

July 2020

## Notifiable incidents for MHF sites

Both the Health and Safety at Work Act 2015 and the Major Hazard Facility Regulations 2016 have duties for operators of Major Hazard Facilities to notify certain events to WorkSafe.

### Requirements of the Health and Safety at Work Act 2015 (HSWA)

Section 56 of HSWA requires operators to notify WorkSafe New Zealand of any notifiable events. There are three types of notifiable events:

- deaths
- notifiable injuries or illnesses
- notifiable incidents.

See sections 23, 24 and 25 of HSWA and our guidance on our website: [worksafe.govt.nz](https://worksafe.govt.nz)

Important points to note under HSWA are:

- that for an incident to be notifiable, there must have been serious risk to a worker or other person's health and safety due to immediate or imminent exposure to a hazard that arose from an unplanned or uncontrolled incident. Being put at serious risk does not necessarily mean that they were harmed in any way.
- that if a notifiable incident occurs, the scene must not be disturbed until an inspector releases it formally. This may be through a site visit or alternatively may be through a phone or email communication.

More information on notifications made under the HSWA can be found at: [worksafe.govt.nz](https://worksafe.govt.nz)

### Requirements of the Major Hazard Facility Regulations 2016 (the MHF regulations)

Notifiable incidents are defined in the MHF regulations as being any type of incident that fits into the categories in regulation 33. These are:

- a. an unplanned event (other than a false alarm) that requires the emergency plan to be activated
- b. an event that does not cause, but has the potential to cause a major incident
- c. damage to, or failure of, a safety-critical element (SCE) that requires intervention to ensure it will operate as designed.

For an incident to be notifiable under the MHF regulations, a worker or other person **does not** have to have been exposed to serious risk to their health and safety.

- a. an unplanned event, other than a false alarm, that requires the emergency plan to be activated is referring only to the emergency plan that is required by regulation 31 and activated under regulation 31(7). This means that for this category to apply, the emergency plan must have been activated in response to an event that could reasonably be expected to lead to a major incident.
- b. an event that does not cause, but had the potential to cause a major incident, includes events where:
  - there was a loss of containment of specified hazardous substances
  - such a loss of containment could have occurred, or
  - in other circumstances the event could have resulted in exposure of multiple people to serious risk.

Other circumstances could include:

- if more people could have been present
- if the failure and subsequent loss of containment could have been worse, or
- if escalation of the event could have occurred.

If you are not sure whether an incident falls into this category, the best course of action is to notify WorkSafe.

- c. damage to or failure of a SCE should be reported if the failure required repair or replacement of the SCE to ensure that the SCE would function as it was designed to.

## What is required after an incident is notified to WorkSafe?

Some **notifiable incidents** at major hazard facilities may be notifiable under **both** HSWA and the MHF regulations. In this case, it is necessary to fulfil the requirements of both pieces of legislation. Only one notification to WorkSafe needs to be made, but the operator will need to declare that they are notifying under both pieces of legislation and meet the requirements of both.

The table below sets out the requirements under each piece of legislation.

REQUIREMENT	HSWA	MHF REGULATIONS	HSWA AND MHF REGULATIONS
<b>Notification</b>	<p>Call 0800 030 040 or you may use the form: <a href="#">Notifiable illness, injury or death</a> or <a href="#">Notifiable incident</a></p> <p>Notify us using the fastest means possible and as soon as possible. Please state in the notification that you are notifying an incident at a Major Hazard Facility site.</p> <p>Keep records of all notifiable events.</p>	<p>Call 0800 030 040 or you may use the form: <a href="#">Notifiable incident - Major Hazard Facilities</a></p> <p>Notify us using the fastest means possible and as soon as possible. Please state in the notification that you are notifying an incident at a Major Hazard Facility site.</p> <p>Keep records of all notifiable incidents.</p>	<p>Call 0800 030 040 or you may use the form: <a href="#">Notifiable incident - Major Hazard Facilities</a></p> <p>Notify us using the fastest means possible and as soon as possible. Please state in the notification that you are notifying an incident at a Major Hazard Facility site.</p> <p>Keep records of all notifiable events.</p>
<b>Scene preservation</b>	Required.	Not required.	Required.
<b>48-hour written report</b>	Only required if requested by WorkSafe.	Only required if requested by WorkSafe.	Only required if requested by WorkSafe.
<b>Initial (7-day) report</b>	Not required.	Required - you may use the form available on the website.	Required - you may use the form available on the website.
<b>Final (30-day) report</b>	Not required.	Required - you may use the form available on the website.	Required - you may use the form available on the website.
<b>Other requirements</b>	There may be requirements placed on the operator after an incident. For example, a duty holder review.	Corrective actions set by the operator or the MHF inspector are required to be addressed and closed out.	Corrective actions set by the operator or the MHF inspector are required to be addressed and closed out.

## How to notify

Notification must be made by the operator either calling 0800 030 040 or completing the relevant form and emailing it to: [healthsafety.notification@worksafe.govt.nz](mailto:healthsafety.notification@worksafe.govt.nz)

## Other notification duties

Operators should note that an incident may also be reportable under other legislation such as the Pressure Equipment, Cranes and Passenger Ropeways Regulations 1999, the Pipelines Regulations 1999, the Gas Act 1992, the Electricity Act 1992 or the Geothermal Energy Regulations 1961.