

Laura Bowman

From: official information
Sent: Wednesday, 29 June 2022 5:59 pm
To: [REDACTED]@epa.govt.nz
Cc: official information
Subject: Final Response - LGOIMA 265315 - [REDACTED] - Summary of the Hazardous Substances and New Organisms Act enforcement activities conducted in 2021
Attachments: LGOIMA 265315 -Summary of HSNO enforcement activities 2021.pdf; 2022 HSNO Enforcement Information Request letter.dotx; HSNO Enforcement Information Request Guidance.docx

Kia Ora,

I refer to your **information request below**, Hamilton City Council is able to provide the following response.

Please find attached, the Hamilton City Council's response.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Kind Regards,

Laura | Official Information Coordinator
Legal Services & Risk | People and Organisational Performance
Email: officialinformation@hcc.govt.nz



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From: [REDACTED]@epa.govt.nz>
Sent: Monday, 16 May 2022 10:50 am
To: CEO <CEO@hcc.govt.nz>
Subject: ATTN: Lance Vervoot :HSNO Enforcement under s97

Good Morning Lance

The EPA is requesting that your organisation provides a summary of the Hazardous Substances and New Organisms (HSNO) Act enforcement activities conducted in 2021. In the past this has been done via a questionnaire, however we have decided to change this and allow more descriptive responses. Further information can be found in the attached Request Letter and Guidance documents.

If you have any further questions, please do not hesitate to reply to this email.

Regards,

[REDACTED]

[REDACTED]

[REDACTED]



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Health and Safety | Summary of HSNO enforcement activities 2021

1.0 Introduction

Hamilton City Council is a diverse council and is made up of nine Business Units that conduct many activities under the Hazardous Substances and New Organisms act. Business Units include:

- Venues, Tourism, and Major Events
- Community
- Development
- Infrastructure Operations
- Strategy and Communication
- People and Organisational Performance
- Growth
- Strategic Infrastructure
- Customer, Technology and Transformation

Following is a summary of Hamilton City Council's Hazardous Substances and New Organisms (HSNO) Act enforcement activities conducted in 2021.

2.0 Summary of Hazardous Substance Enforcement Activity

There were no enforcement activities within in this timeframe. However, the following incidents were recorded. A total of two incidents and one near hit reported for the period of 1 January 2020 to 31 December 2021. Only the three following events were reported in 2021.

01/07/2021 – Vault ID 21800 - Spill – Liquids / Solids

When spraying, an employee realised their back was getting wet. When they took their backpack off, they noticed it was leaking.

01/07/2021 – Vault ID 21881 – Hazardous Substances – Contact With/Exposure To

What happened:

After a staff member had filled up their Supersil container they left the full container outside the chemical shed and drove away. This was luckily found by another member of the Streetscapes Team and later returned.

Initial actions taken:

The staff member rang their manager to tell them what they had done. The manager immediately sent out a group text asking if anyone had seen or picked up the container. A reply text was received straight away. It was also found that the container had no label on it. The staff member was reminded that all containers were to be labelled and that this was a legal obligation. An adhesive Supersil label was printed and given to the staff member to place on the bottle.

26/08/2021 – Vault ID 22177 – Hazardous Substances – Exposure To

What happened:

A works order was submitted to shut down the extraction in the underground carpark during lockdown and the instruction phoned through to Feisst Electrical. The order was accepted by Facilities who raised concern that the area was due to be accessed. Feisst Electrical were advised

and were instructed not to shut down the fans as a staff member was due to work in the carpark to test the batteries of all the Council vehicles. However, the job went ahead, which would have put the Council staff member at risk of being overcome by carbon monoxide fumes risking serious harm.

Initial actions taken:

The Council employee was instructed to leave the testing of vehicles until the Council had returned to work and all systems were running.

Observations – in the same period 1 January 2020 to 31 December 2021 there were a total of 28 observations completed in 2020 and 19 in 2021 relating to chemicals.

State of safety

An independent audit was conducted in early 2021 by Geraint Rowlands from AGR Consulting Limited. This identified several recommendations to be completed within the health and safety space across the business units. Many of the recommendations have been completed through the projects of work that are being focussed on by the Safety & Wellbeing Team and the Safety & Wellbeing Business Partners continue to work with the business units to reach completion. Covid-19 did interrupt the process.

2.1 Infrastructure Operations

The Infrastructure Operations Team meet their obligations under the HSNO regulations by undertaking the following actions:

- Long term relationship with Inferno Consultants to undertake the following -
 - Stationary Container Certifications – includes both documentation and site visits
 - Location Compliance Certificates – includes both documentation and site visits
 - HSNO Approved Handler Training and refresher courses
 - All class 3,6 and 8 site inspections and certifications - includes both documentation and site visits
- IXOM – Chlorine gas specific training and refresher courses.

2.2 Community Business Unit

Peter McGregor
Environmental Health Manager

Hazardous substances contract-

Council retains the services of an external contractor, HSNO Tech Ltd, for the provision of services on behalf of the Council to fulfil its enforcement responsibilities under Section 97(h) of the Hazardous Substances and New Organisms Act 1996. They have been contracted by Council since July 2018. Their current contract expires on 31 July 2024. The reasons for their current appointment are as follows-

1. They have the experience, knowledge and processes that conform to the response we need
2. They have personnel that hold the required qualifications for hazardous substances enforcement officers
3. Unique benefit of close location which enable the supplier to respond in a very timely manner
4. They have the capability of providing a 24/7 response

The scope of services that HSNO Tech provide for the city of Hamilton are as follows-

1. Enforcement of the provisions of the Act in or on any premises situated in the city other than those premises specified in paragraphs (a) to (g) of Section 97 of the Act. These premises include, but are not necessarily limited to, public places and residential areas.

2. Response to incidents involving hazardous substances where the Council may be required to respond, including the declaration of a hazardous substance's emergency in accordance with standard operating procedure.
3. Provision of advice in response to hazardous substances enquiries.
4. Provision of advice when requested, on applications pursuant to the Resource Management Act 1991 or Building Act 2004 where hazardous substances are involved.
5. Provision of information in good faith to members of the public and industry in response to enquiries regarding legislative requirements with respect to any matter relating to hazardous substances for which the Council is responsible.
6. Provision of assistance, if requested by the Council, with reporting to the EPA or in any prosecutions.

HSNO Tech Ltd retain two Hazardous Substances Officers warranted by Council under the Act. This is deemed sufficient for Council's requirement.

Inspections-

There are no known business or other activities involving hazardous substances in the residential areas that require inspection. Council does not have an arrangement with any other s.97 enforcement agency to carry out functions under the Act. Therefore, no inspections were carried out by contracted staff.

Incidents-

During June 2021 a report was received regarding a deceased estate private residence that was going up for auction. Nine x 200l drums of kerosene were found at the property. The drums had been in the shed for 40 to 45 years and had severe corrosion. It was found that only 2 drums had kero in them the other drums had foodstuffs and other materials. They were removed and disposed.

Emergencies-

There were no emergencies caused by or involving hazardous substances.

Enforcement-

It was not necessary to carry out enforcement action of any kind under either the HSNO Act or the RMA. No warnings, abatement notices, compliance orders or infringement notices were issued.

Referral to other agencies-

A referral was made to WorkSafe NZ during September 2021 in relation to concerns expressed about the storage of diesel at an industrial site. Feedback from WorkSafe advised that there were no issues, and the operator had the necessary certification under the HSNO Act.

RMA activity (consenting)-

Technical staff provided input into 14 applications for resource consents in relation to activities involving hazardous substances. The proposals are assessed under Rule 25.4 of the Hamilton Operative District Plan (more comment below). conditions may be imposed on any consent issued.

Time allocation-

Minimal time is spent on HSNO related activities. The only time involved during 2021 was associated with the incident described above.

Significantly more time is spent on assessing applications for resource consent as described above.

Hazardous Substance Technical Liaison Committee (HSTLC)-

Council and contractor staff are not aware of any meeting of this committee occurring during the year.

District plan-

Council still has a hazardous facilities rule in the Hamilton Operative District Plan (rule 25.4). It is scheduled for review, although the timing of this has not yet been set.

The current rule relies on the HFSP to determine the need for resource consent. A proposed hazardous facility is either permitted or discretionary under the rule. If discretionary, a full risk assessment is required with an application for consent.

Compliance Information and Advice issued following HSNO enforcement activity.

- Council has not had any compliance information/advice issued, including verbal warnings, provision of EPA/WorkSafe guidance material, or provision of own agencies publications where none was provided.
- One enquiry was passed onto another enforcement agency – WorkSafe (as detailed above).

16-May-2022

Chief Executive

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Dear Sir/Madam,

The Environmental Protection Agency (EPA) is responsible for ensuring the provisions of the Hazardous Substances and New Organisms (HSNO) Act 1996 are enforced in all premises likely to contain a hazardous substance. The EPA must also advise enforcement agencies and the Minister for the Environment when there is insufficient or unnecessary inspection and enforcement.

In the past, the EPA sent a questionnaire to all organisations listed in HSNO s97. Feedback on the questionnaire was that it did not allow agencies to adequately describe their activities that fall under both HSNO and other legislation, for example, the Health and Safety at Work Act 2015 (HSWA) and Health and Safety at Work (Hazardous Substances) Regulations 2017. As a result, the EPA is taking a new approach to gather information that should enable us to better understand how the HSNO Act is being enforced.

We are asking that you describe how you meet your organisation's obligations under the HSNO Act, in your own words. If you achieve the intent of HSNO, but undertake the activity under different legislation, please describe that for us. We understand not all organisations perform activities under the HSNO Act. If not, why not? What plans are in place to respond to HSNO related activities? If you do not have HSNO enforcement officers, please advise. If you consider there is other information that may be relevant, please include this as the EPA is interested in issues that may impact on the effective enforcement of HSNO legislation.

We are requesting that your organisation provides a summary of the HSNO enforcement activities conducted for the 12-month period of 2021. We have supplied an enclosure with some points to consider that may assist with framing your response.

Please complete your response and send to Andrew Spriggs, Senior Advisor Reporting and Assurance (andrew.spriggs@epa.govt.nz) by 01 July 2022.

Thank you for your time in providing this information.

Yours Sincerely



Compliance Monitoring and Enforcement

HSNO Act Enforcement Activity Information Request Guidance

This guide provides prompts for capturing the HSNO enforcement activity and compliance information and advice activity conducted by enforcement authorities in the 12 month period 2021.

NOTE: If your organisation has created annual internal reporting of HSNO related enforcement activities, and you are able to release this document to the EPA, this document can likely be used to support your responses to this information request.

The EPA is requesting a summary of your Hazardous Substance Enforcement Activity. Please include qualitative and quantitative information.

Please consider the following prompts when completing your report:

- Information on any enforcement action taken, and where relevant, indicate whether these actions were taken under HSNO or RMA. Also provide a brief description of the types of offences involved. This is only for substances which meet the criteria of a hazardous substance under the HSNO Act. Manufactured articles and most waste products are not covered.
- Examples of the types of non-compliances found, and typical regulatory actions taken.
- The number of HSNO related compliance activities carried out by your organisation, the number of infringement notices issued, the number of abatement notices issued, and the number of verbal warnings and prosecutions.
- Any inspections your organisation conducted under the HSNO Act (or equivalent).
- Was there an increase or decrease in the number of incidents and/or investigations from the previous year? Comment on possible reasons for the difference in activity, or if there was little or no change, what approaches your organisation took to managing this activity to become more efficient or effective?
- Any HSNO emergency management activity including any incident responses.
- The time your organisation spent on activities involving enforcement of hazardous substances related incidents/activities.
- Any reviews your organisation may have conducted on your approach to hazardous substances enforcement activity (or similar).

The EPA is also interested in any Compliance Information and Advice issued following HSNO enforcement activity.

Please consider the following prompts when completing your report:

- Any compliance information/advice issued, including verbal warnings, provision of EPA/WorkSafe guidance material, provision of own agencies publications, or where none was provided.
- If your organisation passed on any enquiries to another enforcement agency.
- If so, what type of enquiries, to what agency, and what was the nature of the enquiries.
- If your organisation did not provide any information/advice on HSNO compliance.