Health and Safety at Work (Major Hazard Facilities) Regulations 2015

Governor-General

Order in Council

At Wellington this day of 2015

Present:
in Council

Pursuant to sections 221, 222, and 227 of the Health and Safety at Work Act 2015, His Excellency the Governor-General makes the following regulations, acting—
(a) on the advice and with the consent of the Executive Council; and
(b) on the recommendation of the Minister for Workplace Relations and Safety made after complying with section 226(1) and (2) of that Act.

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Consultation draft
Regulations

1 Title
These regulations are the Health and Safety at Work (Major Hazard Facilities) Regulations 2015.

2 Commencement
These regulations come into force on [date].

3 Application
(1) These regulations apply to a facility or proposed facility where specified hazardous substances are present or likely to be present in a quantity that is equal to or exceeds the lower threshold quantity.

(2) In calculating the lower threshold quantity, the maximum capacity of the facility must be taken into account, including—
(a) the maximum capacity of process vessels and interconnecting pipe systems that contain the hazardous substances:
(b) the maximum capacity of all storage tanks and other storage areas at the facility that could contain hazardous substances:
(c) the maximum capacity of the pipe work outside process areas to contain hazardous substances:
(d) the maximum quantity of hazardous substances that could, in the event of failure, escape into the facility from the pipe work that is connected to, terminates at, or crosses the facility:

(e) the maximum quantity of hazardous substances that are loaded into or onto, or unloaded from, vehicles, trailers, rolling stock, and ships (excluding any hazardous substances on board ships) that are from time to time present at the facility in the course of the facility’s operations.

(3) For the purposes of subclause (2), the exclusions in calculating the quantity of hazardous substances that are present or likely to be present at a facility, as specified in regulation 24, must be taken into account.

(4) These regulations do not apply to—

(a) an installation to which the Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 2013 apply; or

(b) a mining operation or quarrying operation to which the Health and Safety in Employment (Mining Operations and Quarrying Operations) Regulations 2013 apply; or

(c) a pipeline to which the Health and Safety in Employment (Pipelines) Regulations 1999 apply; or

(d) the transport, and directly related intermediate temporary storage, of specified hazardous substances by road, rail, internal waterways, sea, or air to a facility (including loading and unloading, and transport to and from, other means of transport at docks, wharves, or marshalling yards).

4 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Health and Safety at Work Act 2015

areas of high occupancy has the meaning set out in regulation 8(4)

change or proposed change at a major hazard facility has the meaning set out in regulation 31(4)
facility means the whole area under the control of the same person where 1 or 2 hazardous substances are present in 1 or more places, and, for the purposes of this definition, 2 or more areas under the control of the same person and separated only by a road, railway, inland waterway, pipeline, or other structure are treated as 1 whole area

isolated quantity has the meaning set out in regulation 24(2)

local authority means a territorial authority within the meaning of section 5(1) of the Local Government Act 2002

local community—
(a) means, at a minimum, all persons living or working within a 2 km radius of any point on the perimeter of a major hazard facility; and
(b) includes all persons living in an area that might be affected by a major incident occurring at the facility

lower threshold quantity means the quantity—
(a) specified in column 2 of table 1 or table 2 of Schedule 1; and
(b) calculated in accordance with Part 2 of these regulations

lower tier major hazard facility means a facility that WorkSafe has designated as a lower tier major hazard facility under regulation 13(1)

major hazard facility means a facility that WorkSafe has designated as a lower tier major hazard facility or an upper tier major hazard facility under regulation 13 or 14

major incident means an occurrence at a major hazard facility that—
(a) involves, or potentially involves, table 1 or 2 hazardous substances; and
(b) causes, or has the potential to cause, multiple fatalities of persons

major incident hazard means a hazard that has the potential to cause a major incident

off site means not on site

on site means at or in a facility

operator has the meaning set out in regulation 5

pipeline has the meaning set out in regulation 2 of the Health and Safety in Employment (Pipelines) Regulations 1999
proposed facility means—
(a) an existing workplace that is to become a facility; or
(b) a facility that is to be built in the future

safety-critical element means any part of a facility or its plant (including a computer program)—
(a) that has the purpose of preventing, or limiting the effect of, a major incident; or
(b) the failure of which could cause or contribute substantially to a major incident

sensitive land use has the meaning set out in regulation 8(4)
specified hazardous substances means table 1 or 2 hazardous substances
table 1 or 2 hazardous substances means—
(a) the hazardous substances specified in column 1 of table 2 of Schedule 1; and
(b) the categories of hazardous substances referred to in column 1 of table 1 of Schedule 1

threshold quantity means the lower threshold quantity or the upper threshold quantity

upper threshold quantity means the quantity—
(a) specified in column 3 of table 1 or table 2 of Schedule 1; and
(b) calculated in accordance with Part 2 of these regulations

upper tier major hazard facility means a facility that WorkSafe has designated as an upper tier major hazard facility under regulation 13(2) or 14.

(2) Unless the context otherwise requires, terms and expressions that are used but not defined in these regulations but that are defined in the Act have the same meaning as in the Act.

5 Meaning of operator
(1) In these regulations, operator means the PCBU who—
(a) manages or controls a facility or a proposed facility; and
(b) has the power to direct that the whole facility be shut down.

(2) If more than 1 PCBU is an operator of all or part of the facility within the meaning of subclause (1),—
(a) 1 of the PCBUs must be nominated, by all or a simple majority of those operators, as the operator of the facility; and
(b) that person nominated under paragraph (a) is the operator of the facility for the purposes of these regulations.

Compare: Model Work Health and Safety Regulations (Aust) r 533

6 Operators of facilities must notify WorkSafe
(1) The operator of a facility at which specified hazardous substances are present or likely to be present in a quantity that is equal to or exceeds the lower threshold quantity must notify WorkSafe in accordance with regulation 8—
(a) as soon as practicable (but no more than 3 months) after the operator becomes aware, or ought reasonably to have become aware, of the circumstances giving rise to the obligation to notify; or
(b) within any longer period that WorkSafe determines, if satisfied on application by the operator that there is a reasonable excuse for the delayed notification.

(2) An operator who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [Sx]:
(b) for a body corporate, to a fine not exceeding [Sy].

Compare: Model Work Health and Safety Regulations (Aust) r 536

7 Operators of proposed facilities must notify WorkSafe
(1) The operator of a proposed facility at which specified hazardous substances may be present in a quantity that is equal to or exceeds the lower threshold quantity must notify WorkSafe in accordance with regulation 8 as soon as practicable before—
(a) there is any change in an existing workplace due to which it becomes a facility:
(b) any contract is entered into for the construction or purchase of the facility.

(2) An operator who contravenes subclause (1) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding \[$x\]:
(b) for a body corporate, to a fine not exceeding \[$y\].

Compare: Model Work Health and Safety Regulations (Aust) r 537

8 Content of notification

(1) Notification to WorkSafe in accordance with regulations 6 and 7 must include the following information:

(a) the operator’s trading name, whether the operator is a body corporate or an individual, and the name of that body corporate (as registered under the Companies Act 1993) or individual; and
(b) whether there is more than 1 operator of the facility, within the meaning of regulation 5, and if so,—
   (i) the trading name of the PCBU who is nominated as the operator of the facility under regulation 5(2); and
   (ii) whether that PCBU is a body corporate or an individual; and
   (iii) the name of that body corporate (as registered under the Companies Act 1993) or individual; and
(c) the operator’s New Zealand Business Number (if applicable); and
(d) a description of the location of the facility in sufficient detail to enable identification on a street map; and
(e) a copy of the certificate of title of the land where the facility is located; and
(f) the contact details of a person with whom WorkSafe may communicate in relation to the information that is, or must be, contained in the notification; and
(g) the contact details of the operator; and
(h) other information specified in subclause (3); and
(i) any other additional information that WorkSafe requires.
Information relating to past enforcement action

(2) The operator must include details of—

(a) any conviction or finding of guilt of the operator or an officer of the operator for any offence under the Act, the Hazardous Substances and New Organisms Act 1996, or regulations made under either of those Acts, or any legislation related to the management of health and safety or hazardous substances that has been repealed or revoked; and

(b) any enforceable undertaking entered into under the Act; and

(c) any action taken to withdraw acceptance of a safety case for a major hazard facility under these regulations; and

(d) any enforcement action, under any legislation related to the management of health and safety or hazardous substances, taken either in New Zealand or in an overseas jurisdiction.

Other information to be included

(3) For the purposes of subclause (1)(h), the information is as follows:

(a) a brief description of the primary business activity or activities at the facility; and

(b) a brief description of particular activities and processes at the facility that involve table 1 or 2 hazardous substances; and

(c) an indication of the usual number of workers at the facility on a normal working day; and

(d) an indication of the maximum number of persons likely to be present at the facility on a normal working day; and

(e) a brief description (as relevant) of—

(i) shift rosters of workers at the facility:
(ii) seasonal variations in the number of workers at the facility:
(iii) regular shutdown activities (including a shutdown for maintenance or repairs) at the facility that significantly alter the number of workers at the facility; and

(f) a list of—
(i) the distances from the facility to the nearest sensitive land uses (if any) within a 2 km radius of the facility; and

(ii) the physical addresses or, if appropriate, the locations of those sensitive land uses; and

(g) a scaled map of the facility that includes—

(i) the area outside the facility that is within 500 m from the facility’s perimeter:

(ii) clear identification of the location of storage tanks and other storage areas (both temporary and long-term) containing table 1 or 2 hazardous substances, and their maximum capacities, specific contents, and physical condition, including their state of repair:

(iii) clear identification of the location of the main processing units involving table 1 or 2 hazardous substances, and their maximum capacities and specific contents:

(iv) clear identification of the location of main loading and unloading facilities, administration areas, and areas of high occupancy and the nature of the occupancy; and

(h) information provided by the relevant local authority about land use and planning zones within a 5 km radius of any point on the facility’s perimeter that includes—

(i) clear indication of the major service utilities and transport corridors (if applicable):

(ii) clear indication of the location of other major hazard facilities or other sites where hazardous substances may be present (if known); and

(i) any relevant information about the table 1 or 2 hazardous substances that are present or likely to be present or may be present at the facility; and

(j) any assumptions used in the calculations in accordance with regulation 23 or 24; and

(k) an explanation of any special circumstances that may vary the quantity of table 1 or 2 hazardous substances at the facility; and
(l) information about the likely radius of the potential impact of a major incident, if it were to occur at the facility.

(4) In this regulation,—

areas of high occupancy—
(a) means any areas within a facility where people are likely to be present for extended periods of time; and
(b) includes control rooms, workshops, messes, and canteens

sensitive land use includes the use of land for—
(a) residential, office, or other accommodation; or
(b) community facilities (for example, hospitals, libraries, and swimming pools); or
(c) any other place where people may congregate and from which people may find it difficult to move to safety in the event of an emergency.

Compare: Model Work Health and Safety Regulations (Aust) r 538

9 WorkSafe must assess notification, decide, and notify operator of decision

(1) WorkSafe must assess each notification made under regulation 6 or 7 and decide if the quantity of specified hazardous substances, as listed in Schedule 1, that are present or likely to be present at a facility—
(a) equals or exceeds the lower threshold quantity but does not equal or exceed the upper threshold quantity (which means that the facility is a lower tier major hazard facility); or
(b) equals or exceeds the upper threshold quantity (which means that the facility is an upper tier major hazard facility); or
(c) is less than the lower threshold quantity (which means that the facility is neither a lower tier major hazard facility nor an upper tier major hazard facility).

(2) WorkSafe must, as soon as practicable after making a decision under subclause (1), notify the operator in writing that the facility or proposed facility to which the notification relates is or will become—
(a) a lower tier major hazard facility; or
(b) an upper tier major hazard facility; or
(c) neither a lower tier major hazard facility nor an upper tier major hazard facility.

(3) For the purposes of carrying out its functions under subclause (1), WorkSafe may require an operator to provide further information specified by WorkSafe in relation to the facility, including information about—
(a) the use or likely use of specified hazardous substances in the facility;
(b) the physical condition of the facility;
(c) the facility’s state of repair.

(4) The operator must comply with a request under subclause (3) within 30 working days or such longer period as WorkSafe may allow.

Compare: Model Work Health and Safety Regulations (Aust) r 539

10 WorkSafe may conduct review of facility

(1) WorkSafe may conduct a review of a facility if, after a notification made under regulation 6 or 7 or at any other time WorkSafe considers appropriate, WorkSafe decides that—
(a) the facility is a lower tier major hazard facility; and
(b) there are reasonable grounds to believe that there is potential for a major incident to occur at the facility, having regard to the following:
   (i) the quantity or combination of specified hazardous substances that are present or likely to be present; and
   (ii) the types of activities within the facility involving specified hazardous substances; and
   (iii) land use and other activities in the area surrounding the facility; and
   (iv) any other matters that WorkSafe considers relevant.

(2) The purpose of the review is to enable WorkSafe to determine if the facility should be designated as an upper tier major hazard facility under regulation 14.

(3) Before commencing a review, WorkSafe must give written notice advising of its intention to commence the review, and the reasons for doing so, and of the opportunity to make a submission—
(a) to the contact person identified in the notification under regulation 6 or 7; or
(b) in any other case, to the operator of the facility.

(4) WorkSafe must—
(a) consider the submission if the recipient of the notice has made a submission in relation to the proposed review; and
(b) consult those persons who WorkSafe considers have an interest in the outcome of the review, including—
   (i) any health and safety representatives at the facility; and
   (ii) the fire, police, and ambulance emergency services that have responsibility for the area in which the facility is located; and
   (iii) the local authority within whose district the facility is located.

Compare: Model Work Health and Safety Regulations (Aust) r 540

11 Notification to WorkSafe following change in operator

(1) A proposed new operator of a facility must notify WorkSafe in accordance with regulation 8.

(2) The notification under subclause (1) must be made—
   (a) as soon as practicable after the proposed new operator becomes aware of the likely change in operator; and
   (b) no later than 2 months before the date on which the proposed new operator intends to begin operating the facility.

(3) For the purposes of these regulations, a notification under this regulation—
   (a) is to be treated as a notification under regulation 6 for an existing facility; and
   (b) is subject to any review of the suitability of the new operator conducted under regulation 12; and
   (c) will be assessed by WorkSafe to enable it to determine whether WorkSafe should request a revised safety case given under regulation 45.

(4) An operator who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [Sm]:

Consultation draft
Part 1 r 12

Health and Safety at Work (Major Hazard Facilities) Regulations 2015

(b) for a body corporate, to a fine not exceeding [$n].

Compare: Model Work Health and Safety Regulations (Aust) r 548

12 Suitability of operator

(1) This regulation applies, if WorkSafe decides, at its sole discretion, to conduct a review into the suitability of the operator of a facility or proposed facility.

(2) WorkSafe must decide whether to conduct a review within a period of 1 month after the date of receiving a notification made under regulation 6 or 7.

(3) Before commencing a review, WorkSafe must give written notice advising of its intention to commence the review, and the reasons for doing so, and of the opportunity to make a submission within a specified date, which must not be earlier than 30 days from the date of the notice,—

(a) to the contact person identified in the notification under regulation 6 or 7; or

(b) in any other case, to the operator of the facility.

(4) WorkSafe must—

(a) consider the submission if the recipient of the notice has made a submission in relation to the proposed review; and

(b) consult interested parties, including (where relevant) government agencies in other jurisdictions that have a regulatory role in relation to major hazard facilities.

(5) WorkSafe must complete the review,—

(a) within 3 months after receiving the submission; or

(b) if no submission was received by WorkSafe, the specified date on which the submission, under subclause (3), was due, 3 months after that date.

(6) If WorkSafe decides on reasonable grounds that the operator of a facility or proposed facility is unlikely to meet the operator’s obligations under these regulations, WorkSafe must prohibit the person from acting as the operator of the facility or proposed facility.

Compare: Model Work Health and Safety Regulations (Aust) r 543

16 Consultation draft
Designation process

13 Mandatory designation as major hazard facility
(1) If WorkSafe decides under regulation 9 that a facility is a lower tier major hazard facility, WorkSafe must designate that facility as a lower tier major hazard facility.
(2) If WorkSafe decides under regulation 9 that a facility is an upper tier major hazard facility, WorkSafe must designate that facility as an upper tier major hazard facility.

Compare: Model Work Health and Safety Regulations (Aust) r 542

14 Discretionary designation of lower tier major hazard facility as upper tier major hazard facility
WorkSafe may designate a lower tier major hazard facility as an upper tier major hazard facility if WorkSafe—
(a) decides to conduct a review under regulation 10; and
(b) on completion of the review (conducted while taking into account the matters specified in regulation 10(1)(b)) considers that there is potential for a major incident to occur at the facility.

Compare: Model Work Health and Safety Regulations (Aust) r 541

15 Exemption of certain facilities or proposed facilities from designation as major hazard facilities
(1) WorkSafe may exempt the operator of a facility or a proposed facility from compliance with any provision of these regulations or any requirements in those provisions relating to that facility or proposed facility.
(2) The exemption may be granted—
(a) on the written application of the operator of the facility or proposed facility; or
(b) on WorkSafe’s own initiative.

16 WorkSafe must be satisfied of certain matters before granting exemption
(1) WorkSafe must not grant an exemption under regulation 15 unless satisfied that granting the exemption will result in a standard of safety (in relation to the operation of the facility or proposed facility) that is at least equivalent to the standard
that would be achieved by compliance with the relevant provisions or requirements in the provisions that the exemption relates to.

(2) For the purposes of subclause (1), WorkSafe must have regard to all relevant matters, including whether the applicant—

(a) is complying with the Act and these regulations; and

(b) has implemented adequate control measures to minimise the risk of a major incident occurring.

17 Designations by WorkSafe are disallowable instruments

A designation by WorkSafe under regulation 14 is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

18 Notice and effect of designations and decisions

(1) If WorkSafe makes a designation under regulation 13 or 14, or a decision under regulation 12, WorkSafe must give the relevant operator a written notice of the designation or decision that states—

(a) the reasons for the designation or decision; and

(b) the date on which the designation or decision takes effect, which,—

(i) in the case of a decision, must be the date of the decision;

(ii) in the case of a designation, must be at least 28 days after the date of the notice; and

(c) any conditions imposed on the designation under regulation 19.

(2) WorkSafe must give the notice—

(a) as soon as practicable after making the decision under regulation 12;

(b) within 14 days of making the designation under regulation 13 or 14.

(3) The effect of a decision under regulation 12 is—

(a) set out in regulation 12(6); and

(b) that any exemption under regulation 15 does not apply to the facility.
(4) A designation or decision remains in effect until revoked.  
Compare: Model Work Health and Safety Regulations (Aust) r 545

19 Conditions on designations of major hazard facilities  
(1) WorkSafe may impose any conditions it considers reasonably appropriate on a designation made under regulation 13 or 14.  
(2) Without limiting subclause (1), WorkSafe may impose conditions in relation to 1 or more of the following:  
(a) additional control measures that must be implemented in relation to the carrying out of work or activities at the major hazard facility:  
(b) the recording or keeping of additional information:  
(c) the provision of additional information, training, and instruction to additional persons or classes of persons:  
(d) the provision of additional information to WorkSafe:  
(e) if the operator is a body corporate, the qualifications or duties, or both, of any officer of the operator.  
(3) The operator of a major hazard facility in relation to which any conditions are imposed under this regulation must ensure that the conditions are complied with.  
(4) An operator who contravenes subclause (3) commits an offence and is liable on conviction,—  
(a) for an individual, to a fine not exceeding [\$x]:  
(b) for a body corporate, to a fine not exceeding [\$y].  
Compare: Model Work Health and Safety Regulations (Aust) r 544

20 Revocation of designation as major hazard facility or decision as to suitability of operator  
WorkSafe may revoke a designation made under regulation 13 or 14, or a decision made under regulation 12, if, after consultation with the operator, WorkSafe is satisfied that the reasons for the designation or decision no longer apply.  
Compare: Model Work Health and Safety Regulations (Aust) r 546

21 Renotification if quantity of hazardous substances increases  
(1) This regulation applies to a facility or a proposed facility in relation to which—
(a) notification was given under regulation 6 or 7; and
(b) WorkSafe—
   (i) has not conducted a review under regulation 10;
   or
   (ii) on conducting a review, has not designated the fa-
   cility as an upper tier major hazard facility under
   regulation 14.

(2) The operator of a facility or proposed facility must renotify
WorkSafe in accordance with regulation 6 or 7 if the quantity
of table 1 or 2 hazardous substances that are present or likely
to be present at the facility or proposed facility increases, or is
likely to increase, to a level that exceeds the level previously
notified to WorkSafe.

(3) A person who contravenes subclause (2) commits an offence
and is liable on conviction,—
(a) for an individual, to a fine not exceeding [$x]:
(b) for a body corporate, to a fine not exceeding [$y].

Compare: Model Work Health and Safety Regulations (Aust) r 547

Part 2

Hazardous substances thresholds

22 Relevant hazardous substances
The hazardous substances that characterise a workplace as a
facility for the purposes of these regulations are table 1 or 2
hazardous substances.

Compare: Model Work Health and Safety Regulations (Aust) Schedule 15 cl 2

23 Threshold quantity of 1 hazardous substance
(1) If a hazardous substance is referred to in table 2 of Schedule 1
and also falls within a category referred to in table 1 of Sched-
ule 1, the threshold quantities in table 2 must be used.

(2) If a hazardous substance is not referred to in table 2 of Sched-
ule 1 and the substance falls within a category referred to in
table 1 of Schedule 1, the threshold quantities in table 1 must
be used.

(3) If a hazardous substance is not referred to in table 2 of Sched-
ule 1 and the substance appears to fall within more than 1 cat-
egory referred to in table 1 of Schedule 1, the threshold quan-
Exclusions in calculating quantity of hazardous substances

(1) For the purpose of calculating the quantity of hazardous substances that are present or likely to be present at the facility under regulation 23, hazardous substances that are present or likely to be present in an isolated quantity that is less than 2% of the relevant upper threshold quantity are excluded.

(2) For the purposes of subclause (1), a hazardous substance is present or likely to be present in an isolated quantity if its location at the facility is such that it cannot, on its own, act as an initiator of a major incident elsewhere at that facility.

Part 3

Duties of operators

Requirements for safety assessment

25 Safety assessment

(1) The operator of a major hazard facility must conduct a safety assessment in relation to the operation of the facility.

(2) A safety assessment must involve a comprehensive and systematic investigation and analysis of all aspects of risks to health and safety associated with all major incidents that could occur in the course of the operation of the facility, including the following:

(a) the nature of each hazard and potential major incident; and

(b) the identification of hazards and conditions that could lead to a major incident; and

(c) the risk associated with each of those hazards, including the likelihood and consequences of each potential major incident; and

(d) in the event of a major incident occurring, its potential magnitude and the severity of its potential health and safety consequences; and

(e) the range of control measures considered; and
(f) the control measures (see regulation 26) that the operator decides to implement.

(3) In conducting a safety assessment, the operator must—

(a) consider hazards and potential major incidents cumulatively as well as individually; and

(b) use assessment methods (including quantitative or qualitative, or both) that are suitable for assessing the hazards and potential major incidents being considered; and

(c) consult with, and have regard to any advice and recommendations given by,—

(i) workers at the facility, in accordance with regulation 57; and

(ii) the fire, police, and ambulance emergency services that have responsibility for the area in which the facility is located; and

(iii) WorkSafe or any government department or agency with a regulatory role under these regulations.

(4) The operator must document all aspects of the safety assessment, including—

(a) the methods used in the investigation and analysis; and

(b) all identified hazards and potential major incidents; and

(c) the criteria and methods used in identifying the hazards and potential major incidents; and

(d) any conditions, including conditions external to the facility (for example, natural events occurring anywhere, or other events occurring in an area outside the facility) under which the hazards might give rise to major incidents; and

(e) the reasons for deciding which control measures to implement; and

(f) the other control measures that were considered but not implemented; and

(g) the reasons for not implementing the other control measures that were considered.

(5) An operator who contravenes any of subclauses (1) to (4) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [Sx]:

Consultation draft
(b) for a body corporate, to a fine not exceeding \([y]\).

(6) The operator must keep a copy of the safety assessment at the major hazard facility.

(7) An operator who contravenes subclause (6) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \([m]\):
   (b) for a body corporate, to a fine not exceeding \([n]\).

Compare: Model Work Health and Safety Regulations (Aust) rr 554, 555

26 Control measures

(1) The operator of a major hazard facility must implement control measures that—
   (a) eliminate, so far as is reasonably practicable, the risk of a major incident occurring; or
   (b) if it is not reasonably practicable to eliminate the risk of a major incident occurring, minimise that risk so far as is reasonably practicable; or
   (c) in the event of a major incident occurring, minimise its magnitude and the severity of its health and safety consequences so far as is reasonably practicable.

(2) An assessment of whether doing something is reasonably practicable must be carried out in accordance with section 17 of the Act.

(3) The operator of a major hazard facility must implement control measures that are designed to minimise, in the event of a major incident occurring, its magnitude and the severity of its consequences to persons both on site and off site.

(4) An operator who contravenes subclause (1), (2), or (3) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \([x]\):
   (b) for a body corporate, to a fine not exceeding \([y]\).

Compare: Model Work Health and Safety Regulations (Aust) r 556

Requirement for safety management system

27 Safety management system

(1) The operator of a major hazard facility must establish and implement a safety management system for the operation of the facility in accordance with these regulations.
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(2) The safety management system must—
(a) provide a comprehensive and integrated system for the
safe operation of the facility; and
(b) provide a comprehensive and integrated system for the
management of all aspects of risk control in relation to
the occurrence and potential occurrence of major inci-
dents at the facility; and
(c) be used by the operator as the primary means of ensur-
ing the safe operation of the facility; and
(d) state the operator’s specific safety objectives and de-
scribe the systems and procedures that will be used to
achieve those objectives; and
(e) include the matters specified in Schedule 2; and
(f) be documented; and
(g) be readily accessible to anyone who is, or may be, re-
quired to use it.

(3) The operator must consult with workers at the facility during
the design and implementation of the safety management sys-
tem, in accordance with regulation 57.

(4) An operator who contravenes subclause (1), (2), or (3) com-
mits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [$x]:
(b) for a body corporate, to a fine not exceeding [$y].

Compare: Model Work Health and Safety Regulations (Aust) r 558, Schedule 17

Requirements for emergency plans

28 Emergency plans

(1) The operator of a major hazard facility must prepare an emer-
gency plan for the facility that—
(a) effectively addresses all health and safety consequences
of a major incident occurring; and
(b) is specific to the facility and the major incident hazards
identified in the safety assessment under regulation 25; and
(c) is integrated into the facility’s safety management sys-
tem; and
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Part 3 r 28

(d) is understandable by workers, visitors, and other people (such as members of the public) likely to be affected; and
(e) includes all matters specified in Schedule 3; and
(f) provides for testing, review, and updating of emergency procedures, including the frequency of such testing, review, and updating.

(2) The operator must develop and revise the emergency plan in consultation with—
(a) workers at the facility, in accordance with regulation 57; and
(b) the fire, police, and ambulance emergency services that have responsibility for the area in which the facility is located; and
(c) the local authority within whose district the facility is located, in relation to the off-site health and safety consequences of a major incident occurring; and
(d) the operators of any other nearby facilities.

(3) If any of the emergency services organisations consulted under subclause (2)(b) make any recommendations in relation to the content and effectiveness of the emergency plan or the testing proposed in the emergency plan, the operator must ensure that the emergency plan addresses those recommendations, so far as is reasonably practicable.

(4) The operator must have regard to any recommendations made by the local authority and any other person consulted under subclause (2) in developing and revising the emergency plan.

(5) The operator must—
(a) keep a copy of the emergency plan at the facility; and
(b) give a copy of the emergency plan to—
(i) the emergency services organisations consulted under subclause (2)(b); and
(ii) any other relevant emergency services organisations.

(6) The operator must immediately implement the emergency plan if—
(a) a major incident occurs; or
(b) there is an event at the facility that could reasonably be expected to lead to a major incident.

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(7) An operator who contravenes any of subclauses (1) to (6) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[$x\];
(b) for a body corporate, to a fine not exceeding \[$y\].

Compare: Model Work Health and Safety Regulations (Aust) r 557, Schedule 16

29 Testing emergency plans

(1) An emergency plan must be tested in accordance with the testing and review provisions of the emergency plan.

(2) The carrying out and the results of every test must be documented, and the documentation must be retained for at least 2 years.

(3) An operator who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[$x\];
(b) for a body corporate, to a fine not exceeding \[$y\].

Compare: SR 2001/123 r 33; Model Work Health and Safety Regulations (Aust) r 557(3)(a), (6)

Dangerous occurrences

30 Operator must notify dangerous occurrences

(1) An operator of a major hazard facility must, immediately after becoming aware of any dangerous occurrence, notify WorkSafe in accordance with section 51 of the Act.

(2) A notice required under subclause (1)—
(a) may be given by telephone or in writing (including by fax, email, or other electronic means); and
(b) must be given by the fastest possible means in the circumstances; and
(c) must include the information required under Schedule 4 to the extent that it is reasonably available to the operator at the time of notice.

(3) For the purposes of subclause (2), a person giving notice by telephone must—
(a) give the details of the dangerous occurrence requested by WorkSafe; and
(b) if required by WorkSafe, give a written notice of the dangerous occurrence within 48 hours of being informed of the requirement.

(4) The operator must provide WorkSafe with written notice of the circumstances of the dangerous occurrence, including the information required under Part 1 of Schedule 4, by the later of—

(a) 7 days after the operator becomes aware of the dangerous occurrence; and

(b) such other date that WorkSafe specifies in writing.

(5) The operator must provide WorkSafe with a detailed written report on a dangerous occurrence, including the information required under Parts 1 and 2 of Schedule 4, by the later of—

(a) 30 days after the operator becomes aware of the dangerous occurrence; and

(b) such other date that WorkSafe specifies in writing.

(6) An operator who contravenes any of subclauses (1) to (5) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding \([\text{x}]\);

(b) for a body corporate, to a fine not exceeding \([\text{y}]\).

(7) In this regulation, **dangerous occurrence** means any of the following events that arises out of or in connection with a major hazard facility:

(a) an event that does not cause, but has the potential to cause, a major incident;

(b) the uncontrolled or unintended release or escape of any hazardous substance on or from a facility;

(c) an unintended collapse of—

   (i) a facility; or

   (ii) any part of a facility; or

   (iii) any plant on a facility, where that collapse jeopardises, or has the potential to jeopardise, the integrity of the facility;

(d) subsidence or local collapse of the ground that has the potential to affect the foundations, or the integrity, of a facility;

(e) an unplanned event (other than a false alarm) that requires the emergency plan to be implemented:
Part 3 r 31

(f) damage to a facility caused by adverse weather conditions, earthquakes, or other natural events that has the potential to cause the death of, or serious harm to, any person:

(g) damage to, or failure of, a safety-critical element that requires intervention to ensure it will operate as designed.

(8) A dangerous occurrence is a notifiable incident under section 19(1)(m) of the Act.

Compare: SR 2013/208 r 78

Ongoing review

31 Ongoing review

(1) The operator of a major hazard facility must review and, as necessary, revise the following, in accordance with this regulation:

(a) the safety assessment conducted under regulation 25; and

(b) the safety management system required under regulation 27; and

(c) the emergency plan prepared under regulation 28; and

(d) in the case of an upper tier major hazard facility, the safety case required under regulation 37.

(2) Without limiting subclause (1), the operator must conduct a review and revision in any of the following circumstances:

(a) a change or proposed change at the major hazard facility has or would have the effect of—
   (i) creating a hazard that has the potential to cause a major incident; or
   (ii) increasing the likelihood of a major incident occurring; or
   (iii) in relation to a major incident that may occur, increasing its magnitude or the severity of its health and safety consequences:

(b) a control measure no longer minimises the risk so far as is reasonably practicable:

(c) a new major incident hazard, or risk associated with that hazard, is identified:

(d) the results of consultation with workers indicate that a review is necessary:
(e) a health and safety representative requests a review because he or she reasonably believes that any of the circumstances specified in this subclause may affect the health and safety of a worker and the operator has not adequately conducted a review in response to the circumstance:

(f) there is a change of operator.

(3) An operator who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding \[\$x\]:

(b) for a body corporate, to a fine not exceeding \[\$y\].

(4) In this regulation, change or proposed change at the major hazard facility means a change or proposed change of any kind, including any of the following:

(a) a change to any plant, structure, process, hazardous substance, or other substance used in a process (including the introduction of a new plant, a new structure, a new process, or a new hazardous substance):

(b) a change in the quantity of table 1 or 2 hazardous substances that are present or likely to be present at the facility:

(c) a change to the operation, or the nature of the operation, of the facility:

(d) a change to the facility’s safety management system:

(e) an organisational change at the facility (including a change in its senior management).

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**Part 4**

**Design notices and safety cases**

Subpart 1—Requirements for design notice

32 **Operator must give design notice**

(1) Before the design of a proposed facility where upper threshold quantities may be present is completed, the operator must—

(a) prepare a design notice in accordance with subclause (2); and

(b) submit the design notice to WorkSafe as soon as practicable after a design concept has been selected and before...
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making a final investment decision or commencing development of a detailed design.

(2) The design notice must contain the information required under Schedule 5, but only to the extent that the operator can be reasonably expected to provide the information at the time the design notice is given to WorkSafe.

(3) Despite subclause (2), the operator must continue to give any additional information to WorkSafe as required under Schedule 5 that becomes available between—
   (a) the time that the design notice is given to WorkSafe under this regulation; and
   (b) the time that a safety case is given to WorkSafe under regulation 37.

(4) An operator who contravenes subclause (1), (2), or (3) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [Sx]:
   (b) for a body corporate, to a fine not exceeding [Sy].

(5) This regulation is subject to regulation 33.

Compare: SR 2013/208 r 22

33 Requirement to review documents instead of giving design notice

(1) Subject to subclause (2), an operator is not required to give a design notice to WorkSafe if the operator proposes to modify an existing upper tier major hazard facility.

(2) An operator must review and, if necessary, revise the documents noted in subclause (3) (the relevant documents) if—
   (a) the operator proposes to modify an existing upper tier major hazard facility; and
   (b) the elements of proposed modification are not adequately addressed in the documents noted in the relevant documents.

(3) The relevant documents are—
   (a) the safety assessment required under regulation 25:
   (b) the emergency plan required under regulation 28 and Schedule 3:
   (c) the safety management system required under regulation 27 and Schedule 2:
(d) the safety case required under regulation 37.

(4) An operator who contravenes subclause (2) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \([x]\): 
(b) for a body corporate, to a fine not exceeding \([y]\).

34 **Obligations of WorkSafe on receipt of design notice**

On receipt of a design notice, WorkSafe must respond—
(a) in writing; and
(b) by indicating any matters that may create difficulties with accepting the safety case required under regulation 37, if those matters are not taken into account in the detailed design or the construction or commissioning stages; and
(c) as soon as is reasonably practicable and no later than 6 months after the receipt of the notice.

Subpart 2—Requirements of safety case

*General requirements*

35 **Upper tier major hazard facility must not be operated without accepted safety case**

(1) The operator of an upper tier major hazard facility must ensure that the facility is not operated unless there is an accepted safety case for the facility.

(2) Subclause (1) does not apply to—
(a) any upper tier major hazard facility that is subject to the transitional provision under regulation 64; or
(b) any upper tier major hazard facility that is exempted under regulation 15 or under the Act, from the requirements of this regulation or the requirements to have a safety case; or
(c) any upper tier major hazard facility in respect of which the operator is awaiting a decision on the safety case from WorkSafe.

(3) An operator who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \([x]\):
36 WorkSafe may extend time for lodging safety case

WorkSafe may extend the time within which an operator of an upper tier major hazard facility must give WorkSafe a completed safety case if—

(a) the operator applies in writing to WorkSafe for an extension of time; and

(b) WorkSafe is satisfied that there has been insufficient time to comply with regulations 37 to 39.

Compare: Model Work Health and Safety Regulations (Aust) r 549(2)

37 Requirements for safety cases

(1) An operator must prepare a safety case for an upper tier major hazard facility that contains the information required under Schedule 6.

(2) An operator must, when preparing or revising a safety case, consult with the workers at the upper tier major hazard facility, in accordance with regulation 57.

(3) A safety case must be given to WorkSafe,—

(a) for a proposed facility, at least 6 months before the date on which the operator intends to commence operating the facility or by any later date that WorkSafe specifies in writing; or

(b) for an existing upper tier major hazard facility, in accordance with regulation 64 or by any later date that WorkSafe specifies in writing.

(4) An operator who contravenes subclause (1), (2), or (3) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [$m];

(b) for a body corporate, to a fine not exceeding [$n].

Compare: SR 2013/208 rr 26, 27; Model Work Health and Safety Regulations (Aust) r 561

38 Co-ordination of safety cases for multiple facilities

(1) Subject to subclause (2), WorkSafe may require the operators of 2 or more upper tier major hazard facilities to co-ordinate
the preparation of safety cases for their upper tier major hazard facilities.

(2) WorkSafe must be satisfied on reasonable grounds that the co-ordinated preparation of safety cases is necessary in the interests of the safe operation and effective safety management of any or all of those upper tier major hazard facilities.

(3) If WorkSafe requires the co-ordinated preparation of safety cases, each operator must provide the other operators with information concerning any circumstances at the operator’s facility that could cause or contribute to a major incident hazard in relation to any of the other upper tier major hazard facilities.

(4) An operator who contravenes subclause (1) or (3) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [Sx]:
   (b) for a body corporate, to a fine not exceeding [Sy].

Consideration of and decisions on safety cases

39 WorkSafe may request further information

(1) After receiving a safety case or an amended safety case, WorkSafe may request an operator to give further information about any matter set out in Schedule 6.

(2) The request for further information must—
   (a) be in writing; and
   (b) describe by reference to Schedule 6 the matter for which the further information is requested; and
   (c) specify the date by which further information must be given, which must not be earlier than 30 days after the date on which the request is sent.

(3) Any information given in response to a request must be treated as if it were part of the original safety case.

40 WorkSafe must notify operator of decision

(1) As soon as practicable and within 6 months of receiving a safety case, an amended safety case, or a revised safety case, WorkSafe must—
   (a) accept the safety case; or

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Part 4 r 41

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(b) accept the safety case subject to conditions or limitations; or
(c) initially reject the safety case; or
(d) in the case of an amended safety case, finally reject the safety case.

(2) If WorkSafe requests further information under regulation 39, the 6-month period starts on the date WorkSafe receives the further information.

(3) WorkSafe must as soon as practicable after making a decision about a safety case or an amended safety case notify the operator in writing of that decision.

(4) If WorkSafe is unable to make a decision about a safety case or an amended safety case within 6 months of receiving it, WorkSafe must—
(a) notify the operator in writing of that fact as soon as practicable; and
(b) give the operator a proposed timetable for WorkSafe’s consideration of, and decision on, the safety case or amended safety case.

Compare: SR 2013/208 r 30

41 Criteria for acceptance of safety case
WorkSafe must accept a safety case for the operation of an upper tier major hazard facility if satisfied that—
(a) the safety case contains all the information required under Schedule 6; and
(b) when preparing the safety case, the operator has consulted workers of the upper tier major hazard facility in accordance with regulation 57; and
(c) based on the information included in the safety case, compliance with the safety case is likely to constitute compliance with the requirements of these regulations; and
(d) there is no reason to believe that the operator will not comply with the safety case; and
(e) the safety case is appropriate for the upper tier major hazard facility and for the activities to be conducted at that facility.

Compare: SR 2013/208 r 31

34 Consultation draft
42 WorkSafe may impose limitations or conditions on safety case

WorkSafe may, when accepting a safety case, impose limitations or conditions on the safety case that relate to the upper tier major hazard facility or the activities carried out at that facility.

Compare: SR 2013/208 r 32

43 WorkSafe may reject safety case

(1) WorkSafe may initially reject a safety case if the safety case does not meet the criteria set out in regulation 41.

(2) If WorkSafe initially rejects a safety case, WorkSafe must—
   (a) notify the operator of the reasons for the decision; and
   (b) give the operator a reasonable opportunity to amend the safety case and resubmit it for acceptance.

(3) If the operator gives WorkSafe an amended safety case, WorkSafe must—
   (a) accept the safety case, if WorkSafe is satisfied that it meets all the criteria set out in regulation 41; or
   (b) if it does not meet those criteria, finally reject the safety case.

(4) If WorkSafe accepts the amended safety case, WorkSafe may impose limitations or conditions in accordance with regulation 42.

(5) WorkSafe may finally reject a safety case, without complying with subclause (3), if the operator is prohibited from acting as an operator of a facility or proposed facility under regulation 12(6).

(6) To avoid doubt, the fact that WorkSafe has finally rejected a safety case for an upper tier major hazard facility does not prevent the operator from giving a new safety case to WorkSafe for that facility in accordance with regulation 37.

Compare: SR 2013/208 r 33
Revision of safety cases

44 Safety case must be revised in certain situations

(1) An operator of an upper tier major hazard facility in respect of which there is an accepted safety case must prepare a revised safety case and give it to WorkSafe if—

(a) the technical knowledge relied upon to formulate the safety case, including the knowledge of systems for identifying hazards and evaluating risks of major incidents, is outdated so that the safety case no longer adequately provides the information required under Schedule 6; or

(b) the operator proposes to modify or decommission the upper tier major hazard facility or part of that facility, and the proposed modification or decommissioning is not adequately addressed in the safety case; or

(c) a series of proposed modifications to the upper tier major hazard facility could result in a significant cumulative change in the overall level of risk of major incidents; or

(d) the operator proposes to change the safety management system significantly; or

(e) the activities to be carried out at the upper tier major hazard facility are different from the activities anticipated in the safety case; or

(f) there has been a significant increase in the level of risk associated with any major incident hazard.

(2) If any of paragraphs (a) to (f) of subclause (1) applies, a revised safety case must be given to WorkSafe as soon as practicable.

(3) WorkSafe may agree, in writing, that the revised safety case may take the form of revisions to a part or specified parts of the accepted safety case.

(4) An operator who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [$x];

(b) for a body corporate, to a fine not exceeding [$y].

Compare: SR 2013/208 r 34
45 WorkSafe may request revised safety case

(1) The operator of an upper tier major hazard facility in respect of which there is an accepted safety case must prepare a revised safety case and give it to WorkSafe, if WorkSafe so requests in writing.

(2) An operator who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding $x;
   (b) for a body corporate, to a fine not exceeding $y.

(3) Without limiting subclause (1), WorkSafe may request a revised safety case if—
   (a) WorkSafe becomes aware of any material change in circumstances relating to any information included in the safety case; and
   (b) in WorkSafe’s opinion, the change in circumstances may have resulted in WorkSafe rejecting the safety case under regulation 43(1).

(4) WorkSafe may agree in writing that the revised safety case may take the form of revisions to a part or specified parts of the accepted safety case.

(5) A request under subclause (1) must include—
   (a) the matters to be addressed by the revised safety case; and
   (b) instructions on whether the safety case must be revised in whole or in part; and
   (c) the date by which the revised safety case must be given, which must not be earlier than 30 days after the date on which the request is sent; and
   (d) the grounds for the request.

(6) The operator may make a submission to WorkSafe requesting WorkSafe to—
   (a) withdraw the request for the revised safety case; or
   (b) vary the matters to be addressed by the revised safety case; or
   (c) allow the revised safety case to be given after the date proposed.

(7) A submission under subclause (6) must be in writing, set out the reasons for the request, and be made—
(a) no later than 21 days after the operator receives the request from WorkSafe; or
(b) by a later date specified by WorkSafe in writing.

(8) If WorkSafe receives a submission from the operator under subclause (6), WorkSafe must—
(a) withdraw the request for a revised safety case; or
(b) vary the request, whether in accordance with the submission made by the operator or otherwise; or
(c) require the revised safety case to be given to WorkSafe by a later date that WorkSafe specifies in writing; or
(d) reject the submission and confirm the request for a revised safety case.

(9) WorkSafe must give the operator written notice of WorkSafe’s decision, including the grounds for the decision if the operator’s submission is rejected in whole or in part.

Compare: SR 2013/208 r 35

46 Operator must give revised safety case within 5 years

(1) The operator of an upper tier major hazard facility in respect of which there is an accepted safety case must prepare a revised safety case and give it to WorkSafe no later than 5 years after the date on which a safety case for the upper tier major hazard facility was accepted.

(2) An operator who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [Sx];
(b) for a body corporate, to a fine not exceeding [Sy].

(3) WorkSafe may extend the period within which an operator must give a revised safety case if, under regulation 44 or 45, a revised safety case has been accepted within the 5-year period.

(4) The operator must comply with regulations 38 (if applicable) and 57 when preparing the revised safety case.

Compare: SR 2013/208 r 36

47 Decision on revised safety case

(1) If an operator provides a revised safety case to WorkSafe under any of regulations 44 to 46, regulations 39 to 43 apply, except as provided in subclauses (2) and (3).
(2) Any request for further information under regulation 39 must specify the date by which the further information must be provided, which must not be less than 30 days after the date on which the request is sent.

(3) WorkSafe must make a decision, and notify the duty holder of the decision, in accordance with regulation 40 within 50 days of receiving the revised safety case (unless WorkSafe acts in accordance with regulation 40(4)).

(4) To avoid doubt, the accepted safety case for the upper tier major hazard facility continues to have effect if WorkSafe finally rejects the revised safety case.

Compare: SR 2013/208 r 37

Withdrawal of acceptance of safety cases

48 WorkSafe may withdraw acceptance of safety case

(1) WorkSafe may withdraw acceptance of a safety case if—

(a) an operator fails to comply with regulation 49; or
(b) an operator fails to comply with a prohibition notice, a provisional improvement notice, or an improvement notice issued under the Act; or
(c) an operator fails to provide a revised safety case where required under regulation 44, 45, or 46; or
(d) WorkSafe has finally rejected a revised safety case; or
(e) the operator fails to pay the annual levy within the required time; or
(f) in WorkSafe’s opinion, the operator has failed to ensure that the facility is operated competently and safely.

(2) Before withdrawing acceptance of a safety case, WorkSafe must give the operator 30 days’ notice, in writing, of the proposal to do so, together with—

(a) the grounds for WorkSafe’s proposal to withdraw acceptance of the safety case; and
(b) notice that the operator may make written submissions on the proposal to withdraw acceptance of the safety case; and
(c) a date by which the operator must make those submissions; and
(d) a date by which the withdrawal will become effective.
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(3) WorkSafe may provide a copy of the notice to any other person.

(4) The operator may, by the date specified by WorkSafe, make written submissions to WorkSafe in relation to the proposed withdrawal.

(5) Before making a final decision to withdraw acceptance of a safety case, WorkSafe must have regard to (as applicable)—
   (a) any written submissions made by the operator by the date specified by WorkSafe:
   (b) any action taken by the operator to address a matter that was a ground for WorkSafe’s proposal to withdraw acceptance of the safety case:
   (c) any action taken by the operator to prevent recurrence of a matter that was a ground for WorkSafe’s proposal to withdraw acceptance of the safety case.

(6) If WorkSafe withdraws acceptance of a safety case under sub-clause (1)(f), the operator must immediately cease those activities at the upper tier major hazard facility—
   (a) that require a safety case under these regulations; but
   (b) in respect of which there is no accepted safety case under regulation 40(1)(a) or (b) or 47(3).

Compare: SR 2013/208 r 38

Compliance with safety case requirements

49 Operator must ensure compliance with safety case requirements

(1) The operator must (as applicable) operate, modify, maintain, or decommission an upper tier major hazard facility in a manner that is consistent with the accepted safety case and any conditions or limitations imposed by WorkSafe.

(2) In subclause (1), a reference to an upper tier major hazard facility includes any part of that facility.

(3) An operator who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [$$x$$]:
   (b) for a body corporate, to a fine not exceeding [$$y$$].

Compare: SR 2013/208 r 39
50 WorkSafe may consent to operator conducting activity otherwise than in accordance with safety case

(1) Despite regulation 49, WorkSafe may consent in writing to an operator conducting an activity in a manner different from that set out in the accepted safety case for the upper tier major hazard facility.

(2) Without limiting subclause (1), WorkSafe may give such consent where—
   (a) there has been an incident or emergency at the upper tier major hazard facility, or other unforeseen circumstances have arisen; and
   (b) it is in the interests of the health and safety of persons at or near the upper tier major hazard facility to do so.

(3) WorkSafe may not give consent under subclause (1) unless it is satisfied, on the basis of information that has been provided to or is readily accessible to WorkSafe, that the activity will not significantly increase existing risks, or create significant new risks, to the health and safety of persons at or near the upper tier major hazard facility.

Compare: SR 2013/208 r 40

51 Operator must retain records of safety case

(1) The operator must make a record of—
   (a) the safety case for the upper tier major hazard facility:
   (b) any revision to the safety case:
   (c) the findings and recommendations of any audit of the safety case and safety management system:
   (d) any actions that will be, or have been, taken to implement those recommendations.

(2) The operator must retain a record (which may be in hard copy or electronic format) referred to in subclause (1) for at least 7 years after it was made and store copies—
   (a) in a secure place at the upper tier major hazard facility; and
   (b) at a separate address, nominated by the operator, for the upper tier major hazard facility.
(3) An operator who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[$m\]:
(b) for a body corporate, to a fine not exceeding \[$n\].

Compare: SR 2013/208 r 41

Part 5
Appeal provisions

52 Decisions subject to review under these regulations
An operator may apply to WorkSafe in accordance with regulation 53 for a review of any decision under the following regulations:
(a) regulation 12(6) (suitability of operator):
(b) regulation 13 (mandatory designation as a major hazard facility):
(c) regulation 14 (discretionary designation of lower tier major hazard facility as upper tier major hazard facility):
(d) regulation 15(2)(a) (exemption of certain facilities or proposed facilities from designation as major hazard facilities):
(e) regulation 19 (conditions on designations of major hazard facilities):
(f) regulation 20 (revocation of designation as major hazard facility or decision as to suitability of operator):
(g) regulation 42 (WorkSafe may impose limitations or conditions on safety case):
(h) regulation 43 (WorkSafe may reject safety case):
(i) regulation 48 (WorkSafe may withdraw acceptance of safety case).

53 Process for applying for review
(1) A review application must be given to WorkSafe in accordance with subclause (2).
(2) The application must—
(a) be in writing:
(b) wherever practicable, be made on the form (if any) provided by WorkSafe for the purpose:
(c) identify the decision or decisions in respect of which it is made:

(d) state the operator’s submissions in relation to the decision or decisions:

(e) be made within 1 month after the date on which WorkSafe gave written notice of the decision in respect of which the application is made.

54 WorkSafe to acknowledge receipt of review application

When WorkSafe receives a review application, it must send the applicant an acknowledgement stating when the review application was received.

55 Review decisions

(1) WorkSafe must make a review decision as soon as is reasonably practicable after receiving the application for review.

(2) In making a decision on the review, WorkSafe must have regard to (as applicable)—

(a) any written submissions made by the operator under regulation 53(2)(d):

(b) any action taken by the operator to address a matter that was a ground for WorkSafe’s original decision:

(c) any action taken by the operator to prevent recurrence of an event that was a ground for WorkSafe’s original decision.

(3) In its review decision, WorkSafe must—

(a) withdraw its original decision; or

(b) modify its original decision; or

(c) confirm its original decision.

(4) A review decision must—

(a) be written; and

(b) contain the reasons for the decision.

56 Appeal to District Court

(1) An operator may appeal to a District Court against a review decision made under regulation 55.

(2) An appeal under this regulation must be brought within 28 days after the date on which the operator was notified in writ-
ing by WorkSafe of the decision appealed against, or within any further period that the court may allow.

(3) The appeal—
  (a) must be made by way of originating application in ac-
      cordance with the District Courts Rules 2014; and
  (b) must be filed in the office of the District Court nearest
      to the registered office of the operator (if a body cor-
      porate) or principal place of business of the operator (if
      not a body corporate), or to the place of employment or
      engagement of the operator, as the case may require.

(4) On hearing the appeal, the court may—
  (a) confi
      rm, vary, or reverse the decision appealed against; or
  (b) refer the matter back to WorkSafe with directions to
      WorkSafe to reconsider the whole of any specified part
      of the review decision.

(5) Subject to any order of the court, every decision of WorkSafe
against which an appeal is made continues in force and has
effect according to its tenor pending the determination of the
appeal to the court.

Part 6
Miscellaneous and transitional provisions

General requirements

57 Requirement to consult with workers
(1) An operator must, when acting under a requirement to con-
    ult with workers under the regulations specified in subclause
(2), ensure that there is consultation with, and participation of,
workers who are—
  (a) identifiable at the time the safety case is being prepared
      or revised; and
  (b) working, or likely to be working, at the major hazard
      facility.

(2) The provisions of these regulations referred to in subclause (1)
are as follows:
  (a) regulation 25(3)(c)(i) (safety assessment):
  (b) regulation 27(3) (safety management system):
  (c) regulation 28(2)(a) (emergency plans):
(d) regulation 37(2) (requirements for safety cases).

(3) An operator who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \(x\):
   (b) for a body corporate, to a fine not exceeding \(y\).

Compare: SR 2013/208 r 27

58 General information for local community

(1) The operator of an upper tier major hazard facility must take reasonable steps to provide the following information to the local community and the local authority:
   (a) the name and location of that facility; and
   (b) the name, position, and contact details of a person from whom information about that facility may be requested; and
   (c) a general description of that facility’s operation; and
   (d) the means by which the local community will be informed of any major incident at that facility; and
   (e) the actions, as specified in that facility’s emergency plan, that members of the local community should take if a major incident occurs; and
   (f) a summary of the safety case for that facility.

(2) The operator must ensure that the information provided under subclause (1) is—
   (a) set out and expressed in a way that is readily accessible and understandable to persons who are not familiar with the upper tier major hazard facility and its operations; and
   (b) reviewed and as necessary revised if a modification is made to the upper tier major hazard facility; and
   (c) notified, by—
      (i) publishing the information in a newspaper circulating in the area where the facility is located; and
      (ii) publishing the information on an Internet site maintained by the operator; and
      (iii) any other means and in a format that is readily accessible to the local community so as to enable the local community to be aware of the information; and
(d) provided within 3 months of WorkSafe accepting a safety case.

(3) In complying with subclause (1), the operator is not required to disclose information that may lead to a threat to the security of the upper tier major hazard facility.

(4) An operator of an upper tier major hazard facility who receives a written request from a person who reasonably believes that the occurrence of a major incident at that facility may adversely affect his or her health and safety must give that person a copy of all the information provided to the local community under this regulation.

(5) An operator who contravenes subclause (1), (2), or (4) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [Sx];
(b) for a body corporate, to a fine not exceeding [Sy].

**Notification requirement following major incident**

59 Notifying local community and local authority in event of major incident

(1) If a major incident occurs at a major hazard facility, the operator must take reasonable steps to provide the local community and the local authority with information about the major incident, including—

(a) a general description of the major incident that includes—

(i) the nature of the major incident (for example, fire, explosion, or spillage); and
(ii) details of the hazardous substances involved; and
(iii) the likely consequences of the major incident and its likely effects on health and safety; and

(b) the recommended actions that the members of the local community and the local authority should take to eliminate or minimise risks to health and safety; and

(c) a description of the actions the operator has taken or proposes to take to prevent the occurrence of a similar major incident.

(2) The operator must notify—
(a) the local community, as soon as practicable, by publishing the information referred to in subclause (1)—
   (i) in a newspaper circulating in the area where the major incident has taken place; and
   (ii) on an Internet site maintained by the operator; and

(b) the local authority by means of a notice to the local authority’s electronic address and postal address.

(3) An operator who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [\$x]:
   (b) for a body corporate, to a fine not exceeding [\$y].

Duty of WorkSafe to provide information to public

60 WorkSafe’s duty to provide information to public

(1) WorkSafe must maintain a record on its Internet site, in respect of each major hazard facility to which these regulations apply, that includes—
   (a) the name of the operator and the address of that facility:
   (b) confirmation that the facility is subject to these regulations and a statement about which parts of these regulations apply to that facility:
   (c) information about the type of the facility, as determined by WorkSafe (for example, lower tier major hazard, upper tier major hazard, and whether the facility has been designated as a major hazard facility):
   (d) a simple explanation of the activity or activities undertaken at that facility:
   (e) the relevant hazard classifications of those hazardous substances at that facility that could cause or contribute to a major incident:
   (f) an explanation, in general terms, of the characteristics of those substances that make them dangerous:
   (g) general information about how the public will be warned in the event of a major incident at that facility:
   (h) general information about how the public should act and any precautionary steps that people should take if a major incident occurs at that facility.
(2) WorkSafe must ensure that the information referred to in sub-clause (1) is updated as soon as practicable after any relevant change.

(3) To avoid doubt, any information that WorkSafe maintains or updates on its Internet site under this regulation is subject to the Official Information Act 1982.

61 WorkSafe may require operator to provide further information

(1) For the purpose of ensuring that WorkSafe is able to comply with regulation 60, WorkSafe may request an operator to provide information on any matter referred to in regulation 60(1) or (2).

(2) The operator must comply with a request under subclause (1) as soon as practicable after receiving the request.

(3) An operator who contravenes subclause (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [$m];
   (b) for a body corporate, to a fine not exceeding [$n].

Cost recovery provisions

62 Annual levy payable by operator

(1) The annual levy payable under section 00 of the Act—
   (a) by the operator of a lower tier major hazard facility is [$amount]; and
   (b) by the operator of an upper tier major hazard facility is [$amount].

(2) The annual levy is payable in respect of a period of 12 months—
   (a) starting on the date that WorkSafe notifies the operator that the facility is a lower tier major hazard facility or an upper tier major hazard facility; or
   (b) in the case of a subsequent annual levy, starting on the relevant anniversary of the date referred to in paragraph (a).

(3) The amount of the annual levy is increased in the following manner:
   (a) [instructions pending].
(4) The amount of the annual levy is increased in the following circumstances:
   (a) [instructions pending].

(5) The amount of the annual levy is decreased in the following manner:
   (a) [instructions pending].

(6) The amount of the annual levy is decreased in the following circumstances:
   (a) [instructions pending].

(7) The prescribed rate of interest payable by an operator on any levy that is overdue is [instructions pending].

**Transitional provisions**

**63 Transitional provision for Part 3**

(1) An operator of an existing facility with hazardous substances that exceed the lower threshold quantities is not required to comply with the requirements of Part 3 until [date].

(2) Despite subclause (1), regulation 30 applies to the operator of a major hazard facility only from the date on which WorkSafe notifies the operator that the facility is a major hazard facility.

**64 Transitional provision for Part 4**

(1) The operator of an existing facility with hazardous substances that exceed the upper threshold quantities—
   (a) is not required to comply with regulations 35 to 51 until it has given a completed safety case to WorkSafe; but
   (b) must give WorkSafe a completed safety case within 24 months of the facility being designated an upper tier major hazard facility.

(2) Once the operator has complied with subclause (1)(b), regulations 35 to 43 apply accordingly.

(3) Despite subclauses (1) and (2), regulations 37, 38, and 57 apply to the operator of an upper tier major hazard facility only from the date on which WorkSafe notifies the operator that the facility is an upper tier major hazard facility.
(4) This regulation is subject to regulation 36.

Compare: SR 2013/208 r 43
## Schedule 1
### Hazardous substances

#### Table 1
Categories of hazardous substances

<table>
<thead>
<tr>
<th>Hazard class</th>
<th>Hazard category</th>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health hazards (section H)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acute toxic</td>
<td>H1</td>
<td>Category 1, all exposure routes</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>Acute toxic</td>
<td>H2</td>
<td>Category 2, all exposure routes</td>
<td>50</td>
<td>200</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Category 3, inhalation exposure route (see note 7)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Specific target organ toxicity—single exposure (STOT SE)</td>
<td>H3</td>
<td>STOT SE Category 1</td>
<td>50</td>
<td>200</td>
</tr>
</tbody>
</table>

*Note: Threshold quantity (tonnes) of hazardous substances as referred to in regulation 23 for the application of Lower-tier requirements and Upper-tier requirements.*
<table>
<thead>
<tr>
<th>Hazard class</th>
<th>Hazard category</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Physical hazards (section P)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Explosives (see note 8)</td>
<td>P1a Unstable explosives; or Explosives, Division 1.1, 1.2, 1.3, 1.5, or 1.6; or Substances or mixtures having explosive properties according to Chapter 2.4.2.4.2 of the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations Seventeenth revised edition, and that do not belong to the hazard classes Organic peroxides or Self-reactive substances and mixtures</td>
<td>10</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>P1b Explosives, Division 1.4 (see note 8.3)</td>
<td>50</td>
<td>200</td>
</tr>
<tr>
<td>Flammable gases</td>
<td>P2 Flammable gases, Category 1 or 2</td>
<td>10</td>
<td>50</td>
</tr>
<tr>
<td>Flammable aerosols (see note 9.1)</td>
<td>P3a “Flammable” aerosols, Category 1 or 2, containing flammable gases Category 1 or 2 or flammable liquids Category 1</td>
<td>150 (net)</td>
<td>500 (net)</td>
</tr>
<tr>
<td></td>
<td>P3b “Flammable” aerosols, Category 1 or 2, not containing flammable gases Category 1 or 2 nor flammable liquids category 1 (see note 9.2)</td>
<td>5 000 (net)</td>
<td>50 000 (net)</td>
</tr>
</tbody>
</table>
Table 1—continued

<table>
<thead>
<tr>
<th>Hazard class</th>
<th>Hazard category</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Lower-tier requirements</td>
<td>Upper-tier requirements</td>
</tr>
<tr>
<td>Oxidising gases</td>
<td>P4 Oxidising gases, Category 1</td>
<td>50</td>
<td>200</td>
</tr>
<tr>
<td>Flammable liquids</td>
<td>P5a Flammable liquids, Category 1; or Flammable liquids, Category 2 or 3 maintained at a temperature above their boiling point; or Other liquids with a flash point ≤ 60 °C, maintained at a temperature above their boiling point (see note 10)</td>
<td>10</td>
<td>50</td>
</tr>
<tr>
<td>P5b Flammable liquids, Category 2 or 3 where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards; or Other liquids with a flash point ≤ 60 °C where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards (see note 10)</td>
<td>50</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>P5c Flammable liquids, Category 2 or 3 not covered by P5a and P5b</td>
<td>5 000</td>
<td>50 000</td>
<td></td>
</tr>
<tr>
<td>Hazard class</td>
<td>Hazard category</td>
<td>Column 1</td>
<td>Column 2</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------</td>
<td>----------</td>
<td>----------</td>
</tr>
<tr>
<td>Self-reactive substances and mixtures, and organic peroxides</td>
<td>P6a Self-reactive substances and mixtures, Type A or B or organic peroxides, Type A or B</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>P6b Self-reactive substances and mixtures, Type C, D, E, or F or organic peroxides, Type C, D, E, or F</td>
<td></td>
<td>50</td>
</tr>
<tr>
<td>Pyrophoric liquids and solids</td>
<td>P7 Pyrophoric liquids, Category 1</td>
<td></td>
<td>50</td>
</tr>
<tr>
<td>Oxidising liquids and solids</td>
<td>P8 Oxidising liquids, Category 1, 2, or 3; or Oxidising solids, Category 1, 2, or 3</td>
<td></td>
<td>50</td>
</tr>
<tr>
<td>Other hazards (section O)</td>
<td>O1 Substances or mixtures that react violently with water</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>Hazard class</td>
<td>Hazard category</td>
<td>Column 1</td>
<td>Column 2</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------</td>
<td>---------</td>
<td>----------</td>
</tr>
<tr>
<td>Substances and mixtures that in contact with water emit flammable gases</td>
<td>O2</td>
<td>Category 1</td>
<td>100</td>
</tr>
<tr>
<td>Substances or mixtures that liberate toxic gas in contact with water</td>
<td>O3</td>
<td></td>
<td>50</td>
</tr>
</tbody>
</table>
## Table 2
### Named hazardous substances

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hazardous substances</td>
<td>Threshold quantity (tonnes) for the application of</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lower-tier requirements</td>
<td>Upper-tier requirements</td>
</tr>
<tr>
<td>1  Ammonium nitrate (see note 11)</td>
<td>—</td>
<td>5 000</td>
</tr>
<tr>
<td>2  Ammonium nitrate (see note 12)</td>
<td>—</td>
<td>1 250</td>
</tr>
<tr>
<td>3  Ammonium nitrate (see note 13)</td>
<td>—</td>
<td>350</td>
</tr>
<tr>
<td>4  Ammonium nitrate (see note 14)</td>
<td>—</td>
<td>10</td>
</tr>
<tr>
<td>5  Potassium nitrate (see note 15)</td>
<td>—</td>
<td>5 000</td>
</tr>
<tr>
<td>6  Potassium nitrate (see note 16)</td>
<td>—</td>
<td>1 250</td>
</tr>
<tr>
<td>7  Arsenic pentoxide, arsenic (V) acid and/or salts</td>
<td>1303-28-2</td>
<td>1</td>
</tr>
<tr>
<td>8  Arsenic trioxide, arsenious (III) acid and/or salts</td>
<td>1327-53-3</td>
<td>0.1</td>
</tr>
<tr>
<td>9  Bromine</td>
<td>7726-95-6</td>
<td>20</td>
</tr>
<tr>
<td>10 Chlorine</td>
<td>7782-50-5</td>
<td>10</td>
</tr>
<tr>
<td>11 Nickel compounds in inhalable powder form: nickel monoxide, nickel</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide</td>
<td>—</td>
<td>1</td>
</tr>
</tbody>
</table>

1 The CAS number is shown only for indication.
<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hazardous substances</td>
<td>Threshold quantity (tonnes) for the application of Hazardous substances CAS number(^1)</td>
<td>Lower-tier requirements</td>
</tr>
<tr>
<td>12 Ethyleneimine</td>
<td>151-56-4</td>
<td>10</td>
</tr>
<tr>
<td>13 Fluorine</td>
<td>7782-41-4</td>
<td>10</td>
</tr>
<tr>
<td>14 Formaldehyde (concentration (\geq 90%))</td>
<td>50-00-0</td>
<td>5</td>
</tr>
<tr>
<td>15 Hydrogen</td>
<td>1333-74-0</td>
<td>5</td>
</tr>
<tr>
<td>16 Hydrogen chloride (liquefied gas)</td>
<td>7647-01-0</td>
<td>25</td>
</tr>
<tr>
<td>17 Lead alkyls</td>
<td>—</td>
<td>5</td>
</tr>
<tr>
<td>18 Liquefied flammable gases, Category 1 or 2 (including LPG), and natural gas (see note 17)</td>
<td>—</td>
<td>50</td>
</tr>
<tr>
<td>19 Acetylene</td>
<td>74-86-2</td>
<td>5</td>
</tr>
<tr>
<td>20 Ethylene oxide</td>
<td>75-21-8</td>
<td>5</td>
</tr>
<tr>
<td>21 Propylene oxide</td>
<td>75-56-9</td>
<td>5</td>
</tr>
<tr>
<td>22 Methanol</td>
<td>67-56-1</td>
<td>500</td>
</tr>
<tr>
<td>23 4, 4′-Methylene bis (2-chloraniline) and/or salts, in powder form</td>
<td>101-14-4</td>
<td>0.01</td>
</tr>
<tr>
<td>24 Methylisocyanate</td>
<td>624-83-9</td>
<td>0.15</td>
</tr>
<tr>
<td>Column 1</td>
<td>Column 2</td>
<td>Column 3</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Hazardous substances</td>
<td>Threshold quantity (tonnes) for the application of Hazardous substances CAS number</td>
<td>Lower-tier requirements</td>
</tr>
<tr>
<td>25</td>
<td>Oxygen</td>
<td>7782-44-7</td>
</tr>
<tr>
<td>26</td>
<td>2,4-Toluene diisocyanate 2,6-Toluene diisocyanate</td>
<td>584-84-9</td>
</tr>
<tr>
<td>27</td>
<td>Carbonyl dichloride (phosgene)</td>
<td>75-44-5</td>
</tr>
<tr>
<td>28</td>
<td>Arsine (arsenic trihydride)</td>
<td>7784-42-1</td>
</tr>
<tr>
<td>29</td>
<td>Phosphine (phosphorus trihydride)</td>
<td>7803-51-2</td>
</tr>
<tr>
<td>30</td>
<td>Sulphur dichloride</td>
<td>10545-99-0</td>
</tr>
<tr>
<td>31</td>
<td>Sulphur trioxide</td>
<td>7446-11-9</td>
</tr>
<tr>
<td>32</td>
<td>Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent (see note 18)</td>
<td>—</td>
</tr>
<tr>
<td>Column 1</td>
<td>Column 2</td>
<td>Column 3</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Hazardous substances</td>
<td>Threshold quantity (tonnes) for the application of Hazardous substances CAS number</td>
<td>Lower-tier requirements</td>
</tr>
<tr>
<td>The following carcinogens or the mixtures containing the following carcinogens at concentrations above 5% by weight:</td>
<td>—</td>
<td>0.5</td>
</tr>
<tr>
<td>4-Aminobiphenyl and/or its salts, Benzotrichloride, Benzidine and/or salts, Bis (chloromethyl) ether, Chloromethyl methyl ether, 1,2-Dibromoethane, Diethyl sulphate, Dimethyl sulphate, Dimethylcarbamoyl chloride, 1,2-Dibromo-3-chloropropane, 1,2-Dimethylhydrazine, Dimethylnitrosamine, Hexamethylphosphoric triamide, Hydrazine, 2-Naphthylamine and/or salts, 4-Nitrodiphenyl, and 1,3 Propanesultone</td>
<td>2 500</td>
<td>25 000</td>
</tr>
<tr>
<td>Petroleum products and alternative fuels—</td>
<td>—</td>
<td>2 500</td>
</tr>
<tr>
<td>(a) gasolines and naphthas:</td>
<td>35</td>
<td>7664-41-7</td>
</tr>
<tr>
<td>(b) kerosenes (including jet fuels):</td>
<td>36</td>
<td>7367-07-2</td>
</tr>
<tr>
<td>(c) alternative fuels serving the same purposes and with similar properties as regards flammability as the products referred to in paragraphs (a) or (b)</td>
<td>37</td>
<td>7783-06-4</td>
</tr>
<tr>
<td>Anhydrous ammonia</td>
<td>38</td>
<td>110-89-4</td>
</tr>
<tr>
<td>Boron trifluoride</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hydrogen sulphide</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Piperidine</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 2—continued

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hazardous substances</td>
<td>Threshold quantity (tonnes) for the application of Hazardous substances CAS number</td>
<td>Lower-tier requirements</td>
</tr>
<tr>
<td>39 Bis(2-dimethylaminoethyl) (methyl)amin</td>
<td>3030-47-5</td>
<td>50</td>
</tr>
<tr>
<td>40 3-(2-Ethylhexyloxy)propylamin</td>
<td>5397-31-9</td>
<td>50</td>
</tr>
<tr>
<td>41 Propylamine (see note 19)</td>
<td>107-10-8</td>
<td>500</td>
</tr>
<tr>
<td>42 Tert-butyl acrylate (see note 19)</td>
<td>1663-39-4</td>
<td>200</td>
</tr>
<tr>
<td>43 2-Methyl-3-butenenitrile (see note 19)</td>
<td>16529-56-9</td>
<td>500</td>
</tr>
<tr>
<td>44 Tetrahydro-3,5-dimethyl-1,3,5,-thiadiazine-2-thione (Dazomet) (see note 19)</td>
<td>533-74-4</td>
<td>100</td>
</tr>
<tr>
<td>45 Methyl acrylate (see note 19)</td>
<td>96-33-3</td>
<td>500</td>
</tr>
<tr>
<td>46 3-Methylpyridine (see note 19)</td>
<td>108-99-6</td>
<td>500</td>
</tr>
<tr>
<td>47 1-Bromo-3-chloropropane (see note 19)</td>
<td>109-70-6</td>
<td>500</td>
</tr>
</tbody>
</table>

**Notes to tables 1 and 2**

1. Substances and mixtures are classified in accordance with the *Globally Harmonized System of Classification and Labelling of Chemicals (GHS)* Fifth revised edition.
2 Mixtures must be treated in the same way as pure substances provided they remain within concentration limits set according to their properties under the GHS Fifth revised edition, unless a percentage composition or other description is specifically given.

3 The qualifying quantities set out in the tables above relate to each facility. The quantities to be considered for the application of the relevant regulations are the maximum quantities that are present or are likely to be present at any one time.

4 **Threshold quantity of more than 1 hazardous substance**

4.1 The following rules governing the addition of hazardous substances, or categories of hazardous substances, must apply where appropriate:

4.2 In the case of a facility where no individual hazardous substance is present in a quantity above or equal to the relevant qualifying quantities, notes 4.3 to 4.6 must be applied to determine whether the establishment is covered by the relevant requirements of these regulations.

4.3 These regulations apply to upper tier major hazard facilities if the sum:

\[ \frac{q_1}{Q_{U1}} + \frac{q_2}{Q_{U2}} + \frac{q_3}{Q_{U3}} + \frac{q_4}{Q_{U4}} + \frac{q_5}{Q_{U5}} + \ldots \]

is greater than or equal to 1,

where \( q_x \) = the quantity of hazardous substance \( x \) (or category of hazardous substances) falling within table 1 or table 2 of this schedule, and \( Q_{UX} \) = the relevant qualifying quantity for hazardous substance or category \( x \) from column 3 of table 1 or from column 3 of table 2 of this Schedule.

4.4 These regulations apply to lower tier major hazard facilities if the sum:

\[ \frac{q_1}{Q_{L1}} + \frac{q_2}{Q_{L2}} + \frac{q_3}{Q_{L3}} + \frac{q_4}{Q_{L4}} + \frac{q_5}{Q_{L5}} + \ldots \]

is greater than or equal to 1, where \( q_x \) = the quantity of hazardous substance \( x \) (or category of hazardous substances) falling within table 1 or table 2 of this schedule, and \( Q_{LX} \) = the relevant qualifying quantity for hazardous substance or category \( x \) from column 2 of table 1 or from column 2 of table 2 of this schedule.
This note must be used to assess the health hazards and physical hazards. It must therefore be applied twice:

(a) for the addition of hazardous substances listed in table 2 that fall within acute toxicity category 1, 2, or 3 (inhalation route) or STOT SE category 1, together with hazardous substances falling within section H, entries H1 to H3 of table 1:

(b) for the addition of hazardous substances listed in table 2 that are explosives, flammable gases, flammable aerosols, oxidising gases, flammable liquids, self-reactive substances and mixtures, organic peroxides, pyrophoric liquids and solids, oxidising liquids and solids, together with hazardous substances falling within section P, entries P1 to P8 of table 1.

The relevant provisions of these regulations apply where any of the sums obtained under note 4.5 (a) or (b) is greater than or equal to 1.

In the case of hazardous substances that are not covered by the GHS Fifth revised edition, including waste, but that nevertheless are present, or are likely to be present, in a facility and that possess or are likely to possess, under the conditions found at the facility, equivalent properties in terms of major-incident potential, these must be provisionally assigned to the most analogous category or named hazardous substance falling within the scope of these regulations.

In the case of hazardous substances with properties giving rise to more than 1 classification, for the purposes of these regulations, the lowest qualifying quantities will apply. However, for the application of the requirements in note 4, the lowest qualifying quantity for each group of categories in note 4.5(a) and (b) corresponding to the classification concerned must be used.

Hazardous substances that fall within Acute toxic Category 3 via the oral route (H301) must fall under entry H2 Acute toxic in those cases where neither acute inhalation toxicity classification nor acute dermal toxicity classification can be derived, for example, due to lack of conclusive inhalation and dermal toxicity data.
8 **Explosives**

8.1 The hazard class Explosives includes explosive articles (see Chapter 2.1 of Part 2 of the GHS Fifth revised edition). If the quantity of the explosive substance or mixture contained in the article is known, that quantity must be considered for the purposes of these regulations. If the quantity of the explosive substance or mixture contained in the article is not known, then, for the purposes of these regulations, the whole article must be treated as explosive.

8.2 The threshold quantity of fireworks, within the meaning of regulation 3 of the Hazardous Substances (Fireworks) Regulations 2001, is calculated using the gross weight of the fireworks.

8.3 If explosives of Division 1.4 are unpacked or repacked, they must be assigned to the entry P1a, unless the hazard is shown to still correspond to Division 1.4, in accordance with Chapter 2.1 of Part 2 of the GHS Fifth revised edition.

9 **Aerosols**

9.1 Flammable aerosols are classified in accordance with Chapter 2.3 of Part 2 of the GHS Fifth revised edition.

9.2 In order to use this entry, it must be documented that the aerosol dispenser does not contain flammable gas Category 1 or 2 nor flammable liquid Category 1.

10 According to paragraph 2.6.2 in Chapter 2.6 of Part 2 of the GHS Fifth revised edition, liquids with a flash point of more than 35°C and not more than 60°C need not be classified in Category 3 if negative results have been obtained in the sustained combustibility test L.2, Part III, section 32 of the *UN Manual of Tests and Criteria*. This is, however, not valid under elevated conditions such as high temperature or pressure, and therefore such liquids are included in this entry.

11 **Ammonium nitrate (5 000/10 000): fertilisers capable of self-sustaining decomposition**

This note applies to ammonium nitrate-based compound/composite fertilisers (compound/composite fertilisers containing ammonium nitrate with phosphate and/or potash) that are capable of self-sustaining decomposition.
according to the UN Trough Test (see UN Manual of Tests and Criteria, Part III, subsection 38.2), and in which
the nitrogen content as a result of ammonium nitrate is—
(a) between 15.75%\(^2\) and 24.5%\(^3\) by weight, and either with not more than 0.4% total combustible/organic
materials or that fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003 of the European
Parliament and of the Council of 13 October 2003 relating to fertilisers;\(^4\); or
(b) 15.75% by weight or less and unrestricted combustible materials.

12 Ammonium nitrate (1 250/5 000): fertiliser grade
This note applies to straight ammonium nitrate-based fertilisers and to ammonium nitrate-based com-
 pound/composite fertilisers that fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003 and
in which the nitrogen content as a result of ammonium nitrate is—
(a) more than 24.5% by weight, except for mixtures of straight ammonium nitrate-based fertilisers with
dolomite, limestone, and/or calcium carbonate with a purity of at least 90%; or
(b) more than 15.75% by weight for mixtures of ammonium nitrate and ammonium sulphate; or
(c) more than 28%\(^5\) by weight for mixtures of straight ammonium nitrate-based fertilisers with dolomite,
limestone, and/or calcium carbonate with a purity of at least 90%.

13 Ammonium nitrate (350/2 500): technical grade
This note applies to ammonium nitrate and mixtures of ammonium nitrate in which the nitrogen content as a
result of the ammonium nitrate is—

\(^2\) 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate.
\(^3\) 24.5% nitrogen content by weight as a result of ammonium nitrate corresponds to 70% ammonium nitrate.
\(^4\) OJL 304, 21.11.2003, p 1.
\(^5\) 28% nitrogen content by weight as a result of ammonium nitrate corresponds to 80% ammonium nitrate.
It also applies to aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 80% by weight.

14 **Ammonium nitrate (10/50): “off-specs” material and fertilisers not fulfilling the detonation test**

This note applies to—

(a) material rejected during the manufacturing process and to ammonium nitrate and mixtures of ammonium nitrate, straight ammonium nitrate-based fertilisers, and ammonium nitrate-based compound/composite fertilisers referred to in notes 11, 12, and 13, that are being or have been returned from the final user to a manufacturer, temporary storage, or reprocessing plant for reworking, recycling, or treatment for safe use, because they no longer comply with the specifications of notes 14 and 15; or

(b) fertilisers referred to in note 11(a) and note 12(a) to tables 1 and 2 that do not fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003.

15 **Potassium nitrate (5 000/10 000)**

This note applies to those composite potassium-nitrate-based fertilisers (in prilled/granular form) that have the same hazardous properties as pure potassium nitrate.

16 **Potassium nitrate (1 250/5 000)**

This note applies to those composite potassium-nitrate-based fertilisers (in crystalline form) that have the same hazardous properties as pure potassium nitrate.

17 **Upgraded biogas**

For the purpose of the implementation of these regulations, upgraded biogas may be classified under item 18 of table 2 where it has been processed in accordance with applicable standards for purified and upgraded biogas.
ensuring a quality equivalent to that of natural gas, including the content of methane, and that has a maximum of 1% oxygen.

**Polychlorodibenzofurans and polychlorodibenzodioxins**

The quantities of polychlorodibenzofurans and polychlorodibenzodioxins are calculated using the following factors:

<table>
<thead>
<tr>
<th></th>
<th>WHO 2005 TEF</th>
</tr>
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<tbody>
<tr>
<td>2,3,7,8-TCDD</td>
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</tr>
<tr>
<td>1,2,3,7,8-PeCDD</td>
<td>1</td>
</tr>
<tr>
<td>1,2,3,4,7,8-PeCDD</td>
<td>0.3</td>
</tr>
<tr>
<td>1,2,3,7,8-PeCDF</td>
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<td>1,2,3,7,8-TCDF</td>
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<tr>
<td>1,2,3,4,7,8-HxCDD</td>
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</tr>
<tr>
<td>1,2,3,6,7,8-HxCDD</td>
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</tr>
<tr>
<td>1,2,3,4,6,7,8-HpCDD</td>
<td>0.01</td>
</tr>
<tr>
<td>OCDD</td>
<td>0.0003</td>
</tr>
<tr>
<td>1,2,3,4,6,7,8-HpCDF</td>
<td></td>
</tr>
<tr>
<td>1,2,3,4,7,8,9-HpCDF</td>
<td></td>
</tr>
<tr>
<td>OCDF</td>
<td>0.0003</td>
</tr>
</tbody>
</table>
(T = tetra, Pe = penta, Hx = hexa, Hp = hepta, O = octa)


In cases where this hazardous substance falls within category P5a Flammable liquids or P5b Flammable liquids, then for the purposes of these regulations, the lowest qualifying quantities apply.
Schedule 2

Matters to be included in safety management system of major hazard facility

Organisation and personnel

1 The identification of the personnel involved in the management of major hazards, including—
   (a) the position description and location of those personnel; and
   (b) the roles and responsibilities of those personnel in relation to the safety management system.

2 A description of the means of ensuring that those personnel have the necessary knowledge, skills, and abilities to enable them to meet their work responsibilities and to perform their jobs safely and effectively.

3 The arrangements for ensuring contractors and subcontractors are aware of their roles and responsibilities under the safety management system.

Identification and evaluation of major hazards

4 The arrangements for the adoption and implementation of procedures for—
   (a) systematically identifying major hazards that could arise from normal and abnormal events at the facility; and
   (b) the assessment of the likelihood and severity of major incidents occurring.

Operational control

5 The arrangements for the adoption and implementation of procedures and instructions for—
   (a) the safe operation and maintenance of plant; and
   (b) plant processes; and
   (c) permit-to-work systems; and
   (d) maintaining equipment; and
   (e) temporary stoppages (for example, start-ups and shut-downs).
6 The arrangements for independent and competent persons to verify that safety-critical elements are or will be suitable and will remain in good repair and condition throughout the life cycle of the facility.

Human factors

7 The arrangements for ensuring that equipment, displays and alarms, work practices and procedures, work management and authorisation, task design, and individual or team workloads all properly address errors or failures that commonly occur.

Management of change

8 The arrangements for the adoption and implementation of procedures for ensuring that changes in organisation, personnel, procedures, practices, plant, or equipment do not introduce new major incident hazards or impact on control practices or safety-critical equipment for existing major incident hazards.

Planning for emergencies

9 The arrangements for the adoption and implementation of procedures—
   (a) to identify foreseeable emergencies by systematic analysis; and
   (b) to prepare, test, and review emergency plans to respond to such emergencies.

Monitoring performance

10 The arrangements for the adoption and implementation of procedures for—
   (a) routinely checking that activities under the safety management system are being conducted to a suitable standard; and
   (b) investigating and taking corrective action in the case of non-compliance; and
   (c) monitoring the performance of control measures designed to minimise risks from major incidents.

11 The procedures must include a system for reporting—
   (a) major incidents and near misses; and
Audit and review

12 The arrangements for the adoption and implementation of procedures for—
   (a) checking that the safety management system is understood and is being complied with; and
   (b) failure of protective measures; and
   (c) investigations and follow-up on the basis of lessons learnt.

13 The procedures must include provisions for—
   (a) the documented review of performance of the safety management system; and
   (b) the updating of the safety management system by senior management following the review.
Schedule 3

Matters to be included in emergency plan of major hazard facility

Site and hazard detail

1 The location of the facility, including its street address and the nearest intersection (if any).

2 A map—
   (a) showing the site of the major hazard facility; and
   (b) showing land use and occupancy, and any major hazard facilities and hazardous substance storage sites, within a 2 km radius of any point on the perimeter of the major hazard facility; and
   (c) identifying all potentially hazardous inventories in the area that are known to the operator and the location of all staging points for emergency services organisations; and
   (d) showing the muster area to be used in the event of a major incident.

3 An inventory of all hazardous substances that are present or likely to be present at the facility and their location.

4 A brief description of the nature of the facility and its operation.

5 The maximum number of persons, including workers, likely to be present at the facility on a normal working day (including a day involving planned maintenance).

6 The emergency planning assumptions, including emergency measures planned for identified major incidents, and likely areas affected.

7 The protective resources available to control a major incident.

8 The emergency procedures.

9 The infrastructure (on site and off site) that may be affected by a major incident.

Command structure and site personnel

10 The command philosophy and structure to be activated in an emergency, so that it is clear what actions will be taken, who
will take the actions, and how, when, and where they will be taken.

11 Details of the person or persons who can clarify the content of the emergency plan if necessary.

12 The contact details of, and the means of contacting, the persons at the facility who are responsible for liaising with emergency services organisations.

13 A list of 24-hour emergency contacts.

14 Arrangements for assisting emergency services organisations and nearby facilities with control actions taken in the surrounding area.

**Notifications**

15 In the event of a major incident or an event that could reasonably be expected to lead to a major incident, procedures for notifying the emergency services organisations.

16 While a major incident is occurring, and after it has occurred, procedures for providing the local community and the local authority (for the area in which the facility and its surroundings are located) with information about the major incident.

17 On-site and off-site warning systems.

18 Contact details for emergency services organisations and other support services that can assist in providing resources and in implementing evacuation plans in the event of a major incident.

19 On-site communication systems.

**Resources and equipment**

20 On-site emergency resources, including emergency equipment, firefighting and fire-suppression equipment, personnel, gas detectors, wind velocity detectors, sand, lime, neutralising agents, absorbents, spill bins, and decontamination equipment.

21 Off-site emergency resources, including arrangements for obtaining additional external resources (specific to the likely major incidents) to assist the control of major incidents.
Health and Safety at Work (Major Hazard Facilities) Regulations 2015

Schedule 3

Procedures

22 Procedures for the safe evacuation of, and accounting for, all people who are on site.

23 Procedures and control points for utilities, including gas, water, and electricity.

24 Procedures for the control of any incident involving hazardous substances.

25 Procedures for decontamination following an incident involving hazardous substances.
Schedule 4
Information required in notice of dangerous occurrence in major hazard facility

Part 1
Information relating to dangerous occurrence

1 Name of the facility or location where the dangerous occurrence occurred.
2 Name and address of the operator.
3 Time and date of dangerous occurrence.
4 Names and contact details of any witnesses.
5 Brief description of dangerous occurrence.
6 Work or activity being undertaken at time of dangerous occurrence.
7 Action to make workplace safe, including details of any disturbance of the workplace.
8 Whether an emergency response (in accordance with an emergency plan required under regulation 28) was initiated.

Injuries

9 Name of employer of injured person(s) (if different from information provided under clause 2).
10 Details of injured person(s), including name, date of birth, sex, residential address and telephone number, occupation or job title, details of injury, and details of job being undertaken.
11 Day of shift and hour of shift (for example, 5th day of 7, first hour of 12).

Unintended release of hazardous substances

12 Estimated quantity and composition of hazardous substances that escaped or burned, including known toxicity.
13 Duration of escape.
14 Weather conditions.
Part 1—continued

**Serious damage**

15 Plant damaged, and the extent of damage to plant.
16 Whether plant will be shut down.

**Action and cause**

17 Immediate action taken or intended to be taken, if any, to prevent recurrence of incident.
18 Immediate cause analysis.

Part 2

**Analysis and remedial action**

1 Root cause analysis.
2 Actions to prevent occurrence of a similar incident, with responsible party and completion date.
3 Copies of all documentary material referred to or relied on (or both) in preparing this notice, which may include, but is not limited to, as appropriate,—
   (a) witness statements:
   (b) safety management system documents:
   (c) drawings, diagrams, and photographs:
   (d) third-party reports (audit, inspection, material analysis, etc):
   (e) internal records and correspondence.
Schedule 5

Information required in design notice for upper tier major hazard facility

1 A description of the chosen design concept, including suitable diagrams.

2 A description of how the chosen design concept is intended to—
   (a) eliminate the risks associated with each major incident hazard, so far as is reasonably practicable; or
   (b) minimise those risks, so far as is reasonably practicable, if it is not reasonably practicable to eliminate those risks.

3 A general description of the means by which the management system of the operator will ensure that the structure and plant of the facility will be designed, selected, constructed, and commissioned in a way that will minimise, so far as is reasonably practicable, the risks associated with each major incident hazard.

4 A description of the nature of the facility and its operation, including a description of on-site activities and processes that involve hazardous substances.

5 A description of the table 1 or 2 hazardous substances and any other hazardous substances that are expected to be present at the facility, including—
   (a) their identity; and
   (b) their quantity; and
   (c) their physical, chemical, and toxicological characteristics (and any other hazardous characteristics); and
   (d) their physical and chemical behaviour under normal conditions of use or under foreseeable abnormal conditions.

6 A description of the physical and chemical processes associated with the hazardous substances that are present at the facility.

7 A diagram of the facility’s general layout, showing the main process units, the main storage areas, and major incident hazards.
8 A detailed scale plan of the facility and its surrounding area, showing—
   (a) topographical information; and
   (b) land use, occupancy, and activities, and other major hazard facilities and hazardous substance storage sites, within a 2 km radius of any point on the perimeter of the major hazard facility; and
   (c) the location of any identified external conditions that could affect the safety of the major hazard facility.
Schedule 6

Information required in safety case for upper tier major hazard facility

Summary information
1 A summary of the safety assessment.
2 A summary of the safety management system.
3 A summary of the emergency plan.

Descriptive information
4 A description of the consultation carried out with workers in the preparation of the safety case.
5 A description of the nature of the facility and its operation, including a description of on-site activities and processes that involve hazardous substances.
6 The particulars of all New Zealand and international standards that have been applied, or will be applied, in relation to the facility or the plant used on or in connection with the facility.
7 A description of the table 1 or 2 hazardous substances and any other hazardous substances that are expected to be present at the facility, including—
   (a) their identity; and
   (b) their quantity; and
   (c) their physical, chemical, and toxicological characteristics (and any other hazardous characteristics); and
   (d) their physical and chemical behaviour under normal conditions of use or under foreseeable abnormal conditions.
8 A description of the physical and chemical processes associated with the hazardous substances that are present at the facility.

Diagram of facility
9 A diagram of the facility’s general layout, showing the main process units and the main storage areas.
Pipelines

10 A description of any pipeline connected to the facility that has the potential to cause a major incident, including details of—
(a) the substances that it conveys; and
(b) its dimensions and layout; and
(c) its contained volume at declared maximum allowable operating pressure; and
(d) any apparatus and works intended to ensure safety; and
(e) the pressure and temperature of its contents.

Scale plans

11 A detailed scale plan of the facility and its surrounding area, showing—
(a) topographical information; and
(b) land use, occupancy, and activities, and other major hazard facilities and hazardous substance storage sites, within a 2 km radius of any point on the perimeter of the upper tier major hazard facility; and
(c) the location of any identified external conditions that could affect the safety of the major hazard facility.

Operating and environmental conditions

12 The particulars of—
(a) the range of operating and environmental conditions in which the facility has been designed to operate; and
(b) how the facility’s structures have been designed and are maintained for the stated operating and environmental conditions.

Further descriptive information

13 A description of the arrangements for giving warning of an emergency by audible and, where necessary, visual alarm systems to all workers at the facility.

14 A description of the arrangements for communication during an emergency, both within the facility and from within to outside the facility.

15 A description of the measures for limiting the extent of an emergency, including—
(a) measures to combat fire and explosion; and
(b) emergency shutdown systems; and
(c) facilities for the monitoring and control of the emergency and for organising evacuation; and
(d) measures to combat the uncontrolled release of any hazardous substance.

16 A description of the measures taken for the protection of workers from hazards of explosions, fire, heat, smoke, hazardous gas, or fumes during any period while workers may need to remain on a facility during an emergency.

Demographic information
17 Demographic information about the local community, including the uses of land, within a 2 km radius of any point on the perimeter of the upper tier major hazard facility, that are permitted by the local authority.

Meteorological data
18 Meteorological data relevant to the estimation of the effects of any major incident.

Control and verification measures
19 A detailed description of the equipment, processes, and procedures that are the major incident control measures and the performance standards for the major incident control measures.
20 A list of personnel, including their positions, and any other resources (internal and external) able to intervene in the event of any failure of a control measure.
21 A detailed description of the arrangements in place for independent and competent persons to verify that safety-critical elements are or will be suitable and will remain in good repair and condition throughout the life cycle of the facility, including a description of—
(a) the nature and frequency of examination and testing; and
(b) review and revision arrangements; and
22 In relation to a proposed facility, a description of the steps that have been taken to ensure that safety has been incorporated into the design and construction of the upper tier major hazard facility.

23 Officers’ statements

A statement signed by the officers of the operator that—

(a) the information provided under this schedule is accurate and up to date; and

(b) all persons to be involved in the implementation of the safety management system have the knowledge and skills necessary to enable them to carry out their role safely and competently; and

(c) the control measures to be implemented by the operator will—

(i) eliminate the risk of a major incident occurring, so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate the risk of a major incident occurring, minimise the risk so far as is reasonably practicable; or

(iii) in the event of a major incident occurring, minimise its magnitude and the severity of its health and safety consequences so far as is reasonably practicable.
Explanatory note

Health and Safety at Work (Major Hazard Facilities) Regulations 2015

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

Regulatory impact statement

The [name(s) of agency/agencies] produced [a regulatory impact statement/regulatory impact statements] on [date] to help inform the decisions taken by the Government relating to the contents of this instrument.

[A copy of this regulatory impact statement/Copies of these regulatory impact statements] can be found at—

• [Insert URL link(s) to the RIS on the agency’s/agencies’ Internet site(s)]
• http://www.treasury.govt.nz/publications/information-releases/ris

Issued under the authority of the Legislation Act 2012.

Date of notification in Gazette:

These regulations are administered by the Ministry of Business, Innovation, and Employment.