

Submission form

for Cutting lead levels in paints: proposed amendments to group standards

27 October 2023

Your details	
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The closing date to submit a response is 11:59pm on 26 January 2024.

Please read the [privacy statement and confidential information policy](#) on the following page that details how the information provided will be used.

Information we are looking for

We are looking for feedback on our proposed changes to:

- 24 Surface Coatings and Colourants Group Standards
- six Aerosols Group Standards
- six Corrosion Inhibitors Group Standards
- Graphic Materials Group Standard.

You will find the details of these changes in the proposal document "[Cutting lead levels in paints: proposed group standards updates.](#)"

Privacy statement

The EPA is collecting your personal information for the purpose of administering this application under the Hazardous Substances and New Organisms Act and will use the information you provide in this form to contact you in relation to the application. We will store your personal information securely. Your submission and name will be made publicly available on our website, but your personal contact details will not be disclosed. You have the right to access the personal information we hold about you and to ask for it to be corrected if it is wrong. If you would like to access your personal information, or have it corrected, please contact us at info@epa.govt.nz.

Confidential details

The Official Information Act 1982 (OIA) applies to all information held by the EPA (subject to section 55 of the Hazardous Substances and New Organisms Act 1996), and information may be released under the OIA unless there are grounds to withhold it. If you consider any part of your response is confidential, please clearly label it as such and include the reasons why you think the information is confidential (for example, you may consider some information to be commercially sensitive). Further information on the OIA is at www.ombudsman.parliament.nz

Your submission

You are welcome to answer all the questions or only those that are relevant to you.

Questions are divided into four parts:

- **Part 1: Submitter information**
- **Part 2: General questions.** Questions about the proposals as a whole.
- **Part 2B: Request to be heard.** Indicate if you wish to speak at a potential hearing.
- **Part 3: Questions on proposals.** Feedback on each of the specific proposals in the proposal document.
- **Part 4: Confidentiality declaration.** Advise if any parts of your submission are confidential.

If you are providing extra attachments, please refer to them in the answers to the relevant questions.

Part 1: Submitter information

1.1 Are you representing your own views or those of an organisation that you belong to?

✓	
<input type="checkbox"/>	I am representing my own personal views
<input checked="" type="checkbox"/>	I am representing the views of a company, organisation, business, group etc.

1.2 Please indicate which submitter group(s) you belong to:

✓ Submitter group	
<input type="checkbox"/>	Member of the public/individual
<input type="checkbox"/>	Importer
<input type="checkbox"/>	Manufacturer
<input type="checkbox"/>	Supplier
<input type="checkbox"/>	Retailer
<input checked="" type="checkbox"/>	Other industry (for example, brand/company or group representative, consultant)

<input type="checkbox"/>	Government organisation (for example, ministry, department, local council)
<input type="checkbox"/>	Other organisation (for example, iwi/hapū representative, community group, NGO)
<input type="checkbox"/>	Subject expert (for example, researcher)
<input type="checkbox"/>	Other (please specify):

1.3 Please give any additional details about you or your organisation that you think are relevant (for example, where you are based, your organisation’s purpose).

The WasteMINZ Residential Lead Working Group (the Group) was formed in 2018 and includes representatives from the health and public health sectors, lead awareness advocates, environmental consultants, local government and the paint retail and trade industries.

The Group is concerned with the undetermined magnitude of health effects from multiple residential (non-occupational) sources of lead. Our purpose is to bring together subject matter experts to identify and address gaps in the knowledge and practice around residential lead for the benefit of all New Zealanders.

The Group has considered the Environmental Protection Agency’s (EPA) ‘Cutting lead levels in paints: proposed amendments to group standards’ consultation and would like to submit the following responses to the consultation process.

Part 2A: General questions

Remember you will have the chance to provide feedback on each specific proposal in the next part of the document.

You are welcome to answer all the questions or only those that are relevant to you.

2.1 Do you support the proposed amendments in general?

Yes

Reducing lead levels in paint will reduce lead concentration in household dust and soil within the curtilage around residential houses. This in turn will reduce non-occupational exposure to lead, particularly in high-risk populations such as children. WasteMINZ Residential Lead Working Group believes that reducing non-occupational exposure to lead is critical because lead is a multisystem toxicant for which no safe level of exposure has been identified and lead exposure has disproportional adverse health effects on unborn and small children. Every effort must be taken to reduce the production and release of contaminants, especially when those contaminants are known to cause adverse health effects.

However, some of the proposals related to graphic materials are concerning, particularly, removing the notification requirement without a proactive enforcement program to support compliance. The group is also concerned that the migration levels in the current toy standard are out of alignment with international trends. Although the proposal is an improvement from the 2003 toy standard, it is only a minor improvement. More lead reduction is needed than what is proposed to protect the environment and prevent people from non-occupational exposure to lead. WasteMINZ Residential Lead Working Group would therefore encourage the EPA to go further than what is proposed, by adopting the European Union (EU) migratable level limits with urgency.

2.2 What are your reasons for making a submission?

WasteMINZ Residential Lead Working Group considers that exposure to lead from all sources should be as low as reasonably practicable, and that New Zealand current lead paint/surface coatings are not in-line with current international best practice, as highlighted in the United Nations Environment Programme (UNEP) 2021 Update on the Global Status of Legal Limits on Lead in Paint.

2.3 What do you think the positive or negative effects of these proposals will be in general for Aotearoa New Zealand?

Reducing lead content in paint will help to reduce lead levels in soil around new build residential properties and help reduce lead contamination of soils around older homes. Reducing lead in paint will reduce the amount of soil that may require active management or remediation.

Approximately 10% of soils sampled around residential houses have lead concentrations about 210 mg/kg which is the current maximum acceptable standard set in the National Environmental Soil Contaminant Standard for lead around residential houses with a 10% produce consumption. These standards are set for the protection of public health and when exceeded health is at risk. The proposals provide an opportunity to prevent soil contamination from the outset.

This will have two main benefits:

1. A reduction of the amount of contaminated soil that needs to be actively managed or remediated around residential properties, and
2. Contribute to the lowering of lead exposure to the New Zealand population and continue to reduce blood lead levels.

However, the graphic materials proposals are likely to have a negative effect on Aotearoa New Zealand, with the potential to increase the risk of lead exposure of the general population. As further explained under question 3.4. of this submission, EPA's proposal would make New Zealand graphic materials less likely to be compliant, with less regulation and have higher allowable lead limits than Australia, Canada, the United States (US) and EU.

Although these countries do not require notification, they do undertake a high level of enforcement to support non-notification. Removing the notification without replacing it with enforcement regimes will, over time, result in an environment which is less safe than today for New Zealand children. There is also a risk of attracting the importation of unsafe products to Aotearoa New Zealand, as Aotearoa New Zealand may be identified as an easy country to import products which are non-complying in other countries or unsafe, because products are less likely to be checked.

2.4 What decision do you wish the EPA to make regarding these proposals?

WasteMINZ Residential Lead Working Group would like the EPA to make the following decisions:

- 1) Lower the allowable levels of lead in paint,
- 2) Set the lower limits of migratable elements to match those of the EU, or set the standard to limit total lead as in Canada and the US, and
- 3) Maintain the existing notification requirement for graphic materials OR remove notification after implementing an effective compliance and enforcement program.

2.5 Please state how these proposals impact the unique relationship of Māori to the environment and to what extent the following are impacted:

- The cultural concepts, values and practices of members of whānau, hapū or iwi
- the health and wellbeing of members of whānau, hapū or iwi
- the relationship between whānau, hapū or iwi and resources
- the economic development and sustainability of whānau, hapū or iwi.

Research shows that the health impacts of lead in paints disproportionately impact economically disadvantaged communities such as Māori (see Washington, H. (2019) A Terrible Thing to Waste). Reducing lead content in paints will reduce exposure to lead for members of whānau, hapū or iwi.

As a result of reduced lead content in paint there will also be a reduced need for and transportation of contaminated soil to managed fills and landfills. Reducing the need for contaminated soils to go to managed fills and landfills aligns with Te Ao Māori perspectives, which value and respect soils, and prefer to avoid mixing soils from different whenua.

2.6 Is there any other general feedback you wish to provide?

WasteMINZ Residential Lead Working Group questions why anti-fouling paints do not appear to be included in these proposals. Anti-fouling paints can pose an environmental health risk and should be included. It is recommended that the anti-fouling paint lead level be limited to 90 ppm to align with Australian and World Health Organisation (WHO) recommendations.

Part 2B: Request to be heard

2.7 All submissions are taken into account by the Decision-making Committee (DMC). In addition, please indicate whether or not you also wish to speak at a hearing if one is held.

- I wish to be heard in support of my submission (this means that you can present your submission to the DMC at the hearing but does not allow you to introduce new information at the hearing)
- I do not wish to be heard in support of my submission (this means that you cannot speak at the hearing)

If neither box is ticked, it will be assumed you do not want to appear at a hearing.

WasteMINZ Residential Lead Working Group is open to be contacted by the EPA to clarify any points made in this submission.

Part 3: Questions on proposals

This section has a specific question for every proposal. Please refer to the proposal document for full details of each proposal.

For each proposal you can indicate (along with any reasoning):

- whether you support or oppose the proposal
- your view of the positive or negative effects of the proposal for Aotearoa New Zealand

If you are providing extra attachments, please refer to them in the answers to the relevant questions.

You are welcome to answer all the questions or only those that are relevant to you.

3.1 Proposal 1: Limit lead in paints covered by the Surface Coatings and Colourants Group Standards and Aerosols Group Standards to 90 ppm.

Support

WasteMINZ Residential Lead Working Group supports the lowering of the limit of lead in surface coatings to 90 ppm. However, the WasteMINZ Residential Lead Working Group considers that Aotearoa New Zealand should also formally adopt a sinking lid policy to continue to reduce lead content in paint and surface coatings to be as low as reasonably practicable.

WasteMINZ Residential Lead Working Group recognises that it is technically possible to have a lead paint content of less than 90 ppm in paints and surface coatings, as several countries around the world have lead limits lower than 90 ppm. (See UNEP 2021 Update on the Global Status of Legal Limits on Lead Paint).

3.2 Proposal 2: Add lead limits to the Corrosion Inhibitors Group Standards.

Support

WasteMINZ Residential Lead Working Group supports the addition of lead limits to corrosion inhibitors group standard. This will reduce the amount of lead being released into the environment from infrastructure such as steel bridges and power transmission towers.

3.3 Proposal 3: Require evidence of compliance with lead levels where relevant.

Support

WasteMINZ Residential Lead Working Group considers that technologies such as portable X-ray fluorescence (XRF) or Flame Atomic Adsorption Spectroscopy (FAAS) can be used as part of the lead content in paint during the manufacturing process. This should be part of the on-going internal Quality Assurance/Quality Control (QA/QC) process adopted by all manufacturers to ensure their products remain within specifications.

It is suggested that the results of the QA/QC test be held electronically by companies (for a minimum period of 10 years) and be made available to New Zealand EPA or WorkSafe New Zealand upon request.

WasteMINZ Residential Lead Working Group considers this process to not be too burdensome for either the manufacturers, which are required to do testing of paints for other parameters and to monitor their environmental discharges, or the New Zealand Government.

3.4 Proposal 4: Update element migration (leaching) limits in graphic materials.

Support in principle

WasteMINZ Residential Lead Working Group supports updating the migration limits in graphic materials as it will contribute to the reduction of exposure of young children, and other vulnerable populations, to lead. Updating the limits in graphic materials is also in keeping with the risk management principle outlined in other New Zealand legislation to eliminate in the first instance, otherwise reduce exposure to a hazard.

However, WasteMINZ Residential Lead Working Group does not think this proposal goes far enough. While the group supports the intention to update the migration levels, AS/NZS ISO 8124.3:2021 is already 3 years old, with higher levels than in the Australian Poisons Standard. As a minimum, the standard should be tied to referencing the current and future versions of the toy standard so that as the standard is updated in coming years, the Graphic Materials Standard will be future-proofed and remain up to date.

While the surface coatings are limited in total lead content, the lead levels in the toy standard are limited in migratable lead levels. Since migratable lead is unlikely to be 100% of lead content, the proposal would allow higher levels of lead in graphic materials than in paint. This

is not acceptable, particularly when a recent ESR report has shown that the current limit of 90 mg/kg is insufficient to protect mouthing children from elevated levels of lead exposure from toys.

To compare to overseas regulations, specifically the US and EU systems: The Americans regulate total lead content in toys at 90-100 mg/kg while the Europeans require very low levels of migratable lead levels for toys and graphic materials (0.5-23 mg/kg). Should Aotearoa New Zealand choose to retain a migratable lead standard, then the EU must be followed and the allowable levels of migratable lead reduced. However, should the EPA retain 90 mg/kg levels, the total lead content needs to be controlled in a similar manner to the US and Canadian systems. Choosing two different systems creates double standards that may not result in the outcome everyone seeks and that protect children from harm.

Therefore, WasteMINZ Residential Lead Working Group supports the proposal to update graphic materials migration limits and strongly recommends the migratable limits are updated to match overseas standards.

3.5 Proposal 5: Update references to the AS/NZS ISO 8124.3 standard to the most recent version.

Support

WasteMINZ Residential Lead Working Group supports updating references to the current version of AS/NZS ISO 8124.3 and believes that ideally this is done in a way which connects all requirements to the most recent version of the standard, rather than to the already outdated 2021 version.

3.6 Proposal 6: Amend the scope of the Surface Coatings and Colourants Group Standards to exclude all graphic materials used by children.

Support

WasteMINZ Residential Lead Working Group supports the amendment of the scope of the Surface Coatings and Colourants Group Standards to exclude all graphic materials used by children.

3.7 Proposal 7: Remove the notification requirement from the Graphic Materials Group Standard.

Oppose

WasteMINZ Residential Lead Working Group opposes the notification requirement from Graphic Materials Group because non-destructive technologies exist (XRF) to cheaply test materials, and records can be easily stored electronically by the manufacturers. Importantly however, having this information available will assist health professionals evaluate the exposure risk from Graphic Materials and identify non-compliance by various manufacturers.

WasteMINZ Residential Lead Working Group is concerned that removing the notification requirement will lead to a less effective regulatory environment that will allow potentially harmful products to be sold for use by children. Removal of the notification requirement should only be considered once a robust and effective enforcement plan, that includes random spot checking and XRF screening, is in place. As mentioned earlier in this submission, the countries mentioned in the proposal documentation that do not have notification requirements have enforcement programs in place.

3.8 Proposal 8: Commencement.

Support

WasteMINZ Residential Lead Working Group supports the commencement date proposed by the EPA.

3.9 Proposal 9: Disposal.

Support

WasteMINZ Residential Lead Working Group supports the requirement to dispose of all materials 6 months after the commencement date.



Part 4: Confidential or commercially sensitive information

If applicable, please state what parts of your response are commercially sensitive and why.

Your name and response will be published on the EPA website but efforts will be made to redact confidential information. The Official Information Act 1982 (OIA) applies to all information held by the EPA (subject to section 55 of the Hazardous Substances and New Organisms Act 1996), and information may be released under the OIA unless there are grounds to withhold it.

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You can send us the completed form by either post or email.

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 <p>Environmental Protection Authority, Private Bag 63002, Wellington 6140</p>	 <p>Submissions@epa.govt.nz</p>