



Consultation on exposure draft of Hazardous Substances (Hazardous Property Controls) Notice 2017

Please submit your comments to hsnotices@epa.govt.nz on this form in Word document format

Submission on	Part 1 Part 2 Part 3; Item 3.7.1; tank wagons and containers containing class 9 substances. Part 4
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- I would like my submission (or specified parts of my submission) to be kept confidential, and attach my reasons for this consideration by the EPA.
- I would like my submission reported anonymously (i.e. without my name attached) by the EPA.

Proposals and submission form

The EPA is seeking your views as interested parties on the exposure draft of the *Hazardous Substances (Hazardous Property Controls) Notice*.

A consultation document has been prepared that include the exposure draft of the notice in Appendix 1. The consultation document poses a series of questions that we would like your feedback on. Your feedback is important as it will enable the EPA to make more informed decisions on the final content of the proposed HPC Notice. Please take this opportunity to have your say.

Please use this form to submit your written comments and send it to hsnotices@epa.govt.nz (in Word document format) no later than 5.00 p.m. on 19th of April 2017.

This submission form brings together all the questions asked throughout the consultation document in table format. Page references are provided to help you locate the relevant sections in the consultation document.

There are many questions in the consultation document. Please focus on the ones that are relevant to you, it is not necessary that you answer them all.

When providing your comments, please provide your rationale and any additional information you consider is relevant, including information on costs and benefits (financial or otherwise), and any other impacts of these proposals on businesses, workers or other stakeholders. This information will help us more fully understand the effects this notice will have if introduced as proposed.

Q#	Proposal/Question	Pg#	Your comments/notes and rationale
3.5.1 Qualification requirements for users of highly ecotoxic pesticides in certain situations			
Question 1 - Qualifications for UPM operators, Option A			
1(a)	Do you consider the new New Zealand Certificate is too high a qualification to require for the HSNO minimum requirement? Please provide your reasons.	25	RPH recognises that UPM operators have a role to ensure their activities do not represent a risk to public health. However, as we are not familiar with the qualifications for this industry we are unable to comment on a preferred option. We would support industry developing an agreed best practice/industry standard of training. It is important that there are no barriers to accessibility and affordability of the training to support a well trained workforce. RPH is of the opinion that on-going competence is just as important and supports the need to update and upgrade qualifications over time.
1(b)	What content in the new New Zealand Certificate do you consider is not required? Please provide your reasons.	25	
1(c)	What do you consider are the barriers to operators achieving the new New Zealand certificate? Please provide your reasons.	25	RPH recommend that it is important that there are no barriers to accessibility and affordability of the training.
Question 2 - Qualifications for UPM operators, Option B			
2(a)	Do you think it more appropriate to have operators achieve a partial qualification (i.e. selected unit standards) rather than the full New Zealand Certificate for the HSNO minimum requirement? Please provide your reasons.	26	
2(b)	Do you have any thoughts on which of the following unit standards would be more appropriate to require UPM operators to obtain (taking account of the focus for environmental protection)? Please provide your reasons. <i>Unit standard 28791 Apply pest management services in the urban pest management industry</i> OR <i>Unit standard 28790 Identify pests, assess pest activity and recommend integrated pest management or a standard treatment.</i>	26	
Question 3 - Qualifications for UPM operators, Option C			

Q#	Proposal/Question	Pg#	Your comments/notes and rationale
3	<p>If you have any experience or knowledge about the three Australian units listed, please comment on whether you consider:</p> <ul style="list-style-type: none"> • they are an appropriate alternative partial qualification for UPM operators in NZ • they are set at a similar level than the NZ unit standards we are proposing • they cover off management of risks to the environment • other Australian units are more relevant • there would be any cost or access issues 	26	.
Question 4 - Qualifications for UPM operators, Option C			
4	Do you have any comments on this option? If yes, please provide a detailed response.	26	
Question 5 - Qualifications for UPM operators, Option E			
5(a)	Do you feel that the risks to the environment from UPM activities are not sufficiently high enough to warrant us requiring a (HSNO) qualification for UPM operators? Please provide your reasons.	26	
5(b)	If you think a qualification is needed, do you have any thoughts what this qualification could be, other than those discussed above. If so, please provide a detailed response.	26	
Question 6 - Qualifications for rural pest operators			
6	<p>We propose not including a qualification requirement for people undertaking rural pest management operations for the reasons outlined in the table above. Do you agree with this approach?</p> <p>If not, please provide information on specific qualifications you consider would be relevant for people in rural pest management, bearing in mind that the focus of these qualifications should be on management of risks to the environment, rather than people (as these will be covered under the HSW legislation).</p>	27	

Q#	Proposal/Question	Pg#	Your comments/notes and rationale
Question 7 - Propose different qualifications for pilots			
7(a)	Do you agree with our revised proposal to require pilots spraying pesticides to have a current Pilot Chemical Rating under Part 61 of the Civil Aviation Rules, rather than a National Certificate in Aerial Agrichemical Application as proposed in our October 2016 consultation document? Please provide your reasons.	27	
7(b)	Do you agree that people operating unmanned aerial vehicles whilst applying pesticides should need to have a Pilot Chemical Rating under Part 61 of the Civil Aviation Rules? Please provide your reasons. Refer to clause 49 of the notice exposure draft, attached as Appendix 1.	27	
Question 8 - Propose different qualifications for different users			
8(a)	Do you agree with our revised proposal to require contractors to have a higher level qualification than other types of pesticide users for example, farmers? Please provide your reasons if you disagree.	27	
8(b)	Do you agree with the range of qualifications proposed for the different types of users? Please provide your reasons if you disagree, and provide alternative options. Refer to clauses 50 and 51 of the notice exposure draft, attached as Appendix 1.	27	
Question 9 - Qualified person not required to be present at application site			
9	Do you agree with our revised proposal to not require a qualified person to be present at the place where the substance is being applied as long as a qualified person is available all times to provide assistance, and has provided guidance to the person in respect of the application of the substance? Refer to clauses 50(2) and 51(2) of the notice exposure draft, attached as Appendix 1.	27	
Question 10 - Definition of "pesticide"			
10	Do you have any concerns with the definition of "pesticide" and what substances are covered by this definition? If yes, please provide your reasons.	28	No

Q#	Proposal/Question	Pg#	Your comments/notes and rationale
	Refer to clause 3 of the notice exposure draft, attached as Appendix 1.		
Question 11 - Definition of "contractor"			
11	Do you have any concerns with the definition of "contractor"? If yes, please provide your reasons. Refer to clause 46 of the notice exposure draft, attached as Appendix 1.	28	No
Question 12 - Definition of "qualified contractor"			
12	Do you have any concerns with the definition of "qualified contractor"? If yes, please provide your reasons. Refer to clause 46 of the notice exposure draft, attached as Appendix 1.	28	No
Question 13 - Definition of "qualified person"			
13	Do you have any concerns with the definition of "qualified person"? If yes, please provide your reasons. Refer to clause 46 of the notice exposure draft, attached as Appendix 1.	28	No
Question 14 - Wording of clauses in notice			
14	Do you have any issues with the specific wording of the proposed clauses for these controls? If yes, please provide your reasons. Refer to clauses 46 – 52 of the notice exposure draft, attached as Appendix 1.	28	No
3.5.2 Requirement to keep a record when applying ecotoxic substances and information to be included in that record			
Question 15 - Wording of clause in notice			
15	Do you have any issues with the specific wording of the proposed clause for this control? If yes, please provide your reasons. Refer to clause 56 of the notice exposure draft, attached as Appendix 1.	32	No

Q#	Proposal/Question	Pg#	Your comments/notes and rationale
3.5.3 Requirements for equipment used to handle ecotoxic substances in workplaces			
<i>Question 16 - Wording of clause in notice</i>			
16	Do you have any issues with the specific wording of the proposed clause for this control? If yes, please provide your reasons. Refer to clause 55 of the notice exposure draft, attached as Appendix 1.	34	No
3.5.5 Prohibition on use of ecotoxic substance in excess of environmental exposure limits			
<i>Question 17 - Wording of clause in notice</i>			
17	Do you have any issues with the specific wording of the proposed clause for this control? If yes, please provide your reasons. Refer to clause 36 of the notice exposure draft, attached as Appendix 1.	37	No
3.5.6 Use of substances ecotoxic to terrestrial invertebrates			
<i>Question 18 - Wording of clause in notice</i>			
18	Do you have any issues with the specific wording of the proposed clause for this control? If yes, please provide your reasons. Refer to clause 45 of the notice exposure draft, attached as Appendix 1.	40	No
3.5.7 Use of substances ecotoxic to terrestrial vertebrates			
<i>Question 19 - Wording of clauses in notice</i>			
19	Do you have any issues with the specific wording of the proposed clauses for these controls? If yes, please provide your reasons. Refer to clauses 40 – 44 of the notice exposure draft, attached as Appendix 1.	43	No

Q#	Proposal/Question	Pg#	Your comments/notes and rationale
3.5.8 Consolidation of controls to better manage off-target effects from hazardous substances			
<i>Question 20 - Definition of buffer zone distance</i>			
20	We have replaced the definition of “buffer zone” with “buffer zone distance”. Do you agree with the proposed definition of “buffer zone distance”? Please provide your reasons. Refer to clause 38 of the notice exposure draft, attached as Appendix 1.	47	Yes, it provides clear guidance around the concept of a buffer zone.
<i>Question 21 - Definition of sensitive area</i>			
21	We have replaced the definition of “identified sensitive area” with “sensitive area”. Do you agree with the proposed definition of “sensitive area”? Please provide your reasons. Refer to clause 38 of the notice exposure draft, attached as Appendix 1.	48	We do not have a preference of one over the other.
<i>Question 22 - Definition of application plot</i>			
22	We have made a slight amendment to the definition of “application plot”. Do you have any issues with the new definition? Please provide your reasons. Refer to clause 3 of the notice exposure draft, attached as Appendix 1.	48	No
<i>Question 23 - Wording of clauses in notice</i>			
23	Do you have any issues with the specific wording of the proposed clauses for these controls? If yes, please provide your reasons. Refer to clauses 37 and 38 of the notice exposure draft, attached as Appendix 1.	48	No
3.5.9 Prohibition on application of certain class 9.1 substances directly into or onto water			
<i>Question 24 – Range of substances covered</i>			
24	Do you have any concerns with the range of substances captured by this provision, i.e. that plant growth regulators are included, but VTAs and fumigants are excluded? [VTAs are excluded on the basis that it would effectively prohibit all aerial applications of these substances in rural environments, especially remote locations, given it would be essentially impossible to avoid every single water	51	No

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	body with absolute certainty. The control is considered not relevant to fumigants which are gaseous in form and typically used in space or soil fumigations].		
Question 25 – Wording in clause of notice			
25	Do you have any issues with the specific wording of the proposed clause for this control? If yes, please provide your reasons. Refer to clause 39 of the notice exposure draft, attached as Appendix 1.	52	No
3.5.10 Controls to manage risks from storage and use of ecotoxic substances in workplaces			
Question 26 - Wording in clauses of notice			
26	Do you have any issues with the specific wording of the proposed clauses for these controls? If yes, please provide your reasons. Refer to clauses 25 – 32 and clause 54 of the notice exposure draft, attached as Appendix 1.	55	No
3.6.1 Restriction on supply and use of certain highly hazardous substances to non-workplaces			
Question 27 – Range of substances covered			
27	Do you agree with the changes we have made to the classifications proposed to be restricted to workplaces only? Please provide your reasons. Refer to clause 12 of the notice exposure draft, attached as Appendix 1.	60	Yes
Question 28 – Wording of clause in notice			
28	Do you have any issues with the specific wording of the proposed clause for this control? If yes, please provide your reasons. Refer to clause 12 of the notice exposure draft, attached as Appendix 1.	60	No
3.6.2 Controls on hazardous substances used or stored in non-workplaces			
Question 29 - Requirement to comply with label			
29	Do you agree that the HPC Notice should include a control that requires	67	No,

Q#	Proposal/Question	Pg#	Your comments/notes and rationale
	<p>people in non-workplaces to comply with the relevant label controls for the storage and use of hazardous substances as prescribed in the Labelling Notice, rather than including generic controls on the storage and use of hazardous substances in non- workplaces directly in the HPC notice? Please provide your reasons. Refer to clause 14 of the exposure draft, attached as Appendix 1</p>		RPH supports that use of labelling that meets the proposed Hazardous Substances (Labelling) Notice is an appropriate way to manage public health risks from storage and use. Generic controls on the label about the danger, storage and use are quick and easy to read and understand and will mostly likely prevent and lower the number of hazardous substance injuries in the home and non-workplace.
Question 30 - List of substances to remove from proposed list			
30	<p>Do you agree with the list of substances / classifications that we have removed from Table 4 and now propose to restrict supply to workplaces only? Refer to list provided in paragraph 147 above. Please provide your reasons. Refer to revised list in Table 3 in clause 17 of the exposure draft, attached as Appendix 1</p>	67	Yes, reducing the access of toxic substances to the non-workplace will reduce the risk of any potential public health risk.
Question 31 - List of substances to add to proposed list			
31	<p>Do you agree with the list of substances / classifications that we have added to Table 4 so that they will be subject to HSW controls if present in a non-workplace above specified threshold quantities? Refer to list provided in paragraph 148 above. Please provide your reasons. Refer to revised list in Table 3 in clause 17 of the exposure draft, attached as Appendix 1</p>	67	Yes, This will ensure that large uncontrolled quantities of these substances will not be legally sold and therefore not stored and used in the non-workplace.
Question 32 – Wording of clauses			
32	<p>Where the threshold quantities in non-workplaces have been exceeded, we have provided two different drafting options for ensuring the hazardous substances are managed to the same level as in a workplace If you have a preference of one over the other, please provide this feedback to us, along with your reasons. Refer to clauses 16 and 17 of the exposure draft, attached as Appendix 1</p>	67	<p>The performance based requirement is an appropriate regulatory regime for a work place, that can be monitored, audited and enforced. The concept of PCBU (person conducting a business or undertaking) relates to a work place and there are likely to be some challenges applying this to a non-work place. Non-work places should stay separate from the work place and outside the HSW Act.</p> <p>Therefore RPH supports Option 2, the prescriptive based requirement. Non-workplaces are more suited to a prescriptive based requirement as there are likely to be fewer situations where large quantities are required outside of a workplace. If they remain under the HSNO Act it will enable the responsible regulatory agencies to apply their risk assessment and management frameworks to protect the environment</p>

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			including public health.
3.6.3 Controls on stationary container systems for domestic oil burning installations			
<i>Question 33 - Domestic oil burning installations under 2,500 L</i>			
33	Do you agree with the proposed controls on domestic oil burning installations with a capacity of 2,500L or less? Please provide your reasons. Refer to clause 21 of the notice exposure draft, attached as Appendix 1.	72	
<i>Question 34 - Domestic oil burning installations over 2,500 L</i>			
34	Do you agree with the proposed controls on domestic oil burning installations with a capacity over 2,500L, including the requirement that such installations be certified, with the duty on the installer to obtain the certification? Do you agree with a five year recertification period? Please provide your reasons. Refer to clause 22 of the notice exposure draft, attached as Appendix 1.	72	
<i>Question 35 - Stationary container systems used to supply fuel to an internal combustion engine</i>			
35	Do you agree with the proposed controls on stationary container systems that are used to supply fuel to an internal combustion engine, including the requirement that installations over a certain size be certified, with the duty on the installer to obtain the certification? Do you agree with a five year recertification period? Please provide your reasons. Refer to clause 23 of the notice exposure draft, attached as Appendix 1.	72	
3.6.4 Compliance checking or certification of non-workplaces storing greater than 100kg of LPG			
<i>Question 36 - Controls on non-workplaces holding 100 kg – 300 kg LPG</i>			
36	Do you agree with the proposal that where LPG is held in non-workplaces in quantities over 100 kg but less than 300 kg, the LPG supplier will be required to carry out a compliance check and issue a compliance plaque? Do you agree with a 36 month renewal for these? Please provide your reasons. Refer to clause 19 of the notice exposure draft, attached as Appendix 1.	76	

Q#	Proposal/Question	Pg#	Your comments/notes and rationale
Question 37 - Controls on non-workplaces holding greater than 300 kg LPG			
37	Do you agree with the proposal that where LPG is held in non-workplaces in quantities over 300 kg, the homeowner or equivalent must obtain a certificate from a person who is authorised as a WorkSafe certifier? Do you agree with a 36 month renewal for these? Please provide your reasons. Refer to clause 20 of the notice exposure draft, attached as Appendix 1.	76	
3.7.1 Regulation of tank wagons and transportable containers containing class 9 substances			
Question 38 - Propose that HPC Notice will not include controls on tank wagons and transportable containers for class 9 substances			
38	Do you agree with the proposal that the HPC should not include controls on tank wagons and transportable containers used for ecotoxic substances as outlined above? Please provide your reasons.	78	
3.7.2 Filling of SCUBA cylinders in non-workplaces			
Question 39 - Agreement with proposed approach			
39	Do you agree with the approach outlined above? If not, please provide your reasons.	80	
Question 40 - Wording of clause in notice			
40	Do you have any issues with the specific wording of the proposed clause for this control? If yes, please provide your reasons. Refer to clause 24 of the notice exposure draft, attached as Appendix 1.	80	
3.8 Part 4 – Proposed changes to the Labelling Notice			
Question 41 - Agreement to include additional controls on labels for pesticides			
41	Do you agree that the Labelling Notice should include provisions to require pesticide labels to include the information listed above? Please provide your reasons.	85	
Question 42 - Wording of clauses in notice			
42	Do you have any issues with the specific wording of the proposed clauses for	85	

Q#	Proposal/Question	Pg#	Your comments/notes and rationale
	<p>these controls?</p> <p>If yes, please provide your reasons. Note that these labelling controls will be in the Labelling Notice rather than the HPC Notice.</p> <p>Refer to italicised boxes in the notice exposure draft, attached as Appendix 1.</p>		
Further comments			
	<p>Do you have any further on the Exposure Draft for the Hazardous Substances (Hazardous Property Controls) Notice?</p>	-	