

ENQ-39032-K9T7M1

6 July 2020

██████████
██████████
HamChem Hamilton Chemicals Ltd
75 Ruffell Rd
TeRapa Park
Hamilton. 3200
New Zealand

Private Bag 632
Wellington 6140, New ZealandLevel 10, Grant Thornton House
215 Lambton Quay
Wellington 6011, New Zealandepa.govt.nz
+64 4 916 2426

Via: ██████████@hamchem.nz

Official Information Act Request

Dear ██████████,

I refer to the request detailed in your e-mail received on 22 June 2020, for the following information:

“A number of pool products currently use boric acid. The European Chemical Agency (ECHA) has included boric acid in the list of Substances of Very High Concern (SVHC) due to its classification as toxic for reproduction. From my understanding with suppliers in Europe it will be withdrawn for use in swimming pool products by February 2020.

Boric acid is widely used as a lubricant in the production of trichloro-iso-cyanurate tablets at rates of up to 2% and also used to cut trichloro-iso-cyanurate granular products at much higher levels.

Your current listing for boric acid confirms this toxicity.

BORIC ACID

HSNO classifications	Hazard code	Hazard Statements
6.1E (All)	H303 H313 H333 H305	May be harmful if swallowed. May be harmful in contact with skin. May be harmful if inhaled. May be harmful if swallowed and enters airways.
6.3B	H316	Causes mild skin irritation.
6.4A	H320	Causes eye irritation.
6.8B	H361	Suspected of damaging fertility or the unborn child.
9.1D (All)	H402	Harmful to aquatic life.

What is the EPA's view on the use of this product for swimming pools and will it also be banned for use in swimming pools in New Zealand and when.

As an importer it is of immediate concern as it is advantageous to have prior warning so alternatives can be sourced.”

Your request has been treated as a request for information under the Official Information Act 1982 (OIA). The response to your request follows.

The EPA is not doing any reassessment work around boric acid, or swimming pool products.

Regarding the hazard classifications for boric acid in the EPA's Chemical Classification and Information Database (CCID), the 6.1E classification is just for acute oral toxicity. So only the H303 hazard code (May be harmful if swallowed) is applicable, and not the H313, H333, or H305 hazard codes (which are relevant for dermal, inhalation, or aspiration toxicity hazards). Also the 9.1D classification is applied based on biocidal action, rather than being harmful to aquatic life.

Boric acid has an individual approval, so manufacture or importation of the chemical into New Zealand is allowed. The controls that apply to boric acid can be found on the Approved hazardous substances with controls database on the EPA website: <https://www.epa.govt.nz/database-search/approved-hazardous-substances-with-controls/>.

Our reassessments team has screened "borate and boric acid salts" and this appears on the Screened chemicals list: <https://www.epa.govt.nz/industry-areas/hazardous-substances/chemical-reassessment-programme/screened-chemicals-list/>. While the chemical group screened highly for human health risks, the score for environmental risks was minimal, leading to an overall priority group D outcome. Therefore it is not one of our initial priorities for reassessment (priority group A and B chemicals currently appear on our Priority chemicals list).

Swimming pool products that contain boric acid are required to have an approval in order to be imported into New Zealand. Most of these types of products would use a Group Standard approval (rather than having an individual approval assessed by the EPA as part of an application). The EPA website has information on Group standards, and it is possible to search for a suitable one based on the type of product and/or its typical use. There are several Water treatment chemicals Group Standards that would typically be used for swimming pool products. Importers and manufacturers of these products have responsibility for selecting an appropriate Group Standard for their product, and keeping a record of assignment.

All of the current Water treatment chemicals Group Standards allow products that have a reproductive toxicity hazard (HSNO 6.8A, 6.8B or 6.8C) within their scope. There is no specific exclusion for products that contain boric acid. The main component restrictions on these products are that they cannot contain asbestos, chemicals that are persistent organic pollutants, or chemicals that exhibit the characteristics of persistent organic pollutants.

If the EPA (or any other person) wanted to amend the scope of a Group Standard in order to introduce new exclusions or criteria, then this would proceed as a group standard amendment. The amendment proposal would generally be open to the public for consultation, and the process would generally provide a number of months lead-in to any changes taking effect. Information is available on the Applying for a group standard amendment webpage: <https://www.epa.govt.nz/industry-areas/hazardous-substances/group-standards/applying-for-a-group-standard-amendment/>

There is currently no proposal to substantively change the scope of the Water treatment chemicals Group Standards. We are, however, consulting on proposed minor revisions to all of the Group Standards as part of our consultation on moving to the GHS classification system. Those proposals are open for submission at present up until 5pm on 4 August 2020 and you can view all of the relevant documents through the Open consultation "Implementing the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) – Consultation 2": <https://www.epa.govt.nz/public-consultations/open-consultations/ghs-implementation-consultation-2/>

Any workplace that is using swimming pool products should be aware of their obligations under New Zealand's health and safety legislation. Information on workplace health and safety can be found on the WorkSafe website: <https://worksafe.govt.nz/>. There is an obligation to eliminate or minimise risks

to workers as far as reasonably practicable. This may include substituting products with high hazards with equivalent lower hazard products if suitable alternatives are available.

You have the right to seek an investigation and review of this decision by the Ombudsman. You can contact the Ombudsman on 0800 802 602, or by email at info@ombudsman.parliament.nz.

You indicated that you had sent your letter on repeated occasions. Please accept my apologies, unfortunately we have been unable to locate any other copies of your request. We'd be grateful if you could confirm the e-mail address to which you sent your earlier correspondence, so we can make further enquiries.

If you have further information act requests, please do not hesitate to contact us via ministerials@epa.govt.nz or 04 916 2426. You may also be interested in our online newsletter, the 'Hazardous Substances update' to help keep the public up to date with our work, which contains the latest application decisions and news from the hazardous substances team: <https://www.epa.govt.nz/news-and-alerts/newsletters/>

Yours sincerely

A handwritten signature in black ink, appearing to read 'Clark Ehlers', with a long horizontal flourish extending to the right.

Dr Clark Ehlers
Acting General Manager
Hazardous Substances and New Organisms