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ERMA NEW ZEALAND

HAZARDOUS SUBSTANCES (DANGEROUS GOODS AND SCHEDULED TOXIC SUBSTANCES)(AMENDMENT) TRANSFER NOTICE 2004

PURSUANT TO THE HAZARDOUS SUBSTANCES
AND NEW ORGANISMS ACT 1996

Hazardous Substances and New Organisms Act 1996**Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Amendment Transfer Notice 2004**

Pursuant to section 160A of the Hazardous Substances and New Organisms Act 1996 (in this notice referred to as **the Act**), the Environmental Risk Management Authority gives the following notice.

1 Title

(1) This notice is the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) (Amendment) Transfer Notice 2004.

(2) In this Notice, the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 is called “the principal notice”.

2 Commencement

This notice comes into force on 1 October 2004.

3 Interpretation

In this notice, words and phrases shall have the meanings ascribed to them in the principal notice.

4 Changes to hazard classifications and other matters

The substances described in Schedule 1 are deemed to have the amended hazard classifications and other changes indicated in that Schedule.

5 Changes to controls

- (1) The controls set out in Schedule 3 to the principal notice (changes to controls relating to hazardous gases) are amended in the manner indicated in Schedule 2.
- (2) The controls set out in Schedule 5 to the principal notice (changes to controls relating to classes 3, 4 and 5 dangerous goods) are amended in the manner indicated in Schedule 3.
- (3) The controls set out in Schedule 6 to the principal notice (changes to controls relating to petrol and petroleum products) are amended in the manner indicated in Schedule 4.
- (4) The controls set out in Schedule 7 to the principal notice (changes to controls relating to scheduled toxic substances) are amended in the manner indicated in Schedule 5.

6 Other obligations and restrictions

- (1) The controls set out in Schedule 8 to the principal notice (controls for stationary container systems) are amended in the manner indicated in Schedule 6.
- (2) The controls set out in Schedule 9 to the principal notice (controls relating to secondary containment) are amended in the manner indicated in Schedule 7.

- (3) The controls set out in Schedule 10 to the principal notice (controls relating to the adverse effects of unintended ignition of class 2 and class 3.1 hazardous substances) are amended in the manner indicated in Schedule 8.
- (4) The controls set out in Schedule 11 to the principal notice (transitional controls and variations to controls) are amended in the manner indicated in Schedule 9.

Schedule 1**Amendments to Schedules 1 and 2 to the principal notice****Schedule 1, Table 2**

Insert, for the substance “oxygen”, after the number “1072” in the column headed “UN Number”, the number “1073”.

Schedule 1, Table 3

Omit, for the substance “ammonia, anhydrous”, the hazard classification “8.1A”.

Schedule 1, Table 5

Omit the hazard classifications specified in the column headed “hazard classification(s)” for the substances listed below and insert the hazard classifications specified below:

CAS #	Name	Classifications
100-97-0	1,3,5,7-Tetraazatricyclo[3.3.1.1(3,7)]decane	4.1.1B, 6.1D, 6.3B, 6.4A, 6.5A, 6.5B, 9.3C
108-10-1	2-Pentanone, 4-methyl-	3.1B, 6.1D, 6.3B, 6.4A, 9.3B
97-99-4	2-Furanmethanol, tetrahydro-	3.1D, 6.1D, 6.3B, 6.4A, 9.3C
103-11-7	2-Propenoic acid, 2-ethylhexyl ester	3.1D, 6.1E, 6.3A, 6.4A, 6.5B, 6.9A, 9.1C
95-47-6	Benzene, 1,2-dimethyl-	3.1B, 6.1D, 6.3A, 6.4A, 9.1D, 9.3C
76-22-2	Bicyclo[2.2.1]heptan-2-one, 1,7,7-trimethyl-	4.1.1B, 6.1D, 6.3B, 6.4A, 6.5B, 6.9B, 9.1B, 9.3C
	Butanol 5-60% + Butyl acetate 5-60% + Xylene 15-80%	3.1B, 6.1D, 6.3A, 6.4A, 6.8B, 6.9B, 9.1D, 9.3C
	Butanol 40-60% + Butyl acetate 40-60%	3.1B, 6.1D, 6.3A, 6.4A, 9.1D, 9.3C
10588-01-9	Chromic acid, disodium salt	5.1.1B, 6.1A, 6.5A, 6.5B, 6.6A, 6.7A, 6.8A, 6.9A, 8.2C, 8.3A, 9.1A, 9.2B, 9.3B
1333-82-0	Chromium oxide	5.1.1B, 6.1B, 6.5A, 6.5B, 6.6A, 6.7A, 6.8A, 6.9A, 8.1A, 8.2B, 8.3A, 9.1A, 9.2B, 9.3B
7789-12-0	Chromic acid, disodium salt, dihydrate	6.1A, 6.5A, 6.5B, 6.6A, 6.7A, 6.8A, 6.9A, 8.2C, 8.3A, 9.1A, 9.2B, 9.3A
	Methyl ethyl ketone 40-60% + toluene 40-60% + methyl isobutyl ketone 0-60%	3.1B, 6.1D, 6.3A, 6.4A, 6.8A, 6.9B, 9.1D, 9.3B
	Methyl ethyl ketone 10-50% + toluene 10-40% + xylene 10-65%	3.1B, 6.1D, 6.3A, 6.4A, 6.8A, 6.9B, 9.1D, 9.3C
9002-91-9	Metaldehyde (acetaldehyde homopolymer)	4.1.1B, 6.1B, 6.4A, 6.8B, 6.9B, 9.1B, 9.3B
1338-02-9	Naphthenic acids, copper salts (flammable solution; flashpoint 23-60°C)	3.1C, 6.1D, 6.3B, 6.4A, 6.9B, 9.1A, 9.2C, 9.3C
7697-37-2	Nitric acid, >70%, other than red fuming	5.1.1C, 6.1D, 6.9B, 8.1A, 8.2A, 8.3A, 9.1D
7697-37-2	Nitric acid, red fuming	5.1.1C, 6.1A, 6.9B, 8.1A, 8.2A, 8.3A, 9.1C
	Thermit welding powder, 75% iron oxide, 25% aluminium, PG II	4.1.1A, 6.3A, 6.4A, 6.9A, 9.1D, 9.3C
	Thermit welding powder, 75% iron oxide, 25% aluminium, PG III	4.1.1B, 6.3A, 6.4A, 6.9A, 9.1D, 9.3C

Omit, in the column headed “substance”, the references to “Formaldehyde, >35% aqueous solution with 7-10% methanol” and “Formaldehyde, >25% aqueous solution, containing not more than 5% methanol” and substitute the following descriptions:

“Formaldehyde, >37% aqueous solution with >10% methanol”

“Formaldehyde, >25% aqueous solution with \leq 10% methanol”.

Schedule 1, Table 6

Omit, for the substance “diesel fuel (automotive gas oil and marine diesel fuel)”, the number “1202” in the column headed “UN Number”.

Schedule 1, Table 6

Insert, for the substance “mineral turpentine”, the number “1300” in the column headed “UN Number”.

Schedule 1, Table 6

Omit, for the substance “low aromatic hydrocarbon solvents – medium flashpoint”, the temperatures “60°35°C” and substitute the temperature “60°C”.

Schedule 2

Insert, for the substance “Iodine (solid)”, the hazard classification “9.3C” after “9.1A”.

Schedule 2

Insert, for the substance “Naphthenic acids, copper salts”, the hazard classification “6.9B” after “6.4A”.

Regulation 95 This regulation applies to class 5.1.2A substances as if, in regulation 95(1)(c), the words “but excluding electrical equipment” were inserted after the words “ignition sources”.

This regulation applies to class 5.1.2 substances as if, regulation 95(1)(f) were omitted and the following substituted:

(f) the location is designed and managed so that any moisture or any vapour, gas, or particulate matter of class 5.1.1 or 5.1.2 substances does not present a hazard in respect of electrical equipment that may be present.

Regulation 98 This regulation applies for chlorine as if, in regulation 98(d), the number “100 kg” was omitted and the number “150 kg” substituted.

Control – Hazardous Substances (Identification) Regulations 2001

Regulation 4

After the word “refrigerant” at the end of the changes to controls for regulation 4, delete “.” and insert the words “except in the case of quantities of anhydrous ammonia in excess of 100 kg in which event the requirements of Part 2 of these regulations apply.”

New controls – Regulations 13 and 24

Insert, after the reference to regulation 4, the following new control:

Regulations 13 and 24 These regulations shall not apply to chlorine.

Control – Hazardous Substances (Emergency Management) Regulations 2001

After the word “refrigerant” at the end of the changes to controls for regulation 4, delete “.” and insert the words “except in the case of quantities of anhydrous ammonia in excess of 100 kg in which event the requirements of Part 3 and regulations 25 to 34 inclusive of Part 4 of these regulations apply.”

Schedule 3

Amendments to Schedule 5 to the principal notice

New Classes 1 to 5 controls

Insert, at the beginning of Schedule 5 the following new controls:

**Control – Hazardous
Substances (Classes 1
to 5 Controls)
Regulations 2001**

Changes to Controls

Regulation 72

Subclause (1) of this regulation does not apply to class 4.1.1 or class 4.3 hazardous substances and the corresponding references to class 4.1.1 and class 4.3 substances in Table 6 of Schedule 3 to the regulations are repealed.

Regulation 81

This regulation applies to class 3.1 hazardous substances as if, at the end of paragraph (g), the expression “.” were omitted and the following substituted:

“; and”

This regulation applies to class 3.1 hazardous substances as if, after paragraph (g), the following were inserted:

- (h) the requirements of Schedule 10 (controls relating to the adverse effects of unintended ignition of class 2 and class 3.1 hazardous substances) of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 are complied with.

Regulation 95

This regulation applies to class 5.1.1 substances as if, in regulation 95(1)(c), the words “but excluding electrical equipment” were inserted after the words “ignition sources”.

This regulation applies to class 5.1.1 substances as if, regulation 95(1)(f) were omitted and the following substituted:

- (f) the location is designed and managed so that any moisture or any vapour, gas, or particulate matter of class 5.1.1 or 5.1.2 substances does not present a hazard in respect of electrical equipment that may be present.

Generally

Omit the references to “sodium sulfide” where they occur and substitute “sodium sulphide”.

Schedule 4

Amendments to Schedule 6 to the principal notice

Control – Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001

Regulations 55, 77 and 81

Insert, after the controls specified for regulations 55, 77 and 83 respectively the following new control:

This regulation applies to petrol and aviation gasoline and racing gasoline as if the item in table 4 in Schedule 3 to the regulations relating to classification 3.1A were omitted and substituted with the following:

3.1A 50 L (quantity beyond which controls apply for closed containers)

50 L (quantity beyond which controls apply when use occurring in open containers).

Regulation 81

Insert, after the controls specified for regulation 81:

This regulation applies to class 3.1 hazardous substances as if, at the end of paragraph (g), the expression “.” were omitted and substituted with the following:

“; and”

This regulation applies to class 3.1 hazardous substances as if, after paragraph (g), the following were inserted:

- (h) the requirements of Schedule 10 (Controls relating to the adverse effects of unintended ignition of class 2 and class 3.1 hazardous substances) of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 are complied with.

Control – Hazardous Substances (Packaging) Regulations 2001

Regulation 11

Omit after the reference to “3.1B” at the end of the control for regulation 11, the expression “.” and insert the words “and in addition, packaging for such substances that has a capacity of 25 L or less shall comply with the requirements of:

- (a) AS/NZS 2906:2001 (Fuel Containers – Portable – Plastics and Metal); or
- (b) ASTM F-852-99e1 (Standard Specification for Portable Gasoline Containers for Consumer Use); or
- (c) a code of practice approved by the Authority under section 79 of the Act that specifies requirements equivalent to the requirements specified in paragraph (a) or paragraph (b).”

Control – Hazardous Substances (Emergency Management) Regulations 2001

Regulation 25

Omit, at the end of the third line of the control specified for regulation 25, the word “and”.

Schedule 5**Amendments to Schedule 7 to the principal notice****Control – Hazardous Substances (Identification) Regulations 2001****Regulation 51**

Omit, in regulation 51 the reference to “ethane, tetrachloro” in the first line and substitute “ethene, tetrachloro”.

Schedule 6

Amendments to Schedule 8 to the principal notice

Clause 2

Insert, in their appropriate alphabetical order, the following definitions:

AS 1375-1985 means the code on *industrial fuel-fired appliances*

BS EN 1 : 1998 means the standard on *flued oil stoves with vaporizing burners*

BS EN 13842 : 2004 means the standard on *oil fired forced convection air heaters stationary and transportable for space heating*

NFPA 86 means the standard for the *safe design, installation, operations, and maintenance of all ovens and furnaces*

NZS/AS 2229:2004 means the standard on *fuel dispensing equipment for explosive atmospheres*

Clause 8(2)

Insert, after the words “(f) UL 2085; or”, the words “(fa) AS 1692; or”.

Clause 10(3)(b)

Insert the word “if” before the word “it” in the first line.

Clause 19(1)

Omit the words “the distance” and substitute the words “a distance of not less than that”.

Clause 19(3)

Insert, after the word “is” in the third line, the words “not less than that which is”.

Clause 21(2)

Insert the words “not less than” in sub-clauses (a)(i), (a)(ii), (b)(i), (b)(ii), (c) and (d) before the references to “6 metres”, “15 metres” or “3 metres” wherever they occur in those subclauses.

Clause 22

Insert the words “not less than” in sub-clauses (a) and (b) before the respective references to “8 metres” and “15 metres” in those subclauses.

Clause 26(2)

Omit, at the end of subclause (b), the expression “.” and substitute “; or” and insert the following new subclause:

(c) if its transfer point is used to fill cylinders (for example, with liquefied petroleum gas fuel), be separated from that transfer point by not less than 8 metres if more than 100 kg of a class 2.1.1 liquefiable gas is stored at the transfer point or by not less than 3 metres if less than 100 kg of such gas is stored at the transfer point.

Clause 26(3)

Repeal and substitute the following subclause:

(3) An above ground stationary tank of a capacity greater than 25,000 litres that is used to store a class 3.1A or class 3.1B hazardous substance, or greater than 60,000 litres that is used to store a class 3.1C hazardous substance and which is connected to a transfer point that is used to fill or empty packages, or tank wagons, or transportable containers, must be separated from that transfer point-

- (a) by not less than 8 metres and that transfer point must be separated from any other tank by not less than 8 metres; or
- (b) in accordance with a code of practice approved by the Authority under section 79 of the Act that specifies requirements equivalent to the requirement specified in paragraph (a).

Clause 26(4)

Insert, after the word “fill”, the words “or empty”.

Heading to clause 27

Omit the word “points” in the heading to clause 27 in the first place where it occurs.

Clause 27

Insert, after the words “used to fill” in the first line, the words “cylinders or”.

Heading to clause 28

Insert the words “containing class 2.1.1 hazardous substances” at the end of the heading.

Clause 28

In subclause (1), omit the words “that is filling, or is” and in subclause (1)(a), omit the words “filling, or is” and repeal subclause (2).

Clause 30

Insert, after the words “toxic classification”, the words “of 6.1A, 6.1B, or 6.1C”.

Clause 37

Insert, after the words “section 3.5” in subclause (a), the words “and section 5.3”.

Clause 40(3)(d)

Omit the words “will store” and substitute the words “will continue to store”.

Clause 42(1)

Omit the word “apples” and substitute the word “applies”.

Clause 48

Insert, after the word “a”, the words “type or kind of”

Clause 48

Insert, after the word “every”, the words “type or kind of”.

Clause 49(1)

Insert, after the word “a”, the words “type or kind of”.

Clause 49(1)

Repeal subclause (a) and substitute the following subclause:

(a) it complies with the requirements of NZS/AS 2229 : 2004.

Clause 49(2)

Insert, after the word “every”, the words “type or kind of”.

Clause 53(1)

Insert, after the word “is”, the words “of a type or kind”.

Headings to Part 13 and clause 56

Omit, in each heading, the words “in area of regular habitation” and insert the words “used in connection with oil burning installations”.

Clause 56(1)

Omit subclause (a).

Heading to clause 57

Omit the words “used to contain certain substances in area of regular habitation”.

Heading to clause 58

Omit the words “in area of regular habitation”.

Clause 58(3)

Omit at the end of subclause (c) the expression “.” and insert “; or” and insert the following subclause:

(d) short lengths (not longer than 500mm) of stainless steel braided hose.

Headings to clauses 59, 60, 61, 62 and 63

Omit the words “in area of regular habitation” wherever they occur.

Heading to clause 65

Omit the words “in area of regular habitation” and insert the words “- operational requirements”.

Clause 65

Repeal subclause (1) and substitute the following:

(1) This clause applies to every stationary container system to which clause 56 applies.

Clause 68

Insert, before the word “burner” in subclauses (1), (2) and (3), the words “type or kind of”.

Clause 68(1)

Delete from the subclause, the words “in an area of regular habitation”

Clause 68(4)(a)

Omit the reference to “AS 1960” and substitute “AS 1690”.

Clause 68(4)

Insert, after subclause (a), the following subclause:

(aa) AS 1375-1985; or

Clause 68(4)

Insert, after subclause (b), the following subclauses:

(ba) BS EN 1 : 1998; or

(bb) BS EN 13842 : 2004; or

Clause 68(4)

Delete, at the end of subclause (c) the punctuation “.” and replace with “; or”.

Clause 68(4)

Insert, after subclause (c), the following subclause:

(d) NFPA 86.

Clause 81(1)(i)

Omit the word “any”.

Clause 91(2)(d)

Insert, after the word “applies”, the words “but excluding domestic oil burning installations as specified in clause 64”.

Clause 94

Insert, after subclause (2), the following subclause:

(3) Every design and fabricator that was approved by the Authority or the Chief Inspector of Dangerous Goods under regulation 60 of the Dangerous Goods (Class 3 – Flammable Liquids) Regulations 1985 before the commencement of this notice is deemed to be approved in accordance with this Schedule subject to such conditions as applied to the approval given under that regulation.

Clause 96(1)

Insert, after the word “certified”, the words “or deemed to be approved”.

Clause 97(1)

Insert, after the word “certified” in subclauses (a) and (b), the words “or deemed to be approved”.

Clauses 100(1)(a) and (b)

Omit the words “Schedule 1” where they occur and substitute the words “Schedules 1 or 2”.

Clause 100(2)(b)

Insert, after the number “103”, the words “if required”.

Clause 101

Insert, after the word “system” in the first line, the words “to which clause 91 applies”.

Schedule 7**Amendments to Schedule 9 to the principal notice****Clause 1(2)**

Omit, after the word “that”, the words “is stored” and insert the words “may be held”.

Clause 1(3)

Omit, after the word “substances” in the first line, the word “stored” and insert the words “which may be held”.

Clause 2(3)

Omit, after the word “substances” in subclause (a), the word “stored” and insert the words “which may be held”.

New clause 2A

Insert, after clause 2, the following new clause:

2A Authority may modify maximum capacity for secondary containment systems

- 2A (1) The Authority may, on application from a person, increase the aggregate capacity of stationary containers within a secondary containment system for the purposes of clause 1(2).
- 2A (2) The Authority may not approve a capacity under subclause (1) that exceeds 120,000,000 litres.
- 2A (3) In considering an application under subclause (1) the Authority must have regard to the following matters:
- (a) the degree of hazard associated with the substance or substances which may be held within the secondary containment system to which the application relates and, if applicable, any existing secondary containment system:
 - (b) the capacity of the largest stationary container within each secondary containment system and the relationship of that capacity to the capacity of any existing secondary containment system:
 - (c) the type of design and construction of the stationary container:
 - (d) the availability of means to prevent unintended ignition, and of means to control the effects of unintended ignition, of hazardous substances which may be held within the secondary containment system to which the application relates:
 - (e) any other matter the Authority considers relevant to its consideration of the application.

Clause 3(2)

Omit the words “stationary containers” and substitute the words “largest stationary container”.

Clause 4(1)

Omit clause 4(1) and substitute the following subclause:

(1) In this Part, existing stationary tank or process container means a stationary tank or process container that was in use immediately before the commencement of this notice.

Clauses 4(2) and (3)

Omit the words “secondary containment system” and substitute the words “stationary tank or process container” and omit the words “complies with the requirements” and substitute the words “complies with the requirements for a secondary containment system”.

Clause 4(4)

Omit clause 4(4) and substitute the following subclause:

(4) On and from the end of the period specified in subclauses (2) and (3), an existing stationary tank or process container must comply with –

- (a) regulation 39 of the Hazardous Substances (Emergency Management) Regulations 2001, if that regulation applies; or
- (b) regulation 40 of the Hazardous Substances (Emergency Management) Regulations 2001, if that regulation applies; or
- (c) a compliance plan; or
- (d) a code of practice approved by the Authority under section 79 of the Act for the purposes of this clause.

Clause 5(1)

Omit the words “a secondary containment system”, and substitute the words “an existing secondary tank or process container”.

Clause 6(1)

Omit the words “those regulations” and substitute the words “the Hazardous Substances (Emergency Management) Regulations 2001”.

Schedule 8

Amendments to Schedule 10 to the principal notice

Clause 1

Insert, after the words “Schedule 1”, the words “provided that for the purposes of this Schedule, low flashpoint diesel (low flash domestic heating oil and alpine diesel) shall be deemed to have a flammable classification of 3.1D”.

Clause 2

Insert, in their appropriate alphabetical order, the following definitions:

tank wagon and **transportable containers** have the meanings given to them by regulation 3 of the Hazardous Substances (Tank Wagon and Transportable Containers) Regulations 2004

UN Model Regulations means the 13th revised edition of the *Recommendations on the Transport of Dangerous Goods Model Regulations*, published in July 2003 by the United Nations (New York and Geneva)”.

Heading to clause 4

Omit the word “location”.

Clause 6(1)(b)

Insert, after the word “tank”, the words “or transportable container or tank wagon”.

Clause 6(3)

Insert, after the word “tank” wherever it occurs, the words “or transportable container or tank wagon”.

Clause 7(2)(b)

Omit the words “, each building” and repeal subclause (i) and substitute the following subclause:

“(i) the walls of the buildings behind and 2 metres either side of the cylinders are constructed of fire resisting materials; and”.

Heading to clause 8

Insert, after the word “tank”, the words “, transportable container or tank wagon”.

Clause 8

Insert, after the word “tank” wherever it occurs, the words “or transportable container or tank wagon” and omit the word “it” and substitute “them”.

Heading to clause 10

Insert, after the word “tank”, the words “transportable container or tank wagon”.

Clause 10(2)

Insert, after the word “tank” wherever it occurs, the words “or transportable container that complies with Chapter 6.7 of the UN Model Regulations or tank wagon,”.

Heading to clause 11

Insert, after the word “packages”, the words “or transportable containers”.

Clause 11(1)

Insert, after the word “packages”, the words “or transportable containers that comply with Chapter 6.5 of the UN Model Regulations” and insert, after the word “package”, the words “or container”.

Heading to clause 13

Insert, after the word “holding”, the words “transportable containers or” and insert after the words “class 3.1B”, the words “or class 3.1C”.

Clauses 13(1)

Insert, after the word “packages”, the words “or transportable containers that comply with Chapter 6.5 of the UN Model Regulations” and insert, after the words “class 3.1B” wherever they occur, the words “or class 3.1C”.

Clauses 13(2)

Insert, after the word “all” in the third line, the words “transportable containers that comply with Chapter 6.5 of the UN Model Regulations or” and insert, after the words “class 3.1B”, the words “and class 3.1C”.

Clause 14

Insert, after the word “used”, the words “to fill a tank wagon with” and omit the word “for”.

Clause 15(2)

Insert, after the words “class 3.1B”, the words “or class 3.1C”.

New clause 16A

Insert, after clause 16, the following new clause:

16A Repairs and servicing of tank wagons

Notwithstanding the requirements of clauses 6, 8 and 10 of this Schedule, a tank wagon may be taken into a building for repairs, vehicle inspection or servicing provided that the tank wagon load tank cannot vent inside the building, that the tank wagon is not located where it can be subject to heating, that no ignition source is permitted within 8 metres of the load tank and, in the case of emergency repairs, that the driver or other responsible representative of the owner remains with the vehicle until the repair is completed.

Clause 19(1)(b)

Insert, after the word “tank”, the words “or transportable container or tank wagon”.

Clause 19(2)(b)

Insert, before the word “an”, the words “if the controlled zone abuts”.

Clause 19(3)

Insert, after the word “tank” wherever it occurs, the words “or transportable container or tank wagon”.

Clause 20(2)(b)

Omit the words “, each building” and repeal subclause (i) and substitute the following subclause:

(i) the walls of the buildings behind and 2 metres either side of the cylinders are constructed of fire resisting materials; and

Heading to clause 21

Insert, after the word “tank”, the words “, transportable container or tank wagon”.

Clause 21

Insert, after the word “tank” wherever it occurs, the words “or transportable container or tank wagon” and omit the word “it” and substitute the word “them”.

Heading to clause 23

Insert, after the word “tank”, the words “transportable container or tank wagon”.

Clause 23(2)

Insert, after the word “tank” wherever it occurs, the words “or transportable container that complies with Chapter 6.7 of the UN Model Regulations or tank wagon”.

Heading to clause 24

Insert, after the word “packages”, the words “or transportable containers”.

Clause 24(1)

Omit the words “class 3.B” and substitute the words “class 3.1B” and insert after the word “packages”, the words “or transportable containers that comply with Chapter 6.5 of the UN Model Regulations” and insert, after the word “package”, the words “or container”.

Heading to clause 26

Insert, after the word “holding”, the words “transportable containers or” and insert, after the words “class 3.1B”, the words “or class 3.1C”.

Clause 26(1)

Insert, after the word “packages”, the words “or transportable containers that comply with Chapter 6.5 of the UN Model Regulations” and insert, after the words “class 3.1B”, the words “or class 3.1C”.

Clause 26(2)

Insert, after the word “all” in the third line, the words “transportable containers that comply with Chapter 6.5 of the UN Model Regulations or” and insert, after the words “class 3.1B”, the words “and class 3.1C”.

Clause 27

Insert, after the word “used”, the words “to fill a tank wagon with” and omit the word “for”.

Clause 28(2)

Insert, after the words “class 3.1B”, the words “or class 3.1C”.

Clause 30(3)

Insert, after the word “tank” in heading to column 1, the words “or container”.

Clause 30(6)

Insert, after the words “class 3.1B” in the title to the table, the words “or class 3.1C” and omit the figure “0” in the third line of column 3.

New Part 5

The following Part is inserted after clause 33:

Part 5**Transitional Provisions****34 Type E buildings – compliance plans**

- (1) In this Part **type E building** means a building or storage place approved in accordance with the Dangerous Goods (Class 3 – Flammable Liquids) Regulations 1985 that was in use immediately before the commencement of this notice.
- (2) A type E building is not required to comply with this Schedule (except this Part) if –
 - (a) it is used for the purpose for which it was used immediately before the commencement of this notice; and
 - (b) the person in charge of it complies with subclauses (3) to (6).
- (3) The person in charge of a type E building must –
 - (a) no later than 2 years after the commencement of this notice, engage a test certifier to undertake an assessment and prepare a report as to the extent to which the type E building complies with this Schedule; and

- (b) no later than 3 years after the commencement of this notice, give the Authority a compliance plan setting out a programme for bringing the type E building into compliance with this Schedule (which may include meeting the criteria set out in clause 33).
- (4) Upon receiving a compliance plan in accordance with subclause (3)(b) the Authority must either approve it or decline to approve it.
- (5) The Authority and the person who gave the compliance plan to the Authority may, after the compliance plan is approved, from time to time agree amendments to the compliance plan.
- (6) The person in charge of the type E building in respect of which a compliance plan has been approved must comply with the compliance plan (as amended from time to time).

Schedule 9

Amendments to Schedule 11 to the principal notice

Clause 2

Insert, in their appropriate alphabetical order, the following definitions:

“**compressed gases** means the hazardous substances listed in Tables 1 to 4 (inclusive) of Schedule 1 to this notice which are also compressed gases for the purposes of the Hazardous Substances (Compressed Gases) Regulations 2004.

Tank wagon has the meaning given to it by regulation 3 of the Hazardous Substances (Tank Wagon and Transportable Containers) Regulations 2004.

New clause 10A

Insert, after clause 10, the following clause:

10A Test certificates for approved handlers

- (1) Where any regulation specified in clause 8(3) requires that something be done by an approved handler, that regulation is complied with if that thing is done by a person who has been issued a test certificate of one of the types specified in subclause (2).
- (2) The types of test certificate are—
 - (a) a test certificate issued under regulation 4 of the Hazardous Substance and New Organisms (Personnel Qualifications) Regulations 2001:
 - (b) a test certificate issued by a test certifier to a person who establishes, to the satisfaction of the test certifier, that he or she, during the whole of a qualifying period referred to in subclause (3), has been handling the hazardous substance concerned or any other substance with similar hazardous properties in the relevant phase of its lifecycle under one or more of the following enactments:
 - (i) Animal Remedies Act 1967:
 - (ii) Dangerous Goods Act 1974:
 - (iii) Explosives Act 1957:
 - (iv) Gas Act 1992:
 - (v) Health Act 1956:
 - (vi) Health and Safety in Employment Act 1992:
 - (vii) Land Transport Act 1998:
 - (viii) Pesticides Act 1979:
 - (ix) Toxic Substances Act 1979:
 - (x) Parts XII to XV of the Act.

- (3) For the purposes of subclause (2) a **qualifying period** is any consecutive 2 year period commencing on or after 2 July 1999 and ending on or before the close of 1 July 2006.
- (4) This clause expires with the close of 31 December 2006.

Clause 13

Insert, after the word “2001” in the third line, the words “or Part 9 of the Hazardous Substances (Compressed Gases) Regulations 2004”.

New transitional clauses

Insert, after clause 13, the following new clauses:

Periodic Testers – Cylinders

14. Transitional provisions for cylinders

- (1) A person is not required to comply with regulations 51 – 55 of the Hazardous Substances (Compressed Gases) Regulations 2004 in relation to cylinders used for storing and transporting compressed gases and which comply and continue to comply with the requirements for the testing of cylinders that applied to them under regulation 15 of the Dangerous Goods (Class 2 – Gases) Regulations 1980.
- (2) This clause expires with the close of 30 September 2005.

Approved Fillers

15. Transitional provision for compressed gases

- (1) A person is not required to comply with regulations 59 and 60 of the Hazardous Substances (Compressed Gases) Regulations 2004 in relation to compressed gases if the person can establish as at 30 September 2004 that he or she has had the appropriate instruction in the hazards and procedures relating to those gases in accordance with regulation 132 of the Dangerous Goods (Class 2 – Gases) Regulations 1980.
- (2) This clause expires with the close of 30 September 2005.

16. Validity of approved filler certificates

An approved filler certificate issued under regulation 60 of the Hazardous Substances (Compressed Gases) Regulations 2004 in respect of a compressed gas remains valid for a period of 5 years from the date of issue.

17. Renewal of approved filler certificates

Before renewing an existing approved filler certificate in relation to compressed gases the test certifier must be satisfied that the filler meets the requirements of regulation 60(2) of the Hazardous Substances (Compressed Gases) Regulations 2004 in respect of any changes to working practices, regulations, or codes of practice which have occurred since the previous certificate was issued.

*Tank Wagons***18. Transitional provision for Tank Wagons**

- (1) In this clause **the regulations** means the Hazardous Substances (Tank Wagons and Transportable Containers) Regulations 2004.
- (2) The person in charge of a tank wagon to which regulation 4(2) of the regulations applies but which does not meet the applicable requirements of regulations 4(3)(a) or (b) or 4(4) of the regulations must—
 - (a) no later than 2 years after the commencement of this notice, engage a test certifier qualified to issue a pre-commissioning test certificate under regulation 35 of the regulations to undertake an assessment and prepare a report as to the extent to which the tank wagon complies with the regulations; and
 - (b) if the test certifier determines that the tank wagon does not comply with the regulations, no later than 3 years after the commencement of this notice, give the Authority a compliance plan setting out—
 - (i) the test certifier's view, based on whatever information is available to the test certifier, as to the extent to which the tank wagon has been maintained and repaired to conform to the standard to which it was constructed; and
 - (ii) how, and the time within which, the tank wagon, or the operational procedures applying to it, or both, will be altered so that it complies with—
 - (A) that standard; or
 - (B) the regulations.
- (3) The Authority must, as soon as practicable after receiving a compliance plan under subclause (2)(b) —
 - (a) approve it; or
 - (b) decline to approve it.
- (4) If the Authority declines to approve a compliance plan,—
 - (a) the Authority must advise the person who gave the compliance plan to the Authority of the Authority's reasons for declining to approve it; and
 - (b) the Authority and that person must attempt to agree on amendments to the compliance plan that the Authority considers will allow it to approve the compliance plan.
- (5) If the Authority and the person who gave the compliance plan to the Authority agree on amendments to the compliance plan, the Authority must approve the compliance plan with those amendments.

- (6) If, at the expiry of 20 working days after the date on which the Authority advised its reasons for declining to approve a compliance plan under subclause (4)(a), or such further period as the Authority may allow, the Authority and the person who gave the compliance plan to the Authority have not agreed on amendments to the compliance plan, the person must comply with the regulations in respect of the tank wagon to which the compliance plan applies.
- (7) The person in charge of a tank wagon in respect of which a compliance plan has been approved must comply with the compliance plan and thereafter obtain an appropriate test certificate in accordance with regulations 36 and 37 (to the extent applicable) within 2 years of the date of the compliance plan.
- (8) The person in charge of a tank wagon to which regulation 4(2) applies but which does not meet the requirements of regulations 4(3) or (4) must obtain an appropriate test certificate in accordance with regulations 36 and 37 (to the extent applicable) by 30 September 2006.
- (9) (a) A person is not required to comply with Parts 3, 4, 5 and 7 of the Regulations in relation to a tank wagon to which regulation 4(1) applies if that person complies with the relevant provisions of the Dangerous Goods (Class 2 – Gases) Regulations 1980, the Toxic Substances Regulations 1983 and the Dangerous Goods (Class 3 – Flammable Liquids) Regulations 1985.
- (b) This clause expires with the close of 30 September 2005.