

Hazardous Substances New Organisms Act





An essential reference for people affected by or interested in the Act

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YOUR GUIDE TO THE HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996

INTRODUCTION

SUMMARY

This Guide provides an overview of the Hazardous Substances and New Organisms Act 1996 (HSNO). The HSNO Act has two main parts. The Act came into force for new organisms on 29 July 1998 and for hazardous substances on 2 July 2001.

The HSNO Act is a new law that manages the risks that hazardous substances and new organisms pose to the health and safety of people and communities and the New Zealand environment. The Act replaces well-known laws such as the Explosives, Dangerous Goods, Toxic Substances and Pesticides Acts and pulls together the management of hazardous substances and new organisms into one comprehensive Act. It also provides for deciding on introducing new species to New Zealand and controlling genetic modification.

Broadly speaking, the term hazardous substance includes any substance that can damage the environment or harm human health and safety. However, the Act does not control radioactive, ozonedepleting and infectious substances.

The term **new organism** refers to any organism not legally present in New Zealand before 29 July 1998, the date the HSNO Act came into force for new organisms. New organisms include any species of any animal, plant, bacterium, virus and genetically modified organisms.

Under the Act, anybody wanting to introduce a hazardous substance or new organism that is not already legally present in New Zealand must apply to the Environmental Risk Management Authority (the Authority) for approval to do so. If the Authority approves the introduction, it will set national controls on the substance or organism to manage their environmental effects and risks. All users of hazardous substances will need to comply with the controls that are set throughout the life cycle of the hazardous substance.

The Act also provides a basis for the public to have input into making decisions on approvals for hazardous substances and new organisms and for taking Maori concerns and international agreements into account.

This section provides an overview of the HSNO Act and its history and purpose. It describes how the Act defines hazardous substances and new organisms, and what is excluded from these definitions. It also explains how the Act relates to other pieces of legislation dealing with hazardous substances and new organisms in New Zealand, as well as international requirements.

1.1 ABOUT THIS GUIDE

This document is a Guide on the Hazardous Substances and New Organisms Act 1996. It provides an overview of the Act and its purpose, who it affects and its general provisions.

1.2 WHAT IS THE HSNO ACT?

The Hazardous Substances and New Organisms (HSNO) Act 1996 is a new environmental and health and safety law. Anybody wanting to introduce (import, develop or manufacture) a hazardous substance or new organism into New Zealand must apply to the Environmental Risk Management Authority (the Authority) for approval to do so. The Act establishes a consistent process for assessing the risks posed by hazardous substances and new organisms and for setting national controls to manage their environmental effects and risks. Broadly speaking, the term hazardous substance includes any substance that can damage the environment or adversely affect human health and safety other than substances which are only radioactive, ozone-depleting or infectious. The term new organism refers to any organism not legally present in New Zealand before 29 July 1998, the date the HSNO Act came into force for new organisms. New organisms can include any species of any animal, plant, bacterium, virus or genetically modified organisms.

All users of hazardous substances and new organisms must comply with the controls that are imposed by the Authority on approvals for hazardous substances and new organisms. The Act also allows for public input and for taking Maori views and international obligations into account.

Overall, the Act takes a precautionary approach. Hazardous substances and new organisms must be adequately assessed before they are allowed into New Zealand. Also, where there is uncertainty about the potential adverse effects of introducing a hazardous substance or new organism, the Act requires that caution should be exercised in controlling those effects.

The HSNO Act has been in force for new organisms since 29 July 1998 and became fully operative for hazardous substances on 2 July 2001. For hazardous substances, there is a period after the Act starts up during which people are able to continue to import or manufacture hazardous substances under the controls imposed by the previous laws. This is because the control of hazardous substances will be transferred over to the new system in stages – the transitional phase.

1.3 THE PURPOSE AND PRINCIPLES OF THE HSNO ACT

The purpose and principles of the HSNO Act are stated in Part II of the Act.

The purpose of the HSNO Act is:

to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms.

The key principles relevant to the purpose of the HSNO Act are:

- (a) the safeguarding of the life-supporting capacity of air, water, soil and ecosystems
- (b) the maintenance and enhancement of the capacity of people and communities to provide for their own economic, social and cultural well-being and for the reasonably foreseeable needs of future generations.

The Act requires that the following matters of importance must be taken into account:

- the sustainability of all native and valued introduced flora and fauna
- the intrinsic value of ecosystems
- public health
- the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, valued flora and fauna, and other taonga
- the economic and related benefits to be derived from the use of a particular hazardous substance or new organism
- New Zealand's international obligations.







The Act also requires all people exercising functions, powers and duties under the Act to take into account:

- the need for caution in managing adverse effects where there is scientific and technical uncertainty about those effects
- the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

1.4 WHY DO WE NEED THE HSNO ACT?

Hazardous substances and new organisms have the potential to benefit New Zealand's communities, the environment and the economy. Hazardous substances in particular can be found in our homes, at work, in all businesses, industry, horticulture and agriculture.

Unfortunately, if they are not manufactured, used, stored, transported and disposed of properly, they can be dangerous to people and the environment. Historical examples of this include:

- the use of the insecticide DDT
- fires in chemical storage warehouses



- contamination of soil at some timber treatment plants and around leaking underground storage tanks
- the introduction of plants and animals which became pests, such as gorse and rabbits.

In the past, these kinds of adverse effects of hazardous substances and new organisms were often not fully anticipated. Also, New Zealand was behind international best practice or was out of alignment with efforts to make regulation of such activities more globally consistent. The HSNO Act brings New Zealand into line with best known international practice.

Hazardous substances were historically controlled by many different agencies under different (often conflicting) legislation, each focusing on only one type of hazard or one aspect of the use of different hazardous substances. In addition, most of these laws were not designed to protect the environment.

Controls on the introduction of new organisms into New Zealand were out of date, especially with respect to genetically modified organisms. The Animals Act 1967 and Plants Act 1970 addressed the importation of new organisms into New Zealand. These Acts focused on preventing the importation of diseases and provided limited criteria for evaluating potential risks to New Zealand's communities and indigenous flora and fauna. Also, the issue of genetic modification previously had been addressed only on a voluntary basis.

Because of the inconsistencies and gaps in the old legislation, a more integrated and consistent to managing hazardous substances and new organisms was needed.



1.5 WHAT WILL THE HSNO ACT CHANGE?

The HSNO Act and regulations:

- take a comprehensive, systematic approach to assessing the risks, benefits and costs of introducing hazardous substances and new organisms into New Zealand
- allow assessment of effects and risks to people, property and the environment before problems arise
- enable **public input** into the decision-making process set up **one central agency** (the Authority)
- approve hazardous substances and new organisms, using a precautionary approach
- set controls for each substance which define measurable objectives so allowing people to use any method they want to achieve the required standards
- provide mechanisms to monitor overall enforcement of the Act
- separate out different functions, including control setting and compliance checking (inspection)
- simplify the enforcement system so that there are no gaps or overlaps
- increase the penalties for non-compliance to up to \$500,000 and three months' imprisonment.

The laws that are replaced are:

- Explosives Act
- Dangerous Goods Act 1974
- Toxic Substances Act 1979
- Pesticides Act 1979 (with minor exceptions)
- parts of the Animal Remedies Act 1967
- those parts of the Animals Act 1967 and Plants Act 1970 not already superseded by the Biosecurity Act 1993.

1.6 HOW WILL THESE CHANGES AFFECT YOU?

The HSNO Act will change the way hazardous substances and new organisms are controlled. How these changes might affect you is further described below.

1.6.1 Changes to the way hazardous substances are controlled

Importers/manufacturers/product developers

If you want to introduce, develop or manufacture a new hazardous substance, you will need to obtain approval from the Authority (refer Section 4 of this Guide).

All users (from home users to major industry), including storage and transport companies, and waste treatment and disposal companies

You will need to comply with the controls set by the Authority on *each* hazardous substance that you deal with. This may include having to get a test certificate if it is highly hazardous or if you deal with it in large quantities of it (see Section 5.3 of this Guide).

You can make compliance easier by following a code of practice that has been approved by the Authority (refer Section 5.4 of this Guide).

Handlers of highly hazardous substances

You may need to get certification from a test certifier who has been approved by the Authority (see Section 5.3 of this Guide).

Specialists in hazardous substance management

You may be able to qualify as a test certifier. You will need approval from the Authority for this (see Section 5.3 of this Guide).









Enforcement officers

You will need to be qualified and warranted to be a HSNO enforcement officer (see the Hazardous Substances (Personnel Qualifications) Regulations 2001).

General public

You have a right to have your say in the approval- and control-setting process (see Sections 2.8, 4.6.3 and 4.6.4 of this Guide).

Maori

You have a right to have your say in the approval- and control-setting process. The Authority is required to specially consider your concerns (refer Sections 2.8, 4.6.3 and 4.6.4 of this Guide).

1.6.2 Changes to the way new organisms are controlled

Importers/product developers/research organisations

If you want to introduce, develop or field test a new organism (including a genetically modified organism), you will need to obtain approval from the Authority (refer Section 4.3.2 of this Guide).

All users of new organisms in containment

If, for example, you work in a specialised containment facility or a zoo, you will need to comply with the controls set by the Authority on *each* organism that you keep in containment (refer Section 6 of this Guide).

Operators of containment facilities

Any operators of containment facilities must have these facilities registered by the Ministry of Agriculture and Forestry under the Biosecurity Act 1993 (see Section 2.4.3 of this Guide).

Enforcement officers

You will need to be qualified and warranted to be a HSNO enforcement officer (see Hazardous Substances (Personnel Qualifications) Regulations 2001).

General public

You have a right to have your say in the approval- and control-setting process (see Section 4.6.3 of this Guide).

Maori

You have a right to have your say in the approval- and control-setting process. The Authority is required to specially consider your concerns (refer Sections 2.8 and 4.6.4 of this Guide).

1.7 WHAT IS A HAZARDOUS SUBSTANCE?

1.7.1 Background

Most New Zealanders use hazardous substances every day at home and at work. Most are also broadly familiar with the risks they pose, for example:

- the fact that methylated spirits or petrol burn that is, such products are flammable
- the ability of oven cleaners (and many commercial cleaning products) to damage skin (a corrosive action)
- the poisonous nature of some garden chemicals.

In reality, most hazardous substances are hazardous in a number of ways. For example, methylated spirits and petrol are not only flammable but also poisonous. The HSNO Act is designed so that each hazardous substance is assessed and managed in terms of its overall risk to people and the environment.

1.7.2 How the HSNO Act defines "hazardous substances"

The Act's definition of hazardous substances is outlined below.

Substances or groups of substances

The Act defines a "substance" as:

- any element or compound (or their mixtures) of either natural or synthetic origin
- any recognised variation of an element or a compound (such as an isotope, allotrope, isomer, congener, radical or ion)
- any mixture or combination of the above
- including any manufactured article that contains explosive substances.

The definition of the term "substance" under the HSNO Act can be used in quite a flexible way. Applicants may wish to define a substance in a very specific way, with a precise description of its components; or they may broadly define a substance, covering a group of similar products whose components fall within a defined range, eg water-based paints defined as a single substance.





Hazardous substance

A "hazardous substance" is any substance that has one or more of the following intrinsic "hazardous properties" exceeding specified thresholds or Minimum Degrees of Hazard regulations made under the Act.

- explosiveness
- flammability
- ability to oxidise (accelerate a fire)
- human toxicity (acute or chronic)
- corrosiveness (to human tissue or metal)
- ecotoxicity (with or without bioaccumulation)
- capacity, on contact with air or water, to develop one or more of the above properties.

Regulations written under the HSNO Act set out the tests that a substance must undergo to determine whether it is hazardous or not (the ERMA user guide on thresholds and classifications gives more detail – see bibliography in Section 10).

The Authority can also make a ruling on whether or not a substance is a hazardous substance.

Compressed gases

Substances that are gaseous are often contained under high pressure. Because pressurised gases can pose a risk to people and the environment, the HSNO Act deems any gas contained under pressure to be hazardous, irrespective of whether it displays any of the hazardous properties described above.

By-products from the manufacture of any substance

The HSNO Act can also control hazardous by-products from the manufacture of any substance. At the time of writing, no regulations have been established for this purpose.

Some terms explained in context

- "Acute" means an adverse effect that occurs within a short time of exposure.
- "Chronic" means an adverse effect that occurs either after a prolonged exposure, or a long time after a single exposure.
- "Ecotoxicity" means capable of causing ill health, injury or death to any living organism apart from humans.
- "Bioaccumulation" means the accumulation of substances in the tissues of organisms.
- "Oxidise" means to accelerate a fire, usually by supplying oxygen.
- More terms are listed in the Glossary in Section 11 of this Guide.



How to find out more

Section 5.1 of this Guide explains more about different hazardous properties and thresholds for defining a substance as hazardous.

If you need to know more about the definition of a "hazardous substance", look at:

- ERMA New Zealand: Interpretations and Explanations of Key Concepts. Protocol Number 3, Series 2, October 2000
- ERMA New Zealand's web site at http://www.ermanz.govt.nz
- the HSNO web site at http://www.hsno.govt.nz



Wellington Regional Council

1.7.3 Substances that are not covered by the Act

Some substances are not covered by the HSNO Act but by other legislation. These include:

Radioactive substances

Substances that are only radioactive are already managed effectively under existing legislation: the Radiation Protection Act 1965 and associated regulations and the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987.

Ozone-depleting substances

Ozone-depleting substances are controlled by the Ozone Layer Protection Act 1996, partly because their management follows international agreements and is focused on controlling importation of these substances and phasing them out. If the substance has other hazardous properties it may still fall within the scope of the HSNO Act.

Infectious substances

Substances which are only infectious (ie might contain disease-producing organisms) are currently regulated in New Zealand, for transport purposes, by legislation that refers to the United Nations Recommendations for the Transport of Dangerous Goods, including the Land Transport Act 1998. A New Zealand Standard for managing infectious substances is being prepared and may form the basis for future controls.

Manufactured articles

Most manufactured articles that contain hazardous substances (other than explosive substances) are not hazardous, as they will probably not exceed the threshold levels set under regulation. Cell phone batteries are an example of a manufactured article.

1.8 WHAT IS A NEW ORGANISM?

New organisms are defined broadly under the HSNO Act. The definition includes micro-organisms and reproductive cells as well as fish, plants and insects. It also includes genetically modified organisms as well as species that are not currently in New Zealand. "New organisms" also includes organisms in New Zealand that are held in containment and cannot be released to the environment, such as organisms in zoos.

Organisms can arrive in several ways. They can be introduced unintentionally, for example, fruit flies on imported produce, or intentionally, for example, sheep, pines, trout, clover or roses. The Biosecurity Act regulates unintentional introductions, while the HSNO Act regulates deliberate introductions of new organisms (refer Section 4.3.2 of this Guide).

The HSNO Act's definition of a new organism is discussed below.

1.8.1 How the Act defines "new organisms"

An organism

An "organism" under the HSNO Act includes:

- any micro-organism
- all genetic structures (excluding those from humans) that have the ability to replicate or create copies of themselves
- any organism defined as an organism under the Biosecurity Act 1993
- a reproductive cell or a developmental stage of an organism.

A new organism

Under the HSNO Act, a "new organism" can be an organism belonging to any of the following:

- a species that was not present in New Zealand before 29 July 1998
- a species that has a containment approval under the HSNO Act – for example, one contained in a zoo or a laboratory
- a genetically modified organism (a GMO)
- a subspecies, infra-subspecies, variety, strain or cultivar that has been determined (by regulation) as a risk species and that was not present in New Zealand before 29 July 1998
- a species, subspecies, infra-subspecies, variety, strain or cultivar that has been eradicated from New Zealand.

Genetically modified organisms (GMOs)

GMOs are plants, animals or micro-organisms that have had their genetic material altered using genetic engineering techniques – for example, plants that produce bacterial or insecticidal toxins, or micro-organisms that produce human insulin are genetically modified organisms.

1.8.2 Organisms that are not covered by the Act

Once an organism is released into the environment with the Authority's approval, it is no longer covered by the Act. Other entities that are not covered by the HSNO Act are:

Organisms that were already here before 29 July 1998 Any organism that was not in containment in New Zealand before 29 July 1998 is not covered by the HSNO Act. For example, possums are not new organisms, but a tiger in a zoo is.

Humans

A new organism does not include a human being or a genetic structure derived from a human being.

Genetically modified food

Genetically modified (GM) foods in processed form are not covered by the HSNO Act. The Food Act and the Australia New Zealand Food Standards Authority (ANZFA) cover the importation and labelling of GM foods.

However, the HSNO Act does cover any new organism (plant, animal) or genetically modified organism that could later become a food product. For example, it covers genetically modified wheat as viable grains (ie able to grow), but not GM flour.

1.8.3 How can you find out which organisms are already here?

The Ministry of Agriculture and Forestry (MAF) has a list of plants, animals and micro-organisms known to be in New Zealand before 29 July 1998. This list forms part of the socalled Biosecurity Index. While the list is not complete, it is a useful guide. ERMA New Zealand (see Section 2.2.1 of this Guide) maintains a public register that lists organisms that have been approved by the Authority, at: http://www.ermanz.govt.nz/search/srch_reg.htm

Overall, there is some level of uncertainty about precisely which organisms were present in New Zealand before the start-up of the HSNO Act.

The *Species 2000: New Zealand* project focuses on cataloguing every local species of plant or animal in New Zealand. The project constitutes a biological census that covers all living and fossilised, native and introduced species and subspecies found in the land and fresh waters of New Zealand as at the end of December 1999. While this project is operating outside the HSNO Act, the information it will generate will be very useful to help identify legally existing species under the HSNO Act.

In cases of doubt, the ERMA has the authority to determine whether or not an organism is a new organism.



1.8.4 The future of genetically modified organisms in New Zealand

The HSNO Act controls the risk of new organisms to our people and communities and the environment on a case-bycase and scientific basis. Although the Act requires the Authority to err on the side of caution where there is uncertainty, some people in New Zealand are still uneasy about whether they want genetic modification in New Zealand. In April 2000, the Government announced that a

How to find out more

If you need to know more about the definition of a "*new* organism", look at:

- ERMA New Zealand: *Identification of new organisms*. Protocol No 8, December 1998
- ERMA New Zealand: *Interpretations and Explanations of Key Concepts.* Protocol Number 3, Series 2, October 1999
- MfE: *What is a New Organism*? Information sheet No. 3

You can also go to the Internet for information:

- ERMA New Zealand's web site: http://www.ermanz.govt.nz/ NewOrganisms/
- for the public register of approved organisms: http:// www.ermanz.govt.nz/search/srch_reg.htm
- for ERMA New Zealand's Quick Guides: http:// www.ermanz.govt.nz/pubsdown/Pubs-Categoryo4.cfm
- the HSNO web site at: http://www.hsno.govt.nz

four-person Royal Commission would be established to conduct a one-year inquiry into genetic modification. The Commission is headed by former Chief Justice, Sir Thomas Eichelbaum. The other members of the Commission are Dr Jean Fleming (a scientist), the Rt Rev Richard Randerson (an Anglican bishop) and Dr Jacqueline Allan (a medical practitioner).

The Royal Commission's primary objective is to inquire into and report on the options available to enable New Zealand to address genetic modification now and in the future. It may also recommend any changes in the current arrangements for addressing genetic modification technologies and products in New Zealand.

1.9 HOW DOES THE HSNO ACT RELATE TO OTHER LEGISLATION?

1.9.1 Background

Although the Act is the main law for managing hazardous substances and new organisms in New Zealand, it interfaces with a number of other laws relating to transport, food, workplaces, buildings and the environment.

These are:

- Agricultural Compounds and Veterinary Medicines Act 1997 (ACVM)
- Biosecurity Act 1993
- Food Act 1981
- Medicines Act 1981 and Misuse of Drugs Act 1975
- Health and Safety in Employment Act 1992 (HSE)
- Gas Act 1992
- Resource Management Act 1991 (RMA)
- Building Act 1991
- various pieces of transport legislation.

There is a formal interaction between the approval processes of the first four acts listed above and the approval process of the HSNO Act. This means that for some hazardous substances and new organisms, parallel approvals will need to be obtained under more than one set of legislation.

1.9.2 Description of related legislation

Below is a summary of how these key pieces of legislation interface with the HSNO Act.

Agricultural Compounds and Veterinary Medicines Act 1997 (ACVM)

The Agricultural Compounds and Veterinary Medicines Act (ACVM) is administered by the Ministry of Agriculture and Forestry (MAF). The Act addresses risks to trade, animal welfare and biosecurity from the use of chemicals as agricultural compounds or veterinary medicines.

Because many agricultural compounds and some veterinary medicines are hazardous substances, the registration process under this Act is coordinated with the approval process under the HSNO Act.

For more information, contact the Ministry of Agriculture and Forestry's ACVM Group.

Biosecurity Act 1993

The Biosecurity Act's objectives are:

- to prevent, through border control, the introduction of unwanted organisms not already established in New Zealand
- to manage unwanted organisms in New Zealand through mechanisms such as pest management strategies.

The HSNO and Biosecurity Acts work together in terms of approval processes. The HSNO Act covers the assessment of new organisms intended for introduction into New Zealand, while the Biosecurity Act covers border control for all organisms that may be imported unintentionally, and for managing pest species already in New Zealand. Another important link between the HSNO Act and the Biosecurity Act is that any containment facilities operated under the HSNO Act must be registered under the Biosecurity Act.

For more information, contact the Ministry of Agriculture and Forestry's Biosecurity Unit.

Food Act 1981

The Food Act is administered by the Ministry of Health. The Food Act, its associated Food Standards and the Australia New Zealand Food Standards Authority (ANZFA) together provide the controls for labelling of food products, including foods that are derived from genetically modified organisms. The Food Act also controls all food sold in New Zealand through standards and regulations relating to what foods are made of, and how they are labelled and packaged.

The HSNO Act sets exposure standards for hazardous substances that may be toxic to humans if swallowed, inhaled or absorbed through the skin. The HSNO legislation amends the Food Act to require the Ministry of Health to consult with the Authority on food regulations, where residues or additives in foods are also hazardous substances under the HSNO Act.

The HSNO Act also sets the controls on the importation, development or field testing of any genetically modified organisms that may be used to create food products.

Some foods may also be hazardous substances (for example, vinegar is mildly corrosive). However, these food products are exempt from the HSNO Act although food additives (eg flavouring agents or preservatives) are not.

For more information, contact the Ministry of Health's Safety and Regulation Branch.

Medicines Act 1981 and Misuse of Drugs Act 1975

The Ministry of Health controls the safe use of substances as medicines and therapeutics under the Medicines Act 1981 and Misuse of Drugs Act 1975. The HSNO Act provides for the Ministry of Health to advise the Authority when consent is given for the use of a hazardous substance or new organism (including genetically modified organisms) as a medicine or therapeutic agent. This will ensure that therapeutic agents and medicines in finished dose form are controlled to a standard equivalent to controls set under the HSNO Act. Accordingly these "finished dose form" medicines are not regulated under the HSNO Act.

For more information, contact the Ministry of Health's Medsafe Branch.

Health and Safety in Employment Act 1992 (HSE)

There is a strong relationship between the HSNO Act and the HSE Act, because hazardous substances are often found in the workplace. Controls set under the HSNO Act must therefore be consistent with the requirements under the HSE Act to avoid, isolate and minimise any hazard in the work place. The HSNO Act provides for the Occupational Safety and Health Service of the Department of Labour to consult with the Authority on making regulations and vice versa.

For more information, contact the Occupational Safety and Health Service of the Department of Labour.

Gas Act 1992

The Energy Safety Service of the Ministry of Consumer Affairs administers the Gas Act. The Gas Act controls safety in the supply and use of fuel gases, such as natural gas and LPG, that are supplied to appliances from containers, installations or distribution systems. (The Act does not, however, control the safety of the containers.)

The HSNO Act controls potentially harmful effects of flammable or toxic gases, including fuel gases. The HSNO Act requires the Energy Safety Service to consult with the Authority on regulations under the Gas Act. The Energy Safety Service, however, remains the regulatory authority responsible for administering controls over the safety and quality of fuel gases under the Gas Act.

For more information, contact the Ministry of Consumer Affairs' Energy Safety Service.

Resource Management Act 1991 (RMA)

The HSNO legislation sets controls on hazardous substances – for example, requirements for identification, labelling and packaging – which apply irrespective of location. In contrast, the RMA allows local authorities to manage the effects of the use of hazardous substances in specific locations in relation to sensitive environments or conditions – for example, schools, hospitals, lakes or earthquake-prone areas.

Sections 30, 31 and 62 of the RMA describe the functions of both regional councils and territorial authorities (city and district councils) in terms of the land use controls for hazardous substances. The Ministry for the Environment published land use planning guidelines for hazardous substances in 2000. These provide the basis for local authorities to develop rules and methods to manage activities involving hazardous substances, including the location of facilities, in relation to land use.

Where a city or district council imposes conditions under the RMA, these may be stricter than but must not be less strict than the minimum requirements under the HSNO Act. For example, the Authority can set national exposure limits for ecotoxic substances in land, air and water using the HSNO Act regulations. Any exposure limit under the RMA cannot be lower than this.

For more information, contact the Ministry for the Environment or your regional, city or district council.

Building Act 1991

The Building Industry Authority administers the Building Act 1991, which provides for building safety. However, any structure or building specifically designed for hazardous substances (eg a bulk storage tank for fuel) does not fall within the scope of the Building Act.

For more information, contact ERMA New Zealand, the Building Industry Authority or your city or district council.

Transport legislation

New Zealand's transport legislation is aimed at the safe operation of air, sea and land transport. The relevant legislation is:

- Civil Aviation Act 1990
- Maritime Transport Act 1994
- Shipping and Seamen Act 1952
- Land Transport Act 1998.

Generally, New Zealand transport legislation follows international transport agreements in terms of managing the safety of transporting hazardous substances. Overall, the minimum requirements under the HSNO Act are consistent with the requirements for land transport of hazardous substances, but the requirements for air and sea transport are more stringent than under the HSNO Act.

The HSNO Act and land transport legislation set consistent controls on identifying and packaging substances, and for the skills that people using these substances must have. However, for some substances there are additional requirements for tracking and handling and storage in transit.

Other statutes

The HSNO Act also overlaps with the Customs Act 1966, the Defence Act 1990 and the Local Government Act 1974. These are not addressed further in this Guide, as they have lesser implications for the wider community.





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1.10 TAKING ACCOUNT OF INTERNATIONAL AGREEMENTS

The HSNO Act also specifically requires those exercising powers under the Act (eg the Authority) to take into account New Zealand's international obligations – of particular importance are those that relate to the protection of the natural, social and cultural environment, the protection of human health and safety, and the protection of trade.



1.10.1 The Trans-Tasman Mutual Recognition Agreement and CER

The 1983 Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA or CER) is a comprehensive trade agreement between Australia and New Zealand. Of particular importance for hazardous substances management is the Trans-Tasman Mutual Recognition Arrangement (TTMRA). The TTMRA commenced on 1 May 1998, and under it goods legally able to be sold in one country are in principle able to be sold in the other.

Hazardous substances currently have a temporary exemption from this agreement while officials consider if it is possible to harmonise the requirements or move to mutual recognition. This exemption can be extended on a yearly basis. A permanent exemption can be granted at any time.

1.10.2 Agenda 21 and the Globally Harmonised Chemical Classification System (GHS)

The 1992 United Nations Conference on Environment and Development (UNCED), also known as the Rio Earth Summit, agreed in Agenda 21 to develop a Globally Harmonised Chemical Classification and Hazard Communication System (GHS). The GHS is a global attempt to develop a harmonised system to protect workers, consumers, the public and the environment from the effects of hazardous substances. To achieve this, the Intergovernmental Forum on Chemical Safety (IFCS) instructed the Inter-Organisation Programme for the Sound Management of Chemicals (IOMC) to develop the GHS.

In 1998, the coordinating group of the IOMC agreed on a technical basis for the system. The GHS is a global attempt to achieve what the hazardous substances part of the HSNO Act is aiming to achieve in New Zealand. The HSNO regulations have adopted the criteria agreed by the coordinating group set up by the IOMC to develop a GHS. This means that New Zealand is one of a few countries which have come close to meeting the target date of 2000 for implementation of the GHS.

1.10.3 The Biosafety Protocol

The focus of the International Biosafety Protocol is the safe transboundary movement of living modified organisms (LMOs). The Protocol has been developed as part of the International Convention on Biological Diversity.

Under the protocol an LMO is any biological entity capable of transferring or replicating genetic materials. Examples of this include any seeds, grains, fruit and vegetables, live animals, non-pasteurised cheeses, microbes, vaccines or modified viruses for gene therapy.

New Zealand signed the Biosafety Protocol on 24 May 2000, thus signalling its intention to be bound in due course by the obligations contained in the treaty. However, formal ratification will not take place until the obligations assumed under the treaty are capable of being met under domestic law.

A preliminary assessment of such obligations indicates that the HSNO will be the primary instrument through which the requirements of the treaty are met.

WHO IS INVOLVED WITH THE HSNO ACT?

SUMMARY

The HSNO Act will affect almost everyone in New Zealand, including:

- administrative, decision-making and enforcement agencies
- people who have to comply with the Act
- people who are interested in hazardous substance and new organism management.

Administrative, decision-making and enforcement agencies The Ministry for the Environment administers the Act. The

Environmental Risk Management Authority (the Authority) is an independent crown agency responsible for making decisions, implementing the Act and coordinating enforcement.

Seven central agencies and all the country's territorial authorities (city and district councils) are responsible for enforcing the Act. Each agency enforces the area for which its existing legislation gives it responsibility; for example, the Occupational Safety and Health Service will enforce the Act in workplaces and the Police Commercial Vehicle Inspection Unit will enforce it in road and rail areas.

The HSNO Act also includes a test certification system. Specialists in hazardous substance management will be able to apply to the Authority to become HSNO test certifiers.



People who have to comply with the Act

Anyone importing or manufacturing a hazardous substance or developing, field testing, or releasing a new organism that is not already legally present in New Zealand must apply to the Authority for approval for that substance or organism.

The Act also imposes a duty on anyone who possesses or uses an approved hazardous substance or manages a new organism in containment to comply with the controls the Authority places on those substances. This includes almost everyone in New Zealand. The HSNO Act therefore applies to all people and organisations involved in the day-to-day use of hazardous substances and of new organisms in containment, even if they do not themselves need to obtain an approval from the Authority.

People who are interested in hazardous substance and new organism management

Maori, and any member of the public, can also play an important role under the Act, through their general right to take part in consultation on the introduction of hazardous substances and new organisms into New Zealand. This includes the right to make submissions on applications before the Authority.

2.1 BACKGROUND

Part III of the HSNO Act explains the powers, functions and duties for government agencies and the general public. The HSNO Act will affect almost everyone in New Zealand, including:

- administrative, decision-making and enforcement agencies
- people who have to comply with the Act
- people who are interested in hazardous substance and new organism management.

This section provides an overview of the roles of a wide range of agencies, organisations and individuals with responsibilities under the new HSNO regime (refer Figure 1).





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2.2 THE DECISION-MAKERS

2.2.1 The Environmental Risk Management Authority

The Environmental Risk Management Authority (the Authority) is an independent regulatory authority that is accountable to the Minister for the Environment and to Parliament. Part IV of the HSNO Act provides for the setting up of the Authority and specifies its various functions. The Minister for the Environment appoints the Authority's eight members, who must have an understanding of hazardous substances or new organisms, their effects and how they are used. The Authority is supported by a technical and administrative organisation called ERMA New Zealand.

The Authority's key tasks are to:

Make decisions

The Authority's decision-making task involves:

- developing a methodology for assessing and deciding on applications for approval for hazardous substances or organisms into New Zealand
- operating a public process to assess and decide on applications for the introduction of hazardous substances and new organisms into New Zealand
- placing controls on the hazardous substance or, where in containment, on the new organism
- maintaining a publicly available register of approvals
- transferring the controls on existing hazardous substances from the old regime to the HSNO Act
- approving test certifiers and codes of practice.

Monitor and report on the effectiveness of the Act

This responsibility requires the Authority to:

- monitor compliance with and enforcement of the Act
- enquire into any incident or emergency involving a new organism or a hazardous substance
- advise and assist the Minister for the Environment on international issues and the Act's effectiveness
- report to Parliament annually on incidents caused by inadequate management of hazardous substances or new organisms, and the extent to which the Act has contributed to the health and safety of people and the environment.

Help people to manage hazardous substances better

This task requires the Authority to:

- maintain and make publicly available information on the effects of hazardous substances and new organisms and controls on them
- promote awareness of the safe management of hazardous substances and new organisms.

Advise on the content of regulations under the Act

This task requires the Authority to:

- consult those likely to be affected by a proposed change in regulations
- advise the Minister on best international practice in relation to an area of regulation.

(NB: the initial set of regulations under the Act was developed (before the Act was in force) by the Ministry for the Environment.) Other organisations that help the Authority are:

- ERMA New Zealand
- Nga Kaihautu Tikanga Taiao (Nga Kaihautu).

ERMA New Zealand

ERMA New Zealand is the organisation that provides administrative support and technical advice to the Authority. It is made up of a Chief Executive and support staff with relevant technical expertise for evaluating and processing applications, administering the public consultation process and acting as the Authority's public interface.

One of ERMA New Zealand's important roles is to evaluate and review applications providing reports that assist the Authority in making decisions. It also plays a key role in screening applications and providing advice and information for potential applicants.

Nga Kaihautu Tikanga Taiao (Nga Kaihautu)

The HSNO Act specifically requires the Authority to take into account the principles of the Treaty of Waitangi when making decisions on hazardous substances and new organisms. In particular, it must consider the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, valued flora and fauna and other taonga.

A special advisory committee, Nga Kaihautu Tikanga Taiao (Nga Kaihautu), has been set up to advise the Authority and ERMA New Zealand on Maori perspectives of applications under the Act. Nga Kaihautu's role also includes advising the Authority and ERMA New Zealand on issues of concern to Maori to do with decision-making.

2.2.2 Institutional Biological Safety Committees

Under the Act, the Authority may delegate some decisions on the importation or development of low risk genetically modified organisms in containment (see Section 4.6.5 of this Guide). This is normally to institutions engaged in research and development work. These institutions must appoint an Institutional Biological Safety Committee (IBSC), which becomes responsible for making decisions.

An IBSC must strictly follow the Act's requirements and the Methodology specified by the Authority (see Section 4.6 of this Guide). This system is very similar to the voluntary system put in place by research institutions in the 1970s and operated until the HSNO was brought into force for new organisms.

2.2.3 The Minister for the Environment

The Crown is subject to the Authority's decisions. The Authority's decision-making function is therefore independent from government influence. However, the Minister for the Environment can call in and decide on an application that the Minister considers to be of national or international significance. In these circumstances, the Authority conducts an inquiry and makes recommendations to the Minister. The Minister may also appoint people with special knowledge to help the Authority in these matters.

Except in the area of decision-making, the Minister may direct the Authority to take certain actions which give effect to government policy – for example, in the area of international agreements.

Other tasks that the Minister carries out include:

- setting priorities for the Authority through the Purchase Agreement
- appointing Authority members.



Hon Marian Hobbs, Minister for the Environment

2.3 THE POLICY ADVISERS

The Ministry for the Environment administers the HSNO Act. It does this by:

- developing and advising the Minister on policy in respect of hazardous substances and new organisms
- preparing and assisting Parliament with amendments to the HSNO Act
- advising the Minister on regulations
- monitoring the activities of the Authority at the direction of the Minister for the Environment
- managing the processes for appointment of the Authority's members.

2.4 ENFORCEMENT AGENCIES

The Authority has the role of supervising enforcement of the Act by the appointed agencies. Although the Authority has the power to undertake enforcement itself, it will only take a direct role in this area in a few special circumstances.

The main task of enforcement agencies is to make sure that the controls placed by the Authority on hazardous substances and new organisms are being complied with. Enforcement agencies are required to do this by:

Making sure they have warranted officers

- Appointing and warranting trained enforcement officers.
- Liaising with each other to clarify and manage potential overlaps and gaps in responsibilities.

Enforcing the Act

- Carrying out compliance checks, including checks on compliance with controls and test certificates issued by test certifiers (refer Section 5.3.6 of this Guide).
- Issuing compliance orders and infringement notices.
- Prosecuting offenders under the Act.

Providing information to the Authority

- Reporting regularly to the Authority.
- Providing information to the Authority if requested.

Helping people to comply with the Act

- Promoting and monitoring compliance with the Act and conditions set by the Authority on approvals.
- Giving advice and information about the provisions of the Act.

Responding to emergencies

Setting up emergency response and callout systems with relevant agencies.

2.4.1 Enforcement at the border

Border control constitutes a special aspect of enforcement under the HSNO Act, as New Zealand's borders are often the entry point for hazardous substances and new organisms that may not have been approved by the Authority. Responsibility for the border control of hazardous substances falls to the New Zealand Customs Service. When it comes to enforcing legislation relating to new organisms at the border, the Ministry for Agriculture and Forestry and the New Zealand Customs Service are jointly responsible under the Biosecurity Act. These activities are discussed in greater detail below.



New Zealand Customs Service

2.4.2 Enforcement relating to hazardous substances

The following enforcement agencies are required to carry out enforcement of the legislation in the specified places:

Agency	Area of Responsibility for Enforcement
Ministry of Health	In all places, to protect public health.
Occupational Safety and Health Service, Department of Labour	In any place of work.
Maritime Safety Authority	On any ship or wharf.
Police and Land Transport Safety Authority	In and on roads, rail and vehicles.
Civil Aviation Authority	On any aircraft or in any airport.
Ministry of Consumer Affairs	In, on or around any gas distribution system, installation or appliance.
Territorial Authorities (city and district councils)	 Responsibilities include: premises not covered by the other agencies (eg private dwellings) the ability to enforce during inspection of land use controls for hazardous substances under the RMA functions transferred by other enforcement agencies dangerous goods during the transitional period of the Act.

Agencies have the option to transfer the enforcement function to another agency if they wish. This means that there may be some changes to the above table from time to time. If you want to know the latest information about which agency is enforcing each area, you can refer to the HSNO web site at http://www.hsno.govt.nz or contact one of the agencies listed in the table above.

2.4.3 Enforcement relating to new organisms

Enforcement of matters relating to new organisms takes place mainly through border control and through control of containment facilities for new organisms. No enforcement mechanisms apply to new organisms once approval has been given for their release, as approvals for release do not have any controls attached (refer Section 4.3.2 of this Guide).



The Ministry of Agriculture and Forestry (MAF) assumes a critical role in enforcing the Act's provisions for new organisms. MAF and the New Zealand Customs Service undertake border control of new organisms, parallel with similar responsibilities MAF has for enforcing the provisions of the Biosecurity Act. MAF also plays a critical role in approving containment facilities for new organisms. Accordingly, most enforcement of controls on new organisms in containment will be by MAF officers either acting under the Biosecurity Act or using HSNO Act powers with the authority of the ERMA.

2.5 TEST CERTIFIERS

The Authority approves people to become test certifiers – that is, individuals approved by the Authority to issue test certificates. Test certificates are documents that show that users of hazardous substances (including people and organisations involved in handling, storing, transporting or disposing of hazardous substances) or equipment and systems used to manage hazardous substances comply with the appropriate controls. Test certificates are issued by specially qualified test certifiers to:

- certify approved handlers of restricted hazardous substances (certificate for approval as a handler)
- certify specific locations, facilities or equipment for handling of hazardous substances (test certificate).

See Section 5.3 of this Guide for more detail on the test certification system.





2.6 APPLICANTS AND SUBMITTERS

2.6.1 Applicants

Anyone who imports or manufactures a hazardous substance or imports, develops, field tests or releases a new organism that has not previously been legally present in New Zealand must apply to the Authority for approval. This affects a range of industries and sectors, such as:

- importers and manufacturers of hazardous substances such as those in the fuel, chemical, paints, fragrance and plastics industry
- the agriculture, horticulture and forestry sectors
- research organisations and scientists involved in genetic modification
- importers of plants and seeds, including nursery operators, commercial growers, gardeners, collectors and researchers
- importers of animals, including zoos, the agriculture sector or research institutes
- the fermentation industry.

Any applicants for hazardous substances or new organisms must prepare a written application to the Authority that follows set guidelines. See Section 4.5 of this Guide for more details.

2.6.2 Submitters

Many types of applications will be publicly notified (eg through notices in major newspapers and ERMA New Zealand's web site). Any member of the public may make a submission on a publicly notified application. Hearings of applications are also open to the public.

The HSNO Act and the Authority's public notification and hearing process provide good opportunities for members of

the public to have input into decisions on applications involving hazardous substances and new organisms.

The Authority must also maintain a public register of applications and publicly notify its decisions and the reasons for its decisions.

The types of application that require public notification are listed in Section 4.6.2 of this Guide.

2.7 USERS OF HAZARDOUS SUBSTANCES AND NEW ORGANISMS

The HSNO Act applies to everyone involved in the day-to-day use of hazardous substances and of new organisms in containment, even if they do not themselves have to obtain an approval from the Authority. "Use" includes activities such as handling, containment, storage, transport, or disposal.

Users of hazardous substances and of organisms in containment must be aware of and comply with the controls on hazardous substances and on new organisms in containment specified in the Act's regulations and the conditions on each approval. These controls are outlined in more detail in Sections 5 and 6 of this Guide.

The controls which apply to each approval are listed in a public register which ERMA New Zealand maintains. Examples of such controls include requirements for labelling, packaging, transport or disposal that are appropriate for specific hazardous substance properties, or requirements for facilities that are used for the containment of hazardous substances or organisms. The public register can be found on the ERMA New Zealand's web site at http://www.ermanz.govt.nz.

In order to comply with the provisions of the HSNO Act, many users will choose to operate in accordance with an approved code of practice. Under the HSNO Act, codes of practice approved by the Authority effectively provide the practical guidance to enable users of hazardous substances to comply with regulations under the HSNO Act. Following a code of practice consistently is considered to be a statutory line of defence in the event of any unforeseen events. For further information about codes of practice, see Section 5.4 of this Guide.

2.8 MEMBERS OF THE PUBLIC AND MAORI

In making decisions on approvals on hazardous substances and new organisms, the Authority must take into account specified matters including the economic, social and cultural well-being of all people and communities in New Zealand and the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, valued flora and fauna, and other taonga. As part of achieving these objectives, the HSNO Act provides for the any member of the public or of the Maori community to become involved with the HSNO Act and with the Authority:

- through the submission and hearing process on applications described in Section 4.6 of this Guide
- by alerting enforcement agencies to any offence being committed
- by requesting reviews and reassessments of hazardous substances and new organisms that are already in New Zealand
- through consultation.

It is also important to remember that most people use hazardous substances in their daily life, including domestic cleaners, pesticides, fuels and so on. If a member of the general public is or becomes a user of hazardous substances or new organisms, the requirements outlined in Section 5.5.5 of this Guide apply.

TRANSITION FROM OLD TO NEW LAWS FOR HAZARDOUS SUBSTANCES

SUMMARY

The new organisms part of the HSNO Act has been fully operational since 29 July 1998. The hazardous substances part of the Act starts from 2 July 2001. However, for a period of at least three years after that date a transitional period will apply for hazardous substances as outlined in Parts XI-XV of the HSNO Act. During this transitional period, the controls which applied under the old legislation on hazardous substances will continue to apply for a time in order to create a smooth transition from the old legislation to the HSNO Act. This transition period will take between three and five years.

This means that in general, it will initially be "business as usual" for most hazardous substance users – they just continue to comply with the old legislation. The same agencies that issued licences and permits under the old legislation will continue to issue and renew these.

During the transitional period, individual substances or groups of substances that were legally in use prior to the Act coming into force will be progressively transferred to the new regime. It is important to understand that as soon as the transfer happens, the controls specified by the HSNO Act start to apply to the particular substances that have been transferred.

Once substances have been transferred to the HSNO Act, the licences, permits and so on required under the old legislation will no longer be needed. Instead, users may need to obtain test certificates to show that they comply with some of the new controls. Because the new organisms part of the Act is fully in force, this section looks only at hazardous substances, including:

- the transitional period for hazardous substances
- the process for transferring control of hazardous substances to the new HSNO regime
- arrangements for transitional licences, permits and approvals
- when the HSNO Act will start affecting people who use hazardous substances controlled under the old legislation.

3.1 THE TRANSITIONAL PROVISIONS OF THE HSNO ACT: AN OVERVIEW

Substances that were already present in New Zealand before the HSNO Act came into force need to be transferred to the new regime under Part X-XV of the Act. As a large number of hazardous substances need to be transferred, this process is expected to take three to five years. In the meantime, it is important that there is a smooth transition from the old to the new legislation. The HSNO Act provides for a transitional period where:

- existing substances that were controlled under old legislation are progressively transferred to the HSNO Act
- the hazardous substances approval and control systems of the repealed legislation continue to operate until the affected substances are transferred to the HSNO Act.

This chapter deals only with hazardous substances, because the new organisms component of the HSNO Act has been fully in force since July 1998 and most of the new organism transition (under Part XVI of the Act) has already happened.

The transitional provisions for new organisms were relatively simple: the various permits issued under the Animals Act 1967, Plants Act 1970 and Biosecurity Act 1993 were deemed



to be approvals under HSNO. For genetically modified organisms, decisions made before July 1998 by the Advisory Committee on Novel Genetic Techniques and the Minister for the Environment were carried forward under the HSNO Act by *Gazette* notice.

3.2 WHAT HAPPENS DURING THE TRANSITION PERIOD?

3.2.1 Initially "business as usual"

The transitional provisions of the HSNO Act provide a mechanism for the orderly transfer of hazardous substances lawfully present in New Zealand to the new HSNO regime. However, initially it is "business as usual" for users of hazardous substances that were previously controlled under old legislation repealed by the HSNO Act.

The old controls on these substances will continue to apply under the transitional provisions in Parts XI–XV of the Act, until these substances are legally transferred to the HSNO regime. The transfer of substances will be progressive and carried out in stages. However, as soon as a substance or a group of substances is transferred to the HSNO Act, the HSNO controls will start to apply.

This means that, for a time, most of the old controls continue to apply to the following hazardous substances:

- pesticides, animal remedies, solvents, cleaning products, paints and so on, previously controlled under the Toxic Substances Act 1979 and the Pesticides Act 1979
- substances controlled under the Explosives Act 1957, such as black powder still used by antique arms enthusiasts or mining explosives or pyrotechnics like emergency signal flares
- substances controlled under the Dangerous Goods Act 1974, such as petrol or LPG.

3.2.2 What controls from repealed legislation continue to apply during the transitional period of the HSNO Act?

Until such time as hazardous substances previously approved under the old legislation are transferred to the HSNO regime, controls from the old legislation will continue to apply. This is further described below.

Dangerous goods

Until dangerous goods are transferred to the HSNO Act, the following regulations (with modifications as set out in the Parts XI and XIV of the Act) will continue to apply during the transitional phase:

- Dangerous Goods (Licensing Fees) Regulations 1976
- Dangerous Goods (Labelling) Regulations 1978
- Dangerous Goods (Class 2 Gases) Regulations 1980
- Dangerous Goods (Class 3 Flammable Liquids) Regulations 1985
- Dangerous Goods (Class 4 Flammable Solids or Substances and Class 5 – Oxidising Substances) Regulations 1985.

Explosives

Until explosive substances are transferred to the HSNO Act, the controls from the Explosives Act (retained in part XV of the HSNO Act) and Explosives Regulations 1959 (with modifications asset out in Parts XI and XV of the Act) will continue to apply.

Pesticides

Existing registrations under the Pesticides Act will remain in force, while new applications to manufacture or import pesticides will be subject to an approval by the Authority under the HSNO Act.



Until pesticides are transferred to the HSNO Act, the following regulations and notices (with modifications as set out in Parts XI and XII of the Act) will continue to apply:

- Pesticides Regulations 1983
- Pesticides (Vertebrate Pest Control) Regulations 1983
- Pesticides (Antifouling Paints) Order 1989
- Pesticides (Bacterial and Fungal Preparations) Order 1984
- Pesticides (Organotin Antifouling Paints) Regulations 1993
- Notice exempting Pesticides from Registration (Gazette 1991, Volume III)
- Specification of countries from which unregistered pesticides may be imported for own use (Gazette, 1992, Vol III).
- Agricultural Chemicals (2,4,5-T Specification) Notice 1973
- Agricultural Chemicals (Paraquat Specification) Notice 1979.

Toxic substances

Until toxic substances are transferred to the HSNO Act, the Toxic Substances Regulations 1983 will continue to apply, with some modifications (see Parts XI and XXIII of the Act).

Existing approvals for scheduled poisons (deadly, dangerous and standard poisons, and harmful substances) and toxic substances notified under section 32 of the Toxic Substances Act 1979 (refer Section 3.5 of this Guide) will be carried over into the transitional phase.

3.2.3 How can you get an approval during the transitional period?

During the transitional period of the HSNO Act, people will need to continue to apply for or renew their existing licences and permits for hazardous substances. These licences will cease to exist once the various substances approved under repealed legislation are transferred to the HSNO Act.

In the meantime, the same agencies remain responsible for issuing licences and permits required under the old legislation, although the Authority becomes the legal decision-maker. This approach is being taken so that there is minimal disruption to people with current approvals.

To achieve this goal, ERMA New Zealand has set up Memoranda of Understanding with the various agencies historically responsible for the approvals. How this will work is further described below.

Dangerous goods

Territorial Authorities (TAs) are responsible for renewals of existing dangerous goods licences. While the Authority is responsible for approving new dangerous goods licences, it is negotiating with TAs to delegate power to process these.

The Occupational Safety and Health Service of the Department of Labour will also continue to receive, process and evaluate applications requiring approval by a Chief Inspector under the repealed Dangerous Goods Act.

Explosives

Based on a Memorandum of Understanding with ERMA New Zealand, the Occupational Safety and Health Service of the Department of Labour will continue to receive, process and evaluate applications for:

- importing, manufacturing, sale, storage and carriage of explosives
- importation, sale and testing of fireworks
- public fireworks displays.

Pesticides

Under the Memorandum of Understanding with ERMA New Zealand, the Ministry of Agriculture and Forestry continues to receive, process and evaluate applications for:

- licences for vertebrate pest controls
- variations of the terms and conditions of existing licences
- sales of pesticides in bulk
- advertisements
- labelling
- reviews and revocations of registrations.

The Authority instead of the Pesticide Board will make decisions on approvals for pesticides.

Toxic substances

Based on a Memorandum of Understanding with ERMA New Zealand, the Ministry of Health will continue to receive, process and evaluate applications for:

- licences to sell, hawk and package toxic substances
- designs of containers of poisons
- conditions for the disposal of containers of poisons
- labels for and storage of toxic or corrosive substances
- importation of crayons or children's water paints
- sale of poisons
- lead carbonate exemptions
- importation, storage or use of any PCB (polychlorinated biphenyl).

Contact ERMA New Zealand if in doubt

If you are uncertain about which agency to contact for the various approvals, ERMA New Zealand can point you in the right direction.

3.3 THE PROCESS FOR TRANSFERRING HAZARDOUS SUBSTANCES

The process that ERMA New Zealand adopts for transferring hazardous substances from repealed legislation to the HSNO regime covers two main substance groups:

- substances that were assessed and listed, licensed, permitted or otherwise specifically regulated under the old law
- substances which have not been assessed in the past notified toxic substances (NOTs).



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Assessed substances

Assessed substances are those that have been formally approved under repealed legislation, including the:

- Explosives Act 1957
- Dangerous Goods Act 1974
- Toxic Substances Act 1979
- Pesticides Act 1979.

Notified toxic substances (NOTs)

Notified toxic substances (NOTs) are those that have been notified to the Ministry of Health under the Toxic Substances Act 1979 but have not been assessed. ERMA New Zealand manages these notifications on behalf of the Ministry of Health.

Over 120,000 notifications have been received, so the task of transferring NOTs is expected to take at least three years.

Licensed Animal Remedies are being treated as a special category of notified substance because they are not explicitly covered in the HSNO transitional provisions unless they are scheduled Toxic Substances. ERMA New Zealand is transferring the above substances by a staged process, starting with dangerous goods and explosives first, followed by pesticides and toxic substances.

In this process each substance is classified according to the controls specified by the HSNO Act (refer Section 5 of this Guide). This classification must take into account the controls under the old legislation. Regulations are then drafted declaring that these hazardous substances have been assessed, classified and approved by the Authority and are therefore legally transferred to the HSNO Act.

Existing substances that are not hazardous according to regulations under the HSNO Act do not need to be transferred.

The anticipated sequence of events for the hazardous substances transfer project is shown in the table below. This process will be based on a transfer strategy prepared by ERMA New Zealand. Both the strategy and details of the transfer project can be found on ERMA New Zealand's web site at http://www.ermanz.govt.nz.

Group of substances	Controlling legislation	Estimated transfer date
Dangerous goods and explosives	Dangerous Goods Act Explosives Act	First and second year of the transition
Pesticides and animal remedies	Pesticides Act Animal Remedies Act	Second and third year of the transition
Toxic substances with approvals	Toxic Substances Act	Third year of the transition
Toxic substances on notified toxic substances list (without existing approvals)	Toxic Substances Act	Third and possibly fourth year of the transition

3.4 WHAT IF SUBSTANCES YOU USE WERE NOT IN NEW ZEALAND BEFORE THE HSNO ACT?

The HSNO Act will have immediate effects on people who introduce or use hazardous substances that were not legally present in New Zealand before 2 July 2001. The use of such a substance will be illegal until the Authority has approved it (refer Section 4 of this Guide).

3.5 HAZARDOUS SUBSTANCES LEGALLY PRESENT IN NEW ZEALAND BEFORE THE ADVENT OF THE HSNO ACT

Any hazardous substances present in New Zealand before the start of the hazardous substances part of the HSNO Act are considered to be legally present if:

- they are covered by any of the schedules of the old legislation (Acts or their Regulations) listed in Section 3.2.1 of this Guide. The ERMA New Zealand Transfer Project team has a comprehensive list of these substances
- they are notified substances under the old Toxic Substances Act 1979. ERMA New Zealand holds this list on a database.





How to find out more

If you need to know more about the transitional provisions for hazardous substances, ask ERMA New Zealand or the Ministry for the Environment for a copy of:

- ERMA New Zealand Information Sheet No. 6: *Transfer of substances under the HSNO Act*
- ERMA New Zealand Information Sheet No. 5: Transfer of licensed animal remedies under the HSNO Act
- Ministry for the Environment Information Sheet No. 10: *How will the changeover take place?*

or visit the ERMA New Zealand's web site at

http://www.ermanz.govt.nz or the Ministry for the Environment web site (HSNO part) at http://www.mfe.govt.nz/about/

laws/hsnoact.htm to get copies of this information.

YOUR GUIDE TO THE HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996

UNDERSTANDING THE APPLICATION PROCESS



New Zealand Customs Service



SUMMARY

With a few exceptions, the introduction of hazardous substances and new organisms into New Zealand without approval from the Environmental Risk Management Authority is illegal. This section outlines:

- the different types of approval
- what applicants need to know about preparing an application to import or manufacture a hazardous substance or import, develop, field test or release a new organism
- what submitters need to know about making a submission on an application
- how the Authority makes its decisions
- hearings, from the perspective of applicants and submitters
- how long it takes to get an approval
- what happens when applications are declined
- reassessing of approvals.

4.1 OVERVIEW

The HSNO Act explicitly prohibits the introduction of hazardous substances or new organisms that are not already legally present in New Zealand without approval from the Authority (section 25 of the HSNO Act). To get approval, people need to make a written application to the Authority. The application and approval process for hazardous substances and new organisms needs to follow a set procedure laid out in the HSNO Act. In deciding on the application the Authority must use a methodology developed by the Authority and approved by the Government (see section 9 of the HSNO Act). This involves assessing the risks, costs and benefits of a hazardous substance or new organism, public consultation and hearings, as well as how the Authority makes and notifies its decisions.

The Authority, together with its staff within ERMA New Zealand, has prepared extensive materials to guide people through the processes. This chapter covers some of this material in summary. A bibliography containing references to this guidance material is contained in Section 10 of this Guide.

4.2 WHAT NEEDS AN APPROVAL UNDER THE HSNO ACT?

Part V of the HSNO Act describes the kinds of approvals that the Authority may grant under the Act. Different approvals are required, depending on whether the substance or organism is to:

- be released or kept in containment
- be kept for use in an emergency
- pass through New Zealand (transhipment).

While hazardous substances can be prohibited from New Zealand by not having an approval under the HSNO Act or by inheritance from the old legislation this can be changed by reassessment (see Section 4.7 of this Guide). On the other hand some organisms are completely prohibited from New Zealand. The Authority will not accept an application for these.

Prohibited substances

Substances prohibited under the HSNO Act include those prohibited under the repealed Toxic Substances Act 1979.

Prohibited organisms

The HSNO Act specifically prohibits the importation, development, field testing or release of a range of organisms that present a particular danger to New Zealand, for example, snakes and beavers.

A full list of prohibited organisms is in Schedule 2 to the HSNO Act. The Minister for the Environment may, by regulation, add further organisms to the list. However, organisms can only be taken off the list by Act of Parliament.

4.3 TYPES OF APPROVALS

4.3.1 Hazardous substances

The use of or making of a hazardous substance in any situation outside a research and development or laboratory situation (see Section 4.4.1) requires an approval under the HSNO Act.

Approval for the release of hazardous substances

Anyone wanting to import or manufacture a hazardous substance for release (ie for general use outside a containment situation) in New Zealand must file an application for approval by the Authority.

Approval for hazardous substances in containment

Anyone proposing to import a hazardous substance into containment, or to manufacture a hazardous substance in containment, must file an application for approval by the Authority. The Authority grants these types of approvals mainly for research and emergency situations.

4.3.2 New organisms

Approval for the release of new organisms Anyone proposing to:

- import a new organism for release
- release a new organism from containment

must file an application for approval by the Authority.

Approval for a new organism in containment

The Authority may approve the importation, development or field testing of new organisms in containment in the following cases:

- the development of any genetically modified organism
- the field testing of any new organism, for example, genetically modified crops or biological control agents
- maintaining a new organism for use in an emergency
- the conservation of any genetic material
- the public display of any organism, for example, in a circus or zoo
- maintaining a new organism in containment to produce such things as antigens, biopharmaceuticals, enzymes, hormones or vaccines for release
- maintaining new organisms in containment for diagnostic purposes
- other similar purposes.



Some terms explained

"Containment" means restricting an organism or substance to a secure location or facility to prevent escape; and, for genetically modified organisms, includes field testing and large-scale fermentation.

"Development", in relation to new organisms, means genetic modification of any organism, but does not include field testing.

"Release" means:

- in relation to hazardous substances, the normal day-today use of the substance
- in relation to new organisms, allowing the organism to move within New Zealand free of any restrictions other than those imposed in accordance another law such as the Conservation Act 1987.

"Field test", in relation to a new organism, means the carrying on of trials on the effects of the organism under conditions similar to those of the environment into which it is likely to be released. Such trials must be carried out in such a way that the organism never escapes into the environment or affects other organisms and all the examples of the organism are either retrieved or destroyed at the end of the test.

To find out more ... See the ERMA's guidance material on small-scale laboratories (document being revised at time of writing).



4.3.3 Emergency use

There is a special group of substances and organisms that may only ever be used in a foreseeable emergency. In these cases, the Authority can approve the importation, release or use of a hazardous substance or new organism for emergency use only.

The only exception to this is if the use of the hazardous substance or organism in the emergency, or the emergency itself, could not have been foreseen.

4.3.4 Transhipments

Under the HSNO Act, transhipment is defined as the importation into New Zealand of a hazardous substance or new organism solely for the purpose of export within 20 working days to another destination outside New Zealand.

Transhipment of a hazardous substance or new organism through New Zealand needs an approval under the HSNO Act.

+.4 WHAT DOES NOT NEED AN APPROVAL UNDER THE HSNO ACT?

The HSNO Act provides few exemptions from the requirement to obtain approval from the Authority for a new hazardous substance or new organism (sections 3, 33 and 49 of the Act), including the:

- use of hazardous substances in small-scale laboratories or similar research and development activities
- use of hazardous substances or new organisms in an emergency
- use of hazardous substances by the New Zealand Defence Force.

4.4.1 Use of hazardous substances in small-scale laboratories

Why exempt small-scale laboratories?

As long as a small-scale laboratory meets the requirements specified in regulations to the Act, the use or creation of a new hazardous substance in a small-scale laboratory or a similar research and development activity does not have to have an approval from the Authority (unless the Authority has previously declined the substance).

This might include:

- synthesising small quantities of novel hazardous substances, provided that no hazardous substances are created for which any application for approval has been declined under the Act
- using unapproved substances when investigating new processes or procedures
- use as analytical standards
- teaching in laboratories
- industrial new-product development, provided the products developed are not sold.

What is a small-scale laboratory?

The Act describes a laboratory as:

a vehicle, room, building or other structure set aside and equipped for scientific experiments or research, for teaching science, or for the development of chemicals or medicinal products.

This Act also includes any other facilities or activities associated with the operation of, or supply to, a small-scale laboratory (including importing hazardous substances).

There is no legal definition of "small-scale", although the Authority has referred to the size of individual packages of hazardous substances kept for use in a laboratory as described in the Australian Standard AS2243:10 (1993).

4.4.2 Unforeseen emergency use of hazardous substances or new organisms

Unforeseen circumstances

The planned import or manufacture of a hazardous substance or new organism for use in an emergency response must be approved under the HSNO Act (see Section 4.3.3 of this Guide).

However, approval is not needed if the emergency or the need for the use of a hazardous substance or new organism in the emergency could not have been predicted.

4.4.3 Use of hazardous substances by the Defence Force

The HSNO Act does not apply to the New Zealand Defence Force

The HSNO Act generally binds the Crown and its representatives, except for the New Zealand Defence Force, in relation to hazardous substances that are controlled by the Minister of Defence and contained in any weapons' systems. The Chief of the Defence Force must nevertheless develop codes of practice that comply with certain of the Act's regulations.

4.5 APPLYING FOR AN APPROVAL UNDER THE HSNO ACT

The procedure for assessing and deciding on applications for hazardous substances and new organisms is outlined in Sections 52–73 of the HSNO Act. In applying for an approval under the HSNO Act, the key steps are as follows:

- Contact the Authority to check what you need to do, or even if you need to obtain an approval.
- Find out if you need any other approvals (eg under the Agricultural Compounds and Veterinary Medicines Act).

- Prepare an application, including an assessment of risks, costs and benefits.
- Carry out consultation with stakeholders as required.
- Lodge the application along with the application fee.

If ERMA New Zealand judges there is not enough information, it will suspend your application and ask for further information (refer Section 4.6.1 of this Guide).

ERMA New Zealand's application forms contain more detail on the information required for each type of approval.

4.5.1 Before applying – where to begin

Where to start

If you want to introduce a hazardous substance or new organism into New Zealand, you must be fully familiar with the kinds of approvals required, and the application and assessment process that the Authority prescribes.

You can improve the chances of the success of your application by contacting ERMA New Zealand staff before lodging it, so it can:

- tell you if an application is needed
- advise on the type of approval required
- provide forms and guidance
- help identify scientific, technical and risk management issues at an early stage
- discuss the nature and detail of supporting information required
- identify the need for consultation
- help you and any interested parties prepare your application and take part in the approval process
- promote the efficient processing of applications.
Do your homework

Before you lodge an application, ERMA New Zealand recommends that you check out several questions to prevent unnecessary costs and delays further down the track. The checklist below can be used as a starting point when you start preparing your application.

Pre-application checklist

- Does the hazardous substance or new organism you want to introduce into New Zealand need approval by the Authority?
- Have you identified which type of approval you require?
- Do you need any other approvals in addition to the Authority's approval?
- Have you seen the guidance material that the Authority has prepared to help applicants?
- Do you need to consult with other people in the community?
- Have you identified the nature and scope of information you need to supply with your application?
- Do you have copies of the appropriate application forms?
- Have you checked the likely timeframe for the application and the likely fees and costs involved?

4.5.2 Do you also need approval under other legislation?

Parallel approvals

The HSNO Act is not the only legislation that applies to the introduction of hazardous substances and organisms into New Zealand. In some cases, approval will be needed from more than one agency. You will need to find out if you also need other, parallel approvals under separate legislation from other agencies. For example:

- Agricultural chemicals also need approval from the Ministry of Agriculture and Forestry under the Agricultural Compounds and Veterinary Medicines Act
- Importation of new organisms into New Zealand also requires an Import Health Permit from the Ministry of Agriculture and Forestry under the Biosecurity Act.

For more information on these other pieces of legislation, refer to Section 1.9 of this Guide.

4.5.3 Making an application

What will you need to provide to the Authority when making an application?

In making an application to the Authority, applicants will need to provide a completed application form, supporting information and an initial application fee.

To ensure success, applicants need to support their case with sound information. The detail of information required varies between applications, depending on the significance of the issues and risks they raise. Generally, the more significant the risks and potential adverse effects, the more detail is needed.

The checklist below gives a summary of the information applicants must put together when making an application to the Authority.

Assessing the risk of your substance or new organism

The Authority bases its decisions on applications for approval of hazardous substances and new organisms largely on an evaluation of risks, costs and benefits. A thorough evaluation of these is therefore an essential part of any application, including:

- a comprehensive identification of foreseeable risks, costs and benefits
- an assessment of these risks that is appropriate to their significance
- an assessment of how significant risks can be managed.

What is risk and how does one assess and manage risks?

Risk is the likelihood of something unexpected or undesirable occurring, and the likely severity of the consequences if it occurs. Risk assessment is the process of analysing the situation where adverse consequences are known or suspected, and evaluating possible options or actions. The acceptability of risk is based on an evaluation of the likelihood of possible adverse effects compared with anticipated environmental and economic benefits. Applications for an approval must show that it is possible to effectively manage the environmental and health risks of hazardous substances or new organisms in containment before they are allowed to be introduced into New Zealand.

Consulting others on your application

The application and approval process for hazardous substances and new organisms under the HSNO Act allows for a significant amount of input from the public. In many cases, applications will be publicly notified (see Section 4.6.2 of this Guide) to give members of the public an opportunity to make submissions and attend hearings.

Prospective applicants must be aware of the need for consulting relevant stakeholders including Maori as Treaty partners when preparing an application. The Authority, in assessing and deciding on applications, will take into account the adequacy of consultation between the applicant and affected stakeholders.



Your application checklist

In making an application to the Authority, you need to provide:

- a completed application form
- supporting information
- an initial application fee.

To ensure the success of your application, you need to support your case with sound information, including:

- unequivocal identification of the hazardous substance or new organism
- an identification and assessment of its possible risks, costs and benefits
- an assessment of its potential adverse effects on the environment and public health, including social and cultural effects.

4.5.4 Checking and submitting your application

Applications to the Authority are submitted to ERMA New Zealand. Before submitting your application to ERMA New Zealand, you need to check that it is complete, including application forms, supporting information and initial application fee.

For complex applications, it may also be advisable to arrange an external peer reviewer to ensure that the information provided meets the Authority's requirements and is technically defensible.

ERMA New Zealand will review drafts of applications to ensure that they are complete and include the necessary information. ERMA New Zealand urges applicants to liase with its staff before the application is finalised in order to make the process more efficient.



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4.5.5 Confidentiality of information

Will commercially sensitive information be protected?

Every application for a hazardous substance or new organism must be placed on the Authority's public register and, for publicly notified applications, the Authority must make available a summary of the effects of the substance or organism for potential submitters. However, the Act recognises that in some instances, information supporting an application is commercially sensitive.

In the interest of applicants, the Authority will keep information that is commercially sensitive confidential, in accordance with the requirements of the Official Information Act. In considering whether information should be kept confidential, the Authority's prime objective is to protect the environment, and the health and safety of people and communities. Keeping information confidential is thus only possible where this does not affect the validity and integrity of any information about the possible risks and adverse effects of a proposed hazardous substance or new organism. This part of the information must be fully accessible to the public.

Commercially sensitive information in applications should be clearly identified as such, and should be extracted into a separate document.

4.5.6 Fees and charges

How to find out more

If you want more information on the application process you can:

- Obtain application forms and guidance material by visiting ERMA New Zealand's office, or downloading them from ERMA New Zealand's web site: http://www.ermanz.govt.nz
- Browse the bibliography at the end of this Guide for additional useful references

If you want to know more about assessing risks, costs and benefits, ask ERMA New Zealand for a copy of:

- ERMA New Zealand: *Technical guide to identifying risks* ER-TG-01-1 9/99
- ERMA New Zealand: Technical guide to risks, costs and benefits ER-TG-03-17/00
- ERMA New Zealand: Technical guide to risks to human health ER-TG-02-1 12/99

If you want to know more about consultation, ask ERMA New Zealand for a copy of:

- ERMA New Zealand: Taking account of Maori perspectives. Revised Protocol No 1, Series 2
- ERMA New Zealand 2000. *Technical guide to ethical guidelines: Taking account of cultural, ethical and community issues*. ER-TG-04-1 8/00
- ERMA New Zealand 1999: User guide to working with Maori under the HSNO Act 1996
- ERMA New Zealand 1999: Consultation policy on Part V applications ER-GP-01-1 4/99

Under the HSNO Act, the Authority can recover application costs. You can therefore expect to pay for a significant part of the actual costs incurred by ERMA New Zealand to process your application. ERMA New Zealand publishes a schedule of fees and charges and updates it annually. This

How ERMA New Zealand charges for its services

schedule is on its web site.

ERMA New Zealand generally does not start charging until you lodge your application. You then also pay at a standard hourly rate for any consultation with ERMA New Zealand staff during the pre-application phase. You are also expected to pay for any consultation if you withdraw your application.

The Government has committed to subsidise the application process until 2002, so there is a partial discount on application costs before then.

4.6 ASSESSING AND APPROVING APPLICATIONS UNDER THE HSNO ACT

Figure 2

4.6.1 What happens once an application has been received?

Once ERMA New Zealand has received an application, its staff check that the application is complete and supported with adequate information. If it is not, ERMA New Zealand may ask for more information from the applicant.

Processing of the application then stops until the applicant has responded and enough information has been provided.

Once ERMA New Zealand has the information it requires, it publicly notifies the application (if required) and prepares an Evaluation and Review report. This report is forwarded to the Authority, together with the application itself and any submissions. The main purpose of the Evaluation and Review report is to audit and review the information gathered together by the applicants and the submitters.

Depending on the type of application, ERMA New Zealand and the Authority adopt different processing pathways. These are shown in Figure 2 and are discussed further in Section 4.6.2 of this Guide.

PRE-APPLICATION DISCUSSION **Application lodged Requires** further information (application to ERMA New Zealand Reassessment be re-lodged or lapses) Request Accepted Preliminary Verification Path 1 Path 4 Path 2 Path 3 10 30 10 10 Non-notified Consideration Rapid Assessment **Public Notification Public Notification** 15 15 30 30 \mathbf{T} T ▼ Decision **Decide and Notify Decision** Submissions Submissions Path 1: ERMA New Zealand may Containment application: commission further work (s.58) import/manufacture hazardous substance hearing postponed 30 30 import/develop new organism 10 days pre-circulation to field test non-genetically modified organism applicants/submitters Path 2: genetically modified organism development in containment (low risk) ▼ new organism release (non-genetically modified organism) (low risk) Authority's Inquiry Hearing/Consideration import/manufacture hazardous substance (low hazard or similar substance) Path 3: hazardous substance and new organism for release ASAP field test genetically modified organism hazardous substance or new organism for emergencies **Authority Decides and** V import/develop genetically modified organism in containment **Publicly Notifies Decision** Authority's Report (optional) Path 4: Minister's call-in 20 Minister Decides and NOTE: The Authority will convene KEY: within 20 working days, etc. 20 **Publicly Notifies Decision** pre-hearing meetings where possible

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Processing pathways and timeframes

4.6.2 How the Authority processes applications

In processing applications (including reassessments), the Authority follows one of four main pathways:

- standard notified applications
- standard non-notified applications
- rapid assessments
- Ministerial call-ins.

If an application may be notified it follows either the standard notified or non-notified applications pathway depending on whether or not the Authority decides to notify.

Each of these processing pathways has a different level of scrutiny and consultation, depending on:

- the type of application
- the significance of its risks, benefits and costs
- the perceived level of national or international significance.

Standard notified applications Public input

One of the fundamental objectives of the HSNO Act is to involve the public in decisions on introducing hazardous substances and new organisms, particularly where the environmental risks are deemed to be significant. The standard notified application process allows such applications to be publicly notified and for the Authority to build public input into its decision-making process.

Public notification

Public notification means advertising an application so that people can make submissions on it. ERMA New Zealand handles public notifications on behalf of the Authority and notifies applications in the newspapers or using another similar procedure which it has publicly advertised, on its web site and in *The Bulletin*, the Authority's formal record of applications and decisions. *The Bulletin* is available both on the web site (http://www.ermanz.govt.nz) and in print for free. ERMA New Zealand also maintains a database of people who have an interest in particular types of application and will automatically notify these people.

The types of applications that will follow the standard notified decision path are summarised below.

Standard notified applications

Standard notified applications must always be publicly notified. Under the HSNO Act, these are applications to:

- import or manufacture any hazardous substance for release
- import any new organism for release (other than those approved by rapid assessment as summarised below)
- ie. lease any new organism from containment
- field test a genetically modified organism
- import, release, or use a hazardous substance or new organism in an emergency.

Applications that may be notified

Where the Authority considers that there is likely to be significant public interest, it may also publicly notify any application to:

- develop a genetically modified organism in containment.
- import into containment a new organism that is not a GMO.



Standard non-notified applications

Standard non-notified applications

Standard non-notified applications do not have to be notified by the Authority. Under the HSNO Act these are applications to:

- import into containment or to manufacture in containment any new hazardous substance
- import into containment or develop in containment any new organism, including genetically modified organisms
- field test a new organism which is not a genetically modified organism
- tranship a hazardous substance or new organism.

There is generally no opportunity for public submissions on non-notified applications. While either the applicant or the Authority can request a hearing, this is expected to be rare.

Rapid assessments

What are rapid assessments?

The Act provides for a rapid decision path for certain types of applications that are considered to be of low risk.

These rapid assessments can be used only for applications that meet specified low-risk criteria and that are for:

- the importation for release of a new organism that is not a genetically modified organism
- the development of a genetically modified organism in containment
- specific hazardous substances where the substance is either of low hazard or similar to an already approved hazardous substance.

Criteria for rapid assessments – new organisms

The Act specifies the low-risk criteria that must be met by applications to import organisms that are not genetically modified into containment in order to qualify for a rapid assessment. These criteria include the following:

- The organism must not be defined as an unwanted organism under the Biosecurity Act 1993
- It must be very improbable that, after release, the organism:
 - could form a self-sustaining population anywhere in New Zealand or be difficult to eradicate; or
 - could displace or reduce a valued species; or
 - could cause deterioration of existing habitats.
- The organism must not:
 - be a parasite, or cause or help the spread of diseases unless this is intended
 - have adverse effects on human health and safety or the environment.

An application that meets the criteria for a rapid decision path must also meet a number of minimum standards that are aimed at managing any low-level risks presented by the new organism.

Criteria for rapid assessments - hazardous substances

The Act specifies the low-risk criteria that must be met by applications to import or manufacture hazardous substances in order to qualify for rapid assessment. These criteria are in section 28A of the Act and are:

- that a hazardous substance having similar composition and similar hazardous properties has been approved
- the hazardous properties of the substances are all of the least degree of hazard.





Ministerial call-in

What is a Ministerial call-in?

The Minister for the Environment can call in an application if he or she thinks the application in question is of particular significance nationally or internationally.

When this happens, the Authority will continue to process the application, but instead of making a decision, it conducts an inquiry and prepares a report of recommendations to the Minister, who then makes the decision and publicly notifies it.

4.6.3 The submission process

Who may make a submission?

Anyone may make a submission on an application for a hazardous substance or new organism that has been publicly notified by ERMA New Zealand.

Your submission checklist

Your submission must be in writing and state:

- the reason you are making the submission
- whether you want to be heard at a hearing of the application
- your name and contact details.

Other information included in a submission may include more details on:

- risks
- costs and benefits
- what decision you want the Authority to make on it
- how you have interpreted the technical information
- what consultation you have done with other stakeholders.

How can you find out about new applications?

To find out what new applications have been lodged:

- Check ERMA New Zealand's web site listing of applications.
- Visit ERMA New Zealand's offices in Wellington.
- Phone, fax or e-mail ERMA New Zealand and ask for summary information to be sent out to you.
- If you have a particular interest in specific types of application, ask ERMA New Zealand to advise you of these.
- Read *The Bulletin*, the Authority's formal record of applications and decisions. *The Bulletin* is available both on the web site (http://www.ermanz.govt.nz) and in print for free. Anybody can ask to be put on the mailing list.

How can you contact ERMA New Zealand?

There is more information about how to contact ERMA New Zealand and other information sources in Section 9 of this Guide.

Making your submission

Before you decide to lodge a submission, you should carefully review the information supporting an application and talk to both ERMA New Zealand staff and the applicant to clarify any issues and technical points.

You must make your submission to the Authority on a specific application within 30 working days of it being publicly notified.

This checklist will help you prepare your submission.

Preparing your submission

It is important to prepare your submission carefully, because the Authority will give it the same scrutiny as it does to the application. Your submission should thus contain information that will contribute to the Authority's decisionmaking process.

Even if your information is non-scientific and focused perhaps on cultural or other values, it is still important to develop a well-founded argument for the Authority to follow.

Requesting a hearing

All submitters have a right to be heard at a hearing. You must indicate whether you request a hearing when you make your submission. However, you are encouraged to explore all practicable means of investigation and consultation with the other parties before asking for a hearing. As a submitter, you can withdraw a request for a hearing at any stage.

Attending a hearing

Like applicants, submitters are expected to circulate any information and evidence to the other parties before the hearing, so everyone can read them beforehand.

As a submitter, you may attend the hearing or call a witness, but are not obliged to do either. If you attend, you may be questioned by the committee chairperson, and, if permitted by the chairperson, also by the other parties.

In some instances, you may be invited to attend a prehearing meeting. These informal meetings provide an opportunity to address or better define issues before (and perhaps instead of) a hearing. Generally, the applicant bears the chargeable costs of the hearing, with submitters and other people attending bearing their own costs of attendance but not paying any other approval fees or charges. However, if a submitter has asked for a hearing on grounds that the Authority considers unfounded or frivolous, the Authority may charge some or all of the hearing costs to the submitter or submitters in question.

Section 6.4.4 of this Guide gives more information about how hearings are conducted.

Finding out about decisions

The decision on every application is notified in several ways. For each application, ERMA New Zealand will:

- notify the applicant and submitters in writing of the decision made
- publicly notify the decision in the major newspapers and *The Bulletin*, which is also on ERMA New Zealand's web site.

4.6.4 Holding hearings

When will an application be heard?

The Authority will arrange a public hearing for a notified application if:

- the Authority considers it necessary
- it is requested to by either an applicant or a submitter.

Where will the hearing be held?

Most of the Authority's hearings are held in Wellington where the ERMA New Zealand offices are, though in special circumstances, they may be held in other places.



When will the hearing be held?

A hearing must be arranged within 25 working days of the closing date for submissions, except where an extension of time is acceptable to all parties or the Authority considers it beneficial.

ERMA New Zealand has to give at least 10 days' notice to all parties of the date, venue and time of the hearing. It will also send out its Evaluation and Review Report on the application to the applicant and to submitters who have asked to be heard.

How will the hearing be conducted?

The Authority encourages hearings to be conducted in a style that is open, accessible and accommodating to all parties.

The primary objective is to enable all parties to be heard, and for the Authority to form a full picture of all the issues, risks, costs and benefits before making a considered decision on a particular application.

Most hearings are conducted by committees of Authority members. Hearing committees may also comprise people who are not members but are included because of their expertise in technical issues or matters Maori. Only in rare cases where a particular application raises significant issues and public interest would all eight appointed members of the Authority conduct hearings.

Tikanga Maori

In line with the recognition of the principles of the Treaty of Waitangi by the HSNO Act, the Authority recognises **Tikanga Maori**. Therefore, any person may speak Maori at a hearing, though they are asked to give notice of this so that an interpreter can be arranged.

What preparation is needed for a hearing?

Before a hearing, all parties are expected to:

- pre-circulate material they want to present at the hearing
- have read ERMA New Zealand's Evaluation and Review Report, the supporting information provided by the applicant and any submissions.

What records are kept of the proceedings?

ERMA New Zealand keeps a summary record of all hearing proceedings, including copies of supporting information. This is backed up by tape recordings.

4.6.5 How does the Authority make its decisions?

Section 9 of the Act requires the Authority to develop a methodology approved by Order in Council to use when assessing and making decisions on applications. The Methodology Order was approved in 1998 and is contained in a document titled *Hazardous Substances and New Organisms Methodology Order 1998*.

The Authority uses a range of criteria in deciding on an approval for hazardous substances and new organisms, depending on the type of approval that it is assessing. The criteria that the Authority uses in this context are specified in Part V of the HSNO Act, and also described in the supporting information that ERMA New Zealand has produced.



What decision-making method is used by the Authority?

The Authority has developed its assessment and decisionmaking procedure in consultation with a wide range of stakeholders. This methodology is based on the following three principal components:

- HSNO Act
- general guiding principles, policies and processes outlined in the Methodology Order
- an annotated version of the methodology and a set of protocols. These protocols are working documents that are reviewed and occasionally updated in line with developing experience and precedents (see Section 10 of this Guide).

What the Authority must take into account

The HSNO Act and the methodology prescribe the matters the Authority must consider when making decisions on applications. Specifically, the Authority must evaluate risks, costs and, where applicable, benefits, based on:

- the nature and characteristics of the substance or organism
- the applicant's assessment and, where applicable, proposals for managing the risks concerned
- any submissions received
- the reviews prepared by ERMA New Zealand or an appointed external expert
- matters arising at a hearing (if publicly notified).

Guiding principles

The guiding principles the Authority follows in making decisions are described in detail in its methodology and focus on:

- the availability of relevant information
- applying recognised concepts of risk
- balancing risks, costs and benefits
- dealing with uncertainty related to scientific and technical information
- matters related to the confidentiality of information
- the acceptability of information from other processes and agencies, including international sources
- applicable controls.

Making decisions and selecting appropriate controls

In deciding on an application, the Authority will also decide what controls need to be placed on the hazardous substance or new organism in containment to ensure that its hazards, effects and risks are managed appropriately.

New organisms that are to be released, as opposed to kept in containment, do not have any controls attached to their approval.



How to find out more

If you want to find out more about the Authority's methodology and protocols, there is a wide range of information that you can access. Most of it can be requested from ERMA New Zealand or downloaded from ERMA New Zealand's web site http://www.ermanz.govt.nz. This information is summarised below:

- ERMA New Zealand: Annotated Methodology for the consideration of applications for hazardous substances and new organisms under the HSNO Act 1996. August 1998
- ERMA New Zealand: Quick guides (refer to the bibliography in Section 10 of this Guide)
- ERMA New Zealand: Protocols (refer to the bibliography in Section 10 of this Guide)
- ERMA New Zealand: *Decision paths*. Protocol Number 2, Series 2. October 1999.

What happens when the Authority has made a decision?

The Authority's decisions must be publicly notified and must be in a format that outlines:

- whether the application has been approved or not
- where the application relates to hazardous substances, the hazard classification of the substance and applicable controls. The register must also include the controls imposed under any other Act
- where the application relates to hazardous substances or new organisms in containment, controls applicable to containment
- an explanation of the rationale of the decision and any implications for future decisions.

How are the Authority's decisions notified?

The applicant and every person who made a submission are given a full copy of the decision.

The Authority's decisions are also publicly notified by:

- placing public notices in the major daily newspapers
- recording them on ERMA New Zealand's web site
- recording them in *The Bulletin*, which is on the web site or posted free to anyone who asks for it.

The full text of each decision is also available for viewing at ERMA New Zealand's offices in Wellington and copies may be requested at a cost.

Delegated decisions made by delegated agencies: Institutional Biological Safety Committees (IBSCs)

Agencies with delegated decision-making powers through their Institutional Biological Safety Committees (IBSCs) must strictly adhere to the requirements of the HSNO Act and the Authority's methodology. They must report any decision to the Authority within 10 working days of making it. ERMA New Zealand includes these decisions on its public register.

4.6.6 What if an application is declined?

When can an application be declined?

The Authority and any of the agencies with delegated powers can decline applications. This is expected to happen mainly where:

- minimum standards are not met
- adverse effects outweigh positive effects
- there is not enough information to assess adverse effects
- for containment applications, the substance or organism cannot be adequately contained.

Appeals

Except for approvals of transhipments, the HSNO Act only provides for appeals against the Authority's decisions on questions of law (for example, whether or not the Authority followed the procedures laid down in the Act correctly). The Authority's decisions cannot be appealed against on technical or other assessment matters.

Reapplication

Applicants may re-apply for approval of a hazardous substance or new organism if it has been declined, for example, if significant new information on environmental risks of the substance or organism in question has come to light, or if improved means of managing the environmental risks have been developed.

4.6.7 Who owns an approval?

Ownership of approvals – what the Act says and does not say The general intent of the HSNO Act is that once an approval to import a hazardous substance or new organism has been granted, no further approvals for the same hazardous substance or new organism will be needed.

Therefore, anybody may possess and use the hazardous substance or new organism in question, provided they comply with the controls and regulations. The controls can be identified from ERMA New Zealand's register of approvals.

The HSNO Act was amended in 2000 to remove possible ambiguities on this point.

4.6.8 Timeframes

Different decision pathways have different timeframes Each of the specified decision-making pathways has a different statutory timeframe, as shown in Figure 2.

In general, the length of time required to obtain an approval from the Authority depends on:

- the type of application and its processing path
- whether the supporting information is adequate and complete
- whether the application needs to be notified
- whether a hearing will need to be held.

Notified applications

The HSNO Act provides for a total processing time for a notified application of 80 working days, including 30 working days which are allocated to allow for public submissions. A hearing date must be set within a maximum of 25 working days following receipt of all public submissions.

Non-notified applications

The processing time allocated for a non-notified application is 40 working days.

The times for notified and non-notified applications may be extended at any time if the Authority deems it necessary to request additional information.

Special types of application

Some special types of application have different time limits (eg approvals for transhipment are to be considered in 10 days). Consult ERMA New Zealand in such cases.

For notifying decisions

The Authority must publicly notify its decision within 15 working days, though in most cases it will adjourn a hearing to give itself enough time to consider a decision. Once its deliberations are complete, the notification timeline sets in. Adjournment also allows an opportunity to reconvene a hearing if necessary.

Overall, the Authority aims to process decisions promptly, while giving fair and adequate consideration to each application.



Time limits and waivers

Whilst the timeframes outlined previously and in Figure 2 are meant to be binding, the following exceptions apply:

- Anybody may apply to the Authority to change or give instructions on the timeframe requirements imposed by the Act or regulations in relation to actions that need to be carried out or information that needs to be supplied.
- The Authority may at any time extend the timeframe set under the Act, irrespective of whether an application has been made or whether a time limit has run out.

Where applicants have been asked to provide additional information, the application will lapse if such information is not provided within a year following the date of request by the Authority.

4.7 REASSESSMENT OF EXISTING APPROVALS

Re-evaluating risk

The HSNO Act allows for any approved hazardous substance or new organism in containment to be reassessed where the need for a re-evaluation of the associated risks and benefits is indicated. As a result of a reassessment, the Authority may decide to change the conditions placed on an approval, or, in extreme cases, completely withdraw it.

Hazardous substances and new organisms approved under either the current or historical statutory regimes can be reassessed, including approvals carried forward under the transitional provisions of the Act (see Section 3 of this Guide).

Who can ask for a reassessment?

Anyone can ask for a reassessment of a hazardous substance or a new organism, but they must be prepared to go through with it, including paying the costs.

If the Authority agrees there are good reasons for carrying out a reassessment, ERMA New Zealand's chief executive may decide to pay for the reassessment or waive part of the fees and charges incurred.

The Act also empowers the chief executive to request a reassessment of a particular hazardous substance or new organism, in which case ERMA New Zealand finances the cost.

What happens to an approval during a reassessment?

In some cases, it may be thought too risky to continue an existing approval. If so, the Authority may decide to suspend the existing approval while the reassessment is carried out.

What are the grounds for reassessment?

The HSNO Act specifies criteria under which a reassessment can be applied for. These include:

- the availability of significant new information about the risks presented by a particular hazardous substance or new organism
- the availability of another substance with similar or improved beneficial effects and reduced adverse effects
- a significant change in the quantity of the substance being used or how it being used.

The Authority actively discourages the reassessment process being misused for competitive advantage, such as where an applicant wants to promote the phase-out of a hazardous substance used by a competitor. In this context, the Authority will carefully evaluate the grounds on which such a reassessment is requested.

How does the reassessment process work?

The reassessment of a hazardous substance is initiated in two stages by the person or organisation making the request:

- Stage 1: ask the Authority to decide whether there are grounds for a reassessment
- Stage 2: prepare an application for a reassessment of a hazardous substance or new organism.

Stage 1: Ask the Authority

Before preparing an application, it is recommended that the person requesting a reassessment first approach ERMA New Zealand and the Authority to determine whether there are grounds for a reassessment, based on the criteria outlined above.

Stage 2: Prepare application

Anybody asking for a reassessment must make a formal application to the Authority. This involves filling in the appropriate form and providing adequate and substantiated supporting information.

If the Authority agrees there are grounds for reassessment, but the chief executive is not prepared to finance the reassessment, the application for reassessment is treated in the same way as an application for a new approval and the costs must be met by the person requesting the reassessment.

Section 4.5 of this Guide outlines more about the kind of process that applicants need to go through both during the pre-application and the application phase.

The CEO's priority list

The Chief Executive of ERMA New Zealand can initiate some reassessments and has an annual budget for this. ERMA New Zealand will collate a publicly available list of approvals to be reassessed, with priority based on the extent of the risk arising from allowing a continuation of existing approvals. The chief executive decides which reassessments have top priority.

In the short term, most reassessments initiated by the chief executive are expected to arise from the transfer of historical approvals under the transitional provisions of the Act. During this period there may still be a small number of applications for new approvals.

4.8 ERMA NEW ZEALAND'S REGISTER OF APPLICATIONS AND DECISIONS

Where is the Authority's register kept? The HSNO Act requires the Authority to keep a public register of all the applications it has received and the decisions it has made. This information can be found:

- at ERMA New Zealand's offices
- on ERMA New Zealand's web site.

Additions to the register are published in *The Bulletin*, ERMA New Zealand's official record which is mailed to key stakeholders.

Anyone can ask to be put on ERMA New Zealand's mailing list.

What other information about applications is available?

ERMA New Zealand also makes available executive summaries of applications on its web site or in print. Applications can be viewed in full at ERMA New Zealand's offices and copies can be made available on request.



CONTROLS ON HAZARDOUS SUBSTANCES



SUMMARY

When the Authority approves a hazardous substance, it will usually impose controls with which everyone must comply. These controls will apply throughout the life cycle of the substance. Controls will be based on a set of regulations that have been developed for this purpose. The general nature of these regulations is set out in this section and more detail can be found in the ERMA documents *User guide on Control Regulations* and *User Guide on Thresholds and Classification*.

Anyone involved with hazardous substances needs to know about controls on different hazardous substances, because non-compliance with controls is an offence under the Act.

This section of the Guide summarises the following information on controls on hazardous substances:

- how controls are set on hazardous substances using performance-based controls linked to a hazard classification system (in general, the higher the hazard, the stricter the controls)
 - controls on the type of hazard (the hazard property)
 - pan-life cycle controls
 - other controls
 - how the HSNO Act makes use of test certificates and codes of practice
 - how the controls will affect manufacturers, importers, primary suppliers, handlers, transporters, storers, users and disposers of hazardous substances.

5.1 BACKGROUND

Under the HSNO Act, controls may be set on any hazardous substance that has been approved or transferred to the HSNO Act. Knowledge of these controls is very important for anyone involved with hazardous substances, as noncompliance with them is an offence under the Act.

ERMA will use regulations that have been developed in accordance with Part VI of the Act to set controls on hazardous substances. It can vary these controls if the regulations are not appropriate for the particular substance being assessed. A summary of these regulations is provided in the sections to follow. More detail can be obtained from the ERMA user guides on hazardous substance control regulations and on threshold classification (see bibliography in Section 10).

Schedule 3 to the HSNO Act provides the basis for setting controls on hazardous substances that are to be kept in containment.

The following sections describe the nature of the different controls on hazardous substances. Controls are allocated according to classifications based on:

- one or more hazardous properties, so the controls reflect the actual hazard, for example, flammability or toxicity
- the degree of hazard, where stricter controls will be placed on substances that are more hazardous.



5.2 CONTROLS ON HAZARDOUS SUBSTANCES

To enable the safe management of hazardous substances in New Zealand, the Ministry for the Environment has developed a set of regulations in accordance with Part VI of the HSNO Act. These regulations effectively form a toolbox of controls from which the Authority may select a range of appropriate controls that fit a particular approval.

The key component of the control toolbox is a hazard-based classification scheme that incorporates set hazard types and categories. Upon assessment, each substance is assigned a classification that reflects the type and degree of its hazard. A substance may be given more than one hazard classification (and often will be).

Controls are allocated on the basis of the hazard classification. As a general rule of thumb, the higher the degree of hazard, the stricter the controls. If a substance is hazardous in more than one way, for example, it is both toxic and flammable, the controls imposed will be derived from both hazardous properties.

A different process is used to impose controls on hazardous substances that are subject to a containment approval, where the Authority will impose controls on a case-by-case basis, taking into consideration containment related issues described in the Third Schedule of the HSNO Act.

5.2.1 The performance-based approach

The HSNO Act's performance-based approach The HSNO regulations incorporate mainly performancebased requirements. This means regulations prescribe only the objective that must be met, not how it must be met. It is then up to users of hazardous substances to decide which is the best and most cost-effective technology to meet the objective. The performance-based approach is designed to provide certainty about what is required while allowing people the flexibility to adopt new technologies.

The performance-based approach of the HSNO Act differs from that of the repealed legislation, which was largely based on prescriptive requirements. Prescriptive requirements tend to be very specific and inflexible.

For example, if the old legislation required a storage tank to be built according to specific design criteria and from a particular grade of steel, this might have prevented new technology from being used, even though it might be cheaper and more effective than the technology specified in the law.

By contrast, an equivalent performance-based requirement under the HSNO Act would state (for example) that a tank must be fire resistant for two hours at 1000°C. Any tank design and construction meeting this requirement would then comply.

The role of codes of practice

The HSNO Act enables the Authority to approve codes of practice as a means of achieving a performance requirement. In effect, codes of practice set out certain pre-tested ways of meeting a performance requirement specified in a regulation or an approval. They allow any users of hazardous substances to adopt a prescriptive solution, such as specific design or set of procedures, to a performance requirement where they prefer to do so.

Section 5.4 of this Guide provides more detail on codes of practice.





5.2.2 Hazard classification system

The key component of the control toolbox described in the HSNO Regulations is a hazard-based classification scheme that forms the basis for the allocation of controls. Controls are allocated according to a hazard classification or classifications based on:

- the nature of the hazard or hazards the controls reflect, for example, flammability, explosiveness or toxicity
- the degree of hazard, so that stricter controls are provided for higher hazard categories.



Overview of the classification system

Where did the classification scheme come from? The hazard classification scheme is based on the six hazardous property areas set out in the HSNO Act. It follows as closely as possible the globally harmonised system (GHS) for hazard classification. This work was initiated by the agreements made at the United Nations Conference on Environment and Development, and is now complete as a set of international technical documents (refer Section 1.10.2 of this Guide).

The six broad classes of hazard are:

- explosiveness
- flammability
- oxidising ability
- corrosiveness
- toxicity
- ecotoxicity.

For the physical hazards (explosiveness, flammability, oxidising ability and some corrosiveness areas), the classification follows agreements adopted by the United Nations Committee of Experts on the Transport of Dangerous Goods (UNCETDG) when considering the requirements of the GHS.

For the biological hazards (toxicity, ecotoxicity and other corrosiveness areas), the classification follows the schemes agreed by the OECD Advisory Group on Harmonisation of Classification and Labelling (AG-HCL) as part of the GHS.

Some parts of the scheme for ecotoxic substances had not been completed by the AG-HCL at the time of drafting the HSNO regulations, so these parts of the ecotoxic scheme are based mainly on United States Environmental Protection Agency (USEPA) classification criteria.

What is the classification scheme?

An overview of the hazard classification scheme is given in Tables 1 (Physical hazard classification) and 2 (Biological hazard classification).

The classification scheme is a matrix. It contains columns that set out the type of hazard and rows that set out the degree of hazard (or, for explosives, the category of explosive – mainly by type of explosive effect).

In general, the higher rows in the table indicate a higher degree of a particular type of hazard.

The classification scheme uses the following nomenclature:

- Class for specific hazardous property, for example, explosive substances are classified in Class 1, while toxic substances are classified in Class 6 (and an explosive which was toxic would be in both classes)
- Subclass for the types of hazards within a class, for example, acute toxicity is classified as 6.1 while skin irritant is classified as 6.3 within Class 6 toxicity
- Category for the degree of hazard, such as Category D in subclass 6.1: acute toxicity. Substances with this category are not as hazardous as a substance classified in 6.1A: acute toxicity.

Table 1Physical Hazard Classification

Property	y Explosiveness					Flammability							Capacity to Oxidise						
Class		Class 1					Class 2		Class 3		Class 4						Class 5		
Subclass	1.1 Mass explosion	1.2 Protection	1.3 Fire and minor blast	1.4 No significant hazard	1.5 Very insensitive	1.6 Extremely insensitive	2.1.1 Gases	2.1.2 Aerosols	3.1 Liquids	3.2 Liquid desensitised explosive	4.1.1 Readily combustible	4.1.2 Self-reactive	4.1.3 Desensitised explosive	4.2 Spontaneously combustible	4.3 Dangerous when wet	5.1.1 Liquids/ solids	5.1.2 Gases	5.2 Organic peroxide	
Hazard Classification	1.1A						2.1.1A	2.1.2	3.1A	3.2A	4.1.1A	4.1.2A	4.1.3A	4.2A	4.3A	5.1.1A	5.1.2A	5.2A	
	1.1B	1.2B		1.4B			2.1.1B		3.1B	3.2B	4.1.1B	4.1.2B	4.1.3B	4.2B	4.3B	5.1.1B		5.2B	
	1.1C	1.2C	1.3C	1.4C					3.1C	3.2C		4.1.2C	4.1.3C	4.2C	4.3C	5.1.1C		5.2C	
	1.1D	1.2D		1.4D	1.5D				3.1D			4.1.2D						5.2D	
	1.1E	1.2E		1.4E								4.1.2E						5.2E	
	1.1F	1.2F	1.3F	1.4F								4.1.2F						5.2F	
	1.1G	1.2G	1.3G	1.4G								4.1.2G						5.2G	
		1.2H	1.3H																
	1.1J	1.2J	1.3J																
		1.2K	1.3K																
	1.1L	1.2L	1.3L																
						1.6N													
				1.4S															

Table 2 Biological Hazard Classification

Property		Toxicity								orrosivenes	S	Ecotoxicity				
Class	Class 6									Class 8			Class 9			
Subclass	6.1 Acutely toxic	6.3 Skin irritant	6.4 Eye irritant	6.5 Sensitisation	6.6 Mutagen	6.7 Carcinogen	6.8 Reproductive/ developmental	6.9 Target organ	8.1 Metallic corrosive¹	8.2 Skin corrosive	8.3 Eye corrosive	9.1 Aquatic	9.2 Soil	9.3 Terrestrial vertebrate	9·4 Terrestrial invertebrate	
Hazard Classification	6.1A	6.3A	6.4A	6.5A	6.6A	6.7A	6.8A	6.9A	8.1A	8.2A	8.3A	9.1A	9.2A	9.3A	9.4A	
	6.1B	6.3B		6.5B	6.6B	6.7B	6.8B	6.9B		8.2B		9.1B	9.2B	9.3B	9.4B	
	6.1C						6.8C			8.2C		9.1C	9.2C	9.3C	9.4C	
	6.1D											9.1D	9.2D			
	6.1E															

¹A physical hazard but included here for consistency with internationally used numbering schemes

The hazard classes

Class 1 – explosive

There are six subclasses and 13 categories of explosive hazard, based on the UNCETDG agreement for the globally harmonised system for hazard classification.

The major explosive effects (subclasses) considered are:

- 1.1: mass explosion mainly, generating a shock wave with less heat or projection
- 1.2: projection mainly, generating projectiles
- **1**.3: fire mainly, generating heat radiation.

The categories for explosives divide them into groups (and additional subclasses 1.4 to 1.6) which are generally managed separately:

- primary explosives often designed to initiate other explosives
- secondary explosives requiring other explosives to initiate them
- propellants
- pyrotechnic substances those generating light, smoke, noise and the like
- specialised articles with various combinations of the above groups or in combination with flammable substances
- low-sensitivity articles
- low-effect articles.

Classes 2 to 4 – flammable

The classification of flammable substances also follows the UNCETDG agreement as part of the globally harmonised system for hazard classification. The scheme includes nine subclasses as follows:

- 2.1.1 and 2.2.2: flammable gases and aerosols
- 3.1.and 3.2: flammable liquids and liquid desensitised explosives
- 4.1.1: readily combustible solids
- 4.1.2: self-reactive solids
- 4.1.3: solid desensitised explosives
- 4.2: spontaneously combustible solids
- 4.3: "dangerous when wet" solids.

Class 5 – oxidising

The classification of oxidising substances also follows the UNCETDG agreements as part of the globally harmonised system for hazard classification, with three subclasses:

- 5.1.1: both liquids and solids that have the capacity to promote combustion of flammable or combustible materials at accelerated rates
- 5.1.2: oxidising gases
- 5.1.3: organic peroxides.







How to find out more

If you need to know more about the hazard classification scheme, please refer to the following document:

ERMA New Zealand 2001: User guide to HSNO thresholds and classifications







Class 6 – toxic

The classification of toxic substances is based on agreements at the AG-HCL. There are eight subclasses included in the scheme, which can be loosely divided into acute or chronic effects:

- acute subclasses are for acute toxicity (6.1), skin and eye irritation (6.3 and 6.4), where the irritation has less severe effects than those indicating classification as a skin or eye corrosive
- chronic subclasses are for sensitisation (6.5), mutagens (6.6), carcinogens (6.7), reproductive or development toxicants (6.8), and substances that cause damage to specific target organs (6.9).

Class 8 – corrosive

Metallic and biological corrosive substances are combined into one class with three subclasses:

- 8.1: corrosive to metals
- 8.2: corrosive to skin
- 8.3: corrosive to eyes.

The latter two subclasses are based on agreements reached at the AG-HCL.

Class 9 – ecotoxic

International classification schemes for ecotoxic properties are relatively poorly advanced compared with those for the other five hazard classes. The HSNO classification scheme is based around the types of organisms affected by the substance, with subclasses for effects on:

- aquatic organisms, such as fish, with or without bioaccumulation (9.1)
- soil organisms, including plants (9.2)
- terrestrial vertebrates, such as birds (9.3)
- terrestrial invertebrates, for example, honey bees (9.4).

The classes for aquatic organisms are based on the AG-HCL agreement, while the remaining classes are based on USEPA criteria or proposals submitted to the AG-HCL.

5.2.3 Types of controls on hazardous substances

Controls are imposed on hazardous substances on the basis of their hazard classification and are broadly divided into:

- controls on the type of hazard (hazardous properties)
- controls on the life cycle of the substance (pan-life cycle controls)
- other controls, such as for small-scale laboratories and fireworks
- alternative means of control.

Controls for managing the type of hazard (hazard properties)

Controls for managing hazardous properties of substances apply to the following specific types of hazard:

- biological hazards, including toxic effects on humans or ecotoxic effects on other organisms in the environment (eg fish, birds or plants). The general aim of these controls is to limit any exposure of people or the environment to the substance so that it does not exceed a level where adverse effects may occur
- physical hazards, including flammability, explosiveness or oxidising capacity. The aim of these controls is to avoid the hazard by controlling initiation, for example, by keeping ignition sources away from flammable substances.

These controls are described in more detail in the relevant sections of the ERMA user guide on control regulations (see bibliography in Section 10).

Pan-life cycle controls

As well as a set of controls that link to the type of hazard presented by particular substances, there is also a set of pan-life cycle controls that cover all substances. These relate to:

- packaging and containment that is, strength, durability and resistance to contents for packages and bulk containers
- identification information on labels, signs, documentation, advertising and safety information for workers
- competency of handlers requiring appropriately skilled people to be in charge of hazardous substances (generally only required for more highly hazardous substances)
- emergency preparedness ensuring information or equipment is on hand to deal with emergencies
- tracking systems to locate highly hazardous substances
- disposal requiring disposal in a way which does not create damage or harm when the substance is no longer wanted.

Pan-life cycle controls are described in more detail in the relevant sections of the ERMA user guide on control regulations (see Section 10).

Other controls

The HSNO Act also has other controls that are not directly related to a substance's hazard classification. These apply in special circumstances, including:

- small-scale laboratories: these can qualify for an exemption from the HSNO Act in order to enable hazardous substances to be used or created by research without being illegal
- **compressed gas cylinders and control of compressed gases**
- restrictions on the sale of fireworks to the public
- qualifications for test certifiers and enforcement officers.

Alternative means of control

In special cases, the Authority can recommend alternative, economic or market-based control mechanisms for hazardous substances. These could include, for example, an environmental user charge on a specific hazardous substance to minimise its use, or transferable permits. This will happen case by case and will require other Government approvals before they take effect – eg the making of a new regulation.





5.2.4 Varying the controls on hazardous substances

Case-by-case variation

In assigning controls on a hazardous substance, the Authority's approach is to achieve the most cost-effective management of risks for the applicant and the community.

As a result, the performance objectives set down in the regulations will not necessarily be the same for every substance that is assigned to a particular classification. The HSNO Act provides the Authority with the ability to vary controls for a specific substance case-by-case where:

- the controls specified for the hazard classification are either too strict or too lax for the adverse effects identified for that particular substance
- the Authority, after reassessing a substance, wishes to restrict the availability of a substance where a better replacement substance has become available
- the benefits of the substance are such that the Authority considers the variation would retain the benefits without significantly increasing the adverse effect
- as a precautionary measure where the scientific and technical uncertainty in the available information is such that the adverse effects cannot be accurately identified.

Changes to the regulations toolbox

The Authority can recommend changes to the regulations toolbox. As this will change the regulations, the government

> must ultimately decide whether or not to make the changes that the Authority recommends.

5.2.5 How will the controls on hazardous substances affect you?

The Authority's controls on approved hazardous substances can be applied to all phases of those substances' lifecycle. Anyone possessing, using or otherwise involved in any aspect of managing a hazardous substance must be aware of, and comply with, the relevant controls. If you want to know what the controls on a particular substance are, please contact the Authority or check its web site.

Will the new controls be stricter than the old ones?

In many cases, controls imposed under the HSNO Act are performance-based equivalents of the controls in the old legislation. This means that many users already comply with the requirements of the HSNO Act.

In some cases, however, recent practice has not been up to international best practice. Some controls have therefore changed.

More integrated, environment-based legislation

The controls in the HSNO Act are also more integrated and far reaching than those of the old legislation. The HSNO Act is designed to be a "one-stop shop" for all different types of hazardous substances.

One very important difference from the old legislation is that the HSNO Act now includes a focus on environmental effects through controls on ecotoxic substances.



The flexibility of performance-based controls

As discussed in Section 5.2.4 above, all hazardous substance users now have the potential to benefit from the flexibility of the new performance-based regulations. The old legislation often did not allow people to explore and adopt new technologies without first obtaining some special permission.

Approved codes of practice help you comply with the controls on hazardous substances. See Section 5.4 for more information about the code of practice system.

Controls are attached to individual substances

One key difference from the old legislation is that controls under the HSNO Act are **substance-based**. Therefore, you need to make sure that for each hazardous substance you use, you comply with the relevant controls on that substance.

For example, instead of needing a dangerous goods licence, you may need to ensure that you have the correct test certificates. This will be the case if you deal with large quantities of hazardous substances or if you handle highly hazardous substances. Section 5.3 of this Guide provides more information about the test certification system.

5.3 THE TEST CERTIFICATION REGIME

Under the old legislation, a range of different licences and permits needed to be enforced, including dangerous goods licences (about 12,000 current), explosives licences (about 1000 current), and sale and packing licences for toxic substances (refer Section 3.2.3 of this Guide). This licensing system will cease to exist once the transitional period of the HSNO Act comes to an end. In many of these cases the HSNO Act introduces a test certification system.

5.3.1 What is test certification?

Test certificates are documents that show that some system, equipment or person complies with the controls on hazardous substances. Test certificates are issued by specially qualified test certifiers to:

- certify approved handlers of certain classes or subclasses of hazardous substances (a particular type of certificate for approval as a handler)
- certify specific facilities or equipment for handling of certain classes or subclasses of hazardous substances (test certificate).

Test certificates can be thought of as a similar to the warrant of fitness issued for a car or a practising certificate for a qualified person.

5.3.2 Who issues test certificates?

Test certificates will be issued by independent test certifiers approved by the Authority. Persons who wish to apply to be test certifiers must be able to demonstrate to the Authority that they have the expertise and knowledge to qualify as a test certifier. They also must have no conflicting interests in, or responsibility for, the design, planning or construction of the aspect of a control being certified.

How to find out more

For more information about the controls for hazardous substances under the RMA, you can:

- obtain a copy of Assessment Guide for Hazardous Facilities: A resource for local authorities and hazardous facility operators (Ministry for the Environment, 2000)
- obtain a copy of the Land Use Planning Guide for Hazardous Facilities: A resource for local authorities and hazardous facility operators (Ministry for the Environment, 2000)
- contact the Ministry for the Environment or visit the Ministry's web site to download copies of the above documents at http://www.mfe.govt.nz
- contact the local authority in your area for details of the regional or district plan that may apply.

5.3.3 What is different from the old licensing system?

The introduction of test certification has separated licensing from compliance checking. Test certifiers are independent and qualified specialists who check and certify that people or systems for managing specific hazardous substances are properly operating or qualified.

It is highly likely that there will be at least one type of certificate on most sites that are currently required to have a licence for dangerous goods or explosives. However, the certificate might not necessarily be for the site itself, but for handlers of specific hazardous substances, equipment or different parts of the site. More detail on when test certificates are required can be found in the ERMA user guide on the controls regulations listed in the bibliography. It is also important to remember that whether or not a test certificate is required depends on the specific controls ERMA imposes on a particular substance (see Section 5.2 of this guide).

The test certification regime is market-based. Test certifiers will charge a market price for their certification services. The new market-based approach is expected to make the certification process more competitive, as people will be able to shop around for the best price.

5.3.4 How do you find a test certifier to give you certification?

The Authority keeps a register of test certifiers, with information about the identity and contact details of the certifier. This will include the details of the approval given by the Authority. Anyone can access this register at ERMA New Zealand's office or web site.

5.3.5 How do you become a test certifier?

The competency for test certifiers is detailed in the relevant regulation and in the ERMA User Guide: *Becoming A Test Certifier*. At the time of writing this Guide, the process for approving test certifiers was still in development. Further information can be obtained from ERMA New Zealand.

5.3.6 Who monitors test certifiers?

The Authority is responsible for approving and monitoring test certifiers. If it receives a complaint about a test certifier, or is concerned about the conduct of a certifier, it may suspend their approval and investigate the problem. This may lead to removal of the test certifier's approval or even prosecution.

5.3.7 Controls for hazardous substances under the RMA

In addition to HSNO Act controls on **substances**, land-use planning for hazardous facilities (that is, activities involving hazardous substances) through mechanisms such as district plans and resource consents under the RMA, may need to be considered by a business. This is particularly so where the quantity of substances is large in relation to its hazard. The purpose of such controls is to manage the location of hazardous facilities in relation to surrounding land uses and environmental conditions. For example, it may not be desirable to have an explosives store next door to a school or rest home.

The methodology and guidance for land-use planning for hazardous facilities under the RMA is well developed. The Hazardous Facility Screening Procedure (the HFSP) is a method used to screen hazardous facilities to determine whether they need a resource consent and a more detailed assessment of environmental effects and risks. The HFSP has been incorporated into numerous district plans in New Zealand. Guidance is also available on carrying out assessments of environmental effects of hazardous facilities, once it has been verified that they need a resource consent. Such an assessment takes into account the nature of the hazardous facility in question, the types and quantities of hazardous materials proposed for use or storage on site, as well as the sensitivity of the surrounding environment.

5.4 CODES OF PRACTICE

5.4.1 What are codes of practice?

Codes of practice are documents that effectively constitute legally acceptable means by which performance-based controls under the HSNO Act can be met. Codes of practice under the HSNO Act must first be assessed and approved by the Authority.

There is a wide range of existing industry-based and other codes of practice relating to hazardous substances that are well used in New Zealand and that are expected to be approved by the Authority in due course. No codes of practice have been approved at the time of writing.

Examples of these existing codes of practice include:

- code of practice for the safe use of timber preservatives and antisapstain chemicals (Department of Labour, 1993)
- code of practice for the design, installation and operation of underground petroleum systems (Occupational Safety and Health Service, 1992).

5.4.2 Why are codes of practice important?

Codes of practice are intended to become the day-to-day operator's "cookbook" for complying with the performancebased HSNO regulations. While these regulations are intended to provide flexibility among users in terms of being able to implement a range of technologies, not everybody will find it easy or helpful to interpret and apply them. Codes of practice will be a pre-approved approach, which can be used to ensure compliance.

If the codes are strictly adhered to (as demonstrated by suitable records), they constitute an effective defence against a prosecution under the Act (refer Section 7.3 of the Guide).

The scope for having codes of practice approved under the HSNO Act also provides an incentive to industry to develop industry-specific codes of practice. These then provide an industry a legally acceptable standard for good practice, and they can be instrumental in improving standards and assuring that the Act is interpreted equitably.

5.4.3 How are codes of practice approved?

Sections 78-81 of the Act provide the basis for the Authority to approve, amend and revoke codes of practice. Anybody interested in having an existing industry code of practice approved, or who is thinking of developing a new one, will need to go through a review and consultation process with any relevant stakeholders as well as ERMA New Zealand, before the Authority will approve it.

5.5 QUICK GUIDE TO HOW CONTROLS ON HAZARDOUS SUBSTANCES AFFECT DIFFERENT GROUPS OF PEOPLE

The key controls that affect different groups of people are listed below. This list is not comprehensive, but aims to give a broad understanding of how the controls might affect you. A full summary of the control toolbox that the Authority will use to set controls on each new substance can be found in the ERMA user guide on the controls regulations. If you want to know the specific controls for the particular substances that you use, contact ERMA New Zealand or visit its web site.

It is also important to note that the controls applied under the HSNO Act are not the only controls that are relevant in relation to hazardous substances. Other applicable legislation under which controls may be imposed is discussed in Section 1 of this Guide.

5.5.1 Controls that everyone must comply with

There are some controls that everyone has to comply with if they are involved in any aspect of managing eg handling, transporting or using a hazardous substance.

General requirements to keep people and the environment safe

Everyone must comply with the controls on the specific hazard properties of each substance, for example, by:

- limiting the exposure of people or the environment to the substance by complying with exposure limits set by the Authority for both toxic and ecotoxic substances
- keeping ignition sources and oxidisers (substances that accelerate burning) away from flammable or explosive substances (and keeping flammable substances away from oxidisers).

Certification and documentation

Everyone must make sure that they have the right documentation and certification for the substances they deal with, ensuring that, if required:

- only certified approved handlers deal with certain substances
- certification has been obtained eg for specialised equipment for handling the substances
- records and tracking information are available for highly hazardous substances.

Identification

Information will be supplied with each hazardous substance that helps people to safely manage it. This information must remain with the substance and continue to be readable.

Packaging

Each hazardous substance must be supplied in packages that comply with the packaging controls. Everyone should make sure that this packaging is not damaged or that the substance is not transferred to other packages that do not meet these controls.

Emergency preparedness

Everyone needs to be prepared in case there is an emergency:

- In some cases an emergency plan is needed.
- In most cases there needs to be enough information available (usually on a label) for people to be able to identify and deal with an emergency.
- In other cases, particular equipment (like fire extinguishers) needs to be available where the substance is located.





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- For larger quantities, the site where the substance is kept needs to be designed so that if there is a spill, the substance is contained.
- If a substance is being held temporarily, the person holding the substance must make sure that certain conditions are being met to prevent an accident.

Disposal

Disposal controls are designed so that substances are disposed of in the right way. Everyone must make sure they follow the instructions for disposal supplied with the substance.

There are specific disposal requirements for different types of substances, and users of hazardous substances must be aware of what these are.

5.5.2 Manufacturers, importers and primary suppliers

Manufacturers, importers and primary suppliers have a responsibility to ensure that the hazardous substances they import into New Zealand have been approved by the Authority, or to apply for an approval to the Authority if this is not the case. Failure to do so constitutes an offence under the Act. The particular controls that affect these groups are summarised below.

Manufacturers

In addition to complying with the general controls discussed above, manufacturers have particular responsibilities under the HSNO Act when it comes to complying with the controls that the Authority places on hazardous substances. These relate mainly to making sure that the substance is supplied in the right packaging with the right identification and information.

Importers and primary suppliers

Importers and other primary suppliers of hazardous substances will also need to make sure that the substances they are importing or supplying have been approved and are supplied in the right packaging with the right identification and information.

Packaging and identification

Manufacturers, importers and primary suppliers will be responsible for implementing specific controls that assist handlers and end users to safely manage and dispose of the substances. This includes:

- supplying the substance in the correct packaging
- providing information that needs to be immediately available with the substance, such as labels
- providing documentation for the workplace, such as Material Safety Data Sheets
- providing information about how to dispose of the substance correctly.

Hazardous by-products

Hazardous substances may also be generated during some manufacturing processes, but as by-products rather than being deliberately manufactured. The HSNO Act and its controls do not apply to these by-products, but manufacturers should clarify the status of their byproducts with ERMA New Zealand.



5.5.3 People who handle or store hazardous substances

Small quantities and low hazard, for example, retailers For people handling or storing relatively small quantities of hazardous substances or low hazard substances, the main controls relate to specific hazardous properties, such as managing ignition sources for flammable substances, or restricting workplace exposures for toxic substances (see the ERMA user guide on the controls regulations for more detail).

Packaging and identification are provided by manufacturers and importers, so handlers are responsible for ensuring that these requirements are not compromised, for example, by ensuring that:

- labels are not damaged
- substances are not stored in a way that damages packaging, for example, by over-stacking.

Large quantities and high hazard

Where handlers store or handle significant quantities of hazardous substances, or where operations involve highly hazardous substances, other life-cycle controls will apply, such as:

- systems to locate the substance
- emergency management plans
- having competent handlers where required.

5.5.4 Hazardous substance transporters

Small quantities and low hazard

Like everyone else, transporters of hazardous substances must also comply with the controls on the substance, such as making sure that incompatible materials such as flammable substances are not transported with oxidising substances.

For certain substances, transporters must have an emergency plan and the right equipment in case of an accident.

Truck drivers should generally have a dangerous goods endorsement on their license as required by the Land Transport Safety Authority.

Packaging and identification are provided by manufacturers and importers. Consequently, transporters are also responsible for ensuring that these requirements are not compromised, for example, by ensuring that:

- the truck is properly placarded for the substances that it contains
- labels are not damaged
- substances are not stored in a way that damages packaging, for example, by over-stacking.

Large quantities and high hazard

Where transporters move significant quantities of hazardous substances, or where operations involve highly hazardous substances, other life-cycle controls will apply, such as:

- emergency management plans
- tracking systems to locate the substance
- special requirements for the vehicle eg purpose-built tank wagons or particular requirements for transporting explosives.



5.5.5 Users of hazardous substances

Users involving manufacturing processes

People using hazardous substances in manufacturing processes, for example, solvents in paint and medicine manufacture, will mainly need to:

- comply with controls on specific hazardous properties, such as managing ignition sources for flammable substances and restricting exposure from toxic and ecotoxic substances
- following the instructions of the information that is supplied with the substance
- avoiding storing substances in a way that damages packaging, for example, over-stacking.

It may also be necessary to meet other life-cycle controls which will become relevant for operations that:

- store significant quantities of hazardous substances
- involve highly hazardous substances.

These controls include having:

- emergency management plans
- tracking systems to locate the substance
- competency requirements for handlers.

Industrial users should also adopt the same approach as recommended for manufacturers for any hazardous substances generated as by-products in their industrial processes; that is, to clarify the status of their by-products with ERMA New Zealand.

Specialised end users such as pesticide spray operators or spray painters

Specialist end users, such as pesticide spray operators, will be affected in a similar manner to people involved with production and other manufacturing processes. However, the nature of their activities may mean that they need to take particular measures to comply with the performance requirements, for example, by making use of protective equipment when using toxic substances.

There are also controls that apply only to particular uses of a hazardous substance, for example, during vertebrate pest control operations.

Home users

The domestic use of hazardous substances is included in the HSNO Act's control framework. However, since access to highly hazardous

substances will generally be restricted to trained people, generally only low to medium-hazard substances will be found in the home.

Where hazardous substances are used in the home, the user must comply with any relevant hazardous property or lifecycle controls. The low volumes and relatively low hazard of most substances used domestically will make compliance with most controls comparatively easy.

There are specific life-cycle controls on hazardous substances to ensure safe use in the home, including:

- permanent marking on containers for toxic substances
- child-resistant closures for toxic and corrosive substances
- safe storage for hazardous substances that is out of reach for children.





5.5.6 Specialist disposal services

Disposers of hazardous substances

People disposing of hazardous substances are most directly affected by the HSNO Act's controls on disposal.

The definition of disposal under the HSNO Act is limited to:

- treatment
- discharge to the environment as waste
- export from New Zealand as waste.

Treatment means reducing the hazard to below the HSNO threshold.

The controls are briefly summarised below (in cases where there are also controls in resource consents or plans under the RMA, or in Trade Waste Bylaws under the Local Government Act, the strictest control will take precedence):

- Disposal of toxic and ecotoxic substances can be by treatment (including landfills and sewage treatment facilities) or discharge, as long as the substance doesn't end up in the environment above the exposure limit set by the Authority. This effectively sets national environmental limits for the substance.
- Disposal of explosives can only be by treatment, including detonation (except for fireworks and flares, which can be disposed of to landfill as long as strict controls are met).
- Disposal of flammable and oxidising substances can also be disposed of by treatment, which includes controlled burning. Some substances can go into a landfill or sewage treatment facility, but again, strict management conditions designed to avoid fires will be needed.

It is important to remember when thinking about disposal that the controls for all the hazardous properties of a substance will generally apply – eg for substances which are flammable and toxic, disposal will need to consider both hazards.

5.5.7 Research and development laboratories

Research and development activities

Small-scale research and development laboratories, such as those in universities or research institutions or the development area for a manufacturing operation, are exempt from the requirements of the Act in respect of the small-scale use of hazardous substances, irrespective of whether these substances have been approved by the Authority.

The exemption for the small-scale use of hazardous substances in research or scientific laboratories applies only if specific requirements are met regarding:

- the design and construction of the laboratory
- procedural requirements
- personnel requirements.

Further information about the exemption of research and scientific laboratories can be found in Section 4.4.1 of this Guide.





5.5.8 Company directors, employers and managers

Although everyone is responsible for complying with the HSNO controls, people in authority who do not necessarily handle or use the substances themselves have a special responsibility to make sure that the HSNO controls are properly followed by their staff. This is because if a staff member commits an offence, the employer/manager may also be prosecuted if they have not taken reasonable steps to make sure that controls have been complied with (refer Section 7 of this Guide). Taking reasonable steps could include making sure that:

- the substances being handled are approved by the Authority
- the site is properly constructed for the substances
- staff are, if necessary, specifically trained and hold the correct certification for the type of hazardous substance being handled
- if necessary, test certificates for relevant equipment etc have been obtained and kept up to date
- the substances are being handled so as not to, for example, expose people to toxic substances or have flammable substances near sparks or flames
- emergency plans and equipment are in place if needed
- information and labelling are provided (including signage and labels so that people can manage hazardous substances safely).

5.6 CONTROLS ON HAZARDOUS SUBSTANCES IN CONTAINMENT

The matters to be addressed by containment controls for approvals of contained hazardous substances are set out in the Third Schedule, Part III, to the Act. These matters include:

- means to prevent the escape of hazardous substances or contamination of the containment facility by the substance
- identification and security of the containment facility
- protection of workers within the facility
- inspection and monitoring requirements
- qualifications of personnel.



CONTROLS ON NEW ORGANISMS

6

SUMMARY

The HSNO controls on new organisms apply only to new organisms in containment because when organisms are released, they reproduce and so cannot be controlled. The matters that can be covered by controls on new organisms in containment are listed in the Third Schedule to the HSNO Act.

This section summarises how new organisms in containment are controlled. Anyone involved with new organisms in containment will need to know about these controls, because non-compliance with controls is an offence under the Act.

This section of the Guide summarises the following for new organisms:

- controls on new organisms in containment
- the matters the Authority considers when setting controls on new organisms.

6.1 HOW DOES THE HSNO ACT CONTROL NEW ORGANISMS?

Under the HSNO Act, any new organism in containment that has been approved or transferred to the HSNO Act may have controls set on it. Knowledge of these controls is very important for anyone involved with new organisms in containment, as non-compliance with these controls is an offence under the Act. The Authority uses the Third Schedule to the HSNO Act to set controls on new organisms that are to be kept in containment. Controls on new organisms

- apply only to those in containment because when an organism is released, it cannot be controlled
- are case by case because each new organism in containment is different (tigers and experimental plants require very different types of securing).

6.2 HOW ARE CONTROLS ON NEW ORGANISMS IN CONTAINMENT SET?

The Third Schedule of the HSNO Act

The controls for new organisms reflect the requirements for containing a specific organism. The Third Schedule of the HSNO Act specifies matters to be addressed by the Authority when attaching controls to an approval for the importation into (or development in) containment of a new organism.

The Third Schedule has two parts for new organisms:

- Part I: Containment controls for development and field testing of genetically modified organisms
- Part II: Containment controls for new organisms other than genetically modified organisms.

Release from containment

The Authority does not attach any controls to approvals for the release of an organism. However, the effects of a release are taken into account as part of the approval for the production of a new organism in containment, as it is now assumed that the organisms will eventually be released to the environment.

This is based on the historical record, which has shown that organisms end up being released after commercial production ceased to be profitable.

6.3 CONTROLS ON NEW ORGANISMS IN CONTAINMENT

Specific requirements under the Third Schedule

The HSNO Act imposes specific controls on how a new organism is contained and managed. New organisms such as exotic animals or genetically modified bacteria and plants must be held in a secure location (for example, a zoo, laboratory, field site or glasshouse) to prevent their escape.

What matters does the Authority consider when setting controls?

In setting controls on new organisms in containment, the Authority considers:

- limiting the likelihood of accidental release or escape
- controlling the effects of an accidental escape
- excluding access by unauthorised persons
- inspection and monitoring
- the qualifications required of the person responsible for implementing the controls
- other controls for genetically modified organisms.

Limiting the likelihood of accidental release or escape

The likelihood that a new organism could be accidentally released or escape is reduced by the Authority's setting controls on such matters as:

- construction standards of the location and related equipment to ensure organisms remain in containment
- requirements for moving organisms to, from and within the location, such as identification and packaging
- decontamination procedures for waste products (for example, burning or autoclaving) and expelled air
- site security, such as fences, gates and alarm systems

- restricting access to authorised persons only, for example by using identification systems
- specific management practices, such as removal of seeds and flowers or covering of plants from field trials.

Controlling the effects of an accidental escape

The effects of an accidental escape of the new organism are minimised by requiring:

- an eradication plan, for example, spraying or burning any plants which might be found by monitoring around a containment area
- exclusion zones zones surrounding genetically altered crops – or locating containment outside the normal habitat of the organism so it cannot survive after escape.

Inspection and monitoring

Qualified inspectors check for compliance with controls by inspecting and monitoring containment locations.

Other matters the Authority considers when setting controls on genetically modified organisms

For genetically modified organisms, the Authority also considers the following matters when setting controls:

- excluding other organisms from within the facility by means such as monitoring for their presence, design of the facility or systems to kill intruder organisms such as insect traps
- preventing unintended release through general laboratory practices aimed at preventing infection of personnel or contamination of work areas, equipment or clothing
- providing a management plan describing the procedures for implementing the controls imposed.

How to find out more

If you need to know more about controls on new organisms in containment, refer to:

- The HSNO Act, Third Schedule Part I and II
- MAF/ERMA New Zealand Standard 154.03.02
- MAF Biosecurity Authority Animal Biosecurity Standards and Statements at http://www.maf.govt.nz



COMPLIANCE



SUMMARY

The risks posed by the everyday use of hazardous substances and new organisms mean that the HSNO Act takes compliance with the law very seriously. Everyone must comply with it. Part VII of the HSNO Act outlines the provisions of inspection, compliance, enforcement, liabilities and defences.

This section looks at:

- who needs to comply with the Act
- how to comply with the Act
- enforcement of the Act
- offences against the Act
- what the liabilities, penalties and defences are
- the powers of enforcement officers
- your rights of appeal.



7.1 THE HSNO ACT'S COMPLIANCE REGIME

Part VII of the HSNO Act outlines the provisions of inspection, compliance, enforcement, liabilities and defences. These provisions are outlined in greater detail in the following sections.

Everyone is responsible

Every person in New Zealand who is involved with hazardous substances and new organisms has a duty to meet the requirements of the HSNO Act, including:

- applicants for approval of a hazardous substance or new organism
- manufacturers of hazardous substances
- importers of substances or organisms
- users of hazardous substances
- research institutions
- those involved in transport, storage and disposal.

The HSNO Act specifically requires any person who imports, possesses or uses a hazardous substance or new organism to:

- avoid, remedy or mitigate any adverse effects of that substance on any other person or the environment caused by their actions or errors
- comply with any requirements or controls on that hazardous substance or new organism imposed under the Act.

The role of the Authority

As described in Section 2.2 of this Guide, the Authority plays an important role in monitoring compliance and maintaining oversight of enforcement to ensure that there are no gaps in enforcing compliance with the Act. However, only in very few instances will the Authority become directly involved with enforcement.

The role of enforcement officers

Enforcement officers check compliance with the HSNO Act and relevant controls. They expect users to be proactive in meeting the requirements of the Act, rather than reacting to actions taken by enforcement officers.

Overall, enforcement officers have extensive powers to inspect for compliance, and to order action to be taken where non-compliance is observed (see Section 7.6 of this Guide).

7.2 THE AUTHORITY'S COMPLIANCE EXPECTATIONS

Flexibility in compliance

While the Act requires people to comply with the provisions of the Act and any controls the Authority places on hazardous substances or new organisms, the performancebased nature of these requirements gives users a lot of freedom in how they choose to comply.

The Authority's guide to compliance

The Authority has implemented a compliance guide for enforcement officers that is based on the following key elements:

- designing practical, effective controls
- promoting voluntary compliance
- creating effective deterrents
- inspection and reporting
- monitoring.

Based on this overall approach, the Authority has developed two key types of compliance measure:

- voluntary
- mandatory (compulsory).

Voluntary compliance

Voluntary compliance includes:

- self-responsibility: taking responsibility for your own actions in complying with the HSNO Act
- complying with codes of practice
- complying with industry standards and guidelines.

Mandatory compliance

Mandatory, or compulsory, compliance includes:

- complying with the controls established by approvals and test certificates
- inspection
- enforcement.

Figure 3 shows a conceptual outline of this compliance framework.






Figure 3 How the Authority promotes compliance with the HSNO Act

7.3 VOLUNTARY COMPLIANCE

Voluntary compliance is an important part of any compliance system. The Act empowers and obliges people to take responsibility for how they comply. The performance-based nature of the controls gives people the freedom to choose the most effective way to comply that suits their own circumstances. Voluntary compliance includes:

- taking responsibility for your own actions
- using codes of practice
- following industry standards and guidelines.

These are discussed below.

Self-responsibility

The compliance system encourages people involved in the use and management of hazardous substances to voluntarily comply with the Act's requirements because:

- it makes good sense to use hazardous substances and new organisms responsibly for your own sake as well other people's and the environment
- there are substantial penalties under the Act if an offence is committed.

Codes of practice

The Act enables the Authority to formally issue or approve codes of practice as a means of meeting a requirement spelled out in the Regulations or other controls imposed by the Authority. While approved codes of practice do not have the force of controls on a substance or matters specified in regulations, following such a code provides a legal defence to any prosecution taken under the Act.

Much of the development and preparation of codes of practice will be driven by industry groups and other institutions. More information about codes of practice is in Section 5.4 of this Guide.

Industry standards and guidelines

As part of promoting good practice, the Authority will also encourage industry groups and other institutions to prepare their own standards and guidelines for managing hazardous substances. These may also be incorporated into or become approved codes of practice.

Benefits of a voluntary approach

The Authority makes it a high priority to promote voluntary compliance for several good reasons:

- It fosters a preventative approach that avoids harm to people and the environment.
- It encourages users to take responsibility for managing risks.
- It allows inspection and enforcement to focus on high-priority risk areas.
- Taken together, these will help to reduce the cost of bureaucracy.
- It engenders community trust in the control regime.

To promote voluntary compliance, the Authority will, in cooperation with enforcement agencies:

- develop public education programmes
- actively engage industry, users and enforcement agencies to adopt and promote voluntary compliance.







7.4 MANDATORY COMPLIANCE - ADDRESSING YOUR LEGAL OBLIGATIONS

Although much of the Authority's compliance regime relies on voluntary, proactive compliance by users of hazardous substances and new organisms, there are also mandatory, directly enforced provisions for ensuring compliance with the requirements of the Act and controls imposed under it. These are based on:

- infringement notices
- compliance orders
- test certificates.

These are discussed below.

Infringement notices

An enforcement officer can issue an infringement notice (which must be in a set form) for defined infringement offences specified in HSNO regulations. The notice will provide for payment of a set fee as an alternative to having the matter heard in Court. At the time of writing, these regulations are yet to be developed.

Compliance orders

An enforcement officer has the power to issue a compliance order requiring a person to:

- either stop doing something which:
- contravenes the Act, regulations or controls imposed by an approval
- is, or is likely to be, dangerous, to such an extent that it has, or is likely to have, an adverse effect on the health and safety of people or the environment
- or do something to ensure compliance or to avoid, remedy or mitigate any actual or likely adverse effects of a non-compliance.

Compliance orders must also spell out:

- the actions that must be taken or stopped and the reason for that
- an explanation of the consequences of not complying, namely, that it is an offence under the Act not to comply with an order
- rights of appeal.

Compliance orders must be complied with within a specified time period, but being served with one does not itself create a criminal record.

Test certificates

Some controls in the HSNO Act and the regulations require users of hazardous substances or new organisms to obtain a test certificate to verify that a certain requirement has been met. Examples of this are:

- to demonstrate competency to handle hazardous substances
- to certify that particular equipment used in handling flammable substances does not generate sparks.

Test certificates must be obtained at regular, specified time intervals and it is an offence not to have one.

Test certificates are issued by test certifiers as outlined in Section 5.3 of this Guide.

7.5 OFFENCES, PENALTIES, LIABILITY AND DEFENCES

7.5.1 Offences

What is an offence?

Offences are spelled out in section 109 of the Act. When someone does one of the things described there or one of the things set out in section 156 (transitional offences) of the Act, the formal enforcement provisions of the Act come into play.

Specific offences

Specific offences against the HSNO Act include:

- failing to meet the requirements of the Act with respect to the introduction of hazardous substances or new organisms into New Zealand
- failing to meet controls:
 - placed on a hazardous substance or new organism
 - specified in regulations
 - relating to obtaining test certificates
- not complying with a compliance order
- failing to report new information on the adverse effects of a hazardous substance or new organism
- impersonating or obstructing an enforcement officer.

Who can initiate a prosecution?

Section 109(2) of the HSNO Act enables any person to report any information relating to any of the offences listed above and in section 106 of the HSNO Act within 120 days of occurrence.

7.5.2 Penalties

Penalties under the HSNO Act include:

- fines
- imprisonment
- other penalties.

These are discussed below.

Fines

Fines for breaching the HSNO Act's main provisions are up to:

- **\$500,000** for an offence
- an additional \$50,000 a day for a continuing offence.

For some offences, such as failing to comply with a compliance order or failing to report significant new information about adverse effects, the maximum fine is up to \$50,000 and \$5,000 a day for continuing offences.

There is a maximum penalty of \$5,000 for lesser offences under the Act, such as obstruction.

Imprisonment

Offenders can be imprisoned for up to three months.

Other penalties

In addition to fines and imprisonment, a court can:

- order a convicted offender to remedy or mitigate any adverse effects of the non-compliance at their own cost, or to pay the cost of this being done
- require a new organism to be destroyed.

7.5.3 Liability and defences

Liability under the HSNO Act is strict for most offences under the Act. This means that in most circumstances, the prosecution does not have to prove that the defendant intended to commit an offence, merely that one occurred.

All people responsible for an offence can be held liable for the offence, from the director to the shop-floor worker. Every principal, employer, director or person concerned in the management of a body corporate is considered liable for the actions of their employees or agents.

The defences the Act provides against prosecution are summarised below.

Employers and principals

Employers and principals can mount a defence if one of their employees or agents has committed an offence on the basis that they:

- did not know or could not reasonably be expected to have known about the offence OR took all reasonable steps to prevent or stop it AND
- they took all reasonable steps to remedy the effects of the offence.

Directors and officers of bodies corporate

Where any body corporate is prosecuted over an offence, directors or officers of the body corporate can mount a defence on the basis that they:

- did not authorise, give permission or consent
- did not know or could not reasonably be expected to have known about the offence AND
- took all reasonable steps to prevent or stop it.

Necessary and reasonable

A defence can be mounted by any person on the basis that, although an offence was committed:

- the action was necessary to protect life or health, prevent serious damage to property or avoid an actual or likely adverse effect on the environment AND
- the conduct was reasonable in the circumstances AND
- all reasonable steps were taken to remedy or mitigate the effects.

Disasters

A defence can be mounted by any person in the event of an offence being committed on the basis that:

- the non-compliance was the result of an event beyond their control such as natural disaster, mechanical failure or sabotage, and that could not have been reasonably foreseen and provided against, AND
- all reasonable steps were taken to remedy or mitigate the effects.

Exercise of due diligence

Overall, to be able to avoid personal exposure to a prosecution under the Act, individuals have to exercise due diligence. This means everyone should take preventative measures to ensure the Act will be complied with, and to ensure that no offence under the Act occurs.

This will enable any person to mount a defence in the event that they commit an offence on the basis that:

- all reasonable steps were taken to prevent the event
- all reasonable steps were taken to remedy or mitigate any adverse environmental effects.

7.6 POWERS OF ENFORCEMENT OFFICERS

Enforcement officers have wide-ranging powers both for inspection and for enforcement in cases of known or suspected offences against the Act. Enforcement officers also have the power to issue infringement notices and compliance orders to achieve compliance (refer Section 7.4 of this Guide).

The powers of enforcement officers are discussed below.

Powers of entry for inspection

The Act gives enforcement officers the power to enter premises in order to:

- determine what hazardous substances or new organisms are on the premises
- monitor the conditions of premises in which the substances are located
- determine whether a person is complying with a compliance order.

The officer can also collect information and evidence while on the premises.

Enforcement officers cannot enter a dwelling house without consent. In all situations, an enforcement officer must produce identification and show their warrant of appointment as an enforcement officer.

Search warrants

Any district court judge, justice of the peace or registrar may issue a search warrant to a member of the police or an enforcement officer if there is reasonable evidence that within specific premises or dwellings:

- a hazardous substance or new organism is present in contravention of the HSNO Act
- there are documents or records providing evidence of the above.

Conditions may be attached to search warrants as may be seen fit for the particular offence.

Warrants must be executed within a fortnight of issue.

The police or enforcement officers may use reasonable force to enter into premises or a dwelling, and may search for and seize property and take samples and collect evidence if these are linked to the breach of the Act.





New Zealand Customs Service

7.7 ANCILLARY POWERS RELATED TO BORDER CONTROL

Under the provisions of the HSNO Act, some other agencies that are not appointed enforcement agencies are given powers to enforce provisions of the Act related to the border control of hazardous substances and new organisms.

These are summarised below.

Power of the New Zealand Customs Service to refuse entry of a hazardous substance

Subject to the transitional provisions of the Act (eg once a substance is no longer under the controls retained by the transitional part of the Act) the New Zealand Customs Service has the power to refuse entry of a hazardous substance into New Zealand if it has not been approved for importation.

Similar provisions are provided for new organisms through the Biosecurity Act.

Responsibilities of carrier and persons in charge of any craft

Under the HSNO Act, any carrier or person in charge of any craft that berths, lands or otherwise arrives in New Zealand, is responsible for providing to the New Zealand Customs Service relevant documentation that demonstrates compliance with regulations of any hazardous substances that are carried.

If such documentation is not provided or cannot be made available, the carrier or person in charge of the craft is responsible for taking the same hazardous substances away when leaving and for any costs incurred.

Declaration of genetically modified organisms at border

Any inspector appointed under the Biosecurity Act may require any person importing a new organism to make a statutory declaration that the organism is not a genetically modified organism.

7.8 RIGHTS OF APPEAL

To the District Court

Under the HSNO Act, appeals may be lodged with the District Court against:

- a decision by the Authority to decline, revoke or partially suspend a test certifier's approval
- refusal of entry of a hazardous substance by the Customs Service
- a decision by the Authority to decline an approval for the transhipment of a hazardous substance or new organism
- the issue of a compliance order
- seizure of property under a search warrant or refusal of compensation for property requisitioned or destroyed in an emergency
- any charge imposed by the Authority under section 21 of the Act
- decisions made by the Authority on transferable permits (a transferable permit is a permit to import or manufacture a hazardous substance in limited quantities that can be partly or wholly transferred to other persons).

To the High Court

Appeals may also be lodged with the High Court by applicants for, or submitters to, any approval for hazardous substances or new organisms under the HSNO Act (see Section 4 of this Guide).

However, these appeals can be made only on points of law. Because the Authority is in law an expert body, there is no general right to appeal against a decision by it on whether to grant or decline approval for a hazardous substance or new organism.

YOUR GUIDE TO THE HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996

EMERGENCIES



SUMMARY

Part IX of the HSNO Act gives specific agencies the power to take actions to respond to emergencies caused by a hazardous substance or new organism. This power is different from the approval to use a hazardous substance or new organism in an emergency, as outlined in Section 4.3.3 of this Guide.

This section summarises:

- how the HSNO Act defines an emergency
- who has powers of enforcement in an emergency
- what is required for clean-up operations
- how compensation is assessed
- how inquiries into emergencies are carried out.

8.1 RESPONDING TO EMERGENCIES CAUSED BY HAZARDOUS SUBSTANCES OR NEW ORGANISMS

Part IX of the HSNO Act gives specific agencies the power to take actions to respond to emergencies caused by a hazardous substance or new organism. This power is different from the approval to use a hazardous substance or new organism in an emergency, as outlined in Section 4.4.3 of this Guide.

How the HSNO Act defines an emergency

Section 135 of the HSNO Act defines an emergency arising from a hazardous substance or new organism as a situation that presents:

- an actual or imminent danger to human health or safety
- a danger to the environment or chattels (eg structures or vehicles) so significant that immediate action is required to remove the danger.

Declaring an emergency

When an enforcement officer has reasonable grounds to believe that an emergency exists, he or she can declare an emergency, and until the emergency is over, has wide powers for managing it.

The power to declare an emergency also extends to any member of the New Zealand Police or a person acting as a Chief Fire Officer under the Fire Services Act.

When an enforcement officer cannot declare an emergency

An enforcement officer does not have the power to declare an emergency when:

- a state of civil emergency has been declared
- the emergency is being dealt with under the Fire Service Act
- an emergency has been declared under the Biosecurity Act
- another enforcement officer has already declared an emergency.

When is an emergency over?

A declared emergency ceases when either:

- 48 hours pass after the declaration (this can be extended for another 48 hours)
- a civil defence emergency is declared
- the emergency is treated as an emergency under the Fire Service Act
- an emergency is declared under the Biosecurity Act.

What is the difference between emergencies and incidents?

Incidents under the HSNO Act are less serious than emergencies. The Authority has loosely defined an incident as "an occurrence involving a hazardous substance or new organism which is not an emergency but still presents or could have presented a danger to the health and safety of humans and the environment." This definition is used by the Authority in inquiring into incidents and emergencies.



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8.2 POWERS OF ENFORCEMENT OFFICERS, THE POLICE AND THE FIRE SERVICE IN AN EMERGENCY

Dealing with an emergency

After an emergency has been declared, enforcement officers have wide powers to deal with the situation. If it is necessary to limit the extent of an emergency, enforcement officers have powers to:

- enter into premises using reasonable force to open doors etc
- if necessary, remove or open items and collect samples
- direct any person to stop activities
- request (but not direct) any person to undertake specific actions
- direct any person to leave or not enter the area of the emergency
- requisition any property for use in managing the emergency
- destroy any property in order to prevent or limit the extent of the emergency
- secure the area for up to 24 hours after the immediate danger is past.

8.3 CLEAN-UP AFTER AN EMERGENCY

The HSNO Regulations

The HSNO Act does not provide for cleaning up after an emergency. However, after an emergency, activities involving hazardous substances and/or new organisms need to comply with the controls attached to the substance involved in the emergency. This will have a similar effect.

It is the responsibility of the owner or transporter of the hazardous substance to ensure that any spill is cleaned up after an emergency. If the spill is not cleaned up, an enforcement officer can issue a compliance order to make sure that the spill is cleaned up.

8.4 COMPENSATION FOR PROPERTY DESTROYED OR REMOVED IN AN EMERGENCY

Compensation for damage

The HSNO Act provides for people to be compensated for damage caused as a result of the declaration of an emergency. The provisions apply when an enforcement officer:

- requisitions property for use in an emergency
- destroys property in order to prevent or limit the extent of the emergency.

The compensation is paid for by the organisation that appointed the emergency officer, or out of money appropriated by Parliament.

Compensation will not be paid to people who caused or contributed substantially to the emergency.

Good faith and reasonable care

No legal action can be taken against an enforcement officer, or a person acting under the direction of an enforcement officer, in respect of an emergency where the officer or that person acted in good faith and with reasonable care.

8.5 INQUIRIES INTO INCIDENTS AND EMERGENCIES

The Authority's responsibilities

The Authority is responsible for enquiring into any incident or declared emergency involving a hazardous substance or a new organism. The inquiry is not a legal investigation to attach blame. It is to help the Authority identify any problems with its systems or processes, including the controls that it has put on the substance.

The Authority is informed of emergencies or incidents in several ways:

- Enforcement officers must notify the Authority of any declared emergency.
- Every person in charge of a substance involved in an incident that results in serious harm or damage needs to notify an enforcement officer (except where the enforcement officer attended the incident or emergency).
- It is informed indirectly, where notification is required under other legislation. An example is where a hospital admission caused by hazardous substances needs to be notified to the Minister of Health, who may then inform the Authority.

TO FIND OUT MORE

SUMMARY

One of the Authority's key roles is to help people find out more about the HSNO Act and how it works, as well as about new and existing hazardous substances, new organisms and applications for approvals.

You can find out more about any of these from:

- ERMA New Zealand's web site, register and publications, as well as its legislation, application forms and tools
- Ministry for the Environment
- enforcement agencies
- other organisations and documents.

9.1 ERMA NEW ZEALAND

You can find out more from a series of sources available from ERMA New Zealand and elsewhere:

Legal documents

- The Hazardous Substances and New Organisms Act 1996 itself and its amendments
- The Methodology Order in Council
- Regulations under the Act.

Formal documents and tools

- annotated methodology
- protocols and policies
- codes of practice
- technical and user guides
- application forms
- public register.

Informal sources

- web site
- newsletters
- quick guides
- corporate publications.

9.1.1 Legal documents

The legal documents that make up the HSNO legislation are:

- the Hazardous Substances and New Organisms Act 1996 itself and its amendments
- the Methodology Order in Council
- Regulations under the Act.

Regulations in place and being developed include those concerning:

- low-risk genetic modification
- new organisms which are not genetically modified
- information requirements when applying for approval of new organisms or hazardous substances
- threshold or minimum degrees of hazard for hazardous substances
- classification of hazardous substances
- controls for hazardous substances of various classifications
- qualifications for enforcement officers, test certifiers and approved handlers
- requirements for laboratories and research and development on hazardous substances exempt from the Act.

You can also buy a copy of the Act, its amendments, the Methodology, and the various Regulations from any stockist of government books. Many of these documents are already, or will be, available on the ERMA New Zealand's web site at http://www.ermanz.govt.nz.



9.1.2 Formal documents and tools

The formal documents and tools describing how the Authority and ERMA New Zealand go about their work and informing applicants and the public are:

- the Annotated Methodology
- protocols and policies
- codes of practice
- technical guides
- the public register.

The Annotated Methodology sets out the Order in Council in a more practical form with explanatory notes to make it easier for the Authority to use and others to follow.

Protocols complementing the Annotated Methodology help both the Authority and applicants by outlining key concepts and helping the Authority to make consistent decisions that consider everything it should. These protocols are listed in the bibliography (Section 10 of this Guide).

Policy documents outline the Authority's policies on matters such as public consultation and interaction, pricing, fees and charges.

Codes of practice give practical details on how to collate information, carry out assessments, implement controls, comply with conditions of approval, and other procedures under the HSNO Act.

Technical and user guides accompany the regulations, providing more information on how to use the threshold, classification and control regulations for hazardous substances.

Application forms for new hazardous substances are available from ERMA New Zealand, as are the following application forms relating to new organisms:

- to import for release or release from containment
- to import into containment, develop or field test in containment
- for emergency use
- for reassessment.

Application forms for hazardous substances are also available and include

- approval for import or manufacture of a hazardous substance for release (normal or rapid assessment)
- approval for import into containment or manufacture in containment of a hazardous substance
- emergency use
- request for considering whether there are grounds for reassessment
- approval for transhipment.

The public register records information about applications and decisions. You can look at the register by visiting ERMA New Zealand's web site directly at http:// www.ermanz.govt.nz or through http://www.hsno.govt.nz or at their offices in Wellington, at Level 1, BP House, 20 Customhouse Quay (there is a small fee for photocopying).

The Bulletin, one of the Authority's newsletters, also regularly summarises all applications and decisions.

9.1.3 Informal sources

Informal sources of information about the Authority, ERMA New Zealand and the HSNO Act include:

- the ERMA New Zealand web site
- the Ministry of the Environment web site
- the HSNO gateway web site www.hsno.govt.nz
- newsletters
- quick guides
- information sheets
- corporate publications.

To find current applications on the ERMA New Zealand web site:

- Click on Applications.
- Click on Link to Register of Applications/Decisions.
- Click on Application Register Search.
- Enter the *application code number* or, if you don't know it, go to the second field, *Application Description*, and enter a key word such as "*cattle*", "*wheat*" or "*Waikato*".
- Click on Submit Search, and the search results will list all the applications containing those key words or in that region for you to search through (click on the Work or PDF file in the Executive Summary column to see a summary). The list will show the date the application was received, its purpose or description, how far through the application process it is and who to contact at ERMA New Zealand about it.
- To find out more or to learn what organisms are linked to the application, click on details link button for the *Application*.
- To view more information about controls, click on the green circle in the *Details* LINK column.
- Scroll down the page to view the Authority's decision, if one has been made so far.

The ERMA and HSNO web sites are constantly updated and most of the information can be downloaded. You can visit the site regularly and look for:

- FAQs (frequently asked questions)
- the public register
- application forms
- publications
- media releases and feature articles
- links to other New Zealand and international sites
- special events
- the ERMA New Zealand newsgroup.

You can give ERMA New Zealand feedback too, via the web site – it welcomes your comments.

To find out more about current applications for new hazardous substances or organisms, go to the ERMA New Zealand web site or ask to be put on its mailing list.

Two free **newsletters** help ERMA New Zealand keep interested people up to date:

- Perspective, a quarterly newsletter sent free to around 5000 people to update them generally on the HSNO Act and news and people, as well as on risk management
- The Bulletin, a more formal gazette published on the web site and posted free ten times a year to key stakeholders. It summarises all applications received, decisions made and schedules for hearings and other meetings.

To get on the mailing list for either or both newsletters, contact ERMA New Zealand or put your name on the mailing list via the web site.

The free **quick guides** are a series of easy-to-read leaflets on topics like making applications or submissions, fees and charges, reassessments and risk assessments.

A series of free **information sheets** backgrounds current issues or proposals before the Authority. Those covered so far give updates on the regulations, genetic modification generally, transfer of hazardous substances, exemptions from the HSNO Act and so on.

ERMA New Zealand's corporate publications include its corporate profile, annual report and annual statement of intent, which outlines its forward planning and accountability. You can get as many free copies of these as you like.

ERMA New Zealand's contact details are listed at the end of this section.

9.2 MINISTRY FOR THE ENVIRONMENT

The Ministry for the Environment also has a web site to introduce people to their responsibilities under the Hazardous Substances and New Organisms Act. This site is: http://www.hsno.govt.nz

The Ministry has also put out several free information sheets about HSNO, including:

Information sheet No. 1	What happens after the Act becomes law?		
Information sheet No. 2	What is a hazardous substance?		
Information sheet No. 3	What is a new organism?		
Information sheet No. 4	Preparing for the new legislation		
Information sheet No. 5	Who will be responsible for the new Act?		
Information sheet No. 6	How will the new Act be enforced?		
Information sheet No. 7	How will the new rules be developed?		
Information sheet No. 8	How will the ERMA make its decisions?		
Information sheet No. 9	How will the new Act relate to other Acts?		
Information sheet No. 10	<i>How will the changeover take place?</i>		
The Ministry's contact details are listed at the end of			



this section.

How to find out more

To find out more:

- Call the government agencies at the numbers listed above or by looking in the relevant section of your local phone book, or
- Obtain a copy of the Acts and regulations from any stockist of government books or legal update service (ask your local library what services are available).

9.3 ENFORCEMENT AGENCIES

Other agencies involved in enforcing the HSNO Act may have more information about their particular responsibilities. Look in your local telephone book to contact them or call the Wellington numbers listed below.

Enforcement Agency	Web site	Wellington Phone Number
Ministry of Health	http://www.moh.govt.nz	(04) 496 2000
Occupational Safety and Health Service	http://www.dol.govt.nz	(04) 915 4444
Maritime Safety Authority	e-mail: msa@msa.govt.nz	(04) 473 0111
New Zealand Police	http://www.police.govt.nz	(04) 474 9499
Land Transport Safety Authority	http://www.ltsa.govt.nz	(04) 474 8600
Civil Aviation Authority	http://www.caa.govt.nz	(04) 560 9400
Ministry of Consumer Affairs	http://www.consumer-ministry.govt.nz	(04) 474 2750
Ministry of Agriculture and Forestry	http://www.maf.govt.nz	(04) 474 4100
Territorial authorities	N/A	Look up your city or district council in your local telephone book
New Zealand Customs Service	http://www.customs.govt.nz	0800 428 786

9.4 OTHER ORGANISATIONS AND DOCUMENTS

Other organisations and Acts with relevance to the HSNO Act include:

Ministry of Agriculture and Forestry

- Agricultural Compounds and Veterinary Medicines Act 1997
- Food Act 1981
- Biosecurity Act 1993

Regional, city and district councils

Resource Management Act 1991

City and district councils

Building Act 1991

Ministry of Consumer Affairs

Gas Act 1992

Ministry of Health

- Health Act 1956
- Medicines Act 1981

Department of Labour Occupational Safety and Health Service

Health and Safety in Employment Act 1992

How to contact the key agencies referred to in this Guide:

ERMA New Zealand:

- Web site: http://www.ermanz.govt.nz
- E-mail: info@ermanz.govt.nz
- Phone: + 64 4 473 8426
- Fax: + 64 4 473 8433
- Post: PO Box 131, Wellington, New Zealand
- Visit: Level 1, BP House, 20 Customhouse Quay, Wellington.

The Ministry for the Environment:

- Web site: http://www.mfe.govt.nz
- E-mail: publications@mfe.govt.nz
- Phone: + 64 4 917 7400
 - Fax: + 64 4 917 7523
- Post: PO Box 10362, Wellington, New Zealand
- Visit: Grand Annexe, 84 Boulcott Street, Wellington.

BIBLIOGRAPHY



10.1 ACT AND REGULATIONS

Hazardous Substances and New Organisms Act 1996 and its amendments

Hazardous Substances and New Organisms Methodology Order 1998

Hazardous Substances and New Organisms Regulations 1998 (organisms not genetically modified)

Hazardous Substances and New Organisms Regulations 1998 (new organisms forms and information requirements)

Hazardous Substances Minimum Degrees of Hazard Regulations 2001

Hazardous Substances Classification Regulations 2001

Hazardous Substances (Forms and Information) Regulations 2001

Hazardous Substances (Exempt Laboratories) Regulations 2001

Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001

Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001

Hazardous Substances (Packaging) Regulations 2001

Hazardous Substances (Disposal) Regulations 2000

Hazardous Substances (Tracking) Regulations 2001

Hazardous Substances (Fireworks) Regulations 2001

Hazardous Substances (Personnel Qualifications) Regulations 2001

Hazardous Substances (Emergency Management) Regulations 2001

Hazardous Substances (Identification) Regulations 2001

10.2 QUICK GUIDES AND INFORMATION SHEETS

ERMA New Zealand 1998 to 2001 Quick Guides to the HSNO Act 1996

- No. 10 A quick guide to: Delegated decisions for low risk GMO developments
- No. 11 A quick guide to: Our fees and charges
- No. 13 A quick guide to: Applying for a hazardous substance approval
- No. 14 A quick guide to: Enforcement and compliance
- No. 15 A quick guide to: Test certifiers
- No. 16 A quick guide to: Finding out about ERMA
- No. 17 A quick guide to: Making applications
- No. 18 A quick guide to: Applying for new organism approval
- No. 19 A quick guide to: Making a submission

ERMA New Zealand 1998 to 2001 Information Sheets		Ministry for the Environment 1996 Hazardous Substances	
Information sheet No. 1	The HSNO Regulations	and new organisms net	
Information sheet No. 2	Genetic modification: an overview	Information sheet No. 1	What happens after the Act becomes law?
Information sheet No. 3	Hybrids and the HSNO Act	Information sheet No. 2	What is a hazardous substance?
Information sheet No. 4	New organisms under the HSNO Act	Information sheet No. 3	What is a new organism?
		Information sheet No. 4	Preparing for the new legislation
Information sheet No. 5	Transfer of licensed animal remedies under the HSNO Act	Information sheet No. 5	Who will be responsible for the new Act?
Information sheet No. 6	Transfer of substances under the HSNO Act	Information sheet No. 6	How will the new Act be enforced?
Information sheet No. 7	Genetically modified food and the HSNO Act	Information sheet No. 7	<i>How will the new rules be developed?</i>
Information sheet No. 8	Exemptions from the provisions of the HSNO Act for small-scale	Information sheet No. 8	How will the ERMA make its decisions?
	chemistry	Information sheet No. 9	How will the new Act relate
Information sheet No. 10	Estimated prices for hazardous substances	, i i i i i i i i i i i i i i i i i i i	to other Acts?
		Information sheet No. 10	How will the changeover
Information sheet No. 11	Manufactured articles		take place?
Information sheet No. 12	Confidentiality		
Information sheet No. 13	Development and approval of HSNO codes of practice		
Information sheet No. 14	Determining the status of hazardous substances		

YOUR GUIDE TO THE HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996

10.3 ERMA NEW ZEALAND PUBLICATIONS

ERMA New Zealand, 1999, *Consultation Policy on Part V Applications* (ER-GP-01-1 4/99)

ERMA New Zealand, 1999, Pricing policy 1999 ER-FE-01-2 11/99

ERMA New Zealand, 1999, *Pricing schedule 1999* ER-FE-02-2 11/99

ERMA New Zealand, August 1998, Annotated methodology for the consideration of applications for hazardous substances and new organisms under the HSNO Act 1996

ERMA New Zealand Protocol 1, Series 2: *Taking account* of Maori perspectives

ERMA New Zealand Protocol 2, Series 2: Decision Paths

ERMA New Zealand Protocol 3, Series 2: Interpretations and Explanations of Key Concepts

ERMA New Zealand Protocol 4, Series 2: Information requirements for hazardous substance applications

ERMA New Zealand, 1999, User Guide to Working with Maori under the HSNO Act 1996

ERMA New Zealand, 2001, User Guide to making an Application for a Hazardous Substance Approval

ERMA New Zealand, 2001, User Guide to HSNO thresholds and classifications

ERMA New Zealand, 2001, User Guide to HSNO control regulations

ERMA New Zealand, 2001, User Guide to Becoming a Test Certifier

Sample Applications and Decisions

Release of Agricultural Chemical (Abamectin)2001 Release of Community Chemical C1-Xclean 2001 Release of Industrial raw material (DMF) 2001 Field test in containment (modelphos) 2001 Release of a flammable substance (ARCEE) 2001 Release of community chemical A – Yclean 2001 Release of group application (Dulux) 2001

Technical Guides

Technical Guide to Identifying Risks ER-TG-01-1 9/99

Technical Guide to Risks to Human Health ER-TG-02-1 12/99

Technical Guide to Risks, Costs and Benefits ER-TG-03-17/00

Technical Guide to Ethical Guidelines: Taking Account of Cultural, Ethical and Community Issues – Guidelines to work on GMOs carried out under HSNO ER-TG-04-1 8/00

Getting Started – A Guide to HSNO Commencement for Hazardous Substances 2001

10.4 MINISTRY FOR THE ENVIRONMENT PUBLICATIONS

Ministry for the Environment, 2000, *Assessment Guide for Hazardous Facilities: A resource for local authorities and hazardous facility operators.* Prepared by Environment and Business Group Ltd; Hazardous Substance and Resource Management Consulting. Ministry for the Environment: Wellington.

Ministry for the Environment, 1999, *Land Use Planning Guide for Hazardous Facilities: A resource for local authorities and hazardous facility operators.* Prepared by Environment and Business Group Ltd; Hazardous Substance and Resource Management Consulting. Ministry for the Environment: Wellington.

GLOSSARY RELATING TO THE HSNO ACT



Acute

Effect occurring within a short time of exposure to a toxic substance.

Aquatic

Growing, living or found in water.

Assessment (see also reassessment)

The evaluation process used by the Authority to review the information provided by an applicant, relevant public authorities and other interested parties, and to weigh up the positive and adverse effects of the substance before deciding on whether to grant approval.

The Authority

Environmental Risk Management Authority, an independent authority set up under the HSNO Act.

Bioaccumulation

Accumulation of substances in the tissues of organisms.

By-product

Incidental or secondary product made in the manufacture of another product.

Call-in (calling in)

In special circumstances, the Minister for the Environment may call in an application and decide on it. The Authority then conducts an inquiry and makes recommendations to the Minister.

Chronic

Effect occurring either after a prolonged exposure or a long time after exposure to a toxic substance.

Code of practice

An Authority-approved means of implementing or meeting requirements in regulations.

Compliance

In accordance with the requirements of legislation and regulations.

Containment

Relates to an approval granted for a hazardous substance or new organism in containment. Containment means restricting organisms or hazardous substances to a secure location or facility to prevent escape. In respect of genetically modified organisms, includes field testing and large-scale fermentation. Controls on containment for both hazardous substances and new organisms are derived from the Third Schedule of the HSNO Act.

Controls

Controls encompass any obligations or restrictions imposed on any hazardous substance or new organism, or on any person involved with any hazardous substance or new organism, by the HSNO Act (and other legislation). Controls also encompass any regulation, rule, code or other document made in accordance with the provisions of the HSNO Act (or any other legislation) for the purpose of controlling the effects of hazardous substances or new organisms on people, property and the environment.

Corrosive

A corrosive substance is a substance that either produces destruction of tissue (eg skin or eye) or corrodes metal surfaces.

Criteria

The matters that the Authority will take into account when assessing and deciding on approvals for hazardous substances or new organisms.

Decision path

The process the Authority adopts in making decisions on different types of approvals for hazardous substances or new organisms.

Disposal

In relation to hazardous substances, means:

- treating the substance in such a way that it is no longer hazardous;
- discharging the substance into environment as waste; or
- exporting the substance as a waste from New Zealand.

In relation to a new organism, means:

- rendering the organism biologically inactive in such as manner as to prevent the occurrence of any future biological activity; or
- exporting the organism from New Zealand.

Ecotoxic/ecotoxicity

Capable/capability of causing ill-health, injury or death to any living organism.

Effect

Effect includes:

- any potential or probable effect
- any positive or adverse effects
- any temporary or permanent effects
- any past, present or future effect
- any acute or chronic effect
- any cumulative effects which arise over time and in combination with other effects.

Emergency

Actual or imminent danger from hazardous substances or new organisms to human health or safety; or a danger to the environment or chattels so significant that immediate action is needed to remove the danger.

Emergency response plans

A plan setting out the steps required to isolate or contain an emergency and, as far as possible, to remedy harmful effects where those effects are able to extend to large numbers of people and/or significant parts of the environment.

Enforcement

Ensuring observance of statutory requirements.

Enforcement officer

A person appointed under section 100 of the HSNO Act with a series of powers including the power to enter premises and take actions in emergency situations.

Environment

Environment includes:

- ecosystems and their constituent parts, including people and communities
- all natural and physical resources
- amenity values
- the social, economic, aesthetic and cultural conditions that affect or are affected by the matters stated above.

ERMA New Zealand

ERMA New Zealand is the organisation that supports the activities of the Environmental Risk Management Authority and presents a public interface.

Explosive

Capable of exploding (generating violent shock) or producing pyrotechnic effects such as heat, light, sound or smoke.

Field test

Field test means, in relation to an organism, carrying out trials on the effects of the organism under conditions similar to those of the environment into which the organism is likely to be released, but from which the organism, or any heritable material arising from it, could be retrieved or destroyed at the end of the trials. It includes large-scale fermentation of micro-organisms.

Flammable

Readily able to catch fire and undergo combustion.

Genetically modified organism (GMO)

A genetically modified organism is one in which any of the genetic material has been modified by *in vitro* techniques, or one which is derived from such an organism.

Hazard classification

Means a combination of the hazardous property of a substance and the level or type of hazard related to that property.

Hazardous property

See hazardous substance.

Hazardous substance

Generally, any substance with the potential to damage the environment, human health and safety or structures. Specifically, any substance that exceeds a defined threshold level for one or more of the following hazardous properties:

- explosiveness
- flammability
- ability to oxidise
- toxicity (acute and chronic)
- corrosiveness
- ecotoxicity (with or without bioaccumulation)
- substances which, on contact with air or water, develop one or more of the above properties.

HSNO Act

Hazardous Substances and New Organisms Act 1996

Incompatible

Likely to interact in a harmful way.

Initiation/ignition

The process of starting combustion.

Institutional Biological Safety Committees

Institutional Biological Safety Committees (IBSCs) are committees that sit within scientific institutions or research organisations that have been appointed by the Authority as delegated decision-making agencies. IBSCs are authorised to make decisions on approvals for low-risk genetically modified organisms.

Life cycle

All aspects that apply to a substance from extraction or manufacture to disposal, including storage, transport, handling and use (*see also* pan-life cycle)

Manufacture

Manufacture, in relation to a hazardous substance has the normal meaning, but here also includes the mining or extraction of any hazardous substance.

Methodology

In making decisions on approvals for hazardous substances and new organisms, the Authority is required to act in accordance with a set methodology, which is established by Order in Council.

Mutagen

Substance that can induce genetic mutation.

New organism

New organism means any organism that:

- was not legally present in New Zealand immediately before 29 July 1998
- is prescribed as a risk species in HSNO regulations
- is present in New Zealand but is found only in containment – for example, only in zoos or laboratories
- has been genetically modified
- has been eradicated from New Zealand.

Nga Kaihautu Tikanga Taiao

A special advisory committee set up to advise the Authority on Maori perspectives of applications in order to give effect to the principles of the Treaty of Waitangi in the HSNO Act.

Organism

Individual animal, plant, bacterium or virus. In the HSNO context, the term:

- does not include a human being or any related genetic structures
- includes a micro-organism
- includes a genetic structure (other than of human origin) that is capable of replicating (making copies) of itself
- includes an organism defined under the Biosecurity Act 1993
- includes a reproductive cell or developmental stage of an organism.

Order in Council

Essentially, an instruction made under the authority of a statute from the Government. For the Authority, its decision-making methodology is set by Order in Council.

Oxidising substances

Those substances that cause or contribute to combustion, generally by making oxygen, and occasionally chlorine or fluorine, available to the combustion.

Pan-life cycle

Under the HSNO Act, controls that are applicable to any or all phases of the life cycle of substances – generally irrespective of the substance's hazardous property.

Performance-based approach

The performance-based approach [to controls] means that the objective to be achieved by a control is specified in such a way that:

- it does not limit the technical solutions that can used to achieve the control
- a person can measure independently whether or not they are in compliance with the control.

Precautionary approach

An approach specified in the Act requiring all persons exercising powers and functions under the HSNO Act to take into account the need for caution in managing adverse effects where there is scientific and technical uncertainty about those effects.

Protocol

Form of international agreement, for example the Biosafety Protocol. Also, working documents produced by ERMA New Zealand to support the methodology.

Public notification

Advertising in one or more daily newspapers, or by another method advised by the ERMA, an application for certain types of applications for hazardous substances or new organisms so that people can make submissions on them, or advertising a decision that has been made.

Public register

An information database containing information that is freely accessible to the public. In the context of the HSNO Act, means information databases that ERMA New Zealand maintains on applications and approvals for hazardous substances and new organisms, and on approved test certifiers.

Reassessment

A re-evaluation available only for a substance that has previously been approved or a new organism in containment. A reassessment can only occur when some combination of significant new information has become available about effects, or (in the case of hazardous substances) a better substance has become available or there have been significant changes in the way it is being used or the quantity used. The re-evaluation proceeds in the same way as for an original application for approval. *See also* assessment.

Release

Relates to an approval granted for a hazardous substance or new organism for release into the environment. Approvals for release for hazardous substances are generally with controls, whereas no controls apply to the release of new organisms.

Risk species

A risk species can be prescribed through regulations under the HSNO Act, and applies only to situations where a species is not already present in New Zealand and may have adverse effects on the health and safety of people or the environment.

RMA

Resource Management Act 1991.

Statutory

Related to legislation or prescribed in law or regulation.

Substance

Any element or compound (or their mixtures) of either natural or synthetic origin; any recognised variation of an element of a compound (such as an isotope, allotrope, isomer, congener, radical or ion); any manufactured article comprising hazardous substances with explosive properties. Under the HSNO Act a single substance may include a number of distinct products (eg paint of different colours may be considered as a single substance).

Teratogen

Substance that can induce a birth defect.

Terrestrial

Living or growing on the land.

Test certificate

Certificate issued by a test certifier. A test certificate is a means to demonstrate that a control specified in an approval for a hazardous substance is being met.

Test certifier

Person who has been approved by the authority as having appropriate qualifications, sufficient knowledge of the relevant requirements and appropriate equipment to test for the relevant requirements.

Threshold level

A defined level of hazardous effect or quantity of hazardous substance that needs to be exceeded before a substance is classified as being hazardous or specified controls apply. Also called a minimum degree of hazard in regulation.

Toxic

Capable of having an adverse effect on human health.

Tracking

System for recording the person in charge, the quantity and whereabouts of highly hazardous substances.

Transhipment

Under the HSNO Act, means the importation into New Zealand of a hazardous substance or new organism solely for the purpose of export within 20 working days to another destination outside New Zealand.

Use

In relation to hazardous substance use includes handling, storage, labelling, tracking and disposal.

Warrant

Documentation specifying the functions that the enforcement officer may carry out.

ABOUT THE MINISTRY FOR THE ENVIRONMENT MANATŪ MŌ TE TAIAO

Making a difference through environmental leadership.

The Ministry for the Environment Manatū Mō Te Taiao advises the Government on policies, laws, regulations, and other means of improving environmental management in New Zealand. The significant areas of policy for which the Ministry is responsible are: management of natural resources; sustainable land management; air and water quality; management of hazardous substances, waste and contaminated sites; protection of the ozone layer; and responding to the threat of climate change. Advice is also provided on the environmental implications of other Government policies.

The Ministry monitors the state of the New Zealand environment and the operation of environmental legislation so that it can advise the Government on action necessary to protect the environment or improve environmental management.

The Ministry carries out many of the statutory functions of the Minister for the Environment under the Resource Management Act 1991. It also monitors the work of the Environmental Risk Management Authority on behalf of the Minister.

Besides the Environment Act 1986 under which it was set up, the Ministry is responsible for administering the Soil Conservation and Rivers Control Act 1941, the Resource Management Act 1991, the Ozone Layer Protection Act 1996 and the Hazardous Substances and New Organisms Act 1996.

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