



Submission

Proposed amendments to Importers and Manufacturers Notice

To The Environmental Protection Authority

From the Employers and Manufacturers
Association Northern Inc

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Contact Details

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The Employers and Manufacturers Association (Northern) Inc. accepts this submission being publicly available.



About the Employers and Manufacturers Association (EMA)

The EMA has a membership of more than 7,500 businesses, from Taupō north, with its employing around 300,000 New Zealanders.

The EMA provides its members with employment relations advice from industry specialists, a training centre with more than 600 courses, and a wide variety of conferences and events that support businesses to grow.

The membership covers all industry sectors and all business sizes. The EMA has a duty to members to keep them informed on changes being planned that will both positively and negatively alter the way they manage their business. We actively encourage our members to be more proactive, enabling them to mitigate the slow and unrelenting changes that are unfolding.

The EMA also advocates to bring change in areas that can make a difference to the day-to-day operation of our members, such as RMA reform, infrastructure development, employment law, commercial laws, health and safety, skills and education and export growth.

Summary

The EMA represents a significant range of industry from manufacturing, exporters to importers. Our membership is largely made up of New Zealand companies.

We are concerned that the proposals to include “other chemicals of interest” is an open door to ultimately include all chemicals and mixtures in the same manner as applied in Australia. Our members with operations in Australia find that requirement to notify annually in Australia a serious compliance and cost burden and we are keen to not see that repeated in New Zealand.

We note on page 15

“In addition, we propose to include a specific list of additional chemicals of interest. These substances are listed in Appendix 4. The quantity reporting requirements would apply to any amounts of these chemicals imported or manufactured either as a pure chemical or as a component of a formulated product” This has extremely wide levels of interpretation and potential reporting costs.

We note that the draft recommendations are at odds with the governments mandate of less red tape and less reporting for no real value. Reporting for reporting sake is not a justifiable reason.

We understand the need to understand the volumes of high-risk chemicals as set out in the list in the proposed, but we believe that in most cases those chemical types identified require specific approvals and volumes of those should already be readily available from existing data collection by MPI and Customs.

We are concerned that no problem has been identified justifying this level of data collection and reporting. It appears to be an answer looking for a problem.

If there is a need for data collection on formulated products entering New Zealand then this data is largely available via Statistics NZ or could be reported by Customs however we do not believe that there is justification for mandatory reporting by importers or domestic manufacturers on such products.

Vertebrate toxic agents – these will be widely present in industry as many substances trigger class 9.3 Hazardous to Terrestrial Vertebrates.

Requesting industry users to supply data on these will be met with resistance or non-compliance as this is another compliance requirement on top of an already heavy compliance load.

The current requirement for importers and manufacturers to notify the EPA that they are an importer or manufacturer we believe is sufficient for most products. The proposal to add the NZBN number and HSNO approval number to the existing requirement, while an additional requirement, should not be excessively onerous however.

Specific Comments:

Question 1 - Hazardous Substance groups missing from scope

Class 9.1 Hazardous to the Aquatic Environment.

This will capture a wider variety of substances that may have an adverse effect on our environment, especially our waterways and aquatic species.

Question 2

We are concerned that “other chemicals of interest” could be expanded from the Appendix 4 list.

Questions 3 and 4 - Clarity of terms

No comments

Question 5 - Appendix 4 additional chemicals

Nonylphenol ethoxylates are surfactants commonly used in detergents, dairy shed cleaners, teat sprays, and bloat treatments.

The tributyl tin products are actives in antifouling paints.

All these have potentially severe adverse effects in aquatic environments and should be included.

Question 6 - Clarity of terms

The definitions of importation, importer, manufacture and manufacturer are sufficiently clear.

Question 7 - General Comment on Scope

We do not have any specific comments on the scope other than our concern around expanding the Appendix 4 list.

Question 8 - Quantities of active ingredient within formulated products

This will increase the expected workload for manufacturers and importers exponentially. With imported products the formulations may not be available from the manufacturers for confidentiality reasons. It is unreasonable for a regulator to gain specific formulations for every product manufactured containing these substances.

The width that this could capture outside of those specific chemicals of concern set out in Appendix 4 appears to be excessive.

There is some argument that this could also be seen as a technical barrier to trade under some of our free trade agreements.

Question 9 - Practical challenges in reporting

There are many active ingredients used in formulated products and any requirement to report either as an importer or as a manufacturer those ingredients which are present in often very small volumes and may have more than one in the same formulated product. Extracting that data would be extremely difficult to achieve adding significant regulatory burden to the sector and achieving compliance would be challenging.

How this might apply to personal imports such as duty free or online purchases from outside of the country is also an area of concern. If they are excluded from reporting then the data would be incorrect and at the same time places mainstream importers and local manufacturers at a cost disadvantage who would have to report.

Question 10 - Reporting challenges

Active ingredients commonly used in across a wide range of formulated products including cosmetics, household cleaning products, timber treatment chemicals, antispain chemicals, and

antifouling paints. These will have priority formulations that manufacturers / importers will not wish to reveal.

Question 11 - Frequency of reporting

The reporting requires a compliance action to be established and we believe that should this go forward; it will add significant compliance cost whether that is annual or more frequently.

Many multinational importers do not have a New Zealand based regulatory compliance person with some based in Australia or elsewhere handling multiple markets. The size of the New Zealand market can have an effect on compliance for such companies and on whether it is viable to continue some products in the New Zealand market.

Smaller importers also face the challenge of being very lean as their volumes are smaller with smaller staff numbers and so the burden of compliance is heavier as a result.

Manufacturers vary in size as well. We note that Cosmetics New Zealand has commented on the impact on their contract manufacturers as well as the small boutique manufacturers ability to comply.

There appears to be an assumption that all manufactured products are only sold within New Zealand when a significant volume is exported products whether that is to heavily regulated markets like Australia or Europe or more lightly regulated markets and as such those manufacturers and exporters are focused on compliance in those markets and adding additional compliance in New Zealand reduces their competitiveness in those export markets.

Questions 12 and 13 - Using Calendar year final date for reports

Companies use a wide variety of reporting dates for accounting purposes. While many will be around the 31st of March US subsidiaries will be the calendar year and others may align to 30 June. Should this amendment go ahead it would be better to avoid the exact timing of the end of financial year as businesses will find it difficult to add this type of reporting when focusing on the end of their financial year. We recommend that a deadline of 31 March be set but the data lodged should be for the calendar year prior which would give a 3 month timeframe to lodge the information.

Question 14 - Minimum quantity Threshold

Australia chemical reporting has a no reporting threshold of under 20kg, a notify threshold of 100kg and mandatory reporting of volumes for anything above. If reporting is implemented, then it would be sensible to look at similar thresholds.

Question 15 - Submission tool

The logic for any form of annual reporting would be an online tool however we believe that much of the data exists for those ingredients of concern that have been cited in the discussion document and exploring further the passing on of that data to the EPA from MPI and/or Customs would be a more cost-effective option.

Alternately perhaps this could be automated through either manufacturing or accounting software providers as an add on that could be automated.

We recommend all options be explored and that one size does not fit all so more that one maybe required.

Questions 16 and 17 - Proposal to publicly report annually

Reporting publicly aggregated data is not a concern but the confidentiality and protection of specific data would be our greatest concern should an OIA be lodged to try and reveal this information.

Questions 18 and 19 - Transition period to first annual report/ Challenges faced to meet proposed reporting period

The transition timeframe maybe reasonable for those impacted.

Obtaining actual concentrations of actives in products for imported products. Offshore manufacturers will be unwilling to release commercially sensitive data and may choose to withhold their product from NZ as a result

Questions 20 to 22 - Intention to amend clause 6 of the importers and Manufacturers Notice

We would expect all Manufacturers and Importers to hold NZBN's although there may be some importers who are not locally based that may not.

Most manufacturers and importers will be fully aware of where their products sits under either a Group Standard or specific approval number so while on the surface this requirement is information already held it will still be a compliance cost and particularly for those that have a range of product types that are affected.

Rather than expecting importers and manufacturers to work to 2 timeframes because of this change, we suggest the same timeframe be used i.e. the timeframe for the first reporting period for the substances of interest.

Questions 23 to 24 - Explosives

No comment is offered.

Question 25 - Multi-shipment imports certificates for explosives

It makes sense as it reduces the administration workload. Suggest the certificates include the number of expected shipments over a defined period e.g. 6 months.

Question 26 - Importation quantities

Include the maximum quantity per shipment on the certificates.

Question 27 - Multi-shipment certificates time validity

We cover this under question 25.

Questions 28 - estimated costs of proposals

This seems absorbent given the current government's efforts to curb public spending. EPA spending should be absorbed internally if this is to proceed

Question 29 - Additional anticipated costs

Any additional obligations to report adds both direct and indirect compliance costs.

Direct costs are the time to gather and collate the required information and this could be many hours of work since the data does not exist in the form that the reporting would require. This is taking the formulated cosmetic products calculating the actual amount of ingredients that are to be reported and then multiplying that number across the number of units.

Indirect costs are the systems required to capture the data in the first instance and these do not exist for our importing members or our manufacturing members. This would then require investment in systems to capture the data in order to report.

Question 30 - Cost minimisation

See our answer to Q 28 or don't proceed.

Question 31



We have not identified any benefit to either our members or consumers who would ultimately bear any costs that would need to be passed on.

These changes, if implemented, should provide better information on potential environmental risk from hazardous substances, however we doubt any analysis of this data will provide anything useful to industry, society, or iwi.