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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, being satisfied that—

- (a) appropriate consultation has been carried out under section 227(3) of that Act; and
- (b) in accordance with regulation 13.46(2) of the Health and Safety at Work (Hazardous Substances) Regulations 2017, for the purposes of clauses 7 to 11 of this safe work instrument and clauses 4 to 11 of the Schedule of this safe work instrument, compliance with provisions of the Regulations that apply to certain class 6 and 8 substances will not appropriately control risk associated with those substances.

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Schedule

Additional and modified requirements for dichlorvos-containing substances

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

- (1) Part 4 of the Schedule comes into force on 15 September 2020.
- (2) The rest of this safe work instrument comes into force on 1 December 2017.

3 Overview

In this safe work instrument—

- (a) clause 6 specifies the equipment to be used in accordance with regulation 13.7 of the Regulations when applying certain class 6 substances:
- (b) clauses 7 and 8 modify the requirement in regulation 13.9 of the Regulations for certain class 6.1 substances to be under the personal control of a certified handler:
- (c) clause 9 modifies the requirement in regulation 13.12 of the Regulations for a controlled substance licence to be held to possess certain class 6.1 substances:
- (d) clause 10 sets out additional requirements to be complied with under regulation 13.46(7) of the Regulations when certain class 6.1 substances are used:
- (e) clause 11 sets out additional requirements to be complied with under regulation 13.46(7) of the Regulations when Perfringolysin O Protein is used or stored:
- (f) clause 2 of the Schedule specifies 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:
- (g) clause 3 of the Schedule specifies, in relation to a dichlorvos-containing substance, the area to which the duty in regulation 13.24 of the Regulations to ensure a restricted entry interval is complied with applies:
- (h) clause 4 of the Schedule modifies, in relation to a dichlorvos-containing substance, the requirements in regulation 13.24(3) of the Regulations that apply

when a person is present or enters an area before the end of a restricted entry interval:

- (i) clause 5 of the Schedule specifies additional notification requirements to be complied with under regulation 13.46(6)(a) of the Regulations when a dichlorvos-containing substance is to be used:
- (j) clauses 6 to 11 specify additional requirements to be complied with under regulation 13.46(7) of the Regulations when a dichlorvos-containing substance is used or handled.

4 Interpretation

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

Act means the Health and Safety at Work Act 2015

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

dichlorvos-containing substance means the following substances:

- (a) aerosol containing 50 g/kg dichlorvos:
- (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 and modified requirements for dichlorvos-containing substances

- (1) The Schedule contains the additional and modified requirements that apply to dichlorvos-containing substances.
- (2) Part 3 of the Schedule ceases to have effect on 14 September 2020.

6 Duty to ensure equipment is appropriate

- (1) This clause applies to the following substances:
 - (a) Raxil Star, HSNO approval number HSR101132:
 - (b) Poncho Votivo, HSNO approval number HSR101149:
 - (c) Dianex, HSNO approval number HSR101016.
- (2) For the purposes of regulations 11 and 13.7(4) of the Regulations, a PCBU with management or control of work involving the application of a substance to which this clause applies must ensure that—
 - (a) in the case of a substance referred to in subclause (1)(a) or (b), the substance is applied to seeds using a purpose-built seed coating machine:
 - (b) in the case of a substance referred to in subclause (1)(c), the application of the substance indoors is carried out using fully automated equipment.

7 Modification to certified handler requirement: Firefly, Melody Duo, and Melody Duo NF

- (1) This clause applies to the following substances:
 - (a) Firefly, HSNO approval number HSR007993:
 - (b) Melody Duo, HSNO approval number HSR001616:
 - (c) Melody Duo NF, HSNO approval number HSR007814.
- (2) For the purposes of regulation 13.46(4)(b) of the Regulations, regulations 13.9 and 13.11 of the Regulations apply to a substance to which this clause applies as if regulation 13.9(1) of the Regulations were replaced by the following:
 - "(1) A PCBU with management or control of work using a class 6.1A or 6.1B substance or a specified class 6.1E substance or any class 6.1 substance that requires a controlled substance licence 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 (2).
 - (1A) In this regulation, **specified class 6.1E substance** means—
 - (a) Firefly, HSNO approval number HSR007993:
 - (b) Melody Duo, HSNO approval number HSR001616:
 - (c) Melody Duo NF, HSNO approval number HSR007814."

8 Modification to certified handler requirement: hydrochloric acid, hydrobromic acid, and hydriodic acid

- (1) This clause applies to the following substances:
 - (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) For the purposes of regulation 13.46(4)(b) of the Regulations, regulation 13.9 of the Regulations applies to a substance to which this clause applies as if regulation 13.9(3) of the Regulations were replaced by the following:
 - "(3) This regulation does not apply to a fumigant or the following class 6.1B substances:
 - (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."

9 Modification to requirement for controlled substance licence: alpha-chloralose

- (1) This clause applies to Solid containing 900 - 1000 g/kg alpha-chloralose, HSNO approval number HSR007750.
- (2) For the purposes of regulation 13.46(4)(b) of the Regulations, regulation 13.12 of the Regulations applies to a substance to which this clause applies as if regulation 13.12(4) of the Regulations were replaced by the following:
 - "(4) This regulation does not apply to—
 - (a) a fumigant; or
 - (b) Solid containing 900 - 1000 g/kg alpha-chloralose, HSNO approval number HSR007750."

10 Requirements for use of Fumithor™ Delta Insecticide Smoke Generator and Grainguard

- (1) For the purposes of regulation 13.46(4)(a) of the Regulations, this clause sets out additional requirements applying to the use of the following class 6.1 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 a substance referred to in subclause (1) 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.

11 Requirements for use and storage of Perfringolysin O Protein

- (1) For the purposes of regulation 13.46(4)(a) of the Regulations, this clause sets out additional requirements applying to the use and storage of Perfringolysin O Protein (lab reagent), HSNO approval number HSR101206.
- (2) A PCBU with management or control of a substance referred to in subclause (1) 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 µL of the substance.

Schedule

Additional and modified requirements for dichlorvos-containing substances

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Part 1

Definitions

1 Definitions

In this schedule, 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

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)

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

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) For the purposes of regulations 11 and 13.4(1) and (2) of the Regulations, 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 5—

- (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 REI for dichlorvos-containing substances applies to affected area

For the purposes of regulation 13.24(1)(b) of the Regulations, in relation to the application of a dichlorvos-containing substance, regulation 13.24 of the Regulations applies to an affected area except where the dichlorvos-containing substance has been applied—

- (a) by dipping; or
- (b) as a spot-treatment using a knapsack, handgun or handheld fogger.

4 Modified requirements applying to entry into affected area before end of REI

For the purposes of regulation 13.46(4)(b) of the Regulations, regulation 13.24 of the Regulations applies to a dichlorvos-containing substance, as if regulation 13.24(3) of the Regulations were replaced by the following:

"(3) Despite subclause (2), a person may be present in or enter the area before the end of the restricted entry interval—

- (a) in the case of 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) in the case of an exclusion zone,—
 - (i) if the person wears personal protective equipment in accordance with regulation 13.8 of the Regulations when the person is in the affected area; or
 - (ii) if the person is present in the affected area for a total period of not more than 15 minutes in any 24-hour period; or
 - (iii) in accordance with a safe work instrument:
- (c) in the case a treated produce storage location,—
 - (i) if the person wears personal protective equipment in accordance with regulation 13.8 of the Regulations; or
 - (ii) if the concentration of dichlorvos in the air is less than 0.05 ppm; or
 - (iii) in accordance with a safe work instrument."

5 Requirement to notify application of dichlorvos-containing substance

- (1) For the purposes of regulation 13.46(4)(a) of the Regulations, this clause sets out additional requirements applying to the application of a dichlorvos-containing substance.
- (2) Subject to subclause (4), a PCBU with management or control of a dichlorvos-containing substance 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

6 Overview of Part 3

For the purposes of regulation 13.46(4)(a) of the Regulations, this Part sets out additional requirements for the use and handling of a dichlorvos-containing substance that apply from the commencement of this safe work instrument until 14 September 2020.

7 Requirements for use of dichlorvos-containing substances

A PCBU with management or control of a dichlorvos-containing substance 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; and
- (d) if the substance is applied indoors, the substance is not applied at a rate of more than 0.05 g/m³ dichlorvos.

8 Requirements for handling dichlorvos-containing substances

- (1) Subject to subclause (2), a PCBU with management or control of a dichlorvos-containing substance 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.
- (2) 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.

Part 4

Requirements that apply on and after 15 September 2020

9 Overview of Part 4

For the purposes of regulation 13.46(4)(a) of the Regulations, this Part sets out additional requirements for the use and handling of a dichlorvos-containing substance that apply on and after 15 September 2020.

10 Requirements for use of dichlorvos-containing substances

A PCBU with management or control of a dichlorvos-containing substance 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; and
- (e) if the substance is applied indoors, the substance is not applied at a rate of more than 0.05 g/m³ dichlorvos.

11 Requirements for handling dichlorvos-containing substances

- (1) A PCBU with management or control of a dichlorvos-containing substance 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.
- (2) 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.

Made at Wellington on 13 November 2017.

Hon Iain Lees-Galloway
Minister for Workplace Relations and Safety

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This safe work instrument is administered by WorkSafe New Zealand.