

**Summary of Submissions
from Consultation on
Inventory of Chemicals**

March 2007

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1. Introduction

1.1 Background to the Consultation

This document reports on the submissions that were received from the consultation on the Inventory of Chemicals.

The consultation document on the Inventory of Chemicals was released for consultation on 19 October 2006. Consultation closed on 1 December 2006.

The consultation documents, which set out the proposed policy and procedures for the New Zealand Inventory of Chemicals, or a letter advising of the availability of these documents, were provided to approximately 1100 parties who were considered likely to have an interest in this consultation. This included companies who notified 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.

Eighteen submissions were received. These submissions covered a range of issues. Comments on the consultation made by submitters, along with the Agency response, are summarised in Section 2.1.

This summary of submissions has been provided to all submitters. It is also available from the ERMA New Zealand web site <http://www.ermanz.govt.nz/hs/transfer/notes/html>. A copy will be provided to any other interested party on request.

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2. Submitter's Comments and Agency Response

SUBMITTERS

Ciba Speciality Chemicals NZ Ltd
Dow Chemical (Australia) Ltd
Infinuem Australia Pty Ltd
RohMax Additives GmbH
American Chemistry Council
GNS Science
Mobil Oil New Zealand Limited
Huntsman Corporation Australia Pty Ltd
General Electric Plastics (Australia) Pty Ltd
Reckitt Benckiser
Nuplex Industries Ltd
Interchem Agencies Limited
Agcarm
HSNO Working Group
3M New Zealand Limited
Union Chemicals limited
DuPont
New Zealand Chemical Industry Council

2.1 SUMMARISED SUBMISSIONS AND ERMA RESPONSES

Do you have any components in your current products that aren't on the interim inventory? If yes, what are they?

46 new listings for the inventory were notified through the submission process. 21 for the public inventory and 25 for confidential listing.

Other than through the submissions process 12 new listings have been received since 1 July 2006.

Submitters request a reasonable amount of time, both now and in the future, to review their products and notify the Inventory.

Submitters Suggestion: Extension of the 'amnesty' period.

ERMA response: ERMA New Zealand will accept notifications for the inventory for components of substances notified under the Toxic Substances Act (NOTS) without hazard data up to 1 July 2008.

Information required for notification of new chemical components from NOTS.

NOTS number	Substance/Product Name	New chemical component name	CAS number

Do you see a need for a confidential section of the inventory? If yes, why?

Although a small number of submissions decried the need for a confidential section within the inventory the majority of responses viewed this as desirable. The public disclosure of chemical components is potentially detrimental to the intellectual property and commercial advantage of companies and international companies may be forced to limit their role within NZ to protect themselves. It was also expressed that public disclosure of all chemical information in NZ would be out of line with international practice and would negate the confidentiality practices of other nations.

Submitters Suggestion: ERMA establishes a public Inventory and a confidential (non-public) Inventory. Generic nomenclature for chemical substances should be allowed. ERMA should recognise confidential listings on other international inventories without justification.

ERMA response: ERMA New Zealand acknowledges the need for a confidential section of the NZIoC and will develop a procedure for notification of confidential listings.

All information received by ERMA, on the notification form for non confidential listings, except the chemical name and CAS number will also be treated as confidential information. The listing of a chemical on the Inventory does not disclose any information on a product that it may be a component of.

Where new chemical components have confidential listings on other international listings ERMA New Zealand will recognise the confidentiality of these listings.

What would be an appropriate length of time for confidential listing?

Suggested timelines for listings remaining confidential varied, ranging from a short, defined term to an unlimited one. However, most submissions preferred a 5 year term, followed by a review, in line with the already established Australian practices.

ERMA response: Confidential listings will be reviewed every 5 years in line with current Australian practices as this was the favoured option of submitters. Confidential listings will also be assessed in view of confidential listings on other international inventories.

Concept of Inventory

The current ERMA approach to an inventory is unnecessarily complicated and out of line with international practices including GHS. The existence of a chemical inventory parallel to a product registration system can not be justified.

The true effectiveness of the Inventory has been questioned. Comments included, it is neither currently complete, nor is it ever likely to be as components, for various reasons, are not always publicly identified. However, as there are recognised benefits to having the list as accurate as possible submitters request a reasonable amount of time, both now and in the future, to review their products and notify the Inventory.

Submitters Suggestion: The solution is for New Zealand to adopt and align with the inventories used by our major trading partners, such as the EU.

Instead of an inventory information could be supplied in response to a specific enquiry being gazetted by the Minister or ERMA. This would provide better more relevant up to date information.

ERMA response: As pointed out by submitter's, notifications under the TSA did not provide complete formulation data for all notified products. In the interest of maintaining a complete Inventory of Chemicals in New Zealand we are asking notifiers to check their products and tell us if there are components that are not on the Inventory. ERMA New Zealand does not have the legal power to make this mandatory as these were existing substances. As with all performance based legislation we are reliant on industry seeing the benefit in providing the requested information and doing what they think is right. Where components are a "trade secret" we will provide confidential listing to protect confidential business information.

ERMA New Zealand does not consider maintaining an Inventory as out of step with international best practice as many countries operate inventories. The New Zealand Inventory of Chemicals differs from many other international Inventories in that it is not a list of approved substances rather it is an information resource that allows industry to comply with the conditions placed on products approved under the group standards. It also allows the Government to know what chemicals are in the country.

Under the HSNO Act ERMA does not currently have the legal power to call for information. Any information gained this way would be voluntary.

Cut-off levels

Generally the suggested cut-off level (of 0.1%) is regarded as unreasonable due the problems it raises with identifying the individual chemicals in a product down to this level.

Submitters Suggestion: The cut off level is raised significantly.

Impurities, residuals and incidentally produced substances be exempt from notification.

Components above their respective hazard concentration cut-offs only require notification i.e. components contributing to the hazard of a product.

Chemical notification should not apply to the importation or manufacture of small quantities of chemicals – up to 100 kg per annum, provided that the introducer can give assurance that there is no unreasonable risk to human health or the environment.

Products used for R&D should be exempt.

ERMA response: Impurities, residuals and incidentally produced substances will be exempt from notification.

Products used for small scale research purposes are exempt under section 33 of the HSNO Act if they meet the requirements of section 33.

Cut-off levels for notification will be based on the respective hazard cut-off concentrations. The simple rule will be that if a component contributes to the hazard of a product then if the component is not on the inventory then it is required to be notified. For example, regulations require much of this information on the safety data sheet (SDS) at the same concentration as the hazard cut-off s for class 6 classifications.

Table 1 Comparison of Classification, Labeling and SDS cut-offs for class 6 substances

Hazard Category	Classification Cut-off (%)	Label Identification Cut-off (%) ^c	Safety Data Sheet Cut-off (%) ^c
6.5A	0.1	0.1 ^a	0.1
6.5B	0.1	0.1 ^a	0.1
6.6A	0.1	0.1	0.1
6.6B	1	1	1
6.7A	0.1	0.1	0.1
6.7B	0.1	1	0.1
6.8A	0.1	0.3	0.1
6.8B	0.1	3	0.1
6.8C	0.1	0.3	0.1
6.9A ^b	1.0	10	1
6.9B ^b	1.0	10	1

Notes:

- a. *The label warning for sensitizers between 0.1% and 1.0% (0.2% for gaseous respiratory sensitizers) may differ from the label warning for sensitizers \geq 1.0% (0.2%). In special case, identification may be required below the 0.1% level if a lower value has been used for classification.*
- b. *Applies to both single exposure and repeat exposure target organ systemic toxicants.*
- c. *The use of these concentration cut-offs can be subject to variation depending on the outcome of a substance specific risk assessment.*

Non Hazardous Chemicals

Concerns were raised about the consistency of ERMA policy and the overall accuracy of the proposed inventory in regard to the inclusion of hazardous and non-hazardous chemicals.

Submitters Suggestion: Non-hazardous chemicals should be included on the inventory, with a comment that they are non-hazardous.

Notification of non hazardous chemicals is not mandatory.

ERMA response: *The notification of non hazardous substances is not mandatory. The HSNO Act states; The purpose of this Act is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of **hazardous substances** and new organisms.*

While ERMA New Zealand can not legally require notification of non hazardous components submitters generally support the inclusion of non hazardous components on the Inventory, therefore, ERMA New Zealand will include non hazardous chemicals on the inventory if notified.

There are currently over 27000 chemicals listed on the inventory. However, only just over 8000 of these chemicals have been assessed. Of these roughly 2000 have been assessed and no data to indicate they are hazardous was found. That means there are nearly 20000 chemicals (which are only present in New Zealand as components in mixtures and therefore do not need separate HSNO approvals) on the Inventory for which we do not have any data and are therefore unable to say whether they are hazardous or non hazardous.

ERMA New Zealand acknowledge that it would be useful to industry to indicate which chemicals are non hazardous. Unfortunately ERMA New Zealand does not have the data to determine the hazardous nature of a large proportion of the Inventory and considers it would be misleading to indicate a non hazardous status for only the assessed chemicals.

Notification process

Minor points regarding the Notification Process have been raised. Clarification has been requested regarding such issues as upon whom the burden of notification falls and whether notification takes place before or after the importation of a product. It was also queried whether the notifier will receive notification of acceptance on the inventory prior to quarterly updates and, if so, the length of time this would take.

The duration of notification to the inventory is conflicting with the provisions of the Group Standard. Importers and manufacturers can bring in products compliant with Group Standards by self-assessment. However, they cannot import it if one or more of components of the products are not on the inventory list, thereby requiring notification. The priority of notification need over Group Standard compliance is not clearly detailed in the consultation document

Submitters Suggestion: Notification could be simplified by a web-based system whereby companies could (a) quickly check the inventory (b) make an application for listing a new chemical.

Allow overseas manufacturers to submit on behalf of their local importers without involving the importer in the notification process.

ERMA response:

The group standard condition requiring notification for the Inventory states that; the importer or manufacturer of the substance must at the time they first import or manufacture the substance, notify the Authority in writing.

The notifier will receive a letter confirming receipt of their notification within 15 working days of ERMA New Zealand receiving the notification. There are no acceptance criteria for notification for the Inventory. Notifications will be added to the Inventory subject to verification of the CAS number. The new chemical component name supplied with the notification will also be added to the synonyms subject to verification that it is commonly associated with the notified CAS number. If there are any issues with the verification the notifier will be contacted and a resolution agreed upon. The group standard condition is fulfilled upon notification and verification is not required before the product can be assigned and approved under the appropriate group standard. Neither does the new chemical component need to

appear on the "official" Inventory before the new substance can be imported or manufactured.

Development of a searchable web based database is currently underway. The search will be based on CAS number with limited searching available on chemical names. The design includes the ability to then directly make an application for listing a new chemical component by emailing in the completed form. Note that notifications also require the submission of hazard data on the new chemical component.

Synonyms

Submitters Suggestion: That the substance name submitted in the notification form is included on the inventory.

ERMA response: The substance name on the notification form is the product name. It is not the intention of the Inventory to identify what products are associated with a chemical component and in most cases this would be considered confidential information and notifiers would not want this information made public.

The official Inventory name will be the CAS index name. Where the name of the new chemical component notified is verified as a name commonly associated with the CAS number this name will be added to the synonyms.

Definitions

Current ERMA terminology causes confusion due to a lack of firm definitions, inconsistent application of definitions and the use of definitions that differ from internationally recognised standards.

Submitters Suggestion: Associated with the inventory should be a definition of terms.

ERMA should use definitions for chemical substances that are commonly used in other countries with Inventories.

Terms requiring definition include;

- product
- chemical
- substance
- hazardous chemical
- hazardous chemical component
- hazardous substance
- non hazardous chemical
- non hazardous chemical component
- non hazardous substance
- single component product
- CMR
- hazardous property reasons

ERMA response: The final inventory documentation will include definitions of terms used. ERMA New Zealand will also endeavour to be more consistent with the terms used in the Inventory documentation

Chemicals with no CAS number

There should not be a requirement that all chemicals on the Inventory have a designated CAS number.

Many chemicals have a generic family name and have other overseas regulatory registrations to identify them.

Submitters Suggestion: ERMA refers back to other regulatory agencies / registrations from overseas.

ERMA response: Any new chemical component that an importer or manufacture requires to be added to the Inventory can be notified whether it has a CAS number or not. Notifications without CAS numbers will need to provide a proper chemical name for the new chemical component.

Generic names are not considered by ERMA to be consistent with the purpose of the Inventory. Where generic names are preferred due to confidentiality reasons a listing on the confidential section of the inventory should be requested.

Contents of Inventory

Exactly what will constitute the contents of the Inventory is currently unclear and needs to be clarified. The inventory should not include impurities, by-products and articles.

ERMA response: Manufactured articles that contain a hazardous substance (other than an explosive substance) are not considered hazardous substances under the HSNO Act. Refer to the ERMA Information Sheet on Manufactured Articles. <http://www.ermanz.govt.nz/resources/publications/pdfs/ER-IS-11-1.pdf>

Impurities and by-products will not be included on the Inventory. Refer to the definition of chemical in the group standard.

AICS

Association with the AICS (Australian Inventory of Chemical Substances) will be beneficial with regard to the fact that its superior number of chemical listings will greatly enhance the thoroughness of the NZ inventory and would be beneficial to industry by easing the regulatory burden on determining the NZ inventory status. The relevance of using another nations listings was also questioned.

Submitters Suggestion: Include chemicals subsequently added to AICS into the NZ inventory as part of regular updates.

ERMA response: *The NZIoC is intended to be a list of chemicals and chemical components in New Zealand. The differences in content between the NZIoC and the AICS are continuing to be investigated.*

ERMA New Zealand is continuing to work with it's Australian counterparts in respect of the commonalities between AICS and the NZIoC with an eventual possible goal being the development of a single trans Tasman Inventory.

Single Component Products

Confusion surrounds the concept of a Single Component Substance, especially in relation to Group Standards. Perceptions are that the current definition will potentially have a detrimental effect on the activities of particular businesses within NZ as a Part V application is required to import a pure substance.

A result could be that companies could be limited to being importers of formulated products only.

Submitters Suggestion: ERMA runs a very good and extensive education programme to ensure that everyone fully understands what having a chemical on the Inventory of Chemicals list actually means.

The HSR Approval number needs to be listed on the Inventory.

Chemicals that are not approved need to be marked as such.

A clear definition of what ERMA means by single component is required

ERMA response: *The clause restricting the use of group standard approvals for new single component products has been signed off by the Authority and Gazetted. It is out of the scope of the current consultation to change this group standard condition. However, once a chemical component is added to the Inventory there is no restriction on the approval of the single component under a group standard.*

A link to the HSR approval numbers will be given on the Inventory and chemicals that are not individually approved will be marked as such.

As a result of this consultation process and the finalising of the Inventory policy and procedures document it is hoped that a clearer understanding of the Inventory Notification condition is gained by industry. ERMA New Zealand is currently writing a guidance document on self classification ("Assigning a hazardous substance to a group standard") which includes information on the Inventory notification condition. This will shortly be available on the ERMA website. Workshops are also planned for the near future where this document will be discussed.

The definition of single component used in the Inventory documentation means the same as the definition of chemical in the group standards.

"chemical" means any element or compound in its natural state or obtained by any production process, including any impurities and any additive necessary to preserve the stability of the chemical, but excluding any solvent which may be separated without affecting the stability of the chemical or change its composition.

Third Party Notification

For third party notification, will the same forms need to be completed as indicated in Appendix 1 of the consultation document?

Will the third party supplier be able to list the chemicals on public section for the NZ supplier?

3rd party may not always be agreeable to providing composition information. What will ERMA do then?

ERMA response: *Notification by a third will require completion of the same notification form.*

A third party supplier may make a listing on behalf of a New Zealand supplier as long as all the relevant information is supplied to ERMA New Zealand.

A confidential section of the Inventory will be in place which can be used if the third party considers the component to

be confidential business information. Notification of new component chemicals is a regulatory requirement that is similar to those of many other overseas regulators.

CMR's

The potential of new CMRs to be used in products in the future is unknown. Greater flexibility is requested.

A replacement CMR can only be notified if it has a lower hazard classification than the existing CMR. Does this preclude replacement with a substance that has the same classification? At times, replacement may be required by CMR of the same hazard classification through unexpected changes at the supplier / manufacturer's end, such as a discontinued product.

"Under a Group Standard approval a new CRM can only be added to the Inventory if (a) the new CRM is used to completely replace an existing CRM in the substance, and (b) the new CMR has a lower hazard classification than the existing CMR."

Under this rule an argument could be made to import or manufacture a 99% pure CMR without approval - i.e., once a CMR is on the inventory, there is no restriction on what concentration can be used in any other substance, other than that it cannot be 100%.

ERMA response: *The clause restricting the use of group standard approvals for new CMR products has been signed of by the Authority and Gazetted. It is out of the scope of the current consultation on the operation of the Inventory to change this group standard condition.*

Fees

It appears that an assessment needs to be made for each of the individual components of a substance. This is again another cost and administrative burden on industry. An assessment does not need to be made as notifying and listing the chemical does not mean that the chemical can be imported or used as a single substance. If the substance is to be imported or manufactured that a separate application can be made and an assessment made then. As the chemical is just being notified and listed there should be no fees attached to this process.

ERMA response: *ERMA New Zealand does not require the payment of any fees for notification for the Inventory unless the notifier can not provide any hazard data on the new chemical component. In this case ERMA New Zealand will require a fee to search for data on the notifiers behalf. The notifier has the ability to judge the new chemical component as non hazardous in which case notification for the inventory is not required.*

Under the Globally Harmonised System for Classification and Labelling of Chemicals (GHS), which is the classification system the HSNO regulations are based on, a mixture classification is based on either measured formulation data or the mixture rules developed under GHS which use the classification of the individual components to assign a overall classification for the mixture. For most products there is no formulation data and the classification of a mixture should therefore be based on the mixture rules. To do this information on the individual components is required. To assist with classification ERMA New Zealand has produced a document "Assigning a hazardous substance to a group standard" which will be available shortly. While ERMA New Zealand does not require full hazard information on all the components of a product a basic data set for new hazardous components is required under the Inventory notification condition.

Compliance

The effectiveness of compliance will be hampered by the fact that, for a number of reasons, not all the information regarding individual chemical components will be provided by the supplier. The voluntary nature of compliance will also hinder the effectiveness of the inventory.

Areas of concern include;

- the MSDS may not list all the individual chemical components in a substance
- low volume new chemistries may be barred from the New Zealand market because the margins generated from sales will be insufficient to justify the cost of market entry for overseas manufacturers

Submitters Suggestion: There is no penalty for not notifying a chemical for inclusion on the Chemical Inventory.

ERMA response: Where required an opportunity for third party notification is available. See section on third party notification.

The cut off levels for notification for the Inventory have been revised. Only components contributing to the hazard classification of a substance will be required to be notified. These cut off levels are in line with the requirements for identification of hazardous components on the safety data sheet (SDS).

ERMA New Zealand has had many enquiries from overseas companies seeking information on compliance with the Inventory notification condition. This indicates that they are willing to comply. Many overseas jurisdictions have much more stringent hazardous chemicals regulation than New Zealand which means that overseas companies are used to complying with such legislation. Notification is a legal requirement under group standards and is not voluntary. ERMA New Zealand is endeavouring to make this process as simple as possible in order to ensure a high level of compliance.

Accessing the Inventory

The interim inventory is difficult to use as text entries. Searchability and compatibility with corporate systems is necessary for efficient use by Industry.

It should be made clear that only the public part of the database is searchable by the public.

The inventory would be improved by also including further information rather than just YES/NO – e.g., Prohibited - there is a big difference between 'NO' and 'Prohibited'!

How are the items in the Inventory to be identified and categorised, particularly if they are an anonymous ingredient? Possible categories could be HSNO Approved, Prohibited, Non-HSNO, etc.

Is it anticipated chemical suppliers will lodge their information directly into the Inventory?

Who is to have access to the Inventory and under what circumstances?

Submitters Suggestion: The HSNO approval number should be included.

ERMA response: Development of a searchable web based database is currently underway. The search will be based on CAS number with limited searching available on chemical names. The design includes the ability to then directly make an application for listing a new chemical component by emailing in the completed form. Note that notifications also require the submission of hazard data on the new chemical component. A txt file will also be available.

The approval status of each entry will be clearly identified with links to the HSR approval where the substance has an individual approval.

Information will not be able to be lodged directly into the Inventory. Verification of the CAS number and names is required before a new listing is made. ERMA New Zealand has the ability to verify the information that may not be available to all notifiers. It is evident from the 900 CAS numbers removed from the Interim Inventory that there are many obsolete and incorrect CAS numbers being used.

The database containing the Inventory information will only contain CAS number, CAS name, any associated synonyms and approval status. This will be publicly available via the ERMA website. All other information supplied on the notification form will be stored in a confidential paper file. Only ERMA New Zealand staff will have access to the confidential information. Requests for information under the Official Information Act may require ERMA New Zealand to release information to other parties.

Additions to the Inventory

If the product contains a hazardous chemical(s) that is not on the Inventory, the current HSNO process for evaluation and review of the product should be in place. Once this review is completed by ERMA, the non-listed chemical(s) should be added to the inventory.

ERMA response: The New Zealand Inventory of Chemicals is not a list only of substances approved for use in New Zealand. It also includes components that may be used in formulated products that have approvals. The notification process is not designed to provide enough information for a new chemical component to be fully assessed and given an approval as this is not a requirement under the HSNO Act. The group standards are designed to manage the risks of the substances approved under them not to determine the hazards of the individual components of each product. Hazard information of the component is required for notification to show that the hazards associated with the new chemical component have been assessed by the notifier and have been taken into account when the product has been classified.

Exceptions

The example of cut off exceptions should be better explained using more everyday examples.

Is the description in the draft document of the fire fighting chemicals exclusion a listing of all the substances excluded for use, or just two examples of excluded substances?

ERMA response: *More everyday exceptions for the cut offs explanation will be supplied. An example is the substance CAS 2634-33-5, 1,2-Benzisothiazol-3(2H)-one (BIT), which is a sensitiser at concentrations as low as 0.05% compared to the standard cut off of 0.1%. The general rule is that if a component contributes to the hazard classification of the mixture then it is required to be notified. It will also be required to be on the safety data sheet (SDS).*

There are a few group standards that exclude the use of certain substances being used as components in products approved under the group standard. The two mentioned in the consultation document are only examples. A better explanation will be provided in the final documentation for the Inventory. The entries for these chemicals on the Inventory will be annotated to reflect the restrictions/exclusions.

Updates

The long time period between inventory updates hampers the potential benefits to inventory users. The inventory needs to be kept up to date continuously to avoid duplication of notification.

Submitters Suggestion: The Chemical Inventory database is run as a 'live' database.

ERMA response: *Verification of the new entries to the Inventory is required. It is not an effective use of time to check one notification at a time. Group standards have been in force since 1 July 2006 with the Inventory Notification condition in effect for substances new to New Zealand since then. So far ERMA has received notification of new chemical components. There has been no duplication of notifications.*

Acceptability of data

There appears to be no cognizance of the need to apply some checking procedure to the data that is entered into the Inventory.

Submitters Suggestion: Preparation of an appropriate protocol for the admissibility of information and covering both the information supplied by applicants and submitters, and that used by ERMA New Zealand in determining substance classifications and suchlike.

ERMA response *The New Zealand Inventory of Chemicals is not a list only of substances approved for use in New Zealand. It also includes components that may be used in formulated products that have approvals. The notification process is not designed to provide enough information for a new chemical component to be fully assessed, classified and given an approval. The group standards are designed to manage the risks of the substances approved under them not to determine the hazards of the individual components of each product. Hazard information of the component is required for notification to show that the hazards associated with the new chemical component have been assessed by the notifier and have been taken into account when the product has been classified. There are no criteria for acceptability of hazard data provided through the notification process.*

General Questions/ Comments

ERMA New Zealand has a one off opportunity to avoid an unrealistic inventory and significant costs of compliance by adopting regulated chemical inventories already used in the EU.

ERMA response: *The NZIoC is intended to be a list of chemicals and chemical components in New Zealand. Unlike many of the international inventories the NZIoC is not a list of only approvals but contains chemicals that are components of products in New Zealand.*

The interim inventory is already in effect as of June 30, 2006. However, the interim inventory was created from Toxic Substances Act registrations, which were subsequently transferred to HSNO. This is completely inappropriate because information provided to MfE under the TSA were for a purpose completely different than for drafting an inventory. When Industry provided composition information under the TSA, in confidence, there was no indication that it would later be converted to an "inventory" and put on the internet.

ERMA response: *The Inventory only lists chemicals by CAS index name and CAS registry number. The Inventory does not link entries on the Inventory to any product or company therefore maintaining the confidential business information. CAS numbers are generally considered publicly available information. Components notified with no CAS numbers or identified as "trade secrets" do not appear on the inventory.*

While it is true that when the composition information was supplied under the TSA inclusion on the Inventory was not indicated ERMA New Zealand does not believe that any confidential information has been released in creating the Inventory of Chemicals. If you believe we have released confidential information please supply specific examples and we will investigate.

There must be adequate protection of confidential business information. Therefore, entries on the Inventory must have no linkages to:

- products of which they are components
- their uses per company or in general
- the company that nominated the chemical substance
- the particular hazard classification
- trade names.

ERMA response: *Of the information supplied by the notifier when notifying a new Chemical component for the Inventory only the CAS number and chemical name will be entered into the Inventory database. All other information supplied will be filed as a paper copy in our confidential file room. Only ERMA New Zealand staff with access to the confidential file will be able to access this information.*

There are a number of chemicals currently held under "exempt laboratory status" that are not on the interim inventory. We consider that it would be useful to ERMA NZ, local authorities, the Fire Service and the scientific community if at least some of these were added to the inventory. (A list of suggested additions was provided)

ERMA response: *It is not the intention of the HSNO Act for ERMA to manage substances used under section 33 of the Act. If the listed substances were added to the Inventory they could be used as components in formulated products where there was previously no use. Adding the substances listed would not necessarily be of benefit to local authorities or the fire service as there will be no records available on where these chemicals may be. Generally, the scientific community is covered by the section 33 exemption, therefore, having these chemicals on the Inventory would be of no benefit.*

We strongly support a simple, fast system for notification of new chemicals to avoid a significant increase in regulatory burden.

ERMA response: *Development of a searchable web based database is currently underway. The search will be based on CAS number with limited searching available on chemical names. The design includes the ability to then directly make an application for listing a new chemical component by emailing in the completed form. Note that notifications also require the submission of hazard data on the new chemical component.*

There is significant merit in having a Chemical Inventory so there is a list of all chemicals in New Zealand. However, this is a national resource and as such should be funded by central government and not particular industry groups. The chemicals used by industry are only used to give products the desired properties to meet consumer demands. Consequently they are of benefit to the wider community

ERMA response: *There are no fees associated with notification to the Inventory including a confidential section. ERMA New Zealand will maintain the Inventory from within its budget. Input from industry is required to the extent specified in the Notification condition of the group standards as ERMA does not have any other means to know what chemicals are in New Zealand. The introduction of Group Standards and self classification provides industry with the benefit of not having the costs associated with having to register individual products.*

I am concerned at the time it will take ERMA to get the searchable database up and running. The existing text file list is not very user friendly. Some urgency needs to be attached to this project so the functionality is there BEFORE the requirement to list chemicals comes into force.

Recommendation: That searchable database be up and running within three months.

ERMA response: *Development of a searchable web based database is currently underway. The search will be based on CAS number with limited searching available on chemical names. The design includes the ability to then directly make an application for listing a new chemical component by emailing in the completed form. Note that notifications also require the submission of hazard data on the new chemical component*

The requirement to notify new chemical components is already a condition of using a group standard approval for new products. This requirement came into force on 1 July 2006. The searchable database is planned to be completed by July 2007 and the Interim Inventory was updated to include a more user friendly excel spreadsheet 9 February 2007 and an official notification form included. The searchable database is being developed to be incorporated with the hazard classifications database which is undergoing a complete redesign before it is made publicly available. Having this information linked will provide more flexibility in the information available when doing an inventory search. The extra time involved in this functionality will be of significant benefit to industry once completed.

New Zealand is made up a very large number of small industries, the vast majority of which operate in a safe manner and support in principle the thrust of HSNO in providing information on using chemicals safely. However, the level of expertise that appears to be required to comply with HSNO/ ERMA is such that it is not readily available to many of the these small businesses. There is also, in my view, only a minimal understanding of HSNO across industry and, given the size of industries in NZ, no easy way to remedy this. If the government want HSNO to work then it must fund ERMA to a sufficient level to enable ERMA to undertake this work at no or very little cost to industry and not try and push all the cost onto industry. At the end of the day industrial activity is of benefit to all New Zealanders as it provides employment as well as products that are used by everyone.

ERMA response: *ERMA New Zealand is in the process of seeking extra funding for compliance related activities including raising HSNO awareness among SMEs and working with them to promote the relevant compliance requirements. ERMA New Zealand is currently working with a number of industries to develop codes of practice and guidance material specific to industry groups. ERMA New Zealand would be happy to engage with any industry interested in raising awareness or the HSNO requirements.*

Before and during the implementation of the HSNO, industry received guidance from numerous groups, including ERMA, the Ministry for the Environment (MfE) and the New Zealand Chemical Industry Council (NZCIC). That guidance was that even if companies were not sure whether their substance would apply to the Toxic Substance Act (TSA), they should notify everything under TSA because then those substances would be acceptable for HSNO and future transfer. Industry was also told it only needed to include the composition on the MSDS; there was no provision or reason to disclose substances not on the MSDS. But now there is concern that companies may be at risk by having to nominate many substances under this guidance and that ERMA may interpret this to mean that industry has been less than compliant in the past.

ERMA response: *ERMA New Zealand accepts that notifications under the TSA did not necessarily include full composition details and there is no issue of non compliance in these cases. There is no requirement for existing substances (present in NZ before 1 July 2006) to meet the Inventory notification condition of the group standards. Industry need to be aware that any new substance(one entering NZ after 31 June 2006) needs to meet the notification for the Inventory condition when using a group standard approval even if it is exactly the same as an existing substance.*

New Zealand hazard classifications are different to most other countries and this makes it difficult to identify what is possibly hazardous in New Zealand.

ERMA response: *ERMA New Zealand acknowledges that there is currently no globally consistent classification of substances. However, the Globally Harmonised System of Classification and Labelling of Chemicals (GHS) on which the New Zealand HSNO system is based is being adopted internationally at present with many countries intending to have it in place by 2008.*