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ENVIRONMENTAL RISK MANAGEMENT AUTHORITY

HAZARDOUS SUBSTANCES (STORAGE AND DISPOSAL OF POLYCHLORINATED BIPHENYLS) NOTICE 2007

PURSUANT TO THE HAZARDOUS SUBSTANCES
AND NEW ORGANISMS ACT 1996

Hazardous Substances and New Organisms Act 1996

Hazardous Substances (Storage and Disposal of Polychlorinated Biphenyls) Notice 2007

Pursuant to sections 25B and 66A 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

This notice is the Hazardous Substances (Storage and Disposal of Polychlorinated Biphenyls) Notice 2007.

2. Commencement

This notice comes into force 28 days after the date on which it is notified in the *New Zealand Gazette*.

3. Interpretation

- (1) In this notice, words and phrases have the meanings given to them in the Act and in regulations made under the Act.
- (2) In this notice, the following words and phrases have the following meanings:
 - (a) **holder** means a person who stores polychlorinated biphenyls in accordance with this notice;
 - (b) **environmentally sound disposal** in relation to polychlorinated biphenyls means disposal in accordance with clause 9 of this notice;
 - (c) **polychlorinated biphenyls** includes any polychlorinated biphenyls that are present at a concentration of more than 50 parts per million, and includes any equipment or material that contains polychlorinated biphenyls at a concentration of more than 50 parts per million;
 - (d) **store** includes the possession, use, collection, and transportation of polychlorinated biphenyls.

4. Application

- (1) This notice applies to all polychlorinated biphenyls that are not stored in accordance with a valid exemption under section 25C of the Act.
- (2) This notice expires with the close of 31 December 2016.
- (3) This notice shall not apply to the storage of small amounts of polychlorinated biphenyls for use as analytical standards or for research and development in a laboratory that are the subject of an approval under section 30 of the Act.

5. Storage of polychlorinated biphenyls

- (1) No polychlorinated biphenyls to which this notice applies may be stored in New Zealand unless:
 - (a) the holder notifies the Authority in writing in accordance with clause 6 of this notice; and

- (b) it is stored in accordance with subclause (2).
- (2) All holders of polychlorinated biphenyls to which this notice applies must:
- (a) ensure that polychlorinated biphenyls are stored only in suitable containers and kept in buildings and places which are:
 - (i) secure and suitable for the purpose taking into account the quantities stored, moisture control, ventilation and spill containment; and
 - (ii) sited so that the risk of contamination of people and the environment is minimised; and
 - (b) comply with the controls set out in the schedule to this notice and the *Safe Management of PCBs: Code of Practice* (December 1988, Department of Health) as applicable.

6. Notification

Any person who stores polychlorinated biphenyls to which this notice applies must notify the Authority in writing of the following matters:

- (a) the name and address of the holder; and
- (b) the location at which the polychlorinated biphenyls are being stored; and
- (c) the amount of polychlorinated biphenyls being stored at that location; and
- (d) how the location complies with the requirements set out in clause 5(2) and the controls specified in the Schedule to this notice; and

provide, with their notification, a management plan which adequately provides for the safe storage and ultimate disposal of the polychlorinated biphenyls in accordance with this notice.

7. Approval of the management plan

- (1) The Authority must, as soon as practicable after receiving a management plan under clause 6—
 - (a) approve the management plan for such period as it deems fit; or
 - (b) decline to approve it.
- (2) If the Authority declines to approve a management plan—
 - (a) the Authority must advise the holder of the Authority's reasons for declining to approve it; and
 - (b) the Authority and the holder must attempt to agree on amendments to the management plan that the Authority considers will allow it to approve the management plan.
- (3) If the Authority and the holder agree on amendments to the management plan, the Authority must approve the management plan with those amendments.

- (4) The Authority and the holder may, after the management plan is approved, from time to time agree amendments to the management plan.

8. Further requirements

All persons storing polychlorinated biphenyls pursuant to this notice must:

- (a) comply with the management plan; and
- (b) notify the Authority immediately, in writing, of any change in ownership, management or other circumstances relating to the safety and security of the location where the polychlorinated biphenyls are being stored.

9. Disposal of polychlorinated biphenyls

- (1) For the purposes of section 66A of the Act, the following methods shall comprise environmentally sound disposal of polychlorinated biphenyls—
- (a) by treating the substance using a method that changes the characteristics or composition of the substance so that the substance or any product of such treatment is no longer a polychlorinated biphenyl and is not a hazardous substance; or
 - (b) by exporting the substance from New Zealand as waste for environmentally sound disposal provided that such export complies with the relevant requirements of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the OECD Decision C(2001)107 on the Control of Transboundary Movement of Wastes Destined for Recovery Operations.
- (2) The holder of polychlorinated biphenyls must arrange for their disposal in accordance with subclause (1).
- (3) In subclause (1)(a), treating the substance does not include—
- (a) application to or discharge to any environmental medium; or
 - (b) dilution of the substance with any other substance before discharge into the environment; or
 - (c) depositing the substance in a landfill or a sewage facility; or
 - (d) depositing the substance in an incinerator.

10. Controls on holders of polychlorinated biphenyls

The obligations and restrictions specified in the Schedule to this notice are imposed as controls on holders of polychlorinated biphenyls under sections 77 and 77A of the Act.

Schedule

Controls on holders of polychlorinated biphenyls

Hazardous Substances (Classes 6, 8 and 9 Controls) Regulations 2001

- (1) A holder must ensure that equipment used to handle polychlorinated biphenyls complies with regulation 7 of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001.
- (2) A holder who handles polychlorinated biphenyls must comply with regulation 8 of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001.
- (3) For the purposes of regulation 10 of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001, no polychlorinated biphenyls in any quantity may be carried on any passenger service vehicle.
- (4) When stored for the purpose of environmentally sound disposal, polychlorinated biphenyls must be properly segregated and must not be mixed with any other substance.

Packaging for polychlorinated biphenyls

Packaging for polychlorinated biphenyls must comply with the tests set out in Schedule 2 to the Hazardous Substances (Packaging) Regulations 2001, unless the quantity involved is less than 1 litre (in the case of liquids) or 1 kg (in the case of solids) in which case the requirements of Schedule 4 to those Regulations may be complied with.

Transport of polychlorinated biphenyls

- (1) Transport of polychlorinated biphenyls by land within New Zealand shall comply with all relevant requirements of the Land Transport Rule: Dangerous Goods 2005 (Rule 45001).
- (2) Transport of polychlorinated biphenyls by sea within New Zealand shall comply with all relevant requirements of either the Maritime Rules: Part 24A – Carriage of Cargoes – Dangerous Goods (MR024A) or the International Maritime Dangerous Goods Code.
- (3) Transport of polychlorinated biphenyls by air within New Zealand shall comply with all relevant requirements of Part 92 of the Civil Aviation Rules.
- (4) The Hazardous Substances (Tank Wagons and Transportable Containers) Regulations 2004 apply to polychlorinated biphenyls stored or transported in a tank, tank wagon or transportable container as those terms are defined in those Regulations.

Tracking of polychlorinated biphenyls

- (1) The location and movement of polychlorinated biphenyls in any quantity must be recorded in accordance with Schedule 2 to the Hazardous Substances (Tracking) Regulations 2001, with the exception of clause 1(d) of Schedule 2.
- (2) Notwithstanding the requirements of Schedule 2 to the Hazardous Substances (Tracking) Regulations 2001, a holder is not required to have an approved handler in charge of the polychlorinated biphenyls, and any reference to an approved handler is to be read as a reference to a holder, or a person holding a current exemption under s25C of the Act.
- (3) A holder may not transfer polychlorinated biphenyls to another place unless that place has an approved management plan issued under clause 7 of this notice, or has a current exemption under s25C of the Act.
- (4) Where polychlorinated biphenyls have been transferred to another place, records made in accordance with Schedule 2 of the Hazardous Substances (Tracking) Regulations 2001 must be retained for a period of 3 years from the date of transfer.

Emergency management

The Hazardous Substances (Emergency Management) Regulations 2001 apply to polychlorinated biphenyls as if they are deemed to have hazard classifications of 6.8A, 6.9A and 9.1A.

Identification duties of holders

The Hazardous Substances (Identification) Regulations 2001 apply to polychlorinated biphenyls as if they are deemed to have hazard classifications of 6.8A, 6.9A and 9.1A.