

Health and Safety at Work (Hazardous Substances—Modified Requirements for Specified Fumigants) 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 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—Modified Requirements for Specified Fumigants) Safe Work Instrument 2017.

2 Commencement

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

3 Overview

In this safe work instrument—

- (a) clause 5 modifies the notification requirements in regulation 14.7(2) of the Regulations (under regulation 14.7(4) of the Regulations) for fumigation using Tri-Form 60:
- (b) clause 6—
 - (i) modifies the signage requirements in regulation 14.10(1) of the Regulations (under regulation 14.10(4) of the Regulations) for fumigation using Tri-Form 60; and
 - (ii) specifies an alternative time by which a PCBU must ensure signs are removed, for the purposes of regulation 14.10(5)(b) of the Regulations, for fumigation using Tri-Form 60:
- (c) clause 7—
 - (i) modifies the signage requirements in regulation 14.10(1) of the Regulations (in accordance with regulation 14.10(4) of the Regulations) for fumigation using Ripper range; and
 - (ii) specifies an alternative time by which a PCBU must ensure signs are removed, for the purposes of regulation 14.10(5)(b) of the Regulations, for fumigation using Ripper Range:
- (d) clause 8 modifies the notification requirements in regulation 14.7 of the Regulations (under regulation 14.7(4) of the Regulations) for quarantine or pre-shipment fumigation using methyl bromide:
- (e) clause 9 modifies the signage requirements in regulation 14.10(1) of the Regulations (under regulation 14.10(4) of the Regulations) for quarantine or pre-shipment fumigation using methyl bromide:
- (f) clause 10 modifies the notification requirements in regulation 14.7 of the Regulations (under regulation 14.7(4) of the Regulations) for soil fumigation for potato wart using methyl bromide:

- (g) clause 11 specifies an alternative time by which a PCBU must ensure signs are removed, for the purposes of regulation 14.10(5)(b) of the Regulations, for soil fumigation for potato wart using methyl bromide.

4 Interpretation

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

Act means the Health and Safety at Work Act 2015

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

Ripper range has the meaning given the term **Ripper range (30-55% iodomethane and 45-70% chloropicrin)** in regulation 14.2 of the Regulations

site has the meaning given in regulation 14.32 of the Regulations.

- (2) Any 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.

Modified requirements applying to Tri-Form 60

5 Notification of intended fumigation – Tri-Form 60

- (1) When notifying Fire and Emergency New Zealand in accordance with regulation 14.7(2)(a) of the Regulations, a PCBU who intends to carry out fumigation using Tri-Form 60 must supply information about:

- (a) potential chemical, toxicological, or ecotoxicological hazards:
- (b) any relevant prescribed exposure standard or tolerable exposure limit for the substance:
- (c) first aid measures:
- (d) minimum personal protective equipment requirements:
- (e) evacuation procedures:
- (f) substance detection equipment:
- (g) mitigation measures.

- (2) In addition to complying with the notification requirements in regulation 14.7(2) of the Regulations, a PCBU who intends to carry out fumigation using Tri-Form 60 must notify each person who may be affected by the fumigation who is normally present within 100 m from the outer edge of the buffer zone.

6 PCBU must erect signs – Tri-Form 60

- (1) A PCBU with management or control of fumigation using Tri-Form 60 must erect signs that meet the requirements of regulation 14.10(1) and 14.10(3) of the Regulations around the perimeter of the buffer zone at every point of entry to the buffer zone (rather than at the places referred to in regulation 14.10(1)(a) or (b) of the Regulations, as applicable).

- (2) For the purposes of regulation 14.10(5)(b) of the Regulations, the PCBU with management or control of fumigation using Tri-Form 60 must ensure that signs are removed within 72 hours of the end of the buffer zone period.

Modified requirements applying to Ripper Range

7 PCBU must erect signs – Ripper range

- (1) A PCBU with management or control of fumigation using Ripper range must erect signs that meet the requirements of regulation 14.10(1) and 14.10(3) of the Regulations around the perimeter of the buffer zone at every point of entry to the buffer zone (rather than at the places referred to in regulation 14.10(1)(a) or (b) of the Regulations, as applicable).
- (2) For the purposes of regulation 14.10(5)(b) of the Regulations, the PCBU with management or control of fumigation using Ripper Range must ensure that signs are removed within 72 hours of the end of the buffer zone period.

Modified requirements applying to quarantine or pre-shipment fumigation using methyl bromide

8 Notification of intended fumigation – quarantine or pre-shipment fumigation using methyl bromide

- (1) A PCBU who intends to carry out quarantine or pre-shipment fumigation (other than soil fumigation for potato wart) using methyl bromide must, in addition to complying with the relevant notification requirements in regulation 14.7 of the Regulations, also notify the persons set out in this clause at the time and in the manner set out in this clause.
- (2) The PCBU who intends to carry out fumigation using methyl bromide at a site must also notify the occupants of each property within 25 m of the site.
- (3) If a marae is adjacent to a site, the PCBU who intends to carry out fumigation using methyl bromide must also make appropriate notification arrangements with local Māori.
- (4) A PCBU who intends to apply more than 100 kg of methyl bromide in a 24-hour period must notify the occupants of each property, including moored boats, within 100 m of the site at least 24 hours before applying the methyl bromide.
- (5) The requirement to notify persons under subclauses (2) and (3) is treated as having been complied with if—
 - (a) fumigation is carried out at the site weekly; and
 - (b) the relevant persons are notified of the intention to carry out regular fumigations at the site before the initial fumigation and, after that annually, by a notice setting out –
 - (i) where the fumigation will occur; and
 - (ii) the time at which ventilation will normally occur (if this can be specified); and
 - (iii) the expected frequency of the fumigation; and

- (iv) any likely seasonal trends in the timing and scope of the fumigation.
- (6) Subclauses (2), (3), and (4) do not apply to fumigation when recapture technology is used.

9 PCBU must erect signs – quarantine or pre-shipment fumigation using methyl bromide

- (1) A PCBU who intends to carry out quarantine or pre-shipment fumigation using methyl bromide (other than soil fumigation for potato wart) must erect signs that meet the requirements of regulation 14.10(1) and 14.10(3) of the Regulations (as modified by this clause) at every point of access to the buffer zone, for those parts of a buffer zone that extend over land (rather than at the places referred to in regulation 14.10(1)(a) or (b) of the Regulations, as applicable).
- (2) In addition to meeting the requirements of regulation 14.10(3) of the Regulations, where the buffer zone extends over water, the sign must be able to be readily seen by any person approaching the buffer zone from a seaward direction at any time, including during the hours of darkness.

Modified requirements applying to soil fumigation for potato wart using methyl bromide

10 Notification of intended fumigation – soil fumigation for potato wart using methyl bromide

A PCBU who intends to carry out soil fumigation for potato wart using methyl bromide must, in addition to complying with regulation 14.7(2) of the Regulations, ensure the following persons are notified in writing at least 48 hours before applying the methyl bromide:

- (a) the medical officer of health;
- (b) the PCBU with management or control of any place within 100 m of the site where the public is likely to be present and unable to readily evacuate (for example, a school, a playground, a child care facility, a prison, a hospital or a long-term care facility).

11 PCBU must erect signs – soil fumigation for potato wart using methyl bromide

For the purposes of regulation 14.10(5)(b) of the Regulations, a PCBU with management or control of soil fumigation for potato wart using methyl bromide must ensure that signs are removed after the later of—

- (a) 24 hours after the sheet is removed; and
- (b) the time when the concentration of methyl bromide measured at 30 cm above the treated soil has been less than 0.05 ppm for a period of 15 minutes.

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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.

Draft for consultation