

# Technical Compliance Consultants (NZ) Limited

Hazardous Substance Training – Compliance Certifiers – Regulatory Affairs Consultants

## ...Hazardous Substance Reform...Part 2...

### A QUICK WORD FROM THE DIRECTOR:

**Hi everyone!**

*Most of the requirements in this newsletter either aren't going to be enforceable until a later date, or you should already be doing it and there are a few amendments to make.*

*You should have plenty of time to get things sorted before this really kicks off next year.*

*Also, please note that our closedown period this year is from December 21<sup>st</sup> to January 8<sup>th</sup> 2018. Happy holidays everyone!*

- Geoffrey Meikle

### INSIDE THIS ISSUE:

Labelling	2
Packaging	2
ERP	3
Signage	3
Hazardous Waste	4
Location Certification	
For Classes 6 & 8	4



## A Fresh Look for Safety Data Sheets

The requirements around **Safety Data Sheets (SDS)** were difficult to find under HSNO for some, but it was expected that every company that dealt with Hazardous Substances needed to have these pieces of documentation on site, available to staff **within 10 minutes**, and checked every 5 years to make sure they were up to date.

This requirement is much the same, but has been written into the Hazardous Substances regulations with little room for confusion.

A PCBU must have the current SDS from the manufacturer, importer, or supplier when the hazardous substance is **“first supplied”**. A hazardous substance is treated as ‘first supplied’ when **5 years have elapsed** since true first supply or if the SDS has been **amended** since the last supply. This is the same as saying that SDSs have a 5 year expiry date but must be replaced prior to that expiry if the SDS has been updated.

A PCBU must also make sure that the SDS is **readily accessible** to any worker, emergency services, or anyone *likely to be exposed* to the hazardous substance,



and include copies of these with the **Hazardous Substance Inventory** and **Emergency Response Plan**. However, these can be replaced by condensed SDS's if preferred.

A **Condensed SDS** is a new option brought in under the regulations where a **single page of relevant information** lets a worker know about the hazards and appropriate response to emergencies.

A condensed SDS should include:

- ) the **product name**;
- ) the **hazards** of the substance, **including its pictograms**;
- ) its **classification** (either HSNO or GHS is acceptable);
- ) the **precautions** for handling and storage;
- ) **appropriate PPE**; and
- ) **instructions for emergency response** such as first aid, fire, spill, disposal and contact numbers.

If condensed SDS's are used, then copies of the original SDS's **must be stored** somewhere on site for reference. Both the SDS and its condensed SDS will need to be maintained and updated as normal.

Lastly, the required **contents** of an SDS have also been updated, with EPA releasing a specific **EPA Notice for Safety Data Sheets**. The notice outlines what must be included on the SDS in order for it to be considered compliant and it replaces the old SDS Code of Practice. A **transitional period of 4 years** applies for any SDS created before December 1<sup>st</sup> 2017 that followed the old CoP.

There have also been allowances made for the use of some **international GHS SDS's**, but if they do not have a New Zealand emergency contact number and a **HSNO approval number**, then the SDS is **not accepted as valid**.

### Fire Extinguishers

The trigger limits for fire extinguishers are as they were before under HSNO, but the requirement that they are **at least 30m** from the point of use or storage is gone. Instead, **they must be readily accessible** in an emergency and **clearly visible**.

It is best to consider how your workers will **try to access** these fire extinguishers if a fire were to involve your hazardous substances to see if they are placed correctly.

Lastly, the fire extinguishers must also have a **classification and rating of at least 30B**, otherwise they do not count for the requirement, and they must be **serviced at least once a year**.

### New HSNO Calculator

WorkSafe NZ is currently **updating the old HSNO calculator** that the EPA introduced on the Hazardous substances website.

It will have all its **trigger quantities and controls updated** as necessary and the requirement of having a HSNO approval number will be likely removed, as it is no longer a requirement for hazardous substance inventories and approval numbers are generally not relevant for hazardous waste.

## Hazardous Substance Labels in the Workplace

Labels also have a renewed focus under WorkSafe NZ since discovering that the labelling of hazardous substances has been poor within some workplaces, especially around **decanting**.

There are **two kinds of labels**: One label is for when a hazardous substance has been brought into a workplace **for use or taken off-site** from the company, usually as a product – these are governed by EPA and Group Standards. The other label is for a hazardous substance that is **manufactured in the workplace** (but not supplied to anyone outside that workplace) **or decanted or transferred from its original container** into a portable container of 40L or less – these labels are governed by Worksafe NZ.

For any hazardous substance that is held in a container under 40L (not its original) or manufactured in that

workplace, the label must:

- ) be in **English**,
- ) have the **product or chemical name**, and
- ) include any **hazard pictograms and hazard statements** consistent with the substances classification.

This doesn't apply if the substance is to be used soon after placing it within the container that **labelling it would be impracticable** and the container is **thoroughly cleaned** immediately after use such that no residue of the substance remains. This allows for measuring and similar practices to be used without holding up production.

Labelling of **Hazardous Waste** is also important, with WorkSafe NZ expecting the label to:

- ) be in **English**;
- ) include **identification** of the waste (such as 'chlorinated solvent

waste' or 'flammable waste');

- ) the **name, address, and phone number** of the producer of the waste; and
- ) **hazard statements and pictograms** of the classification of the known or likely constituents of the waste.

Product labels now come under the new **EPA Notice for Labelling**. Much like the SDS EPA Notice, the labelling notice outlines what must be included on the label in order for it to be considered compliant and replaces the current Group Standard requirements.

Currently, the drafts of the new Group Standards do not expand any further on labelling and instead refer to the labelling notice.

Allowances are again made for the use of some **international GHS labels**, but it must still have a New Zealand emergency contact number to be accepted as valid.

## Packaging for Transferring or Decanting HazSubs

Normally, Packaging falls under the **Hazardous Substances (Packaging) EPA Notice** and a PCBU must ensure they are in sound condition, but WorkSafe NZ want to ensure that workplaces that **transfer or decant hazardous substances** into other containers are using the appropriate container.

The new container must be in a **sound condition**, safely **contain** the hazardous substance, is of a **compatible** material, and **doesn't normally contain** - nor could be confused for containing - **food or beverages**.

That means no more coke or milk bottles holding cleaning chemicals or takeaway containers holding hazardous substances that could be mistaken for food and thrown away!

Lastly, any workplace that decants or transfers **petrol, aviation or racing gas** into portable containers of **25L or less** must ensure that the container complies with either **AS/NZS 2906:2001** (Fuel containers—Portable—Plastics and metal), **ASTM F852:08** (Standard specification for portable gasoline containers for consumer use), or a standard referred to in an appropriate **safe work instrument**.

## Updated Emergency Response Plans

**Emergency Response Plans (ERP)** are still required for those companies that meet the trigger requirements for certain classifications, just like under HSNO.

It should cover the actions **each worker involved** in the response should undertake in order to **manage the emergency**, including contact numbers to call for assistance.

It must also still cover the requirements for **ecotoxic response if necessary**, as these are required under EPA's **Hazardous Property Control EPA Notice**.

For those that already have an ERP in place, it will need a few new elements added to it to ensure workers are aware of what they need to do when a control fails

regarding a hazardous substance.

The ERP must now cover **all foreseeable emergencies** from control breach or failure. If it could happen at the workplace the ERP will need to have procedures written in to manage that emergency.

If any worker involved in the handling of an emergency **requires specialist training** before being able to fulfil those duties, these need to be **outlined in the ERP**. Its best that those workers receive the specialist training before their names are assigned to that role or roles within the ERP.

The ERP requires **a copy of the inventory and a site plan** that shows all the hazardous

substance locations on site. This also means that the SDSs (or condensed SDS if preferred) must be present with the ERP as well.

Finally, **the Fire Service can review your ERP** to make sure any role that they are to play is achievable and within their operational policy. If they make a **written amendment** to the ERP, **it must be integrated** into the ERP so far as reasonably practicable. Its best to work with the local Fire service so they can get an understanding of the risks and layout of your workplace before any emergencies happen.

It's crucial that the ERP is **practiced at least once a year, or within 3 months** of any changes to the procedures or workers involved in the ERP.

**Records** of this training must be kept, which should outline **the type of emergency** that was tested and if any changes or **recommendations** to the plan are **to be implemented** to ensure the ERP works for the site.

If a business **doesn't meet the requirement** to have an ERP for hazardous substances, it is always a good idea to have one anyway. The risk may be a lot lower, but having **the workers know what to do** to deal with the amounts present will keep them healthy and safe.

There will be a **base template** available in the updated Hazardous Substances Toolbox which will be useful for such businesses.

You can find it at [hazardoussubstances.govt.nz](http://hazardoussubstances.govt.nz) after December 1<sup>st</sup> 2017.

## HAZCHEM Signage for Workplaces

HAZCHEM signage is still required for those companies that meet the trigger requirements for certain classifications, just like under HSNO. Signs were once created and managed under a HSNO Code of Practice, but this **CoP has since been made redundant** as the regulations now determine if a sign is fit for purpose. The signage requirements for **ecotoxic substances** are largely the same but are now set under the **Hazardous Property Controls EPA Notice**.

The **information to be included on a sign** is much as it was before: The word **HAZCHEM** to indicate that hazardous substances are present, the **pictograms of the hazards**, and the **immediate response actions** to be taken in an emergency. **Internal signage** should also mention the **appropriate precautions** to be taken to prevent adverse effects from occurring.

The new regulations also go into detail about **the construction of the signs**: A workplace sign must be in **English**; be **readily understandable**; not include any **abbreviations** (unless they are in common English usage and are expanded upon on the sign at least once); the information must be **legible and visible at 10m**; and that the sign is **durable, resistant to sunlight**, and requires **minimal maintenance**. The **PCBU is also responsible** to ensure the sign is altered if the hazardous substances on site change (as soon as practicable) and is maintained enough that it is **clean**, in good repair, and **not obscured or covered**.

As a note, if a workplace stores 6.1A/B/C vertebrate toxic agents or agrichemicals in a **temporary storage area** outside any building or room, **signs are not required** for that specific area.

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**Hyperlinks and Help**

*If you want to take a look at the SDS/Label notice and/or condensed SDS requirements in more detail, use one of the following hyperlinks:*

- ) [SDS Notice](#)
- ) [Condensed SDS guide](#)
- ) [Label Notice](#)

*If you'd rather TCC NZ Ltd step in and lend a hand, we are still able to **reauthor existing SDS's** to be compliant with NZ and Australia, we can **create condensed SDS's** for you from any existing SDS, or we can simply check if your current labels and SDSs meet the requirements for you.*

**Hazardous Waste from Manufacture or Processes**

Workplaces will need to **segregate and appropriately label** their waste, paying attention to hazards and risks it may pose to all workers before it is collected. The part of the regulations that covers separation distances, specifications for containers, and any other requirements for the waste's classification doesn't come into effect until **June 2019** so companies have the opportunity to minimise and/or manage their waste effectively.

However, a few requirements will come into effect on 1st December 2017, which are **Inventory, Labelling, and Training requirements**.

A company's waste must appear on the **Hazardous Substances Inventory** along with the **maximum quantity** that would ever be on site as well as **where/how it's stored**.

Each waste container will need to be labelled as detailed in the Labelling article of this newsletter, and all workers will need to know what the **likely hazards are of the waste**, where it is located, and **what to do in an emergency** that involves the waste.

While the waste doesn't need an SDS, a **simple safety card** similar to the condensed SDS will need to be available for reference so that anyone can check the safety information, including those who may be tasked with removing the waste from the site.

**Location Certification, Classes 6 & 8 (but not 9)**

Under the HSNO act, any workplace that met the trigger requirements for hazardous substances with **classes 1-5** would require a **location certificate**. This has been carried across into the HWS regulations but from the 1st of December 2019, **classes 6 and 8 will also be considered** for location certification.

WorkSafe NZ is implementing new trigger limits for companies that are using considerable quantities of highly toxic and highly corrosive hazardous substances **to ensure that all workers on site are appropriately trained and instructed in the hazards** and the site and equipment are fit for handling these substances.

The trigger limits for 6.1A/B/C and 8.2A/B are written directly into Part 13 of the Hazardous Substances regulations, rather than appearing in a schedule like the other classifications.

The trigger limits are as follows:

- ) **50 kg or 50 L** of class 6.1A
- ) **250 kg or 250 L** of class 6.1B
- ) **1 000 kg or 1 000 L** of class 6.1C
- ) **50 kg or 50 L** of class 8.2A
- ) **250 kg or 250 L** of class 8.2B

If these trigger quantities are exceeded, any existing location certificate will need to be **amended**. If the workplace doesn't have a location certificate, the PCBU will need to contact a local **Compliance Certifier** to visit and ensure all the requirements under Part 13 are being met. If there's something missing or that needs updating, the Certifier should be able to nominate someone who can assist.

Please note that a location certificate **does not cover class 9 Ecotoxic hazards** any more, but these requirements must still be met as required by EPA under the **Hazardous Property Controls EPA Notice**. A Compliance Certifier **cannot refuse to supply a certificate** based on **failure to meet any ecotoxic controls**, but he will point out that WorkSafe NZ will still enforce the controls set by EPA and recommend they be **attended to ASAP**.