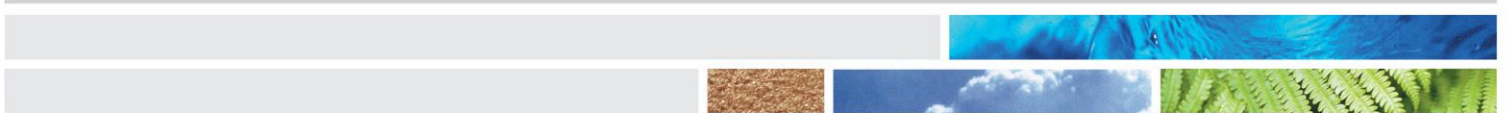




Environmental
Protection Authority
Te Mana Rauhi Taiao

Hazardous Substances (Disposal) Notice 2017

JULY 2017



EPA NOTICE

UNDER THE HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996



Hazardous Substances and New Organisms Act 1996

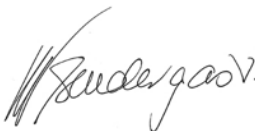
Hazardous Substances (Disposal) Notice 2017

This notice is issued by the Environmental Protection Authority (the Authority) under sections 75 and 76(1)(c), (f), (g), and (h) of the Hazardous Substances and New Organisms Act 1996 (the **Act**). It is issued in accordance with section 76C of the Act, having had regard to the matters specified in section 76C(2). The Authority now approves it for publication in the Gazette.

Signed at Wellington

This 27th day of July 2017

By Kerry Prendergast

A handwritten signature in black ink, appearing to read "Kerry Prendergast". The signature is written in a cursive, flowing style.

Chair
Environmental Protection Authority

Hazardous Substances (Disposal) Notice 2017

This notice is issued by the Environmental Protection Authority (the **Authority**) under sections 75 and 76(1)(c), (f), (g), and (h) of the Hazardous Substances and New Organisms Act 1996 (the **Act**). It is issued in accordance with section 76C of the Act, having had regard to the matters specified in section 76C(2).

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Administrative information: Date of notification in New Zealand Gazette: 3 November 2017.

Objective of notice

This notice will improve the efficient and effective management of disposal of hazardous substances in New Zealand.

Extent of consultation

The Authority publicly notified its intention to issue this notice on 11 July 2016 by publishing a proposal document on its website. It invited comments by 22 August 2016.

The paper was also sent to relevant persons in accordance with section 76C(1)(c) of the Act, and other interested parties. Comments were received and taken into account by the Authority during the drafting of this notice.

Further information about EPA notices

EPA notices are tertiary instruments that are administered by the Authority. They are classed as disallowable instruments under the Legislation Act 2012 (the **Legislation Act**). This means that the notice must be tabled in the House of Representatives who may, by resolution, disallow the notice. The Regulations Review Committee is the select committee responsible for considering instruments such as this notice under the Legislation Act.

The controls in this notice will apply to any Part 5 approval or group standard issued or reissued under the Act on or after the date of commencement of this notice, unless the particular approval or group standard provides otherwise. The controls will not apply to Part 5 approvals and transfer notices that are in place at the time this notice comes into force (i.e. existing approvals) unless they are reissued. Information about approvals that have been reissued or revoked will be available on the EPA website.

At the time of making this notice, the relevant empowering provisions in sections 75 and 76 of the Act have not come into force. However, pursuant to section 11 of the Interpretation Act 1999, the powers may be exercised before they come into force to make this notice. The exercise of these powers is necessary or desirable in order to bring the enactment into operation. The notice will not come into force before the powers to make the notice come into force.

Part A: General

1 Title

This is the Hazardous Substances (Disposal) Notice 2017.

2 Commencement

This notice comes into force on 1 December 2017.

3 Application

- (1) This notice applies to persons who dispose of—
 - (a) a hazardous substance; or
 - (b) packaging that has been in direct contact with a hazardous substance; or
 - (c) compressed gas that is in a gas container.
- (2) This notice does not apply in relation to—
 - (a) any fuel gas supplied or used in a gas distribution system, gas appliance, or gas installation (as these terms are defined in the Gas Act 1992), when subject to the Gas Act 1992; or
 - (b) any fuel gas transported through transmission pipelines when subject to the Health and Safety in Employment (Pipelines) Regulations 1999.
- (3) The provisions of this notice apply subject to—
 - (a) any variation of these requirements in an approval made in accordance with sections 77 or 77A of the Act; and
 - (b) the provisions of a group standard as applied in accordance with section 96E of the Act.

4 Definitions

- (1) In this notice, unless the context otherwise requires—

Act means the Hazardous Substances and New Organisms Act 1996

Authority means the Environmental Protection Authority established under the Environmental Protection Authority Act 2011

container has the same meaning as in the Hazardous Substances (Packaging) Notice 2017

discharge into the environment—

 - (a) includes release from a treatment facility, incinerator, landfill, or sewage facility; but
 - (b) does not include deposit or discharge into or onto a treatment facility, incinerator, landfill, or sewage facility

disposal has the same meaning as in the Act

environmental exposure limit means a concentration of a substance in an environmental medium as set—

 - (a) under section 77B of the Act, unless the Authority has set the limit for guidance only; or

- (b) by the Authority under the Hazardous Substances (Classes 6, 8 and 9 Controls) Regulations 2001, unless the Authority has determined that the limit is no longer applicable

environmental medium—

- (a) in relation to class 6 substances means—
 - (i) air, water, and soil; or
 - (ii) a surface that a hazardous substance may be deposited onto; and
- (b) in relation to class 9 substances, means—
 - (i) water, soil, or sediment where these are in the natural environment; or
 - (ii) a surface that a hazardous substance may be deposited onto

fuel gas has the same meaning as in the Health and Safety at Work (Hazardous Substances) Regulations 2017

gas container has the same meaning as in the Health and Safety at Work (Hazardous Substances) Regulations 2017

ignition source—

- (a) means anything (including any item, product, part of a facility structure, or piece of equipment) capable of igniting a flammable gas, vapour, or other form of combustible substance; and
- (b) includes a fire, flame, or spark, or anything capable of producing a fire, flame, or spark

packaging has the same meaning as in the Hazardous Substances (Packaging) Notice 2017

rapidly degradable has the same meaning as in the Hazardous Substances (Minimum Degrees of Hazard) Notice 2017

sewage facility—

- (a) means a facility or equipment designed to treat sewage; and
- (b) includes any pipework and reticulation system connected to the facility or equipment

tolerable exposure limit means a concentration of a substance in an environmental medium as set—

- (a) under section 77B of the Act, unless the Authority has set the limit for guidance only; or
 - (b) by the Authority under the Hazardous Substances (Classes 6, 8 and 9 Controls) Regulations 2001, unless the Authority has determined that the limit is no longer applicable
- (2) A reference to a hazardous substance having a particular class or classification means—
- (a) in relation to a substance that does not have an approval under Part 5 of the Act, that it meets the criteria for that class or classification under the Hazardous Substances (Classification) Notice 2017 and the Hazardous Substances (Minimum Degrees of Hazard) Notice 2017; or
 - (b) in relation to a substance that has an approval under Part 5 of the Act, that the Authority has given it a corresponding classification in accordance with the criteria set out in paragraph (a).

- (3) Any term or expression that is defined in the Act and used, but not defined, in this notice has the same meaning as in the Act.

Part B: Disposal requirements for hazardous substances

5 Disposal requirements for class 1 substances

- (1) A person who disposes of a class 1 substance must dispose of it by—
- (a) treating the substance using a method that changes the characteristics or composition of the substance so that the substance is no longer a hazardous substance; or
 - (b) exporting the substance from New Zealand as waste.
- (2) For the purposes of subclause (1), treating a substance does not include—
- (a) depositing the substance into or onto a landfill or a sewage facility; or
 - (b) burning, detonating, or deflagrating the substance unless it is carried out in the course of a business or undertaking, and in accordance with any applicable requirements in subpart 3 of Part 9 of the Health and Safety at Work (Hazardous Substances) Regulations 2017.
- (3) For the purpose of applying subpart 3 of Part 9 of the Health and Safety at Work (Hazardous Substances) Regulations 2017 under subclause (2)(b), burning must be treated as deflagration or detonation.

6 Other hazardous substances requiring disposal methods for class 1 substances

- (1) Clauses 7 and 8 apply subject to this clause.
- (2) A person who disposes of a class 3.2 or 4.1.3 substance (desensitised explosives) or a class 4.1.2 substance (self-reactive substances) must dispose of it by using a disposal method for a class 1 substance prescribed in clause 5.

7 Disposal requirements for class 2, 3, and 4 substances

- (1) A person who disposes of a class 2, 3, or 4 substance must dispose of it by—
- (a) treating the substance using a method that changes the characteristics or composition of the substance so that the substance is no longer a hazardous substance; or
 - (b) exporting the substance from New Zealand as waste.
- (2) For the purposes of subclause (1)(a), treating the substance does not include—
- (a) depositing the substance into or onto a landfill or sewage facility; or
 - (b) for class 2.1.1 and 3.1 substances, burning the substance unless the burning is managed to ensure that no person, or place where a person may legally be present, is exposed to an unsafe level of heat radiation; or
 - (c) for any other substance to which this clause applies, burning the substance unless the burning is managed to ensure that no person, or place where a person may legally be, is exposed to—
 - (i) a blast overpressure of more than 9 kPa; or
 - (ii) an unsafe level of heat radiation.

- (3) A class 2.1.1, 3.1, or 4.1.1 substance may be discharged into the environment as waste or deposited into a landfill if—
- (a) the substance will not at any time come into contact with class 1 or class 5 substances; and
 - (b) there will be no ignition source in the vicinity of the disposal site at any time that is capable of igniting the substance; and
 - (c) if the substance were to ignite, no person, or place where a person may legally be, would be exposed to an unsafe level of heat radiation.

8 Disposal requirements for class 5 substances

- (1) A person who disposes of a class 5 substance must dispose of it by—
- (a) treating the substance using a method that changes the characteristics or composition of the substance so that the substance is no longer a hazardous substance; or
 - (b) exporting the substance from New Zealand as waste.
- (2) For the purposes of subclause (1)(a), treating the substance does not include—
- (a) depositing the substance into or onto a landfill or sewage facility; or
 - (b) detonation, deflagration, or controlled combustion of the substance unless it is managed to ensure that no person, or place where a person may legally be, is exposed to a blast overpressure of more than 9kPa, or an unsafe level of heat radiation.
- (3) A class 5 substance may be deposited into or onto a landfill if the landfill is managed to ensure that—
- (a) the substance will not at any time come into contact with class 1, 2, 3, or 4 substances
 - (b) there will be no ignition source in the vicinity of the disposal site at any time that is capable of igniting the substance; and
 - (c) if the substance were to ignite, no person or place where a person may legally be, would be exposed to more than 9kPa blast overpressure or an unsafe level of heat radiation.

9 Disposal requirements for class 6 and 8 substances

- (1) A person who disposes of a class 6 or 8 substance must dispose of it by—
- (a) treating the substance using a method that changes the characteristics or composition of the substance so that the substance is no longer a hazardous substance; or
 - (b) discharging the substance into the environment, but only if—
 - (i) a tolerable exposure limit has been set for the substance (or a component of that substance); and
 - (ii) the discharge does not, after reasonable mixing, result in the concentration of the substance in an environmental medium exceeding the tolerable exposure limit; or

- (c) in a case where the Authority has not set a tolerable exposure limit for that substance (or a component of that substance), discharging it into the environment, but only if the substance is very rapidly converted to substances that are not hazardous substances; or
 - (d) exporting the substance from New Zealand as waste.
- (2) For the purposes of subclause (1)(a), treating the substance—
- (a) includes—
 - (i) depositing the substance into or onto a landfill or sewage facility if the landfill or sewage facility will treat the substance by changing the characteristics or composition of the substance so that the substance is no longer a hazardous substance; or
 - (ii) unless clause 11 applies, incinerating the substance, if the incinerator will treat the substance by changing the characteristics or composition of the substance so that the substance is no longer a hazardous substance; but
 - (b) in the case of a class 6 substance, does not include diluting the substance with any other substance before discharge to the environment.

10 Disposal requirements for class 9 substances

- (1) A person who disposes of a class 9 substance must dispose of it by—
- (a) treating the substance using a method that—
 - (i) changes the characteristics or composition of the substance so that the substance is no longer a hazardous substance; and
 - (ii) in the case of a class 9.1 substance that is, or contains a component that is, bioaccumulative and not rapidly degradable, removes any component that is bioaccumulative and not rapidly degradable; or
 - (b) discharging the substance into the environment, but only if—
 - (i) an environmental exposure limit has been set for the substance (or a component of the substance); and
 - (ii) the discharge does not, after reasonable mixing, result in the concentration of the substance in an environmental medium exceeding the environmental exposure limit; or
 - (c) exporting the substance from New Zealand as waste.
- (2) For the purposes of subclause (1)(a), treating the substance—
- (a) includes depositing the substance in a landfill, incinerator (unless clause 11 applies), or a sewage facility if the landfill, incinerator, or sewage facility will treat the substance by changing the characteristics or composition of the substance so that the substance is no longer a hazardous substance; but
 - (b) does not include diluting the substance with any other substance before discharge into the environment.

11 Prohibition on incineration of halogenated organic compounds

A person must not dispose of a hazardous substance that is or contains halogenated organic compounds by incineration below 850°C.

12 Disposal requirements for packages that have been in direct contact with hazardous substances

- (1) This clause—
 - (a) applies to a person who disposes of a package that—
 - (i) has contained a hazardous substance; and
 - (ii) has been in direct contact with the hazardous substance; and
 - (iii) is no longer used to contain the hazardous substance; but
 - (b) does not apply to a householder or consumer who supplies a package to a public or commercial waste collection service for disposal.
- (2) The person must ensure that the package—
 - (a) is rendered incapable of containing any substance; and
 - (b) is disposed of in a manner that—
 - (i) is consistent with the requirements for disposal of the substance that it contained; and
 - (ii) takes into account the material the package is manufactured from.
- (3) However, subclause (2) does not apply in relation to a package that has contained—
 - (a) a class 1, 2, 3, 4, or 5 substance, if the package has been treated to remove any residual contents of the hazardous substance; or
 - (b) a class 6, 8, or 9 substance, if the package has been treated so that the residual contents of the package are below the threshold for the substance to be classified as hazardous under the Hazardous Substances (Classification) Notice 2017 and the Hazardous Substances (Minimum Degrees of Hazard) Notice 2017.
- (4) Packages described in subclause (3) may be reused or recycled.

13 Disposal requirements for compressed gas in gas containers

A person must not dispose of compressed gas that is in a gas container into or onto a landfill.



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