

Test Certifier Service Guidelines

The Environmental Risk Management Authority is committed to ensuring the most effective and efficient delivery of a quality test certification regime. To further this, the Authority issues these Guidelines to test certifiers.

These Guidelines establish the level of service that is expected from test certifiers in carrying out their statutory functions in issuing test certificates¹ under the Hazardous Substances and New Organisms (HSNO) Act. However, they are not intended to cover the test certifier's terms and conditions of business, particularly as to payment. Such terms (if any) should be agreed between the test certifier and an applicant to the extent necessary in each case, but may not be inconsistent with these Guidelines.

These Guidelines may also be relevant in the event of a complaint about a test certifier. Whilst all complaints are dealt with on a 'case by case' basis, these Guidelines may be used to determine if a complaint is justified. If the complaint is found to be justified, especially where there are repeat instances, the Authority has the power under section 86 of the HSNO Act to amend or cancel the test certifier's approval.

Reasons for cancellation may include (but are not limited to) the following:

- (a) The test certifier is not meeting or is failing to perform to the criteria for approval to be a test certifier;
- (b) The test certifier is not ensuring that services are performed in accordance with the Authority's standards and procedures, including these Guidelines.

TEST CERTIFICATE STANDARDS OF SERVICE

A test certifier is expected to meet quality and service standards in the following areas:

1. Delivery of service;
2. Managing complaints and concerns regarding the test certificate services;
3. Quality control;
4. Performance and training;
5. Relationship with ERMA New Zealand.

1. Delivery of service

- 1.1 A test certifier may issue test certificates only in accordance with the approval granted to him or her under section 84 of the Act.
- 1.2 A test certifier will issue test certificates in accordance with the relevant legislation and follow any applicable standards, codes of practice, guidelines, rules or directives issued by the Authority from time to time.
- 1.3 A test certifier should acknowledge requests for a test certificate from an applicant within 7 working days of the initial request.

¹ Includes all test certificates such as location, stationary container system, approved handler, design verification, etc

- 1.4 A test certifier will complete the test certification work required and issue the test certificate on a date no later than the due date.²
- 1.5 If a test certifier is unable to complete a request from an applicant to issue a test certificate by the due date, the test certifier will promptly advise the applicant of the reasons for this, so that he/she has the opportunity to engage another test certifier, if necessary.
- 1.6 If a test certifier is engaged to complete a new test certificate, or to renew an expired test certificate, the test certifier will complete the test certification work and issue the test certificate as soon as is reasonably practicable.
- 1.7 Where a test certifier is not approved for the purposes required by the applicant they must:
- (a) Promptly advise the applicant in writing so as to allow the applicant the opportunity to engage another, appropriately qualified, test certifier; or
 - (b) Engage another test certifier to complete that element of the approval or the entire approval (having first obtained the applicant's consent to this, including consenting to paying the other test certifier's fees and expenses).
- 1.8 The test certification work is to include:
- (a) Examining the information provided by the applicant and promptly seeking any additional information, if necessary.
 - (b) Visiting the location where applicable (not applicable, for example, to the certification of approved handlers, approved fillers, periodic testing, design).
 - (c) Undertaking the inspection (if applicable).
 - (d) Deciding, on the basis of the information and any inspection, and the requirements of the Act and regulations, whether a test certificate can be issued.
 - (e) Providing a test certificate to the applicant within 15 working days of being satisfied of compliance with relevant requirements:
 - (i) in the format required by ERMA New Zealand;
 - (ii) typed or word processed;
 - (iii) clearly written in an appropriate plain English style.
 - (f) Where the issue of a test certificate is to be refused, notifying the applicant, in writing, with reasons, of the refusal within 10 working days and providing ERMA New Zealand with a copy of the written refusal within 10 working days of notifying the applicant.
 - (g) Where any issue of non-compliance is identified in steps (a) to (c), which does not, in the test certifier's opinion, warrant immediate notification to the enforcement agency, notifying the applicant in writing of the relevant non-compliance(s) and following up

² The due date is the date of expiry of an existing test certificate, or the date by which a test certificate must be obtained under any requirement of the Act or Regulations.

personally (by inspection, if appropriate) within 20 working days on any necessary corrective action(s). In the event the matters have not been completed or remedied, the test certifier should immediately advise the appropriate enforcement agency in writing and provide ERMA New Zealand with a copy of the written advice that was sent to the enforcement agency within 10 working days.

- (h) Where any issue of significant non-compliance identified in steps (a) to (c) **which does**, in the test certifier's opinion, warrant immediate notification of an enforcement officer, they must do so in writing within 10 working days and provide ERMA New Zealand with a copy of the written advice that was sent to the enforcement officer within 10 working days .
- (i) Entering relevant data relating to the granting of the test certificate into the ERMA New Zealand Database in accordance with ERMA New Zealand's current requirements (or providing the data to ERMA New Zealand in an alternative form acceptable to ERMA New Zealand) within 1 month of date of issue of the certificate.

2. Managing complaints or concerns regarding test certificate services

- 2.1 Any complaints relating to test certification that cannot be resolved between a Test certifier and their client or the relevant enforcement agency should be discussed first with ERMA New Zealand's Compliance Co-ordination Manager.
- 2.2 If the complaint is unable to be resolved at this level, then the matter can be referred for resolution to the General Manager, Hazardous Substances and/or the Chief Executive and, ultimately, to the Authority. This document may be used for reference to resolve complaints.

3. Quality control

- 3.1 Test certifier businesses will be monitored regularly, on an individual and overall basis, by ERMA New Zealand staff, to ensure that test certifiers are carrying out their statutory functions in accordance with relevant legislation.
- 3.2 At least once in any 3 year period, test certifiers will undergo a review by an ERMA New Zealand-appointed auditor. The auditor will be instructed to audit and report on the test certifier's business and performance to ERMA New Zealand's standards that are applicable at the time.
- 3.3 Test certifiers will be required promptly to address all concerns that arise from audits and the regular monitoring that are notified to them by ERMA New Zealand.

4. Performance and training

- 4.1 A test certifier is expected to:
 - (a) Exercise all the professional skill, care and diligence to be expected of a person undertaking the type of work for which they are approved under the Act;

- (b) Ensure that they maintain the necessary knowledge, experience, training and resources to perform test certifier functions to a high standard;
- (c) Promptly remedy any shortcomings, defects or errors in their work;
- (d) Promptly, and at their own expense, remedy any of their work that in the written opinion of ERMA New Zealand is substandard;
- (e) Participate in the training and education opportunities notified to them by ERMA New Zealand from time to time;
- (f) Ensure they keep up to date with all changes to relevant legislation, Codes of Practice, technical bulletins and guidance material provided by ERMA New Zealand relevant to their work as a test certifier;
- (g) Keep an up to date library of all legislation and Codes of Practice relevant to the certificates they are approved to issue. This includes all ERMA New Zealand interpretations applied in relevant cases;
- (h) Maintain Professional Indemnity insurance cover in respect of their duties as a test certifier for the full duration period of the certificates issued. The cover is to be maintained at a level set by the Authority from time to time. The test certifier must provide evidence of this cover when requested and must notify ERMA New Zealand if such cover is withdrawn or unavailable;
- (i) Manage conflicts of interest and consult with ERMA New Zealand where any potential conflicts of interest arise. Guidelines provided by ERMA New Zealand can be used in deciding whether a conflict might occur, and if so, how to deal with it;
- (j) Keep accurate records of all assessments, inspections and decision making material as they relate to the test certification of a person, a site or equipment, or any test certificate issued.

4.2 Attendance at workshops run by ERMA New Zealand is strongly recommended. These workshops occur from time to time and provide information, standards and guidance on test certifier requirements. ERMA New Zealand will provide attendance certificates to all test certifiers attend the workshops.

4.3 Test certifiers are required to provide copies of these attendance certificates when renewing their test certifier approvals. These certificates help to provide evidence that test certifiers have maintained their knowledge and expertise in relation to the HSNO legislation. Failure to provide these certificates may mean that the test certifier will need to demonstrate that they have maintained their knowledge in relation to relevant legislation by other means.

4.4 A test certifier is expected to meet all their own costs associated with attending such workshops (including travel and accommodation.)

5. Relationship with ERMA New Zealand

5.1 A test certifier will:

- (a) Respond promptly to enquiries and other requests for information from ERMA New Zealand; and
- (b) Provide a full response within 10 working days to ERMA New Zealand following any enquiries in relation to any application before them or any matter within this document, or any grant or refusal to grant a test certificate, or any query relating to the test certifier's conduct or ability.

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