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ENVIRONMENTAL RISK MANAGEMENT AUTHORITY

HAZARDOUS SUBSTANCES (DANGEROUS GOODS AND SCHEDULED TOXIC SUBSTANCES) (AMENDMENT) TRANSFER NOTICE 2005

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 2005

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 2005.
- (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 16 December 2005.

3. Interpretation

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

4. Deemed hazard classification

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

5. Changes to controls

- (1) Clause 5(1)(i) of the principal notice is amended by inserting, after the words “Regulations 2004”, the words “, with the changes indicated in Schedule 3”.
- (2) Clause 5(3)(a) of the principal notice is amended by inserting, after the words “Regulation 2001”, the words “, with the changes indicated in Schedule 5”.
- (3) 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.
- (4) The controls set out in Schedule 4 to the principal notice (changes to controls relating to gases that are not hazardous substances) are amended in the manner indicated in Schedule 3.
- (5) 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.
- (6) 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 12 to the principal notice (changes to controls relating to transportation of packaged dangerous goods) are amended in the manner indicated in Schedule 9.

Schedule 1

Amendments to Schedule 1 to the principal notice

Schedule 1, Table 1

Omit, for the substance “Methane, difluoro-”, the CAS number “75-28-5” and substitute “75-10-5”.

Omit, for the substance “Propane, 2-methyl-(isobutane)”, the CAS number “75-10-5” and substitute “75-28-5”.

Schedule 1, Table 3

Omit, for the substance “2-Propanone, 1,1,1,3,3,3-hexafluoro-(hexafluoro acetone)”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, for the substance “Borane, trichloro-”, the hazard classification “8.2A” and substitute “8.2C”.

Omit, for the substance “Dinitrogen tetroxide [nitrogen dioxide]”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, for the substance “Dinitrogen tetroxide and nitric oxide mixture [nitrogen dioxide and nitric oxide mixture]”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, for the substance “Ethanamine, anhydrous (ethylamine)”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, for the substance “Ethene, chloro- (vinyl chloride)”, the CAS number “74-01-4” and substitute “75-01-4”.

Omit the reference to the substance “Sulphur hexafluoride” in its entirety.

Schedule 1, Table 4

Insert, in the appropriate alphabetical order, in the columns headed “Substance Description”, “CAS Number”, “UN Number” and “Hazard Classification”, the expressions “Sulphur hexafluoride”, “2551-62-4”, “1080” and “Not hazardous” respectively.

Schedule 1, Table 5

Omit, for the substance “1-Butanamine”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, for the substance “1-Propanamine, N-propyl-”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, for the substance “Aluminate (1-), tetrahydro-, lithium, (T-4)-”, the hazard classification “8.2A” and substitute “8.2C”.

Omit, for the substance “Aluminate (1-), tetrahydro-, lithium, (T-4)-, ethereal”, the hazard classification “8.2A” and substitute “8.2C”.

Omit, for the substance “Aluminium, hydrobis (2-methylpropyl)-”, the hazard classification “8.2A” and substitute “8.2C”.

Insert, for the substance “Benzene, dimethyl-, mixed isomers”, in the column headed “UN Number”, the number “1307”.

Omit, for the substance “Calcium hydride”, the hazard classification “8.2A” and substitute “8.2C”.

Omit, for the substance “Carbonic acid disodium salt, compd. with hydrogen peroxide (2:3)”, in the column headed “UN Number”, the number “1479” and substitute the number “3378”.

Omit, for the substance “Ethanamine, N,N-diethyl-”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, for the substance “Ethanamine, N-ethyl-”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, for the substance “Ethaneperoxoic acid, 35-43% in acetic acid and hydrogen peroxide”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, in the column headed “substance”, the reference to “Formic acid” and substitute the description “Formic acid with more than 85% acid by mass”.

Omit, in the column headed “substance”, the references to “Hypochlorous acid, calcium salt (dry), >30% available chlorine” and “Hypochlorous acid, calcium salt (dry), 10-30% available chlorine” and substitute the following descriptions:

“Hypochlorous acid, calcium salt (dry) >39% available chlorine”

“Hypochlorous acid, calcium salt (dry) 10-39% available chlorine”.

Omit, for the substance “Lithium hydride”, the hazard classification “8.2A” and substitute “8.2C”.

Insert, after the reference to the substance “methylated spirits”, the words “, denatured with between 0.1% and 2% methanol”.

Omit, for the substance “Perboric acid, potassium salt”, in the column headed “UN Number”, the number “3247” and substitute the number “1479”.

Omit, in the column headed “substance”, the reference to “Perboric acid, sodium salt” and substitute the description “Perboric acid, sodium salt, anhydrous”.

Omit, for the substance “Silane, trichloromethyl-”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, for the substance “Sodium”, the hazard classification “8.2A” and substitute “8.2B”.

Omit, in the column headed “substance”, the reference to “Sodium hydrosulphide” and substitute the description “Sodium hydrosulphide with less than 25% water of crystallisation”.

Omit, in the column headed “substance”, the reference to “Sodium sulphide” and substitute the description “Sodium sulphide, anhydrous, or with less than 30% water of crystallisation”.

Schedule 2

Amendments to Schedule 3 to the principal notice

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

Regulation 56

Insert, at the end of the changes to controls for regulation 56:

This regulation does not apply to liquefied petroleum gas when in non-refillable, threaded or self-sealing cartridges of up to 1,000 ml water capacity manufactured to EN 417 or other approved standards, if the aggregate water capacity of the cartridges at any one place is less than 3,000 litres.

Regulation 77

Insert, at the end of the changes to controls for regulation 77:

This regulation does not apply to liquefied petroleum gas when in non-refillable, threaded or self-sealing cartridges of up to 1,000 ml water capacity manufactured to EN 417 or other approved standards, if the aggregate water capacity of the cartridges at any one place is less than 3,000 litres.

New tank wagon and transportable container controls

Insert, at the end of Schedule 3 the following new control:

Control – Hazardous Substances (Tank Wagons and Transportable Containers)

Change to Controls

Regulations 2004

Regulation 14A

This regulation applies as if, after subclause (2), the following new subclause were inserted:

- (3) Subclause (2) does not apply to hazardous gases.

Schedule 3**Amendments to Schedule 4 to the principal notice****Control – Hazardous Substances (Compressed Gases) Regulations 2004****Regulation 52**

Insert, in column 1 of the table, after the words “carbon dioxide”, the words “having a dew point below -40°C at 1 atmosphere”.

Schedule 4

Amendments to Schedule 6 to the principal notice

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

Regulation 61

Insert, after all references to the word “vehicle” in the changes to controls the words “, aircraft or ship”.

Insert, after the controls specified for regulation 61:

This regulation applies as if there were added, after subclause (6) the following subclauses:

(7) A ship that is being refuelled with class 3.1C or 3.1D substances may have its engines operating if no source of ignition is within the hazardous atmosphere zone.

(8) Any aircraft that is being refuelled must comply with the Civil Aviation Rules. Any aircraft that is being refuelled must comply with the Civil Aviation Rules.

Regulation 81

Omit the changes to controls for regulation 81 and substitute the following:

Regulation 81 This regulation does not apply to a person in charge of a hazardous substance location that is a farm of not less than 4 hectares, where petrol, aviation gasoline, racing gasoline, kerosene (“the fuel”) is stored in total quantities of less than 2,000 litres, if–

- (a) the fuel–
 - (i) is stored in one or more secure containers, each individual container with a capacity of less than 250 litres; and
 - (ii) the container or containers comply with regulation 11 and Schedule 2 or Schedule 3 (as appropriate) of the Hazardous Substances (Packaging) Regulations 2001; and
 - (iii) is situated at a distance not less than 15 metres from any area of high intensity land use or area of regular habitation; and
 - (iv) is situated either in the open or in a well ventilated building; and
 - (v) is in a compound or located so that any spillage of the fuel will not endanger any building, or flow into any stream, lake or natural water; or

- (b) the fuel is—
 - (i) stored in an above ground stationary tank that—
 - (1) complies with the Stationary Container Controls in Schedule 8 of this notice; and
 - (2) is situated—
 - (A) not less than 20 metres from any area of high-intensity land use or area of regular habitation; and
 - (B) 6 metres from any combustible materials; and
 - (ii) is in a compound or located so that any spillage of the fuel will not endanger any building, or flow into any stream, lake or natural water.

Regulation 81

This regulation does not apply to a person in charge of a hazardous substance location where petrol, aviation gasoline, racing gasoline, kerosene (“the fuel”) is stored in total quantities of less than 2,000 litres and the proposed or actual duration of the storage is for a continuous period of less than 14 days, if the fuel—

- (a) is stored in one or more secure containers, each individual container with a capacity of less than 250 litres; and
- (b) the container or containers comply with regulation 11 and Schedule 2 or Schedule 3 (as appropriate) of the Hazardous Substances (Packaging) Regulations 2001; and
- (c) is situated at a distance not less than 15 metres from any area of high intensity land use or area of regular habitation; and
- (d) is situated either in the open or in a well ventilated building; and
- (e) is in a compound or located so that any spillage of the fuel will not endanger any building, or flow into any stream, lake or natural water.

Control – Hazardous Substances (Packaging) Regulations 2001**Regulation 11**

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

- (d) an approval issued by the Authority or the Chief Inspector of Dangerous Goods under regulation 3 of the Dangerous Goods (Class 3 – Flammable Liquids) Regulations 1985 prior to the date of commencement of this notice.

Schedule 5

Amendments to Schedule 7 to the principal notice

Control – Hazardous Substances (Emergency Management) Regulations 2001

New Controls – Regulations 37 and 38

Insert, after the changes to controls for regulation 36, the following changes to controls:

Regulation 37

This regulation applies as if the following subclauses were inserted at the end:

- (1A) 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 potential 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.
- (1B) Pooling substances to which subclause (1A) applies, must be segregated where appropriate to ensure that the leakage of one substance may not adversely affect the container of another substance.

Regulation 38

This regulation applies as if the following subclauses were inserted at the end:

- (1A) 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.
- (1B) Pooling substances to which subclause (1A) applies, must be segregated where appropriate to ensure that the leakage of one substance may not adversely affect the container of another substance.

Schedule 6

Amendments to Schedule 8 to the principal notice

Clause 2

Omit the following definitions:

AS 2229.1-1998 means the standard on *Electrical Equipment for Explosive Atmospheres – Electrical Systems of Dispensing Equipment – Flammable Liquid Dispensing Equipment*.

AS 2229.2-1998 means the standard on *Electrical Equipment for Explosive Atmospheres – Electrical Systems of Dispensing Equipment – Liquefied Petroleum Gas Dispensing Equipment*.

NZS 6109.1:1998 means the standard on *Flammable Liquids Dispensing Equipment*.

NZS 6109.2:1998 means the standard on *Liquefied Petroleum Gas Dispensing Equipment*.

Omit, in the definition “**AS/NZS 2885.1:1997**” the words “*Operation and Maintenance*” and substitute the words “*Design and Construction*”.

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

BS 799-2:1991 means the standard on *Oil-burning equipment – Specification for vaporising equipment*.

UL 896:1993 means the standard on *Oil-burning stoves*.

Omit, in the definition “**UN Model Regulations**” the number “13th” and substitute “14th”.

Clause 9(4)(a)

Omit the number “5.5” and substitute “5.4”.

Clause 10(3)(a)(ii)(B)

Omit the number “5.6” and substitute “5.5” and omit the words “Appendix D” and substitute “Appendix I”.

Clause 34(2)(a)

Omit the number “5.5” and substitute “5.4”.

New clause 35A

Insert, after clause 35, the following new subclause:

35A Filling an existing below ground stationary tank from a tank wagon

A below ground stationary tank must not be filled with a hazardous liquid of class 3.1A or 3.1B from any tank wagon (other than a refuelling unit) except by gravity unless the tank was approved under regulation 17 of the Dangerous Goods (Class 3 – Flammable Liquids) Regulations 1985.

Clause 41

Omit, in subclause (2)(d) the words “cluster” and “clustered” and substitute the words “group” and “grouped”.

Omit, at the end of subclause (3)(b), the expression “.” and insert the expression “:” and add the following new subclause:

(c) if the capacity of an above ground stationary tank is between any 2 successive capacities specified in this subclause, then, for the purposes of the table in subclause (3)(a), it is to be taken as having the smaller of those capacities.

Repeal subclause (4).

Repeal subclause (5) and substitute:

(5) For the purpose of subclause (2)(d), where there are groups of above ground stationary tanks within the boundaries of a single property, they may be treated as separate groups for the purpose of determining total fire protection requirements, provided that they are physically separated from each other by at least the distances specified in the table set out in clause 30(4) of Schedule 10 to this notice.

Clause 41(7)(a)

Omit the reference to “10.2, 10.10, 10.11, 10.13, 10.14, and Appendix E” and substitute “11.3, 11.12, 11.13, 11.15, 11.16, and Appendix J”.

Clause 43(b)

Omit the reference to “9.8.15” and substitute “11.3.10”.

Clause 49(1)(a)

Omit, at the end of this subclause the expression “.” and substitute “; or”.

Clause 49

Insert, after subclause 49(2) the following new subclause:

(3) The Authority may add such conditions as it thinks fit to the approval of dispensers under this clause.

Clause 50

Insert, at the end of subclause (1) the words “subject to such conditions as applied to the approval given under that section”.

New clause 51A

Insert, after clause 51, the following new clause:

51A Removal from register of dispensers

The Authority may remove the approval of a dispenser from the register if the Authority considers that the dispenser—

- (a) does not comply with the requirements of this Part of this Schedule; or
- (b) is unsafe.

Clause 53

Insert, after subclause 53(3) the following new subclauses:

- (4) The Authority may add such conditions as it thinks fit to the approval of vaporisers under this Part of this Schedule.
- (5) Every vaporiser that was approved by the Chief Inspector of Dangerous Goods under regulation 76 of the Dangerous Goods (Class 2 - Gases) Regulations 1980 before the

commencement of this notice, is deemed to be approved in accordance with this Schedule subject to the conditions as applied to the approval given under that regulation.

New clause 54A

Insert, after clause 54, the following new clause:

54A Removal from register of vaporisers

The Authority may remove the approval of a vaporiser from the register if the Authority considers that the vaporiser—

- (a) does not comply with the requirements of this Part of this Schedule; or
- (b) is unsafe.

Clause 56

Insert after subclause (1) the following new subclause:

(1A) This clause does not apply to a stationary container system that—

- (a) does not have a service tank; and
- (b) has a capacity less than—
 - (i) 500 litres for class 3.1D substances supplying an internal combustion engine; or
 - (ii) 50 litres for class 3.1A, 3.1B and 3.1C substances supplying an internal combustion engine; or
 - (iii) 60 litres for class 3.1 substances supplying a burner.

Clause 56(2)

Omit, in the third line of subclause (vi), the words “of the hazardous substance”.

Insert, after this subclause, the following new subclause:

(2A) Despite subclause (2)(a)(ii), a tank used to contain a class 3.1D substance may be directly filled from a nozzle if—

- (a) there is spill containment capacity of 15 litres around the fill point; and
- (b) the maximum tank size is no greater than 1,000 litres; and
- (c) the requirements of sections 5.3.2(a) to (f) of AS 1940 are complied with; and
- (d) the fill point is clearly identified.

Clause 57

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

(2A) Despite subclause (2), a stationary container system supplying fuel to an internal combustion engine used for fire protection purposes is not required to be equipped with the automatic means referred to in that subclause.

Clause 62(3)

Omit, in subclause (a), the words “stationary container system” and insert the words “burner or internal combustion engine”.

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

- (ba) be located in a building containing only the tank which is separated from any other building by the distances specified in the table set out in clause 30(4) of Schedule 10 to this notice; or

Clause 68(4)

Insert, after subclause (bb), the following new subclauses:

- (bc) UL 896:1993; or
(bd) BS 799-2:1991; or
(be) NFPA 86; or

and in the second line of subclause (c), omit the words “paragraph (a) or paragraph (b); or” and substitute the words “any of paragraphs (a), (aa), (b), (ba), (bb), (bc), (bd) or (be).”.

Omit subclause (d).

Clause 68

Insert, after subclause (4), the following new subclause:

- (5) The Authority may add such conditions as it thinks fit to the approval of burners under this clause.

New clause 70A

Insert, after clause 70, the following new subclause:

70A Removal from register of burners

The Authority may remove the approval of a burner from the register if the Authority considers that the burner—

- (a) does not comply with the requirements of this Part of this Schedule; or
(b) is unsafe.

Clause 73(1)

Omit subclause (a).

Clause 73(3)(c)

Insert, after the word “requirements” in the second line of subparagraph (iv), the word “equivalent”.

Clause 73

Insert, after subclause (3), the following new subclause:

- (4) Pipework used to convey a hazardous substance, which is required to comply with the Health and Safety in Employment (Pressure Equipment, Cranes, and Passenger Ropeways) Regulations 1999, is not required to comply with the requirements of subclause (3), except that—
- (a) transfer lines must be operated, inspected, tested and maintained in accordance with the requirements of subclause (3)(b); and
- (b) transfer lines which are part of the underground pipework of an underground petroleum storage system must be designed, constructed, and installed in accordance with sections 13 and 14 of the UPSS.

Clause 74(a)

Omit the expression “section 7.3.1(b)” and substitute “section 6.3.1 (b)”.

Heading to clause 75

Omit the words “point pipework” and substitute the word “line”.

Clause 75(3)(a)

Omit the expression “section 7.3.3” and substitute “section 6.3.3”.

Clause 76(3)(a)

Omit the expression “section 7.3.3” and substitute “section 6.3.3”.

Clause 83(2)

Insert, after the words “above ground stationary tank”, the words “in excess of 250,000 litres capacity”.

Clause 83

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

- (2A) Where any inspection or testing is required to be undertaken in relation to the repair, alteration or maintenance of an above ground stationary tank used to store hazardous liquids and which has a capacity of less than 250,000 litres, the person undertaking the inspection must be able to demonstrate appropriate and relevant experience.

Clause 92(2)(f)

Omit the words “is in an area of regular habitation, it”.

Clause 96

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

- (3) The Authority may add such conditions as it thinks fit on a certified design or fabricator prior to allocating a register number.

Schedule 7**Amendments to Schedule 9 to the principal notice****Clause 3**

Repeal subclause (1) and substitute the following:

- (1) The capacity that a secondary containment system is required to have to comply with regulation 39 of the Hazardous Substances (Emergency Management) Regulations 2001 may be reduced either—
 - (a) by the Authority upon application by any person and subject to such conditions as the Authority thinks fit; or
 - (b) in accordance with a code of practice approved by the Authority under section 79 of the Act for the purposes of this clause.

Schedule 8

Amendments to Schedule 10 to the principal notice

Clause 2

Omit, in the definition “AS 1940”, the words “*Chemical Storage and Transport:*”.

Insert, in the appropriate alphabetical order, the following definition:

quantity-ratio has the same meaning given to it by regulation 6 of the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001.

Omit, in the definition “**UN Model Regulations**” the number “13th” and substitute “14th”.

Clause 6

Insert, after subclause (1), the following new subclause:

(1A) A vehicle filling point, for class 2.1.1 permanent gas, must be separated by a distance of 2.5 metres from the place of storage of class 2.1.1 permanent gas.

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

(2A) Subclause (2) does not apply to the storage of class 2.1.1 permanent gas in quantities not exceeding 100m³ and which is intended to be used on the premises.

Insert, in subclause (4), before the words “transfer point” wherever they occur, the words “tank fill”.

Clause 7

Insert, after subclause (1), the following new subclause:

(1A) Cylinders which are located within 1 metre of a building and which, individually or in aggregate, as the case may be, contain up to 100 kg of a class 2.1.1 liquefiable gas must not have any opening located—

- (a) below the top of the cylinder; and
- (b) within 1 metre of any cylinder.

Clause 7(2)

Omit the words “up to 250” and substitute the words “greater than 100 kg and up to 300”.

Omit, in subclause (b) the word “if” and insert at the end of the subclause the word “and”, and insert the words “the building” at the start of subclause (b)(ii)

Omit, in subparagraph (A), the word “or” and substitute “and”.

Heading to clause 9

Insert, after the words “flammable aerosols”, the words “and threaded or self-sealing gas cartridges of LPG”.

Clause 9(1)

Insert, after the words “flammable aerosols”, the words “and threaded or self-sealing gas cartridges of LPG of up to 1,000 ml water capacity manufactured to EN 417 or other approved standards,” and omit the words “to which this Part applies”.

Clause 10

Repeal subclause (1) and substitute the following new subclause:

- (1) This clause does not apply to—
 - (a) a domestic oil-burning installation that—
 - (i) includes a stationary tank that has a capacity that does not exceed 1,200 litres; and
 - (ii) complies with clause 64 of Schedule 8 of this notice; or
 - (b) a stationary tank that complies with clause 62(3)(b) of Schedule 8 of this notice.

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

- (3) Where an above ground stationary tank, a transportable container or a tank wagon, having multiple compartments is installed, the separation distance to areas of high intensity land use and low intensity land use will be based on the aggregate volume of the compartments and the lowest flash point substance stored in any of the compartments.

Clause 11(3)

Omit, in subclause (a), the expression “4.5” and substitute “4.9”.

Clause 12(2)

Omit, in the first line, the words “clauses” and “used” and substitute the words “clause” and “use” respectively.

Clause 15(2)

Insert, after the word “applies”, the words “and which are located in a building”.

Clause 16

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

- (2A) For the purposes of subclause (2)(b), where the building holds both class 3.1A and/or 3.1B substances, and also class 3.1C substances, the relevant quantity has been exceeded if the quantity-ratio is greater than 1.

Clause 18(1)(a)

Insert, after the word “the”, the words “hazardous substance”.

Clause 19

Insert, after subclause (1), the following new subclause:

- (1A) A vehicle filling point, for a class 2.1.1 permanent gas, must be separated by a distance of 2.5 metres from the place of storage of class 2.1.1 permanent gas.

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

- (2A) Subclause (2) does not apply to the storage of a class 2.1.1 permanent gas in quantities not exceeding 100m³ and which is intended to be used on the premises.

Clause 19(4)

Insert, before the words “transfer point” wherever they occur, the words “tank fill”.

Clause 20

Insert, after subclause (1), the following new subclause:

(1A) Cylinders which are located within 1 metre of a building and which individually or in aggregate, as the case may be, contain up to 100 kg of a class 2.1.1 liquefiable gas must not have any opening located –

- (a) below the top of the cylinder; and
- (b) within 1 metre of any cylinder.

Omit, in subclause (2), the words “up to 250” and substitute the expression “greater than 100 kg or more and up to 300”.

Omit, in subclause (2)(b) the word “if” and insert at the end of the subclause the word “and” and insert the words “the building” at the start of subclause (b)(ii).

Omit, in subparagraph (2)(b)(ii)(A), the word “or” and substitute “and”.

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

(2A) Subclause 1(a) does not apply to cylinders present at a hazardous substance location that contain greater than 300 kg and up to 1000 kg of class 2.1.1 liquefiable gas if–

- (a) there are no buildings within 2 metres of the cylinder or cylinders; or
- (b) there are 1 or more buildings within 2 metres of the cylinder or cylinders and–
 - (i) the wall of the building (or a wall between the cylinders and the building) is:
 - (A) vapour tight; and
 - (B) has a minimum fire resistance rating of 60/60/60 minutes for the length of the wall directly behind the cylinders and extending at each end to a distance of at least 2 metres from the end of the bank of cylinders; and
 - (ii) any building within 2 metres of the cylinder or cylinders does not have any opening located:
 - (A) below the top of the cylinder; and
 - (B) within 2 metres either side of the cylinder.

(3) In the case of direct-fired vaporisers the requirements set out in clause 55(2) of Schedule 8 of this notice must be complied with.

Heading to clause 21

Insert, before the words “transfer point”, the words “tank fill”.

Clause 21

Insert, before the words “transfer point”, the words “tank fill”.

New clause 21A

Insert, after clause 21, the following new subclause:

21A Separation of cylinder filling stations for class 2.1.1 liquefiable gas from boundary of controlled zone

Cylinder filling stations are to be installed so as to ensure a separation distance of at least—

- (a) 15 metres from an area of high intensity or low intensity land use, where the quantity of class 2.1.1A [liquefiable gas stored in cylinders at the filling station is 1,000 kg or greater; or
- (b) 8 metres from an area of high intensity or low intensity land use, where the quantity of class 2.1.1A liquefiable gas stored in cylinders at the filling station is more than 100 kg but less than 1,000 kg; or
- (c) 6 metres from an area of high intensity land use and 3 metres from an area of low intensity land use where the quantity of class 2.1.1A liquefiable gas stored in cylinders at the filling station, is less than 100kg.

Heading to clause 22

Insert, after the words “flammable aerosols”, the words “and threaded or self-sealing gas cartridges of LPG”.

Clause 22(1)

Insert, after the words “flammable aerosols”, the words “and threaded or self-sealing gas cartridges of LPG of up to 1,000 ml water capacity manufactured to EN 417 or other approved standards,” and omit the words “to which this Part applies”.

Clause 23

Repeal subclause (1) and substitute the following new subclause:

- (1) This clause does not apply to—
 - (a) a domestic oil-burning installation that—
 - (i) includes a stationary tank that has a capacity that does not exceed 1,200 litres; and
 - (ii) complies with clause 64 of Schedule 8 of this notice; or
 - (b) a stationary tank that complies with clause 62(3)(b) of Schedule 8 of this notice.

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

- (3) Where an above ground stationary tank, transportable container or tank wagon, having multiple compartments is installed, the separation distance to areas of high intensity land use and low intensity land use will be based on the aggregate volume of the compartments and the lowest flash point substance stored in any of the compartments.

Clause 24(3)

Omit in subclause (a), the expression “section 4.5” and insert “section 4.9”.

Clause 28(2)

Insert, after the words “clause applies”, the words “,and which are located in a building,”.

Clause 29

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

- (2A) For the purposes of subclause (2)(b), where the building holds both class 3.1A and/or 3.1B substances, and also class 3.1C substances, the relevant quantity has been exceeded if the quantity-ratio is greater than 1.

Insert, at the end of this clause the following new subclause:

- (4) Despite the provisions of subclauses (1) to (3), when the maximum quantity of class 3.1 hazardous substances used in any building at any one time does not exceed 60 litres of class 3.1A and class 3.1B substances in aggregate, or 200 litres of class 3.1C substances, the use of those hazardous substances other than in a type 1, type 2 or type 3 building is permitted under the following conditions:
- (a) the building must be occupied by the same organisation that is storing the hazardous substances; and
 - (b) that part of the building in which the activity involving exposure of the hazardous substances to the atmosphere is being carried out must be of a minimum fire resistance rating of 120/120/120 minutes to at least 6 metres in all directions from any container in which hazardous substances are used; and
 - (c) despite the requirements of regulation 58 of the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001, no source of ignition shall be permitted within 15 metres of the area where work involving the exposure to the atmosphere of class 3.1A and 3.1B hazardous substances in excess of 30 litres in total is being carried out unless the working area is protected by an intervening wall.

Clause 30(2)

Omit the number “250” in column 1 and substitute “300”.

Heading to clause 33

Insert, after the words “separation distance”, the words “and variation of other matters”.

Clause 33(1)

Repeal subclause (1) and substitute the following:

- (1) Subject to subclause (2), the Authority may, on application by the person in charge of a place at which a hazardous substance is located –
- (a) reduce the separation distance required; or
 - (b) vary other matters

required in respect of a hazardous substance under Part 2 or Part 3 of this Schedule.

Clause 33(2)

Insert, after the word “minutes” in subparagraph (ii)(A), the expression “or, where the site on the other side of the boundary adjacent to the premises is a low intensity land use, the wall is constructed of fire-resisting materials”.

Clause 33

Insert, at the end of this clause, the following new subclause:

- (4) When approving an application under this clause, the Authority may set the time within which the relevant requirements must be met.

New clause 35

Insert, after clause 34 the following new clause:

35 Previously approved installations of class 2.1.1 liquefiable gas cylinders and above ground tanks

- (1) Where the requirements of clauses 7 or 8 or 20 or 21 of Schedule 10 of this notice are not met, but the location of the cylinders or above ground tanks containing class 2.1.1 liquefiable gas –
- (a) has been approved and a licence issued in accordance with section 9 of the Dangerous Goods Act 1974; and
 - (b) the cylinders or above ground tanks were in use in accordance with that licence immediately before the date of commencement of this notice

they are deemed to comply with this Schedule if the separation distance is greater than 50% of the separation distance required under Part 2 or Part 3 of this Schedule and:

- (i) there is an intervening wall; and
 - (ii) the distance measured in the horizontal plane around the end of the intervening wall by the most direct line to the area of high intensity land use or area of low intensity land use (whichever is the case) at least meets the requirements of the tables set out in clauses 30(2) or 30(3) (whichever is applicable).
- (2) For the purposes of subclause (1)–
- (a) in the case of separation from an area of high intensity land use, the intervening wall must–
 - (i) have a minimum fire resistance rating of 240/240/240 minutes for at least that length of the wall that separates the container, any connections, associated pipework and operable fittings in a line of sight from the area being protected; and
 - (ii) for the length of the wall that is not included in sub-paragraph (i), be constructed of fire-resisting materials as a minimum standard; and
 - (iii) be vapour tight; and
 - (iv) be greater than 1.8 metres high or 0.6 metres above the top surface of the tank; or
 - (b) in the case of separation from an area of low intensity land use, the intervening wall must–
 - (i) be constructed of fire-resisting materials; and
 - (ii) be vapour tight; and
 - (iii) be greater than 1.8 metres high or 0.6 metres above the top surface of the tank.

Schedule 9

Amendments to Schedule 12 to the Principal Notice

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

Regulations 56, 89 and 107

Repeal the changes to controls for these regulations in their entirety and substitute the following changes to controls:

Regulation 56

This regulation applies as if the following regulation were inserted immediately after regulation 56:

56A Exception to approved handler requirements for transportation of packaged dangerous goods

- (1) Regulation 56 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 driver 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 a 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)(a)–
 - (a) applies to:
 - (i) pilots, aircrew, and airline ground personnel loading and handling hazardous substances within an aerodrome; or
 - (ii) pilots for the purpose of aerial spraying or dropping; but
 - (b) does not apply to:
 - (i) 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; or
 - (ii) the loading and handling of any hazardous substance for the purpose of aerial spraying or dropping.
- (4) In this regulation, **UN Model Regulations** means the 14th revised edition of the Recommendation on the Transport of Dangerous Goods Model Regulations, published in 2005 by the United Nations.

Regulation 89

This regulation applies as if the following regulation were inserted immediately after regulation 89:

89A Exception to approved handler requirements for transportation of packaged dangerous goods

- (1) Regulation 89 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 driver 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 Good 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 a 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:
 - (i) pilots, aircrew, and airline ground personnel loading and handling hazardous substances within an aerodrome; or
 - (ii) pilots for the purpose of aerial spraying or dropping; but
 - (b) does not apply to:
 - (i) 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; or
 - (ii) the loading and handling of any hazardous substance for the purpose of aerial spraying or dropping.
- (4) In this regulation, **UN Model Regulations** means the 14th revised edition of the Recommendation on the Transport of Dangerous Goods Model Regulations, published in 2005 by the United Nations.

Regulation 107

This regulation applies as if the following regulation were inserted immediately after regulation 107:

107A Exception to approved handler requirements for transportation of packaged dangerous goods

- (1) Regulation 107 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 driver 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 a 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:
 - (i) pilots, aircrew, and airline ground personnel loading and handling hazardous substances within an aerodrome; or
 - (ii) pilots for the purpose of aerial spraying or dropping; but
 - (b) does not apply to:
 - (i) 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; or

- (ii) the loading and handling of any hazardous substance for the purpose of aerial spraying or dropping.
- (4) In this regulation, **UN Model Regulations** means the 14th revised edition of the Recommendation on the Transport of Dangerous Goods Model Regulations, published in 2005 by the United Nations.

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

Regulation 9

Repeal the changes to controls for these regulations in their entirety and substitute the following changes to control:

Regulation 9

This regulation applies as if the following regulation were inserted immediately after regulation 9:

9A Exception to approved handler requirement for transportation of packaged dangerous goods

- (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 driver 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 a 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:
 - (i) pilots, aircrew, and airline ground personnel loading and handling hazardous substances within an aerodrome; or
 - (ii) pilots for the purpose of aerial spraying or dropping; but
 - (b) does not apply to:
 - (i) 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; or
 - (ii) the loading and handling of any hazardous substance for the purpose of aerial spraying or dropping.
- (4) In this regulation, **UN Model Regulations** means the 14th revised edition of the Recommendation on the Transport of Dangerous Goods Model Regulations, published in 2005 by the United Nations.