

The Test Certifier Update, is a monthly newsletter to support test certifiers by providing information, guidance and updates on hazardous substances and test certification.

The Update is also available to other interested parties on the WorkSafe New Zealand website at: [www.worksafe.govt.nz](http://www.worksafe.govt.nz)

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# HEALTH AND SAFETY REFORM UPDATE

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Cabinet has made initial decisions about the first phase of regulations to support the new Health and Safety at Work Act, following public consultation on proposals last year.

You can read the Cabinet papers on the MBIE website at:

<http://www.mbie.govt.nz/what-we-do/workplace-health-and-safety-reform/development-of-regulations-to-support-the-new-health-and-safety-at-work-act>

Some of the content of the papers has been withheld in order to protect the confidentiality of the Transport and Industrial Relations Select Committee process for the Health and Safety Reform Bill. The Select Committee is due to report the Bill back to Parliament by the end of May.

A key decision made by Cabinet was to allow the release of exposure drafts of the various phase one regulations, and these will be made available on the [MBIE website](#) as drafts become ready.

The purpose of the exposure draft process is to give interested parties an opportunity to see how the new regulations will look and get stakeholder feedback on whether the decisions taken by Cabinet are accurately represented in the regulations as drafted. Expert industry input is also needed on technical aspects of the regulations, to make sure they are accurate.

The following draft regulations are expected to be ready for release in **early April**:

- > general risk and workplace management
- > asbestos
- > major hazard facilities
- > redrafted regulations recently made under the HSE Act:
  - petroleum exploration and extraction
  - mining
  - adventure activities

An exposure draft of administrative regulations will be released **late April** detailing infringement offences and fees in phase one regulations, and prescribe a standard infringement notice.

An exposure draft of the regulations for work involving **hazardous substances** is expected to be ready for release around **November 2015**.

An exposure draft of the worker participation, engagement and representation regulations will be released after the Bill has been reported back to Parliament.

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# MANAGEMENT OF RISKS ASSOCIATED WITH HAZARDOUS WASTE

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The Cabinet paper on regulations to support the new HSW Act has noted the uncertainty that exists around the application of HSNO controls to waste products containing hazardous substances. That Cabinet paper propose that the new hazardous substance regulations will

- (i) apply to a waste product if it is reasonably likely that the waste product is a substance that meets the classification criteria for substances with explosive properties, flammable properties, oxidising properties, toxic properties, or corrosive properties;
- (ii) prescribe simplified requirements for the workplace labelling of containers that are used to store any waste product that is, or contains, a substance that meets the classification criteria for substances with explosive properties, flammable properties, oxidising properties, toxic properties, or corrosive properties;
- (iii) prescribe a simplified list of matters to be included in safety data sheets for any waste product that is, or contains, a substance that meets the classification criteria for substances with explosive properties, flammable properties, oxidising properties, toxic properties, or corrosive properties.

Read the Cabinet paper at: <http://www.mbie.govt.nz/what-we-do/workplace-health-and-safety-reform/development-of-regulations-to-support-the-new-health-and-safety-at-work-act>

Refer to “Paper B: Specific regulatory matters”.

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# NEW RULES FOR IMPORTERS AND MANUFACTURERS OF HAZARDOUS SUBSTANCES

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The Environmental Protection Authority (EPA) is currently consulting on new rules that would require everyone who manufactures or imports a hazardous substance to supply basic contact information. The proposed new rules are part of a wider plan to improve the regulation of hazardous substances in New Zealand.

## WHAT IS BEING PROPOSED?

Under the proposed new rules, anyone who manufactures or imports products that are considered ‘hazardous substances’ would need to supply the EPA with their business name and contact details.

While all hazardous substances manufactured or imported in or into New Zealand require approval, often importers and manufacturers meet this requirement by “self-assigning” to an existing approval or group standard.

The information requirements proposed will help the EPA better understand who is involved in the trade of hazardous substances in New Zealand. Over time, this information should lead to improved compliance for the management of hazardous substances.



### WHAT WOULD THE NEW RULES COVER?

The new rules will apply to products that contain ingredients that are:

- > Explosive
- > Flammable
- > Corrosive
- > Toxic
- > Ecotoxic
- > Oxidising agents

Certain products are not covered by the law for hazardous substances, such as ready-to-eat food, medicines and many manufactured items.

### HOW CAN I MAKE A SUBMISSION?

**Submissions** can be made on the form provided and emailed to: [hsnotices@epa.govt.nz](mailto:hsnotices@epa.govt.nz)

You must make your submission by **28 April 2015**.

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## STATIONARY CONTAINER TEST CERTIFICATES AND COMPLIANCE PLANS

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When issuing a stationary container system test certificate, remember to always check if a compliance plan is in effect.

WorkSafe has recently approved compliance plans for stationary containers that are of uncertain design specifications. As a consequence, we have placed a condition on the approval that restricts the duration of any stationary container test certificate that may

be issued. Typically this condition restricts the test certificate to one or two years.

The person in charge, who will hold the compliance plan approval, should provide this information to you. However it would be prudent to ask anyway.

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# IMPORT CLEARANCE TEST CERTIFICATES FOR UNRTDG CYLINDERS

We wish to remind test certifiers that the marking requirements for UNRTDG cylinders must be strictly observed.

Test certifiers who are approved for cylinder importation under regulation 5A of the Compressed Gases Regulations are asked to recheck the marking diagram of Attachment 9 of the Guide to Gas Cylinders 2013 (see diagram below) and the specific directions of section 6.2.2.7 taken from the UN Model Regulations 17th edition.

	(m)	(n)	(o)	(p)	
	25E	D MF	765432	H	
(i)	(f)	(g)	(j)	(h)	
PW200	PH300BAR	62.1 KG	50 L	5.8 MM	
(a)	(b)	(c)	(d)	(e)	
	ISO 9809-1	F	IB	2000/12	

In particular, you should note the statement of section 6.2.2.7.6 that:

**“Other marks are allowed in areas other than the side wall, provided they are ... outer jacket. Such marks shall not conflict with required marks.”**

Accordingly the marks of other regulatory jurisdictions **shall not appear** within the marking map area for the UN specified marks.

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## PERIODIC TESTERS AND CYLINDER IMPORTS

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From time to time, a periodic tester will apply to WorkSafe to extend his or her periodic tester approval to cover one-off cylinders as provided for under section 3.9 of the Guide to Gas Cylinders. These are cylinders that are not marked with a LAB number or a LAB

SP number and are identified when they are brought in for filling or testing.

This extension allows the periodic tester to stamp a LAB number on the cylinder where the cylinder is an exact match to the approved design with that LAB number on the register. It is noted that in these cases, the LAB number must be followed by the test station mark. We note that this action, effectively provides an import clearance for that cylinder.

However, WorkSafe wishes to be quite clear, that this periodic tester extension does not enable the tester to provide import clearance for batches of cylinders under regulation 19.

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## HSNO PROSECUTIONS

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In November 2014, Ruapehu Alpine Lifts were successfully prosecuted for breaches of the HSNO, Resource Management and HSE Acts. The company was fined a total of \$300,000 for the diesel spill that left Raetihi residents without water for more than two weeks in October 2013.

The HSNO charges related to failing to ensure that a stationary container system was maintained so that it contained a hazardous

substance without leaking and for failing to ensure that an emergency response plan was tested every 12 months. These breaches resulted in fines of \$51,500 and \$8,500 respectively.

The sentencing notes of Judge BP Dwyer are **attached**. They make salient reading.

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# INTRODUCING GUIDANCE AND STANDARDS

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The Guidance and Standards team at WorkSafe consists of 15 writers who are tasked with producing guidance material to inform audiences about good health and safety practice, to describe options for achieving compliance, and set out WorkSafe's expectations as the regulator.

In anticipation of the upcoming new legislation – the Health and Safety at Work Act and the Health and Safety at Work (Hazardous Substances) Regulations – the Guidance and Standards team is preparing a suite of guidance on the new provisions.

This suite of guidance will comprise:

- > An Interpretive Guide: Overview of Changes and Transition

- > Fact Sheet: Test Certifier regime changes
- > Fact Sheet: New Inventory Requirements
- > Fact Sheet: New Workplace and Worker Monitoring Requirements.

The Fact Sheets will be published once the new Health and Safety at Work (Hazardous Substances) Regulations are promulgated. This is expected to be in the first half of 2016.

In addition, the team is reviewing more than 200 items of EPA and WorkSafe Guidance to determine which guidance should be updated, replaced or revoked. The outcomes of this review will feed into the Guidance and Standards future work programme.

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# GOOD PRACTICE GUIDELINES FOR THE AGRICULTURAL SECTOR

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WorkSafe has published two new Good Practice Guidelines for the agricultural sector:

## **Working safely with chemicals and fuels on farms**

This document gives guidance on the main controls set under HSNO for chemicals and fuels, including:

- > pesticides
- > herbicides
- > fertilisers

- > veterinary medicines
- > cleaning products, like dairy sanitisers
- > post-harvest sanitisers
- > petrol, diesel and liquefied petroleum gas.

## **Above ground fuel storage on farms**

This document gives guidance on the storage of petrol and diesel on farms.

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