

Hazardous substances

*DISPOSAL CONTROLS
AND ECOTOXIC CONTROLS*

May 2019

CONTENTS

Purpose	1
Roles and responsibilities	1
Our approach to disposal controls and ecotoxic controls	2
How we'll respond to incidents involving disposal controls	2
How we'll respond to incidents involving ecotoxic substances that pose no risk to human health and safety	2
What this means in practice	2
What we'll consider in deciding what intervention to take	2
We'll consider if others need to be involved	3
Related policies and procedures	3
Glossary	3
Publication and review of this policy	4

Purpose

This policy clarifies how we'll respond to situations where we observe, or are notified about, a person conducting a business or undertaking (PCBU) not complying with:

- hazardous substances disposal controls, and/or
- ecotoxic controls.

In this policy hazardous substances should be read to include ecotoxic substances¹

This policy should be read alongside our *Hazardous Substances Emergencies Operational Policy* which sets out how we will respond when faced with a situation involving hazardous substances that may require the declaration of an emergency or use of our imminent danger powers.

Roles and responsibilities

Dutyholders

The *Health and Safety at Work Act 2015* (HSWA) emphasises the duty of the person conducting a business or undertaking (PCBU) to manage risks to workers and other people.

We expect PCBUs to comply with the controls for, and manage the risks associated with, the hazardous substances they use, store, manufacture, handle, transport, or dispose of.

The Environmental Protection Authority (EPA)

The EPA regulates hazardous substances by:

- deciding whether to approve new hazardous substances
- putting rules (controls) in place to manage the risks of hazardous substances and to safeguard people and the environment, and
- reassessing hazardous substances and making new decisions regarding their risk management (when necessary).

WorkSafe

We're responsible for enforcing the *Health and Safety at Work (Hazardous Substances) Regulations 2017* (the HSWA HS Regulations) and the *Hazardous Substances and New Organisms Act 1996* (HSNO Act) in workplaces. This includes disposal controls and ecotoxic controls.

We administer the HSWA HS Regulations for the use, storage, handling, transport, and manufacture of hazardous substances in places of work, and the EPA's rules (controls) for disposal. We're responsible for taking action where PCBUs aren't complying with the regulations/controls.

Fire and Emergency New Zealand (FENZ)

FENZ is the lead agency for emergencies involving hazardous substances.

Their role is to stabilise or make safe incidents, and provide for the safety of people and property endangered by incidents involving hazardous substances.

FENZ can attend any hazardous substance-related incident.

¹ Hazardous substances can have one or more classification, depending on the physical, health and environmental hazards associated with them. See the glossary for definitions of hazardous substances, ecotoxic substances and related terms.

New Zealand Police

The New Zealand Police are generally the lead agency for emergencies involving explosives where there is no fire or spillage. This includes abandoned explosives and bomb threats.

Our approach to disposal controls and ecotoxic controls

We won't undertake proactive activity in relation to disposal controls or ecotoxic controls where there's no risk to human health and safety. But we may respond and enforce (where appropriate) if we observe, or become aware of, non-compliance with controls during the course of our other activities.

How we'll respond to incidents involving disposal controls

We're required to enforce the EPA [Hazardous Substance Disposal Notice](#) in workplaces.

If we observe, or become aware of, non-compliance with disposal controls we'll focus our efforts on the associated work health and safety risks. We may consider taking enforcement action.

We'll also inform and work with other agencies as necessary. This includes FENZ, the EPA, public health agencies, and local government.

How we'll respond to incidents involving ecotoxic substances that pose no risk to human health and safety

There may be situations where we visit a workplace and observe, or become aware of, an issue about a substance that poses a risk to the environment but not to human health and safety. There may also be situations where a risk to the environment results from the failure of work health and safety controls.

In these situations we may take action, including considering taking enforcement action, if necessary and appropriate.

What this means in practice

In practice this means we'll:

- focus on the work health and safety risks associated with hazardous substances in general
- allocate a higher priority to situations involving substances that are, will, or may impact on human health and safety, and
- work with other agencies as necessary and appropriate.

What we'll consider in deciding what intervention to take

In deciding what intervention(s) to use, our inspectors will consider:

- their own health and safety
- their legislative powers
- our policies, including our Enforcement Decision-making Model
- the health and safety of workers and anyone else who may be affected
- the duties and capability of the PCBU
- whether it's appropriate for the PCBU to retain control of the site
- the role and capabilities of other agencies, particularly FENZ.

We'll consider if others need to be involved

We'll also consider whether FENZ or the local authority needs to be involved.

We'll contact FENZ when we respond to hazardous substances-related situations and one of the following applies:

- we declare a HSNO Act emergency
- the PCBU is unable (or can't be expected) to safely or satisfactorily resolve the situation
- the PCBU refuses to contact FENZ when asked by an enforcement officer to do so
- there are wider concerns for public safety and/or environmental damage and the PCBU can't remedy these.

In some instances a FENZ response may not be required. In these situations we'll still contact them to provide them with information about the situation.

We may contact the relevant local authority, regional council or regional public health service if the incident may have an impact beyond the workplace.

Related policies and procedures

This policy links to our:

- Hazardous Substances Emergencies Operational Policy
- Response Regulatory Function Policy
- Remedial Action Operational Policy
- Enforcement Regulatory Function Policy
- Inspection Regulatory Function Policy
- Investigations Regulatory Function Policy
- Enforcement Decision-making Model.

Glossary

TERM	DEFINITION
Hazardous substances	<p>Hazardous substances can have one or more classification under HSNO, depending on the physical, health and environmental hazards associated with the substances.</p> <p>More information is available on the EPA website</p>
Ecotoxic substances	<p>Ecotoxic substances are a subset of hazardous substances. They are class 9 hazardous substances and also called environmental hazards.</p> <p>They are toxic to the environment. Some, but not all, are also harmful to human health.</p>
Disposal controls	<p>Disposal controls are rules the EPA has put in place to manage the risks associated with the disposal of hazardous substances. These are in place to safeguard people and the environment.</p> <p>These controls are found in EPA Notices, group standards, or individual hazardous substance approvals.</p> <p>To check which controls apply to a substance, search for the substance in the EPA Approved Hazardous Substances with Controls database or read the relevant group standard.</p>
Ecotoxic controls	<p>Ecotoxic controls are rules the EPA has put in place to manage the risks associated with ecotoxic substances.</p> <p>These controls are found in EPA Notices, group standards, or individual hazardous substance approvals.</p> <p>To check which controls apply to a substance, search for the substance in the EPA Approved Hazardous Substances with Controls database or read the relevant group standard.</p>

Publication and review of this policy

This policy is part of WorkSafe's Practice Framework and will be available externally.

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