

Health and Safety at Work (Hazardous Substances—Additional and Modified Requirements for Specified Class 6 and 8 Substances) Safe Work Instrument 2017

This safe work instrument is approved under section 227 of the Health and Safety at Work Act 2015 by the Minister for Workplace Relations and Safety, after being satisfied that—

- (a) appropriate consultation has been carried out under section 227(3) of that Act; and
- (b) for the purposes of clauses 8 to 12 of this safe work instrument and clauses 4 to 10 of the Schedule of this safe work instrument, compliance with the Health and Safety at Work (Hazardous Substances) Regulations 2017 will not appropriately control risk associated with certain class 6 and 8 hazardous substances.

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Schedule

Additional requirements for dichlorvos-containing substances

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Safe Work Instrument

1 Title

This is the Health and Safety at Work (Hazardous Substances—Additional and Modified Requirements for Specified Class 6 and 8 Substances) Safe Work Instrument 2017.

2 Commencement

This safe work instrument comes into force on 1 December 2017.

3 Overview

This safe work instrument specifies requirements for class 6 and 8 substances for the purposes of—

- (a) regulation 13.4(1), (2)(a) and (2)(b) of the Regulations by specifying additional information to be kept in the record required by regulation 13.3 of the Regulations when a dichlorvos-containing substance is applied for plant protection purposes:
- (b) regulation 13.7(4) of the Regulations by specifying equipment to be used when applying certain substances:
- (c) regulation 13.24(1)(b) of the Regulations by specifying the areas to which the duty to ensure a restricted entry interval for a dichlorvos-containing substance is complied with applies:
- (d) regulation 13.24(3)(b) of the Regulations by setting out the circumstances in which a person may be present or enter an area before the end of a restricted entry interval for a dichlorvos-containing substance:
- (e) regulation 13.46(4)(b) of the Regulations by modifying the requirement in regulation 13.9 of the Regulations for certain class 6.1B substances to be under the personal control of a certified handler:
- (f) regulation 13.46(6)(a), (b), and (7) of the Regulations by setting out—
 - (i) notification requirements for the use of certain substances; and
 - (ii) additional requirements as to which persons are permitted to handle certain substances; and
 - (ii) additional requirements for the use, handling, transport, and storage of certain substances:
- (g) regulation 19.2 of the Regulations by applying the tracking requirements in Part 19 of the Regulations to PAPP Ready-to-use Bait.

4 Interpretation

- (1) In this safe work instrument, unless the context otherwise requires,—

Act means the Health and Safety at Work Act 2015

dichlorvos-containing substance means the following substances:

- (a) aerosol containing 50 g/kg dichlorvos, HSNO approval number HSR000212:
- (b) emulsifiable concentrate containing 1 kg/L dichlorvos, HSNO approval number HSR000211:
- (c) emulsifiable concentrate containing 1.14 kg/L dichlorvos, HSNO approval number HSR000213

enclosed space means—

- (a) a structure or structures with an internal airspace, or air supply, in common; or
- (b) parts of a structure with an internal airspace, or air supply, in common

fully automated, in relation to application equipment for a hazardous substance, means the equipment can be operated in a way that allows its operator not to be in the same enclosed space as the equipment during its application of the substance

Regulations means the Health and Safety at Work (Hazardous Substances) Regulations 2017

restricted entry interval (REI), in relation to a dichlorvos-containing substance, means a restricted entry interval set for the substance by WorkSafe under regulation 13.23 of the Regulations

- (2) A term or expression that is defined in the Act or the Regulations and used, but not defined, in this safe work instrument has the same meaning as in the Act or the Regulations.

Requirements for specified class 6 substances

5 Additional requirements for dichlorvos-containing substances

- (1) The Schedule contains the additional requirements that apply to dichlorvos-containing substances.
- (2) Subparts 1 and 2 of the Schedule apply on and after the commencement of this safe work instrument.
- (3) Subpart 3 of the Schedule applies on and after the commencement of this safe work instrument until 14 September 2020.
- (4) Subpart 4 of the Schedule applies on and after 15 September 2020.

6 Equipment requirements: Raxil Star and Poncho Votivo

- (1) This clause applies to the application of the following substances to seeds:
 - (a) Raxil Star, HSNO approval number HSR101132:

- (b) Poncho Votivo, HSNO approval number HSR101149.
- (2) A PCBU with management or control of work involving the application of a substance to which this clause applies must ensure that the substance is applied to seeds using a purpose-built seed coating machine.

7 Equipment requirements: Dianex

A PCBU with management or control of work involving the application of Dianex, HSNO approval number HSR101016, must ensure that if the substance is applied indoors, the substance is applied using fully automated equipment.

8 Certified handler requirements: Firefly, Melody Duo, and Melody Duo NF

- (1) This clause applies to the following class 6 substances:
 - (a) Firefly, HSNO approval number HSR007993;
 - (b) Melody Duo, HSNO approval number HSR001616;
 - (c) Melody Duo NF, HSNO approval number HSR007814.
- (2) The PCBU with management or control of a substance to which this clause applies must ensure that the substance is—
 - (a) under the control of a certified handler; or
 - (b) appropriately secured from access by persons other than a certified handler or a person who may handle the substance under subclause (3).
- (3) Despite subclause (2)(a), a substance referred to in subclause (1) may be handled by a person who is not a certified handler—
 - (a) if a certified handler—
 - (i) is present at the place where the substance is being handled; and
 - (ii) has provided guidance to the person in respect of the handling; and
 - (iii) is available at all times to provide assistance, as necessary, to the person while the substance is being handled by the person:
 - (b) in relation to an aerial application of the substance, if the person carrying out the application has a current aerial spraying rating issued under Part 61 of the Civil Aviation Rules;
 - (c) if the person does not require a compliance certificate as a certified handler as provided in regulation 4.4 of the Regulations.

9 Exception for transportation of packaged substances

- (1) The certified handler requirements specified in clause 8 must be treated as having been complied with if—
 - (a) for a substance being transported on land,—

- (i) the substance is being transported by rail and the person who drives the train that is transporting the substance is fully trained in accordance with a safety system that is referred to in an approved safety case under the Railways Act 2005; and
- (ii) in any other situation, the person who drives, loads, and unloads the vehicle that is transporting the substance—
 - (A) for hire or reward, or in quantities exceeding those set out in Schedule 1 of the Land Transport Rule: Dangerous Goods 2005, has a current dangerous goods endorsement on his or her driver licence;
 - (B) in any other case, complies with the Land Transport Rule: Dangerous Goods 2005:
- (b) for a substance being transported by sea, one of the following is complied with:
 - (i) Part 24A of the Maritime Rules (carriage of cargoes—dangerous goods); or
 - (ii) the International Maritime Dangerous Goods Code:
- (c) for a substance being transported by air,—
 - (i) pilots, aircrew, and airline ground personnel loading and handling the hazardous substance within an aerodrome comply with the Civil Aviation Rules;
 - (ii) pilots engaged in the aerial application of hazardous substances comply with the Civil Aviation Rules.
- (2) Subclause (1)(a) does not apply to a tank wagon or transportable container to which Part 16 of the Regulations applies.

10 Modification of certified handler requirements: hydrochloric acid, hydrobromic acid, and hydriodic acid

- (1) Regulation 13.9 of the Regulations applies to the following class 6.1B substances in a way that is modified by subclause (2):
 - (a) hydrochloric acid, >25% aqueous solution, HSNO approval number HSR001557;
 - (b) hydrobromic acid, 47 - 60% aqueous solution, HSNO approval number HSR001556;
 - (c) hydriodic acid, 57 - 67% aqueous solution, HSNO approval number HSR001560.
- (2) A PCBU with management or control of work using a substance to which this clause applies is not required to ensure that the substance is—
 - (a) under the personal control of a certified handler; or
 - (b) appropriately secured from access by persons other than a certified handler or a person who may handle the substance under regulation 13.9(2) of the Regulations.

11 Requirements for use: Fumithor™ Delta Insecticide Smoke Generator and Grainguard

- (1) This clause applies to the following class 6 substances:
- (a) Fumithor™ Delta Insecticide Smoke Generator, HSNO approval number HSR101185;
 - (b) Grainguard Supersmoke, HSNO approval number HSR101001.
- (2) A PCBU with management or control of work involving the use of a substance to which this clause applies must ensure that—
- (a) the substance is used only in a specified structure; and
 - (b) in the case of Fumithor™ Delta Insecticide Smoke Generator, the substance is used only as a fumigant pesticide; and
 - (c) in the case of Grainguard Supersmoke, the substance is used only for the internal treatment of a specified structure; and
 - (d) before the substance is ignited,—
 - (i) no person other than the worker igniting the substance is present in the specified structure; and
 - (ii) subject to subparagraph (iii), every opening in the specified structure, including every door and vent, is closed; and
 - (iii) the specified structure has an exit door that remains open until the worker igniting the substance has left the specified structure; and
 - (e) once the substance has been ignited,—
 - (i) the worker leaves the specified structure immediately; and
 - (ii) no other person is present in the specified structure; and
 - (iii) the exit door is closed; and
 - (iv) in the case of Grainguard Supersmoke,—
 - (A) every opening in the specified structure is kept closed for a 24-hour period; and
 - (B) at the end of the 24-hour period, the specified structure is ventilated for a minimum of 3 hours before any person is permitted to enter it.
- (3) In this clause,—
- specified structure** means—
- (a) in relation to Fumithor™ Delta Insecticide Smoke Generator, an enclosed building;
 - (b) in relation to Grainguard Supersmoke, a grain store or silo.

12 Use and storage requirements: Perfringolysin O Protein

A PCBU with management or control of Perfringolysin O Protein (lab reagent), HSNO approval number HSR101206 must ensure that the substance is not used or stored in a workplace unless—

- (a) the workplace is a laboratory to which Part 18 of the Regulations applies; and
- (b) the substance is contained in not more than 12 vials, each containing not more than 30 μ L of the substance.

13 Tracking of PAPP Ready-to-use Bait

Part 19 of the Regulations applies to PAPP Ready-to-use Bait, HSNO approval number HSR100496.

Draft for consultation

Schedule

Additional requirements for dichlorvos-containing substances

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Part 1—Definitions

1 Definitions

In this schedule, unless the context otherwise requires,—

aerosol containing 50 g/kg dichlorvos means aerosol containing 50 g/kg dichlorvos, HSNO approval number HSR000212

buffer zone, in relation to a dichlorvos-containing substance, means a buffer zone set by the EPA under the Hazardous Substances and New Organisms Act 1996 for the substance

end of application, in relation to the application of a dichlorvos-containing substance, means when the substance was last applied in the application plot for a single application event

exclusion zone, in relation to a dichlorvos-containing substance, means the area extending to a distance of 20 m outward from the perimeter of an enclosed space where the dichlorvos-containing substance is being applied

spot treatment, in relation to the application of a dichlorvos-containing substance,—

- (a) means the small-scale manual application of the substance, in a targeted manner, to localised or restricted areas; and
- (b) to avoid doubt, does not include broad-acre or wide-dispersive application methods (for example, boom or airblast sprayer, or aerial application)

ventilation, in relation to the application of a dichlorvos-containing substance in an enclosed space, means the deliberate release, after the end of application of the substance, of the atmosphere in the enclosed space done for the purpose of reducing the airborne dichlorvos concentration.

Part 2—Requirements that apply on and after the commencement of this safe work instrument

2 Additional matters to be included in record kept by PCBU

- (1) This clause applies to a PCBU with management or control of a dichlorvos-containing substance applied for plant protection purposes.
- (2) A record required to be kept under regulation 13.3(2) of the Regulations by a PCBU must include the following information in addition to the information required by regulation 13.4(1) of the Regulations:
 - (a) the measures implemented to comply with the REI:
 - (b) the size of the application plot, and any associated enclosed space:
 - (c) the location and extent of the exclusion zone or buffer zone:
 - (d) the method used to apply the substance:
 - (e) in the case of aerosol containing 50 g/kg dichlorvos, the number of cylinder changes by each person involved in the application of the substance:
 - (f) the quantity of dichlorvos handled by each person involved in the application:
 - (g) the measures implemented to monitor worker exposure to dichlorvos:
 - (h) the following details of the notice given under clause 4—
 - (i) how the PCBU determined which persons to notify; and
 - (ii) the persons who were notified; and
 - (iii) what information was provided to the persons who were notified.

3 Restricted entry intervals for dichlorvos-containing substances apply to affected area

- (1) Regulation 13.24 of the Regulations applies to an affected area.
- (2) The PCBU must ensure that no person is present in, or enters, an affected area until the end of the relevant REI.
- (3) Despite subclause (2), a person may be present in, or enter,—
 - (a) an affected area other than an exclusion zone, if the person—
 - (i) wears personal protective equipment in accordance with regulation 13.8 of the Regulations when the person is in the affected area; and
 - (ii) is present in the affected area for a total period of not more than 30 minutes in any 24-hour period;
 - (b) an exclusion zone, if the person—
 - (i) wears personal protective equipment in accordance with regulation 13.8 of the Regulations when the person is in the affected area; or
 - (ii) is present in the affected area for a total period of not more than 15 minutes in any 24-hour period;
 - (c) a treated produce storage location, if the concentration of dichlorvos in the air is less than 0.05 ppm.
- (4) Subclause (1) does not apply to an affected area in which a dichlorvos-containing substance is being applied—
 - (a) by dipping; or
 - (b) as a spot-treatment using a knapsack, handgun or handheld fogger
- (5) In this clause, unless the context otherwise requires,—

affected area means—

- (a) an enclosed space where a dichlorvos-containing substance is being applied; and
- (b) a treated produce storage location; and
- (c) an exclusion zone; and
- (d) an outdoor application plot

treated produce storage location means a storage location in which produce treated with a dichlorvos-containing substance is present.

4 Application of dichlorvos-containing substance to be notified

- (1) This clause applies to a PCBU with management or control of work involving the application of a dichlorvos-containing substance.
- (2) Subject to subclause (4), the PCBU must ensure, so far as is reasonably practicable, that notice of the application of the substance is given—
 - (a) to any person occupying a sensitive area within 100 m of the perimeter of—

- (i) for indoor applications, the enclosed space where the substance is being applied; or
 - (ii) for outdoor applications, the application plot; and
- (b) at least 12 hours but not more than 48 hours before applying the substance.
- (3) A notice given under subclause (2) must specify—
 - (a) the date and approximate time and duration of the application of the substance, including ventilation; and
 - (b) the steps that the notified person needs to take to avoid exposure to the substance; and
 - (c) the contact details of the person in charge of the application of the substance, including that person's telephone number, email address and postal address.
- (4) Subclause (2) does not apply if the substance is applied—
 - (a) by dipping; or
 - (b) as a spot-treatment using a knapsack, handgun or handheld fogger.

Part 3—Requirements that apply until 14 September 2020

5 Requirements for use of dichlorvos-containing substances

- (1) This clause applies to a PCBU with management or control of work involving the application of a dichlorvos-containing substance.
- (2) The PCBU must ensure that—
 - (a) the substance is not applied in a sensitive area; and
 - (b) the substance is not applied using aerial application methods; and
 - (c) in the case of aerosol containing 50 g/kg dichlorvos, the substance is not applied outdoors.

6 Limits on quantity of dichlorvos-containing substances that may be handled

- (1) This clause applies to a PCBU with management or control of work involving the application of a dichlorvos-containing substance.
- (2) Subject to subclause (3), the PCBU must ensure that the quantity of dichlorvos that a worker applying the substance may handle over a 24-hour period is not more than—
 - (a) 15 g, if the substance is applied using a handgun, handheld fogger, or knapsack;
 - (b) 1.3 kg, if the substance is applied using a trolley boom, semi-automated sprayer, fully automated sprayer, or fully automated fogger;
 - (c) 600 g, if the substance is applied by dipping;
 - (d) 7.2 kg, if the substance is applied using a boom or airblast.

- (3) In the case of aerosol containing 50 g/kg dichlorvos, the PCBU must ensure that, over a 24-hour period, a worker applying the substance—
- (a) carries out not more than two cylinder changes of the substance, if the substance is applied using fully automated equipment;
 - (b) handles not more than 18.75 g of dichlorvos, if the substance is applied manually.

7 Limits on rates of applying dichlorvos-containing substances

- (1) This clause applies to a PCBU with management or control of work involving the application of a dichlorvos-containing substance.
- (2) The PCBU must ensure that if the substance is applied indoors, the substance is not applied at a rate of more than 0.05 g/m³ dichlorvos.

Part 4—Requirements that apply on and after 15 September 2020

8 Requirements for use of dichlorvos-containing substances

- (1) This clause applies to a PCBU with management or control of work involving the application of a dichlorvos-containing substance.
- (2) The PCBU must ensure that—
- (a) the substance is not applied in a sensitive area; and
 - (b) the substance is not applied using aerial application methods; and
 - (c) subject to paragraph (d), the substance is not applied—
 - (i) indoors, unless the substance is applied—
 - (A) by dipping; or
 - (B) as a spot treatment by knapsack, handgun, or handheld fogger; or
 - (C) by fully automated equipment; and
 - (ii) outdoors, unless the substance is applied—
 - (A) by dipping; or
 - (B) as a spot treatment by a knapsack, handgun or handheld fogger; and
 - (d) in the case of aerosol containing 50 g/kg dichlorvos, the substance is—
 - (i) not applied outdoors; and
 - (ii) not applied indoors, unless it is applied by fully automated equipment.

9 Limits on quantity of dichlorvos-containing substances that may be handled

- (1) This clause applies to a PCBU with management or control of work involving the application of a dichlorvos-containing substance.
- (2) The PCBU must ensure that the quantity of dichlorvos that a worker applying the substance may handle over a 24-hour period is not more than—
 - (a) 15 g, if the substance is applied using a handgun, handheld fogger, knapsack, trolley boom, or semi-automated sprayer:
 - (b) 1.3 kg, if the substance is applied using fully automated sprayer or a fully automated fogger:
 - (c) 600 g, if the substance is applied by dipping.
- (3) In the case of aerosol containing 50 g/kg dichlorvos, the PCBU must ensure that the number of cylinder changes that a worker applying the substance may carry out over a 24-hour period is not more than 2.

10 Limits on rates of applying dichlorvos-containing substances

- (1) This clause applies to a PCBU with management or control of work involving the application of a dichlorvos-containing substance.
- (2) The PCBU must ensure that, if the substance is applied indoors, the substance is not applied at a rate of more than 0.05 g/m³ dichlorvos.

Dated at Wellington this [date] day of [month] [2017].

[Name],
Minister for Workplace Relations and Safety

Date of notification in *Gazette*:

This safe work instrument is administered by WorkSafe New Zealand.