The Health and Safety at Work (Hazardous Substances) Regulations 2017 Independent Study Checklist

Name: **Date Completed:**

New Regulations:

The management of hazardous substances is moving from the EPA to Worksafe under the Health and Safety at Work (Hazardous Substances) Regulations 2017. These will come into effect on 1st December 2017.

Link to regulations: http://www.legislation.govt.nz/regulation/public/2017/0131/latest/DLM7309401.html

The regulations and key changes have been released and will impact on most ISO14001, Food Safety and AS/NZS 4801 clients, as the most critical change to note is that all workplaces will have to comply regardless of amounts held on site.

ISO9001 certified clients will also need to be aware if they hold ANY hazardous substances, regardless of the amount.

What you need to do:

The following link will take you to the relevant Worksafe page:

http://www.worksafe.govt.nz/worksafe/information-guidance/guidance-by-industry/hsno/hazardous-substances-regulations

Below is a checklist of the key points on the website. You will require around half a day to go through the checklist, regulations and worksafe guidance.

- Read through the website to understand the detail in the new requirements and refresh yourself on existing requirements.
- The checklist is structured to make sure that you have covered off the key points on of the new regulations.
- The title of each subject page has further been hyperlinked to the relevant section on the worksafe site.
- For further clarification and detail the relevant parts of the new regulations have been identified or hyperlinked for your convenience.
- Tick off or initial each section on the checklist as you work through the website material.

The new regulations are lengthy. The point of this task is for you to understand the key points and changes, hence the whole of the new regulations is not covered. However, please take the time to look through the contents page and make yourself familiar with where to locate the necessary information should you require it, particularly if you require industry specific regulations.

Fines

The regulations give details of non-compliance and fine amounts, there is a fine attached to most non-compliance within the regulations. A few of these are noted in the briefing below but not all, so it is important to be aware that they are within the regulations if you need to locate them.

Future regulation development

There may be other minor changes released between now and December 2017, however what has been released by Worksafe are the main requirements and changes of note.

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Management of Hazardous Substance – Roles of EPA and Worksafe and Safe Work Instruments

	Key points to read	Please tick to verify that the web section has been read in detail and understood
	Which laws are affected? • Hazardous Substances and New Organisms Act 1996 (HSNO) • The Health and Safety at Work Act 2015 (HSWA)	
	EPA Role – continues overall management of hazardous substances	
	Worksafe Role – takes over the management of hazardous substances in the workplace	
	Effective date of regulations – 1st December 2017	
	Subordinate Legislation - Safe Work Instruments There are 63 HSNO codes of practice. Where the COPs relate to safe work practices, they are being replaced by Safe Work Instruments (**SWIs**). Work Safe have identified the first 13 for consultation. These became open for consultation on 14th August 2017. Thankfully the current SWIs proposed are fairly self-explanatory, these should be physically obvious and known about, and should prompt questions. • Polyethylene above ground stationary tanks for diesel fuel • Management of pre-2006 stationary container systems up to 60,000L • Filling of below ground petrol tanks by pumping • Design and construction of above ground stationary tanks to ULC/ORD-C80.1-2000 • Action taken in relation to disused below ground tanks on farms • Markings for pipework connected to above ground stationary tanks • Reduced secondary containment for certain above ground stationary tanks • Specification of standard relating to non-fillable containers • Thermoplastic stationary tanks • Above ground stationary tanks connected to a generator set • Above ground rotationally-moulded polyethylene tanks • Additional and modified requirements for specified Class 6 and 8 substances • Modified requirements for specified fumigants •	
	What are the compliance obligations for SWIs? As mentioned above, a SWI is a type of subordinate instrument (sometimes called tertiary legislation). Safe work instruments can be used for a range of purposes under HSWA, but only have legal effect if they are specifically referred to in Regulations. Under the Hazardous Substances Regulations they will be used to: • Prescribe detailed or technical matters that change relatively frequently and will often be industry-specific • Set additional or modified workplace requirements for hazardous substances approved or reassessed by the Environmental Protection Authority (EPA) • Provide an alternative means of complying with a regulation or regulations. Where a SWI sets alternative or modified requirements to those in a regulation: • relevant PCBUs must comply with all the requirements of the SWI • compliance with the SWI is treated as compliance with the regulation; and non-compliance with the SWI is treated as non-compliance with the regulation.	

	Where a SWI sets additional requirements to those in regulations, the PCBUs specified in the SWI must comply with the additional requirements. The regulations do not name the SWIs but state where applicable that the workplace must comply with the requirements of relevant SWI. The current SWIs up for review provide a good example of how this will work. The majority of the currently proposed SWIs deal with stationary containers and tanks. These are covered in Part 17 of the new regulations. The SWI for 'Markings for pipework connected to above ground stationary tanks', can be matched with: Part 17, section 17.78 (2) b of the Regulations 'Markings for pipework connected to above ground stationary tank in stationary container system', which states: *A relevant PCBU must ensure that pipework is marked—* *(a) permanently and legibly with the following information:* *(i) the applicable colour code in accordance with AS 1345—1995 (3rd Edition); and* *(ii) an arrow or arrows indicating the direction in which liquid or gas flows through the pipework; or* ***(b) in accordance with requirements in a relevant safe work instrument.***	
	Subordinate Legislation –EPA Notices Most of the hazardous substance rules the EPA remains responsible for will be set in EPA Notices rather than by regulation. These will particularly reflect the rules for importers and manufacturers of hazardous substances as well as non-workplace use, environmental controls and hazardous substances disposal controls.	
	Readily Available or Readily Accessible The terms 'Readily Accessible' or Readily Available' are noted 103 times throughout the new regulations. Documentation and records must be readily accessible or available, for example,: training, stationary containment inspections, inventory, emergency plans. Required equipment, notably for emergency management, must also be readily available or accessible. **What do the terms mean?** Documents or equipment must be capable of being accessed without difficulty.	
Additional study notes or questions		

Inventory

There is a new mandatory requirement to keep an inventory of all hazardous substances used, regardless of amount, handled, manufactured or stored in the workplace, including hazardous waste. There are a few exceptions.
Fines for non-compliance are up to $10,000.
Please read the worksafe site in conjunction with Part 3 of the new regulations.

	Key points to read	Please tick to verify that the web section has been read in detail and understood
	Inventory – key points • Workplaces must have an inventory of all the hazardous substances used, handled, manufactured or stored at the workplace regardless of amounts. • It must be keep it up-to-date • It must be readily accessible and available to emergency services workers • Multiple site workplaces must have an inventory for each individual site	
	Requirements of inventory For each hazardous substance the inventory must include: • the substance's name and UN number (if available) • the maximum amount likely to be at the workplace • its location • any specific storage and segregation requirements • a current safety data sheet or a condensed version of the key information from the safety data sheet • any hazardous waste	
	Exceptions • Consumer goods used in household quantities i.e. washing up liquid in staff canteen. Part 2, section 2.11 of the new regulations gives a definition. o *a consumer product in a workplace and is used at the workplace only in quantities, and in a way, that is consistent with household use.* • Two specified type of workplaces: Research Labs and Transit Depots but there are alternative rules in place so please read and understand the detail. o Alternative rules in place for Transit Depots o Alternative rules in place for Research Labs	
	Possible fines A company could be fined up to $10,000 for failure to meet this part of the regulations. Please see Part 3, 3.1 (6) of the new regulations. *A PCBU who contravenes this regulation commits an offence and is liable on conviction,—* *a) for an individual, to a fine not exceeding $2,000:* b) *for any other person, to a fine not exceeding $10,000.*	
Additional study notes/questions		

Safety Data Sheets

There must be a Safety Data Sheet for all hazardous substances in a workplace.
Please read the worksafe site in conjunction with Part 2 of the new regulations. Fines for SDS non-compliance can reach $30,000 and fines for non-compliance of risk assessment can reach $60,000.

	Key points to read	Please tick to verify that the web section has been read in detail and understood
	What must workplaces do with their Safety Data Sheets? • A current SDS for each hazardous substance (or a condensed version of the key information from the safety data sheet, for example a product safety card) must be kept with their inventory. • It must be read. *It will not be enough in future to download the pdf and stick it in the folder.*	
	Risk assessment and elimination or minimisation: The risks posed by the substance understood and the appropriate measures put in place to manage them. Please also read the detail on risk in Part 3 of the new regulations. *The risk could be managed in a similar way to Control of substances harmful to health- C.O.S.H.H assessments as found in UK i.e. a type of specific risk assessment based on the actual or intended use of the substance e.g. time used, where used, PPE and monitoring required. A lot of the initial information is taken from the SDS but adapted for the specific use, for example a tin of paint will come with the same SDS, but how you use it at home, for how long and what mitigation is put in place will be totally different to what would be required for a full time painter in an enclosed space.*	
	Staff communication of risk Workers will also need to be trained on and made aware of the dangers associated with a new hazardous substance, or on an existing substance when the SDS changes.	
	Readily Accessible The full SDS, or the condensed version, must be readily accessible to people who may handle, or be exposed to, the hazardous substance such as workers and emergency services personnel.	
	Exemptions There are four exclusions with alternative requirements for their safe management. Please read Part 2, section 2.11 of the new regulations for full details. • A hazardous substance that is in transit. • A hazardous substance that is a consumer product to be used in quantities consistent with household use. • A hazardous substance in a retailer's premises that is a consumer product and is in that workplace only for the purpose of supply to other premises and is not intended to be opened on the retailer's premises. • Anhydrous ammonia contained in equipment that forms part of any other equipment in which anhydrous ammonia is used as a refrigerant (unless the quantity of anhydrous ammonia is more than 100 kg). However, in any of these exclusions the PCBU must make sure that information about the safe use, handling, and storage of the substance is readily accessible to workers.	
	Possible Fines Fines for SDS non-compliance can reach $30,000 – see Part 2 2.11 (7) Fines for non-compliance of risk assessment can reach $50,000 – see Part 3 3.2 (3)	
Additional study notes or questions		

Information, instruction, supervision and training

General instruction, supervision and training requirements are provided in the Health and Safety at Work (General Risk and Workplace Management) Regulations. The Hazardous Substances Regulations go further to state what a person conducting a business or undertaking (PCBU) needs to do to ensure that **every worker** who uses, handles, manufactures or stores a hazardous substance has the knowledge and practical experience to do so safely.

This includes making sure workers know of the hazardous substances in their work area, along with the dangers they pose, and get the training and supervision necessary to operate safely around them and with them.
Fines of up to $50,000 are possible for non-compliance including fines of up to $10,000 for not keeping training records.

Please read the worksafe site in conjunction with Part 4 of the new regulations.

	Key points to read	Please tick to verify that the web section has been read in detail and understood

	What information must be provided to employees?
	• Notice of any work involving hazardous substances taking place in their area.
	• Where to find information about each:
	  ○ hazardous substance
	  ○ safe handling
	  ○ storage
	• What to do in an emergency	

	What instruction and training must be provided? Workers need training followed by practical supervised experience on: • The health risks and safety issues associated with the hazardous substances they work with. • How to safely use, handle, manufacture, store and dispose of the substances. • The safe use of associated equipment, including personal protective equipment. • Their obligations under the regulations. • Their responsibilities and actions to be taken in an emergency. Even if a worker has had similar training previously (for example at a different site), they will still need **site-specific training** if they are new to the workplace.	
	Records of training and availability A record of training and instruction provided to each worker MUST be kept, and made it available to inspectors or compliance certifiers.	
	Supervision • Supervision required • Deciding what level of supervision is necessary • Risk based decision making	
	Additional needs Instruction, training and supervision needs to take into account employees with special needs, for example: • English not first language • Reading difficulties	
	Possible Fines For not providing training and instruction fines can be up to $50,000 – see Part 4) 4.5 (8) For not keeping records or having them readily available fines can be up to $10,000 - see Part 4) 4.5 (9) For not providing adequate supervision fines can be up to $30,000 - see Part 4) 4.6 (3)	
Additional study notes or questions		

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Emergency preparation and plans

Please read the worksafe site in conjunction with Part 5 of the new regulations.

Non-compliance of Part 5, including basic matters, such as not having accessible fire extinguishers or training records, can lead to fines of up to $50,000.

	Key points to read	Please tick to verify that the web section has been read in detail and understood
	Type of hazardous substance emergencies to worker and workplace • Chemical burns to a worker • Poisoned • Leaks and spills • Fire	
	Preparing for an emergency Requirements include • Training • Inventory • Labelling • Safety Data Sheets • Equipment eg spill kits, first aid, fire fighting	
	Emergency Response Plan (ERP) To minimise the effects of an emergency, workplaces that deal with certain substances must: • Have a written emergency response plan (ERP) • Be tested at least every 12 months (or within three months if there is a change to the plan). Schedule 5 of the new regulations lists the hazardous substance threshold quantities for emergency response plans. The ERP must include a description of what The PCBU will do to: • call emergency services • warn people at the workplace and nearby about the emergency • advise people how they can protect themselves • help or treat anyone injured in the emergency • manage the emergency to restrict it effects to the initial area, reduce its severity and if possible, eliminate it	
	Specific New requirements There are some changes under the new Regulations. The ERP must: • address all 'reasonably foreseeable' (rather than 'reasonably likely') emergencies • state any special training needed to deal with an emergency involving each substance • include the inventory of hazardous substances present at the workplace • include a site plan showing all the hazardous substances locations in the workplace	

	New emergency management requirements regarding Fire There is also a new provision that Fire and Emergency New Zealand (FENZ) can review the plan (at PCBU request or at FENZ's initiative) to ensure it is achievable. If a workplace has class 6.1A, 6.1B, 6.1C, 8.2A, or 8.2B substances it will also need to ensure: Equipment and materials for dealing with leaks and spills and/or chemicals for restricting or decontaminating spills and absorbent material are readily available. The ERP must specify the type and location of fire extinguishers and any other fire-fighting equipment. Fire extinguishers no longer need to be within 30m of a substance. However, they must be visible and accessible, and have a rating of at least 30B. Schedule 4 of the new regulations lists the quantities of hazardous substances that require fire extinguishers	
Additional study notes or questions		

Labelling containers of hazardous substances (including hazardous waste)

There are new requirements for making sure that hazardous substance containers in the workplace are labelled, including process vessels; as well as maintaining the labels on hazardous substances supplied to the workplace.

Please read the worksafe site in conjunction with Part 2 of the new regulations. Non-compliance fines of up to $50,000.

	Key points to read	Please tick to verify that the web section has been read in detail and understood
	Labelling requirements include: • Substances that have come from a supplier and are therefore already labelled • Substances that are decanted or transferred into a smaller container at the workplace • Stationary tanks, process containers and transportable containers • Hazardous waste	
	Responsibilities Manufacturers and suppliers are responsible for correctly labelling the products they sell. The workplace must ensure that for any supplied hazardous substances they receive: • The label is maintained • That it stays on the container • Can be read If a workplace manufactures hazardous substances for their own business – that is, not intended for supply outside the workplace – they must label the containers.	
	Decanting or container transfer If there is a need to decant or transfer substances from a large container into smaller ones (eg for ease of use), the new containers must be labelled. Labels must be in English and include: • the product name or chemical name • a hazard pictogram • hazard statement consistent with the substance's classification If it's for immediate use then labelling is not required. However, the container must be thoroughly cleaned immediately afterwards, removing all potentially hazardous residue.	
	Specific new requirement for the labelling of stationary tanks, process containers and transportable containers As well as the product name or chemical name; and hazard pictogram and hazard statement, there are some extra requirements for these types of containers: • Stationary tanks and process containers containing class 1 – 5 substances must also include the steps required to prevent unintended explosion, ignition, combustion, acceleration of fire or thermal decomposition. • Transportable containers must be accompanied by labelling as specified in land transport, maritime and civil aviation laws (on or near the container).	
	Hazardous waste product labelling Containers of hazardous waste must also be labelled. The label will need to: • be in English • identify, as closely as possible, the nature of the waste (for example, chlorinated solvent waste, flammable waste) • the name, address and business phone number of the producer of the waste (if known) • a hazard pictogram and hazard statement consistent with the classification of the waste (if known) based on its known or likely constituents.	
Additional study notes or questions		

Signs

These continue to be an important part of hazardous substances management. Signs allow people to approach the site and buildings with appropriate care. Fines of up to $30,000 are possible for failure to provide or maintain signage.

Please read the worksafe site in conjunction with Part 2 of the new regulations.

	Key points to read	Please tick to verify that the web section has been read in detail and understood
	Specified quantities Different substances and amounts have different requirements. The workplace will need to understand its requirements. Schedule 3 of the new regulations lists the quantities of hazardous substances that require signage. Worksafe recommend that even if signage is not required, it is best practice always to have them as they warn other people at the workplace, and emergency services, that hazardous substances are present.	
	What needs to be on the sign? There are some requirements for signs generally. For example, they must: • be made out of a durable material that won't easily fade • be in plain English • readily understandable • the information (correct words and pictograms) must be clearly visible and legible from not less than 10 metres away under varying conditions (for example, rain or poor light) **New Requirements** There are some new requirements such as a new sign for transit depots; the word EXPLOSIVES required for Class 1 substances; and the word HAZCHEM required for class 2, 3, 4, 5, 6, or 8 substances. Please see Part 2, 2.7 of the new regulations. Fines for non-compliance can reach $30,000	
	Sign Location • Signs need to be placed close to where the hazardous substances are stored, but not too close, because people need to know that the danger is there before it's too late. • If hazardous substances are located in a building at a workplace, signs must be at every vehicle and pedestrian entrance to the building and the property. • If hazardous substances are in a room inside the building, signs should be at each entrance to that room. • If hazardous substances are outdoors, a sign must be next to that area.	
	Maintaining signs Signs must be: • Maintained and up-to-date. • Changed (as soon as practicable) if there is a change in the type, class, or quantity of hazardous substances present at the workplace that requires different information to be displayed. • Clean, in good repair and not covered or obscured Fines for not maintaining signs can reach $30,000.	
Additional study notes or questions		

Certified Handlers

Currently, under HSNO, certified handlers are called approved handlers. Under the new Hazardous Substances Regulations there will be fewer substances that require certified handlers than currently require approved handlers.

Please read the Worksafe site in conjunction with Part 4 of the new regulations.

	Key points to read	Please tick to verify that the web section has been read in detail and understood
	Terminology changes • 'Approved handlers' will become 'certified handlers' • 'Test certificates' will become 'compliance certificates' • 'test certifiers' will be known as 'compliance certifiers'	
	When is certified handler required? The following substances will require a certified handler: • Substances requiring a controlled substance licence, including explosives, vertebrate toxic agents (VTAs) and certain fumigants. • Class 6.1 A and 6.1 B (acutely toxic substances that can be fatal)	
	Substances previously requiring an approved handler but which will NOT require a certified handler under the new regulations: • Class 2 substances (flammable gases) • Class 3 substances (flammable liquids) • Class 4 substances (flammable solids) • Class 5 substances (oxidising substances) • Class 6.1C (acutely toxic) and 6.7A (carcinogens) • Class 8 substances (corrosive substances) • Class 9 substances (those that are toxic to the environment)	
	Training • Certified Handlers will have to be trained and certified by a compliance certifier • Current approved handler certificates will remain valid until expiry – handler will then have to be certified under the new regulations • Certificates will be valid for five years	
Additional study notes or questions		