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Separation distances for transportable containers (classes 6 and 8)

What separation distances to protected places are required for transportable containers holding class 6.1A, 6.1B, 6.1C, 8.2A or 8.2B substances.

The Health and Safety at Work (Hazardous Substances) Regulations 2017 (the HS Regulations) do not require 6.1A, 6.1B, 6.1C, 8.2A or 8.2B substances in transportable containers (both portable tanks and intermediate bulk containers (IBCs)) to be separated from protected or public places.

Requirements under Part 17 of the HS Regulations (regulations 17.28 and 17.29) apply to above ground stationary tanks only. Under regulation 3, transportable containers are excluded from the definition of a stationary tank.

Requirements under Part 13 of the HS Regulations (regulations 13.40–13.43A) apply to packaged class 6.1A, 6.1B, 6.1C, 8.2A or 8.2B substances. The term ‘packaged’ is not defined in the HS Regulations, however ‘packaging’ is defined as having the same meaning as in the Hazardous Substances (Packaging) Notice 2017 (the Packaging Notice) published by the Environmental Protection Authority (EPA).

Clause 3 of the Packaging Notice states that it does not apply to transportable containers. In addition, the HS Regulations distinguish transportable containers from packages, and the regulations prescribing separation distances for transportable containers holding other classes of substances refer to transportable containers directly. All these factors indicate that regulations 13.41–13.43A do not apply to substances in transportable containers.

As such, there are no prescribed distances under the HS Regulations for transportable containers holding class 6.1A, 6.1B, 6.1C, 8.2A or 8.2B substances to be separated from protected or public places.

However, persons conducting a business or undertaking (PCBUs) still have general duties under the Health and Safety at Work Act 2015 to, so far as is reasonably practicable, ensure the health and safety of workers, and to ensure that the health and safety of other persons is not put at risk. As part of meeting this duty, PCBUs must ensure, so far as is reasonably practicable, the safe use, handling, and storage of hazardous substances.

PCBUs will therefore need to ensure that any class 6.1A, 6.1B, 6.1C, 8.2A or 8.2B substance stored in transportable containers does not pose a risk to workers and/or other persons. Ensuring these substances are adequately separated from public and protected places will be an important part of minimising risks to workers and other persons.

WorkSafe New Zealand recommends transportable containers containing class 6.1A, 6.1B, 6.1C, 8.2A or 8.2B substances be separated from public/protected places in line with the separation distances set out in *AS/NZS 4452: 1997* and *AS 3780-2008 (2nd Edition) (R2009)*.