

# Summary of submissions

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*HAZARDOUS SUBSTANCES  
SAFE WORK INSTRUMENTS*

October 2019



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## Purpose

This document summarises submitter feedback received on the *Health and Safety at Work (Hazardous Substances – Additional Substances that Do Not Require Tracking) Safe Work Instrument Amendment 2019*.

## Background

### Safe work instruments

Safe work instruments (SWIs) are a tool provided for by section 227 of the Health and Safety at Work Act 2015 (HSWA). They are a type of subordinate instrument (sometimes called tertiary legislation) used to support or complement regulations. SWIs are developed by WorkSafe, and approved by the Minister for Workplace Relations and Safety.

A SWI has legal effect only to the extent it is referred to in regulations made under relevant health and safety legislation, such as HSWA. SWIs can be made for the purposes of defining terms, prescribing matters, or making other provisions in relation to any activity or thing, including (without limitation) listing standards, substance controls, and competency requirements.

### Health and Safety at Work (Hazardous Substances – Additional Substances that Do Not Require Tracking) Safe Work Instrument Amendment 2019

The Safe Work Instrument Amendment adds petrol-methanol blends containing up to 15% methanol by volume (petrol-methanol blends) to table 3 of schedule 26 of the Health and Safety at Work (Hazardous Substances) Regulations 2017 (HSW HS Regulations). This has the effect of excluding petrol-methanol blends from the tracking requirements in Part 19 of the HSW HS Regulations.

### Consultation on the SWI

The Minister must not approve a SWI unless he is satisfied that all persons and organisations that the Minister thinks appropriate have been consulted, having regard to the subject matter of the safe work instrument.

WorkSafe ran a public consultation on the *Health and Safety at Work (Hazardous Substances – Additional Substances that Do Not Require Tracking) Safe Work Instrument Amendment 2019* between 21 June and 12 July 2019.

WorkSafe notified business and social partners (the Council of Trade Unions and Business New Zealand), targeted stakeholders with a particular interest in the subject matter, and 15,000 stakeholders who are subscribed to WorkSafe updates on hazardous substance and consultation via email. The draft amendment SWI was also available to the general public on WorkSafe's website.

The consultation paper requested feedback on adding petrol-methanol blends substance in the list of additional substances that do not require tracking.

### What are petrol-methanol blends?

Petrol-methanol blends volume are fuels made by blending the primary components petrol and methanol. Other co-formulates commonly used in petrol are also added. These fuels contain between 79.1 and 97.6 % petrol, and 1.1 to 16.5 % methanol.

Petrol-methanol blends are intended to be used in a similar way to other primarily petrol fuels. They can be used as fuel for on and off-road vehicles and commercial and recreational craft/boats. Other non-vehicle uses could include:

- small machinery such as motor mowers

- stationary engines such as generators
- cleaning agents
- fire accelerants.

The non-vehicle use of petrol-methanol containing up to 15% methanol by volume blends is expected to be a very minor segment of the total fuel use.

The *Engine Fuel Specifications Regulations 2011* allow for petrol-methanol blends of up to three percent methanol to be sold by retail sale<sup>1</sup>. These products are intended to be sold by wholesale to companies for use in fleet vehicles. They may also be sold to the public at service stations.

Petrol-methanol blends with more than three percent methanol only be sold by non-retail sale. Petrol-methanol blends with more than three percent methanol will be used in vehicle trails.

## Petrol-methanol blends and hazardous substances tracking requirements

Part 19 of the HSW HS Regulations requires that certain hazardous substances are tracked throughout their lifecycle. Hazardous substances that require tracking are described in tables 1 and 2 of Schedule 26, and substances that do not require tracking are described in table 3 of Schedule 26. Regulation 19.3 provides that a relevant SWI may add a hazardous substance to table 3 in Schedule 26.

Class 3.1A hazardous substances are included in table 1 of Schedule 26, meaning that petrol-methanol blends were subject to the tracking requirements in Part 19. The requirements for tracking substances include:

- recording information about the location and movement of a tracked substance at each stage of its lifecycle
- records retention, and
- ensuring that a competent person will take responsibility for the tracked substance when it is transferred to another workplace.

If petrol-methanol blends are subject to the tracking provisions in the HSW HS Regulations, they would be subject to a disproportionately more restrictive regulatory regime than other similar fuel products that do not require tracking. These requirements would prevent the product being sold to the public as intended.

## Submissions summary

WorkSafe received one submission on the amendment SWI, the submission was made by a business. The submitter supported the introduction of the amended SWI.

## Outcome of consultation

As the one submission received by WorkSafe supported the SWI, no changes were made to the draft text.

## Implementation

The SWI was provided to the Minister for Workplace Relations and Safety for the Minister's consideration in August 2018. The Minister approved the amendment SWI.

The approved amendment SWI has been published on WorkSafe's website. The SWI will come into effect on 1 October 2019.

<sup>1</sup> Retail sale is a sale to an end user who has no written supply agreement or written contract with the supplier in respect of the sale.

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