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Health and Safety at Work (Hazardous Substances— Requirements for Specified Fumigants) Amendment Safe Work Instrument 2021

This safe work instrument is made under section 227 of the Health and Safety at Work Act 2015 by the Minister for Workplace Relations and Safety, being satisfied that appropriate consultation has been carried out under section 227(3) of that Act.

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Safe Work Instrument

1 Title

This is the Health and Safety at Work (Hazardous Substances—Requirements for Specified Fumigants) Amendment Safe Work Instrument 2021.

2 Commencement

This safe work instrument comes into force on [day] [month] 2021.

3 Principal safe work instrument

This safe work instrument amends the Health and Safety at Work (Hazardous Substances—Requirements for Specified Fumigants) Safe Work Instrument 2017.

4 Clause 4 amended (Interpretation)

In clause 4(1), after the definition of **site**, insert:

Tri-Form 80 means Tri-Form 80, HSNO approval number HSR101451.

5 New clause 17 inserted

After clause 16, insert:

17 Soil condition requirements – AFE-HFP

For the purposes of regulations 11 and 14.26(3) of the Regulations, a PCBU with management or control of fumigation using AFE-HFP must ensure at the beginning of the application that—

- (a) the soil temperature at the depth of injection of AFE-HFP is a minimum of 5°C and does not exceed 27°C; and
- (b) the moisture content of the soil is—
 - (i) equal to or more than 70% when measured with a tensiometer; or
 - (ii) between 50–75% as defined by the USDA Feel and Appearance method.

6 New cross-heading and clauses 18 to 23 inserted

After new clause 17, insert:

Requirements applying to Tri-Form 80

18 Tri-Form 80 required to comply with specified regulations

- (1) Tri-Form 80 is required to comply with:
 - (a) regulation 14.4 of the Regulations under regulation 14.4(1)(c) of the Regulations:
 - (b) regulation 14.20 of the Regulations, under regulation 14.20(1)(c) of the Regulations:
 - (c) regulation 14.21 of the Regulations, under regulation 14.21(1)(c) of the Regulations:
 - (d) regulation 14.22 of the Regulations, under regulation 14.22(1)(c) of the Regulations:
 - (e) regulation 14.23 of the Regulations, under regulation 14.23(1)(c) of the Regulations:
 - (f) regulation 14.24 of the Regulations, under regulation 14.24(1)(c) of the Regulations:

- (g) regulation 14.26 of the Regulations, under regulation 14.26(1)(b) of the Regulations:
 - (h) regulation 14.27 of the Regulations, under regulation 14.27(1)(b) of the Regulations.
- (2) To avoid doubt, subclause (1) applies in addition to any requirements under the Regulations that apply or relate to Tri-Form 80.

19 Notification of intended fumigation – Tri-Form 80

- (1) This clause applies to a PCBU who intends to carry out fumigation using Tri-Form 80.
- (2) For the purposes of regulations 11 and 14.7(4) of the Regulations, regulation 14.7 applies as if the following subclause were inserted after subclause (3):
- "(3A) A PCBU who intends to carry out fumigation using Tri-Form 80 must, not less than 24 hours before the start of the fumigation, notify the PCBU's intention to carry out fumigation to each person who—
- (a) may be affected by the fumigation; and
 - (b) is normally present within 100 m from the outer edge of the buffer zone."

20 PCBU must erect signs – Tri-Form 80

- (1) This clause applies to a PCBU with management or control of fumigation using Tri-Form 80.
- (2) For the purposes of regulations 11 and 14.10(4) of the Regulations, regulation 14.10 applies as if subclause (1) were replaced with the following:
- "(1) A PCBU with management or control of fumigation must erect signs in accordance with the following:
- (a) if the fumigation is of a type listed in regulation 14.9(a) to (f) or (i), signs must be erected around the perimeter of the buffer zone at every point of entry to the buffer zone that—
 - (i) state that fumigation is being carried out; and
 - (ii) identify the fumigant being used and state that it is toxic to humans; and
 - (iii) describe the general type of hazard associated with the fumigant; and
 - (iv) if the fumigant is flammable, describe the precautions necessary to prevent the unintended ignition of the fumigant:
 - (b) for fumigation of a type listed in regulation 14.9(a), (b)(ii) or (iii) or (iv), (e), (g), or (h), signs must be erected around the perimeter of the buffer zone at every point of entry to the buffer zone that—
 - (i) can be readily seen by any person approaching the buffer zone; and
 - (ii) state that fumigation is being carried out; and

- (iii) identify the fumigant being used and state that it is toxic to humans; and
 - (iv) describe the general type of hazard associated with the fumigant; and
 - (v) if the fumigant is flammable, describe the precautions necessary to prevent unintended ignition of the fumigant."
- (3) For the purposes of regulations 11 and 14.10(5)(b) of the Regulations, a PCBU with management or control of fumigation using Tri-Form 80 must ensure that signs are removed within 72 hours of the end of the buffer zone period.

21 Size of application block – Tri-Form 80

For the purposes of regulations 11 and 14.20(2)(c) of the Regulations, a PCBU with management or control of fumigation using Tri-Form 80 must ensure that the application block is not more than 32 hectares.

22 PCBU to set buffer zones – Tri-Form 80

For the purposes of regulations 11 and 14.22(8) of the Regulations, the requirements in subclauses (5) and (6) of regulation 14.22 and Table 3 in Schedule 18 of the Regulations apply to Tri-Form 80 as if references to Tri-Form 60 were references to Tri-Form 80.

23 Soil condition requirements – Tri-Form 80

For the purposes of regulations 11 and 14.26(3) of the Regulations, a PCBU with management or control of fumigation using Tri-Form 80 must ensure at the beginning of the application that—

- (a) the soil temperature at the depth of injection of Tri-Form 80 is a minimum of 5°C and does not exceed 27°C; and
- (b) the moisture content of the soil is—
 - (i) equal to or more than 70% when measured with a tensiometer; or
 - (ii) between 50–75% as defined by the USDA Feel and Appearance method.

Made at Wellington on [day] [month] 2021.

Hon Michael Wood
Minister for Workplace Relations and Safety

Date of notification in *Gazette*: [Click here to enter a date.](#)

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