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## Regulation 17.80 – records for certification of stationary tank

**This regulatory clarification explains how to approach a situation where the records required by regulation 17.80(2) are not available to a compliance certifier.**

Regulation 17.80(2) of the Health and Safety at Work (Hazardous Substances) Regulations 2017 (the Regulations) requires that a PCBU must have records that describe how a stationary container system complies with Part 17.

A compliance certifier must check that those records are available for inspection when they assess the stationary container system for compliance certification (regulation 17.91(2)(k)). Not all certifiers are aware that this is required.

If records are not available, what reliance can be placed on a previous installation compliance certificate for the system?

The requirement to maintain records for stationary container systems existed previously under clause 81 of Schedule 8 of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice, 2004 (the Transfer Notice).

Similar provisions were reflected in regulation 17.80 of the Regulations when they came into force on 1 December 2017. However, regulation 17.80 only required some but not all of the records previously required to be held under the Transfer Notice. This was changed with an amendment to the Regulations on 5 January 2022, requiring a PCBU to hold records showing compliance with all of Part 17.

This means that for the period 1 December 2017 to 4 January 2022, there may be a gap in the records held by a PCBU.

For a stationary container system that was previously certified under the Transfer Notice, an existing stationary container system compliance certificate (or evidence the system had previously been certified) can be used as evidence that records were held.

If there is any doubt, the compliance certifier's assessment should confirm that the stationary container system is operationally safe. The certifier can check the design approval through the register, and they could ask for additional assessments if necessary (for example, pressure tests).

Holding records is an administrative control, and not holding such records does not create a safety risk to the system.

If the compliance certifier's inspection shows that the stationary container system is compliant with the prescribed requirements (other than regulation 17.80 and the requirement for records), and they are confident regarding the safety of the system, issuing a compliance certificate under regulation 6.23(3) can be considered if the PCBU is unable to show the records required by regulation 17.80.