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# ENVIRONMENTAL RISK MANAGEMENT AUTHORITY

## HAZARDOUS SUBSTANCES (VERTEBRATE TOXIC AGENTS) TRANSFER NOTICE 2004 (AS AMENDED)\*

PURSUANT TO THE HAZARDOUS SUBSTANCES  
AND NEW ORGANISMS ACT 1996

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This version incorporates the following:

- Hazardous Substance (Vertebrate Toxic Agents) Transfer Notice 2004, (Supplement to the *New Zealand Gazette*, 29 October 2004, No. 141 page 3495)
- Hazardous Substance (Vertebrate Toxic Agents) (Amendment) Transfer Notice 2005, (*New Zealand Gazette*, 28 April 2005, No. 73 page 1739)
- Hazardous Substances (Vertebrate Toxic Agents) (Amendment) Transfer Notice 2006, (Supplement to the *New Zealand Gazette*, 26 June 2006, No. 68, page 1593)

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## **Hazardous Substances and New Organisms Act 1996**

### **Hazardous Substances (Vertebrate Toxic Agents) Transfer Notice 2004**

Pursuant to section 160A of the Hazardous Substances and New Organisms Act 1996 (in this notice referred to as **the Act**), the Environmental Risk Management Authority gives the following notice.

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#### **1 Title**

This notice is the Hazardous Substances (Vertebrate Toxic Agents) Transfer Notice 2004.

#### **2 Commencement**

This notice comes into force on 1 November 2004.

#### **3 Interpretation**

In this notice, unless the context otherwise requires—

**ACVM** means the Agricultural Compounds and Veterinary Medicines Group of the New Zealand Food Safety Authority

**aerial application** means application from an aircraft

**aircraft** has the meaning given to it by section 2 of the Civil Aviation Act 1990

**application**, in relation to a hazardous substance described in Schedule 1, means dropping, spreading, spraying, laying as bait, dusting, sprinkling, wiping, placing, or pouring the substance on ground or vegetation, and **apply** has a corresponding meaning

**contained ground-based application** means application of a hazardous substance—

- (a) in a bait station, or bait bag, or other container that is fixed to an object; or
- (b) so that it is contained in some other way, such as in a pipe or burrow

**ground-based application**, means application from the ground, and includes contained ground-based application

**variation code**, in relation to a hazardous substance, means a number set out in the column entitled “variation codes” opposite its description in Schedule 1.

#### **4 Deemed assessment and approval**

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

#### **5 Deemed hazard classification**

Each hazardous substance described in Schedule 1 is deemed to have the hazard classifications specified in the column entitled “hazard classifications” opposite its description in Schedule 1.

#### **6 Application of controls and changes to controls**

- (1) The controls that apply to the hazardous substances described in Schedule 1 are as follows:
  - (a) the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001, with the changes indicated in Schedule 2:
  - (b) the Hazardous Substances (Packaging) Regulations 2001, with the changes indicated in Schedule 2:
  - (c) the Hazardous Substances (Disposal) Regulations 2001, with the changes indicated in Schedule 2:
  - (d) the Hazardous Substances (Tracking) Regulations 2001, with the changes indicated in Schedule 2:
  - (e) the Hazardous Substances and New Organisms (Personnel Qualifications) Regulations 2001:
  - (f) the Hazardous Substances (Emergency Management) Regulations 2001, with the changes indicated in Schedule 2:

- (g) the Hazardous Substances (Identification) Regulations 2001, with the changes indicated in Schedule 2:
  - (h) the Hazardous Substances (Tank Wagon and Transportable Containers) Regulations 2004:
  - (i) the controls for stationary container systems set out in Schedule 8 of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 (*Gazette*, 2004, No 35, p 767), as amended by the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) (Amendment) Transfer Notice 2004 (*Gazette*, 2004, No 128, p 3133), with the changes indicated in Schedule 2.
- (2) Subclause (1)(i) applies despite clause 1(1) of Schedule 8 of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 (*Gazette*, 2004, No 35, p 767).

## **7 Other obligations and restrictions**

The obligations and restrictions specified in Schedule 3 (new controls for vertebrate toxic agents) and Schedule 4 (transitional controls) are imposed as controls under section 160B of the Act applying to the hazardous substances described in Schedule 1.

## **8 Tolerable exposure limits and environmental exposure limits**

- (1) Under regulation 24(1) of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001, the Authority sets as tolerable exposure limits for each hazardous substance listed in column 1 of the table in clause 1 of Schedule 5 the values specified in relation to the substance in column 2 of that table.
- (2) Under regulation 33(1) of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001, the Authority sets as environmental exposure limits for each hazardous substance listed in column 1 of the table in clause 2 of Schedule 5 the values specified in relation to the substance in column 2 of that table.

## **9 Workplace exposure standards**

- (1) Under regulation 29(2) of the Hazardous Substance (Classes 6, 8, and 9 Controls) Regulations 2001, the Authority adopts as a workplace exposure standard in relation to each hazardous substance described in Schedule 1, and each component of each hazardous substance described in that Schedule, the value or values specified in the document described in subclause (2) relating to that hazardous substance, or component, if any.
- (2) The document referred to in subclause (1) is the document entitled “Workplace Exposure Standards”, published by the Occupational Safety and Health Service, Department of Labour, January 2002, ISBN 0-477-03660-0.

## **10 Methods of release, colours, and bait size**

- (1) Under regulation 51(a) of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001 the Authority specifies in relation to each hazardous substance listed in column 1 of the table in clause 1 of Schedule 6 the colours specified in column 3 of that table, if any.

- (2) Under regulation 51(b) of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001 the Authority specifies in relation to each hazardous substance listed in column 1 of the table in clause 1 of Schedule 6 the method or methods of release specified in column 2 of that table.
- (3) Under regulation 51(d) of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001 the Authority specifies in relation to soluble concentrate containing 34 g/litre pindone as the sodium salt mixed with carrots or cooked oats as bait in accordance with clause 1 of Schedule 3 the bait size specified in clause 2 of Schedule 6.
- (4) No person may apply, or release, or colour a hazardous substance specified in Schedule 6 other than in accordance with that Schedule.
- (5) Soluble concentrate containing 34 g/litre pindone as the sodium salt mixed with carrots or cooked oats as bait in accordance with clause 1 of Schedule 3 must not be applied unless the bait complies with the bait size requirements set out in clause 2 of Schedule 6.

## Schedule 1

### List of substances (vertebrate toxic agents) to be transferred

*Explanatory note to list of substances (vertebrate toxic agents) to be transferred: This note is not part of the notice, but is intended to assist in understanding its application:*

*This notice transfers the substances (vertebrate toxic agents) specified below. It does not transfer substances containing sodium fluoroacetate.*

Substance	Hazard Classifications	Variation Codes
[Powder containing 970 – 980 g/kg <b>3-chloro-p-toluidine hydrochloride</b> ]	6.1C, 6.5B, 6.8B, 8.2C, 8.3A, 9.1A, 9.2D, 9.3A	1, 4, 5, 10
Treated seed containing 22 – 25 g/kg <b>alpha-chloralose</b>	6.1D, 6.9B, 9.3C	3, 5, 8
Paste containing 25 g/kg <b>alpha-chloralose</b>	6.1D, 6.9B, 9.3C	3, 5, 8
[Solid containing 900 – 1000 g/kg <b>alpha-chloralose</b> ]	6.1B, 6.9A, 9.1D, 9.3A	1, 11]
Bait containing 0.02 g/kg <b>brodifacoum</b>	6.9B, 9.1D	3, 6
Bait containing 0.05 g/kg <b>brodifacoum</b>	6.1E, 6.9B, 9.1D	3, 6
Bait containing 0.05 g/kg – 0.1 g/kg <b>bromadiolone</b>	6.9B, 9.1D	3, 6
[Bait containing 8 g/kg <b>cholecalciferol</b> (Substance A)]	6.1E, 6.8B, 9.1D	3, 6
[Bait containing 8 g/kg <b>cholecalciferol</b> (Substance B)]	6.1E, 6.8B, 9.1C	3, 6, 11]
Bait containing 0.375 – 0.5 g/kg <b>coumatetralyl</b>	6.9B, 9.1D	3, 6
Powder containing 7.4 g/kg <b>coumatetralyl</b>	6.1E, 6.4A, 6.9B, 9.1D	3, 6
Bait containing 0.05 g/kg <b>diphacinone</b>	6.9B, 9.1D	3, 6
Paste containing 0.3 g/kg <b>diphacinone</b>	6.9B, 9.1D	3, 6
Bait containing 0.05 g/kg <b>flocoumafen</b>	6.1D, 6.9B, 9.3C	3, 8
Bait containing 0.25 – 0.5 g/kg <b>pindone</b>	6.9B, 9.1D	3, 6
Soluble concentrate containing 34 g/litre <b>pindone</b> as the sodium salt	6.1C, 6.4A, 6.9B, 9.1B, 9.3A	1, 3, 9
Encapsulated paste containing 500 g/kg <b>potassium cyanide</b>	6.1B, 6.3B, 6.4A, 6.5B, 6.8B, 6.9A, 9.1A, 9.2A, 9.3A, 9.4A	1, 4, 7
Encapsulated pellet containing 800 g/kg <b>potassium cyanide</b>	6.1B, 6.3B, 6.4A, 6.5B, 6.8B, 6.9A, 9.1A, 9.2A, 9.3A, 9.4A	1, 4, 7
Paste containing 500 – 600 g/kg <b>sodium cyanide</b>	6.1A, 6.3B, 6.4A, 6.5B, 6.8B, 6.9A, 9.1A, 9.2A, 9.3A, 9.4A	1, 4, 7
Paste containing 4.5 – 5 g/kg <b>yellow phosphorus</b>	6.1D, 6.3B, 9.1A, 9.3C	1, 2, 4, 7, 8
Paste containing 9.5 – 10 g/kg <b>yellow phosphorus</b>	6.1D, 6.3A, 6.4A, 6.9A, 9.1A, 9.3B	1, 2, 4, 7

## Schedule 2

### Changes to controls relating to vertebrate toxic agents

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

**Changes to Controls**

Regulation 9

The regulations apply to soluble concentrate containing 34 g/litre pindone as the sodium salt mixed with food bait in accordance with clause 1 of Schedule 3 as if this regulation were omitted.

[Regulation 9

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

[New regulation 9A

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

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

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

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

New regulation 9B

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

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

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

Regulation 10

The regulations apply to each hazardous substance in Schedule 1 with variation code 2 as if this regulation were omitted and the following substituted:

**10 Carriage on passenger service vehicles**

- (1) A person must not carry a hazardous substance on a passenger service vehicle unless—
  - (a) the substance is in a sealed package; and
  - (b) the quantity of the substance in the package is not more than 0.5 kg.
- (2) In this regulation, **passenger service vehicle** has the same meaning as in the Transport Services Licensing Act 1989.

## Regulation 28

This regulation applies to each hazardous substance described in Schedule 1 with variation code 3 as if subclauses (1) and (2) were omitted and the following substituted:

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

## Regulation 28

This regulation applies to each hazardous substance described in Schedule 1 with variation code 4 as if subclause (2) were omitted and the following substituted:

- (2) A person in charge of the substance must ensure that signs are erected at every normal point of entry to the place where the substance is to be applied or laid before the substance is applied or laid.

## Regulation 28

This regulation applies to each hazardous substance described in Schedule 1 as if subclause (3)(d) were omitted and the following substituted:

- (d) comply with regulations 34 and 35 of the Hazardous Substances (Identification) Regulations 2001, except that regulation 35 applies as follows:
  - (i) in relation to the information required to be included on the signs by paragraphs (a) and (c), as if the distances referred to in regulation 35(3)(c) of those regulations were a distance of not less than 2 metres; and

- (ii) in relation to the information required to be included on the signs by paragraph (b), as if the distances referred to in regulation 35(3)(c) of those regulations were a distance of not less than 10 metres.

Regulation 28

This regulation applies to each hazardous substance described in Schedule 1 as if subclauses (4) and (5) were omitted and the following substituted:

- (4) The signs must remain until—
  - (a) if the substance contains alpha-chloralose, the substance has been retrieved from the place, or has disintegrated, or is otherwise no longer present at the place; or
  - (b) if the substance contains brodifacoum,—
    - (i) in the case of contained ground-based application of the substance, 12 months after the substance has been retrieved from the place or is otherwise no longer present at the place; or
    - (ii) in the case of aerial application of the substance in accordance with Schedule 3 and Schedule 6 of this notice, 12 months after the last application of the substance; or
  - (c) if the substance contains bromadiolone or flocoumafén, 12 months after the substance has been retrieved from the place or is otherwise no longer present at the place; or
  - (d) if the substance contains coumatetralyl or diphacinone,—
    - (i) 2 months after the substance has been retrieved from the place; or
    - (ii) if the substance is not retrieved, 8 months after the last application of the substance; or
  - (e) if the substance contains cholecalciferol,—
    - (i) if the substance is contained in a biodegradable bait bag, when the substance is no longer toxic, but not less than 4 months after the last application of the substance; or
    - (ii) in the case of other contained ground-based application of the substance, 3 months after the substance is retrieved from the place or is otherwise no longer present at the place; or
  - (f) if the substance contains pindone,—

- (i) in the case of ground-based application of the substance,—
  - (A) 2 months after the substance has been retrieved from the place; or
  - (B) if the substance is not retrieved, 8 months after the last application of the substance; or
- (ii) in the case of aerial application of the substance in accordance with Schedule 3 and Schedule 6 of this notice, 8 months after the last application of the substance; or
- (g) if the substance contains yellow phosphorus or 3-chloro-p-toluidine hydrochloride,—
  - (i) when the substance is retrieved from the place; or
  - (ii) when all bait containing the substance disintegrates or is destroyed, but no less than 1 month after the last application of the substance; or
- (h) in the case of paste containing sodium cyanide, when the substance has been retrieved from the place, or has disintegrated, or has been destroyed, or is no longer toxic, but not less than 2 months after the last application of the substance; or
- (i) in the case of encapsulated paste containing potassium cyanide, when the substance has been retrieved from the place, or has disintegrated, or has been destroyed, or is no longer toxic, but not less than 4 months after the last application of the substance; or
- (j) in the case of encapsulated pellet containing potassium cyanide,—
  - (i) if the substance is contained in a biodegradable bait bag, when the substance is no longer toxic, but not less than 4 months after the last application of the substance; or
  - (ii) in the case of other contained ground-based application, 2 months after the substance has been retrieved from the place.
- (5) Signs must be removed at the later of—
  - (a) when they are no longer required to remain under subclause (4); or

- (b) in the case of signs that include information to which a legal obligation applies that requires the signs to remain in place for a longer period of time, the expiry of that longer period of time.

[Regulation 28

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

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

Regulation 32

The regulations apply to each hazardous substance described in Schedule 1 as if this regulation were omitted.

Regulation 48

This regulation applies to each hazardous substance described in Schedule 1 as if subclause (1) were omitted and the following substituted:

- (1) The Authority may set an application rate for a substance that is designed for biocidal action if an environmental exposure limit has been set for the substance.

Regulation 50

The regulations apply to each hazardous substance described in Schedule 1 with variation code 5 as if this regulation were omitted.

[Regulation 50

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

Regulation 51

This regulation applies to each hazardous substance described in Schedule 1 with variation code 6 as if the substance is a class 9.3 hazardous substance.

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

**Changes to Controls**

Regulations 9 and 19

These regulations apply to each hazardous substance described in Schedule 1 with variation code 2 as if the substance is a class 6.1B hazardous substance but is not a class 6.1D hazardous substance.

**Control – Hazardous  
Substances (Disposal)  
Regulations 2001**

**Changes to Controls**

Regulations 11, 13, and 14

These regulations apply to each hazardous substance described in Schedule 1 with variation code 2 as if the substance is a class 6.1B hazardous substance but is not a class 6.1D hazardous substance.

**Control – Hazardous  
Substances (Tracking)  
Regulations 2001**

**Changes to Controls**

Regulations 4 to 6

The regulations apply to soluble concentrate containing 34 g/litre pindone as the sodium salt mixed with food bait in accordance with clause 1 of Schedule 3 as if these regulations were omitted.

[Regulations 4 to 6

The regulations apply to solid containing 900 – 100 g/kg alpha-chloralose mixed with food bait in accordance with clause 1A of Schedule 3 as if these regulations were omitted.]

Schedule 2, new clause 2A

Schedule 2 of these regulations applies to each hazardous substance described in Schedule 1 with variation code 7 as if the following clause were inserted after clause 2:

2A The unique identifier for the container that contains the tracked substance.

Schedule 2, clause 5

This clause applies to each hazardous substance described in Schedule 1 with variation code 7 as if the following were inserted after subclause (a):

(aa) the unique identifier for the container that contains the substance.

Schedule 2, clause 6

This clause applies to each hazardous substance described in Schedule 1 with variation code 7 as if the following were inserted after subclause (d):

(e) the unique identifier for the container that contained the substance.

**Control – Hazardous  
Substances (Emergency  
Management) Regulations  
2001**

**Changes to Controls**

Regulations 6, 12, and 14

These regulations apply to each hazardous substance described in Schedule 1 with variation code 2 as if the substance is a class 6.1B hazardous substance but is not a class 6.1D hazardous substance.

[Regulation 36

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

- (4) For the purposes of this regulation, and regulations 37 to 40, any hazardous substance contained in pipework that is installed and operated so as to manage any loss of containment in the pipework—
  - (a) is not to be taken into account in determining whether a place is required to have a secondary containment system; and
  - (b) is not required to be located in a secondary containment system.
- (5) In this clause, **pipework**—
  - (a) means piping that—
    - (i) is connected to a stationary container; and
    - (ii) is used to transfer a hazardous substance into or out of the stationary container; and
  - (b) includes a process pipeline or a transfer line.

Regulation 37

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

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

- Regulation 38 This regulation applies to each substance described in Schedule 1, as if the following subclauses were inserted at the end:
- (2) If pooling substances which do not have class 1 to 5 hazard classifications are held in a place above ground in containers 1 or more of which have a capacity of more than 60 litres but none of which have a capacity of more than 450 litres—
    - (a) if the place's total pooling potential is less than 20,000 litres, the secondary containment system must have a capacity of either 25% of that total pooling potential or 110% of the capacity of the largest container, whichever is the greater:
    - (b) if the place's total pooling potential is 20,000 litres or more, the secondary containment system must have a capacity of the greater of—
      - (i) 5% of the total pooling potential; or
      - (ii) 5,000 litres.
  - (3) Pooling substances to which subclause (2) applies must be segregated where appropriate to ensure that the leakage of one substance may not adversely affect the container of another substance.]

**Control – Hazardous  
Substances (Identification)**

**Regulations 2001**

**Changes to Controls**

- Regulations 14, 37, and 38 These regulations apply to each hazardous substance described in Schedule 1 with variation code 2 as if the substance is a class 6.1B hazardous substance but is not a class 6.1D hazardous substance.
- Regulation 20 This regulation applies to each hazardous substance described in Schedule 1 with variation code 6 as if the substance is a class 9.3B hazardous substance.
- Regulations 29 to 31, 37, 38, 51, and 52 These regulations apply to each hazardous substance described in Schedule 1 with variation code 6 as if the substance is a class 9.3B hazardous substance but is not a class 9.1D hazardous substance.
- Regulation 41 This regulation applies to each hazardous substance described in Schedule 1 with variation code 8 as if the substance is a class 9.3B hazardous substance but is not a class 9.3C hazardous substance.

**Control – Schedule 8 of the  
Hazardous Substances  
(Dangerous Goods and  
Scheduled Toxic**

**Substances) Transfer Notice  
2004 (Gazette, 2004, No 35, p  
767)**

**Changes to Controls**

Clause 1

This clause applies to each hazardous substance described in Schedule 1 with variation code 9 as if the words “Schedules 1 and 2” in subclause (1) were omitted and the following substituted:

Schedule 1 of the Hazardous Substances (Vertebrate Toxic Agents) Transfer Notice 2004

Clause 100

This clause applies to each hazardous substance described in Schedule 1 with variation code 9 as if subclause (1) were omitted and the following substituted:

- (1) In this Part, **existing stationary container system** means a stationary container system to which this Schedule applies that, immediately before 1 November 2004,—
  - (a) was being used to contain a substance described in Schedule 1 of the Hazardous Substances (Vertebrate Toxic Agents) Transfer Notice 2004; or
  - (b) was designed to be used to contain a substance described in that Schedule, and construction of the stationary container system to that design had commenced.

### Schedule 3

## New controls for vertebrate toxic agents

### Contents

- 1 Mixing of pindone soluble concentrate
- 2 Packaging of substances containing sodium cyanide, potassium cyanide, or yellow phosphorus for sale for vertebrate pest control
- 3 Permissions required for application or use of certain substances
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- 7 Lost, spilt, or unintended application of certain substances
- 8 Unauthorised persons to stay clear of application area of certain substances

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#### *Mixing of pindone and food bait*

### 1 Mixing of pindone soluble concentrate

Soluble concentrate containing 34 g/litre pindone as the sodium salt may be mixed with or applied to food bait only if,—

- (a) the food bait is carrots or cooked oats; and
- (b) after the mixing or application,—
  - (i) the amount of pindone in the food bait does not exceed 0.2 g of pindone per kilogram on average for each batch of food bait; and
  - (ii) the food bait complies with the bait size requirements specified in clause 2 of Schedule 6 of this notice.

### [1A Mixing of alpha-chloralose

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

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

#### *Packaging requirements for certain substances*

### 2 Packaging of substances containing sodium cyanide, potassium cyanide, or yellow phosphorus for sale for vertebrate pest control

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- (1) No person may pack a hazardous substance described in Schedule 1 with variation code 7 for sale for vertebrate pest control unless the package is marked with a unique identifier.
- (2) The unique identifier marked on the container must comply with regulation 35 and regulation 36 of the Hazardous Substance (Identification) Regulations 2001.
- (3) For the purposes of regulation 35(3)(c) of those regulations, the unique identifier is a secondary identifier.
- (4) In this clause **package** means the smallest package in which the relevant substance is sold.

*Permissions and licences*

**3 Permissions required for application or use of certain substances**

- (1) No person may apply or otherwise use a hazardous substance described in Schedule 1 on land administered or managed by the Department of Conservation unless the person first obtains a permission under section 95A of the Act from the Authority.
- (2) No person may apply or otherwise use a hazardous substance described in Schedule 1 with variation code 4 in a catchment area from which water is drawn for human consumption or in any other area where a risk to public health may be created if the substance is applied or used unless the person first obtains a permission under section 95A of the Act from the Authority.

**4 Licences required for possession of certain substances**

- (1) No person may possess a hazardous substance described in Schedule 1 with variation code 4 unless the person has a licence under section 95B of the Act from the Authority that is obtained before the person takes possession of the substance.
- (2) Despite subclause (1), a person who does not have a licence may possess a hazardous substance with variation code 4 if—
  - (a) the person is under the immediate supervision of a person who has a licence in accordance with this clause; or
  - (b) the person is deemed to comply with Regulation 9 of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001 by regulation 9A of those regulations (as inserted by Schedule 2 of this notice).

*Application of substances*

**5 Restriction on aerial application of certain substances**

No person may apply, or engage another person to apply, a hazardous substance described in Schedule 1 with variation code 10 by aerial application unless—

- (a) the person has a permission or permissions (as the case may be) granted in accordance with clause 3; and
- (b) a copy of each permission is supplied to the pilot of the aircraft.

**6 Requirements for aircraft carrying out aerial application**

- (1) An aircraft that is carrying out an aerial application must not, when flying to or from the area where the hazardous substance is applied, fly over a—
  - (a) place specified (if any) in a permission granted in relation to the substance in accordance with clause 3 as being a place over which such an aircraft must not fly; or
  - (b) public drinking water supply; or
  - (c) waterway that is less than 100 metres upstream of a point of extraction from a water source for a drinking water supply (not being a water supply exclusively for stock).
- (2) Every aircraft that has carried out an aerial application, and all equipment used in connection with the aerial application, must be decontaminated before the aircraft or equipment is—
  - (a) used for another purpose; or
  - (b) removed from a place from which the application operation has been carried out.
- (3) When an aerial application being carried out on a day has ceased for that day, the loading area, and any area where the substance is stored in preparation for loading the substance on to or into the aircraft, must be—
  - (a) decontaminated; or
  - (b) fenced so that—
    - (i) people do not inadvertently enter the area; and
    - (ii) stock cannot gain access to the area.
- (4) An area that is fenced in accordance with subclause (3)(b) must have signs erected at the perimeter of the fence in accordance with subclause (5).
- (5) The signs referred to in subclause (4) must—
  - (a) state that people and stock should stay out of the area until the signs, and any fence around the area, have been removed; and
  - (b) identify the person responsible for the place, and provide sufficient information to enable the person to be contacted during normal business hours; and
  - (c) identify the substance and state that it is toxic to human beings and ecotoxic to other vertebrates; and
  - (d) comply with regulations 34 and 35 of the Hazardous Substances (Identification) Regulations 2001, except that regulation 35 applies as follows:
    - (i) in relation to the information required to be included on the signs by paragraphs (a) and (b), as if the distances referred to in regulation 35(3)(c) of those regulations were a distance of not less than 2 metres; and

- (ii) in relation to the information required to be included on the signs by paragraph (c), as if the distances referred to in regulation 35(3)(c) of those regulations were a distance of not less than 10 metres.
- (6) The signs and the fence required by this clause must remain in place until the place is decontaminated.

#### **7 Lost, spilt, or unintended application of certain substances**

If a hazardous substance described in Schedule 1 with variation code 4 is applied other than in the intended application area, or is lost or spilt, the person who is in possession of the substance at the time that it was misapplied, lost, or spilt must report the nature and quantity of the substance within 24 hours of the substance being misapplied, lost, or spilt to—

- (a) if a permission was granted in accordance with clause 3 to apply or otherwise use the substance, the person who granted the permission; and
- (b) the officer in charge of the nearest police station to which the person has access; and
- (c) the nearest Medical Officer of Health or the Medical Officer of Health in whose region the substance was misapplied, lost, or spilt; and
- (d) each owner or occupier of land on which the substance may have been misapplied, lost, or spilt; and
- (e) the person on whose behalf the substance is being applied.

#### **8 Unauthorised persons to stay clear of application area of certain substances**

- (1) A person who is not lawfully assisting in the application or use of a hazardous substance described in Schedule 1 with variation code 4 must not remain in the vicinity of the application or use of the substance (as the case may be).
- (2) An enforcement officer may order a person who contravenes subclause (1) to immediately leave the area in which the substance is being applied or used.

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

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

## Schedule 4

### Transitional controls

#### Contents

- 1 Purpose of Schedule
  - 2 Persons may comply with Act and controls at any time
  - 3 Schedule does not apply to substance in stationary container system
  - 4 Compliance with obligations and restrictions as at 31 October 2004 for transitional period
  - 5 Transitional provisions for licences
  - 6 Application for licence
  - 7 Packaging
  - 8 Identification, documentation, and signage
  - 9 Emergency management response plans
- 

#### **1 Purpose of Schedule**

- (1) The purpose of this Schedule is to provide for a transitional period to allow persons dealing with hazardous substances to which this notice applies to comply with the Act, and controls under the Act, in relation to those hazardous substances.
- (2) This Schedule achieves the purpose described in subclause (1) by—
  - (a) providing that, for a period of 6 months from the commencement of this notice, a person may comply with the obligations and restrictions that applied to those substances immediately before the commencement of this notice, as if this notice (other than this Schedule) had not been given; and
  - (b) providing for obligations and restrictions that apply after the expiry of that 6 month period to progressively impose the requirements of the Act, and controls under the Act, in relation to those substances.

#### **2 Persons may comply with Act and controls at any time**

Except as specifically provided in this Schedule, this Schedule does not prevent a person from complying with the Act, and controls under the Act, as if this Schedule did not exist.

#### **3 Schedule does not apply to substance in stationary container system**

Nothing in this Schedule applies to a stationary container system to which Schedule 8 of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 (*Gazette*, 2004, No 35 p 767) applies by virtue of clause 6(1)(i) of this notice.

#### **4 Compliance with obligations and restrictions as at 31 October 2004 for transitional period**

- (1) A person complies with the Act in relation to a hazardous substance to which this notice applies, if the person complies with all obligations and restrictions that were in force in relation to the hazardous substance as at the close of 31 October 2004.
- (2) This clause is subject to any other provision of this Schedule.

- (3) This clause expires with the close of 30 April 2005, [save in respect of clause 4 of Schedule 3 to this notice, in which case this clause expires on 31 October 2005.]

## **5 Transitional provisions for licences**

- (1) This clause applies to every licence granted or deemed to be granted for the purposes of section 178 of the Act that is in force immediately before the close of 31 October 2004.
- (2) Every licence to which this clause applies continues in force for the purposes of this Schedule.
- (3) On and from 1 May 2005 every licence to which this clause applies is deemed to be a licence granted under section 95B of the Act as required by clause 4 of Schedule 3.
- (4) A licence deemed to be granted under subclause (3) authorises the holder to possess hazardous substances to which the licence relates.
- (5) A licence deemed to be granted under subclause (3) expires—
- (a) if an application is made in accordance with clause 6, on the date that the application is granted or declined; or
- (b) if an application is not made in accordance with clause 6, at the close of the month in which the application is required by that clause to be made.

## **6 Application for licence**

- (1) The holder of a licence to which clause 5 applies must apply for a licence under section 95B of the Act as required by clause 4 of Schedule 3.
- (2) An application under subclause (1)—
- (a) may be made at any time before the close of [31 January 2006]; but
- (b) if it has not been made by that date, must be made during and before the close of the month specified in column 1 of the following table opposite the first letter (or first 2 letters, as the case may be) of the surname of the person specified on the licence referred to in clause 5(1) as the holder of the licence, in column 2 of the table:

<b>[Column 1</b>	<b>Column 2</b>
<b>Month</b>	<b>First letter(s) of name</b>
November 2005	-
December 2005	-
February 2006	A, B
April 2006	C
June 2006	D, E, F

August 2006	G, H
October 2006	I, J, K, L, M
November 2006	N, O, P
January 2007	Q, R, S
March 2007	T, U, V
April 2007	W, X, Y, Z, other]

## **7 Packaging**

- (1) Packaging of a hazardous substance to which this notice applies is not required to comply with the Hazardous Substances (Packaging) Regulations 2001 if it complies with the requirements for packaging that applied to the hazardous substance at the close of 31 October 2004.
- (2) This clause expires with the close of 31 October 2006.

## **8 Identification, documentation, and signage**

- (1) A person is not required to comply with the regulations specified in subclause (2) in relation to a hazardous substance to which this notice applies if the person complies with the requirement for identification, documentation, and signage in relation to that substance that applied to the hazardous substance at the close of 31 October 2004.
- (2) The regulations are—
  - (a) the Hazardous Substances (Identification) Regulations 2001; and
  - (b) regulations 11 to 14 of the Hazardous Substances (Disposal) Regulations 2001; and
  - (c) regulations 6 to 16, 18 to 20, and 42 of the Hazardous Substances (Emergency Management) Regulations 2001.

- (3) This clause expires with the close of 31 October 2006.

**9 Emergency management response plans**

- (1) A person in charge of a place where a hazardous substance to which this notice applies is present is not required to comply with regulations 25 to 34 of the Hazardous Substances (Emergency Management) Regulations 2001 if that person complies with the requirements for emergency management response plans that applied in relation to the substance at the close of 31 October 2004.
- (2) This clause expires with the close of 31 October 2005.

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

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

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

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

## Schedule 5

Clause 8

### Tolerable exposure limits and environmental exposure limits

#### Contents

- 1 Tolerable exposure limits  
2 Environmental exposure limits
- 

#### 1 Tolerable exposure limits

The following table specifies tolerable exposure limits set for the substances specified in column 1. These limits are for each substance specified in column 2 when it is a component of the substance or substances specified opposite it in column 1.

Column 1	Column 2
Substance	Component and tolerable exposure limit
Encapsulated paste containing 500 g/kg potassium cyanide Encapsulated pellet containing 800 g/kg potassium cyanide Paste containing 500 – 600 g/kg sodium cyanide	<u>Cyanide</u>  TEL <sub>water</sub> = 0.08 mg/litre TEL <sub>air</sub> = 0.009 mg/m <sup>3</sup>
Paste containing 4.5 – 5 g/kg yellow phosphorus Paste containing 9.5 – 10 g/kg yellow phosphorus	<u>Yellow phosphorus</u>  TEL <sub>water</sub> = 0.0001 mg/litre TEL <sub>air</sub> = 0.000006 mg/m <sup>3</sup>
[Powder containing 970 – 980 g/kg 3-chloro-p-toluidine hydrochloride]	<u>3-chloro-p-toluidine hydrochloride</u>  TEL <sub>water</sub> = 0.6 mg/litre TEL <sub>air</sub> = 0.02 mg/m <sup>3</sup>

#### 2 Environmental exposure limits

The following table specifies environmental exposure limits set for the substances specified in column 1. These limits are for each substance specified in column 2 when it is a component of the substances specified opposite it in column 1.

Column 1	Column 2
Substance	Component and environmental exposure limit
Encapsulated paste containing 500 g/kg potassium cyanide Encapsulated pellet containing 800 g/kg potassium cyanide Paste containing 500 – 600 g/kg sodium cyanide	<u>Cyanide</u>  EEL <sub>freshwater</sub> = 18 µg/litre EEL <sub>marine</sub> = 14 µg/litre

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<p>[Powder containing 970 – 980 g/kg 3-chloro-p-toluidine hydrochloride]</p>	<p><u>3-chloro-p-toluidine hydrochloride</u></p> <p>EEL<sub>freshwater</sub> = 0.03 µg/litre</p> <p>EEL<sub>marine water</sub> = 0.03 µg/litre</p> <p>EEL<sub>soil</sub> = 1 µg/kg dry weight</p>
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## Schedule 6

Clause 10

### Methods of release, colours, and bait size

#### Contents

- 1 Methods of release and colours
  - 2 Bait size
- 

#### 1 Methods of release and colours

The following table specifies for each substance specified in column 1—

- (a) the method or methods of release specified in column 2 for the substance; and
- (b) a colour (if any) specified in column 3 for the substance.

Column 1	Column 2	Column 3
Substance	Method(s) of release	Colours
[Powder containing 970 – 980 g/kg 3-chloro-p-toluidine hydrochloride]	Hand-based application from an aircraft; or  Ground-based application	
Treated seed containing 22 – 25 g/kg alpha-chloralose Paste containing 25 g/kg alpha-chloralose	Ground-based application	
[Solid containing 900 – 1000 g/kg alpha-chloralose mixed with food bait]	Ground based application]	
Bait containing 0.05 g/kg brodifacoum Bait containing 0.05 g/kg – 0.1 g/kg bromadiolone [Bait containing 8 g/kg cholecalciferol (Substance A)] Paste containing 0.3 g/kg diphacinone Bait containing 0.05 g/kg flocoumafen Encapsulated pellet containing 800 g/kg potassium cyanide	Contained ground-based application	Blue; or  Green
Bait containing 0.02 g/kg brodifacoum	If approved for aerial application by the ACVM under a code of practice, aerial application; or  If the substance is applied by the Department of Conservation on offshore islands, aerial application; or  Contained ground-based application	Blue; or  Green

Column 1	Column 2	Column 3
Substance	Method(s) of release	Colours
[Bait containing 8 g/kg cholecalciferol (Substance B)	Contained ground-based application	Blue; or Green]
Bait containing 0.25 – 0.5 g/kg pindone Soluble concentrate containing 34 g/litre pindone mixed in accordance with clause 1 of Schedule 3	Ground-based application; or  If the substance is applied by the Department of Conservation, or a regional council, or a unitary authority, aerial application	Blue; or  Green
Paste containing 500 – 600 g/kg sodium cyanide Encapsulated paste containing 500 g/kg potassium cyanide Paste containing 9.5 – 10 g/kg yellow phosphorus Paste containing 4.5 – 5 g/kg yellow phosphorus Bait containing 0.375 – 0.5 g/kg coumatetralyl Powder containing 7.4 g/kg coumatetralyl Bait containing 0.05 g/kg diphacinone	Ground-based application	Blue; or  Green

## 2 Bait size

The bait size requirements for soluble concentrate containing 34 g/litre pindone as the sodium salt mixed with carrots or cooked oats as bait in accordance with clause 1 of Schedule 3 is as follows:

[(a) if the food bait is carrot—

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

(b) if the food bait is cooked oats, the cooked oats must be the fat white variety and be dressed to remove all seeds and foreign matter.