



This performance standard is administered by WorkSafe New Zealand. For more information please see:

Website: <http://www.worksafe.govt.nz>

Contact phone: 0800 030 040

Contact address: PO Box 165 Wellington 6140 New Zealand

Health and Safety at Work (Hazardous Substances—Information and Process Requirements for Compliance Certifiers) Performance Standard 2019

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.

Contents

	Page
1 Title	2
2 Commencement	2
Part 1	
Preliminary provisions	
3 Purpose	2
4 Scope	3
5 Interpretation	3
Part 2	
General requirements	
6 General requirements for compliance certifiers	3
Part 3	
Specific requirements	
Subpart 1—Compliance certification processes	
7 Inquiries, inspections, assessments, and examinations	4
8 Issuing compliance certificates	4
9 Exemptions	6

10	Variation of compliance certificates	6
11	Refusal to issue compliance certificates	7
12	Renewal of compliance certificates	7
13	Related compliance certificates for hazardous substances and locations	7
14	Related compliance certificates for stationary container systems	7
15	Site visits	7
Subpart 2—Persons employed or engaged by compliance certifier who is an individual		
16	Application of this subpart	8
17	Compliance certifier may employ or engage a person to assist	8
18	Compliance certifier to notify WorkSafe and be satisfied of competence	9
19	Demonstrating compliance with clause 18	9
Subpart 3—Complaints		
20	Complaints	10
Subpart 4—Records management		
21	Records management	11
22	Storage and security of information and records	12
Subpart 5—Conflicts of interest		
23	Impartiality and conflict of interest	12
Subpart 6—Review of processes and compliance certification documents		
24	Review	13
Subpart 7—Equipment		
25	Equipment	13

Schedule

Contents

1 Title

This is the Health and Safety at Work (Hazardous Substances—Information and Process Requirements for Compliance Certifiers) Performance Standard 2019.

2 Commencement

This performance standard comes into force on 1 May 2019.

Part 1 Preliminary provisions

3 Purpose

The purpose of this performance standard is to set out the information and process 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; and
- (b) requirements relating to record keeping and documentation of processes; and
- (c) measures by which the performance of compliance certifiers may be assessed.

5 Interpretation

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

Act means the Health and Safety at Work Act 2015

applicant means an applicant for a compliance certificate

existing compliance certificate means a compliance certificate that is current and has not expired

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

unique register number means a unique number generated for a compliance certificate by the register

- (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 processes 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 employed or engaged to assist the compliance certifier in the performance of their functions by conducting relevant inquiries, inspections, assessments, or examinations is competent to carry out those inquiries, inspections, assessments, or examinations:
- (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 applicants to keep them informed of the functions that are being carried out by the compliance certifier.

Part 3 **Specific requirements**

Subpart 1—Compliance certification processes

7 Inquiries, inspections, assessments, and examinations

- (1) A compliance certifier must—
 - (a) use and maintain up-to-date worksheets, check lists and reference data that are relevant to the functions of a compliance certifier; and
 - (b) ensure that the worksheets, check lists and reference data are used by every person employed or engaged to conduct inquiries, inspections, assessments, or examinations on behalf of the compliance certifier.
- (2) If a compliance certifier conducts an inquiry, inspection, assessment, or examination, the compliance certifier must make a record containing the information specified in clause 21(1)(a) to (f).
- (3) If a person who is not a compliance certifier conducts an inquiry, inspection, assessment, or examination on behalf of a compliance certifier, the compliance certifier must ensure that a record is made containing the information specified in clause 21(1)(a) to (g).
- (4) A compliance certifier must assess 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—
 - (a) assess an application for a compliance certificate and all relevant supporting information promptly; and
 - (b) make the decision as to whether or not to issue a compliance certificate,—
 - (i) as soon as reasonably practicable after completing that assessment; and
 - (ii) independently of any recommendation made by a person employed or engaged by the compliance certifier.

8 Issuing compliance certificates

Information to be recorded on compliance certificate and entered in register

- (1) A compliance certifier must, when issuing a compliance certificate in accordance with regulation 6.23(1), include on the compliance certificate—
 - (a) the compliance certifier's full name as listed on the document of authorisation issued by WorkSafe; and
 - (b) subject to paragraph (c)(ii), the compliance certifier's authorisation number as issued by WorkSafe; and
 - (c) either—
 - (i) the unique register number; or

- (ii) a compliance certificate number that is assigned by the compliance certifier and includes as a prefix the compliance certifier's authorisation number; or
 - (iii) both; and
 - (d) the type of compliance certificate; and
 - (e) the date of issue of the compliance certificate; and
 - (f) who the compliance certificate was issued to; and
 - (g) the location or person that the compliance certificate applies to; and
 - (h) the date the compliance certificate comes into force; and
 - (i) the date of expiry of the compliance certificate (if applicable).
- (2) A compliance certifier must—
- (a) sign every compliance certificate that the compliance certifier issues; and
 - (b) ensure that, once a compliance certificate has been signed, a copy is made of the compliance certificate and retained as part of the compliance certifier's records.
- (3) A compliance certifier's signature on a compliance certificate may be electronic.
- (4) A compliance certifier who is an individual must ensure that every compliance certificate the compliance certifier issues states that it is issued by an individual compliance certifier authorised by WorkSafe under regulation 6.8.
- (5) A compliance certifier must, when entering information about a compliance certificate in the register in accordance with regulations 6.22(5) and 6.26(2),—
- (a) ensure that—
 - (i) every mandatory field in the register is completed; and
 - (ii) all information entered in the register is accurate; and
 - (b) keep a record of the date on which the information is entered.

Date of issue and date in force

- (6) A compliance certificate must be issued on the date the compliance certifier is satisfied that the matters for which the compliance certificate is required comply with the Regulations or as soon as reasonably practicable after that date.
- (7) Subject to subclause (8), the date on which a compliance certificate comes into force may be—
- (a) the same as the date on which the compliance certificate is issued; or
 - (b) later than the date on which the compliance certificate is issued, but only if—
 - (i) the compliance certificate is a renewal of an existing compliance certificate; and
 - (ii) the period between the date the compliance certificate is issued and the date it comes into force is no more than the number of working days specified in the Schedule for the type of compliance certificate.

- (8) The date on which a compliance certificate comes into force must be the same as the date of issue, if it is:
- (a) an approved filler compliance certificate:
 - (b) a certified handler compliance certificate:
 - (c) a design verification certificate for a cylinder:
 - (d) a compliance certificate for an imported cylinder:
 - (e) a pre-commissioning certificate for a cylinder design:
 - (f) a compliance certificate for an imported UN Model Regulation cylinder:
 - (g) a compliance certificate for an imported or manufactured fitting for LPG cylinders:
 - (h) a compliance certificate to certify the highest levels of blast overpressure and fire or minor projection hazard to which an authorised person directly involved in the detonation or deflagration of a class 1 substance may be subject:
 - (i) a compliance certificate for an outdoor pyrotechnic display:
 - (j) a design compliance certificate for a tank wagon;
 - (k) a design compliance certificate for a transportable container:
 - (l) a pre-commissioning compliance certificate for a tank wagon.

9 Exemptions

- (1) This clause applies if an exemption—
- (a) has been granted under section 220 of the Act from a provision in the Regulations that must be complied with before a compliance certificate may be issued; or
 - (b) 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) either—
 - (i) retain a copy of the exemption; or
 - (ii) record a reference to the exemption; and
 - (b) record the matters in respect of 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 varied compliance certificate must have the same unique register number or compliance certificate number or both as assigned to the original compliance certificate under clause 8(1)(c).
 - (3) A copy of the varied compliance certificate must be provided to the applicant.
 - (4) The variation must be entered into the register within 15 working days of it being made.

11 Refusal to issue compliance certificates

A compliance certifier must have a process in place to ensure that WorkSafe and the applicant are notified in a timely manner of a decision to refuse a compliance certificate in accordance with regulation 6.23(2).

12 Renewal of compliance certificates

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

13 Related compliance certificates for hazardous substances and locations

If no change has been made to the class or quantity of hazardous substances held at a location, a compliance certifier may accept 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 of 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 Site visits

- (1) In the case of an application for a compliance certificate of a type specified in subclause (2), a compliance certifier must ensure that the compliance certifier, or a person employed or engaged to conduct inquiries, inspections, assessments, or examinations on behalf of the compliance certifier, carries out—

- (a) a site visit to inspect the matters relevant to the issue of the compliance certificate; and
 - (b) an examination and review of appropriate information and records relevant to the matters to be certified.
- (2) The compliance certificate types are:
- (a) compliance certificate for an imported cylinder:
 - (b) compliance certificate for an imported UN Model Regulation cylinder:
 - (c) pre-commissioning compliance certificate for cylinder design:
 - (d) location compliance certificate:
 - (e) compliance certificate for a stationary container system (excluding design):
 - (f) certified fabricator of a stationary tank:
 - (g) in-service compliance certificate for a tank wagon:
 - (h) pre-commissioning compliance certificate for a tank wagon.
- (3) In the case of an application for a compliance certificate of a type specified in subclause (4), a compliance certifier—
- (a) does not need to ensure a site visit is conducted to inspect the matters relevant for the issue of the compliance certificate; but
 - (b) if electing not to do so must record the reasons for not conducting the site visit, and must examine and review appropriate information and records relevant to the matters to be certified.
- (4) The compliance certificate types are:
- (a) certified handler compliance certificate:
 - (b) compliance certificate certifying the design of a container (magazine):
 - (c) compliance certificate certifying the construction of a readily movable container:
 - (d) compliance certificate for an imported or manufactured LPG cylinder fitting:
 - (e) compliance certificate for an outdoor pyrotechnic display.

Subpart 2—Persons employed or engaged by compliance certifier who is an individual

16 Application of this subpart

This subpart applies to every individual who is authorised as a compliance certifier.

17 Compliance certifier may employ or engage a person to assist

A compliance certifier may employ or engage a person to inquire into, inspect, assess, or examine matters on behalf of the compliance certifier that are relevant to determining whether the requirements for the issue of a compliance certificate have been met.

18 Compliance certifier to notify WorkSafe and be satisfied of competence

- (1) A compliance certifier who employs or engages a person for the purpose set out in clause 17 (**the employed or engaged person**) must—
 - (a) notify WorkSafe of the full name of the employed or engaged person; and
 - (b) ensure that the employed or engaged person—
 - (i) understands the responsibilities associated with the inquiries, inspections, assessments and examinations for which they have been employed or engaged; and
 - (ii) is competent to carry out those the inquiries, inspections, assessments and examinations; and
 - (iii) acts in accordance with their responsibilities and continues to be competent to carry them out.
- (2) A compliance certifier must notify WorkSafe as soon as reasonably practicable after the employment or engagement of the person comes to an end.

19 Demonstrating compliance with clause 18

- (1) A compliance certifier may demonstrate compliance with clause 18(1)(b), if the compliance certifier can show they have—
 - (a) recorded the responsibilities and relevant competency and training requirements of the employed or engaged person; and
 - (b) put in place processes enabling the compliance certifier to verify that the employed or engaged person has the following competencies, to the extent relevant to the purpose for which they have been employed or engaged:
 - (i) knowledge of the hazard classifications of any hazardous substances:
 - (ii) knowledge of the adverse effects that could be caused by any of the hazardous substances:
 - (iii) knowledge of the Regulations, performance standards, and safe work instruments that apply to the issue of the compliance certificate:
 - (iv) knowledge of the use of operating equipment and systems:
 - (v) knowledge of, and experience in, the testing or inspection of plant or equipment, or of its design:
 - (vi) knowledge of the compliance certification procedures the compliance certifier has in place; and
 - (c) kept written records of the competence of the employed or engaged person; and
 - (d) in the case of a person employed or engaged to carry out a site inspection,—
 - (i) observed the person until assured they were able to carry out such an inspection competently and independently; and
 - (ii) recorded those observations; and

- (e) recorded the following information, if the competency of the employed or engaged person was assessed by conducting a written or oral test:
 - (i) the full name of the employed or engaged person;
 - (ii) the date and time of the examination;
 - (iii) the subject areas the examination covered;
 - (iv) the assessment of the answers; and
 - (f) included in the compliance certifier's record of competency for the employed or engaged person—
 - (i) the name of the person; and
 - (ii) the competence achieved; and
 - (iii) the date on which the competence was achieved; and
 - (g) included in the compliance certifier's record of training for the employed or engaged person—
 - (i) the name of the person; and
 - (ii) the training completed; and
 - (iii) the date on which the training was completed; and
 - (h) been monitoring the performance of the employed or engaged person; and
 - (i) addressed or are addressing any concerns they have about the performance of the employed or engaged person, including by—
 - (i) reviewing the person's actions in relation to previous inquiries, inspections, examinations, or assessments (if any); and
 - (ii) recording the outcome of any such review.
- (2) Nothing in this clause prevents a compliance certifier from demonstrating compliance with clause 18 by other means.

Subpart 3—Complaints

20 Complaints

- (1) A compliance certifier must have in place a process to record, investigate, and resolve complaints about the ability or conduct of a compliance certifier, or any person employed or engaged by the certifier to conduct inquiries, inspections, assessments, or examinations on behalf of the 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 (if any) and resolve the complaint; and
 - (e) if the compliance certifier decides not to investigate the complaint, the reasons for that decision; and

- (f) any changes to training, processes, record keeping, or other matters relevant to the functions of a compliance certifier that have been made as a result of the complaint.

Subpart 4—Records management

21 Records management

- (1) A compliance certifier must record the following information in relation to the performance of their functions:
 - (a) the unique identification or description of any item or location inquired into, inspected, assessed, or examined;
 - (b) the date or 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 a person is conducting an inquiry, inspection, assessment, or examination on behalf of a compliance certifier, the name of the person and whether or not that person was supervised by the compliance certifier.
- (2) A compliance certifier must keep a record of—
 - (a) every communication with the applicant about a matter relevant to the application that the compliance certifier is inquiring into, inspecting, assessing, or examining;
 - (b) every compliance certificate issued, which must include the details specified in clause 8(1); and
 - (c) the date each compliance certificate is entered into the register; and
 - (d) details of any refusal to issue a compliance certificate.
- (3) Subject to subclauses (4) and (5), a compliance certifier may record the information referred to in subclause (1) in any form.
- (4) Where a compliance certifier uses a photograph as a means of recording any of the information referred to in subclause (1), the compliance certifier must ensure that the following information about the photograph 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.
- (5) A record made under subclause (1) or (4), other than a photograph, must be signed and dated by—
 - (a) the compliance certifier; and

- (b) the person undertaking the inquiry, inspection, assessment, or examination (if applicable).
- (6) A compliance certifier must retain all records related to—
- (a) the performance of their functions in respect of a compliance certificate until—
 - (i) a date that is at least five years after the date the compliance certificate expires:
 - (ii) in the case of a compliance certificate for an outdoor pyrotechnic display, a date that is at least five years after the date the compliance certificate is issued:
 - (iii) in the case of any of the following types of compliance certificate, a date that is at least ten years after the date the compliance certificate is issued:
 - (A) importation of a cylinder:
 - (B) importation of a UN Model Regulations cylinder:
 - (C) pre-commissioning of a tank wagon:
 - (D) design of a tank wagon:
 - (E) design of a transportable container:
 - (F) imported or manufactured fitting of an LPG cylinder; and
 - (b) the refusal of an application for a compliance certificate until a date that is at least five years after the date of the refusal.

22 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 compliance 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—Conflicts of interest

23 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 persons employed or engaged by the compliance certifier to conduct inquiries, inspections, assessments, or examinations on behalf of the compliance certifier.
- (2) A compliance certifier must establish and maintain a register of interests.
- (3) The following information must be recorded in the register of interests:
 - (a) all actual and potential conflicts of interest that have been identified;
 - (b) the name of the compliance certifier or person employed or engaged by the compliance certifier who has the actual or potential conflict of interest;
 - (c) in the case of an actual conflict of interest, the date the conflict arose;
 - (d) a description of the actual or potential conflict of interest;
 - (e) any action taken to eliminate or minimise the actual or potential conflict of interest.
- (4) A compliance certifier may also record other relevant information in the register of interests.

Subpart 6—Review of processes and compliance certification documents

24 Review

- (1) A compliance certifier must conduct reviews at intervals not exceeding 12 months to ensure processes and compliance certification documents are kept up to date.
- (2) A compliance certifier must ensure:
 - (a) every change made to a process or document that is not minor is recorded, showing the date the change was made; and
 - (b) obsolete processes and documents are not used.

Subpart 7—Equipment

25 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 that defective equipment may have had on the previous performance of the functions of the compliance certifier, and take appropriate corrective action if necessary.

Schedule

Renewal of existing compliance certificate: maximum number of working days between date of issue and in force date

Cl 8(7)(b)(ii)

Type of compliance certificate to be renewed	Maximum number of working days between date of issue and in force date
Explosives	
Container (magazine) design	20 working days
Readily movable container construction	20 working days
Detonation and deflagration in darkness	20 working days
Locations	
Classes 1, 2, 3, 4, 5, 6 and 8	30 working days
Stationary container systems	
Stationary container systems	40 working days
Stationary tank or process container fabricator	40 working days
Stationary container tank or process container design	40 working days
Tank wagons	
Tank wagons in-service	20 working days

Made at Wellington on 18 March 2019.

Nicole Rosie
Chief Executive
WorkSafe New Zealand

This performance standard is administered by WorkSafe New Zealand.