

INFORMATION SHEET

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Stationary Container and Secondary Containment Systems: Certification and Compliance Plans

What is a Stationary Container System?

A **Stationary Container System** is defined in the Transfer Notice¹ as a stationary tank or process container and its associated equipment, pipe work and fittings, up to and including all transfer points. This includes valves, vaporisers, oil burners, dispensers and fire fighting systems.

The term 'up to and including all transfer points' refers to a dispensing device or the point of transfer of a substance to another distribution system, for example, a dispenser to a vehicle or a pump to a cross country pipeline.

What is a Secondary Containment System?

A **Secondary Containment System** is a system in which liquids will be contained if they escape from the container/s they are in. The most common form of Secondary Containment System for above ground stationary containers is a compound (bund).

A secondary containment system is normally checked as part of the requirements for a Location Test Certificate (which is required for locations where flammable or oxidising substances are stored). However, if a tank has an integral secondary containment system (e.g. double skin tanks), or holds a substance that does not require a location test certificate (e.g. diesel), the secondary containment system must be checked as part of the requirements for the Stationary Container System Test Certificate.

For substances that are transferred in the Transfer Notice¹, the Secondary Containment Systems must be checked and included in a test certificate (either a location test certificate or a stationary container system test certificate) by **31 March 2007**. A separate test certificate is not required.

Which Stationary Container Systems need a Test Certificate?

Stationary Container Systems containing hazardous substances of any hazard classification that are liquids (flammables (including diesel), toxics, corrosives and ecotoxic substances), and which meet the following conditions:

1. All below ground stationary tanks or process containers with a capacity of more than 250 litres.
2. All above ground stationary tanks with a capacity of more than:
 - a. 2,500 litres and that contain or are intended to contain a substance of class 3.1A (e.g. petrol) or 3.1B (e.g. acetone, iso-propanol, solvents);

¹ The Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 (as amended). This is referred to as the Transfer Notice.

- b. 5,000 litres and that contain or are intended to contain a hazardous substance of any other classification (e.g. diesel, toxic, corrosive or ecotoxic substance);
 - c. 500 litres water capacity containing a hazardous gas (e.g. LPG, oxygen, chlorine).
3. Tanks connected to a burner or a stationary internal combustion engine with a capacity of more than:
 - a. 50 litres containing a class 3.1A, 3.1B or 3.1C hazardous substance supplying an internal combustion engine;
 - b. 500 litres containing a class 3.1D substance supplying an internal combustion engine (includes diesel);
 - c. 60 litres containing a class 3.1 substance supplying a burner.
 4. A stationary container system that includes a direct fired vaporiser.
 5. All above ground process containers:
 - a. Over 250 litres water capacity that contain a hazardous gas;
 - b. Over 1,000 litres capacity that contain a hazardous liquid.

NOTE: Process containers which are constructed of fire resistant material, which contain class 2.1.1, 3.1A, 3.1B or 3.1C hazardous substances and which are required to comply with the Health and Safety in Employment (Pressure Equipment, Cranes and Passenger Ropeways) Regulations are excluded.

Substances transferred in the Transfer Notice¹ will require a Stationary Container System test certificate by **31 March 2007**.

What's the difference between a Stationary Container System Test Certificate and a Location Test Certificate?

- **Stationary Container System Test Certificates** apply to tanks holding all hazardous substances that are liquids - flammable (including diesel), toxic, corrosive and ecotoxic substances.
- **Location Test Certificates** apply to the site and are limited to sites where flammable or oxidising substances are stored.

NOTE: In some instances both a Stationary Container System Test Certificate and a Location Test Certificate will be required.

How do I get a Test Certificate?

A test certificate is issued by a Test Certifier if the Stationary Container System or Location meets all the compliance requirements. For a Stationary Container System Test Certificate, the Test Certifier should complete a report using the form 'Stationary Container System Report by a Test Certifier' (ER-AF-HSC12) which outlines whether the stationary container system meets all the compliance requirements or not.

A register of Test Certifiers and the test certificates they are able to issue is available from the ERMA New Zealand website² or from the ERMA New Zealand compliance line toll free on 0800 376 234

What are the compliance requirements for Stationary Container Systems and Secondary Containment Systems?

For substances transferred in the Transfer Notice¹ these are:

- for a Stationary Container System constructed from 1st April 2004, the requirements of Schedule 8 of the Transfer Notice¹ (or the Codes of Practices nominated in this Transfer Notice¹).
- for a stationary container system that was constructed or in use immediately before 1st April 2004, the requirements of Schedule 8 of the Transfer Notice¹ (or the Codes of Practices nominated in this

² See our website for a register of Test Certifiers - www.ermanz.govt.nz/search/test-cert-reg.asp

Transfer Notice¹), or the Code of Practice for the Management of Existing Stationary Container Systems up to 60,000 litres Capacity.

- for a Secondary Containment System associated with a stationary tank or process container (below ground or above ground), the requirements of Regulation 39 (or Regulation 40 in the case of a below ground stationary tank) of the Hazardous Substances (Emergency Management) Regulations 2001 and Part 1 of Schedule 9 of the Transfer Notice¹, or the Codes of Practices nominated in these documents.

If the Stationary Container System or Secondary Containment System does not fully meet the requirements, the Test Certifier will need to advise the Person in Charge which items do and do not comply.

Who is the Person in Charge and what is their responsibility?

The Person in Charge is the person in control of the place where hazardous substances are present. They could be the owner, lessee, sub-lessee or occupier of the site, or the person in control or possession of the relevant part of the site. Their role is similar to the person in control of a workplace under the Health and Safety legislation, although the Hazardous Substances and New Organisms (HSNO) Act does not only apply to workplaces.

In a small workplace, the Person in Charge could be the manager or owner of the business. In larger operations with multiple locations and activities, several people could be designated the Person in Charge.

The Person in Charge is responsible for ensuring all legal requirements are met. This means the Person in Charge must engage the services of a Test Certifier registered to issue the required test certificates.

What can be done if you don't comply?

In some circumstances,

- a stationary container system that was being used to contain a hazardous substance immediately before the commencement date of the relevant transfer notice (1st April 2004 for substances transferred in the Transfer Notice¹), or was designed to contain a hazardous substances and construction of the stationary container system to that design had commenced by that date, or
- a secondary containment system that was in use before the relevant transfer notice (1st April 2004 for substances transferred in the Transfer Notice¹)

may not meet the legal requirements (refer to “What are the compliance requirements” above). If it is impractical to immediately meet the legal requirements, an application for a Compliance Plan must be made.

Examples of non-compliant matters that can be covered in a Compliance Plan include:

- an above ground stationary container system that does not have the required fire protection systems or the fire fighting system may have been updated in recent times to incorporate fixed foam systems, but may still not fully meet the legal requirements.
- where no original design/construction data is available and the stationary container system is unable to be confirmed against a standard or Code of Practice.
- a below ground stationary tank that does not have a secondary containment system.

Note that a compliance plan cannot be submitted for a secondary containment system unless it is associated with a stationary container system. For example, a compliance plan cannot be submitted for secondary containment for packages or drums as it is not associated with a stationary container system.

What is a Compliance Plan?

The Person in Charge of a stationary container system that was in use before 1 April 2004 may apply for approval of a Compliance Plan as an alternative to meeting the legal requirements. This Compliance Plan specifies the steps the Person in Charge will take to either:

- make whatever alterations to the system that are necessary to enable compliance and the timeframe to achieve compliance, or
- manage the risks of non-compliance.

A Compliance Plan for a stationary container system must consider the stationary tank or process container together with its associated equipment, pipework and fittings up to and including all transfer points. If only one item does not meet the requirements, the Compliance Plan only needs to address this single item. The plan must state clearly that the balance of the stationary container system is in compliance.

The approval of a compliance plan as a means of meeting legal requirements is not available for Stationary Container Systems and their associated Secondary Containment Systems that came into service after the commencement date of the relevant transfer notice (1 April 2004 for substances transferred in the Transfer Notice¹). These must meet all the legal requirements.

By which date must you apply for a Compliance Plan?

For substances transferred in the Transfer Notice¹, the Compliance Plan for the Stationary Container System must be submitted by **31 March 2007**, and the Compliance Plan for the Secondary Containment System must be submitted, approved and in operation by **the same date**. Certification cannot be completed without an approved Compliance Plan.

How do I make an application and what needs to be included?

The Person in Charge must make an application by completing the 'Application for a Compliance Plan' form (ER-AF-HSC13) and sending it to ERMA New Zealand. With the application form the Person in Charge **must** provide:

- application form ER-AF-HC13³.
- full details of the Stationary Container System and Secondary Containment System including type, location, ownership, and those items that either comply or do not meet the requirements
- alterations to the Stationary Container System and/or associated Secondary Containment System proposed in order to achieve compliance
- proposed systems and procedures to manage non-compliance
- for every item, a target date by which compliance will be achieved
- a report from a Test Certifier using report form ER-AF-HC12, where the application includes a Stationary Container System.
- how and when the system and/or the operational procedures will be applied
- the application fee of \$225, including GST (Note that where an application for a compliance plan encompasses both a stationary container system and a secondary containment system, only one fee of \$225 including GST will apply.)

Provide as much supporting information with the application as possible. Supporting information **may** include:

- photographs of above ground tanks
- maintenance details e.g. of cathodic protection systems
- original construction details if available.

ERMA New Zealand may request further information from either the Person in Charge or the Test Certifier.

Are there acceptable solutions to include in a plan?

Issues that may be considered for managing non-compliance may include (amongst others):

- design/construction standards that are alternatives to those specified in the legislation

³ See our website - www.ermanz.govt.nz/resources/publications/word/ER-AF-HSC13-01.doc

- regular stock reconciliations
- regular meter (dispenser) calibrations
- observation wells and/or monitoring wells, including checking of ground water for contamination of the contained substance.
- periodic leak testing of stationary tanks - frequency dependent upon type of tank, surrounding environmental conditions, etc.
- implementation dates that are different from those required by legislation.
- Design/construction/operation criteria that are different from those in the legislation but which are acceptable alternatives to managing the risk.

Can one Compliance Plan cover an entire site?

Compliance plans for both a stationary container system and a secondary containment system may be included in a single application.

At a site where the stationary container systems are integrated, e.g. at a service station, one compliance plan can cover a single site. Where the stationary container systems at a single site are not integrated it needs to be considered whether:

- the systems are similar or dissimilar
- there are likely to be changes to each system that will affect the duration of the compliance plan.

What will ERMA New Zealand consider when assessing a Compliance Plan application?

When assessing an application for a stationary container system/secondary containment system Compliance Plan, ERMA New Zealand will consider (as applicable, but not necessarily exclusively):

- any existing records of the system
- the standard to which the stationary container system has been designed
- whether the stationary container system has been maintained to the standard to which it was designed – or, if the stationary container system has been subsequently upgraded to a new standard, whether it has been maintained to that new standard
- the results of periodic tests which have been carried out to ensure the integrity of the stationary tank
- whether the associated pipe work has been maintained
- whether the required separation distances between stationary tanks been maintained
- whether fire fighting facilities been maintained to the required standard.
- whether regular product stock reconciliations been carried out.
- the proposed dates to achieve compliance (if applicable).

The Authority will consider the application and may request further information from either the Person in Charge or the Test Certifier.

How long do plans last?

The duration of a compliance plan will depend on the stationary container system's function and related factors, e.g. until:

- alterations are made to achieve compliance, or
- the date of an intended major site upgrade, or
- the facility's estimated lifetime.

As the HSNO legislation determines that compliance plans are to be submitted on a 'once only' basis, applicants should ensure the duration of the plan is adequate to cover your future needs.

Further information:

For further information on hazardous substances compliance visit www.ermanz.govt.nz/hs/hs-compliance.asp or call the ERMA New Zealand toll free Compliance Line on 0800 376234.

ERMA New Zealand information sheets may be viewed and downloaded from www.ermanz.govt.nz or requested from ERMA New Zealand, P O Box 131, Wellington. Phone +64 4 916 2426 Fax +64 4 914 0433 Email info@ermanz.govt.nz.