

Proposal to Implement the GHS 7

Submission Analysis Report on October 2019 Consultation

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Environmental
Protection Authority
Te Mana Rauhi Taiao

New Zealand Government

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1. Public Consultation Process

1. The Environmental Protection Authority (EPA) is proposing to update New Zealand’s current hazardous substance classification system to Revision 7 (2017) of the United Nations Globally Harmonized System of Classification and Labelling of Chemicals (GHS).
2. The GHS will be implemented by issuing a new Hazard Classification Notice. Consequential changes to several other EPA Notices¹ will also be required.

Details of the consultation

3. The consultation document was available for public consultation from 29 October 2019 until 9 January 2020. The document and online submission form were available on the EPA website for this period of time. Nearly 5,000 stakeholders were also directly advised that the consultation was taking place. The consultation was also promoted through both the EPA and WorkSafe newsletters.
4. New Zealand is party to the Technical Barriers to Trade agreement, overseen by the World Trade Organisation (WTO). This consultation was accordingly notified to WTO. No member states submitted a return on the consultation document.
5. The consultation document is available on our website.

Purpose of this report

6. The purpose of this report is to provide information to the decision-makers (the EPA Board) to help inform their decision when issuing the relevant EPA Notices. EPA Notices are legally binding regulatory instruments that are approved by the EPA Board rather than Cabinet.

Submissions received

7. Seventy-one submissions were received on this consultation. Of these, 30% were in overall support of our proposals, 51% were partially supportive, 6% were neutral, 13% were partially opposed and 1% were opposed.
8. A summary of the proposals included in the consultation document and our decisions on each is provided in Section 2.
9. A summary of the key themes raised in the submissions is provided in Section 3.
10. A more detailed analysis of submitter comments/concerns on each proposal and our response is provided in Sections 4 to 8. For each proposal we have listed the number of submitters who responded, those who agreed and those who disagreed. Submitters who didn’t tick either the “agree” box or the “disagree” box but provided comments in the note sections are listed as “not specified”.

¹ Labelling Notice, Safety Data Sheet Notice, Packaging Notice, Disposal Notice, and Hazardous Property Controls Notice.

11. Several submitters raised issues that we believe are outside the scope of the consultation document, e.g issues around the use of 1080 or glyphosate. These matters have been noted but not discussed in this document.
12. A list of the submitters is attached as Appendix 1. Some details have been redacted in accordance with the wishes of the submitters.

EPA recommendations

13. The intention is that the Board will issue the relevant EPA Notices later this year. Until the Board has made its decision, the recommendations included in this report are for information only.
14. The EPA recommendations included in this document are based on a cost/benefit analysis to New Zealand, international best practice and were informed by the submissions on this consultation.
15. A major consideration was to ensure that GHS is implemented in New Zealand in a manner that is the most consistent with our major trading partners. The majority of hazardous substances in New Zealand are imported. It is therefore important to facilitate trade by ensuring that overseas suppliers do not incur unnecessary compliance costs by needing to produce new labels and new SDS for the NZ market. If unreasonable compliance costs occur, this may lead to increased prices in NZ, or less product selection.
16. Complete and total international alignment is not possible as the GHS provides regulatory authorities with options for adopting certain classification “building blocks”, options for selecting high or low concentration cut-offs for classification of mixtures, and options for what sectors the GHS is applied to. To our knowledge, every jurisdiction that has adopted GHS has used one or more of these options. This has resulted in variations between different countries in how GHS has been applied, for example:
 - GHS only adopted for workplace chemicals (e.g Australia, USA, Canada)
 - Some building blocks not adopted (e.g Aquatic toxicity acute 2 and 3 not adopted by the EU, Acute toxicity Category 5 and Skin Irritation Category 3 not adopted by Australia, Canada, USA, the EU, and most ASEAN countries)
 - Some countries have opted for the lower concentration cut-off levels for mixtures (eg USA and Canada) and others have opted for the higher cut-off levels (e.g Australia)
17. In making our recommendations, we tried as much as possible to reflect the implementation decisions of some of our major trading partners, while taking into account the existing positions that have prevailed under HSNO since 2001.

Statutory process for making EPA Notices

18. Section 76C of the Hazardous Substances and New Organisms (HSNO) Act sets out a number of statutory requirements that need to be met when EPA Notices are issued or amended. In addition to the requirement to publically consult, the EPA must have regard to the costs and benefits of implementing the notice, and consider international best practice.

19. These matters, as they relate to implementing GHS 7, are outlined in detail in our October 2019 consultation document and are summarised below:

Key Costs

- A one-off cost to companies to re-label products and prepare new safety data sheets may be required, noting that the EPA Labelling and Safety Data Sheets Notices issued in 2017 already require compliance with GHS. Also of note is that these notices also contain a four-year transitional period, as well as alternative compliance provision for some jurisdictions.
- A one-off cost to companies who need to re-classify products covered under a group standard may be required if this has not already been done by the time the EPA implements the GHS classification system. The use of the correlation tables included in the Hazard Classification Notice will facilitate this process.
- A one-off cost to companies with in-house systems to update them to accept GHS 7 classifications. There will also be training and education costs for some stakeholders.

Key Benefits

- Having an internationally aligned classification system for hazardous substances will facilitate international trade, increase efficiency in chemicals management, lead to a reduction on associated compliance costs, and enhance the effectiveness of the HSNO Act.
- Implementing GHS will result in a HNSO classification system that is aligned to the Labelling and Safety Data Sheet Notices. As these notices already require compliance with GHS, this will result in reduced complexity for our stakeholders.
- Harmonisation of labels and safety data sheets with overseas requirements could lead to a reduction in the cost of products, greater product choice, and earlier introduction of newer and potentially safer products.
- Implementing GHS 7 will promote the sharing of data with overseas regulatory agencies. It will also mean New Zealand can utilise the International Uniform Chemical Information Database (IUCLID), an international hazardous substance database.

International Best Practice

- The GHS is an international system developed to achieve harmonisation of chemical hazard classification and hazard communication by way of standard label elements and safety data sheets.
- The GHS has been implemented in over 60 jurisdictions, including all of New Zealand's major trading partners (Australia, the EU, USA, Canada, China, Japan and South Korea). Regulatory authorities can decide how to apply the various building blocks of the GHS which has resulted in some variation across jurisdictions. Some jurisdictions have applied GHS to only workplace chemicals, and others to both domestic and workplace chemicals.

Previous consultation to adopt GHS

20. In 2014, the EPA consulted on updating the HSNO classification system to GHS revision 5 (GHS 5). The submission analysis report from the 2014 consultation is available on our website.

21. Although this 2014 consultation received good support from submitters, the EPA made a decision in 2015 to defer updating the classification system in order to focus on meeting the Government's deadline to transfer many workplace controls from HSNO to the new Health and Safety at Work legislation. This transfer of controls was effected on 1 December 2017. The EPA did, however, proceed to produce Notices for Labelling and Safety Data Sheets which are based on GHS 5.
22. The proposals included in this current 2019 consultation were largely consistent with the 2014 consultation with a few exceptions. These exceptions were that this current consultation proposed:
- to **not** adopt acute toxicity Category 5 at all (in 2014, we proposed that this Category would still apply to consumer products)
 - to **not** adopt skin irritation Category 3 at all (in 2014, we proposed that this Category would still apply to consumer products)
 - to adopt aquatic toxicity Acute Categories 2 and 3 (in 2014, we proposed to **not** adopt these two Categories)
 - to adopt the lower concentration cut-off values for certain chronically toxic ingredients when classifying mixtures (in 2014, we proposed to adopt the higher cut-off values levels for classification).

2. Summary of proposal and recommendations on each

23. A summary of the recommendations the EPA has made on the proposals in the consultation document is presented in the table below. A more detailed analysis of submitter comments/concerns and our response is provided in Sections 4 to 8.

Table 1. Summary of EPA recommendations on proposals

Proposal	EPA recommendation
<p><u>Proposal 1</u> To update the HSNO classification system by issuing a new EPA Classification Notice that will incorporate the GHS revision 7 by reference.</p>	<p>To progress with this proposal. The name of the new notice will be the Hazardous Substances (Hazard Classification) Notice 2020.</p>
<p><u>Proposal 2</u> Regarding what building blocks to adopt, we proposed:</p> <ul style="list-style-type: none"> • To not adopt acute toxicity Category 5 (HSNO 6.1E) (Proposal 2a) • To not adopt skin irritation Category 3 (HSNO 6.3B) (Proposal 2b) • To not adopt aspiration hazard Category 2 (Proposal 2c) • To adopt all seven categories for aquatic toxicity, i.e. Acute 1–3 and Chronic 1–4 (HSNO 9.1A–D) (Proposal 2d) 	<ul style="list-style-type: none"> • To progress with Proposal 2a as proposed. To not adopt acute toxicity Category 5 (HSNO 6.1E) • To progress with Proposal 2b as proposed. To not adopt skin irritation Category 3 (HSNO 6.3B) • To progress with Proposal 2c as proposed. To not adopt aspiration hazard Category 2 • To not progress with Proposal 2d as proposed. We now recommend to not adopt Aquatic toxicity Acute 2 and 3, but adopt the other five categories (i.e. Acute 1 and Chronic 1-4)
<p><u>Proposal 3</u> Where the GHS 7 provides for optional concentration cut-off values for classification of mixtures, we proposed to adopt the lower concentration cut-off values.</p>	<p>To progress with Proposal 3 as proposed. To adopt the lower concentration cut-off values for classification of mixtures.</p>

Proposal	EPA recommendation
<p><u>Proposal 4</u></p> <p>To replace the current HSNO subclasses for terrestrial ecotoxicity (9.2, 9.3 and 9.4) and 9.1D biocides with a single category “<i>substances that are ecotoxic to the terrestrial environment</i>” and to only apply that classification category to agrichemicals and related substances.</p>	<p>To progress with a slightly modified Proposal 4. Specifically the new Hazard Classification Notice will include a classification category ‘<i>substances that are hazardous to the terrestrial environment</i>’ and this category will be subcategorised into:</p> <ul style="list-style-type: none"> • hazardous to soil organisms • hazardous to terrestrial vertebrates • hazardous to terrestrial invertebrates • designed for biocidal action <p>These classifications will be applied only to agrichemicals, and active ingredients used in the manufacture of pesticides and veterinary medicines, as defined in the Hazard Classification Notice.</p> <p>The current classification criteria for the 9.2, 9.3 and 9.4 categories will not be used. However, we are proposing to retain the threshold criteria for ecotoxicity to soil organisms, terrestrial vertebrates and terrestrial invertebrates that are currently contained in the Hazardous Substances (Minimum Degrees of Hazard) Notice 2017. These criteria will be included in the new Hazard Classification Notice.</p>
<p><u>Proposal 5</u></p> <p>To extend by two years the current transitional period in the EPA Labelling Notice, Safety Data Sheet Notice, and Packaging Notice, i.e. to implement a transitional period for these notices that would expire on 1 December 2023.</p>	<p>To extend the transitional period proposed in the consultation document. We now propose to implement a four year transitional period for compliance with the Labelling Notice, Safety Data Sheet Notice, and Packaging Notice starting from the date of GHS Implementation. With an intended implementation date of April 2021, the transitional period would expire on April 2025. With the lead-in time as discussed above, we consider this will give industry ample time to design and prepare compliant labels and SDSs. We strongly encourage industry to complete any required changes well ahead of the due date.</p>

3. Key themes raised in submissions

24. Key themes raised across all submissions are discussed below.

General support for updating the existing classification framework (Proposal 1)

25. The majority of submitters (77%) supported the proposal to adopt the GHS 7. Many submitters highlighted the importance of aligning with major international trading partners.

Concerns raised about the proposed building blocks to adopt (Proposal 2)

26. The number of submitters that expressed concerns about what proposed building blocks to adopt are listed below. The main reasons for their concerns included being out of alignment with international trading partners and being less precautionary than the current classification categories.

- Proposal 2a: 12 submitters (17%)
- Proposal 2b: 14 submitters (20%)
- Proposal 2c: 10 submitters (14%)
- Proposal 2d: 13 submitters (18%)

Concerns regarding the proposal to adopt the lower concentration cut-off values for mixtures (Proposal 3)

27. Twenty-one submitters (30%) disagreed with this proposal. Key concerns included being out of alignment with international trading partners, complexity, and compliance costs.

Concerns regarding replacing HSNO 9.2, 9.3, 9.4 and 9.1D biocides with a single category (Proposal 4)

28. Twenty-two submitters (31%) disagreed with this proposal. Key concerns included issues around information requirements for informed risk assessments and environmental impacts.

Concerns about the length of the proposed transitional period to update labels and SDS (Proposal 5)

29. Twenty-four submitters (34%) considered a two-year transitional period was unrealistically short to update all their labels and SDSs. Thirteen submitters (18%) requested a five-year transitional period.

A need for education and support for users in GHS

30. Nineteen submitters (28%) considered we had not adequately factored in costs and time for training and supporting users in the GHS.

4. Submission analysis Proposal 1 – Implementing the GHS 7

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 1</p> <p>Do you agree with our proposal to update the HSNO classification system by issuing a new EPA Classification Notice that will incorporate the GHS revision 7, by reference? Please provide your reasons.</p>	<p>Sixty-eight submitters responded to this question.</p> <p><i>Agree</i></p> <p>Fifty-five submitters: 6, 7, 10, 12, 13, 14, 15, 16, 19, 20, 21, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 39, 41, 42, 44, 46, 48, 50, 52, 53, 55, 56, 57, 59, 61, 62, 63, 65, 66, 67, 69, 70, 71, 72, 73, 74, 75, 76, 79, 80, 81, 82</p> <p><i>Disagree</i></p> <p>Eight submitters: 4, 5, 8, 9, 45, 47, 51, 54</p> <p><i>Not specified</i></p> <p>Five submitters: 58, 60, 64, 77, 78</p>	<p>The majority of submitters (77%) supported this proposal to adopt the GHS 7. Key reasons include:</p> <ul style="list-style-type: none"> The importance of aligning with major international trading partners GHS classifications are clearly defined and would result in consistency <p>Key concerns raised by opposing submitters include:</p> <ul style="list-style-type: none"> The decision to adopt GHS 7 rather than GHS 8. GHS is frequently revised and keeping up with the changes between editions is important. The inclusion of the risks associated with combustible dusts in GHS 8 was given as an example. It was suggested that there should be a system in place to readily update the classification system to reference the latest revisions. A number of submitters noted that the HSNO classification provides a useful shorthand. It was suggested that a HSNO-style GHS equivalent could be put into place. Implementing the GHS classification system would result in large changes in terms of hazardous 	<p>We note the comments of submitters who supported this proposal.</p> <p>We also acknowledge the concerns raised by some submitters, especially regarding the initial uncertainty that may be created among some users and the additional cost, workload and resources required to update labels and SDS (see discussion below on Proposal 5 – transitional period).</p> <p>However, implementing the GHS 7 was considered to be the best means of ensuring that New Zealand aligns with its major international trading partners. In the long term, it will result in a simpler system for both importers/manufacturers and end users of hazardous substances. GHS 7 was chosen over GHS 8 because our key trading partners (Australia, the EU, USA, Canada, and other APEC and ASEAN member countries) have either adopted, or are in the process of adopting the GHS 7. No international jurisdiction has currently indicated plans to adopt GHS 8.</p> <p>We acknowledge the need to provide clear guidance on the GHS terminology to use, both in terms of full GHS classifications and abbreviated text.</p>

Question	Submitters	Summary of submitter comments	EPA response
		<p>substances risk management, training, labelling, safety data sheets, classifications and signage.</p> <p>General comments include:</p> <ul style="list-style-type: none"> If the GHS is adopted by the EPA, it is important that the EPA also issues a list of standard acceptable and approved abbreviations for each classification. For example: acute toxicity oral Category 1 is abbreviated to acute tox oral cat 1, or specific target organ toxicity single exposure Category 1 is abbreviated to STOT SE cat 1. At the moment, SDSs from other countries which have adopted GHS have a mixture of abbreviations and this may cause confusion. 	<p><i>EPA recommendation</i></p> <p>To proceed with this proposal. The name of the new notice will be the Hazardous Substances (Hazard Classification) Notice 2020.</p>

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 2</p> <p>Do you agree with our proposal to discontinue the current HSNO classification framework and numbering system, noting that the current system will still be referred to in guidance material?</p> <p>If not, please provide your reasons.</p>	<p>Sixty-four submitters responded to this question.</p> <p><i>Agree</i></p> <p>Fifty submitters: 6, 7, 8, 10, 12, 13, 14, 15, 16, 19, 20, 21, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 41, 42, 44, 47, 48, 50, 52, 53, 56, 57, 58, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 72, 73, 74, 76</p> <p><i>Disagree</i></p> <p>Twelve submitters: 4, 5, 9, 38, 39, 45, 46, 51, 59, 60, 77, 82</p> <p><i>Not specified</i></p> <p>Two submitters: 54, 75</p>	<p>The majority of submitters (70%) supported this proposal. Many noted the advantages in aligning fully and transparently with the internationally adopted GHS system.</p> <p>However, several submitters considered we should retain the existing HSNO numbering for the following reasons:</p> <ul style="list-style-type: none"> • Current users are very familiar with it. Using GHS may make products less safe to use because users don't understand the hazard classifications. • It provides a convenient shorthand so users can quickly and easily see the hazards of a substance within one line of text. • It is easy to use to transfer knowledge to new workers, especially those who don't speak much English. • The HSNO classifications are consistent with dangerous goods transport classes. 	<p>We acknowledge the views of some submitters regarding the benefits of the current alpha-numeric system. We also recognise the extent of training that has been undertaken over the past 19 years on learning this system.</p> <p>We also acknowledge there will be costs involved, in some cases significant, to re-train staff and to implement new systems.</p> <p>However, in order to fully implement the GHS 7, it is considered necessary to discontinue the current HSNO classification framework and numbering system. We also believe that in the long term there will be reduced costs to industry as overseas GHS classifications can be used without the need to convert to bespoke HSNO classifications.</p> <p>To help industry convert HSNO to GHS classifications, and vice versa, a correlation table will be included in many EPA Notices, including the new Hazard Classification Notice. It will also be included in guidance material.</p> <p><i>EPA recommendation</i></p> <p>To proceed with this proposal.</p>

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 3</p> <p>Are you aware of any benefits or costs involved in adopting the GHS 7 that are not outlined in Section 3 of this (consultation) document?</p>	<p>Thirty-seven submitters responded to this question: 5, 6, 8, 12, 13, 15, 21, 23, 28, 31, 32, 35, 39, 40, 42, 46, 47, 48, 50, 51, 52, 54, 56, 58, 59, 60, 61, 64, 65, 67, 69, 70, 71, 73, 74, 75, 77</p>	<p>Submitters who responded to this question noted both costs and benefits. One submitter noted that “Costs and benefits should be assessed over the long term, rather than over a relatively short implementation period. To that end our assessment is that alignment to the GHS 7 will be cost neutral, or a cost benefit”.</p> <p>Benefits identified by submitters include:</p> <ul style="list-style-type: none"> • Costs of hiring auditors to ensure that labels and SDSs are compliant would decrease after everything had been put in place. • Harmonization between other countries that we operate in will reduce costs and complexity for us. • Harmonization of the classification of hazardous substances will remove barriers to the trade of technology between OECD members. • These changes will aid the market accessibility for NZ enterprises to expand internationally, as laws will be structured in a similar manner. <p>Some submitters felt that the resources and costs required to implement the GHS 7 had been underestimated and would be significant. Examples include:</p> <ul style="list-style-type: none"> • Costs to re-label and produce new SDSs. 	<p>We note the comments of submitters who supported this proposal.</p> <p>We also acknowledge that some companies will incur initial costs, in some cases significant, from the update to the GHS 7. However, we believe global alignment should lead to a reduction in compliance costs in the long term.</p> <p>Re-labelling for many substances would have been required regardless of the move to the GHS 7 as the current Labelling Notice requires compliance with GHS requirements.</p> <p>Similarly, the current SDS Notice requires compliance with GHS SDS requirements, with the exception that the HSNO classification must be provided in Section 3 and the GHS classification is optional.</p> <p>We acknowledge the need for timely guidance material to help industry transition from the existing classification system to the GHS 7.</p>

Question	Submitters	Summary of submitter comments	EPA response
		<ul style="list-style-type: none"> • Costs to re-train and educate users of the current HSNO classification system. It is important for the EPA to issue guidance material in a timely manner. • Costs to review and update the classifications of self-assessed substances. • Costs to update the IT structures through the entire distribution chain including importers, distributors, manufacturers, retailers, end applicators, waste disposers and regulators. • One-off cost to the National Poisons Centre to review new SDSs sent in. <p>General concerns/comments include:</p> <ul style="list-style-type: none"> • One submitter had concerns over incorporating the GHS by reference into the Classification Notice as they considered the GHS 7 book was decidedly not user friendly, with no summary tables or overview of the classification structure. • Another submitter raised the potential for an increase in incidents because of confusion around the old and new requirements. 	

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 4</p> <p>Do you have any other comments you would like to make on the proposal to adopt the GHS?</p>	<p>Thirty-four submitters responded to this question: 4, 6, 7, 8, 9, 10, 12, 17, 21, 25, 31, 34, 35, 39, 44, 46, 47, 48, 50, 54, 56, 59, 60, 63, 64, 65, 67, 69, 71, 73, 74, 80, 81, 82</p>	<p>Submitters had the following questions:</p> <ul style="list-style-type: none"> • Will there be further consultation for other classifications? • Will gases under pressure need the GHS Pictogram label or can they continue to use the UN Pictogram label? • Will councils need to update HSNO references to the GHS classification system in their plans before their scheduled review timeframe? <p>Other comments included:</p> <ul style="list-style-type: none"> • The Chemical Classification and Information Database (CCID) will need to be updated as there are currently many inconsistencies between the current database and the IUCLID. • The inconsistencies between HSNO and GHS could lead to changes in the controls. • Implementing the GHS 7 should be timed with MBIE's "Phase 2" review of the HSW Hazardous Substances Regulations to reduce the regulatory burden. • The definition of agrichemicals should be reconsidered. 	<p>Responses to specific questions are as follows:</p> <p>Further consultation on GHS classifications</p> <p>We will not be undertaking further consultation on GHS classifications. The GHS classification categories not specifically addressed in the consultation document will be adopted as they are presented in the GHS 7 through the incorporation by reference. These categories are, in most cases, consistent with existing HSNO classification categories.</p> <p>Note that we will adopt the subcategories for skin and respiratory sensitisation, with Category 1 being the default and Category 1A or 1B being used when there is clear data to assign those subcategories.</p> <p>UN pictogram for Gases under Pressure</p> <p>The UN transport pictogram may be used in the place of the GHS pictogram for hazardous substances in single packaging. This includes gas cylinders. Refer to clause 30 of the Hazardous Substances (Labelling) Notice 2017. Conversely, where the UN transport pictogram is required in order to meet transport rule requirements (e.g the gas cylinder pictogram for non-flammable, non-toxic gases), it must be used and the equivalent GHS pictogram (e.g the gas cylinder pictogram) should not appear.</p>

Question	Submitters	Summary of submitter comments	EPA response
		<ul style="list-style-type: none"> Fully support the initiative. GHS is a robust and well-proven chemical classification and labelling system in use in many countries and regions in the world. The protection it gives to users of chemicals is as good as, if not more comprehensive than, the current NZ system. 	<p>Updating of Council Plans</p> <p>Councils will not need to update references to HSNO classifications in any plan rules within the transitional period. The new Hazard Classification Notice will include a savings provision such that if any enactment or rule of law contains any reference to an existing HSNO classification, that reference may be treated as a reference to an equivalent GHS classification. Rules in district and regional plans will be covered by this provision.</p> <p>Updating CCID</p> <p>The CCID will be updated to display GHS classifications. The GHS classifications will be directly mapped from the current HSNO classifications – we will not be reviewing or updating the data we currently hold. If anyone considers the classification listed on CCID is not correct, they can provide new information to us at any time and request that we consider updating the classification.</p> <p>Inconsistencies between HSNO and GHS – impact on controls</p> <p>The key controls that will be impacted as a result of converting HSNO to GHS classifications will be Labelling and SDS controls, and even then, only a very small number of substances will be affected (noting that the EPA Labelling and SDS Notices, which were introduced in December 2017,</p>

Question	Submitters	Summary of submitter comments	EPA response
			<p>already utilise the GHS). A four-year transitional period will be implemented to give industry time to update labels and SDS.</p> <p><i>Delay GHS Implementation to coincide with review of HSW HS Regulations</i></p> <p>The date of completion of MBIE’s review of the HSW Hazardous Substances Regulations is uncertain. The EPA proposed in 2014 to fully implement GHS and the classification element of this was delayed in order to focus on effecting the split of controls from HSNO to HSW. Further delaying this project for an indeterminate period would further delay the benefits of international alignment that the GHS brings. In addition, the EPA needs to re-issue (or revoke) approximately 9,000 individual approvals to update their controls to the new Health and Safety regime. This work needs to be done in 2020/2021 so updating the classification system at the same time will mean stakeholders will not face two changes to their approvals.</p> <p><i>Review definition of agrichemicals</i></p> <p>Refer to discussion under Proposal 4 (questions 12 and 13) for discussion on this matter.</p>

5. Submission analysis Proposal 2 – Building blocks from the GHS

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 5</p> <p>Do you agree with proposal 2a to not adopt GHS acute toxicity Category 5 (HSNO 6.1E)? If not, why not?</p>	<p>Fifty-eight submitters responded to this question.</p> <p><i>Agree</i></p> <p>Forty-three submitters: 6, 7, 9, 10, 14, 15, 16, 21, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 41, 44, 48, 50, 51, 52, 53, 55, 57, 61, 62, 63, 65, 66, 67, 69, 70, 71, 72, 73, 74, 76</p> <p><i>Disagree</i></p> <p>Twelve submitters: 5, 8, 19, 26, 42, 54, 56, 58, 59, 60, 64, 75</p> <p><i>Not specified</i></p> <p>Three submitters: 39, 46, 82</p>	<p>This proposal received good support from submitters (43 in support, 12 in opposition).</p> <p>Key reasons provided by submitters who supported this proposal include:</p> <ul style="list-style-type: none"> • Alignment with international trading partners. • Acute toxicity Category 5 does not trigger many control requirements due to its low hazard. <p>The key concerns of submitters who disagreed with this proposal include:</p> <ul style="list-style-type: none"> • The acute toxicity Category 5 classification is applied to consumer goods from Australia and China. Not adopting it could lead to inconsistencies. • It is important to have as much knowledge about a substance as is available, even if the likelihood of adverse effects is low. Without this category accurate risk assessments and informed decisions cannot be made as all the information will not be available. Users may take less care when using the products. • Acute toxicity Category 5 (oral) should be included as it is useful to know the toxicity of a substance if there are any oral effects between 2000 and 5000 mg/kg. 	<p>We acknowledge the range of views on this proposal.</p> <p>However, we note that international alignment is one of the key drivers in adopting the GHS 7. Not adopting GHS acute toxicity Category 5 aligns with Australia, the EU, the USA, Canada, South Korea, and most ASEAN (Association of South East Asian Nations) countries.</p> <p>We also note that Australia has not adopted GHS for consumer products. However, they do require warning statements on labels for those substances that are specifically scheduled in Schedule 5 of the SUSMP (Standard for the Uniform Scheduling of Drugs and Poisons). These substances could meet the criteria for classification into GHS acute toxicity Category 5, although other considerations can also be used to schedule substances into Schedule 5. However, the criteria for GHS acute toxicity Category 5 have not been applied to consumer products across the board.</p> <p>EPA recommendation</p> <p>To proceed with this proposal.</p>

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 6</p> <p>Do you agree with proposal 2b to not adopt the GHS skin irritation Category 3 (HSNO 6.3B)? If not, why not?</p>	<p>Fifty-eight submitters responded to this question.</p> <p><i>Agree</i></p> <p>Forty-three submitters: 6, 7, 9, 10, 14, 15, 16, 21, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 41, 44, 48, 50, 51, 52, 53, 55, 57, 61, 62, 63, 66, 67, 69, 70, 71, 72, 73, 74, 76, 82</p> <p><i>Disagree</i></p> <p>Fourteen submitters: 5, 8, 19, 26, 39, 42, 46, 54, 56, 58, 59, 60, 64, 75</p> <p><i>Not specified</i></p> <p>One submitter: 65</p>	<p>This proposal received good support from submitters (43 in support, 14 in opposition).</p> <p>As with Proposal 2a above, the main reasons provided by submitters who supported this proposal include alignment with international trading partners and that this classification does not trigger many control requirements due to its low hazard.</p> <p>Key concerns included:</p> <ul style="list-style-type: none"> • Consumer goods in Australia use the skin irritation Category 3 classification. Not adopting it could lead to misalignment. • While there are currently no (workplace) controls associated with 6.3B, this classification does provide users with information on product risks. From an agrichemical use perspective, it is very likely that some users will inadvertently have skin contact with the product. The inclusion of 6.3B classification provides users with more information to enable them to make informed decisions regarding PPE. This additional information may encourage them to take more care than they might do if there were no warnings of skin irritation. • It is important to have as much knowledge about a substance as is available, even if the likelihood of adverse effects is low. The hazard statement 	<p>The EPA acknowledges the range of views on this proposal.</p> <p>However, we note that international alignment is one of the key drivers in adopting the GHS 7. Not adopting GHS skin irritation Category 3 aligns with Australia, the EU, the USA, Canada, and most ASEAN countries.</p> <p>As noted earlier, Australia has not adopted GHS for consumer products. However, they do require warning statements on labels for those substances that are specifically scheduled in Schedule 5 of the SUSMP. These substances could meet the criteria for classification into GHS skin irritation Category 3, although other considerations can also be used to schedule substances into Schedule 5. However, the criteria for GHS skin irritation Category 3 has not been applied to consumer products across the board.</p> <p>There is provision in the Labelling Notice (clause 15(1)) for the label to include the hazard statement required by EU066 (or AU066) “Repeated exposure may cause skin dryness and cracking”. In addition, this information could be included in Section 2(b)(iv) of the SDS (information about other hazards that do not give rise to classification).</p> <p>EPA recommendation</p> <p>To proceed with this proposal.</p>

Question	Submitters	Summary of submitter comments	EPA response
		<p>EUH066 “Repeated exposure may cause skin dryness and cracking” is currently covered by 6.3B and should be incorporated in the classification system.</p>	

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 7</p> <p>Do you agree with proposal 2c to not adopt the GHS aspiration hazard Category 2? If not, why not?</p>	<p>Fifty-six submitters responded to this question.</p> <p><i>Agree</i></p> <p>Forty-four submitters: 6, 7, 9, 10, 14, 15, 16, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 41, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 61, 62, 65, 66, 67, 69, 70, 71, 72, 73, 74, 76, 82</p> <p><i>Disagree</i></p> <p>Ten submitters: 5, 8, 19, 21, 26, 39, 46, 59, 60, 75</p> <p><i>Not specified</i></p> <p>Two submitters: 42, 64</p>	<p>This proposal received good support from submitters (44 in support, 10 in opposition).</p> <p>The main reasons that submitters agreed with this proposal were that it aligned with international trading partners and the limited availability of data to classify substances as aspiration hazard Category 2.</p> <p>Concerns from submitters who disagreed with this proposal included:</p> <ul style="list-style-type: none"> Without this category, accurate risk assessments and informed decisions cannot be made as all the information will not be available. One submitter noted that substances such as some light mineral oil veterinary medicine products can be aspiration hazards if ingested. There is often not enough information to distinguish between aspiration Category 1 and Category 2. It would be best to err on the side of caution and include the information about aspiration risks regardless. 	<p>The EPA acknowledges the range of views on this proposal.</p> <p>However, we note that international alignment one of the key drivers in adopting the GHS 7. Not adopting GHS aspiration hazard Category 2 aligns with Australia, the EU, the USA, Canada, and most ASEAN countries.</p> <p>Further, we note that data is readily available to determine whether substances should be classified into Category 1 or not. However, there is limited data available for classification into Category 2. The criteria for Category 2 are quite complex, based on animal studies and expert judgement. Para 3.10.1.5.2 of the GHS notes “Positive experimental evidence with animals can only serve as a guide to possible aspiration toxicity in humans. Particular care must be taken in evaluating animal data for aspiration hazards”.</p> <p>Regarding the concern relating to light mineral oil products, these would typically be classified as a Category 1 aspiration hazard.</p> <p>EPA recommendation</p> <p>To proceed with this proposal.</p>

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 8</p> <p>Do you agree with proposal 2d to adopt all seven GHS categories for substances hazardous to the aquatic environment, i.e. GHS Acute 1-3 and Chronic 1-4? If not, why not?</p>	<p>Sixty submitters responded to this question.</p> <p><i>Agree</i></p> <p>Forty-six submitters: 4, 5, 7, 9, 10, 12, 13, 14, 15, 16, 19, 21, 23, 24, 25, 26, 27, 28, 30, 31, 33, 34, 35, 36, 38, 39, 41, 42, 46, 48, 52, 53, 54, 56, 57, 58, 60, 61, 64, 65, 70, 71, 73, 74, 75, 82</p> <p><i>Disagree</i></p> <p>Thirteen submitters: 6, 8, 32, 45, 51, 55, 62, 63, 66, 67, 69, 72, 76</p> <p><i>Not specified</i></p> <p>One submitter: 59</p>	<p>This proposal received good support from the majority of submitters (46 in support, 13 in opposition).</p> <p>Key reasons provided by submitters who supported this proposal included:</p> <ul style="list-style-type: none"> The proposed categories are the GHS equivalents to the four current HSNO categories so the transition would be relatively easy. Adoption of all categories would provide more information for aquatic environment risk management. <p>Key reasons provided by opposing submitters included:</p> <ul style="list-style-type: none"> Adoption of Aquatic toxicity Acute 2 and 3 is not consistent with many international trading partners. Adopting all seven categories will result in additional costs, complications, and regulatory burden for NZ. Product safety and user protection improvements from applying these categories is minimal in comparison to effort and cost. As major trading partners have not adopted these categories there will be limited data available to NZ industry to leverage so that appropriate classifications can be made. 	<p>Although this proposal was supported by many submitters, several submitters pointed out that many other countries had not adopted aquatic toxicity Acute 2 or 3. These countries/regions include the EU, South Korea and most ASEAN countries. We note that Australia, Canada, USA have adopted GHS only for worker health and safety and therefore they have not adopted any aquatic toxicity classifications.</p> <p>Of note is that when we consulted to adopt the GHS 5 in 2014, our proposal to <u>not</u> adopt aquatic toxicity Acute 2 and 3 for reasons of international alignment received wide support. We reversed this proposal in this latest consultation as we understood that Australia would be including these categories in current reforms to their chemicals assessment regime, including in the proposed National Standard for Environmental Risk Management of Industrial Chemicals. Several submitters pointed out that these were still just prospective changes in Australia which had not yet been finalised, and they were only being proposed as part of a risk management system which would be applied only to selected chemicals.</p> <p>We believe that not adopting aquatic toxicity Acute 2 and 3 will not meaningfully impact on protection of the environment. Many of the substances that would meet these GHS categories will also be classified as GHS</p>

Question	Submitters	Summary of submitter comments	EPA response
			<p>Chronic 2 and 3. Also, GHS Acute 2 and 3 do not require the main GHS labelling elements of pictograms and signal words.</p> <p><i>EPA recommendation</i></p> <p>To alter our position regarding adoption of the GHS categories for substances hazardous to the aquatic environment so we better align with our major trading partners.</p> <p>We now propose to not adopt GHS Acute 2 and 3, i.e. to only adopt aquatic toxicity Acute 1, and Chronic 1 – 4.</p>

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 9</p> <p>Do you have any other comments on the building blocks we have proposed to adopt?</p>	<p>Nineteen submitters responded to this question: 4, 5, 6, 8, 15, 21, 23, 34, 35, 38, 39, 46, 53, 55, 56, 65, 72, 73, 82</p>	<p>Comments made by submitters included:</p> <ul style="list-style-type: none"> We do not support adoption of flammable liquid Category 4 (3.1D) on the basis of consistency with trading partners and to avoid creating unnecessary confusion and complexity. Query regarding the absence of a proposal to not adopt the GHS classification for substances hazardous to the ozone layer. Query whether the GHS classifications for flammable gases, flammable aerosols and gases under pressure would be included in the update. Three submitters considered that the GHS should be adopted “in full” and that the EPA should not be able to opt out of adopting certain building blocks. 	<p>Adoption of flammable liquids Category 4</p> <p>The EPA considers it necessary to retain this classification, which covers diesel. New Zealand has always had this classification, including in the Dangerous Goods legislation that preceded HSNO. We note that Australia has also adopted this category.</p> <p>Ozone layer</p> <p>This matter was discussed on page 13 of the consultation document. The EPA recognises the benefits of including the substances hazardous to the ozone layer classification into the HSNO framework, but the current HSNO legislation does not allow for this classification to be adopted. Ozone-depleting substances are regulated in New Zealand under the Ozone Layer Protection Act 1996. Note that ozone-depleting substances that are also hazardous substances are captured under the HSNO Act.</p> <p>Gases and Aerosols</p> <p>We confirm that we will be adopting the GHS 7 classifications for flammable gases, aerosols and gases under pressure.</p> <p>GHS should be ‘adopted in full’</p> <p>The way the GHS is structured provides regulators with options for adopting certain classification “building blocks”, options for selecting high or low concentration cut-offs for</p>

Question	Submitters	Summary of submitter comments	EPA response
			<p>classification of mixtures, and options for what sectors the GHS is applied to. To our knowledge, every country that has adopted GHS has used one or more of these options, including Australia, the EU, Canada and the USA. We also note that there are differences in the way each jurisdiction has implemented GHS. We propose to implement GHS in New Zealand in a manner that is most consistent with our major trading partners in order to achieve the greatest benefits of global harmonisation.</p>

6. Submission analysis Proposal 3 – Concentration cut-off values

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 10</p> <p>Do you agree with our proposal to adopt the lower level concentration cut-off values for classification as outlined in Table 2 (of the consultation document)?</p> <p>If not, please provide your reasons.</p>	<p>Fifty-six submitters responded to this question.</p> <p><i>Agree</i></p> <p>Thirty-four submitters: 5, 7, 10, 12, 13, 14, 16, 19, 20, 21, 24, 25, 27, 28, 30, 31, 34, 36, 38, 39, 41, 42, 46, 50, 51, 59, 60, 61, 64, 70, 71, 74, 75, 82</p> <p><i>Disagree</i></p> <p>Twenty-one submitters: 6, 9, 23, 26, 32, 33, 35, 48, 52, 54, 55, 56, 58, 62, 63, 66, 67, 69, 72, 73, 76</p> <p><i>Not specified</i></p> <p>One submitter: 53</p>	<p>This proposal was the most contentious with 34 submitters in support, and 21 in opposition.</p> <p>Reasons provided by supporters of this proposal include:</p> <ul style="list-style-type: none"> Using the lower concentration cut-offs is a more conservative approach. New Zealand has an ethical duty to support better, safer standards. We support the precautionary approach required by the HSNO Act and the intent of the HSW Act to provide workers with “all” the information required for them to handle hazardous substances safely. Maintains the status quo. <p>Concerns provided by opposing submitters include:</p> <ul style="list-style-type: none"> Many trading partners such as Australia, the EU, Japan, South Korea, China, and most ASEAN countries have adopted the higher concentration cut-offs for classification and labelling. If NZ adopted the lower values, it would be out-of-step with many of its major trading partners, would lead to NZ products being more severely labelled than others, and lead to an increase in compliance costs. 	<p>The EPA acknowledges the views of submitters both supporting and opposing this proposal.</p> <p>GHS requirements</p> <p>For classification of mixtures, the GHS book includes a series of tables that provide for optional concentration cut-offs for ingredients with certain chronic toxicity hazard classifications. Regulatory authorities can decide which optional concentration cut-off values to apply in their jurisdiction. Close scrutiny of the wording of the notes under the tables in the GHS book suggest that where the GHS provides for optional concentration cut-offs, the lower cut-offs should be used for classification and for SDS requirements, and the optional higher cut-off values may be used for labelling only. This view is supported in Chapter 1.5 of the GHS book where Table 1.5.1 states that the lower cut-off values should be used for SDS requirements. This position, in respect of SDS, has also been adopted in the ASEAN Guidance Document which lists the lower concentration cut-offs for disclosure of information in a SDS.</p> <p>International context</p> <p>There is no consistent way that these concentration cut-off values have been applied across the world. Some</p>

Question	Submitters	Summary of submitter comments	EPA response
		<ul style="list-style-type: none"> • Higher levels should be set for consistency, and to remove complexity and uncertainty. • Would result in mismatched hazard information in Australian and NZ safety data sheets – this situation confuses users. • For improved harmonisation with trading partners, we believe the higher cut-offs are more appropriate, and in line with proposals to drop acute toxicity Category 5. • The higher values used in EU and Australia are adequate to control chemical hazards in those jurisdictions and would be adequate for hazardous chemicals in New Zealand also. <p>Other comments/questions:</p> <ul style="list-style-type: none"> • Alignment between classification, labelling and SDS is a must. • We note that Table 2 in the consultation document only lists concentration cut off values for class 6 substances. What about cut-off values for class 2, 3, 4, 5, 8 and 9 substances? 	<p>jurisdictions (e.g USA and Canada) have adopted the lower values for classification, labelling and SDS, while Australia has adopted the higher values for these three elements. Other jurisdictions (e.g EU, China, Japan, Republic of Korea and ASEAN countries) use the higher values for classification and labelling but the lower values for SDS.</p> <p><i>New Zealand context</i></p> <p>Due to the way the HSNO legislation works, it is not possible for New Zealand to adopt the high concentration cut-off values for classification, and lower levels for SDS (or labelling). Therefore if we are to use the lower values for SDS (as recommended by the GHS) we need to adopt the lower levels for classification. Although this is out-of-step with some of our major trading partners, notably Australia, both the Labelling and SDS Notices contain alternative compliance provisions (for Australia, the EU, the USA and Canada) such that GHS compliant labels and SDS from these jurisdictions will be considered compliant in NZ. This should help reduce additional compliance costs from these economies. Adoption of the lower concentration cut-off values also supports the precautionary approach.</p>

Question	Submitters	Summary of submitter comments	EPA response
		<ul style="list-style-type: none"> The concentration cut off values in Table 2 are the same values as provided in the HSNO User Guide to Thresholds and Classification and the "Blue Book". Would the User Guide and the Blue Book no longer be applicable, or will they be updated to reflect the GHS 7 classification? 	<p><i>EPA recommendation</i></p> <p>Taking all factors into account, the EPA has decided to proceed with this proposal.</p>

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 11</p> <p>Do you envisage any issues with implementing these values? If so, please outline these issues.</p>	<p>Forty-seven submitters responded to this question.</p> <p><i>Issues identified</i></p> <p>Twenty-seven submitters: 6, 9, 10, 21, 23, 26, 32, 33, 35, 38, 40, 48, 51, 52, 53, 54, 55, 56, 58, 59, 61, 62, 64, 66, 67, 72, 73</p> <p><i>No issues identified</i></p> <p>Twenty submitters 7, 12, 16, 19, 24, 25, 27, 28, 30, 31, 34, 36, 39, 41, 46, 50, 63, 70, 75, 82</p>	<p>Key comments/concerns included:</p> <ul style="list-style-type: none"> For global businesses, maintaining a separate classification system for New Zealand is untenable as it is a small market. Concentration cut-offs must align with EU and Australia. Implementation of the lower concentration cut-off values is out-of-step with our trading partners. This will lead to substances being classified as hazardous in New Zealand but not in other jurisdictions, meaning substances will need to be re-classified, re-labelled and new SDSs drafted once products land in New Zealand. This increase in compliance costs could drive product deselection or reduce new product entries, especially where the market share is low. New Zealand will not be aligned with Australia in terms of concentration cut-offs, which adds an additional level of cost to many companies that sell into Australia and New Zealand as a trading block. We see a problem if a product has a classification based on higher cut-off levels from Australia, and the labelling and SDS are deemed compliant, then how does the actual approval/categorisation get determined in NZ? 	<p>Refer to our response to question 10. It will address many of the concerns raised under this question.</p> <p>Although we are proposing to adopt the lower concentration cut-offs values, we also propose to adopt the subcategories for skin and respiratory sensitisation. Category 1 will be adopted as the default classification in each case, unless there is clear data to demonstrate that a substance should be assigned to either Category 1A or 1B.</p> <p>There are different concentration cut-off values for respiratory sensitisers depending on whether they are solids, liquids or gases. The concentration cut-off values are:</p> <p>Solids/liquids:</p> <p>Category 1 \geq 0.1%</p> <p>Sub-category 1A: \geq 0.1%</p> <p>Sub-category 1B: \geq 1.0%</p> <p>Gases:</p> <p>Category 1 \geq 0.1%</p> <p>Sub-category 1A: \geq 0.1%</p> <p>Sub-category 1B: \geq 0.2%</p>

Question	Submitters	Summary of submitter comments	EPA response
		<ul style="list-style-type: none"> • Much of the data for classification comes from regions that use the higher cut-offs. Components may therefore not be listed in SDSs from some source countries. • Keeping the current cut-offs is in line with the WorkSafe proposals to lower/review some of the workplace exposure standards. It would not make sense to increase the cut-off levels. Since there are some differences between other jurisdictions, guidance on the NZ requirements and variations will be required, particularly where international information is insufficient. • Do respiratory sensitiser categories have different concentration cut-off values for gases and solids/liquids? 	

7. Submission analysis Proposal 4 – Substances ecotoxic to the terrestrial environment

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 12</p> <p>Do you agree with our proposal to replace the current HSNO subclasses with terrestrial ecotoxicity (9.2, 9.3, 9.4) and 9.1D biocides with a single category to be applied only to agrichemicals or related substances, as defined in the consultation document?</p>	<p>Fifty-six submitters responded to this question.</p> <p><i>Agree</i></p> <p>Thirty-one submitters: 7, 10, 12, 15, 16, 20, 23, 24, 27, 28, 31, 32, 33, 34, 36, 38, 41, 46, 52, 53, 55, 58, 63, 66, 69, 70, 71, 73, 74, 76, 82</p> <p><i>Disagree</i></p> <p>Twenty-two submitters: 4, 5, 6, 9, 14, 19, 21, 25, 26, 30, 42, 48, 50, 51, 54, 56, 59, 60, 61, 64, 75, 80</p> <p><i>Not specified</i></p> <p>Three submitters: 39, 45, 79</p>	<p>Comments provided by supporters of this proposal include:</p> <ul style="list-style-type: none"> Agree with the move away from the large number of classification categories and the limitation that the proposed classification applies only to agrichemicals and related substances. Makes sense as there are very few other jurisdictions who have enabled the terrestrial ecotoxicity classifications. We fully support the requirements for the protection of the environment. <p>Concerns from submitters who disagreed with this proposal include:</p> <ul style="list-style-type: none"> The EPA should not include a classification for terrestrial ecotoxicity at all as it is outside the GHS. This classification category should apply to all substances and should not be restricted to agrichemicals. Reasons for this view included issues around spill management of industrial chemicals, and ensuring substances were correctly disposed of. If a substance does not trigger any Class 9 classification it should not be classified as ecotoxic. 	<p>There was a range of submitter views on this proposal. Responses to key concerns are provided below</p> <p><i>Terrestrial ecotoxicity is outside the GHS</i></p> <p>The EPA acknowledges that having a classification for terrestrial ecotoxicity is outside the GHS. This is due in part to the GHS not being a pesticide-focused system. Terrestrial ecotoxicity is not considered particularly relevant for industrial and consumer chemicals.</p> <p>However, the HSNO Act was designed to manage risks from all types of hazardous substances, including risks to the terrestrial environment (e.g to bees, birds, soil) from pesticide use. Other countries also manage risks to the terrestrial environment from pesticides by means outside the GHS system, e.g APVMA in Australia, OPP / FIFRA in USA.</p> <p>Including terrestrial ecotoxicity in the GHS was considered by the UN GHS Subcommittee in the early days of development of the GHS (2004-2008). However, this was not considered a priority area so was not progressed at that time. Since then the issue has not been further considered.</p>

Question	Submitters	Summary of submitter comments	EPA response
		<p>Applying the biocide classification to products that are not harmful creates unnecessary compliance costs and serves no practical purpose.</p> <ul style="list-style-type: none"> The adoption of the ecotoxic for terrestrial environment classification for domestic use pesticides does not align with the Australian GHS adoption. This means that products that could previously be sold in either country will now have to be NZ specific, reducing efficiencies and increasing costs. The terrestrial ecotoxicity classification should not be applied to veterinary medicines. Collapsing the current subcategories of 9.2, 9.3 and 9.4 into one category will not address the hazards to soil organisms, vertebrates and invertebrates adequately. 	<p><i>Restricting terrestrial ecotoxicity classification to agrichemicals and related substances</i></p> <p>We propose to only apply this classification to agrichemicals, and active ingredients used in the manufacture of pesticides and veterinary medicines, as defined in the Hazard Classification Notice.</p> <p>The term “agrichemical” includes substances such as pesticide adjuvants, fertilisers, and veterinary medicines, all of which are frequently used in the environment in a wide dispersive manner.</p> <p>It is not appropriate or necessary to apply this classification to substances such as industrial chemicals. The types of controls set on substances that are classified as hazardous to the terrestrial environment are not relevant to industrial chemicals, e.g “do not spray in an area where bees are foraging”, “ensure birds cannot gain access to this substance”. Issues around spill management relate more to aquatic ecotoxic classifications and corresponding controls are already in place to manage this risk. Further, no other jurisdiction regulates industrial chemicals for terrestrial ecotoxicity.</p> <p>Some submitters considered that this classification should not be applied to veterinary medicines and domestic use pesticides. However, there are some situations where both these types of substances may have the potential to cause harm to the terrestrial</p>

Question	Submitters	Summary of submitter comments	EPA response
			<p>environment, e.g pour on drenches, garden sprays toxic to bees. In such cases if the risk assessment indicates there are risks to the terrestrial environment, we consider that the label should have warning statements to advise of these risks. This is essentially a continuation of the status quo. For example home garden products currently classified as 9.2, 9.3 or 9.4 should have appropriate warning statements on their labels.</p> <p><i>Collapsing the current subcategories into a single classification</i></p> <p>The EPA agrees there is merit in having the classification identify which particular environmental compartment is at risk. We have therefore modified our proposal as discussed below.</p> <p><i>EPA recommendation</i></p> <p>To progress with a slightly modified Proposal 4. Specifically the new Hazard Classification Notice will include a classification category “<i>substances that are hazardous to the terrestrial environment</i>”. This category will be subcategorised into the following:</p> <ul style="list-style-type: none"> • hazardous to soil organisms • hazardous to terrestrial vertebrates • hazardous to terrestrial invertebrates • designed for biocidal action

Question	Submitters	Summary of submitter comments	EPA response
			<p>These classifications will be applied only to agrichemicals, and active ingredients used in the manufacture of pesticides and veterinary medicines, as defined in the Hazard Classification Notice.</p> <p>The current classification criteria for the 9.2, 9.3 and 9.4 categories will not be used. However, we will retain the threshold criteria for ecotoxicity to soil organisms, terrestrial vertebrates and terrestrial invertebrates that are contained in the Hazardous Substances (Minimum Degrees of Hazard) Notice 2017. These criteria will be included in the new Hazard Classification Notice.</p> <p>This has been done to address submitters' concerns over losing valuable information that indicates which compartment of the terrestrial environment could be at risk of adverse effects of a substance. We also appreciate there would be difficulties when self-assigning substances to approvals or group standards (where risk assessments are not undertaken) if no criteria were available to determine if a substance met the scope of this hazard classification.</p> <p>Refer to discussions under question 13 for further discussions on this matter.</p>

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 13</p> <p>Can you envisage any issues with implementing this proposal? If so, please outline.</p>	<p>Twenty-seven submitters responded to this question: 4, 5, 6, 9, 19, 21, 23, 25, 39, 40, 42, 46, 48, 50, 51, 52, 54, 56, 59, 60, 64, 69, 71, 73, 75, 79, 82</p>	<p>Issues that were raised include:</p> <ul style="list-style-type: none"> • There will be a significant cost burden to update all product labels and SDSs. As an ANZ business we would need to create NZ specific artwork due to the lack of alignment in adoption of the GHS 7 which will negatively impact retail prices for consumers. • This could take the focus away from environmental protection controls as the hazards may not be considered. • Without this category, accurate risk assessments and informed decisions cannot be made as all the information will not be available. • Double standards need to be avoided. Based on this proposal, it may be possible for two identical substances to have different hazard classifications (and therefore controls) if the substance had a different use, one being an agrichemical. • Is this proposal aligned with other legislation such as fertiliser laws? 	<p>Potential for increased costs</p> <p>The EPA does not believe that this proposal will lead to increased cost to stakeholders compared to the status quo. Substances that will be classified under this category in the future should currently be classified as either a 9.2, 9.3 or 9.4 so their labels and SDSs should already have the relevant hazard information. Further, we are proposing to only apply this classification to agrichemicals rather than across the board as now. It will no longer be necessary to assign terrestrial ecotoxicity classifications to industrial/consumer products. For substances that will be covered by the new classification, the majority will be assessed by the EPA and the relevant controls assigned. Labelling guidance that already exists for 9.2, 9.3, 9.4 substances will still be applicable (e.g Agcarm Code of Practice) with modifications.</p> <p>Potential to reduce environmental protection</p> <p>We do not agree that this new classification category will take the focus away from environmental protection controls. As noted above, the EPA has decided to retain the threshold criteria for classification as ecotoxic to soil organisms, terrestrial vertebrates and terrestrial invertebrates. The hazards, and therefore the risks, will be assessed for the most relevant substances (i.e agrichemicals), and relevant environmental controls applied. For industrial chemicals, environmental</p>

Question	Submitters	Summary of submitter comments	EPA response
			<p>protection controls are adequately addressed from the aquatic toxicity classifications, as they are done elsewhere in the world.</p> <p><i>Accurate risk assessments and informed decisions</i></p> <p>We consider the proposed approach to only classify agrichemicals for terrestrial ecotoxicity will in no way restrict our ability to conduct accurate risk assessments.</p> <p>Also, as noted above, the EPA has decided to retain the threshold criteria for classification as ecotoxic to soil organisms, terrestrial vertebrates and terrestrial invertebrates, so relevant information will be available to enable informed decision-making.</p> <p>At present, applicants are required to submit information on all the possible adverse effects of a substance on the environment in the application for approval to the EPA. This can include adverse effects that are outside the scope of the current classification framework, such as:</p> <ul style="list-style-type: none"> • reproductive toxicity to birds • chronic toxicity to honey bees, • sub-lethal effects on honey bees (such as behavioural and reproductive effects), toxicity to other non-target arthropods • sub-lethal or reproductive toxicity to earthworms. <p>Targeted risk assessments can then be carried out on the relevant substances using the ecotoxicity data, environmental fate data, and exposure assessment information provided in applications. The type and extent of hazard data and exposure</p>

Question	Submitters	Summary of submitter comments	EPA response
			<p>information required depends on the nature and manner of use of the substance – for example, whether it is a plant protection product, a seed treatment product, a rodenticide, or whether the substance is sprayed or applied as granules.</p> <p>This approach, which we will continue to apply with the new classification system for terrestrial ecotoxicity, is consistent with international risk assessment methodologies which typically do not use hazard based classification systems.</p> <p>Double standards</p> <p>Regarding the potential for double standards, the EPA already considers substance use before applying controls. For example, a substance that <u>could</u> be used as a pesticide, but is used differently (e.g as an industrial chemical) can be managed under a relevant group standard.</p> <p>Fertilisers</p> <p>Fertilisers in New Zealand are typically managed under one of the Fertiliser group standards. These group standards will include a classification category for terrestrial ecotoxicity (with the subcategories discussed above), so fertilisers with this hazard will be required to comply with any relevant controls relating to terrestrial ecotoxicity that are in the EPA Notices.</p>

8. Submission analysis Proposal 5 – Transitional provisions

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 14</p> <p>Do you consider an additional two-year transitional period for labelling, safety data sheet, and packaging requirements is adequate? Please provide your reasons.</p>	<p>Sixty-four submitters responded to this question.</p> <p><i>Agree</i></p> <p>Thirty-seven submitters: 4, 6, 7, 10, 12, 13, 14, 15, 16, 17, 19, 20, 21, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 40, 53, 62, 63, 66, 70, 71, 72, 73, 74, 76, 79</p> <p><i>Disagree</i></p> <p>Twenty-four submitters: 8, 9, 26, 39, 41, 42, 44, 45, 46, 47, 48, 50, 51, 52, 54, 55, 56, 58, 59, 60, 61, 64, 69, 75</p> <p><i>Not specified</i></p> <p>Three submitters: 67, 80, 82</p>	<p>The majority of submitters who responded to this question supported this proposal (37 in support, 24 in opposition).</p> <p>However, those who opposed this proposal raised legitimate concerns, the main one being that a two-year transitional period was unrealistically short to update all their labels and SDSs.</p> <p>Thirteen submitters requested a five-year transitional period to give them more time to update their labels and SDSs. A five-year transitional period would also line up with the HSNO requirement to update SDSs every five years, and with the requirement to update some labels (e.g pesticides) every five years.</p> <p>Five submitters also expressed frustration at needing to change their labels again so soon after changing them to comply with the Labelling Notice, introduced in 2017.</p> <p>One submitter requested that the transitional period for the new labelling and SDS requirements not apply to stock in trade to reduce the impact on suppliers and end users.</p>	<p>We acknowledge it will take time and money to update labels and SDS. This is especially the case for stakeholders with large numbers of substances. It is also the case for substances that currently need to comply with the Identification Regulations rather than the Labelling and Safety Data Sheet Notices, i.e. substances that have not yet been re-issued, or those that will have their individual approval revoked as at April 2021 and thereafter managed under a group standard.</p> <p>However, we also note that industry has had significant forewarning about New Zealand’s plans to implement the GHS. We signalled our intent to adopt the GHS 5 in a consultation document released in December 2014, which was followed by our consultation in October 2019 to adopt the GHS 7. We also intend to make the new Hazard Classification Notice, and all other amended notices, available on our website later in 2020 so industry can view them before they come into force (at this stage planned for April 2021).</p> <p>We note only a very small number of substances will need to be re-labelled if they are currently compliant with the current Labelling Notice.</p> <p>There is no need to include a provision to exempt end users from the transitional period as the requirements in</p>

Question	Submitters	Summary of submitter comments	EPA response
			<p>the Labelling and SDS Notices only apply to importers, manufacturers and suppliers. With respect to suppliers, it is proposed that a one year exemption to the labelling requirements will apply to “stock-in-trade”, imported or manufactured before the end of the transitional period.</p> <p><i>EPA recommendation</i></p> <p>To extend the transitional period proposed in the consultation document. We now propose a four-year transitional period for compliance with the Labelling Notice, Safety Data Sheet Notice, and Packaging Notice starting from the date of GHS implementation. With an intended implementation date of April 2021, the transitional period would expire on April 2025. With the lead-in time as discussed above, we consider this will give industry ample time to design and prepare compliant labels and SDSs. We strongly encourage industry to complete this work well ahead of the due date.</p>

Question	Submitters	Summary of submitter comments	EPA response
<p>Question 15</p> <p>Do you have any comments relating to the proposed consequential amendments, including the revocation of the Minimum Degrees of Hazard Notice?</p>	<p>Twenty-two submitters responded to this question: 4, 5, 8, 9, 12, 19, 21, 23, 32, 39, 42, 46, 48, 52, 55, 56, 64, 69, 70, 71, 73, 82</p>	<p>Comments provided include:</p> <ul style="list-style-type: none"> The need for clear guidance, regulations and publications to be available throughout the transition to the GHS system. Veterinary medicines should be exempt from being classed as hazardous substances, similar to the exemption for medicines. <p>Submitters had the following questions:</p> <ul style="list-style-type: none"> Why is the Minimum Degrees of Hazard (MDH) Notice being revoked? If SDSs are due to expire in 2020, can the changes be adopted early? How will the Hazardous Property Controls (HPC) Notice manage controls on agrichemicals classified as ecotoxic to the terrestrial environment if there is only a single category? How will the move of single substance chemicals to group standards impact on the CCID? If individual approvals are revoked, will they still be listed in the Approved Substances Controls Database along with their classification? 	<p>Guidance</p> <p>The EPA agrees that clear guidance needs to be available to stakeholders during the transition to GHS.</p> <p>Veterinary medicines</p> <p>The issue of exempting veterinary medicines from HSNO is outside the scope of this current consultation.</p> <p>Revocation of MDH Notice</p> <p>The Minimum Degrees of Hazard Notice is now essentially redundant given we are incorporating the GHS 7 by reference. Key aspects, such as the exclusions for medicines and food, will be carried across into the new Hazard Classification Notice.</p> <p>Early adoption of SDS Changes</p> <p>Any changes in the new SDS Notice can be adopted immediately. The SDS Notice (and Labelling Notice) both currently provide for early adoption.</p> <p>HPC Notice Controls</p> <p>We are now proposing to have the following subcategories for substances that are classified as hazardous to the terrestrial environment:</p> <ul style="list-style-type: none"> hazardous to soil organisms

Question	Submitters	Summary of submitter comments	EPA response
			<ul style="list-style-type: none"> • hazardous to terrestrial vertebrates • hazardous to terrestrial invertebrates • designed for biocidal action <p>The controls in the HPC Notice will be worded around these subcategories as relevant.</p> <p><i>Impact on CCID</i></p> <p>The CCID will be updated to display GHS classifications. The GHS classifications of single component chemicals whose approvals will be revoked (as they are covered by a group standard) will still be listed on the CCID. However, these classifications will be flagged in some manner to indicate they are for information only and not mandatory.</p> <p><i>Listing of revoked approvals on Controls Database</i></p> <p>As noted directly above, the GHS classifications of single component chemicals whose approvals will be revoked will be listed on the CCID. However, they will be flagged as being for information only.</p> <p>However, if the old HSNO approval number of a revoked substance is entered in the Controls Database, there will be no controls printout, as the substance will now be covered by the relevant group standard(s).</p>

Appendix 1 – List of Submitters

Submitter number	Name	Organisation	Organisation type
4	Anonymous		
5	Ben Gaia		Individual
6	Peter Goddard	Yara International ASA	Private business
7	Robert Powell		
8	Rob Caithness	ECP Limited	Private business
9		Renovo Technologies Ltd	Private business
10	Anonymous		
12	Rochelle Herbert	Wedderburn Scales Ltd	Private business
13	Anonymous		
14	Mike Cummings		
15	Brian Parker	Specialist Lifting and Transport Group Ltd	Industry group
16	Anonymous		
17	Anonymous		
19	Anonymous		
20	Paul Garvey	Indis NZ Ltd	Private business
21	Anita Smart	Pacificvet Limited	Private business
23	Neil Debenham	Altex Coatings Ltd	Private business
24	Anonymous		
25	Anonymous		
26	Anonymous		
27	Stuart Roberts	Premier Beehive NZ	Private business
28	Yvette Millard	National Poisons Centre	Health agency
30	Anonymous		
31	Anonymous		
32	Anonymous		
33	Sally Coveny	allnex New Zealand	Private business

Submitter number	Name	Organisation	Organisation type
34	James Lee	Hach Company	Private business
35	Anonymous		
36	Raymond Vagana	IXOM	Private business
38	Janet Connochie	Chemsafety Ltd	Private business
39	Anonymous		
40	Anonymous		
41	Dave Morkel	3M New Zealand	Private business
42	Jane Lamb	New Zealand Agrichemical Education Trust	NGO
44	John Hulston	Isotope Consulting Limited	Private business
45	John Sanderson	Goodbye	Private business
46	Anonymous		
47	Joseph Aiken		Individual
48	Timothy Cammell	Interchem Agencies Ltd	Private business
50	Nicole Scott	Yates New Zealand	Private business
51	Derek Stannard	Institute of Environmental Science and Research	Crown agency
52	M Parsler	Bostik New Zealand Pty Ltd	Private business
53	Sarah Russell French	Corteva Agriscience	Private business
54	Ken Clarke	Responsible Care NZ , Interchem, Azelis, Bostik, S Moses Consulting	Industry group
55	Katherine Rich	New Zealand Food & Grocery Council	Industry group
56	Simonne Moses	SMoses Consulting Ltd	Private business
57	Cheryl Brunton, Bruce Waddleton	Canterbury District Health Board (Community and Public Health)	Health agency
58	Ilze Baiza	Lonza NZ Limited	Private business
59	Andrew Saunders	Vertical Horizonz Group	Private business
60	Anonymous		

Submitter number	Name	Organisation	Organisation type
61	Anonymous		
62	Anonymous		
63	Bob Sheridan	AEISG	Industry group
64	Geoff Brokenshire	Rangiriri Consultants Ltd	Private business
65	Tian Liu	Auckland Council	Local Authority
66	Rachel Jefferson	Reckitt Benckiser	Private business
67	Anonymous		
69	Leslie Williams	Orica	Private business
70	Sharrol Clemitson	Beca Ltd	Private business
71	Barbara Ford	Workplace Safety Systems Limited	Private business
72	Anonymous		
73	Donna Vincent	New Zealand Paint Manufacturers Association	Industry group
74	Chuck Norris	Fonterra Cooperative Group Ltd	Private business
75	Anonymous		
76	Anonymous		
77	Ken Fletcher	Ashley Industrial Services	Private business
78	Tara Jackson	New Zealand Anti-Vivisection Society and The New Zealand Animal Law Association	Non-profit organisation
79	Barry Foster	Apiculture New Zealand	Industry group
80	Ewan Kelsall	Federated Farmers of New Zealand	Industry group
81	Ben Spain	Temperzone	Private business
82	Phillip Tse	Chemie-Tech Ltd	Private business

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