



## Proposal for EPA Notices for Hazardous Property Controls

Please submit your comments to [hsnotices@epa.govt.nz](mailto:hsnotices@epa.govt.nz) on this form in Word document format or mail to Private Bag 63002, Wellington 6140.

<b>Submission on</b>	Proposal for an EPA Notice for Hazardous Property Controls
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- I would like my submission (or specified parts of my submission) to be kept confidential, and attach my reasons for this consideration by the EPA.
- I would like my submission reported anonymously (i.e. without my name attached) by the EPA.

## Proposals and submission form

The EPA is seeking your views as interested parties on the proposals presented in the consultation document *Proposal for an EPA Notice for Hazardous Property Controls*.

The consultation document presents a number of proposals and poses a series of questions to help you frame your comments. Your feedback is important as it will enable the EPA to make more informed decisions on the content of the proposed notices. Please take this opportunity to have your say.

**Please use this form to submit your written comments and send it to [hsnotices@epa.govt.nz](mailto:hsnotices@epa.govt.nz) (in Word document format) no later than 5.00 p.m. Monday, 21 November 2016.**

The submission form brings together all of the proposals and questions asked throughout the consultation document in table format. Page references are provided to help you locate the relevant discussion as necessary.

When providing your comments, please provide your rationale and any information about the relative costs and benefits (financial or otherwise), and any other impacts of these proposals on businesses, workers or other stakeholders. This information will help us more fully understand the effects the notices would have if introduced as proposed.

Question #	Proposal / Question	Pg Ref
<i>Proposal 1 - Qualification requirements for users of highly ecotoxic agrichemicals in certain situations</i>		
Question 1	Are there alternative approaches that could be adopted? Why / why not? Please provide details where possible.	20-28
Question 2	What additional benefits can you see resulting from the proposal? What additional costs can you see arising? Please provide details where possible.	20-28
Question 3	Do you believe that the proposed list of required qualifications will provide users with the required knowledge and competency to protect the environment? Are there any other qualifications or requirements that are relevant that should be included as well? If yes, please provide details.	20-28
Question 4	Do you consider that any of the unit standard(s) listed in the table above are not appropriate for the specified application method? If yes, please provide details.	20-28
Question 5	Do you think people who have an approved handler test certificate under the HSW regime for class 6 substances should be exempt from the proposed qualification requirement above? Will the training provided to approved handlers for class 6 substances under the HSW regime cover environmental risks? Please provide details.	20-28
Question 6	Are there any other gaps that need to be addressed?	20-28
Question 6 (cont)	Are you aware of any uses of hazardous substances that should be subject to qualification controls that will not be covered by either the proposed control, or the approved handler control under the HSW regime?	20-28

Question #	Proposal / Question	Pg Ref
Question 6 (cont)	Do you think urban pest management commercial contractors should be subject to qualification controls similar to agrichemical contractors? The EPA has identified that there is a national certificate for urban pest management. Do you think this is this relevant?	20-28
<i>Proposal 2 - The requirement to keep a record when applying ecotoxic substances and the matters to be included in that record</i>		
Question 7	Do you support the amendment of the current controls to achieve consistency with the HSW HS Regulations? Why / why not?	29-32
Question 8	What benefits to you think could result from the proposal? Please provide details.	29-32
Question 9	Is there any additional information that you believe needs to be collated through the record keeping controls of the HPC Notice? If yes, please provide details.	29-32
Question 10	Do you agree that the proposed control should only apply to workplaces? Why / why not?	29-32
Question 11	Should this control only apply to agrichemicals? Why / why not?	29-32

Question #	Proposal / Question	Pg Ref
<i>Proposal 3 - Requirements for equipment used to handle ecotoxic substances</i>		
Question 12	Does the HPC Notice need to include controls on equipment used when handling ecotoxic substances? Why / why not?	33-35
Question 13	Do you agree that the proposed control should only apply to workplaces? Why / why not?	33-35
Question 14	Do you support the amendment of the current controls to achieve consistency with the HSW HS Regulations? Why / why not?	33-35
Question 15	Is there any additional information that you think should be included? If yes, please provide details.	33-35
<i>Proposal 4 - Application of default environmental exposure limits (EEL) to substances</i>		
Question 16	Do you agree that the default EEL control should <b>not</b> be transferred over into the HPC Notice? Why / why not?	36-40
Question 17	Do you agree that regulations 33 to 43 of the Classes 6, 8 & 9 Controls Regulations (setting of EELs using a prescribed methodology) also do not need to be carried over into the HPC Notice given the provision to set exposure limits in section 77B? Why?	36-40

Question #	Proposal / Question	Pg Ref
Question 18	Similarly, do you agree that regulations 11 to 26 of the Classes 6, 8 & 9 Controls Regulations do not need to be carried over into the HPC Notice given the provision to set exposure limits in section 77B? Why / why not?	36-40
<i>Proposal 5 -Prohibition on use of ecotoxic substance in excess of environmental exposure limit</i>		
Question 19	Do you support the transfer of existing regulations 44, 45 and 47(1) into the HPC Notice?	41-44
Question 20	What benefits and / or costs do you see resulting from the proposal? Please give details.	41-44
<i>Proposal 6 - Use of substances ecotoxic to terrestrial invertebrates</i>		
Question 21	Do you support the inclusion of controls in the HPC Notice that address the use of ecotoxic substances to protect terrestrial invertebrates?	45-49
Question 22	Do you support the amendment of the proposed control so that it refers to a wider scope of terrestrial invertebrates than just bees?	45-49
Question 23	Do you agree with the proposed change for the control to apply to a smaller area i.e. application plot rather than the larger application area?	45-49

Question #	Proposal / Question	Pg Ref
Question 24	Is it appropriate for the proposed control to contain a clause which enables a non-contact period to be set by the EPA? Why / why not?	45-49
Question 25	Are there any other matters that you think this control should cover? If yes, please give details.	45-49
<i>Proposal 7 - Use of substances ecotoxic to terrestrial vertebrates</i>		
Question 26	Do you agree with the proposed controls as a means to reduce harm to non-target organisms? Why / why not?	50-53
Question 27	Do you agree that treated seed must be required to be coloured blue or green? Why / why not? If you think other colours should be allowed, please provide reasons.	50-53
<i>Proposal 8 - Consolidation of controls to better off-target effects from hazardous substances</i>		
Question 28	Do you support the proposal for the consolidation of application parameter restrictions and spray drift management controls into the HPC Notice? Why/why not?	54-63
Question 29	Should prescriptive 'best practice' restrictions be included in the HPC Notice, or should these be referred to in associated guidance material as examples of measures that may assist compliance with the duty to avoid adverse effects from spray-drift?	54-63
Question 30	Are there any other spray-drift management options that should be considered for inclusion in the HPC Notice? If yes, please provide details of these.	54-63

Question #	Proposal / Question	Pg Ref
Question 31	Do you support proposed control 1 applying to all ecotoxic substances? Should it be narrower in its focus and specifically refer to agrichemicals? Why / why not?	54-63
<i>Proposal 9 - Prohibition on application of class 9.1 substances directly onto, into or over water</i>		
Question 32	Do you believe that there should be a control in the HPC Notice that specifically prohibits the application of hazardous substances directly onto, into or over water?	64-66
Question 33	Do you think there should be a requirement for the product label to include, where relevant, a statement advising people to not apply substances onto, into or over water?	64-66
<i>Proposal 10 - Controls to manage risks from ecotoxic substances in workplaces</i>		
Question 34	Do you agree with the proposal? Why / why not? Please provide details.	67-69
Question 35	Are there any other workplace controls that you consider need to be included in the HPC Notice that relate to protecting the environment?	67-69
<i>Proposal 11 - Restriction on supply and use of certain highly hazardous substances to non-workplaces</i>		
Question 36	Do you believe that it is appropriate for the supply of highly hazardous substances to be restricted to workplaces?	70-77
Question 37	Do you agree with the proposed list of hazards classifications that the EPA intends	70-77



Question #	Proposal / Question	Pg Ref
	to place this restriction on? Refer Table 3.	
<i>Question 38</i>	Do you agree with the proposed list of substances that the EPA that the EPA intends to place this restriction on? Refer Table 4. Are there any additional substances you think should be on this list?	70-77
<i>Question 39</i>	Should there be exemptions for some substances listed in Tables 3 and 4 to allow them to be present in non-workplaces in limited quantities, for example substances that are key elements in modelling and / or DIY kits? If so, which particular classifications / substances do you think are relevant, and what quantity limits do you think should apply. Please provide your reasons.	70-77
<i>Question 40</i>	Do you agree with the requirement to place a duty on users to ensure that they do not use highly hazardous substances outside of the workplace?	70-77
<i>Question 41</i>	Do you agree with the requirement that a supplier should keep a written record of transfers of the restricted substances?	70-77
<i>Question 42</i>	Are there any other matters that the EPA should consider in respect of the proposed control? If yes, please provide details.	70-77

Question #	Proposal / Question	Pg Ref
<i>Proposal 12 - Restriction on quantity of hazardous substances stored in non-workplace situations</i>		
Question 43	Do you agree with the proposal that the HPC Notice includes generic controls on the safe use and storage of hazardous substances?	78-83
Question 44	Do you agree with the proposed maximum limits of certain hazardous substances that can be stored or used in non-workplaces before they will need to comply with the relevant workplace controls in the HSW HS Regulations (Refer to Tables 5 and 6)? Specifically, do you have any thoughts on what are appropriate quantity restrictions to set for those classifications marked "to be determined" in Table 5. Please provide your reasoning.	78-83
Question 45	Do you have any thoughts on what controls should be placed on the storage of hazardous substances in non-workplaces to ensure no harm occurs to people, communities and the environment?	78-83
<i>Proposal 13 - Controls on stationary container systems for domestic oil burning regulations</i>		
Question 46	Do you agree with the proposed controls for domestic oil burning installations? Why / why not? Please provide details.	84-87
Question 47	Do you think that the HPC Notice should include controls on burners (likely a requirement to comply with the relevant parts of Part 17 of the HSW HS Regulation) regardless of the size of the installation, i.e. even for installations less than 60 litres? Why/why not? Please provide details.	84-87
Question 48	Clause 56 of Schedule 8 of Gazette Notice 35 applies to a stationary container system used to provide fuel to an internal combustion engine. Do we need to include a provision in the HPC Notice (likely a requirement to comply with the relevant parts of Part 17 of the HSW HS Regulation) to cover off situations where this may be relevant to non-workplaces, e.g. homeowners that have large electricity generators? Why/why not? Please provide details.	84-87

Question #	Proposal / Question	Pg Ref
Question 49	Do you think there should provision for a person to construct a one-off tank without being a certified fabricator? Why / why not? Please provide details.	84-87
Question 50	Do you think that where the tank is greater than 2,500 litres, that the installation should require a stationary container system test certificate? Why/why not?	84-87
<i>Proposal 14 - Certification of domestic dwellings storing greater than 100kg of LPG</i>		
Question 51	Do you think non-workplaces holding greater than 100kg of LPG should be captured by the HSW HS Regulations for the issues of the location compliance certificate? Why / why not? Please provide details.	88-91
	<p><i>The LPG Association has longed believed that trigger limit of 100kg for independent certification was not warranted in terms of risk versus cost to the consumer. In the Association request for reassessment in 2009 it was pointed out that the cost of a location certificate was between \$200 and \$400 and was and in many cases still is, being carried out annually.</i></p> <p><i>The Association proposed increasing the trigger limit to 300kg a level at which other regulatory requirements have to be met.</i></p> <p><i>Given what is actually being checked, for locations holding between 100kg to 300kg, separation distances to openings and drains, requiring certification is a very expensive burden for consumers for little added safety. These simple separation distance requirements can be checked by the gasfitter on initial installation and by the LPG retailer when delivery takes place.</i></p> <p><i>However if in the short term increasing the trigger limit is not legislatively possible, then the Association believes that the simplest and most cost effective regulatory "fix" should be pursued. As we are not privy to the cost implications of either EPA setting up a separate system versus WorkSafe carrying out the requirements, we can't comment further, other than to note that the only people currently qualified to issue compliance certificates are the test certifiers under the HSW regime.</i></p>	
Question 52	Do you think that the liability for obtaining and renewing the location compliance certificate should be place on the gas supplier or on the person in charge of the site e.g. the homeowner?	88-91

Question #	Proposal / Question	Pg Ref
	<p><i>The Association does not support the LPG supplier being made responsible for obtaining the location compliance certificate. If a compliance certificate continues to be required it has to remain the responsibility of the homeowner. The LPG supplier can of course assist in this regard, but the legal responsibility for obtaining certification must remain with the person in charge of the location.</i></p> <p><i>The LPG supplier is already under the regulatory requirement, not to supply LPG to sites that require certification and do not have one, so compliance with the regulations is covered and will remain so.</i></p>	
Question 53	Do you have any other thoughts on how these sites could be managed? If yes, please explain.	88-91
	<p><i>We believe that compliance with the required regulation for sites between 100 kg to 300kg can be achieved without a requirement for third party certification. As mentioned in the discussion document, no other jurisdiction requires any certification for locations holding such small quantities of LPG, never mind an ongoing requirement.</i></p> <p><i>Compliance with the HS requirements can be provided through the gas fitter and ongoing observance and checking by the LPG supplier.</i></p>	

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**If you have any other comments, please write them here:**

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