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## ENVIRONMENTAL RISK MANAGEMENT AUTHORITY

### HAZARDOUS SUBSTANCES (VERTEBRATE TOXIC AGENTS) (AMENDMENT) TRANSFER NOTICE 2006

PURSUANT TO THE HAZARDOUS SUBSTANCES  
AND NEW ORGANISMS ACT 1996

## Hazardous Substances and New Organisms Act 1996

### Hazardous Substances (Vertebrate Toxic Agents) (Amendment) Transfer Notice 2006

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 (Vertebrate Toxic Agents) (Amendment) Transfer Notice 2006.
- (2) In this notice, the Hazardous Substances (Vertebrate Toxic Agents) Transfer Notice 2004 (Supplement to the *New Zealand Gazette*, 29 October 2004, No. 141, page 3495, as amended by *New Zealand Gazette*, 28 April 2005, No. 73, page 1739) is called “the principal notice”.

#### 2 Commencement

This notice comes into force on 1 July 2006.

#### 3 Interpretation

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

#### 4 Deemed assessment and approval

- (1) On the commencement of this notice, the hazardous substances described in Schedule 1 to this notice are no longer subject to the provisions of Parts 11 to 15 of the Act.
- (2) Each hazardous substance described in Schedule 1 to this notice is deemed to have been assessed and approved by the Authority under section 29 of the Act.

#### 5 Deemed hazard classification

Each hazardous substance described in Schedule 1 to this notice is deemed to have the hazard classifications specified opposite its description.

#### 6 Amendments to Schedule 1 to principal notice

Schedule 1 to the principal notice is amended—

- (a) by inserting the substances, hazard classifications and variation codes described in Schedule 1 to this notice in the appropriate alphabetical order into Schedule 1 to the principal notice:
- (b) by omitting the substance description “Powder containing 970 g/kg **3-chloro-p-tolulidine hydrochloride**” and substituting “Powder containing 970 – 980 g/kg **3-chloro-p-tolulidine hydrochloride**”:
- (c) by omitting the substance description “Bait containing 8 g/kg **cholecalciferol**” and substituting “Bait containing 8 g/kg **cholecalciferol** (Substance A)”:
- (d) for the hazardous substance “Bait containing 8 g/kg **cholecalciferol** (Substance A)”, by omitting the hazard classification “6.9B”.

**7 Application of controls and changes to controls**

The changes to controls set out in Schedule 2 to the principal notice are amended in the manner indicated in Schedule 2 to this notice.

**8 Other obligations and requirements**

The obligations and restrictions specified in Schedule 3 and Schedule 4 to the principal notice are amended as indicated in Schedule 3 and Schedule 4 to this notice respectively and are imposed as controls under section 160B of the Act applying to the relevant substances described in Schedule 1 to the principal notice.

**9 Amendment to tolerable exposure limits and environmental exposure limits**

Schedule 5 to the principal notice is amended by omitting all references to “Powder containing 970 g/kg **3-chloro-p-toluidine hydrochloride**” and substituting “Powder containing 970 – 980 g/kg **3-chloro-p- toluidine hydrochloride**”.

**10 Amendment to methods of release, colours, and bait size**

The controls set out in Schedule 6 to the principal notice are amended in the manner indicated in Schedule 5 to this notice.

**Schedule 1****Amendments to Schedule 1 to the principal notice****List of substances (vertebrate toxic agents) to be transferred**

<b>Substance</b>	<b>Hazard classification(s)</b>	<b>Variation codes</b>
Solid containing 900 – 1000 g/kg <b>alpha-chloralose</b>	6.1B, 6.9A, 9.1D, 9.3A	1, 11
Bait containing 8 g/kg <b>cholecalciferol</b> (Substance B)	6.1E, 6.8B, 9.1C	3, 6, 11

## Schedule 2

### Amendments to Schedule 2 to the principal notice

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

##### Regulation 9

Immediately after the change to controls for regulation 9, insert the following:

Regulation 9      The regulations apply to solid containing 900 – 1000 g/kg **alpha-chloralose** mixed with food bait in accordance with clause 1A of Schedule 3 as if this regulation were omitted.

##### New regulations 9A and 9B

Repeal the change to controls inserting regulation 9A, and substitute the following:

New regulation 9A      The regulations apply to each hazardous substance described in Schedule 1 with variation code 1 as if the following regulation were inserted immediately after regulation 9:

##### **9A    Exception to approved handler requirement for transportation of packaged substances**

- (1) Regulation 9 is deemed to be complied with if—
  - (a) in the case of a hazardous substance being transported on land—
    - (i) in the case of a hazardous substance being transported by rail, the person who drives the rail vehicle that is transporting the substance is fully trained in accordance with an approved safety system under section 6D of the Transport Services Licensing Act 1989 or a safety system which is referred to in an approved safety case under the Railways Act 2005; and
    - (ii) in every other case, the person who drives, loads, and unloads the vehicle that is transporting the substance—
      - (A) for hire or reward, or in quantities which exceed those set out in Schedule 1 of the Land Transport Rule 45001/1: Dangerous Goods 2005, has a current dangerous goods endorsement on his or her drivers licence; or
      - (B) in every other case, the Land Transport Rule 45001/1: Dangerous Goods 2005 is complied with; or

- (b) in the case of a hazardous substance being transported by sea, one of the following is complied with:
    - (i) Maritime Rules: Part 24A – Carriage of Cargoes – Dangerous Goods (MR024A):
    - (ii) International Maritime Dangerous Goods Code; or
  - (c) in the case of a hazardous substance being transported by air, Part 92 of the Civil Aviation Rules is complied with.
- (2) Subclause (1)(a)—
- (a) does not apply to a tank wagon or transportable container to which the Hazardous Substances (Tank Wagons and Transportable Containers) Regulations 2004 applies; but
  - (b) despite paragraph (a), does apply to an intermediate bulk container that complies with chapter 6.5 of the UN Model Regulations.
- (3) Subclause (1)(c)—
- (a) applies to pilots, aircrew, and airline ground personnel loading and handling a hazardous substance within an aerodrome; but
  - (b) does not apply to the storage and handling of a hazardous substance in any place that is not within an aerodrome, or within an aerodrome by non-airline ground personnel.
- (4) In this regulation, **UN Model Regulations** means the 14<sup>th</sup> revised edition of the Recommendation on the Transport of Dangerous Goods Model Regulations, published in 2005 by the United Nations.

New regulation 9B      The regulations apply to each hazardous substance described in Schedule 1 with variation code 10 as if the following regulation were inserted immediately after regulation 9A:

**9B    Exception to approved handler requirement for aerial application of certain substances**

Regulation 9 is deemed to be complied with if, in the case of the aerial application of a hazardous substance, the person who carries out the application has a current pilot chemical rating in accordance with Part 61 of the Civil Aviation Rules.

**Regulation 28**

Immediately after the changes to controls for regulation 28, insert the following:

Regulation 28     The regulations apply to solid containing 900 – 1000 g/kg alpha-chloralose mixed with food bait in accordance with clause 1A of Schedule 3 as if subclauses (1) and (2) were omitted and the following substituted:

- (1)     This regulation applies to a hazardous substance that is laid outdoors in a place to which members of the public ordinarily have access by a person lawfully allowed to do so as part of bait to inhibit reproduction, inhibit growth, or cause death, in terrestrial vertebrates.
- (2)     A person in charge of the substance must ensure that signs are erected at every normal point of entry to the place where the substance is to be applied or laid before the substance is applied or laid.

**Regulation 50**

Immediately after the change to controls for regulation 50, insert the following:

Regulation 50     The regulations apply to solid containing 900 – 1000 g/kg alpha-chloralose mixed with food bait in accordance with clause 1A of Schedule 3 as if as if this regulation were omitted.

**Control – Hazardous Substances (Tracking) Regulations 2001****Regulations 4 to 6**

Immediately after the change to controls for regulations 4 to 6, insert the following:

Regulations 4 to 6     The regulations apply to solid containing 900 – 1000 g/kg alpha-chloralose mixed with food bait in accordance with clause 1A of Schedule 3 as if these regulations were omitted.

**Control – Hazardous Substances (Emergency Management) Regulations 2001****Regulations 36, 37, and 38**

Immediately following the changes to controls for regulations 6, 12, and 14, insert the following:

Regulation 36     This regulation applies to each hazardous substance described in Schedule 1 as if the following subclauses were added after subclause (3):

- (4)     For the purposes of this regulation, and regulations 37 to 40, any hazardous substance contained in pipework that is installed and operated so as to manage any loss of containment in the pipework—
  - (a)     is not to be taken into account in determining whether a place is required to have a secondary containment system; and

- (b) is not required to be located in a secondary containment system.
- (5) In this clause, **pipework**—
  - (a) means piping that—
    - (i) is connected to a stationary container; and
    - (ii) is used to transfer a hazardous substance into or out of the stationary container; and
  - (b) includes a process pipeline or a transfer line.

Regulation 37 This regulation applies to each hazardous substance described in Schedule 1, as if the following subclauses were inserted at the end:

- (2) If pooling substances which do not have class 1 to 5 hazard classifications are held in a place above ground in containers each of which has a capacity of 60 litres or less—
  - (a) if the place's total pooling capacity is less than 20,000 litres, the secondary containment system must have a capacity of at least 25% of that total pooling potential:
  - (b) if the place's total pooling potential is 20,000 litres or more, the secondary containment system must have a capacity of the greater of—
    - (i) 5% of the total pooling potential; or
    - (ii) 5,000 litres.
- (3) Pooling substances to which subclause (2) applies must be segregated where appropriate to ensure that leakage of one substance may not adversely affect the container of another substance.

Regulation 38 This regulation applies to each substance described in Schedule 1, as if the following subclauses were inserted at the end:

- (2) If pooling substances which do not have class 1 to 5 hazard classifications are held in a place above ground in containers 1 or more of which have a capacity of more than 60 litres but none of which have a capacity of more than 450 litres—
  - (a) if the place's total pooling potential is less than 20,000 litres, the secondary containment system must have a capacity of either 25% of that total pooling potential or 110% of the capacity of the largest container, whichever is the greater:
  - (b) if the place's total pooling potential is 20,000 litres or more, the secondary containment system must have a capacity of the greater of—



- (i) 5% of the total pooling potential; or
  - (ii) 5,000 litres.
- (3) Pooling substances to which subclause (2) applies must be segregated where appropriate to ensure that the leakage of one substance may not adversely affect the container of another substance.

### **Schedule 3**

#### **Amendments to Schedule 3 to the principal notice**

##### **New clause 1A**

Immediately after clause 1, insert the following:

##### **1A Mixing of alpha-chloralose**

Solid containing 900 – 1000 g/kg alpha-chloralose may be mixed with or applied to food bait only if—

- (a) the food bait is bread, or cereal, or peas, and
- (b) after mixing or application—
  - (i) the amount of alpha-chloralose in the food bait does not exceed 100 g of alpha-chloralose per kilogram on average for each batch of food bait; and
  - (ii) the alpha-chloralose containing bait is used within 24 hours of having been prepared.

##### **New clause 9**

Immediately after clause 8, insert the following:

##### **9 Prohibition on use of alpha-chloralose**

- (1) No person may use solid containing 900 – 1000 g/kg alpha-chloralose for any purpose other than—
  - (a) for research and development;
  - (b) as an ingredient or component in the manufacture of another substance or product; or
  - (c) for mixing with or applying to a food bait, but only if it complies with the requirements of clause 1A of this Schedule.
- (2) Despite subclause (1)(a), research and development does not include investigation or experimentation in which the substance is discharged, laid or applied in or to the outdoor environment.

## **Schedule 4**

### **Amendments to Schedule 4 to the principal notice**

#### **New clauses 10 and 11**

Immediately after clause 9, insert the following:

#### **10 Packaging, identification, and signage for substances with variation code 11**

- (1) A hazardous substance described in Schedule 1 with variation code 11 is not required to comply with the regulations specified in subclause (2) if it complies with the requirements for packaging, identification, and signage that applied to the substance at the close of 30 June 2006.
- (2) The regulations are—
  - (a) the Hazardous Substances (Packaging) Regulations 2001; and
  - (b) the Hazardous Substances (Identification) Regulations 2001; and
  - (c) regulations 11 to 14 of the Hazardous Substances (Disposal) Regulations 2001.
- (3) This clause expires with the close of 30 June 2008.

#### **11 Fire extinguishers and emergency management plans and secondary containment for substances with variation code 11**

- (1) A hazardous substance described in Schedule 1 with variation code 11 is not required to comply with regulations 6 to 34 and 42 of the Hazardous Substances (Emergency Management) Regulations 2001 if it complies with the requirements for fire extinguishers, emergency management response plans and secondary containment that applied to the substance at the close of 30 June 2006.
- (2) This clause expires with the close of 30 June 2007.

## Schedule 5

### Amendments to Schedule 6 to the principal notice

#### Table, clause 1

In the Table in clause 1—

- (a) omit the substance descriptions “Bait containing 8 g/kg cholecalciferol” and “Powder containing 970 g/kg 3-chloro-p-toulidine hydrochloride”, and substitute “Bait containing 8 g/kg cholecalciferol (Substance A)” and “Powder containing 970 – 980 g/kg 3-chloro-p-toulidine hydrochloride” respectively; and
- (b) in the appropriate alphabetical order, insert the following:

Substance	Method(s) of release	Colours
Bait containing 8 g/kg cholecalciferol (Substance B)	Contained ground-based application	Blue; or  Green
Solid containing 900 – 1000 g/kg alpha-chloralose mixed with food bait	Ground-based application	

#### Clause 2

In clause 2, omit paragraph (a), and substitute the following:

- (a) if the food bait is carrot—
  - (i) no individual piece of carrot may have any dimension that is less than 12 mm; and
  - (ii) in areas where native birds are present, inhabit and encroach, all chaff and carrot pieces that have any dimension less than 12 mm must be removed from the food bait.