HSNO Enforcement Agencies
Roles and responsibilities: identifying a lead agency following a hazardous substance non-compliance or incident

May 2012
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Preface

Enforcement of the hazardous substance component of the HSNO Act is carried out by 86 central and local government agencies. Whilst the HSNO Act places equal responsibility on each agency to enforce the provisions of the Act within their respective jurisdictions (for example, Department of Labour in places of work, the Civil Aviation Authority in or on any aircraft), the sheer number of agencies can lead to confusion when there is a need to respond to an non-compliance or incident that crosses multiple agency jurisdictions. This can result in a delay or inadequate response, especially if compliance and enforcement action is appropriate.

This technical guide provides a mechanism (decision process) for identifying a lead agency to respond to a non-compliance or incident. Its development has involved extensive consultation and input from the agencies over a number of years. A draft of this process has been in effective use since 2010, over which time it has consistently and reliably identified the lead agency. Its success can be attributed to the agencies embracing the underlying principles that underpin the decision process. The guide is illustrated with over 30 case studies based on actual cases of non-compliance and incidents.

As well as the process itself, the willingness of agencies to work collaboratively is essential for managing the risks from hazardous substances. Strong relationships between the agencies will lead to better outcomes to protect people, communities and the environment.

Rob Forlong
Chief Executive
Environmental Protection Authority
Executive summary

The Hazardous Substances and New Organisms Act 1996 (the HSNO Act) compliance system is essentially a set of safety requirements (controls) put in place to minimise the risk from activities relating to hazardous substances and new organisms. Compliance with (and where necessary, enforcement of) HSNO controls is important to protect people, communities and the environment from the risks posed by these substances and organisms.

Section 971 of the HSNO Act identifies the agencies with responsibility for enforcement. These agencies must enforce the provisions of the HSNO Act, typically within their area of their expertise. For example, the Civil Aviation Authority is the enforcement agency for hazardous substances when they are “in or on any aircraft”.

The Environmental Protection Authority (EPA) expects the appropriate enforcement agency or agencies to respond when non-compliances or incidents occur.

Where non-compliances or incidents cross multiple agency jurisdictions, it becomes less clear which agency should take the lead. Any delay in identifying the lead agency may result in inadequate and/or delayed compliance and enforcement action. In order to identify a lead agency swiftly and consistently, the EPA has developed a decision2 process to provide enforcement agencies with certainty around when they are the lead agency and/or when they need to be involved following a non-compliance or an incident.

The decision process identifies the lead agency by linking the ‘place’ where the non-compliance or incident occurs with the agency responsible for that ‘place’ as defined in the HSNO Act. A schematic version of the decision process is provided.

The decision process does not set out or dictate how agencies should respond to a non-compliance or incident. It simply identifies the agency responsible. While it is the EPA’s expectation that agencies respond to notifications of non-compliances or incidents, the level of response is determined solely by the agency or agencies concerned, in light of their statutory obligations.

The decision process covers the enforcement responsibilities relating to hazardous substances only (i.e. it does not cover new organisms). The Ministry for Primary Industries (MPI) has primary enforcement responsibility for new organisms under section 97 of the Act.

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1 Section 97 is reproduced verbatim in Appendix 1
2 This decision is not a statutory decision as provided for in the Act
Background

The Hazardous Substances and New Organisms legislative regime (i.e. the Act and regulations made under it) provides a regulatory framework for managing hazardous substances and new organisms. Compliance with and, where necessary, enforcement of the requirements ensures that people, communities and the environment are protected from the adverse effects posed by these substances and organisms.

Enforcement of the HSNO Act is undertaken by a number of enforcement agencies specified in section 97. Enforcement agencies have equal responsibility to enforce the provisions of the HSNO Act, typically within their area of expertise, as illustrated in Table 1.

Table 1

<table>
<thead>
<tr>
<th>Agency</th>
<th>Enforcement responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maritime New Zealand</td>
<td>“in or on any ship”</td>
</tr>
<tr>
<td>Civil Aviation Authority</td>
<td>“in or on any aircraft”</td>
</tr>
<tr>
<td>Police (Commercial Vehicle Investigation Unit)</td>
<td>“in or on any motor vehicle, on any road, in or on any rail vehicle, or on any railway line”</td>
</tr>
<tr>
<td>Energy Safety</td>
<td>“in, on, at, or around any distribution system, gas installation, or gas appliance”</td>
</tr>
<tr>
<td>Department of Labour</td>
<td>“in any place of work”</td>
</tr>
<tr>
<td>Territorial Authority</td>
<td>Any other place&lt;sup&gt;3&lt;/sup&gt;</td>
</tr>
<tr>
<td>Ministry of Health</td>
<td>“where it is necessary to protect public health”</td>
</tr>
</tbody>
</table>

While section 97 sets out agencies’ responsibilities, it does not expressly cover situations where a non-compliance or incident involving hazardous substances occurs in one or more of these places or situations.

Good practice often dictates that one agency should take a lead role and work in conjunction with other responsible agencies. The HSNO Act does not specify which agency will be the ‘lead agency’ in any particular case, so uncertainty may occur. This uncertainty may lead to delayed agency response, which in turn may jeopardise both immediate and/or future enforcement action. Furthermore, uncoordinated responses may lead to duplication of effort, and inefficient use of technical expertise or specialised capability. It is therefore imperative that when non-compliances or incidents cross over a number of agency jurisdictions, a lead agency be identified swiftly.

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<sup>3</sup> The relevant wording in section 97 includes “in or on any other premises in the district”; “Premises” is defined broadly in the Act to include any place.
The decision process

In the case of non-compliances or incidents concerning hazardous substances (not new organisms), the EPA has developed a lead agency identification process (the decision process). The process is intended to provide certainty around which agency takes the lead and/or when they need to be involved.

While the decision process identifies the lead agency, it does not dictate the nature of the response that agency takes. It is the responsibility of the lead agency to decide, based on the non-compliance or incident in question and its own resources and organisational priorities, the nature and extent of any response.

The decision process is an operational tool to help agencies determine responsibility for responding to non-compliances and incidents.

Section 97 of the HSNO Act does not prioritise the responsibility of enforcement agencies, which means each enforcement agency has equal responsibility to enforce the HSNO Act. In some situations there may be more than one agency with responsibility for enforcement, in such cases, best practice usually dictates that one agency should take a lead role and collaborate with other responsible agencies.

The decision process covers the enforcement responsibilities relating to hazardous substances only (i.e. it does not cover new organisms).

How it works

A non-compliance or incident is reported to an agency.

The decision process starts by confirming that the non-compliance or incident is covered under the HSNO Act. For example, in the case of an incident involving asbestos sheeting, the process is not relevant as asbestos sheeting is not a hazardous substance managed under the HSNO Act.

If the substance is covered under the HSNO Act, the next step is to identify the ‘place’ (location) where the non-compliance or incident occurred. Thereafter, the ‘place’ where the non-compliance or incident occurred is linked to the agency responsible for enforcing the provisions of the HSNO Act at that ‘place’. Places such as “ship”, “aircraft”, “place of work” are defined in the HSNO Act (relevant definitions are set out in Appendix 2).

Once the lead agency has been identified, the next step is for the lead agency to investigate the matter and take appropriate enforcement action according to their protocols.

During the investigation it may become apparent that other agencies need to be involved. This may be in situations where the lead agency doesn’t have the required expertise to deal with the matter. For example, in the case of explosives found in a home, the lead agency would be the territorial authority (TLA), which might seek expert advice/involve another agency that has expertise in explosives, such as the
Department of Labour. The decision as to whether the threshold for public health risk has been reached will be made by the Ministry of Health. The Ministry of Health is obliged to act “where it is necessary to protect public health”. The definition of “public health” requires a threshold to be reached before an obligation to act arises. Before that threshold is reached, the obligation to act is on the agency that has accountability for the place where the non-compliance or incident occurs. The Ministry of Health will therefore generally not be the lead agency for enforcement action, but will act in support of other agencies.

Agencies must ensure that they are able to deal with any hazardous substance non-compliance or incident likely to occur within their sphere of responsibility. Where agencies lack certain skills, they must ensure they have contingency plans in place to deal with these. This may include contracting specialist services through formal agreements (such as Memoranda of Understanding or Operational Agreements) with other agencies that hold the required specialist skills.

In some cases, the lead role may transfer from one agency to another agency which may be better placed to deal with the matter. Transfers from one agency to another should be undertaken formally and the complainant and/or persons involved notified of the transfer. Agencies should enter into formal agreements (such as Memoranda of Understanding or Operational Agreements) with partner agencies to formalise cooperation and support.

Each agency has a vested interest in the tasks that might fall to it as a result of the decision process. An element of goodwill and mutual support will be required to maximise the benefits of a consistent and principled approach. In cases where responsibilities may overlap, or where information is scarce, the best outcome is achieved where a pragmatic and enabling approach is adopted rather than one of strict legal obligations.

The step-by-step use of the decision process is illustrated below:

A non-compliance or incident is reported to an agency.

Step 1:

The agency assembles initial information about the non-compliance or incident, for example: whether the matter is covered under the HSNO Act; and the place where the non-compliance or incident occurred.

Step 2:

The agency determines whether the ‘place’ of the non-compliance or incident meets the definition of “ship”, as defined in the HSNO Act. (Appendix 2) If the ‘place’ of the non-compliance or incident occurred on or in what is defined as a “ship”, then the lead agency is Maritime New Zealand (MNZ). The non-compliance or incident is referred to Maritime New Zealand if it has been received by another agency. If the ‘place’ of the non-compliance or incident does not meet the definition of “ship”, move to Step 3.
Step 3 and following

Continue to find a lead agency by matching the ‘place’ of the non-compliance or incident with the agency responsible for enforcing the provisions of the HSNO Act at that ‘place’.

The agency identified as the lead agency determines its own response.

The decision process is set out in the following diagram.

**KEY**
- Indicates the sequential checking of available information against definitions in the Act to identify the ‘place’ where the non-compliance or incident occurred.
- Shows the lead agency for the ‘place’ where the non-compliance or incident occurred. That agency is responsible for the response.
- Shows the information flow following the lead agency investigation; which may indicate that other agencies have responsibilities under the Act, and/or that public health is at risk.
An example of how the decision process works is provided below:

**Example: Spray drift**

Scenario: Residents of a private dwelling notify authorities of adverse health effects following the spraying of a substance by helicopter on a neighbouring vineyard.

This incident/non-compliance potentially crosses over the following agency responsibilities:

- **Ministry of Health** – public health issues
- **Territorial Authority** – private dwelling
- **Department of Labour** – vineyard is a place of work
- **Civil Aviation Authority** – helicopter is an aircraft
- **Regional Council** – discharge to air

The decision process to identify the lead agency is started by establishing:

- whether the substance(s) involved are managed under the HSNO Act?
  **Yes** (*fungicide: X-Spore*)
- the ‘place’ or location where the non-compliance or incident occurred? *cascade question through model*
  - did the non-compliance occur on a ship (“ship” is specifically defined)? **No**, move to next step down
  - did the non-compliance occur on an aircraft? **Yes**, occurred from a helicopter, and helicopter meets the definition of an aircraft

**Lead agency identified:**

- **Yes** - Civil Aviation Authority

**Other agencies who may become involved:**

- **Department of Labour** - vineyard is a place of work
- **Regional Council** – functions under s30(1)(f) of Resource Management Act (RMA)
- **Ministry of Health** –
  - As an enforcement agency enforcing HSNO in protecting public health – **unlikely** (*as the single household/family does not fit the definition of public health*)
  - Providing advice and support to the family – **likely**

More than 30 case studies of actual non-compliances and incidents are provided in Appendix 3.

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4 Section 6(1) of the New Zealand Public Health and Disability Act 2000.
Underlying principles

This decision process achieves the following underlying principles:

**Enforcement responsibility**

Enforcement agencies each have responsibilities to enforce the provisions of the HSNO Act.

**Identifying ‘place’**

Section 97 of the HSNO Act assigns enforcement responsibility to agencies, primarily based on the ‘place’ (location) of the relevant non-compliance or incident. The means for establishing the ‘place’ are as follows:

- as one of a category of (mainly transport-related) things, defined by physical attributes (e.g. a ship)
- as a place that has status because of what is undertaken there (e.g. a place of work)
- as a place established by the consequences of non-compliance or incident (namely, a place where protection of public health is required).

The role of territorial authorities is also determined by place through default, i.e. places that are not any of the specified places covered by other agencies.

**General should not derogate from the specific**

“Place of work” does not extend to places which are separately defined by reference to category or class, (such as “ship”, “aircraft”, etc). This approach, which is based on the principle that the general should not derogate from the specific, means that agency obligations that are grounded in the physical nature of the place, are not displaced by the status of that place as a “place of work”.

**Comprehensive scope**

The process considers all places and situations where a non-compliance and/or incident in respect of hazardous substances may occur.

**Certainty of result and speed**

Stepping through the process identifies a lead agency in all cases, both in a structured and swift manner.

**Recognition of differing capacities and skills within agencies**

The process provides flexibility where lead responsibility can be transferred from one agency to another, and allows for agencies to share experience and expertise to better achieve compliance in a cost-effective way.

**Agency response**

The process does not dictate the lead agency’s nature or level of response following a non-compliance or incident.
Appendix 1

Agency enforcement obligations

Sections 97 and 97B of the HSNO Act set out the duties of agencies to act in respect of enforcement.

Section 97 provides:

97 Enforcement of Act

(1) The following persons shall ensure the provisions of this Act (including any controls imposed on approvals granted under this Act) are enforced in the following situations:

(a) the chief executive of the department of State that is for the time being responsible for the administration of the Health and Safety in Employment Act 1992 shall ensure that the provisions of this Act are enforced in any place of work:

(b) the chief executive of the department of State that is for the time being responsible for the administration of the Gas Act 1992 shall ensure that the provisions of this Act are enforced in, on, at, or around any distribution system, gas installation, or gas appliance:

(c) the New Zealand Transport Agency may enforce the provisions of this Act in or on any motor vehicle, on any road, in or on any rail vehicle, or on any railway line:

(d) the Commissioner of Police (after consultation with the New Zealand Transport Agency) shall ensure that the provisions of this Act are enforced in or on any motor vehicle, on any road, in or on any rail vehicle, or on any railway line:

(e) the Director of the Civil Aviation Authority shall ensure that the provisions of this Act are enforced in or on any aircraft:

(f) the Director of Maritime New Zealand shall ensure that the provisions of this Act are enforced in or on any ship:

(g) the chief executive of the Ministry of Health shall ensure that the provisions of this Act are enforced where it is necessary to protect public health:

(h) the chief executive of any territorial authority—

(i) shall ensure that the provisions of this Act are enforced in or on any premises situated in the district of the territorial authority other than those premises specified in paragraphs (a) to (g) of this section:

(ii) may enforce the provisions of this Act in or on those premises specified in paragraphs (a) to (g) of this section where the territorial authority is in or on those premises for the purposes of enforcing the provisions of the Resource Management Act 1991:
(iii) shall ensure that the provisions of this Act are enforced in or on those premises specified in paragraphs (a) to (g) of this section, where the function, power, or duty is transferred to the territorial authority in accordance with section 98 of this Act.

(iv) shall ensure that the provisions of this Act are enforced in or on those premises specified in paragraphs (a) to (g) of this section in respect of any substances to which Part 14 of this Act applies.

(2) The chief executive of a regional council may—

(a) enforce the provisions of this Act in or on those premises specified in subsection (1)(a) to (g) if the regional council is in or on those premises for the purposes of enforcing the provisions of the Resource Management Act 1991:

(b) enforce the provisions of this Act in or on those premises specified in subsection (1)(a) to (g) if the function, power, or duty is transferred to the regional council in accordance with section 98.

3. Section 97B provides:

97B Enforcement of Act in respect of hazardous substances in place of work

(1) The enforcement agency must ensure that the provisions of this Act are enforced in respect of hazardous substances in a place of work.

(2) For the purpose of complying with subsection (1), the enforcement agency may appoint enforcement officers in accordance with this Act who may exercise the powers of inspectors under the Health and Safety in Employment Act 1992, and the provisions of that Act apply with all necessary modifications.

(3) In this section,—

enforcement agency—

(a) means the chief executive of the department responsible for the administration of the ; and

(b) includes, in relation to a particular industry, sector, or type of work, the chief executive of an agency designated under of that Act to administer that Act for the particular industry, sector, or type of work.

inspector and place of work have the same meanings as in section 2(1) of the Health and Safety in Employment Act 1992.
Appendix 2

Interpretation


Definition of ship:

*Ship* means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes—

(a) A barge, lighter, or other like vessel;

(b) A hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates;

(c) A submarine or other submersible.

Definition of aircraft:

*Aircraft* means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth.

Definition of motor vehicle:

*Motor vehicle*—

(a) means a vehicle drawn or propelled by mechanical power; and

(b) includes a trailer; but

(c) does not include—

(i) a vehicle running on rails; or

(ii) [Repealed]

(iii) a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or

(iv) a trailer running on one wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or

(v) a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or

(vi) a pedestrian-controlled machine; or
(vii) a vehicle that the Agency has declared under section 168A is not a motor vehicle; or
(viii) a mobility device.

Definition of road:

*Road* includes—

(a) a street; and

(b) a motorway; and

(c) a beach; and

(d) a place to which the public have access, whether as of right or not; and

(e) all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in paragraph (d);

(f) all sites at which vehicles may be weighed for the purposes of this Act or any other enactment.

Definition of rail vehicle:

*Rail vehicle*

(a) means any vehicle that runs on, or uses, a railway line; and

(b) includes—

(i) a locomotive, rail carriage, rail wagon, railcar, light rail vehicle, rail maintenance vehicle (whether or not self-propelled), and any other vehicle prescribed as a rail vehicle by regulations; and

(ii) a vehicle designed to operate both on rails and off rails, but only when that vehicle is running on rails

Definition of railway line:

*Railway line*:

(a) means a single rail or set of rails, having a gauge of 550 mm or greater between them, laid for the purposes of transporting people or goods by rail; and

(b) includes—

(i) sleepers, associated formation and ballast, tunnels, and bridges; and

(ii) in relation to a single rail or set of rails that are laid on a road for the purposes of one or more light rail vehicles,—

(A) any area between the rails; and

(B) the area that extends 500 mm outside the extremity of any light rail vehicle being used on that single rail or set of rails; and
(iii) a set of rails, having a gauge of less than 550 mm between them, that is designated as a railway line in regulations made under ; and

(iv) except as provided in subparagraph (ii), any area within 5 m of a single rail or within 5 m of a line drawn midway between a set of rails; but

(c) excludes—

(i) a railway line that is part of a railway used as an amusement device as defined in of the Machinery Act 1950:

(ii) a railway line excluded by regulations made under section 59(m):

(iii) a railway line that exclusively serves private cable cars.

**Definition of distribution system:**

*Distribution system*—

(a) means all fittings, whether above or below ground, under the control of a gas distributor and used to distribute gas from—

(i) the boundary of the gasworks or gate station outlet flange supplying gas for distribution to the point of supply of the place at which the gas is supplied to a consumer or gas refueller; or

(ii) the outlet of the container in which gas for distribution is stored to the point of supply of the place at which the gas is supplied to a consumer or gas refueller; and

(b) includes, for the purposes of any regulations made under section 54 relating to odorisation or the measurement of calorific value, a gas transmission system.

**Definition of gas installation:**

*Gas installation*

Means an installation, including a gas appliance (other than a portable gas appliance that is designed to have within it, or attached to it, its own source of gas), that is connected or intended to be connected with any source (including any container) from which gas is supplied; and includes any associated fittings; but does not include any part of a distribution system.

**Definition of gas appliance:**

*Gas appliance*

Means any appliance that uses, or is designed or intended to use, gas, whether or not it also uses, or is designed or intended to use, any other form of energy.
Definition of place of work:

**Place of work**

Means a place (whether or not within or forming part of a building, structure, or vehicle) where any person is to work, is working, for the time being works, or customarily works, for gain or reward; and, in relation to an employee, includes a place, or part of a place, under the control of the employer (not being domestic accommodation provided for the employee),—

(a) where the employee comes or may come to eat, rest, or get first-aid or pay; or

(b) where the employee comes or may come as part of the employee’s duties to report in or out, get instructions, or deliver goods or vehicles; or

(c) through which the employee may or must pass to reach a place of work.

To avoid doubt, a person is in a place of work whenever and wherever the person performs work including in a place that—

(a) the person moves through; or

(b) itself moves.

Definition of Public Health:

**Public health** means the health of all of—

(a) the people of New Zealand; or

(b) a community or section of such people.
## Appendix 3

### Illustrative scenarios

The following scenarios illustrate how lead and support agencies will be determined using the decision process. The scenarios are drawn from situations that have previously been encountered by HSNO agencies. In addition to identifying the lead and support agency (or agencies) in each case, the explanation section outlines how those outcomes were arrived at.

<table>
<thead>
<tr>
<th>Complaint received from a person about their neighbour using pindone pellets. The complainant reported his dogs had been poisoned and died.</th>
<th>Territorial Authority (TLA)</th>
<th>Department of Labour (DoL)</th>
<th>Ministry of Health (MoH)</th>
</tr>
</thead>
</table>

**Non-compliance/incident covered under HSNO?** Yes – vertebrate toxic agents are managed under the HSNO Act.

**Non-compliance?** Potentially. Possible breaches include pellets not used in a bait station, no signage.

**Place non-compliance or incident occurred?** Bait was laid by the landowner of a private residence.

**Additional information:** The TLA may seek technical assistance from the DoL. MoH may become involved in identifying and responding to public health risks.
<table>
<thead>
<tr>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report of non-compliant VTA (1080) operation. Eight bait stations had been placed around boundaries of neighbouring properties in a lifestyle block, no MoH permission, no signage, no notification to neighbours. Owner away for three weeks following laying of the bait.</td>
<td>Territorial Authority (TLA)</td>
<td>Ministry of Health (MoH) Department of Labour (DoL)</td>
<td>Non-compliance/incident covered under HSNO? Yes – vertebrate toxic agents are managed under the HSNO Act. Non-compliance? Yes, failure to notify, no signage, no permission (<em>if required</em>). Other possible breaches include the person possibly not being an approved handler or not having a controlled substance licence (CSL). Place non-compliance occurred? Bait was laid by the landowner of a private residence. Additional information: The TLA may seek technical assistance from the DoL. MoH may become involved in identifying and responding to public health risks.</td>
</tr>
</tbody>
</table>
3  Scenario  Lead Agency  Support Agency  Notes

Complaint received from person suffering adverse effects (itchy, burning eyes and eyelids) following use of mascara from discount store. Non-compliant labelling.

<table>
<thead>
<tr>
<th>Lead Agency</th>
<th>Support Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Labour (DoL)</td>
<td>Ministry of Health (MoH)</td>
</tr>
</tbody>
</table>

Non-compliance/incident covered under HSNO? Possibly. Cosmetics that are hazardous are managed under the Cosmetic Products Group Standard (CPGS).

Non-compliance? Yes, non-compliant labelling, product does not meet CPGS specifications. There may also be non-compliances relating to composition.

Place non-compliance occurred? Supplier, importer or manufacturer has obligations to meet CPGS specifications. Suppliers, importers or manufacturers operate in places of work.

Additional information: MoH may become involved in identifying and responding to public health risks. Involvement could include voluntary recalls and subsequent monitoring thereof.

4  Scenario  Lead Agency  Support Agency  Notes

Report of (potential) illegal storage of fireworks - five shipping containers standing out in a public place.

<table>
<thead>
<tr>
<th>Lead Agency</th>
<th>Support Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Labour (DoL)</td>
<td>Territorial Authority (TLA)</td>
</tr>
</tbody>
</table>

Non-compliance/incident covered under HSNO? Yes, fireworks are managed under the HSNO Act.

Non-compliance? Potentially illegal storage of fireworks.

Place non-compliance occurred? While non-compliance occurred in a public place, this operation is most likely a commercial operation (therefore a ‘place of work’). DoL would be the lead agency. TLA may also get involved given public place and council ‘by-laws’.
### Scenario 5

Report of a domestic dwelling with 3 x 45 kg LPG cylinders. Cylinders are not secured. It is reported that the “gas installation” is clearly a “homemade job”, with the three cylinders interconnected to a regulator which is connected to a cooker inside the kitchen via a rubber hose. The rubber hose enters the kitchen through an open window.

<table>
<thead>
<tr>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Safety (ES)</td>
<td>Territorial Authority (TLA)</td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, LPG is managed under the HSNO Act.

**Non-compliance?** Yes – non-compliances with location test certification requirements, other non-compliances under Gas Act.

**Place non-compliance occurred?** Non-compliances occurred “in, on, at, or around” a gas installation, therefore ES is the lead agency. The TLA may be involved given that this is a private dwelling.

### Scenario 6

An explosive (class 1) substance was used to eradicate starlings on a rural property. The trees in which the birds were roosting were momentarily engulfed by a fireball that left thousands of birds either killed or maimed.

<table>
<thead>
<tr>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Territorial Authority (TLA)</td>
<td>Department of Labour (DoL)</td>
<td></td>
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</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, explosives are managed under the HSNO Act.

**Non-compliance?** Potentially yes – controls relating to use of explosives may have been breached.

**Place non-compliance occurred?** Non-compliances occurred on a lifestyle block (which is not a commercial operation), and therefore the lead agency is the TLA.

**Additional information:** DoL may have an interest in how the persons involved got access to the explosives (i.e. tracking requirements).
Scenario: A member of the public complains about inadequate child-resistant packaging (CRP) on a cleaning product purchased from the local supermarket.

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<thead>
<tr>
<th>7</th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
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<tbody>
<tr>
<td></td>
<td>A member of the public complains about inadequate child-resistant packaging (CRP) on a cleaning product purchased from the local supermarket.</td>
<td>Department of Labour (DoL)</td>
<td>Ministry of Health (MoH)</td>
<td>Non-compliance/incident covered under HSNO? Yes, cleaning products are managed under the HSNO Act by the Cleaning Products Group Standards. Non-compliance? Potentially yes – CRP requirements under group standards may have been breached. Place non-compliance occurred? Supplier, importer or manufacturer has obligations to meet CRP requirements. Suppliers, importers or manufacturers operate in places of work. The lead agency is DoL. Additional information: MoH may become involved in identifying and responding to public health risks.</td>
</tr>
</tbody>
</table>
A foreign container ship is being unloaded. A container placarded as having Class 6 dangerous goods has been lifted by the crane and stevedores notice it is leaking. Nobody is hurt, the container is lowered back into the ship’s hold and the space is evacuated.

If the ship was New Zealand owned, would this change agencies involved matters?

<table>
<thead>
<tr>
<th>8</th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A foreign container ship is being unloaded. A container placarded as having Class 6 dangerous goods has been lifted by the crane and stevedores notice it is leaking. Nobody is hurt, the container is lowered back into the ship’s hold and the space is evacuated.</td>
<td>Maritime New Zealand (MNZ)</td>
<td>Department of Labour (DoL)</td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, class 6 substances are managed under the HSNO Act.

**Non-compliance?** Potentially yes, leaking containers indicate breach of packaging regulations.

**Place non-compliance occurred?** Not clear, could be supplier/importer failing to meet packaging regulations.

**Place where incident occurred?** Ship, therefore the lead agency is MNZ.

**Additional information:** In this case the origin of the non-compliance is less clear, but the place of the incident is clear.

**Note:** If the ship was New Zealand owned, the agencies involved would remain the same.
### Scenario 9

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A laboratory that routinely uses class 6.1C substances in its operations does not have any approved handlers on staff. The lab is NOT operating as a section 33 exempt lab.</td>
<td>Department of Labour (DoL)</td>
<td></td>
<td>The assumption is made that a laboratory with a number of staff is a commercial operation.</td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, class 6.1C substances are managed under the HSNO Act.

**Non-compliance?** Yes, approved handler control breached.

**Place non-compliance occurred?** Place of work, therefore DoL is the lead agency.

### Scenario 10

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint about a shipping container to be used to house temp toilets for Wild Food Festival being placed too close to LPG tanks.</td>
<td>Department of Labour (DoL)</td>
<td>Territorial Authority (TLA) Ministry of Health (MoH)</td>
<td>Presume the Wild Food Festival is an event run for commercial gain. Assumption that tanks are located within the area being run for commercial gain.</td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, LPG is managed under the HSNO Act.

**Non-compliance?** Separation distance issues.

**Place non-compliance occurred?** Place of work, therefore DoL is the lead agency.

**Additional information:** MoH may become involved in identifying and responding to public health risks.
<table>
<thead>
<tr>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint about children’s paint purchased from the local toy shop that</td>
<td>Department of Labour (DoL)</td>
<td>Ministry of Health (MoH)</td>
<td></td>
</tr>
<tr>
<td>smelt strongly of solvent.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, children’s paints are managed under the HSNO Act by the Graphics Materials Group Standard.

**Non-compliance?** Potential breach of group standard.

**Place non-compliance occurred?** Supplier, importer or manufacturer has obligations to meet HSNO requirements. Suppliers, importers or manufacturers operate in places of work. The lead agency is DoL.

**Additional information:** MoH may become involved in identifying and responding to public health risks.

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint about product (flammable polyester resin) being sold on the</td>
<td>Department of Labour (DoL)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>internet without appropriate labelling and packaging.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, flammable polyester resins are managed under the HSNO Act.

**Non-compliance?** Non-compliant labelling and packaging.

**Place non-compliance occurred?** As a supplier, the trader on the internet must meet HSNO requirements. As the trader is operating as a business, the lead agency is DoL.
### Scenario: Complaint about a laundry powder - other than the brand name, there are no English directions on the product label.

<table>
<thead>
<tr>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Labour (DoL)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, laundry powders are managed under the HSNO Act by the Cleaning Products Group Standards.

**Non-compliance?** Yes, non-compliant labels breach the group standards.

**Place non-compliance occurred?** Supplier, importer or manufacturer must meet HSNO requirements. Suppliers, importers or manufacturers operate in places of work. The lead agency is DoL.

---

### Scenario: Incident with Outdoor Pyrotechnics Display (OPD) at Queenstown where some burning pyrotechnic debris fell into the crowd - issue with insufficient exclusion zone. The OPD was fired from a barge in the harbour.

<table>
<thead>
<tr>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maritime New Zealand (MNZ)</td>
<td>Department of Labour (DoL) Territorial Authority (TLA)</td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, pyrotechnics are managed under the HSNO Act.

**Non-compliance?** Potentially yes – issue with insufficient exclusion zone.

**Place non-compliance occurred?** On a barge, which comes within the definition of a “ship”, therefore MNZ is the lead agency. MNZ may refer the matter to the DoL under a Memorandum of Understanding (if this is in place). This is because DoL has expertise in Class 1 explosives which MNZ may not have.
<table>
<thead>
<tr>
<th>15</th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Complaint received from a member of the public after their neighbour sprayed “Roundup” on his lawn. Complainant advised that the spray-drift onto her property led to her sheep dying and her horse becoming sick.</td>
<td>Territorial Authority (TLA)</td>
<td>Regional Council (RC)</td>
<td><strong>Non-compliance/incident covered under HSNO?</strong> Yes, Roundup is a pesticide managed under the HSNO Act.  <strong>Non-compliance?</strong> Potentially yes – spray drift, (e.g. buffer zones may have been breached) but RMA non-compliances also.  <strong>Place non-compliance occurred?</strong> Private residence, therefore the TLA is the lead agency, as this did not occur because of a commercial operation or operator.</td>
</tr>
<tr>
<td>16</td>
<td>Tank wagon trailer with 2,500 litres of diesel overturns following a vehicle accident.</td>
<td>Police (CVIU)</td>
<td>Department of Labour (DoL)</td>
<td><strong>Non-compliance/incident covered under HSNO?</strong> Yes, tank wagons are managed under the HSNO Act.  <strong>Non-compliance?</strong> Initially unclear, but clearly an incident.  <strong>Place non-compliance occurred?</strong> Road therefore the CVIU are the lead agency (in consultation with the NZTA).  <strong>Additional information:</strong> DoL may become involved if, on closer inspection, it became apparent that the tank wagon did not comply with HSNO requirements. Tank wagon manufacturers operate in places of work.</td>
</tr>
<tr>
<td>17</td>
<td>Scenario</td>
<td>Lead Agency</td>
<td>Support Agency</td>
<td>Notes</td>
</tr>
<tr>
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<td>---------------------------------------------------------------------------</td>
<td>-------------------------------------------------</td>
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<td>-----------------------------------------------------------------------</td>
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<tr>
<td></td>
<td>Complaint received about a company that is fabricating both above-ground</td>
<td>Department of Labour (DoL)</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>and below-ground tanks and trailer tanks for petroleum fuels without</td>
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<tr>
<td></td>
<td>the required certification.</td>
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</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, hazardous substances tanks and tank wagons are managed under the HSNO Act.


**Place non-compliance occurred?** Tank manufacturers operate in places of work, therefore DoL is the lead agency.
A person at a restaurant was inadvertently served, in a glass, automatic dish wash detergent containing sodium hydroxide instead of wine. The person who served the liquid also drank the chemical. Both required hospitalisation. Potential issues with HSNO non-compliance include incorrect labelling, incompatible container.

**Non-compliance/incident covered under HSNO?** Yes, substances involved are managed under the HSNO Act.

**Non-compliance?** Yes – breach of labelling and packaging requirements.

**Place non-compliance occurred?** It was a place of work, DoL is the lead agency.

**Additional information:** MoH may become involved in identifying and responding to public health risks. Police may also have interest in this matter, not under HSNO, but rather under the Crimes Act, especially if foul play is suspected.
<table>
<thead>
<tr>
<th></th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>Fire Service called to a fire resulting from a leaking 9 kg LPG cylinder at a residential property. Overfilling of the cylinder appeared to be the cause and it was also badly corroded. The cylinder had been recently filled at the local service station.</td>
<td>Initially Territorial Authority (TLA) but transferred to Department of Labour (DoL)</td>
<td>Department of Labour (DoL)</td>
<td>Department of Labour (DoL) Energy Safety (ES)</td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, LPG is managed under the HSNO Act.

**Non-compliance?** Yes – LPG release.

**Place non-compliance occurred?** Incident occurred at a private residence. Following further investigation by the lead agency (TLA) it was discovered that the non-compliance occurred when the cylinder was overfilled (at a place of work).

**Additional information:** The matter was transferred to DoL as soon as it became evident that a corroded LPG cylinder was filled. ES may also get involved.

<table>
<thead>
<tr>
<th></th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>A complaint was received from a pesticide company about a competitor company marketing a product that did not have a HSNO approval.</td>
<td>Department of Labour (DoL)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, pesticide approvals are managed under the HSNO Act.

**Non-compliance?** Yes, the pesticide in question does not have a HSNO approval.

**Place non-compliance occurred?** Supplier, importer or manufacturer has obligations to meet HSNO requirements. Suppliers, importers or manufacturers operate in places of work. The lead agency is DoL.
### Scenario

Report of faulty firework. After lighting, firework tipped over sending a ball of fire into young girl approx ten metres away.

<table>
<thead>
<tr>
<th>21</th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Report of faulty firework. After lighting, firework tipped over sending a ball of fire into young girl approx ten metres away.</td>
<td>Territorial Authority (TLA)</td>
<td>Department of Labour (DoL)</td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, fireworks are managed under the HSNO Act.

**Non-compliance?** Potentially yes – breach of Fireworks Regulations regarding stability. The fireworks may also not have been test certified.

**Place non-compliance occurred?** Initially unclear, so TLA would take the lead as the incident occurred at a private residence.

**Additional information:** DoL to get involved if it is established that the firework did not meet the HSNO requirements. Suppliers, importers and manufacturers have obligations to meet HSNO requirements. Suppliers, importers or manufacturers operate in places of work.
<table>
<thead>
<tr>
<th></th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>22</td>
<td>Spray-drift complaint received from a person who owns a lifestyle block</td>
<td>Civil Aviation Authority (CAA)</td>
<td>Ministry of Health (MoH)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>neighbouring a farm. The complaint related to an aerial spraying operation</td>
<td></td>
<td>Territorial Authority (TLA)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>where the pesticide was allegedly sprayed over the boundary and onto the</td>
<td>Regional Council (RC)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>person’s house and roof. Rain-water from the roof is run off into a collection tank for drinking water.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, pesticides are managed under the HSNO Act.

**Non-compliance?** Potentially yes – spray drift, other non-compliances under RMA also.

**Place non-compliance occurred?** Aircraft, therefore CAA is the lead agency.

**Additional information:** MoH may become involved in identifying and responding to public health risks. TLA & RC may get involved following breaches of RMA.
<table>
<thead>
<tr>
<th>23</th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Complainant advises that they received a shipment of handmade rugs from India. On opening the bales a strong ammonia smell was noticed by staff. The rugs had been fumigated on arrival at New Zealand. Several days after the exposure, two staff members still felt unwell. Other staff members experienced symptoms to varying degrees over a period of about seven days and with varied amounts of exposure.</td>
<td>Department of Labour (DoL)</td>
<td>Ministry of Health (MoH)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Complainant was concerned about the safety of any rugs on display or for sale, both for staff and for the public.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>They are assured by their supplier that there was nothing different or unusual about that shipment. The goods have been cleared through customs and the Ministry for Primary Industries (MPI) – formerly MAF.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, the fumigants involved are managed under the HSNO Act.

**Non-compliance?** Yes, exposed to hazardous substances.

**Place non-compliance occurred?** Suppliers or importers operate in places of work, therefore the DoL is the lead agency

**Additional information:** MoH may become involved in identifying and responding to public health risks.
An agrichemical spray contractor who had recently left his job had concerns that his ex-employer was using his approved handler certificate (or possibly his colleague’s, who had also recently left the firm) to purchase chemicals.

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>An agrichemical spray contractor who had recently left his job had concerns that his ex-employer was using his approved handler certificate (or possibly his colleague’s, who had also recently left the firm) to purchase chemicals.</td>
<td>Department of Labour (DoL)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, the approved handler requirement is a HSNO control.

**Non-compliance?** Potentially a breach of the approved handler requirement, but needs to be further investigated to validate the complaint.

**Place non-compliance occurred?** Agrichemical spray contractors operate in places of work, therefore DoL is the lead agency.
### Scenario

Report that an Electrical Contractor Company has an expired PCB exemption. The owner has been repeatedly warned that his facility does not meet the code of practice and is a health and safety issue. He was advised by the Environmental Health Officer that his exemption had expired and that he was now storing PCBs in breach of the HSNO Act.

<table>
<thead>
<tr>
<th>25</th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Secondary Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Department of Labour (DoL)</td>
<td>Ministry of Health (MoH)</td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, PCBs are managed under the HSNO Act.

**Non-compliance?** Yes, expired PCB exemption is a breach of HSNO. PCBs must be strictly managed under HSNO requirements.

**Place non-compliance occurred?** The electrical contractor company is a place of work, therefore DoL is the lead agency. The MoH may be involved as PCB exemptions are managed by MoH under delegation from the EPA.
Ministry of Consumer Affairs has received a complaint that, according to the ingredients list, a tube of toothpaste (manufactured overseas) contains a chemical that has been implicated in a health scare.

Non-compliance/incident covered under HSNO? Yes, toothpaste is managed under the Cosmetic Products Group Standards (CPGS).

Non-compliance? Potentially yes, ingredients may not meet the specifications of the CPGS.

Place non-compliance occurred? Supplier, importer or manufacturer has obligations to meet HSNO requirements. Suppliers, importers or manufacturers operate in places of work. The lead agency is DoL.

Additional information: MoH may become involved in identifying and responding to public health risks.
A complaint was received about the lack of adequate signage in a commercial forest block where cyanide bait was laid. The public have access to the forest via a walking track. **A VTA permission was issued by the MoH**, specifying the number, type and location of signage required.

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A complaint was received about the lack of adequate signage in a commercial forest block where cyanide bait was laid. The public have access to the forest via a walking track. <strong>A VTA permission was issued by the MoH</strong>, specifying the number, type and location of signage required.</td>
<td>Ministry of Health (MoH)</td>
<td>Department of Labour (DoL)</td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes – vertebrate toxic agents are managed under the HSNO Act.

**Non-compliance?** Potentially yes, breach of VTA permission requiring specific number, type and location of signage in the forest.

**Place non-compliance or incident occurred?** While the non-compliance occurred at a place of work, one or more conditions of the VTA permission have been breached. Any breach of a VTA permission condition makes the MoH the lead agency. MoH issue VTA permission under delegation from the EPA.

**Additional information:** If no VTA permission was issued for this operation by the MoH, the lead agency is the DoL (see scenario 27b).
<table>
<thead>
<tr>
<th>27b</th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A complaint was received about the lack of adequate signage in a commercial forest block where cyanide bait was laid. The public have access to the forest via a walking track. <strong>No VTA permission for this operation was issued by the MoH.</strong></td>
<td>Department of Labour (DoL)</td>
<td>Ministry of Health (MoH)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes – vertebrate toxic agents are managed under the HSNO Act.

**Non-compliance?** Potentially yes, no permission, failure to notify, no signage.

**Place non-compliance or incident occurred?** The non-compliance occurred at a place of work, therefore the DoL is the lead agency. MoH may become involved in identifying and responding to public health risks.
<table>
<thead>
<tr>
<th></th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td>During a police search of a domestic residence, a man was found to have a store of power gel (in a locked cabinet where his firearm was also stored). The man did not have an approved handler test certificate.</td>
<td>Territorial Authority (TLA)</td>
<td>Department of Labour (DoL)</td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?**  Yes – power gel is an explosive managed under the HSNO Act.

**Non-compliance?**  Yes, potential breach of explosive storage, approved handler and CSL requirements.

**Place non-compliance or incident occurred?**  Residential property, therefore the TLA is the lead agency. DoL is the supporting agency as it has expertise in the area of explosives.

**Additional information:**  DoL may have further interest in how the person gained access to the explosives which are almost exclusively used for commercial purposes. These explosives are tracked substances, with suppliers and importers required to hold records of supply lines. Suppliers may also only supply to approved handler (or recently CSL holders). Breaches of the legislation may go well beyond the domestic property.
<table>
<thead>
<tr>
<th>29</th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Complaint received about a woman at a WOMAD Festival who was applying temporary tattoos using black henna, which is suspected of containing para-phenylenediamine (PPD).</td>
<td>Department of Labour (DoL)</td>
<td>Ministry of Health (MoH)</td>
<td>Presume the person is applying the tattoos for commercial gain.</td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, the substance involved is managed under the HSNO Act by the Cosmetic Products Group Standard.

**Non-compliance?** Yes, substance does not meet the Cosmetic Product Group Standard specification (PPD is not permitted in temporary tattoos).

**Place non-compliance occurred?** Tattooist is operating in a place of work, therefore DoL is the lead agency.

**Additional information:** MoH may become involved in identifying and responding to public health risks.

<table>
<thead>
<tr>
<th>30</th>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A member of the public has seen articles in the media and on the Internet that phthalates in toys have been banned in other countries and is concerned that the plastic toys her children have might be a risk.</td>
<td></td>
<td></td>
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</tbody>
</table>

**Non-compliance/incident covered under HSNO?** No, toys are manufactured articles and therefore not covered by HSNO. Refer person to Ministry of Consumer Affairs.
### Scenario 31

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A family home is destroyed by fire following a gas explosion. The occupants advise that the explosion occurred when they attempted to light the gas oven. The LPG supply to the oven was via piping from 2 x 45 kg cylinder secured outside the residence.</td>
<td>Energy Safety (ES)</td>
<td>Territorial Authority (TLA)</td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, LPG is managed under the HSNO Act.

**Non-compliance or incident?** Yes, incident resulting in LPG explosion.

**Place non-compliance occurred?** Residential property, but the incident involves a gas appliance, so Energy Safety is the lead agency.

---

### Scenario 32

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Lead Agency</th>
<th>Support Agency</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A gas fitter voices his concerns regarding a gas installation at a dry cleaning business which appears to be non-compliant with the installation requirements of the Gas Act. There are 11 x 45 kg of LPG on site, no location test certificate, no segregation, insufficient separation distances.</td>
<td>Energy Safety (ES)</td>
<td>Department of Labour (DoL)</td>
<td></td>
</tr>
</tbody>
</table>

**Non-compliance/incident covered under HSNO?** Yes, LPG is managed under the HSNO Act.

**Non-compliance or incident?** Yes, non-compliance with HSNO storage regulations.

**Place non-compliance occurred?** Both ES and DoL are lead agencies. ES for the installation and appliances, and DoL for the site requirements.