

Reprint as at 9 June 2005

Hazardous Substances (Tracking) Regulations 2001

(SR 2001/120)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 28th day of May 2001

Present:

Her Excellency the Governor-General in Council

Pursuant to sections 75 and 76 of the Hazardous Substances and New Organisms Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council (given on the recommendation of the Minister for the Environment made in compliance with section 141(1) of that Act), makes the following regulations.

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Regulations

1 Title

These regulations are the Hazardous Substances (Tracking) Regulations 2001.

2 Commencement

These regulations come into force on 2 July 2001.

3 Interpretation

In these regulations, unless the context otherwise requires,---

Act means the Hazardous Substances and New Organisms Act 1996

approved handler has the same meaning as in the Hazardous Substances and New Organisms (Personnel Qualifications) Regulations 2001

class 1 substance has the same meaning as in the Hazardous Substances (Classification) Regulations 2001

person in charge, in relation to any place, has the same meaning as in the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001

place has the same meaning as in the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001

tracked substance means a hazardous substance that has 1 or more hazard classifications listed in Schedule 1 (not including those substances listed in paragraphs (a) to (g) of that schedule)

treatment, in relation to a hazardous substance, includes incorporating the substance into any other substance or product.

Regulation 3 tracked substance: words added, on 23 September 2004, by regulation 3 of the Hazardous Substances (Tracking) Amendment Regulations 2004 (SR 2004/254).

4 Tracked substances to be recorded throughout lifecycle

(1) The location and movement of every tracked substance must be recorded at each stage of its lifecycle in accordance with these regulations.

(2) Before uplifting a tracked class 1 substance that has been imported into New Zealand, the importer must give to the New Zealand Customs Service---

(a) written notice of the quantity of the substance to be uplifted, and the date and place of uplifting; and

(b) a certificate, signed by or on behalf of the Authority, that the substance has an approval under section 29 of the Act.

Regulation 4(2): word inserted, on 23 September 2004, by regulation 4 of the Hazardous Substances (Tracking) Amendment Regulations 2004 (SR 2004/254).

5 Recording system for tracked substances

(1) The person in charge of the place where a tracked substance is present must ensure that a record is kept of the information specified in Schedule 2.

(2) The record must meet the location and presentation requirements specified in Part 2 of the Hazardous Substances (Identification) Regulations 2001.

(3) The person in charge of the place where a tracked substance has been but is no longer present must ensure that the record is retained for a period of,---

(a) if the substance has been transferred to another place, 12 months from the date of transfer; and

(b) if the substance has undergone treatment that results in it no longer being a tracked substance, or has been intentionally or unintentionally disposed of, 3 years from the date of treatment or disposal.

(4) Subclause (3) does not apply to a person in charge of a place that is a vehicle.

Regulation 5(4): added, on 23 September 2004, by regulation 5 of the Hazardous Substances (Tracking) Amendment Regulations 2004 (SR 2004/254).

6 Transfer of tracked substance

The person in charge of a place where a tracked substance is present may transfer the substance to another place only if he or she has received confirmation that---

(a) an approved handler at the other place holds a test certificate as an approved handler of the substance, and is prepared to accept responsibility for the substance; and

(b) the other place has a test certificate for the amount and hazard classification of the substance, if so required by the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001 or the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001; and

(c) any place where the substance is to be held during transit to the other place complies with---

(i) the requirements of the Hazardous Substances (Emergency Management) Regulations 2001; and

(ii) to the extent relevant, the requirements for a transit depot in the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001.

7 Exclusions from these regulations

(1) These regulations do not apply to---

(a) any substance that is required for the motive power or control of, and is contained within the fuel system, electrical system, or control system of, a vehicle, aircraft, or ship; or

(b) any fuel gas supplied or used in a distribution system, gas installation, or gas appliance that is subject to the Gas Act 1992.

(2) In this regulation---

distribution system has the same meaning as in section 2(1) of the Gas Act 1992

fuel gas means any fuel that is supplied through pipes or in containers and is a gas at 15°C and at 101.3 kPa absolute pressure; and includes---

(a) biogas, coal gas, natural gas, oil gas, producer gas, refinery gas, reformed natural gas, and liquefied petroleum gas; and

(b) any gaseous substance that the Governor-General declares by Order in Council to be a gas for the purposes of the Gas Act 1992; and

(c) any gas that is of a composition that complies with regulations made under the Gas Act 1992 for use as a fuel

gas appliance has the same meaning as in section 2(1) of the Gas Act 1992

gas installation has the same meaning as in section 2(1) of the Gas Act 1992.

Schedule 1

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Hazard classifications of substances requiring tracking

Intrinsic property of substance Hazard classifications as specified in Hazardous Substances (Classification) Regulations 2001

Explosiveness All class 1 substances, except the following:

- (a) safety ammunition, including pre-primed cartridges and primers, of class 1.4S; and
- (b) airbag initiators and seatbelt pretensioners of classes 1.4G and 1.4S; and
- (c) cable cutters of class 1.4S (UN 0070); and
- (d) power device cartridges of class 1.4S (UN 0323); and
- (e) signal or shock tubes of class 1.4 (UN 0349); and
- (f) cassette degradation devices of class 1.4S (UN 0432); and
- (g) beyond their point of sale to the public,---
 - (i) fireworks in classes 1.3G, 1.4G, and 1.4S that are subject to the Hazardous Substances (Fireworks) Regulations 2001; and
 - (ii) emergency flares and signalling devices in classes 1.3G, 1.4G, and 1.4S; and
 - (iii) model rocket motors in classes 1.4G and 1.4S; and
 - (iv) propellants in classes 1.3C (UN 0161 and UN 0449) and 1.1C (UN 0160), in amounts of less than 15 kg; and
 - (v) gunpowder of class 1.1D (UN 0027), in amounts of less than 15 kg; and
 - (vi) igniting fuzes of class 1.4G (UN 0317); and
 - (vii) igniters of class 1.4S (UN 0454).

Flammability 3.1A and 3.2A

4.1.2A and 4.1.2B

4.1.3A

4.2A

4.3A

Capacity to oxidise 5.1.1A

5.2A and 5.2B

Toxicity 6.1A, 6.1B, and 6.1C

Ecotoxicity 9.1A

9.2A

9.3A

9.4A

Schedule 1 Explosiveness column 2: substituted, on 28 August 2003, by regulation 3 of the Hazardous Substances (Tracking) Amendment Regulations 2003 (SR 2003/184).

Schedule 2 r 5
Information to be included in record of tracked substance

Identity of approved handler

1 If an approved handler is required to be in charge of the tracked substance under the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001 or the Hazardous Substances (Classes 6, 8 and 9 Controls) Regulations 2001, the identity of the approved handler who is in control of the tracked substance, including---

(a) the name of the person; and

(b) the position of the person within his or her organisation; and

(c) the physical address of the place of work of that person; and

(d) the hazard classifications of, and each phase of the lifecycle of, those hazardous substances for which that person has a test certificate as an approved handler, as required by the Hazardous Substances and New Organisms (Personnel Qualifications) Regulations 2001, and the date on which that test certificate lapses or must be renewed.

Substance information

2 The unequivocal identification of the tracked substance.

3 The total amount of the tracked substance that the approved handler is in control of at any one time.

Location of tracked substance

4 The location of the tracked substance, with sufficient particularity to enable an enforcement officer to---

(a) identify the exact location of the substance within 2 minutes of having obtained the record; and

(b) physically locate the substance or its container at the place described in the record within 1 hour of arriving at the place or within the time specified in any emergency response plan required under the Hazardous Substances (Emergency Management) Regulations 2001, whichever is the shorter.

Transfer to another place

5 If a tracked substance is transferred to another place in accordance with regulation 6,---

(a) the unequivocal identification and amount of the substance transferred; and

(b) the address of the place, the identity of the approved handler who will be in control of the substance at that place, and the position of that approved handler within his or her organisation; and

(c) the date on which the transfer occurred.

Disposal of tracked substance

6 If a tracked substance has been disposed of,---

(a) the manner of disposal; and

(b) the date on which the disposal occurred; and

(c) the amount of the substance disposed of; and

(d) the location of the place where the substance was disposed of.

Martin Bell,
Acting for Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in Gazette: 31 May 2001.

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Notes

1 General

This is a reprint of the Hazardous Substances (Tracking) Regulations 2001. The reprint incorporates all the amendments to the Hazardous Substances (Tracking) Regulations 2001 as at 9 June 2005, as specified in the list of amendments at the end of this reprint.

2 Status of reprints

Under section 29A of the Evidence Act 1908, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint. For an outline of editorial changes made in reprints, see below.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

The following conventions are followed in the preparation of reprints generally, and they have been followed, where relevant, in the preparation of this reprint:

- o the enacting words have been omitted
- o provisions that have been repealed or revoked are omitted, but a note indicates the repealing enactment or revoking provision
- o footnotes are included to indicate where---
 - o words, phrases, or provisions have been inserted or substituted, the commencement date of the amendment, and the particular enactment responsible for the change
 - o references in a reprinted enactment to any repealed enactment have been replaced with a reference to any enactment that replaces, or corresponds to, the repealed enactment, in reliance on section 22(2) of the Interpretation Act 1999
- o any term used in a reprinted enactment that has been deemed, by another enactment, to be read as if it were another term has been replaced by that other term
- o references in a reprinted enactment to amounts in pounds, shillings, and pence have been replaced by a reference to the equivalent amount in decimal currency (dollars and cents), in reliance on section 7 of the Decimal Currency Act 1964
- o where the principal enactment has made a textual amendment to another

enactment, and the amendment has been incorporated in a reprint of that other enactment, the text of the amendment is not reprinted in full in the reprint

o where a provision of an amending enactment has made a textual amendment to the principal enactment, the provision of the amending enactment is not reprinted.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would change the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000.

Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current legislative drafting practice.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are as follows, and they have been followed, where relevant, in the preparation of this reprint:

- o unnecessary referential words (such as "of this section" and "of this Act") have been omitted
- o typeface and type size have been changed to accord with current drafting practice (Times Roman, generally in 11.5 point with 13.5 point leading)
- o the setting out of provisions has been changed to accord with current drafting practice. These changes include---
 - o changes to the indenting and layout of provisions
 - o the repositioning of section headings, so that the number and heading appear above the section
 - o the reformatting of definitions, so that the defined term appears in bold type, without quotation marks
- o dates are expressed in a manner consistent with current drafting practice (eg, a date formerly expressed as "the 1st day of January 1999" is now expressed as "1 January 1999")
- o the date of assent has been repositioned so that it appears on the front page of each Act
- o punctuation is consistent with current drafting practice (eg, colons are not used after definitions)
- o Parts numbered with roman numerals have been replaced with arabic numerals, and all cross-references changed accordingly

o the case and appearance of letters and words have been changed to accord with current drafting practice

o headings have been reformatted (eg, headings where each word formerly appeared with an initial capital letter followed by small capitals have been changed so that the heading appears in bold, with only the first word (and any proper names) appearing with an initial capital)

o letters appearing in small capitals in section and subsection references have been changed to capital letters (eg, "section 7---a" is now expressed as "section 7A")

o schedules have been renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references changed accordingly

o running heads (the information that appears at the top of each page) have been altered to accord with current drafting practice.

Two-column schedules of consequential amendments, and schedules of repeals, have been reformatted, and rearranged into alphabetical order (rather than chronological), to accord with current drafting practice.

5 List of amendments incorporated in this reprint

(most recent first)

Hazardous Substances (Tracking) Amendment Regulations 2004 (SR 2004/254)

Hazardous Substances (Tracking) Amendment Regulations 2003 (SR 2003/184)

The Hazardous Substances (Tracking) Regulations 2001 are administered in the Ministry for the Environment.