



Summary of Underpinning Analysis: Unsafe Goods (Consumer Sand Products) Notice 2026

Agency responsible	Ministry of Business, Innovation and Employment
Portfolio	Commerce and Consumer Affairs
Date finalised	7 October 2026
Identification Number	

Good law-making: 9(i)

The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation

Inconsistency identified? NO

Summary of agency analysis

The Ministry of Business, Innovation and Employment (MBIE) consulted publicly on a draft unsafe goods notice that provides that specified consumer sand products are unsafe goods unless they have undergone asbestos testing before being supplied in New Zealand. MBIE also notified the draft notice to World Trade Organization (WTO) Members through the WTO Technical Barriers to Trade notification process, providing an opportunity for overseas governments and interested stakeholders to comment on the proposal.

MBIE also consulted relevant New Zealand government agencies, including the Ministry of Health, Commerce Commission, New Zealand Customs Service and WorkSafe.

Feedback was sought on the proposed scope of products covered by the notice, the proposed testing methodologies, sampling requirements, implementation timeframes and the overall workability of the proposed requirements.

The consultation process allowed affected parties a reasonable opportunity to provide feedback on the draft unsafe goods notice. Feedback received through consultation informed the final design of the notice. The notice was adjusted in response to feedback received during consultation.



Good law-making: 9(j)

The importance of carefully evaluating—

- the issue concerned; and
- the effectiveness of any relevant existing legislation and common law; and
- whether the public interest requires that the issue be addressed; and
- any options (including non-legislative options) that are reasonably available for addressing the issue; and
- who is likely to benefit, and who is likely to suffer a detriment, from the legislation

Inconsistency identified?

NO

Summary of agency analysis

Since November 2025, various colored sand products supplied to New Zealand consumers have been found to contain asbestos. There are currently 23 recalls, totaling 45,767 units of affected products. Auckland University of Technology research has found that asbestos fibres in some of the recalled sand products can become airborne during simulated play activities meaning there is a risk of inhalation.

The issue is whether certain types of sand products should continue to be supplied where the goods may or will cause harm due to asbestos contamination. Some products within these categories have been found to contain asbestos, while others have not been tested, or have not been tested using a methodology capable of detecting low concentrations of asbestos. New products within these categories may also be imported and supplied in the future, creating an ongoing risk that consumers could be exposed to asbestos through untested products. Given the potentially serious health consequences associated with asbestos exposure, MBIE considers there is a strong public interest in mitigating any potential injury from these products.

The importation of asbestos-containing products is regulated by the Imports and Exports (Asbestos-containing Products) Prohibition Order 2016. This order provides that the importation of asbestos-containing products is prohibited unless the importation is authorised by way of a permit issued by the Environmental Protection Authority. Almost all the recalled products have been imported. None of the suppliers of the recalled products have been issued a permit by the Environmental Protection Authority to import asbestos-containing products. This suggests a more targeted approach for products that could potentially contain asbestos contaminated sand is required to effectively remove the harm.

The Health and Safety (Asbestos) Regulations 2016 prohibit people conducting business or undertaking from working with asbestos, including all steps involved in supply of products containing asbestos (transport, handling inbound stock, stocking on shelves, selling at the checkout, purchasing). There are some exceptions for activities such as research and analysis, removal, or disposal in accordance with the regulations, responding to an emergency, in addition to other circumstances. These regulations are primarily targeted at the handling of asbestos and are not well suited towards preventing the importation and supply of sand products that may contain asbestos.



Non-regulatory options have been considered and implemented, including voluntary testing, voluntary recalls where asbestos has been detected, and publication of MBIE guidance for suppliers of consumer products containing sand. While these measures assist in identifying and responding to asbestos contamination, they do not prevent products that may contain asbestos from being supplied to consumers. Asbestos continues to be identified in sand products supplied to the New Zealand market. Reliance on voluntary measures alone does not provide sufficient assurance that untested products presented for sale are free from asbestos contamination, nor does it adequately manage the risk that additional products within the affected categories will enter the New Zealand market in the future without appropriate testing.

The proposal may result in detriment to some suppliers. Suppliers may incur costs associated with obtaining asbestos testing and holding testing documentation. Some suppliers may also decide not to continue supplying certain sand products to the New Zealand market if the costs of demonstrating compliance outweigh the commercial benefits of supply. To the extent that compliance costs are passed on, consumers may also face higher prices for some products. However, MBIE considers these detriments are proportionate and are outweighed by the public benefit of reducing the risk of consumer exposure to asbestos and the potential associated long-term health consequences.

A temporary prohibition notice is considered the most effective means of managing the identified risk as an interim measure while a longer-term product safety solution is explored. The notice prohibits the supply of specified sand products unless it is confirmed that they do not contain asbestos. The notice adopts a targeted approach by capturing specified sand products found to be unsafe, while allowing suppliers to continue supply these specified sand products if they do not contain asbestos (which can be proven after having been appropriately tested).

Good law-making: 9(k)

The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation

Inconsistency identified?

NO

Summary of agency analysis

MBIE considered implementation arrangements as part of the development of the unsafe goods notice. Public consultation was undertaken to test the practicality and workability of the proposed requirements, including the scope of products covered, testing methodologies, sampling requirements and implementation timeframes. Feedback from suppliers and other stakeholders informed the final design of the notice.

The notice includes a lead-in period before commencement to allow suppliers sufficient time to obtain the required asbestos testing and make any necessary adjustments to their supply chains. MBIE will continue to work with the Commerce Commission, which is



responsible for enforcing unsafe goods notices under the Fair Trading Act 1986. MBIE also considered implementation issues identified by Customs and the Commerce Commission during policy development.

The notice is intended as an interim measure. MBIE will monitor its operation and use information gathered through implementation and enforcement activities to inform the development of longer-term product safety regulations.

Good law-making: 9(l)

Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons

Inconsistency identified?

NO

Summary of agency analysis

The principal benefit of the notice is a reduction in the risk that consumers will be exposed to asbestos through contaminated sand products. Research has demonstrated that asbestos fibres from some contaminated sand products can become airborne during use, creating a potential inhalation risk. Asbestos exposure can result in serious long-term health consequences, and MBIE considered the prevention of exposure to be a significant public benefit.

The notice will impose costs on suppliers, including the costs of obtaining asbestos testing, maintaining evidence of testing, and potentially adjusting supply chains where products cannot be demonstrated to be asbestos-free. Based on indicative assumptions of 200 product lines requiring testing annually at an average cost of approximately \$2,000 per product line, annual testing costs across all suppliers is estimated at approximately \$400,000.

A break-even analysis was undertaken to assess the level of health benefit required for the proposal to be cost-effective. Applying the Treasury CBAX midpoint Value of a Statistical Life of \$16.6 million and assuming a 30-year latency period between exposure and asbestos-related mortality, the proposal would be cost-effective if each annual testing cycle prevented approximately 0.04 future fatalities. This is equivalent to preventing one asbestos-related death approximately every 23 years. Applying the Treasury's mandatory 8 percent sensitivity discount rate, the proposal would remain cost-effective if it prevented one death every four years.

The analysis is intentionally conservative and focuses on the primary quantifiable costs and benefits of the proposal. It includes estimated supplier testing costs and the monetised benefit of avoiding asbestos-related fatalities. It does not quantify supplier compliance administration costs, product withdrawal, recall or replacement costs, government enforcement and monitoring costs, avoided health morbidity and treatment costs associated with non-fatal asbestos-related disease, reduced consumer anxiety, or other wider social and economic impacts. As a result, the analysis should be interpreted as an



indication of the scale of benefits required for the proposal to be cost-effective rather than a comprehensive estimate of net benefits.

There is uncertainty regarding the number of products that will require testing annually, the extent to which the notice will reduce exposure to asbestos-contaminated products, and the number of future illnesses and deaths that may be avoided. However, given the potentially severe consequences of asbestos exposure and the relatively small reduction in future fatalities required for benefits to exceed estimated testing costs, MBIE considers that the expected benefits of the notice are likely to outweigh the associated compliance costs.

Good law-making: 9(m)

Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available

Inconsistency identified? NO

Summary of agency analysis

MBIE considered a range of options to address the risk of asbestos contamination in consumer sand products, including reliance on voluntary testing and recalls, publication of supplier guidance, and mandatory testing requirements via other instruments. While voluntary measures supported the identification and recall of contaminated products, they did not prevent potentially unsafe products from being supplied to consumers.

An unsafe goods notice is considered the most effective, efficient, and proportionate response at this time. The notice targets categories of products that have previously been found to contain asbestos while allowing these products to continue to be supplied where suppliers can demonstrate compliance with the testing requirements. This approach balances the objective of protecting consumers from exposure to asbestos with the need to minimise unnecessary compliance burdens on suppliers.

The notice is an interim measure. This allows MBIE to respond promptly to an identified risk while continuing to assess whether additional or alternative measures are required.

Rule of Law: 9(a)(i)

The law should be clear and accessible

Inconsistency identified? NO

Summary of agency analysis

The notice clearly identifies the categories of products to which it applies and the conditions that must be met before those products may be supplied. The testing requirements, including the type of testing required and relevant sampling requirements, are specified in the notice. Suppliers are able to determine with reasonable certainty whether their products are covered and what evidence is required for compliance.



The notice references ISO 22262-2:2026, ISO 22262-2:2014, and ISO 22262-1:2012 as part of the compliance requirements. These standards are readily available to suppliers on a commercial basis. In any case, suppliers are not generally expected to undertake asbestos testing themselves and would ordinarily engage an appropriately accredited laboratory to undertake testing and provide the required documentation. Accordingly, MBIE considers that affected parties can understand and comply with their obligations under the notice.

Rule of Law: 9(a)(ii)

The law should not adversely affect rights and liberties, or impose obligations, retrospectively

Inconsistency identified? NO

Summary of agency analysis

While the notice does apply to existing products, it only applies prospectively from the date of commencement. In addition, Suppliers are provided with an implementation period before the notice comes into force, allowing reasonable time to comply with the new requirements. It does not create offences, liabilities or compliance obligations with retrospective effect.

Rule of Law: 9(a)(iii)

Every person is equal before the law

Inconsistency identified? NO

Summary of agency analysis

The notice applies equally to all persons supplying goods that fall within its scope.

Rule of Law: 9(a)(iv)

There should be an independent impartial judiciary

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

Rule of Law: 9(a)(v)

Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion

Inconsistency identified? NOT APPLICABLE



Summary of agency analysis

Liberties: 9(b)

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person

Inconsistency identified?

NO

Summary of agency analysis

The notice restricts the supply of specified consumer sand products unless prescribed testing requirements are met. This limits suppliers' ability to supply specified consumer sand products and may reduce consumer choice where consumers are unable to purchase products that have been untested, or where suppliers choose not to continue supplying specified consumer sand products because of the costs associated with demonstrating compliance.

While this limits freedom of commercial action and consumer choice, MBIE considers these limitations are no more than is necessary to reduce the risk of consumer exposure to asbestos. MBIE considers that any limitation is justified by protecting consumers from potentially serious health risks associated with asbestos exposure. The notice is targeted and proportionate because it only applies to product categories for which asbestos contamination has been identified.

Taking of property: 9(c)

Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless-

- **there is a good justification for the taking or severe impairment; and**
- **fair compensation for the taking or severe impairment is provided to the owner; and**
- **the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment**

Inconsistency identified?

NO

Summary of agency analysis

Goods imported in contravention of the notice may be subject to enforcement action, including seizure by the New Zealand Customs Service. MBIE considers that any taking of property authorised by the notice is justified by the significant public interest in reducing the risk of consumer exposure to asbestos and preventing injury associated with asbestos-contaminated products.



MBIE considers that fair compensation in these circumstances is no compensation. Products within the categories covered by the notice have been found to contain asbestos. Research has also demonstrated that asbestos fibres from contaminated products can become airborne during use. Asbestos is a known human carcinogen, and exposure can result in serious diseases including mesothelioma and lung cancer. Given the potentially serious consequences of exposure, MBIE considers there is a strong public interest in preventing the supply of products that may contain asbestos unless compliance with the notice can be demonstrated. Any loss suffered may therefore also be connected to the owner's non-compliance with the notice. Furthermore, compensation for the seized goods would diminish incentives to comply with the notice and undermine its effect.

As no compensation is payable, it does not need to be provided by, or on behalf of, the persons who obtain the benefit. Accordingly, MBIE consider the proposal consistent with the principle that legislation should not take or severely impair property without fair compensation.

Taxes, fees and levies: 9(d)

The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

Taxes, fees and levies: 9(e)

Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the cost of providing the good or service to which it relates

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

Taxes, fees and levies: 9(f)

Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—

- the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and
- the costs of efficiently achieving the objective or providing the function



Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

Role of courts: 9(g)

Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

Role of courts: 9(h)

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

Additional information

Relevant publicly available inquiry, review, or evaluation reports

Relevant international treaties, standards and obligations

Trans-Tasman Mutual Recognition Agreement:

Goods, the supply of which would contravene an unsafe goods notice, are prohibited imports under section 33 of the Fair Trading Act 1986. As prohibited imports under the Customs and Excise Act 2018 are excluded from the operation of the Trans-Tasman Mutual Recognition Act 1997, goods that do not comply with the notice cannot be imported into New Zealand regardless of their importation status in Australia.

In addition, the notice regulates the supply of specified consumer sand products in New Zealand and applies equally to imported and domestically supplied goods. Accordingly, goods that can lawfully be supplied in Australia may nevertheless be prohibited from being supplied in New Zealand unless the requirements of the notice are met.

World Trade Organization Technical Barriers to Trade Agreement:



MBIE notified the draft notice to WTO Members through the WTO Technical Barriers to Trade notification process, providing an opportunity for overseas governments and interested stakeholders to comment on the proposal. Feedback received through that process was considered during policy development.

International Standards:

The notice incorporates by reference the following international standards:

- ***ISO 22262-2:2026, Air quality – Bulk materials – Part 2: Quantitative determination of asbestos by gravimetric and microscopical methods***
- ***ISO 22262-2:2014, Air quality – Bulk materials – Part 2: Quantitative determination of asbestos by gravimetric and microscopical methods***
- ***ISO 22262-1:2012 Air quality – Bulk materials – Part 1: Sampling and qualitative determination of asbestos in commercial bulk materials.***

These standards support the reliability, consistency and quality assurance of asbestos testing undertaken for the purposes of the notice. Copies of the standards can be obtained from the International Organization for Standardization (ISO) website:
<https://www.iso.org/home.html>.

Departures from the Legislation Guidelines

Other unusual provisions or features