

Tracked Substances Industry vs Laboratories

Some substances are so hazardous they must be tracked at all times. This means a record of what happens to them must be kept, from the date of their manufacture or importation into New Zealand, through to their end use or disposal.

Tracking highly hazardous substances helps ensure:

- that at all times, they are either under the control of a person with the appropriate training (a 'competent person'); or are appropriately secured.
 - ✚ For Laboratories Regulation 18.6 requires that all approved substances that would if they were outside the laboratory be subject to Tracking under Part 19; and
 - ✚ All substances that are likely to be hazardous substances and that are not approved hazardous substances. For clarification that means all non-approved substances not just ones that if approved would be subject to tracking
- the location of the substance is known throughout its lifespan in New Zealand, including disposal, and a record of this is kept.
 - ✚ A chemical supply company providing a tracked substance to a laboratory will require proof that the laboratory is compliant to Part 18, that the Laboratory Manager shall be treated as an individual who holds a Controlled Substance Licence. *Ref:* Regulation 18.12(3A), and that the PCBU is not required to comply with any provision of Part 9 to 13 that requires the substance to be under the control of a Certified handler. *Ref:* Regulation 18.9(2).
 - ✚ The records of the Tracked Substance or non-approved substance required to be kept for at least 12 months after the substance is consumed or removed from the laboratory. *Ref:* Regulation 18.6(2). That includes from the date of transfer to another place.
 - ✚ If that place is another laboratory the burden of proof above applies. If an approved substance subject to tracking is transferred to a dedicated laboratory storage facility or to a commercial entity the full requirements of Part 19 apply i.e. CSL holders or Certified Handlers as applicable with a record of written confirmation of compliance.
 - ✚ If the substance is disposed of or treated to a non-tracked substance the records shall be kept for 3 years
 - ✚ There are specific reporting requirements for laboratories working with Sodium Fluoroacetate (1080) to make an annual report to WorkSafe New Zealand. *Ref:* Regulation 18.7 at: http://www.legislation.govt.nz/regulation/public/2017/0131/latest/DLM7311073.html?search=ts_act%40bill%40regulation%40deemedreg_health+and+safety+ resel_25_a&p=1

What substances need to be tracked?

Tracking is required for the most hazardous of substances, such as explosive, highly flammable and oxidising substances, and some poisons. Embalming substances used in funeral homes, cyanide used in the metal industry and 1080 are some examples. The hazardous substances calculator available on the WorkSafe New Zealand website will help the PCBU work out if any of your hazardous substances require tracking. <https://hazardoussubstances.govt.nz/calculator>

When does tracking start?

If the substance is manufactured in New Zealand, tracking starts at the premises where it was manufactured. If imported, tracking begins at the port where the substance enters the country. The PCBU is responsible for keeping tracking records from the time it comes into possession.

Who is responsible for tracking?

The business or undertaking with management or control of a workplace where the tracked substance is present is responsible for keeping a record of it. This needs to include any transfer or disposal of it.

What information is required when transferring a tracked substance?

The Hazardous Substances Regulations prescribe rules that apply to the transfer of tracked substances. A PCBU with management or control of a workplace ('PCBU A') may only transfer a tracked substance to a PCBU with management or control of another workplace ('PCBU B'). The rules include a requirement for written notification to be received by PCBU A **before** the substance is transferred.

The written notification must:

- confirm that there is a competent person at the PCBU's workplace available to receive, and who will accept responsibility for, the tracked substance
- confirm that the PCBU's workplace has a hazardous substances location compliance certificate if required by Part 9, 10, 12 or 13 of the regulations.
- If the goods are to be held in transit, confirm that:
 - Any place where the goods are to be held in transit complies with Part 5 requirements; and
 - To the extent relevant, they meet the requirements for a transit depot specified in Part 10, 12 or 13.

To ensure these requirements are met, the written notification also needs to:

- identify PCBU B, including the PCBU's legal and business name and street address
- identify the competent person and, if the PCBU is an organisation, their position in the organisation
- confirm, on the PCBU's letterhead, that the competent person either:
 - has a certified handler certificate; or
 - has received sufficient information, training, and instruction under regulation 4.5

- identify the person giving the notification and their position (if the PCBU is an organisation, this should be done by the supervisor or manager of the competent person)
- be signed and dated by the person giving the notification
- be accompanied by:
 - a copy of the certified handler certificate or training record (as applicable)
 - a copy of the hazardous substance location compliance certificate (if applicable)

What information is needed on a tracking record?

The PCBU of any place where a tracked substance is present must keep a record of the tracked substance. The record must contain:

- The name, position and contact details of the competent person in control of the substance, including their physical workplace address.
- If the competent person is a certified handler the expiry date of the compliance certificate, along with the hazard classifications of, and each phase of the lifecycle of, the substances that person holds a compliance certificate for as a certified handler.
- The name and quantity of the substance.
- The exact location of the substance, and a record of it that an inspector can find in the required time.
- Details of any transfer of it to another place, including the name of the substance, date of transfer and the identity and address of the PCBU it is being transferred to,
- Details of the disposal of the substance. Disposal information must include how much of it was disposed of, and how, when and where it was disposed.
- The unique identifiers for the containers with VTAs containing certain active ingredients.

Records must be kept for 3 years after disposal of the tracked substance; or for 12 months after they are transferred.

Part 19 Tracking hazardous substances

9.1 Interpretation

In this Part, unless the context otherwise requires,—

competent person means—

- (a) a certified handler; or
- (b) a person who has received information, instruction, and training in accordance with [regulation 4.5](#)

tracked substance—

- (a) means a hazardous substance described in [table 1](#) or [2](#) in Schedule 26; but
- (b) does not include a hazardous substance described in [table 3](#) in Schedule 26

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

Application

19.2 Application of Part 19

This Part applies to a tracked substance and any other hazardous substance required by a relevant safe work instrument to comply with this Part.

19.3 Adding to list of hazardous substances that do not require tracking

A relevant safe work instrument may add a hazardous substance to [table 3](#) in Schedule 26.

19.4 Tracked substances recording information

- (1) A PCBU with management or control of a workplace where a tracked substance is present must ensure that a record is kept of the location and movement of the tracked substance at each phase of its life cycle in accordance with this Part.
- (2) The PCBU must ensure that the record includes the information specified in Schedule 27.
- (3) A relevant safe work instrument may modify the recording requirements referred to in subclauses (1) and (2).
- (4) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$2,000;
 - (b) for any other person, to a fine not exceeding \$10,000.

19.5 Requirement to make record available

- (1) A PCBU with management or control of a workplace where a tracked substance is present must ensure that the record required to be kept under [regulation 19.4](#) is—
 - (a) readily accessible to any worker handling the substance; and
 - (b) readily understandable by any competent person required to have access to the substance.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$2,000;
 - (b) for any other person, to a fine not exceeding \$10,000.

19.6 Retention of records

- (1) The PCBU with management or control of a workplace where a tracked substance has been but is no longer present must ensure that the record relating to the substance is retained,—
 - (a) for a substance that has been transferred to another place, for 12 months from the date of transfer; but
 - (b) for a substance that has undergone treatment that results in it no longer being a tracked substance, or that has been intentionally or unintentionally disposed of, for 3 years from the date of treatment or disposal.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$2,000;
 - (b) for any other person, to a fine not exceeding \$10,000.

19.7 Transfer of tracked substance

- (1) A PCBU with management or control of a workplace (A) where a tracked substance is present may transfer the substance only to another workplace under the management and control of another PCBU (B) and only if A has received written notification that—
 - (a) a competent person at the other workplace will accept responsibility for the tracked substance; and
 - (b) the other workplace has a compliance certificate for a hazardous substance location for the amount and hazard classification of the substance, if required by [Part 9](#), [10](#), [12](#), or [13](#); and
 - (c) any place where the substance is to be held during transit to the other workplace complies with—
 - (i) the requirements of [Part 5](#); and
 - (ii) to the extent relevant, the requirements for a transit depot specified in [Part 10](#), [12](#), or [13](#).
- (2) Subclause (1) does not apply to a substance described in subclause (3) if it is sold by retail to a person (the **buyer**) and at the time of sale—
 - (a) the aggregate quantity of each substance being sold to the buyer is 3 kg or less; and
 - (b) the buyer advises the seller that the substance will be used for the purpose of fumigation.
- (3) The substances are—
 - (a) pellets containing 570 g/kg aluminium phosphide, HSNO approval number HSR001636;
 - (b) pellets containing 660 g/kg magnesium phosphide, HSNO approval number HSR001634;
 - (c) any other hazardous substance specified in a relevant safe work instrument.
- (4) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.