



**Transfer of
Substances**

ENVIRONMENTAL RISK MANAGEMENT AUTHORITY
NGĀ KAIWHAKATŪPATO WHAKARARU TAIAO



Summary of Submissions: Group Standards for Solvents

April 2006

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Contents

1. INTRODUCTION	1
1.1 Background to the Consultation	1
1.2 Moving NOTS	2
1.3 Overlap of Consultation with Chemicals of Concern	2
1.4 Combining Group Standards	2
1.5 Approval of Group Standards	3
1.6 Further Consultation Required	3
1.7 Gazetting of Group Standards and Staged Implementation	4
2. SUBMITTER'S COMMENTS AND AGENCY RESPONSE AND RECOMMENDATIONS	5
ANNEX 1: STAGED IMPLEMENTATION FOR NOTS	8

1. Introduction

1.1 Background to the Consultation

This document reports on the submissions that were received on proposals to establish group standards for solvents. 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 five group standards for solvents on 30 January 2006. Consultation closed on 17 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 130 parties who were considered likely to have an interest in this consultation. This included companies who notified solvents 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

Four submissions were received, with none of the submitters requesting a hearing.

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 solvents group standards, major notifiers of solvents 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/standards/solvents.html>. 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 "Solvents 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/Solvents.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

When group standards were released for consultation, notifiers were given a list of their products notified under the Toxic Substances Act 1979 (NOTS) associated with each standard. If a NOTS had been incorrectly assigned by ERMA New Zealand to a specific group standard, the notifier is able to reassign it to the appropriate group standard. If a notifier moves a NOTS from one group standard to another (or removes the NOTS from a group standard because they determine it to be non-hazardous) we asked in the consultation document for the notifier to advise us.

To assist notifiers reassign their NOTS, ERMA New Zealand has developed an excel template that can be accessed by emailing us at: NOTS@erманz.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 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.erманz.govt.nz/hs/groupstandards/coc.asp>. As a result of this consultation, group standards for solvents 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 solvents, 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

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

presented, and the relevant option has to be chosen depending on the hazard of the substance concerned.

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

1.5 Approval of Group Standards

The Hearings Committee of the Authority is responsible for considering and approving group standards. Copies of amended group standards will be provided to the Committee for consideration.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 solvents 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:

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 Solvents

At the time of the original consultation on the five group standards for solvents, 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.

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

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 solvents:

1. Hazardous Substances (Solvents, Flammable, Toxic [6.7]) Group Standard Notice 2006
2. Hazardous Substances (Solvents, Combustible, Toxic [6.7]) Group Standard Notice 2006
3. Hazardous Substances (Solvents, 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/addsolvents.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, 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 solvents and other product types, is available from: <http://www.ermanz.govt.nz/hs/groupstandards/list.html>.

Coinciding with the transfer of NOTS will be the commencement of a period of staged implementation. The details of staged implementation are given in Annex 1.

After 1 July 2006, ERMA New Zealand will write to all notifiers with a list of their NOTS that are deemed approved under group standards and the HSNO approval number for each group standard.

2. Submitter's Comments and Agency Response and Recommendations

Code to submitters

No.	Submitter
1	Altex Coating Ltd
2	Australasian Solvents & Chemicals Company Pty Ltd
3	Shell New Zealand Ltd
4	Anchor Ethanol

Submitter	Submission	Agency response and recommendation	Group standards amended
The suite of Solvents group standards			
1	Possible duplication of group standards for these products, as the scope of the group standards for paints also captures solvents.	<p>It is acknowledged that some products (including solvents) may be covered by more than one group standard. However, where this happens, there are no differences in the conditions that must be complied with.</p> <p>It is up to the industry concerned to determine under which group standard they wish the particular substance to be deemed HSNO approved. For example, a paint manufacturer may prefer to place a solvent they use as a raw material under the relevant surface coatings and colourants group standard, since this is where their finished products (i.e. paints) will also be approved under. In contrast, an importer of a solvent may prefer to use the relevant solvent group standard.</p>	No amendment required
Conditions for labelling			
2	The deadline for labels to come into effect is still 31 March 2006. A problem for this company is that most products they sell are still to be finalised – therefore the information on a label yet to be finalised, yet some products require HSNO compliant labels now. Labels are expensive – a new database	Solvents that were transferred as dangerous goods (Dangerous Goods and Scheduled Toxic Substances Transfer Notice, April 2004) are required to be fully compliant <u>now</u> with the labelling controls that were set on transfer. No extension of this date has been given.	No amendment required

Submitter	Submission	Agency response and recommendation	Group standards amended
	is required. Would like to see the labelling deadline pushed out until the group standards deadline, so only have to go through the process once.	<p>In contrast, formulated products that contain a solvent will have till 1 July 2008, and in some cases to 31 December 2101, before compliance with the labelling provisions of group standards is required (see Annex 1).</p> <p>There is no reason why a company should have to go through the labelling process twice. If a solvent transferred on 1 April 2004 has been labelled according to the controls set at the time, that label will also comply with the labelling conditions of the group standards.</p> <p>The staged implementation provisions for group standards will prevent a company who has a labelling obligation for a solvent transferred on 1 April 2004 from delaying labelling compliance through to 2008 or 2010. The labelling information described in the document <i>Hazard & Precautionary Information for Group Standards</i> can be used to prepare labels for transferred dangerous goods, as can the NZCIC Code of Practice.</p>	
Conditions for safety data sheets			
3	Information requirements for SDS – is the intention of this clause to ensure manufacturers/suppliers of such products have a process established to ensure that all end users can obtain an SDS from their manufacturer/supplier? Or to ensure manufacturer/supplier has capability to furnish an SDS at any time? If so, what is the future role of National Poisons Centre?	<p>The safety data sheet conditions place a requirement for a SDS to be available from a manufacturer or supplier when the solvent is being used in a place of work. For example, a company purchasing solvents from an importer must be given a copy of a SDS if they request one. Similarly, in a place of work, if an employee asks to view a SDS, their employer 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. For example, if a solvent (such as mineral turpentine) is being purchased from a retail outlet by a member of the public for domestic use, the retailer does not need to supply that person with a SDS.</p> <p>The information on a SDS must be presented under the 16 header format described in the group standard. This is consistent with the GHS and the NZCIC Code of Practice for SDS.</p> <p>The National Poisons Centre will continue to have an active role in providing advice on toxic substances, and being an important point of contact in an emergency situation.</p>	No amendment required

Submitter	Submission	Agency response and recommendation	Group standards amended
3	What is the timeframe for compliance with SDS requirements under each heading?	Under the staged implementation provisions for group standards, compliance with the SDS conditions is required by 1 July 2008 (see Annex 1).	No amendment required
Miscellaneous			
2	Agree with introduction of group standards as this will simplify process of grouping products and producing generic labels	Supported noted.	No amendment required
4	Concern of ERMA view that there is misuse of the term "Methylated Spirits". This term has evolved to mean all denatured ethyl alcohol rather than just ethyl alcohol denatured with methanol. We hope our SDS differentiation between Methylated Spirits (ethyl alcohol denatured with Methanol only) and Denatured Ethyl Alcohol (includes other denaturants) will clarify this difference.	<p>Comment noted.</p> <p>As a result of revision to the proposals released for consultation, it is intended to exclude denatured ethanol (including methylated spirits) from the scope of the solvents group standard – this is discussed further as part of the additional consultation being undertaken; see http://www.ermanz.govt.nz/consultations/gs/addgs.asp.</p> <p>A separate group standard will be prepared specifically for denatured ethanol. This is expected to be released for consultation in late April 2006. This will provide greater clarity to the terms used for denatured ethanol.</p>	Exclude denatured ethanol from scope of the solvents group standards
4	Voice concern over addition of Bitrex to avoid mis-use of this product. We believe this is not necessary for the industrial market.	<p>As noted above, denatured ethanol is being excluded from the scope of the solvents group standards. A separate group standard will be prepared specifically for this substance, which will be released shortly for consultation.</p> <p>The adulteration of ethanol with bitrix to prevent deliberate mis-use will be addressed as part of that consultation.</p>	No amendment required

Annex 1: Staged Implementation for NOTS

All group standards will contain provisions for staged implementation. These provisions will apply to notified toxic substances (NOTS) that are transferred from the transitional provisions to the main framework of the HSNO Act. The purpose of staged implementation is to allow importers, manufacturers and users of solvents 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.