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Health and Safety at Work (Hazardous Substances—Information and Procedure Requirements for Compliance Certifiers) Performance Standard 2018

This performance standard is issued under regulation 6.43 of the Health and Safety at Work (Hazardous Substances) Regulations 2017 by WorkSafe New Zealand, after being satisfied that appropriate consultation has been carried out under regulation 6.44 of those Regulations.

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Contents

- 1 Title**
This is the Health and Safety at Work (Hazardous Substances—Information and Procedure Requirements for Compliance Certifiers) Performance Standard 2018.
- 2 Commencement**
This performance standard comes into force on 1 xx 2018.

Part 1

Preliminary provisions

3 Purpose

The purpose of this performance standard is to set out the information and procedure requirements with which a compliance certifier must comply when performing the functions of a compliance certifier under Part 6 of the Regulations.

4 Scope

For the purposes of regulation 6.43, this performance standard includes:

- (a) requirements for inquiring into, inspecting, assessing, and examining matters before a compliance certificate may be issued:
- (b) measures by which the performance of compliance certifiers or persons engaged or employed by compliance certifiers may be assessed:
- (c) documentation and record keeping requirements.

5 Interpretation

- (1) In this performance standard, unless the context otherwise requires,—

Act means the Health and Safety at Work Act 2015

register means the register of compliance certificates referred to in regulation 6.26(1) of the Regulations

Regulations means the Health and Safety at Work (Hazardous Substances) Regulations 2017

- (2) A term or expression that is defined in the Act, the Regulations, or a safe work instrument and that is used, but not defined, in this performance standard has the same meaning as in the Act, the Regulations, or the safe work instrument.

Part 2

General requirements

6 General requirements for compliance certifiers

Under this performance standard, a compliance certifier must:

- (a) establish, document, and maintain procedures that are necessary to enable the compliance certifier to perform the functions of a compliance certifier:
- (b) establish and maintain records showing the decisions of a compliance certifier, and the basis for making them:
- (c) be able to demonstrate that every person engaged or employed by the compliance certifier to undertake the functions of a compliance certifier is competent to carry out those functions:

- (d) be able to demonstrate they have complied with performance standards, and have considered the impact of requirements in safe work instruments, and other relevant material concerning the functions of a compliance certifier:
- (e) communicate regularly with the PCBU or relevant person to keep the PCBU or relevant person well informed of the functions that are being carried out by the compliance certifier.

Part 3

Specific requirements

Subpart 1—Compliance certificate procedures

7 Inquiries, inspections, examinations, and assessments

- (1) A compliance certifier must use and maintain up-to-date worksheets, check lists and reference data that are relevant to the functions of a compliance certifier, and ensure that these are used by every person engaged or employed to carry out the functions of a compliance certifier on behalf of a compliance certifier.
- (2) If a compliance certifier conducts an inquiry, inspection, examination, or assessment, the compliance certifier must make a record containing the information specified in clause 22(3)(a) to (f).
- (3) If a person who is not a compliance certifier conducts an inquiry, inspection, examination, or assessment on behalf of a compliance certifier, the compliance certifier must ensure that a record is made containing the information specified in clause 22(3)(a) to (g).
- (4) A compliance certifier must examine all information gathered by a person who inquires into, inspects, assesses, or examines any matter on behalf of the compliance certifier.
- (5) A compliance certifier must make the decision as to whether or not to issue a compliance certificate, independently of any recommendation made by a person employed or engaged by the compliance certifier.

8 Issuing compliance certificates

- (1) A compliance certifier, when issuing a compliance certificate in accordance with regulation 6.23(1), must:
 - (a) record the compliance certifier's full name as listed on the document of authorisation issued by WorkSafe; and
 - (b) record the compliance certifier's authorisation number as issued by WorkSafe; and
 - (c) include on the certificate:
 - (i) the unique certificate number (including as a prefix the compliance certifier's authorisation number), that is either assigned by the compliance certifier or is the unique certificate number generated by the register; and
 - (ii) the type of certificate; and

- (iii) the date of issue of the compliance certificate; and
 - (iv) who the certificate was issued to; and
 - (v) the location or person that the certificate applies to; and
 - (vi) the date the compliance certificate comes into force; and
 - (vii) the date of expiry of the compliance certificate.
- (d) sign the compliance certificate and retain a copy of that signed compliance certificate.
- (2) The signature may be electronic.
- (3) The compliance certificate issued to the certificate holder and the copy retained by the compliance certifier must have the same unique certificate number as the number assigned under subclause (1)(c)(i).
- (4) The compliance certifier must keep a record of the date on which the information about the compliance certificate was entered into the register, in accordance with regulation 6.26.
- (5) The date on which the compliance certificate is issued must be the date on which the compliance certifier was satisfied that the matters for which the compliance certificate is required complied with the Regulations.
- (6) The date on which the compliance certificate comes into force:
- (a) must not be earlier than the date of issue:
 - (b) may be the same as the date of issue:
 - (c) may be later than the date of issue, provided it complies with the renewal assessment period specified in Schedule 1, being the period between the date a certificate is issued and the date that certificate comes into force.
- (7) When entering the information required under regulation 6.22(5) into the register, a compliance certifier must ensure accurate information is entered into the mandatory fields.

9 Exemptions

- (1) This clause applies if a person has been granted an exemption under section 220 from a provision in the Regulations that requires a compliance certificate, or if an exemption is continued in force by clause 6 of Schedule 1 of the Act.
- (2) A compliance certifier must verify that:
- (a) the exemption is current; and
 - (b) the conditions of the exemption (if any) are being complied with.
- (3) If required to issue a compliance certificate in accordance with clause 8, a compliance certifier must:
- (a) retain a copy of the exemption, or record a reference to it; and
 - (b) record the details for which the exemption has been granted; and
 - (c) record how compliance with subclause (2) was verified.

10 Variation of compliance certificates

- (1) When varying a compliance certificate in accordance with regulation 6.28, a compliance certifier must record:
 - (a) the minor error that was corrected; and
 - (b) the reason for the correction; and
 - (c) the date on which the correction was made.
- (2) The corrected compliance certificate must have the same unique certificate number as the original compliance certificate.
- (3) A copy of the corrected compliance certificate must be provided to the relevant person or PCBU.
- (4) The correction must be entered into the register within 15 working days of the variation being made.

11 Refusal to issue compliance certificates

When refusing to issue a compliance certificate in accordance with regulation 6.23(2), a compliance certifier must have a procedure in place to ensure WorkSafe and the applicant are notified in a timely manner of the compliance certifier's decision to refuse a compliance certificate.

12 Renewal of compliance certificates

When renewing a compliance certificate, a compliance certifier must verify that the relevant criteria specified in regulations 4.3 and 6.23(1) continue to be met.

13 Related compliance certificates for hazardous substances and locations

If no change has been made to substances, or to the quantity of substances, at a location, a compliance certifier may treat a previous compliance certificate for that location as sufficient evidence that WorkSafe was notified of the commissioning of the hazardous substance location.

14 Related compliance certificates for stationary container systems

- (1) A compliance certifier may accept a compliance certificate for the design of a stationary tank issued under regulation 17.93(1)(a) as evidence that the design of a stationary tank meets the requirements for a tank design under regulation 17.91(2)(b)(i).
- (2) A compliance certifier may accept a compliance certificate for a fabricator (in relation to a certified design or designs) issued under regulation 17.93(1)(b) as evidence that the fabrication of the stationary tank meets the requirements of regulation 17.91(2)(b)(ii).
- (3) A compliance certifier may accept an entry in the stationary tank design and fabricator record as evidence that the stationary tank meets the requirements of regulation 17.91(2)(b)(i) or (ii), or both.

15 Location visits

- (1) If an application is for a compliance certificate of a type specified in subclause (2), a compliance certifier, or a person employed or engaged by the compliance certifier to undertake the functions of a compliance certifier, must:
 - (a) conduct a location visit to inspect the matters relevant for the issue of the certificate; and
 - (b) examine and review appropriate information and records relevant to the matters to be certified.
- (2) The certificate types are:
 - (a) cylinder importation:
 - (b) cylinder importation (UN):
 - (c) cylinder pre-commissioning:
 - (d) fire extinguisher import clearance:
 - (e) locations:
 - (f) stationary container system (excluding design):
 - (g) stationary tank fabricator:
 - (h) tank wagon in service:
 - (i) tank wagon pre-commissioning.
- (3) If the application is for a compliance certificate of a type specified in subclause (4), a compliance certifier, or any person employed or engaged by the compliance certifier to undertake the functions of a compliance certifier:
 - (a) does not need to conduct a location visit to inspect the matters relevant for the issue of the certificate; but
 - (b) if electing not to do so must record the reasons for not conducting the location visit, and must examine and review appropriate information and records relevant to the matters to be certified.
- (4) The certificate types are:
 - (a) container (magazine) design:
 - (b) container (readily movable container) construction:
 - (c) cylinder fittings clearance:
 - (d) outdoor pyrotechnic display.

Subpart 2—Persons engaged or employed by compliance certifier

16 Training procedures and competency requirements for persons engaged or employed by compliance certifier

- (1) A compliance certifier must have in place procedures setting out competency requirements and training procedures for a person engaged or employed by the compliance certifier.

- (2) In accordance with subclause (1), a compliance certifier must verify that persons engaged or employed by the compliance certifier to perform a particular function of the compliance certifier are able to demonstrate in respect of that function the following competencies:
 - (a) knowledge of the hazard classifications of any hazardous substances:
 - (b) knowledge of the adverse effects that could be caused by any of the hazardous substances:
 - (c) knowledge of the Regulations, performance standards, and safe work instruments that apply to the issue of the relevant compliance certificate:
 - (d) knowledge of the use of operating equipment and systems:
 - (e) knowledge of, and experience in, the testing or inspection of plant or equipment, or of its design:
 - (f) knowledge of the procedures the compliance certifier has in place.
- (3) For the avoidance of doubt, nothing in subclause (2) limits the application of regulation 6.8(3)(b) of the Regulations.
- (4) In respect of a location inspection, a compliance certifier must:
 - (a) observe the person until the compliance certifier is assured that the person being trained can perform the relevant certification functions competently and independently; and
 - (b) retain a record of those observations.

17 Testing to determine competency of persons engaged or employed by compliance certifier

If a compliance certifier conducts a written or oral test to assess competency of a person engaged or employed by the compliance certifier, the following information must be recorded:

- (a) the full name of the person:
- (b) the date and time of the examination:
- (c) the subject areas the examination covers:
- (d) the compliance certifier's assessment of the answers.

18 Record to demonstrate competence and training of persons engaged or employed by compliance certifier

- (1) Unless subclause (2) applies:
 - (a) a compliance certifier's record of competency must be in the form set out in Schedule 2; and
 - (b) a compliance certifier's record of training must be in the form set out in Schedule 3.
- (2) A compliance certifier may use his or her own record of competency or record of training provided it contains, as a minimum, the information set out in Schedule 2 or 3 (as applicable).

19 Responsibilities of persons engaged or employed by compliance certifier

- (1) A compliance certifier must record the responsibilities and duties of every person engaged or employed by the compliance certifier.
- (2) A compliance certifier must advise every person engaged or employed by the compliance certifier of their responsibilities and duties and ensure they act within those responsibilities and duties.

20 Continuing competence of persons engaged or employed by compliance certifier

- (1) A compliance certifier must ensure the continuing competence of any person engaged or employed to inquire into, inspect, assess, or examine a matter on behalf of a compliance certifier.
- (2) If a compliance certifier has concerns about a person engaged or employed by the compliance certifier, the compliance certifier must:
 - (a) investigate the person's actions that led to doubt about the person's competence; and
 - (b) review the person's actions in relation to previous inquiries, inspections, examinations, or assessments (if any); and
 - (c) ensure the person receives further training and testing if necessary; and
 - (d) record the outcome of the investigation and review.

Subpart 3—Complaints

21 Complaints

- (1) A compliance certifier must have in place a procedure to record, investigate, and resolve complaints about the ability or conduct of a compliance certifier, or any person employed or engaged by the certifier when performing the functions of a compliance certifier.
- (2) The compliance certifier must record:
 - (a) the date on which the complaint was received; and
 - (b) who made the complaint; and
 - (c) the nature of the complaint; and
 - (d) the measures taken to investigate and resolve the complaint; and
 - (e) any changes to training, procedures, record keeping, or other matters relevant to the functions of a compliance certifier that have been made as a result of the complaint.
- (3) Despite subclause (1), a compliance certifier may decide not to investigate a complaint if satisfied that the complaint is frivolous, vexatious, or malicious.

Subpart 4—Records management

22 Records management

- (1) A compliance certifier must retain all records related to the functions of a compliance certifier for at least five years after the expiry of the compliance certificate to which the functions relate.
- (2) A compliance certifier may record the information in any form provided the information in subclause (3) forms a part of that record.
- (3) A compliance certifier must record the following information:
 - (a) the unique identification or description of any item or location inquired into, inspected, assessed, or examined:
 - (b) the dates of any inquiry, inspection, assessment, or examination:
 - (c) the result of any inquiry, inspection, assessment, or examination:
 - (d) the details of any equipment or facilities used:
 - (e) the manner in which each requirement for the issue of a compliance certificate has been verified:
 - (f) the reasons for any failure to meet certification requirements:
 - (g) if the person is conducting an inquiry, inspection, examination, or assessment on behalf of a compliance certifier, the name of the person and whether or not that person was supervised by the compliance certifier.
- (4) Records made under subclause (3) must be signed and dated by the compliance certifier and, if applicable, by the person undertaking the inquiry, inspection, assessment, or examination.
- (5) A compliance certifier must keep records of:
 - (a) compliance certificates issued, which must include the details specified in clause 8(1); and
 - (b) the date a compliance certificate was entered into the register; and
 - (c) details of any refusal to issue a compliance certificate.
- (6) A compliance certifier must ensure that a photograph or visual image used as a means of recording or documenting the functions of a certifier clearly identifies the item that is being certified.
- (7) A compliance certifier must ensure that the following information about photographs is recorded:
 - (a) the name and occupation of the person who took the photograph:
 - (b) the date on which the photograph was taken:
 - (c) where the photograph was taken.
- (8) A compliance certifier must keep a record of any relevant communication with the person or PCBU about a matter they are inquiring into, inspecting, examining, or assessing.

23 Storage and security of information and records

- (1) A compliance certifier must ensure that all records related to the functions of a compliance certifier are stored securely to protect the privacy of individuals and the confidentiality of information in those records.
- (2) A compliance certifier must retain records in a legible and retrievable hard copy or electronic format.
- (3) A compliance certifier must ensure that all IT systems used in connection with the functions of a certifier:
 - (a) are adequate for use; and
 - (b) are maintained to ensure the integrity and security of data; and
 - (c) have appropriate antivirus software installed.

Subpart 5—Conflict of interest

24 Impartiality and conflict of interest

- (1) A compliance certifier must consider whether any conflict of interest or reasonably foreseeable conflict of interest may arise from:
 - (a) the performance of his or her functions as a compliance certifier; or
 - (b) the performance of the functions of a compliance certifier by persons engaged or employed by the compliance certifier.
- (2) A compliance certifier must establish and maintain a conflict of interests register, which must contain a record of actual and potential conflicts of interest identified.
- (3) The following information must be recorded in the conflict of interests register:
 - (a) the name of the compliance certifier or person engaged or employed by the compliance certifier who has the conflict of interest or potential conflict of interest;
 - (b) the date when any conflict of interest arose.
 - (c) a description of the conflict or potential conflict of interest;
 - (d) any action taken to eliminate or minimise the conflict or potential conflict of interest;
- (4) A compliance certifier may also record other relevant information in the conflict of interests register.

Subpart 6—Review of procedures and records

25 Review

- (1) A compliance certifier must conduct reviews at intervals not exceeding 12 months to ensure procedures and compliance certification documents are kept up to date.
- (2) A compliance certifier must ensure:

- (a) every change to a procedure or document is recorded, showing the date the change was made; and
- (b) obsolete procedures and documents are not used.

Subpart 7—Equipment

26 Equipment

- (1) A compliance certifier must have appropriate equipment and a working environment that will enable the functions of a compliance certifier to be carried out in a competent and safe manner.
- (2) A compliance certifier must calibrate and maintain all equipment in accordance with the manufacturer's or supplier's instructions.
- (3) Equipment may not be used if it does not conform to calibration specifications, or if it is in any way defective.
- (4) A compliance certifier must isolate defective equipment and ensure it is labelled as such.
- (5) A compliance certifier must examine the effects defective equipment may have had on the previous performance of the functions of the compliance certifier, and take appropriate corrective action if necessary.

CI 8(6)(c)

Schedule 1 Renewal assessment period

Type of Compliance Certificate	Validity Period	Renewal Assessment Period
Approved fillers		
Approved fillers	Up to 60 months	0 working days
Certified handlers		
Certified handler certificates	60 months	0 working days
Cylinders		
Cylinder design verification	No expiry (unless the certifier specifies a period in the scope of the certificate)	N/A (first and only issue)
Cylinder importation	No expiry, one off	N/A (first and only

		issue)
Cylinder importation (UN)	No expiry, one off	N/A (first and only issue)
Cylinder pre-commissioning	No expiry, one off	N/A (first and only issue)
LPG fittings	No expiry, one off	N/A (first and only issue)
Explosives		
Container (magazine) design	Up to 60 months	20 working days
Container (readily movable container) construction	Up to 60 months	20 working days
Detonation and deflagration in darkness	No expiry, one off	20 working days (prior to first issue)
Blast over pressure and hazard	No expiry, one off	N/A (first and only issue)
Outdoor pyrotechnic displays	No expiry, one off	N/A (first and only issue)
Locations		
Class 1 Classes 2.1.1, 2.1.2, 3.1 Classes 3.2 or 4 Classes 5.1.1 or 5.1.2 Class 5.2	Up to 12 months (PCBU can seek an extension for up to 36 months)	30 working days
Classes 6 or 8	Up to 36 months	30 working days
LPG cylinders up to 300 kg	36 months	30 working days
Stationary container systems		
Stationary container systems	As per prescribed standard, determination or SWI Otherwise 12 months	40 working days
Stationary container tank or process container design	No expiry (unless the certifier specifies a period in the	N/A (unless the certifier specifies a period in the scope of the certificate,

	scope of the certificate)	in which case it can be no more than 40 working days)
Stationary container tank or process container fabrication	Up to 36 months	40 working days
Tank wagons		
Design	No expiry, one off	N/A
Tank wagon and transportable container design	No expiry, one off	N/A
Tank wagons pre-commissioning	No expiry, one off	N/A
Tank wagons in-service	24 months	20 working days

Schedule 2 Competency Register

	Requirement	Requirement	Requirement	Requirement	Requirement	Requirement	Requirement	Requirement
Employee name	e.g. entering certificates onto the register							
Employee A	e.g.31/07/17							
Signed off by								
Employee B								
Signed off by								
Employee C								
Signed off by								
Employee D								
Signed off by								

Schedule 3 Training and Experience Record

Training and Experience Record – use one record per person including the certifier					
Date	Training covered	Provided by	Trainee signature	Certifier signature	Comments (please note if the training has been provided by an external organisation and have them sign in this box)

Made at Location on Day Month Year.

[WorkSafe]

Date of notification in *Gazette*: [Click here to enter a date.](#) [Remove this line if Gazettal is not required.]

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