

The New HSWA Hazardous Substance Regulations (HSR) 2017

They've finally arrived! After much conjecture and lobbying with the final cut issued last month for probable implementation on 1 December 2017. The new Regulations are coincided with the launch of EPA Notices which will also see changes to Safety Data Sheet (SDS) and Group Standards.

The HSR will now fall under the HSWA umbrella instead of HSNO, which will still be administered by the EPA. Consequently, WorkSafe NZ will administer and enforce the new Regulations and Compliance Certifiers (our new name instead of Test Certifiers) will continue to certify sites and staff. The big difference is that Compliance Certifiers are now part of the regulatory framework and not separate from it. Therefore, the bar for Compliance Certifier is higher around professionalism and compliance.

What does this mean for you? – You get 4-6 months to align yourself to the new expectation, which from a big picture perspective, are the existing HSNO controls etc, however, with some refinements and infringements. Some aspects of the

Regulations have an additional lead in time of 6 months and 18 months after implementation, especially for the inclusion of certain Toxics and Corrosives, which are now to be certified. Infringements are the added kicker which are included for every clause in the Regulations.

However, the good news is we can issue a Conditional Certificate for minor breaches for 3 months until any anomaly has been remedied. After that, it's either full certification or notification to WorkSafe NZ. Pretty well much what we do now, except formalised. Obviously, serious breaches still must be notified.

Will your audit be any different than usual? Possibly for the first year, but if you're compliant now, you're probably going to be compliant going forward, with maybe a tweak here and there.

So, what are the tweaks and what are the majors. Without writing a book, we will highlight the obvious ones which stood out for us. Obviously, our heads are still in the 500 plus pages of the Regulations, however, as things come to light we will let you know.



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TANKS

- Tanks of any size are now required to be labelled.
- Stationary Container (Tanks) Regulation 17.63.7 now has additional requirements for tanks fuelling a burner / generator inside a building whereby the tank is now to be banded and within a fire rated chamber (including the door).
- However, a four-hour rated SwRI 95-03; double skinned tank, can be used where there isn't a fire-rated chamber.

Service tanks below 500 litres within a building are exempt from fire rating and bunding.

Solution

- Budget for compliance in next year's financial plan. The infringements for non-compliance are too high not to.
- If you have a dodgy tank, replace it as it may be cheaper. Old tanks will be very difficult, if at all to certify going forward.

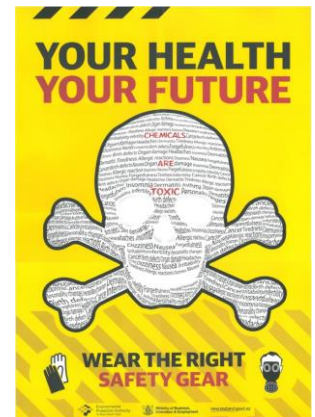


CERTIFICATION

- The Quantity Ratio (where small amounts of a number of hazardous substances trigger the requirement for a formal Compliance Certificate) now include all Classes from 1 - 5.
 - Class 6.1A/B/C plus Class 8.2A/B now require Compliance Certificates depending on their quantity. However, there is an 18-month lead in time.
 - Minor Storage (packaged storage up to Class 3.1A/B 60 L, Class 3.1C 250 L) is limited to one location per site - otherwise a DG cabinet, bunker or DG storeroom is to be utilised.
 - The Health and Safety at Work (Infringement Offences and Fees) Regulations 2016 has been amended to include instant infringements and fees, over and above the infringements listed in the HS Regulations. The average fee, per breach is:- Individual - \$300; Entity \$1,500 (e.g. no SDS, inventory, record of training, incorrect signage:- total \$1,200 instant fine to the individual responsible for compliance).
 - Failure to have a Compliance Certificate, when there should be one in place, now sees a maximum individual fine of \$10,000 and an entity fine of \$50,000.
 - Under section 10.34 Compliance Certifiers must now check all controls mentioned in the Regulations and not just specific items. Clarity around this will come later, but it may mean extra time when doing audits.
 - The Retail Code of Practice HSNOCOP 42 is now expressed in Regulation 11.33 and in the Appendix.
 - Hazardous Substance waste/disposal is now regulated the same as other hazardous substance pan life cycles, such as manufacturing, distribution and storage.
- Solution**
- If you are unsure whether you still, or now, need a Compliance Certificate, then get us in to do a one-off assessment. This is better than placing your insurance in jeopardy and facing WorkSafe enforcement plus infringements.

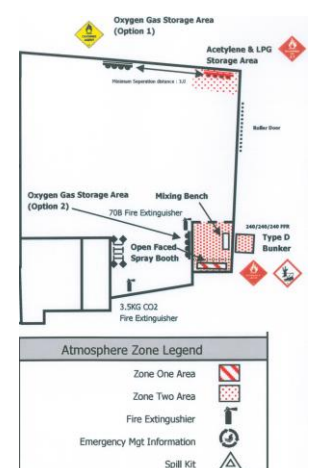
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CONTROLS

- Within a Hazardous Area Atmosphere Zone (HAAZ - where flammable vapour may be present) electrical equipment or containers must be electrically bonded and earthed. This includes DG Cabinets drums within DG Bunker and LPG cylinders above 100 kg.
 - All HAAZ zones are now required to be identified and recorded including any sources of ignition within the zone. (also, section 22 and 23 of Gen Risk HSWA).
 - Class 6 and 8 Substances going forward will now require to be in DG Cabinets, as outlined in Regulation 13.36 depending on their classification and quantity.
 - AS1940 Cabinets are now required to be at least 3 metres apart from each other and limited in number depending on floor space.
 - LPG cylinders are now to be on a non-combustible surface and restrained (chains) with a 2 kg fire extinguisher within 30 metres. Other flammable substances do not now require the 30 metres, but must be present and accessible.
- Solution**
- Check every container that has a hazardous substance in it and label it. Safety retail shops sell labels by the roll. The fine for having a HS in a drinking bottle is \$30,000. WorkSafe NZ are very serious about this.
 - Contract a Sparky to earth any DG cabinets and drums that are permanent or any large cylinders.
 - Sort out and remedy any outstanding remedial actions now. Notification to WorkSafe on all remedial audit reports, outside their statutory declaration period (and soon to be formalised 3-month conditional period) are to be notified to WorkSafe NZ.



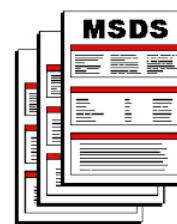
EMERGENCY MANAGEMENT

- All containers of hazardous substances are required to be labelled with HSNO pictograms including the name of the chemical. This includes waste containers.
- Signage is now required to be correctly displayed and have the correct pictograms. HazChem signs are now required instead of just a class diamond. This includes bunkers and storage rooms.
- Safety Data Sheets are required to have NZ manufacturers or distributors details and be no older than five years and accessible to all workers. The EPA will be bringing in a Notice at December to tidy up incorrect SDS.
- All sites are to have a hazardous substance inventory which must also include the UN number of the product, quantity, location and segregation requirement.
- Site plans are now required to be 'to-scale' and must show all control and hazardous atmosphere zones. This means more than a just a drawing or Google map picture, but something more professional.

Solution

- Review your SDS and download from your distributor. Demand they are updated if older than 5 years. It will be an offence if they are not current.
- Recommend staff read the SDS of the product they use, store or sell and have them sign they have done so, including Section 8 that outlines the PPE gear to be used, if using it.
- Download our Inventory template from WorkSafe NZ from our website.
- Download our Emergency Management Response Plan from our website.
- Update your site plan if it does not show boundaries in relation to road and neighbours. North should be indicated including all hazardous substances locations (e.g. LPG), control zones and hazardous area atmosphere zones. The final things to include are the date, version number, buildings and rooms, fire extinguisher locations, spill kit location, SDS location, hazchem signage, assembly point, scale and name of person producing the plan.

Contact DGC for production of a comprehensive and professional site plan that will satisfy the regulations and WorkSafe expectations.



TRAINING

- The wording Approved Handler has changed to Certified Handler.
- Class 6.1A/B/C and Class 8.1A/B substance will now require a Certified Handler depending on the quantity.
- ALL employees that handle (use, sell or store) hazardous substances are now required to have hazardous substance training.
- The trainer must understand the workers obligations around the Regulations, including the physical and/or chemical properties of the hazardous substance used or stored.
- A record of training is to be kept which is to be inspected by either a WorkSafe NZ

Enforcement Officer on request, or a Compliance Certifier before a site Compliance Certification is issued.

- Previous Approved Handler certification will still be able to be used as evidence of training.
- Handlers of Hazardous Substances are now required to be supervised.

Solution

- Get as many people that handle hazardous substances onto our current Approved Handler course ASAP. Spaces are limited as we are swamped by the demand. We will have a shorter course in due course.



TRAINING

Training is booking up quite quickly, so if you want to get in before the Regs change contact have a look at the dates and availability on our website: www.dgcompliance.co.nz/training.

Auckland courses are held every 2 weeks, but this course books up FAST!

Out of Auckland Approved Handler Training is as follows

Whangarei	11 Sep
Rotorua	20 Sep
Wellington	27 Sep
Nelson	28 Sep
New Plymouth	3 Oct
Napier	10 Oct
Invercargill	11 Oct
Christchurch	18 Oct
Dunedin	19 Oct



MORE SOLUTIONS

What follows are more practical steps that can be taken to mitigate any gaps with the new Regulations.

- Review all your signage to ensure it has the correct pictures on it.

- Sort out all your emergency management requirements into one folder and have it available at the front counter. This includes any training certificates. We cannot issue a Compliance Certificate unless sites have a record of training on hand.



CONCLUSION

This all sounds a bit daunting, however, later in the year we will have better understanding on how this will operate.

Probably when the Compliance Certifiers Performance Standard are released. Most sites will require support around this and we intend to provide solutions that will satisfy the Regulations whilst being fiscally viable for businesses. More to come on this.

Otherwise, we will still answer questions as they come and advise once we have more clarity on how the Regulations can be managed.

Over the past couple of months we have been the breadth and length of New Zealand, making sure that everyone due has had their annual audit visit. The certificates are making their way to you in the post, that is, if Morgan hasn't contacted you already.



OFFICE CHANGES

DGC would like to introduce our new staff member:

James Freeman is our new Office Administrator. James has taken on the bookings role, so at some point you'll be hearing from him to book you in. Two months in and he has definitely got a grip on things.

Shaa'ista Kader is our newest HSNO Consultant. You may recognise her, as she has been in the office for over 6 years and will now be visiting sites, with a view to becoming a Test Certifier.

We are proud to announce that we have moved to larger premises. We are now based in an office building near Sylvia Park, overlooking the motorway.



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