

Summary and analysis of submissions

*OUTCOME OF PUBLIC
CONSULTATION ON THE
HEALTH AND SAFETY AT WORK
(HAZARDOUS SUBSTANCES –
CERTIFIED HANDLER COMPLIANCE
CERTIFICATION) PERFORMANCE
STANDARD 2018*

March 2019

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1.0 Background

Under the Health and Safety at Work (Hazardous Substances) Regulations 2017, certain work involving toxic (class 6) or explosives (class 1) substances can only be carried out by a person who holds a compliance certificate as a certified handler.

The function of issuing such certificates is performed by compliance certifiers authorised by WorkSafe to do so. Anyone who wishes to become a certified handler must first satisfy the relevant competency requirements prescribed in the Regulations.

Under regulation 6.43 of the Health and Safety at Work (Hazardous Substances) Regulations 2017, WorkSafe may issue performance standards setting out the information and process requirements that a compliance certifier must comply with when performing their functions, including the issuing of certified handler compliance certificates.

The purpose of the Health and Safety at Work (Hazardous Substances – Certified Handler Compliance Certification) Performance Standard (the Performance Standard) is to set out the information and process requirements that a compliance certifier must comply with when issuing or renewing a certified handler compliance certificate. It sets performance expectations for compliance certifiers intended to ensure consistent and transparent decision making.

In particular, the Performance Standard:

- sets out the process for assessing applicants and verifying competency requirements that have been met
- details the information needed to make a proper assessment and the potential sources of that information
- specifies the information to be recorded in the certified handler compliance certificate, including information setting out its scope
- requires compliance certifiers to keep a record of the information considered in, and the reasons for, making a decision to issue or not to issue a certified handler compliance certificate.

The Hazardous Substances team on behalf of WorkSafe publically consulted on the Performance Standard. Compliance certifiers and other persons, such as professional bodies and industry groups were asked directly for their involvement.

As part of the consultation process, WorkSafe hosted two teleconferences with compliance certifiers and one industry working group dedicated to explosive substances.

Eleven submissions were received by WorkSafe. The main themes from consultation were:

- clarifying definitions used in the Performance Standard
- knowledge and practical skills of various matters that should be required prior to being issued a certified handler compliance certificate
- comments on what documents are required to establish the identity of the applicant
- details regarding the assessment process, in particular for overseas applicants.

Various responses that were received also included matters that are out of the scope of the performance standard or outside of WorkSafe's legal mandate. Where appropriate, this has been highlighted in the responses below.

Any clauses or schedules mentioned in the response below relate to the clauses and schedules set out in the consultation draft and may not necessarily reflect the numbering of clauses or schedules in the final document.

2.0 Feedback and WorkSafe's response

SUBMISSION NUMBER	SUBMITTER	ORGANISATION
1	Alec Whatmough	Deosan Manufacturing Ltd
2	Greg Olsen	National Institute of Water & Atmospheric Research
3	Simonne Moses	Working Group consisting of: SMoses Consulting Ltd Interchem Agencies Ltd EnQuantum Group International NZ Ltd
4	Ken Clarke	Responsible Care NZ
5	Confidential	
6	Confidential	
7	Compliance Certifiers for Class 1 Substances Meeting held on 3 October 2018 Present: - Thomas Clayton (NZ Police) - Nathan Cotter (Global Seismic Solutions Ltd) - Dave Craig (Explosive Pyrotechnic Services Ltd) - Aaron Donald (HazSubs Services Ltd) - Andrew Loader (First Rock Consultancy Ltd) - James Lockhead-MacMillan (Haz-Control Ltd) - Pete Roche (HazKnow Ltd) - Rob Storrie (Independent Consultancy Services Ltd)	
8	Linda Haydon/Pat du Preez	Interchem Agencies Ltd
9	Janet Connochie	Chemsafety Ltd
10	Jane Lamb	New Zealand Agrichemical Education Trust
11	Derek Stannard	Chemical Freight Services Ltd

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
<p>QUESTION 1 Do the definitions of type of work (for class 1 substances) adequately reflect your industry? Are there any industry sectors that are not covered? Clause 4, Clause 12(5)</p>		
7	<p>Yes they do, subject to the changes that are mentioned in the notes (attached).</p>	<p>Changes to the definitions have been made in the proposed document to reflect the discussion at the meeting of compliance certifiers for class 1 substances.</p>
<p>QUESTION 2 How practical is it for the compliance certifier to use overseas documents to assess competence? Clause 5(4)</p>		
2	<p>Assume these would need to be assessed on a case-by-case basis. The certification information needs to cover NZ standards at GHS system.</p>	<p>Noted. No change required.</p>
3/8	<p>We do not believe it is practical for a compliance certifier to use overseas documents for the purposes of assessing competence in accordance with clause 5(1)(c). There will need to be some form of verification testing carried out by the compliance certifier which would include a practical demonstration of competency, not just a written record stating competency.</p> <p>Overseas documents and assessments may be in a different language, would only reflect GHS classification and not HSNO, would vary between countries and jurisdictions creating inconsistencies and would lack the robustness of verification that is required.</p>	<p>Noted. The performance standard provides this as an option. No change required.</p> <p>A compliance certifier can determine whether to use this provision on a case-by-case basis, dependent on the background of the particular situation.</p> <p>See above comment. The language of any documentation provided will be one of the matters considered by the compliance certifier. They may also consider other factors, such as country of origin etc.</p>
4	<p>Will require supporting demonstration of claimed knowledge and skills.</p> <p>Assume these would need to be assessed on a case-by-case basis. The certification information needs to cover NZ standards at GHS system.</p> <p>History has proven in this country that overseas quals a commodity on the black market.</p> <p>Practical face to face evidence/verification a minimum.</p>	<p>Noted. No change required.</p> <p>See comment above. The compliance certifier has flexibility to apply this provision on a case-by-case basis. Whether a face to face approach is required is at the discretion of the compliance certifier.</p> <p>This is provided as an option; it is not mandatory. Compliance certifiers do not have to accept overseas qualifications if there is doubt regarding the authenticity of the documentation provided.</p>
5	<p>These requirements as they apply to VTA's could be verified by a certifier however the process would make the application for VTA longer and more expensive. Certifiers would need to have robust and rigorous systems in place to ensure this is done correctly.</p>	<p>Noted.</p>
6	<p>Quite practical</p>	<p>Noted.</p>
7	<p>This should be provided for, regardless of the level of practicability</p>	<p>Noted.</p>
9	<p>There would need to be straightforward way to assess the equivalency of overseas authorisations. Would WorkSafe be willing and able to provide guidance on relevant authorisations from a range of jurisdictions.</p>	<p>The performance standard will not include information on authorisations from overseas jurisdictions. This is outside of the scope of this document. A compliance certifier will need to take into account various matters, such as any legislative requirements under the Trans Tasman Mutual Recognition Agreement (TTRMA).</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
10	<p>Very challenging, even when in English unless you know the educational system of the other country in order to ascertain the level of the certificate.</p> <p>Overseas qualifications are also limited to the extent to which they align with New Zealand regulations.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>See comment above. The compliance certifier has flexibility to apply this provision on a case-by-case basis.</p> <p>The language of any documentation provided will be one of the matters considered by the compliance certifier. They may also consider other factors, such as country of origin etc.</p>
11	<p>It should be left in as an option. Assessment would need to be on a case by case basis.</p>	<p>Noted.</p>
<p>QUESTION 3 The performance standard specifies the requirements that an applicant would need to meet to be issued a certified handler compliance certificate. Should any other knowledge requirements be set? Clauses 6-9</p>		
2	<p>Could benefit from knowledge of chemical waste systems.</p>	<p>No changes were made to the performance standard.</p>
3/8	<p>The training requirements of Clause 4.5 of the Regulations are a necessary prerequisite.</p> <p>Clause 8.2(a) of the Performance Standard requires the applicant to know the appropriate risk management process to be followed. This would require health and safety risk management training as a prerequisite to become becoming a certified handler. This level of knowledge was not stipulated for previous approved handlers and applicants may need to acquire this training before being certified.</p> <p>Applicants for Class 6 Certified Handler should be required to know about toxicology and routes of exposure. For example, toxic dose effects, effects of dilution on toxicity, toxicity mixtures containing various toxic ingredients etc.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>Clause 9 acknowledged that regulation 4.5 is part of the assessment for a certified handler compliance certificate.</p> <p>Provisions clarifying that the toxicology of class 6 substances is part of verifying the applicant understands how to safely manage them are included in the schedules of the performance standard.</p>
4	<p>Basic toxicology and target organ knowledge. Toxic pathways and physiological mechanisms specific to a toxin being handled.</p> <p>Quantifiable evidence of HS Regs 4.5 being achieved is required up front and this is not mentioned.</p> <p>Risk Management will need to be demonstrated in evidence as a working skill in order to be able to endorse this requirement.</p>	<p>The requirements to ensure toxicological knowledge is covered off in the Schedules. No changes required.</p> <p>It is at the discretion of the compliance certifier what information should be provided upfront or through the course of the assessment.</p> <p>Verification of the person's understanding of risk management processes is required (see 8.2(a)). No change to performance standard.</p>
5	<p>This would require the certifiers to ensure that trainers have the separate or upskilling programmes in place to ensure persons using things like aerial 1080 are not disadvantaged.</p> <p>Provided there was the infrastructure to allow different use types to be trained and assessed this would not seriously adversely affect the use of VTA's.</p> <p>It would be concerning if this was to fall to individual application methods or brands of application method so that someone could be certified in the use of large bait stations but not bait bags. Therefore it is hoped that this would go to the level where differences between methods was obvious and required different skills to undertake.</p>	<p>Noted. No change required.</p> <p>Trainers are out of scope of this document.</p> <p>It is at the discretion of the compliance certifier to issue a certified handler compliance certificate for a limited scope rather than refusing to issue the document. This should be decided on a case-by-case basis and depending on the documentation of knowledge/competence that was supplied to the compliance certifier.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
6	No	Noted.
7	No	Noted.
9	<p>The performance standard should not be used as a means to increase the scope of the knowledge requirements of the candidate beyond those specified in the HSW(HS) regulations.</p> <p>For example 8(2)(a) introduces risk management and hierarchy of controls from the GRWM which may not specifically be part of the training/knowledge that the applicant has in relation to the precautions required at their workplace, Need to ensure scope is not beyond the hazardous substances for which the person is to be a certified handler.</p> <p>9(2)(b) again introduces requirements of GRWM. While GRWM Reg 9 is referenced in HSW(HS) 4.5(1) - GRWM Reg 9 refers to workers carrying out work of every kind, and HSW(HS) 4.5 provides sufficient detail in relation to hazardous substances. Need to ensure that the scope is limited to those substances that require a certified handler.</p>	<p>The performance standard is not intended to do this. It provides clarity on what is involved in verifying the regulatory requirements. The reference to the GRWM regulations has been omitted.</p> <p>The document applies to the substances that are to be certified. Changes have been made to reflect this.</p> <p>Note that risk management is included as part of the precautions required to prevent injury or illness.</p>
10	No other requirements identified.	Noted.
11	Clause 7(2)(j) is not relevant for a Certified Handler for Storage only. Should have 'For safe handling and use only' added.	<p>Noted. No change required.</p> <p>This requirement only applies if applicable.</p>
<p>QUESTION 4 How practical is it for a compliance certifier to verify that the applicant meets the competency requirements? Clause 6-9</p>		
2	Evidence of documentation, oral communication and site visit should provide adequate opportunity to assess competency	Noted.
3/8	<p>There needs to be a clear, unambiguous, guidance document for compliance certifiers that leads them through the required certification framework to ensure consistency. The current Performance Standard is not specific enough to fulfil this purpose. It needs to be stipulated in the Performance Standard that the certifier can only administer a test and assess results, and cannot provide training.</p> <p>In determining competency, being able to describe 'how to' is not the same as being able to do. The compliance certifier should be required to meet face-to-face with each applicant and there needs to be a practical demonstration of the applicant's competence which would ideally occur at the applicant's workplace. Note: Growsafe certification already has a practical demonstration component.</p> <p>Verification cannot be done remotely, by phone, or via the Internet due to the risk of others fraudulently presenting themselves as the applicant and taking the tests. Furthermore the compliance certifier should not rely solely on certificates from training providers.</p>	<p>The performance standard sets the mandatory requirements. Other activities by WorkSafe (eg audits, workshops/professional development for compliance certifiers) will help to address the consistency issue raised by the submitter.</p> <p>The requirement not to issue a certified handler compliance certificate to a person the compliance certifier trained or supervised already applies as it is referred to in regulation 6.22 of the Health and Safety at Work (Hazardous Substances) Regulations 2017. There is no need to repeat this legislative requirement. Compliance certifiers will be audited to ensure this provision is adhered to.</p> <p>While site visits may occur, it is not the intent to prescribe this. In some cases, this may not be fully practicable (eg laying baits for pest control purposes in remote areas).</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
4	<p>Reliant on knowledge of toxic and/or explosive properties, quality auditing skills, and determining genuine documentation sources.</p> <p>Anything short of model questions and answers will aggressively feed the present issue of inconsistency between Compliance Certifier interpretations. Fundamental training models require consistency to demonstrate accreditation, as such WorkSafe NZ need to become an accredited assessor body with a model demonstrating competency to manage trainers and assessors. Afterall it is WorkSafe NZ that is not successfully achieving consistency in Compliance Certification in the site assessment space, and Certifier Handler Certification is but one of these tasks assigned what is effectively Worksafe NZ Field force.</p> <p>Explaining how to undertake a specific task is a very low level of evidence provision compared with a practical demonstration. This feeds back to the need for having a Compliance Certifier actually understanding what is taking place during a practical task demonstration.</p>	<p>Noted. No changes were made to the performance standard. This is outside of the scope of this document.</p> <p>While site visits may occur, it is not the intent to prescribe this. In some cases, this may not be fully practicable (eg laying baits for pest control purposes in remote areas).</p>
6	<p>If the company has provided useful enough documentation – very practical. If the company has conflicting or poorly constructed records, it becomes a slog to deal with.</p> <p>It would be useful if there was a set template companies could use.</p>	<p>Noted. No changes required.</p> <p>The need for templates will be assessed once the performance standard is in place.</p>
7	<p>Do not disagree with what there is required. Certifiers need to develop systems to be consistent in their approach.</p>	<p>Noted.</p>
9	<p>Requiring verification of GRWM is adding in too much detail (see above) – needs to be limited to the hazardous substances that the person is to be a certified handler for.</p>	<p>Noted. Changes have been made to the performance standard.</p>
10	<p>There is a significant distinction between the requirement to demonstrate knowledge 'knows and is able to describe' and the requirement to prove competency ie is actually using equipment and keeping records correctly.</p> <p>The requirement for a 'written or oral test of the applicant' as opposed to requiring physical evidence or on-site audit is more practical for compliance certifiers but potentially a weaker level of evidence.</p>	<p>Noted. Changes have been made to the performance standard.</p> <p>While site visits may occur, it is not the intent to prescribe this. In some cases, this may not be fully practicable (eg laying baits for pest control purposes in remote areas).</p>
11	<p>Could a Unit Standard be developed to cover aspects of this? I was involved with writing US20645 and that was very successful.</p>	<p>Noted. Unit Standard 31291 Demonstrate knowledge of hazardous substances relevant to Certified Handlers has been approved by NZQA.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
<p>QUESTION 5 The certified handler is required to demonstrate their working knowledge of the plant and equipment used in conjunction with the hazardous substance. Do you see any issues or difficulties in setting limitations on particular equipment to reflect the practical experience of an applicant (eg use of agrichemicals with a handheld sprayer)? Clause 12</p>		
2	No	Noted.
3/8	<p>Class 6.1A and 6.1B substances can be used in a large variety of applicants throughout industry and therefore it is necessary to set limitations on certified handlers covering type of equipment they are experienced in using but also the physical state of the substance (eg someone who is certified for using solid sodium selenite in a fertiliser situation should not automatically be covered for a concentrated liquid solution). Furthermore there should be restrictions on the workplace. As the certified handler requirement is a higher level of competency and more specifically targeted at certain substances then the certification should not be transferable between workplaces. There needs to be a pathway for certified handlers changing workplaces to be reassessed by the certifier. This could be a simple assessment if the same substances and equipment are being used or could require a more in depth assessment if the certified handler is using different equipment. If they are using different substances, then they may need a full assessment and recertification.</p>	<p>Noted.</p> <p>Certification is commonly restricted to specific workplace(s).</p> <p>Once issued, a compliance certificate cannot be amended to change the workplace. A new assessment needs to take place and a new certificate would need to be issued.</p> <p>The physical state of the substance or its concentration can be specified in the scope of certification, however this is at the discretion of the compliance certifier.</p>
4	<p>No issues with specifying techniques, equipment, etc. The Performance Std seeks validation of the 'workplace' and as such a Compliance Certifier must therefore by Regulation, attend the respective workplace and validate actual ergonomic interaction between the Handler and the task. Whilst training may be delivered in a centralised location, this alone fails to meet the standard as prescribed in this Performance Standard.</p>	Noted.
6	No problem setting limitations.	Noted.
10	<p>I think this limit is key to assessing competency and managing risk so long as the class of equipment is adequately described and support its inclusion. Equipment classes are used by EPA for their certification requirements.</p>	Noted.
11	No. Especially relevant with agrichemicals.	Noted.
<p>QUESTION 6 When using class 1 substances, how important is it to specify the type of work for which the certified handler has been assessed competent (eg use of class 1.1D substances for now avalanche control/use of class 1.1D substances for demolition)? Do you use any issues or difficulties implementing this? Clause 12(5)</p>		
4	<p>This is a crucial demonstration of training versus competency and application. Locks down the desire to 'stretch' the certification approval based on technicalities.</p>	Noted.
7	<p>This is very important. If it cannot be done it is exposing the industry to a significant level of risk as a person has unrestricted access to use explosives. Certifiers need to be able to link the demonstrated competency, experience and knowledge to certain industry areas as the handling of explosives in a building demolition environment is significantly different from handling explosives for snow avalanche control.</p>	Noted.

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
11	Should only be relevant for 'Use'. Chemfreight doesn't store Class 1s but occasionally transports them.	Noted.
QUESTION 7 Are the competency requirements for handlers involved with class 1 substances adequate? Schedule 1		
7	Yes, subject to minor changes mentioned in notes (attached).	Changes to provisions relating to the verification of competency requirements have been made to reflect the discussion at the meeting of compliance certifiers for class 1 substances
11	<p>Sch 1</p> <p>2(3)(e) (iii) Not really the domain of a Certified Handler.</p> <p>2(4) Currently the requirement is to have a D Endorsement for transporting dangerous goods (including Class 1) see - HS Regs 9.3(5)(c). Is the proposal now to have the requirement to be a Certified Handler as well?</p> <p>2(4) seems to be a duplication of Land Transport legislative requirements.</p>	The intent is to ensure alignment with the Land Transport Rule requirements.
QUESTION 8 What information would you record on a compliance certificate? For example, would you list substances, UN numbers or classifications? Schedule 1		
2	For small number of chemicals it may be appropriate to list chemicals and UN numbers. For complex storage holding multitude of chemicals, it may be more suitable to list classes and quantities only.	Noted. No changes were made to the performance standard.
4	<p>UN No, Classification, and application description as demonstrated during assessment.</p> <p>VTAs and Fumigants - itemised.</p> <p>Physical state of approved hazardous substances.</p> <p>Agrichems - Hazard Classification and 'Agchem' limitation.</p> <p>Specific Hazardous Substances and approved use.</p>	Noted. No changes were made to the performance standard.
7	Leave as is.	Noted.
11	Chemfreight stores thousands of hazardous substances, it would not be feasible to list every substance or UN number.	Noted. No change required. Certification will be according to the classification of the substance (eg Explosives - 1.45).
QUESTION 9 Are the competency requirements for handlers involved with agrichemicals adequate? Schedule 2		
3/8	Yes, the competency requirements for handlers of agrichemicals given in Schedule 2 are quite thorough.	Noted.
4	Toxicology, Target Organs, must be included to commence on a journey of a step-change toward enhanced handler skills, demanded by the Governments desire to implement a specialist Toxic Certified Handler qualification and attack the high rate of deaths by chemical related illnesses.	Noted. No change required, the certified handler must have knowledge of the hazards, this includes these elements.
10	Yes - though '3 Safe handling and use' are difficult to assess in practice.	Noted.

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
11	<p>Sch 2 1(a) Need to elaborate on what is meant by 'types' of agrichemicals.</p> <p>Sch 2 1(b) The bulk quantity criteria would be triggered by a truck carrying a small amount (50kg/l) of agrichemicals. Knowledge of HSNO & DG classifications are more relevant than GHS classifications (they are all different).</p> <p>Sch 2 2(a) – (d) Some facilities could be for storage only (transportation would be conducted by another party). Why require conditions relating to transport and use (pesticides misapplied).</p> <p>Sch 2 3 'Safe handling and use'. Handling is not defined and is used in both the definition of storage and use in Part 1. It needs to be defined.</p>	<p>Noted. Changes have been made to the performance standard.</p> <p>The term agrichemicals covers a broad range of substances, such as agricultural compounds, veterinary medicines, detergents, sanitizers etc.</p> <p>Transport might occur as tools of trade. Even when transporting small quantities, the legislative requirements of the Health and Safety at Work (Hazardous Substances) Regulations 2017 apply.</p> <p>Handling (handle) is defined in the Health and Safety at Work (Hazardous Substances) Regulations 2017.</p>
<p>QUESTION 10 What information would you record on a compliance certificate? Would you rather list individual substances? Schedule 2</p>		
2	<p>Location, and site and classes?</p> <p>Individual substances if quantities held exceed thresholds for signage and emergency management, but suggest this needs to be assessed on a case-by-case basis depending upon complexity.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>Note that a certified handler compliance certificate is different from a location compliance certificate.</p> <p>A location cannot always be specified – for example rural spray contractors may undertake work at several locations. It is not feasible for them to obtain a new certified handler compliance certificate if their client base changes.</p> <p>Based on the multitude of substances, a general term is used rather than specifying individual substances. The compliance certifier can restrict the coverage to certain types (eg detergents) or groups (organophosphates) in the scope of certification. Worksafe will further consider the option to require individual substances to be named, particularly those substances in the highest risk category.</p>
3/8	<p>Individual substances and the physical state of the substances should be listed. Also there should be limitation on the life cycle phases, how the substance is to be used, workplace or type of workplace.</p> <p>Any additions or amendments such as change in workplace, new substances or change in physical state of a substance, or change in use should be reassessed by the certifier to ensure the certified handler is competent with regards to the changes. Guidance is needed for certifiers on how and when to reassess certified handlers and the type of evidence required for reassessment.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>Based on the multitude of substances, a general term is used rather than specifying individual substances. The compliance certifier can restrict the coverage to certain types (eg detergents) or groups (organophosphates) in the scope of certification. Worksafe will further consider the option to require individual substances to be named, particularly those substances in the highest risk category.</p> <p>Workplace/type of workplace and life cycle phase will need to be listed in accordance with clause 12.</p> <p>Once issued, a compliance certificate cannot be amended to change the workplace or scope of certification. A new assessment needs to take place and a new certificate would need to be issued.</p>
4	<p>UN No, Classification, and application description as demonstrated during assessment.</p> <p>VTAs and Fumigants – itemised.</p> <p>Physical state of approved hazardous substances.</p> <p>Agrichems – Hazard Classification and 'Agchem' limitation.</p> <p>Specific Hazardous Substances and approved use.</p>	<p>Noted. No change required.</p> <p>The term Agrichemicals will be used rather than Agchem.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
10	Listing individual substances could be quite restrictive on agrichemical selection. In my opinion a better restriction is through application equipment/process and retain 6.1A and B as the scope.	Noted.
11	Legal name and residential address. Work telephone and email. Haz subs classifications. Types of agrichemical (eg detergents/sanitiser). Life cycle phases. Workplace. Compliance certifiers details. Issue, effective and expiry dates. Would not list individual substances as there are too many to list on a certificate if it is for a storage facility.	Noted. No change required. The suggested information is included in clauses 12 and 14.
QUESTION 11		
Are the competency requirements for handlers involved with fumigants adequate? Schedule 3		
3/8	Yes	Noted.
11	Sch 231(a) Need to elaborate on what is meant by 'types' of agrichemicals. Sch 3 1(b) The bulk quantity criteria would be triggered by a truck carrying a small amount (50kg/l) of agrichemicals. Knowledge of HSNO & DG classifications are more relevant than GHS classifications (they are all different). Sch 3 2(a) - (d) Some facilities could be for storage only (transportation would be conducted by another party). Why require conditions relating to transport and use (buffer zones). Sch 3 3 'Safe handling and use'. Handling is not defined and is used in both the definition of storage and use in Part 1. It needs to be defined.	Noted. Changes have been made to the performance standard. Transport might occur as tools of trade. Even when transporting small quantities, the legislative requirements of the Health and Safety at Work (Hazardous Substances) Regulations 2017 apply. The requirement for buffer zones only apply to relevant life cycle phases. If the substances are only transported, this will not be the case. Handling (handle) is defined in the Health and Safety at Work (Hazardous Substances) Regulations 2017.
QUESTION 12		
What information would you record on a compliance certificate? Schedule 3		
3	As for agrichemicals, for specific substances and physical state should be listed.	Noted. No changes were made to the performance standard. The physical state of the substance can be specified in the scope of certification, however this is at the discretion of the compliance certifier.
4	UN No, Classification, and application description as demonstrated during assessment. VTAs and Fumigants - itemised. Physical state of approved hazardous substances. Agrichems - Hazard Classification and 'Agchem' limitation. Specific Hazardous Substances and approved use	Noted. No changes were made to the performance standard. The physical state of the substance can be specified in the scope of certification, however this is at the discretion of the compliance certifier.

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
11	<p>Legal name and residential address.</p> <p>Work telephone and email.</p> <p>Haz subs classifications.</p> <p>Individual fumigants by name.</p> <p>Life cycle phases.</p> <p>Workplace.</p> <p>Compliance certifiers details.</p> <p>Issue, effective and expiry dates.</p>	<p>Noted. No change required.</p> <p>The suggested information is included in clauses 12 and 14 and schedule 3.</p>

QUESTION 13

Are the competency requirements for handlers involved with vertebrate toxic agents adequate? Schedule 4

3/8	Yes	Noted.
5	<p>The requirements outlined are sufficient and an increase from the current requirements. It is suggested that the information knowledge required under 1(a) of schedule 4 be the same as is required under the storage facility rules.</p> <p>It is suggested that the information required for 1(b) only apply to those certificate holders who could be involved in the bulk transport of substances such as 1080 for aerial use and that it be specifically taught/tested as part of that use.</p>	<p>Noted. No change to provisions concerning verification of competency requirements required.</p> <p>1(b) only applies if the transport would involve the bulk transport of vertebrate toxic agents. This is for both ground and aerial application.</p>
11	<p>Sch 4 1(a) Need to elaborate on what is meant by 'types' VTAs.</p> <p>Sch 4 1(b) The bulk quantity criteria would be triggered by a truck carrying a small amount (50kg/l) of agrichemicals. Knowledge of HSNO & DG classifications are more relevant than GHS classifications (they are all different).</p> <p>Sch 4 2(a) - (d) Some facilities could be for storage only (transportation would be conducted by another party). Why require conditions relating to transport and use (permissions, notifications and signage requirements for application).</p> <p>Sch 4 3 'Safe handling and use'. Handling is not defined and is used in both the definition of storage and use in Part 1. It needs to be defined.</p>	<p>Noted.</p> <p>Changes have been made to the performance standard, where appropriate.</p> <p>Transport might occur as tools of trade. Even when transporting small quantities, the legislative requirements of the Health and Safety at Work (Hazardous Substances) Regulations 2017 apply.</p> <p>Handling (handle) is defined in the Health and Safety at Work (Hazardous Substances) Regulations 2017.</p>

QUESTION 14

What information would you record on a compliance certificate? Schedule 4

3/8	<p>As for agrichemicals the specific substances and physical state should be listed along with method of application. An example table needs to be added to Schedule 4 Part 2.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>The physical state of the substance can be specified in the scope of certification, however this is at the discretion of the compliance certifier.</p> <p>Examples are provided in the main body of the performance standard (clause 12).</p>
4	<p>UN No, Classification, and application description as demonstrated during assessment.</p> <p>VTAs and Fumigants - itemised.</p> <p>Physical state of approved hazardous substances.</p> <p>Agrichems - Hazard Classification and 'Agchem' limitation.</p> <p>Specific Hazardous Substances and approved use.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>The physical state of the substance can be specified in the scope of certification, however this is at the discretion of the compliance certifier.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
5	Those points outlined in section 4 of part 2 would be adequate along with any restrictions on use types such as for ground deployment only or for ground and aerial deployment.	Noted.
11	Legal name and residential address. Work telephone and email. Haz subs classifications. Individual VTAs by name. Life cycle phases. Workplace. Compliance certifiers details. Issue, effective and expiry dates.	Noted. No change required. The suggested information is included in clauses 12 and 14 and schedule 4.
QUESTION 15 Are the competency requirements for handlers involved with other class 6 substances adequate? Schedule 5		
2	Yes	Noted.
3/8	No. Schedule 5 is missing key critical knowledge requirements including signage, transport restrictions, group standard restrictions, disposal requirements, equipment handling procedures (eg decontamination of equipment). Some of these requirements are listed for agrichemicals, fumigants and vertebrate toxic agents and are just as important for other Class 6 substances. The safe handling and use section is not thorough enough given the varied nature of the substances and usage in industry covered in this schedule. For example: where usage involves automatic dosing of the substance and dilution of the equipment will require calibration; in an emergency situation procedures for securing the site, evacuation of the site and neighbouring sites, knowledge of decontamination etc will be important.	Noted. Changes have been made, where appropriate, to provisions relating to the verification of competency requirements.
6	The extensive topics covering exposure, poisoning, and mode of action can be quite a slog to train on, and as such confirming competency can take a long time – especially when it comes to applicants with multiple products with very different exposure routes, modes of action, and poison responses. Specifics on what is expected would be useful to keep efficiency in mind.	Knowledge of these components are key concepts for the safe handling of these substances. No changes made to the performance standard. Specifics are provided in the relevant schedules.
11	Sch 5 1(b) The bulk quantity criteria would be triggered by a truck carrying a small amount (50kg/l) of agrichemicals. Knowledge of HSNO & DG classifications are more relevant than GHS classifications (they are all different). 'What to do in an Emergency' provisions should be required even if the Certified Handler is only certified for the storage phase. Sch 5 3 The classification should suffice. Chemfreight stores thousands of hazardous substances, it would not be feasible to list every substance. In the main, the default controls are based on the classification. Where the default controls are varied for a particular substance, then that can be listed individually.	Noted. Changes have been made to the performance standard, where appropriate. Emergency management provisions are referred to in clause 8. Risks need to be managed taking into account potential chemical or physical reactions between hazardous substances. SDS also refer to incompatibles in Sections 7 and 10.

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
	If you used the proper chemical name, most Certified Handlers wouldn't know the chemical as they use the name written on the label.	Trade names of products must not be used. Provisions to list a group of hazardous substances of similar nature (group standard) have been added.
QUESTION 16 What information would you record on a compliance certificate? Schedule 5		
3/8	The specific substances and physical states, life cycle phases, any limitations on application or usage, restrictions on workplaces etc should be required. An example should be provided under Schedule 5 Part 2.	Noted. No changes were made to the performance standard. The physical state of the substance can be specified in the scope of certification, however this is at the discretion of the compliance certifier.
4	UN No, Classification, and application description as demonstrated during assessment. VTAs and Fumigants - itemised. Physical state of approved hazardous substances. Agrichems - Hazard Classification and 'Agchem' limitation. Specific Hazardous Substances and approved use.	Noted. No changes were made to the performance standard. The physical state of the substance can be specified in the scope of certification, however this is at the discretion of the compliance certifier.
6	Classification (6.1A/B) and type of substance (ie acids, metal industry products etc) followed by one or two example substances used. If only one or two substances used, then that's all will be mentioned on the certificate instead of the general type. However, for large warehouses or clients with extensive ranges (10-20 or more 6.1A and B substances), then it may be required to create a more expansive list on the back, but generally we try to keep it to one page.	Noted. Provisions to list a group of hazardous substances of similar nature (group standard) have been added.
9	Substance - either. - chemical name. - group standard plus description (eg Metal Industry Products (Toxic 6.1, Corrosive)) containing hydrofluoric acid.	Noted. Changes have been made to the performance standard.
11	Legal name and residential address. Work telephone and email. Haz subs classifications. Life cycle phases. Workplace. Compliance certifiers details. Issue, effective and expiry dates.	Noted. No changes were made to the performance standard. The suggested information is included in clauses 12 and 14. Details of what substances are covered under the issued certificate are still required.

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
<p>COMMENT 1 Do you have any comments on Part 1 – Preliminary Provisions? Clauses 3-4</p>		
4	<p>For any assessor, in this case a Compliance Certifier must have a measurable benchmark for which to follow if they are to contribute to national consistency. Without this assessment tool this entire model is fundamentally flawed and will fail to test of being a foundation for building consistency. Individual Compliance Certifiers cannot validate consistently with their peer if they are not required to work from the exact same 'page'. A current problem is the 'Compliance Certifier consistency drift' resulting directly from the complete lack of moderation and mentoring. This Performance Standard serves to alter nothing in this space.</p>	<p>It is not clear what precisely this comment relates to. The performance standard will contribute to consistency in the issuing of compliance certificates for handlers. Other parties also have a role, such as training providers. WorkSafe has no regulatory authority to oversee the delivery of training, moderation or mentoring.</p>
6	No	Noted.
9	<p>Could re-iterate in the performance standard the requirement of HSW-HS Reg 6.22(4) – not certifying those you have trained.</p> <p>Definition of agrichemical refers to NZS 8409-2004 – put the wording of the definition in the performance standard as well – having to go to an external standard for a definition is too onerous (currently ~\$200 from Standards NZ). The performance standard would need to be updated to reflect a new definition in the standard whether or not the definition wording is included. It is tidier to have the definition in the Performance Standard.</p> <p>Definition of bulk – this concept needs to be reworded. I understand that the intent is to include quantities over the tools of trade threshold, but confusion with the definition of bulk in the NZTA DG Rule needs to be avoided.</p> <p>Definition of lifecycle phase – no definition of disposal included – should there be reference to the EPA Notice, or the definition in the HSNO Act (for consistency it would be helpful to have the definition referred to in this document).</p> <p>continued under Additional Comments.</p>	<p>Noted.</p> <p>The requirement not to issue a certified handler compliance certificate to a person the compliance certifier trained or supervised applies as it is a legal requirement set out in regulation 6.22 of the Health and Safety at Work (Hazardous Substances) Regulations 2017. There is no need in duplicating this requirement.</p> <p>Changes to the definition of agrichemicals have been made. A process with Standards New Zealand has been started to incorporate further details.</p> <p>The introductory section in clause 4 states that this definition only applies within the scope of this performance standard.</p> <p>Disposal is defined in the Health and Safety at Work (Hazardous Substances) Regulations 2017 and refers to the definition that is given to disposal under HSNO. The Hazardous Substances (Disposal) Notice 2017 amends the definition of disposal depending on the classification of the substance. No change required.</p>
11	<p>Bulk quantities are very low.</p> <p>'Handling' needs to be defined. It is used in the definition of both 'Use' and 'Storage'.</p> <p>It is suggested that 'Storage' includes repackaging where the primary containment is not breached, (ie no exposure to the contents of the package). 'Use' and 'Manufacture' would then involve the breaching of primary containment (ie opening the packaging).</p> <p>'Decanting' should be included in 'Manufacture'.</p> <p>'Use' should mean end use.</p>	<p>No changes were made to the performance standard. The definitions are based on existing provisions in the Dangerous Goods Rule, the HSNO Act and the HSWA Act and its Regulations.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
<p>COMMENT 2 Do you have any comments on Part 2 – Assessing applicant for certified handler compliance certificate? Clauses 5-11</p>		
1	<p>5(1)(a) and (b) are ridiculous in terms of verifying the identity of the applicant.</p> <p>It is not possible for a training organisation to verify the identity of an applicant from a birth certificate or name change certificate, and it is not reasonable to insist an applicant hold a passport.</p> <p>It would be far better to require the applicant to provide 'suitable photographic ID' such as a Passport, Driver's Licence, Firearms Licence or other official document. From the viewpoint of a training organisation, birth certificates are worthless as proof of identity and name change certificates only have validity where an applicant has changed their name but not yet updated the photographic ID.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>A driver's licence may not be issued in the full legal name of the person holding it. As such it does not meet this requirement.</p> <p>While not prescribed, people have the discretion to ask to sight additional ID, such as photographic ID to confirm the identity of the person.</p>
2	<p>How do Research Laboratories inform suppliers we hold competency levels to safely handle Class 6.1A and 6.1B without certified handler certificates? For example, sourcing formaldehyde used as a preservative for aquatic organisms.</p>	<p>An option would be to provide a written notification to the supplier that the lab is operating in accordance with Part 18 of the Health and Safety at Work (Hazardous Substances) Regulations 2017, and therefore the certified handler requirement does not apply to the laboratory. However, the supplier might require further information to ensure this is the case.</p>
3/8	<p>For Clause 6(2)(a), the classification numbering system, need to clarify if this is HSNO, GHS or both. It should be noted that a person from overseas coming to work in New Zealand (eg agrichemical worker from Australia would only be familiar with the GHS numbering system).</p> <p>Clause 12(7), who decides whether recording the workplace or workplaces is applicable? The PCBU? The Certifier? There needs to be clear guidance for certifiers around workplace criteria. While it may be applicable to specify more than one workplace, as in the example given for workplaces under the management of the Department of Conservation, it may not be applicable for someone handling other Class 6's who changes workplaces where different equipment and procedures are used even though the substance being handled hasn't changed. For example, sodium cyanide is using in agriculture and also in mining. The agriculture use of a Controlled Substance Licence is required.</p>	<p>Noted. Changes have been made to the performance standard.</p> <p>The compliance certifier decides if the certificate is limited to a specific workplace (eg snow avalanche control at a specific ski field) or certain workplaces (snow avalanche control).</p> <p>Agrichemicals do not trigger the requirement to hold a controlled substance licence.</p>
4	<p>The level of in depth validation of an individuals identification is ridiculous and indicates a lack of situational awareness on the Perf Std author. Also requiring validation of the first level of evidence listed, this is even more unrealistic within the target audience. A photographic licence, firearms and drivers, and a utility account to confirm address is sufficiently robust.</p> <p>5(1)(a) and (b) are ridiculous in terms of verifying the identity of the applicant. It is not possible for a training organisation to verify the identify of an applicant from a birth certificate or name change certificate, and it is not reasonable to insist an applicant hold a passport.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>A driver's licence may not be issued in the full legal name of the person holding it. As such it does not meet this requirement.</p> <p>While not prescribed, people have the discretion to ask to sight additional ID, such as photographic ID to confirm the identity of the person.</p> <p>You would need to provide a written notification to the supplier that the lab is operating in accordance with Part 18 of the Health and Safety at Work (Hazardous Substances) Regulations 2017, and therefore the certified handler requirement does not apply to the laboratory. However, the supplier might need further information to ensure this is the case.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
	<p>You would need to provide a written notification to the supplier that the lab is operating in accordance with Part 18 of the Health and Safety at Work (Hazardous Substances) Regulations 2017, and therefore the certified handler requirement does not apply to the laboratory. However, the supplier might need further information to ensure this is the case.</p>	
5	<p>This seems to be a more rigorous process than currently undertaken but one that we support to ensure that high standards of competency are gained and maintained.</p>	Noted.
6	<p>We recommend using a drivers licence as an additional 'document' for verification of legal name.</p> <p>Not everyone has a passport, and a birth certificate is not a photo document - it would verify the legal name, but not the person claiming to have it.</p> <p>Obtaining a Drivers licence (or even an 18+ card) requires at least one document that has the legal name on it and should be acceptable.</p> <p>Requiring a certified copy is acceptable, if a headache for some people.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>A driver's licence may not be issued in the full legal name of the person holding it. As such it does not meet this requirement.</p> <p>While not prescribed, people have the discretion to ask to sight additional ID, such as photographic ID to confirm the identity of the person.</p>
9	<p>5(1)(a) Driver's License should be acceptable as a form of ID. It is understood that a Driver's Licence does not necessarily specify the full legal name. Both regulation 6.26(2)(f) & 7.13(2)(b) state that 'the name' of the person is to be included. I propose that a Driver's Licence be acceptable proof of name for substances that do not also need a Controlled Substance License.</p> <p>5(2)(b)(i) test should cover the deficiency in evidence, not necessarily the full breadth of controls.</p> <p>7(2)(c) - record keeping - add wording 'if applicable'.</p> <p>7(2)(j) - while exposure standards are a control, it is the PCBUs duty to ensure exposure is not exceeded - so could be argued that while the CH needs to know about the concept WES, they do not necessarily need to know the specific concentration. If using substances with a TEL however, they may need to know more specifics (eg fumigants).</p>	<p>Noted. Changes were made to the performance standard, where appropriate.</p> <p>A driver's licence may not be issued in the full legal name of the person holding it. As such it does not meet this requirement.</p> <p>While not prescribed, people have the discretion to ask to sight additional ID, such as photographic ID to confirm the identity of the person.</p> <p>Exposure standards are an important part of health protection. No changes made.</p>
10	<p>The word pesticides appears to have been used interchangeably with agrichemicals. Agrichemicals includes other products than just pesticides so is broader. Similarly, 2(a) refers to class 6 substances but other references to pesticides/agrichemicals are not limited in the same way.</p> <p>There two references to transport - one relating to class 6 agrichemicals and the other to pesticides? Either delete 2(b) or delete 'and transport' from 2(a).</p> <p>I am unaware of legislative controls relating to 'misapplied', 'lost' or 'stolen' agrichemicals. What is the definition of 'misapplied'? I would be concerned if 'misapplied' was defined as when the use directions on the labels were not followed as there are multiple examples of appropriate use that is off-label but not misapplication.</p>	<p>Noted. Changes were made to the performance standard, where appropriate.</p> <p>The term pesticides is referred to in regulation 13.15 while class 6 substances are referred to in regulation 13.14. The use of the wording is intentional.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
	Disposal 'according to the label' is a confusing phrase often found on labels and basically means 'use it up', which isn't really disposal. It would be better to refer to the relevant EPA notice as per 18.14(d) of regulations 'the the disposal requirements for the substance set out in the Hazardous Substances (Disposal) Notice 2017'.	
11	Part 2 5 (3) If (3) has be satisfied, does this then meet the requirements for (2)?	Clause 5(3) applies if information from a third party has been received. This information may only cover a subset of the prescribed requirements under regulation 4.3 of the Health and Safety at Work (Hazardous Substances) Regulations, and as such only this aspect is deemed to be met (eg knowledge of HSNO). If the provided documents do not demonstrate sufficient knowledge, then clause 5(2) applies.
<p>COMMENT 3 Do you have any comments on Part 3 – Certification and record keeping requirements? Clauses 12-15</p>		
3/8	There needs to be sufficient room on the certificate template to add additional comments relating to equipment, usage restrictions and to detail exactly what substances and usage situations the certified handler is approved for.	Noted. No change required. The scope of certification section caters for this need.
4	Clause 14 – Personal DOB, telephone details, email address and residential address details kept separate from a Certificate and restricted to a database of certified handlers.	The information in the register of compliance certificates should be aligned with the information listed on the certified handler compliance certificate. The Health and Safety at Work (Hazardous Substances) Regulations 2017 specify what information is required. Note that some of the information, such as the Date of Birth is not required. No changes were made to the performance standard.
5	<p>We see no reason for the control outlined in clause 7 of this section regarding the use of VTA's. The work place or employer should have no bearing on the competency of the user or the validity of the certification. As the properties of the substances used do not change and it is expected that the parameters of this document will not be altered depending on the work place. Should a work place decide that they will have a standard higher in their training this can (and should) be covered by that organisations internal policies.</p> <p>If this clause is to stay we request that it be altered to cover general industry types and locations such pest animal control in rural areas.</p>	<p>Noted. No changes were made to the performance standard.</p> <p>Specifying a workplace is envisaged by regulation 4.3(1) of the Health and Safety at Work (Hazardous Substances) Regulations 2017.</p>
6	<p>Date of issue/enforcement seems contradictory to previous advice.</p> <p>Is it 0 days or 40?</p> <p>Date of expiry makes the most sense for a certificate, especially to the one that holds it. Date of issue can also be argued for, but date of enforcement is not required for the certificate, adds nothing, and wastes space.</p> <p>Leave date of enforcement for the certifier register, where its auto-completed anyway.</p>	<p>Noted. Changes to the provisions regarding date of issue/date comes into force were made.</p> <p>An issued compliance certificate should mirror the information that is captured in the Register of Compliance Certificates. As such the date the certificates comes into force will need to be retained.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
9	<p>14(2)(b)(iii) – differs from Information & Procedures draft performance standard.</p> <p>14(2)(c) – should be 5 years from the date it comes into force.</p> <p>It seems that the date comes into force should be the same as the date of issue.</p> <p>14(3) – good example for a minor error as this type of error is intended to be covered as minor.</p>	<p>Noted. Changes were made to the performance standard, where appropriate.</p> <p>Regulation 4.2(3) of the Health and Safety at Work (Hazardous Substances) Regulations 2017 states the date of expiry is 5 years after the date of issue.</p>
11	<p>The stages of the lifecycle should all be treated as separate requirements as some individuals will only be exposed to the hazardous substance for only one stage (eg just storage or just transport).</p> <p>How long do the records need to be kept for?</p>	<p>Noted. Requirements to keep records are set out in the performance standard: Information and Procedure Requirements for Compliance Certifiers that was consulted on previously. The period that was consulted on stated that records must be kept for five years after the expiry of the compliance certificate.</p> <p>Life cycles will be assessed on a case-by-case basis by the compliance certifier.</p>
<p>COMMENT 4 Do you have any comments on the proposed requirements for 'Additional provisions: class 1 hazardous substances'? Schedule 1</p>		
4	<p>1(c) include – 'Dangerous Goods for Transport Regulatory regime'.</p>	<p>Noted.</p> <p>Changes have been made to the performance standard.</p>
<p>COMMENT 5 Do you have any comments on the proposed requirements for 'Additional provisions: agrichemicals'? Schedule 2</p>		
4	<p>1(a) Reference to 'Subsidiary Risks' should read 'Additional Risks'.. Subsidiary is limited to Transport Regs.</p> <p>1(b) Globally Harmonized System of Classification of Labelling of Chemicals, in addition to the Dangerous Goods Transport framework.</p> <p>3 Hygiene requirements, PPE Requirements, What to do in an emergency situation, Ability to articulate risks relating to toxic uptake, body burden pathways, metabolism and target organs.</p>	<p>Noted. The requirements in Schedule 2 are in addition to clauses 6 to 9. Certain requirements such as PPE and responses in an emergency are addressed there.</p> <p>The document refers to subsidiary properties not subsidiary risks. Subsidiary properties is a common term used under HSNO in regard to hazard classification.</p>
9	<p>The situation where a handler is not being certified for use of agrichemicals but only for manufacture or storage needs to be considered and provided for.</p> <p>A reference to the definition of Agrichemicals should be included – whether to this performance standard, or the NZ standard.</p> <p>Should there be provision for further limitation on the type of product, for example, by type of product (eg herbicide), or active ingredient? This further aligns with 12(6).</p>	<p>Noted.</p> <p>Agrichemicals are defined under clause 3 (Interpretation).</p> <p>The type of product can be restricted in accordance with clause 12(2)(a).</p> <p>Changes have been made to the performance standard to better reflect what's involved in verifying competency requirements when certain life cycle phases are not being considered.</p>
<p>COMMENT 6 Do you have any comments on the proposed requirements for 'Additional provisions: fumigants'? Schedule 3</p>		
4	<p>S1(a) Reference to 'Subsidiary Risks' should read 'Additional Risks'.. Subsidiary is limited to Transport Regs.</p> <p>1(b) Globally Harmonized System of Classification of Labelling of Chemicals, in addition to the Dangerous Goods Transport framework.</p> <p>3 Hygiene requirements, PPE Requirements, What to do in an emergency situation, Ability to articulate risks relating to toxic uptake, body burden pathways, metabolism and target organs.</p>	<p>Noted. The requirements in Schedule 2 are in addition to clauses 6 to 9. Certain requirements such as PPE and responses in an emergency are addressed there.</p> <p>The document refers to subsidiary properties not subsidiary risks. Subsidiary properties is a common term used under HSNO in regard to hazard classification.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
9	The situation where a handler is not being certified for use of fumigants but only for manufacture or storage needs to be considered and provided for.	Noted. Changes have been made to the performance standard to better reflect what's involved in verifying competency requirements when certain life cycle phases are not being considered.
<p>COMMENT 7 Do you have any comments on the proposed requirements for 'Additional provisions: vertebrate toxic agents'? Schedule 4</p>		
4	<p>1(a) Reference to 'Subsidiary Risks' should read 'Additional Risks'.. Subsidiary is limited to Transport Regs.</p> <p>1(b) Globally Harmonized System of Classification of Labelling of Chemicals, in addition to the Dangerous Goods Transport framework.</p> <p>3 Hygiene requirements, PPE Requirements, What to do in an emergency situation, Ability to articulate risks relating to toxic uptake, body burden pathways, metabolism and target organs.</p>	<p>Noted. The requirements in Schedule 2 are in addition to clauses 6 to 9. Certain requirements such as PPE and responses in an emergency are addressed there.</p> <p>The document refers to subsidiary properties not subsidiary risks. Subsidiary properties is a common term used under HSNO in regard to hazard classification.</p>
9	The situation where a handler is not being certified for use of vertebrate toxic agents but only for manufacture or storage needs to be considered and provided for.	Noted. Changes have been made to the performance standard to better reflect what's involved in verifying competency requirements when certain life cycle phases are not being considered.
<p>COMMENT 8 Do you have any comments on the proposed requirements for 'Additional provisions: other class 6 hazardous substances'? Schedule 5</p>		
2	For Research Laboratories, the range and number of class 6.1A and 6.1B compounds that are held can be numerous and some are kept in storage areas. Does every chemical need to be named on the certificate, or is it appropriate to acknowledge that small quantities of toxic substances are under the control of certified handler(s) or staff with competency levels equivalent to certified handlers?	Individual substances will need to be listed, albeit it is also possible to refer to a group standard and have a relevant description included instead
4	<p>1(a) Reference to 'Subsidiary Risks' should read 'Additional Risks'.. Subsidiary is limited to Transport Regs.</p> <p>1(b) Globally Harmonized System of Classification of Labelling of Chemicals, in addition to the Dangerous Goods Transport framework.</p> <p>3 Hygiene requirements, PPE Requirements, What to do in an emergency situation, Ability to articulate risks relating to toxic uptake, body burden pathways, metabolism and target organs.</p>	<p>Noted. The requirements in Schedule 2 are in addition to clauses 6 to 9. Certain requirements such as PPE and responses in an emergency are addressed there.</p> <p>The document refers to subsidiary properties not subsidiary risks. Subsidiary properties is a common term used under HSNO in regard to hazard classification.</p>
6	<p>One point of interest is the requirement for chemical name.</p> <p>If a handler only uses a specific type of chemical, such as a product that contains 35% Hydrofluoric acid, are we to give them a blanket certification for 'Hydrofluoric acid' or do we limit it to something like '7-60% Hydrofluoric acid', as theres a possibility that the manufacturer of the product may alter the quantity in the mix?</p> <p>What if the handler doesnt know what the exact quantity is in the product, but only knows the product has been deemed a 6.1B?</p> <p>Should it be a condition, such as 'Only for the use of products containing HF for cleaning'?</p> <p>How do we cover mixtures where the toxic component quantity is unknown or variable?</p>	<p>The name of the active ingredient (eg hydrofluoric acid) should be sufficient. However, the scope of certification should always reflect the competency and knowledge of the certified handler.</p> <p>If a person has only been assessed as competent to handle a certain concentration of a substance, this can be specified in the scope of certification.</p> <p>It is also possible to refer to a group standard and have a relevant description included.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
9	<p>Schd 5 - Part 1 - 1(b) - given definition of bulk in the Land Transport Dangerous Goods rule: www.nzta.govt.nz/resources/rules/dangerous-goods-2005/#part2 it is confusing to use a different definition given the similarity of the contexts.</p>	<p>Bulk in this performance standard has the meaning as above tools of trade limits in the DG Rule.</p>
<p>COMMENT 9 Do you have any comments on the proposed requirements for 'Additional provisions: other class 6 hazardous substances'? Schedule 5</p>		
2	<p>There is still a great deal of uncertainty amongst staff at Research Laboratories about the requirements to have certified handlers on site. Many laboratories utilize Class 6.1A and 6.1B toxic substances from time to time in accordance with standard operating methods and safe methods of use developed for these compounds. It is our understanding that Research Laboratories are exempt from requiring certified handlers and/or compliance test certificates for laboratories as outlined in Part 18 of the Health and Safety at Work (Hazardous Substances) Regulations 2017, provided we comply with necessary controls as outlined in Part 18. Do Research Laboratories need to have certified handlers to use Class 6.1A and Class 6.1B substances under their control?</p> <p>It is our understanding that we still require location compliance certificates and certified handlers for storage areas or dangerous goods areas? Is this correct? Some sites often hold bulk quantities of some classes of chemicals (eg flammable liquids requiring certified handlers, signage, emergency management controls etc). We are seeking clarification on this issue to ensure we meet compliance requirements for such areas.</p>	<p>This understanding is correct. Certification is not required for a laboratory that complies with Part 18 of the Health and Safety at Work (Hazardous Substances) Regulations 2017.</p> <p>If the research laboratory has dedicated storage areas that are not an integral part of the laboratory itself and does not meet the definition of a laboratory under Part 18, then certification (eg location, certified handlers) is required.</p> <p>WorkSafe is currently working on guidance material for research laboratories. These can be found on our website in due course.</p>
3	<p>Training of approved handlers in the past has been problematic and inconsistent. There needs to be clear guidance to compliance certifiers on the evidence required, prerequisite training, and the requirement for practical demonstration.</p> <p>Comparing Certified Handler to Approved Handler: the Certified Handler requires a much higher level of training than Approved Handler. Approved Handler would be equivalent to meeting the criteria of Clause 4.5 of the Regulations. To be a Certified Handler requires a greater degree of verification from the compliance certifier. While attending a training course similar to those provided for approved handlers, along with the appropriate practical experience may qualify a person as a Competent Person, this will only be a part of the evidence required to be a Certified Handler. This then creates an issue with the current 'grandfathering' of approved handlers as being certified handlers as they may not have enough skill and knowledge to meet the higher level of competence required for a Certified Handler. Particularly for those handling 'other' Class 6's, the approved handler verification have also covered other classes of substances such as flammables and oxidisers and the assessment of the Class 6 substances may not have been as thorough. For those Approved Handler certified immediately prior to December 2017, it will be 5 years before they are reassessed.</p>	<p>This performance standard sets out the requirements for a compliance certifier to issue a certified handler compliance certificate.</p> <p>'Grandfathering' has been provided for under the transitional provisions and is out of scope of this performance standard. Renewal assessments will need to be a full assessment in line with the Health and Safety at Work (Hazardous Substances) Regulations 2017.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
	<p>The Certified Handler requirement includes consideration for ensuring workplace context is required, therefore the Certified Handler certificate should not be transferable between workplaces, especially for other Class 6s. A system needs to be developed for the review of Certified Handlers who are changing workplaces.</p> <p>Historically training courses for approved handlers have been all theoretical with no practical component. (with the exception of Growsafe) and was reliant on the PCBU providing a declaration of practical experience and competence. Certified handlers should require a practical component to their assessment by the certifier preferably at the applicant's workplace. Considerations include the cost of getting a certifier to the site and ensuring there is a clear and consistent assessment framework.</p> <p>The requirements of clause 4.5 are a prerequisite to being a certified handler and place a significant responsibility on the PCBU to determine what is 'appropriate'. However, there is currently no regulatory requirement for PCBUs to be trained and many PCBUs may not fully understand their responsibilities.</p> <p>There is already some misunderstanding among PCBUs who are asking for Certified Handler certificates for other classes of substances that don't trigger the requirement. It is also not uncommon for PCBUs to ask for an increased scope of certification, including additional substances and methods, that the applicant may be required to use in the future so they don't have to go through additional expense to get the certified handler certificate upgraded. The scope of the certificate is defined at the time of issue and limited to what substances and methods the applicant can demonstrate competency in and cannot cover additional products or methods that they haven't been fully trained on yet.</p>	<p>Once issued, a compliance certificate cannot be amended to change the workplace or scope of certification. A new assessment needs to take place and a new certificate would need to be issued.</p> <p>While site visits may occur, it is not the intent to prescribe this. In some cases, this may not be fully practicable (eg laying baits for pest control purposes in remote areas).</p> <p>Clause 9 of the performance standard requires that regulation 4.5 of the Health and Safety at Work (Hazardous Substances) Regulations 2017 is considered as part of the assessment for a certified handler compliance certificate.</p> <p>A PCBU has certain duties under the Health and Safety at Work Act 2015 and the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016. These duties are out of scope of this document.</p>
4	<p>As there are now NZQA unit standards directly relating to Certified Handler, it is critical these two documents align with a mutually beneficial pathway of expectations.</p> <p>As the NZQA Unit Standard is nationally developed by a group consisting of the regulator, industry associations representing certifiers, users, transporters, importers, manufacturers, and representative training providers, this Unit Standard will clearly be possibly the most consistently quantifiable evidence acknowledged as competency. To achieve the Unit Standard 31291 a Level 5 qualification, readily demonstrates considerable training and evidence provided to date. This is ample to demonstrate the intent of required by the House of Representatives following the recommendations from the Pike River Task Force recommendations as well as the intent inferred by the HS Regulations.</p>	<p>Agreed. The performance standard does not conflict with the unit standard.</p> <p>The delivery of the unit standard is at the discretion of the training provider. WorkSafe is providing greater clarity what requirements need to be met prior to issuing a certified handler compliance certificate, in particular in respect of the safe handling.</p> <p>The unit standard should be able to assist the compliance certifiers help verify that certain requirements have been met. WorkSafe expects that unit standards are delivered and moderated to a high standard.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
6	<p>This standard shows a lot of process is involved in the certification of a handler, especially since this process needs to be repeated again for those who will be renewing their certificate. There's also a lot of information that needs to be provided to industry and the applicants in order for them to be eligible for a certificate.</p> <p>As a result, we expect costs for certification to rise to make this endeavour worthwhile for certifiers.</p>	Noted.
8	<p>Practical demonstration of competency should be a very important aspect of verification for certification.</p> <p>It is apparent that the Certified Handler requires a higher level of training than an Approved Handler. An Approved Handler would be equivalent to meeting the criteria of Clause 4.5 of the Regulations. To be a Certified Handler requires a greater degree of verification of competency from the Compliance Certifier.</p> <p>The requirements of clause 4.5 are a prerequisite to being a certified handler and place a significant responsibility on the PCBU to determine what is 'appropriate'. There is currently no regulatory requirement for PCBUs to be trained and many PCBUs may not fully understand their responsibilities. It may need to be reconsidered whether PCBUs of companies using tracked substances as VTAs or fumigants may also need to be trained.</p>	<p>Noted.</p> <p>While site visits may occur, it is not the intent to prescribe this. In some cases, this may not be fully practicable (eg laying baits for pest control purposes in remote areas).</p> <p>Clause 9 of the performance standard requires that regulation 4.5 of the Health and Safety at Work (Hazardous Substances) Regulations 2017 is considered as part of the assessment for a certified handler compliance certificate.</p> <p>A PCBU has certain duties under the Health and Safety at Work Act 2015 and the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016. These duties are out of scope of this document.</p>
9	<p>Inclusion that evidence may be provided by video or video-call would be good to make it clear that this is an option.</p> <p>Commencement – ensure that there is an adequate lead-in time following approval to ensure that the final version of the performance standard can be digested, actioned in-house and communicated to clients.</p> <p>As there is a lot of information specific to Class 1 – it could be useful to have separate performance standards for Class 1 and 6.</p> <p>Definition of national security – presumably there is a statute that defines what is in a national security context.</p> <p>Definition of Practical experience – only includes criteria for class 1 – needs to specify 'in relation to Class 1..'</p> <p>Definition of research – limits to Class 1 – r needs to specify 'in relation to Class 1..'</p> <p>Definition of storage – query use/spelling of depositary.</p> <p>Use of handling in definition of use and storage – could arise in ambiguity. If the intent under the definition of storage is basic handling of the hazardous substance in closed containers/ packaging or similar then it needs to state so. Previous definitions and advice around storage have included 'The packages would normally be closed, but will include the breaking down of packages and repackaging into different containers', and that at a service station 'storage' was applicable and not 'use' (I recognise that flammable liquids are no longer covered by the certifier handle requirement).</p>	<p>Noted. Changes were made to the performance standard, where appropriate.</p> <p>A lead-in time prior to the performance standard coming into force will be provided for.</p>

SUBMITTER	FEEDBACK	WORKSAFE'S RESPONSE
	<p>8(2) - referring out to GRWM again seems to be scope creep in relation to the CH requirements - heading more into PCBU responsibilities?</p> <p>8(2)(e) - does site plan here refer to a map or procedures.</p> <p>9(2)(b) - scope creep in to GRWM 9.</p> <p>In Part 3 - the layout of the examples makes it difficult to navigate which clauses are which - can the examples been indented.</p> <p>12(7) - support the example that covers the handler at workplaces that may be temporarily under the control of the handler's PCBU, or where the PCBU has been contracted to work at a third party site. We have examples of people who travel to their clients sites to undertake work with hazardous substances that do need a certified handler (eg application of floor coatings that use a 6.1B isocyanate based component). This situation needs to be provided for.</p> <p>Schedules 2, 3, 4 & 5 in 1(b) refers to transportation and knowledge of the GHS - should this refer to either the Land Transport Dangerous Goods Rule (and equivalents for rail, air and maritime as applicable) or to the UN Recommendations on the Transport of Dangerous Goods. If the applicant has a DG endorsement for road transport, can that be taken as evidence of knowledge of the requirements. Compare with provisions of Regulation 13.11.</p>	
11	<p>Chemfreight is a 3PL and stores hazardous substances on behalf of customers. Chemfreight requires Compliance Certifiers for 'Storage' only for thousands of different products. Many of the requirements in this Performance Standard bundle 'Storage' and 'Use' together and also require individual listing of each hazardous substance on the Compliance Certificate.</p>	<p>Noted. Changes were made to the performance standard, where appropriate.</p> <p>Vertebrate toxic agents and fumigants will need to be listed individually. Explosives may be listed by their classification. Agrichemicals can be listed as Agrichemicals - 6.1A and 6.1B. Other class 6 substances may be listed either by their substance name or as they are covered by a suitable group standard.</p>

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