in a place of work.</p>	No amendment required
Conditions for Site and storage			
2	<p>Site & Storage: Haz Sub location for open containers – 20L. Change from Gazette – Schedule 6 which stated 50L.</p>	<p>The amendments made in the Dangerous Goods Gazette Notice were specific to petrol, aviation gasoline and racing gasoline, and not all 3.1A</p>	Clarification provided in the site and

Submitter	Submission	Agency response and recommendation	Group standards amended
	Cannot conceive 3.1A products being left in open containers – will evaporate. What is trying to be achieved here?	substances generally. The lubricants group standards to which the site and storage conditions apply do not include petrol, aviation gasoline and racing gasoline, and therefore the 20 litre quantity (which is taken from the HSNO Classes 1 to 5 regulations) is specified. We will amend the Site and Storage conditions document to make it clear that the document does not incorporate any amendments to trigger quantities that have been made for specific substances such as petrol.	storage conditions document
2	Activating hazardous atmosphere for 3.1A/B/C – 5L, 1L – impossible to police in domestic + trade situations. Classing hazardous atmosphere requirements for all 3 grades is in conflict with Table 1 where hazard classes are divided into 3 bands – given bands are separated by flashpoint it's conceived as counter-intuitive.	<p>The trigger quantities that activate hazardous atmosphere requirements and hazardous substance location/transit depot requirements are adopted directly from the Classes 1 to 5 Regulations. Whilst the point being made is valid, it is important that the site and storage conditions accurately mirror the current regulatory provisions. Otherwise, a dual system will exist causing confusion for users, with a resultant effect on compliance and difficulty for enforcement agencies.</p> <p>It is particularly important to maintain consistency with the regulations for situations where:</p> <ol style="list-style-type: none"> 1. a company may have on a site HSNO approved substances that are required to comply with the regulations (e.g. substances transferred as dangerous goods) and NOTS that will be required to comply with the conditions of a group standard; 2. an existing HSNO approved substance may also fit under the scope of a group standard, in which case the manufacturer or importer can elect whether they wish to comply with the regulations as per the original approval or the conditions of the group standard. 	No
2	Transit depots – legislation should be improved to include distinction between domestic & recreational use compared to transit depots and industrial sites	Point noted. For the reasons discussed above, the site and storage conditions are maintaining consistency with the HSNO regulations. This is an area where greater guidance should be given.	No
6	<p>Site and Storage for 6,8,9's: 7(1) – suggest amending to test every "category" of procedure on an annual basis – e.g. flammable incident, toxic incident, etc.</p> <p>Site and Storage for 6,8,9's: 9 (2A): suggest secondary containment requirement to be at 110% of largest container</p> <p>Site and Storage for 6,8,9's: 10 & 11: suggest dropping these and including in 12 – will make requirements simpler and requirements of making large container store for small packages makes these requirements moot</p>	<p>The provisions for emergency management are adopted directly from the Emergency Management Regulations. As noted above, it is important that the site and storage conditions maintain precise alignment with the existing regulatory requirements. The regulations are written to cater for varying situations where people may store substances in variable quantities (for example retail stores vs. industrial warehouses).</p> <p>An NZCIC code of practice is being developed for emergency management, which will provide guidance in these areas. This code is expected to be completed as a HSNO approved code by July 2006.</p>	No
6	Site and Storage for 6,8,9's: 16(2)(a) – would be impractical to put entire Emergency Response Plans on signs – consider focusing on hazard signs and emergency phone numbers only.	<p>This does not require the full emergency plan to be placed on a sign, but rather as suggested, emergency contact details etc.</p> <p>The NZCIC have developed a HSNO approved code of practice for signage which will give greater guidance.</p>	No

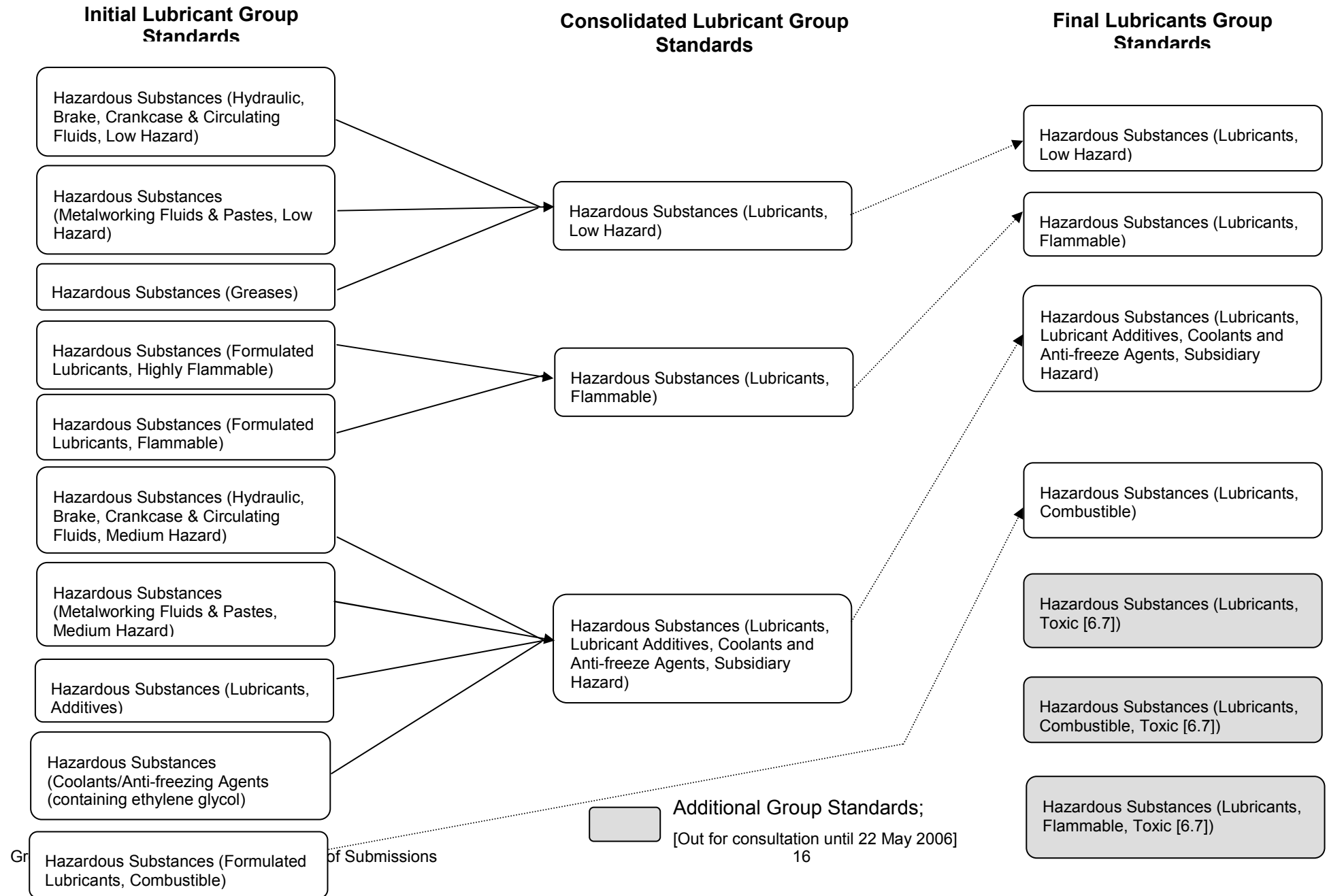
Submitter	Submission	Agency response and recommendation	Group standards amended
Conditions for Packaging			
14	Seek clause 5.4(3) of Grease GS be amended to exempt grease cartridges containing 0.8kg or less from the requirements that packaging must be child resistant. Grease most commonly sold in cartridges – there are no known child resistant cartridges commercially available. Also estimated 98% greases sold and used in industrial setting but impossible to know at time of packing which will be used in a household setting. Potential hazard on grease is low – this requirement not in other major jurisdictions	<p>The requirement for child resistant packaging has been amended such that it is now only required of substances that are acutely toxic (class 6.1) or corrosive. The previous irritancy trigger has been removed</p> <p>The measure of what constitutes a child resistant package is performance based, but effectively requires that a 80% of children aged from 42 to 51 months would be unable to gain access to the contents or obtain a toxic dose within a 5 minute period. Cartridges typically require the use of a device to dispense the substance (cartridge gun), which of itself effectively makes the cartridge child resistant.</p>	No
Conditions for Transport			
4	Passenger service Vehicles restrictions are impractical – significant impact on DIY lubricants. 1 L too low, restrictions impossible to enforce anyway. Suggest to move to 5 L.	ERMA New Zealand will review the current trigger quantities that have been set for carriage on a passenger service vehicle. This review will be undertaken after all group standards have been released for consultation, so that a consistent picture can be established across all product types. We will also provide guidance on what constitutes a passenger service vehicle.	Dependant on outcome of review
7	Passenger service vehicle requirements – change 1 L to 10 L. 1 L too small		
7	Grease GS – Passenger service vehicle restriction: change 3kg to 20kg. Commercial quantities are 18kg or 24x450g cartridges	<p>There are no restrictions on the carriage of 24x450gm cartridges on a passenger service vehicle as the group standard condition is on a per package basis, not total quantity (in this case 450gm). As noted above, however, the quantity limits will be reviewed.</p> <p>The restriction for carriage on a passenger service vehicle applies to when a substance is carried in the main (public) carriage of a vehicle, such that in the event of a spillage, there may be public in the immediate vicinity who might be exposed. The limits do not apply to a substance that is carried in the luggage compartment of a passenger service vehicle.</p>	Dependant on outcome of review
14	Seek quantity in clause 5.6.3(1)(b) to be increased to 20kg – provided they are not carried within the passenger compartment	The restriction for carriage on a passenger service vehicle applies to when a substance is carried in the main (public) carriage of a vehicle, such that in the event of a spillage, there may be public in the immediate vicinity who might be exposed. The limits do not apply to a substance that is carried in the luggage compartment of a passenger service vehicle.	No amendment required
Miscellaneous			
6	No evidence of a process where companies can make applications to keep some hazardous ingredients confidential. Some countries e.g. Canada accept full compositional info and toxicological info to authorities to avoid the need of displaying ingredients on MSDSs, etc.	This option is not included in the group standard framework, and neither is it included in the HSNO regulations. The group standard requirement to display ingredients on SDS is consistent with the provisions for SDS under GHS. Staged implementation does provide for a 2 year transitional period for SDS.	No

Submitter	Submission	Agency response and recommendation	Group standards amended
6	When is the group standard for fuel additives expected to be released?	Fuel Additives Group Standard was released 26 January, 2006. The consultation period has now closed.	No amendment required
9	Encourage ERMA to produce specific industry guidelines similar to those prepared for service station industry	Compliance and public awareness groups of ERMA will be working with specific industries to work on guidelines. We wish to involve industry associations and representative groups to assist in identifying the needs of the particular industry sector and how best to communicate to the target audience. In addition, we wish to encourage industry bodies to produce approved Codes of Practice to assist compliance.	No amendment required
9	MTA producing flow-charts for trigger quantities of flammable gases / liquids in their inventories. Being field tested at present – with a summary of outcomes being forwarded to ERMA on completion. Would appreciate consultation on these topics	We welcome such initiatives, and wish to be involved and contribute where possible. The development of compliance information (which is likely to take a variety of forms) will be important over the next 12 months.	No amendment required
9	Local authorities have their own interpretation of trigger quantities, leading to confusion in the industry	We acknowledge the difficulty that is caused with different interpretations of the regulatory requirements. When group standards are issued, ERMA will be providing guidance to assist compliance, providing industry and enforcement agencies with a clear understanding of how group standard conditions are to be applied.	No amendment required
9	Prefer later consultation to take place in the first quarter of the year, not last quarter.	Time constraints meant the first round had to go out prior to the Christmas break to avoid “bombarding” industry with Group Standards for 118,000 substances within 4-5 months in 2006. We acknowledge the difficult that this has placed on industry. Unfortunately, ERMA New Zealand is constrained by the legislative deadline for completion of the transfer programme, which is 1 July 2006.	No amendment required
3	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
3	General disclaimer statements referring to LTSA, etc typical of difficulties of small business navigating through complex legislation.	Persons transporting hazardous substances must comply with the requirements of the Dangerous Goods Rule, regardless of whether those 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	No

Submitter	Submission	Agency response and recommendation	Group standards amended
		<p>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>	
3	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
3	REACH in EU will result in job losses and increase compliance costs – concerns HSNO heading in 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
12	Will previously transferred substances used as lubricants be reclassified under these group standards?	<p>Companies would be free to apply the conditions of the group standard, and the approval of the group standard to previously transferred products. However, there will be no re-classification of substances by ERMA New Zealand. The HSNO classification given to a previously transferred substance should be used to determine whether the substance fits within the scope of the group standard and the conditions of the group standard that must be complied with.</p>	No amendment required
13	Consultation should remain open until all NOTS are allocated to Group Standards	<p>This was not a practical option if transfer is to be completed by the statutory timeline of 1 July 2006. Also, it would mean that industry would have been bombarded with all group standards simultaneously, with one final date for submissions.</p> <p>Nevertheless, although formal consultation periods have closed, we have continued to meet with industry groups and accept late submissions where requested.</p>	No amendment required

Submitter	Submission	Agency response and recommendation	Group standards amended
13	We have no way of knowing what group standards are proposed and what NOTS they will include and have little idea of the products they will encompass – used example of aircraft de-icing fluids in lubricants GS as an example	We agree that some products may be “mismatched” to the project but some products are extremely narrowly used and individual approvals for products like “aircraft de-icers” would be unfeasible. This has been minimised by ERMA new Zealand staff and industry working closely during the liaison and screening phase of the transfer project. It was unfortunate that in a very few cases, some industries did not wish to participate in the screening work.	No amendment required
13	Section 4.2.2 requires Part V approvals for substances that don't fit into Group Standards – costs will be the death knell for many existing products	Section 4.2.2 of the Consultation document refers to new substances – therefore it will be new substances which are significantly different (in relation to hazard) to existing products in NZ. As noted above, to the best of our knowledge, all NOTS should be covered by at least one group standard (unless the product is deemed not to be suitable for inclusion in a group standard – http://www.ermanz.govt.nz/hs/groupstandards/individual.html – or is being transferred as a single component NOTS).	No amendment required

Annex 1: The Consolidation of Group Standards for Lubricants



Annex 2: 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 lubricants 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.