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HEALTH AND SAFETY AT WORK (HAZARDOUS SUBSTANCES) REGULATIONS 2017

Authorising Test Stations, Recognised Inspection Agencies and Cylinder Matching

Introduction

Part 15 of the Health and Safety at Work (Hazardous Substances) Regulations 2017 (the Regulations) sets out requirements for the safe management and use of gases under pressure, primarily by prescribing requirements for gas containers, fillers of gas containers and related testing and inspection agencies.

Purpose

The policy is designed to provide a framework for WorkSafe's decision-making when authorising cylinder inspection and testing agencies, appraising cylinders for certificate exemptions and for the general cylinder provisions described below.

Scope

The policy applies to WorkSafe's internal teams and covers:

- the recognition of Recognised Inspection Agencies (RIA) and authorisation of Test Stations, that examine and certify gas cylinders and fittings.
- the role of PCBU's operating test stations (referred to as Test Stations in this policy) exercising functions to bring cylinders into compliance.
- appraisal of cylinders and fittings for certificate exemptions in limited circumstances.
- general provisions for: cylinder repairs, recalls and design revocation, and cylinders used in transport.

Out of scope in this policy paper is any matter in Part 15 not identified above. These are covered by existing Standard Operating Procedures, or guidance or the Regulations.

Other relevant policies include:

- Exemptions Policy (Health and Safety at Work Act 2015 (HSWA) Section 220), when considering cylinders and fittings for exemption from specific compliance certificate requirements, as described below under 'Bringing cylinders into compliance'.
- Regulatory Function Policy-Authorisations, Regulatory Function Policy-Investigations and Operational Policy-Investigation of Hazardous Substances Authorisations apply with any necessary modifications to accommodate specific provisions in Part 15 of the Regulations.

Principles

The principles for authorisations follow the principles in WorkSafe's regulatory function policies for authorisations and investigations that provide a framework for authorisation decision-making. Both include the principles of natural justice.

Recognised Inspection Agencies (RIA)

RIA certify that manufactured cylinders, fittings or cylinder repairs (where design specifications allow) comply with specifications in an approved

¹ Part 15 of the Regulations defines Recognised Inspection Agency as a person or organisation recognised by WorkSafe for the purposes of any of regulations 15.15, 15.16, 15.37, 15.40 or 15.80. Each batch of cylinders or fittings is issued with a manufacturer's certificate if they pass inspection, and cylinders are also stamped with the RIA inspection mark. The RIA may be a government agency, as in Israel, or a private provider like Bureau Veritas or Lloyds.

verified design¹.

WorkSafe may recognise any person or organisation as an RIA of its own volition, or at the request of an inspection agency. WorkSafe will, in deciding whether to recognise an inspection agency, consider whether the agency:

- a. is accredited, to a recognised industry standard, by an organisation that has a mutual recognition arrangement on inspection body accreditation with International Accreditation New Zealand (IANZ); or
- b. has a status equivalent to an inspection body under the law of the country in which it operates, and that law imposes requirements comparable to those imposed by the Regulations.

WorkSafe needs to be satisfied there is evidence that the inspection agency meets one of the criteria for recognition and that the scope of inspections to be carried out is verified by that evidence.

Recognition will be subject to any conditions or limitations on the scope that WorkSafe considers appropriate, to reflect the scope of the inspection agencies' activities that are to be recognised in New Zealand.

Recognition as an RIA will typically be for a specified period. The recognition will lapse on its expiry date unless it is renewed beforehand. A request for renewal will be treated as a new request for recognition.

WorkSafe may suspend or withdraw recognition of an inspection agency:

- a. if the RIA fails to operate in an objective manner that promotes safety; or
- b. if the accreditation or status referred above is suspended or withdrawn; or
- c. if the RIA ceases to operate as an inspection agency or
- d. at the request of the RIA.

WorkSafe will continue to maintain a public record of recognised inspection agencies.

Authorisation of Test Stations

Test Stations provide independent testing and inspection of gas cylinders and fittings, at specific intervals and according to standards prescribed in regulations, and may mark cylinders in certain circumstances to bring them into compliance.

A PCBU may apply to WorkSafe for authorisation as a Test Station, consistent with the scope of their accreditation held from the accreditation body.

The application will need to confirm the PCBU's accreditation details, identifying each person undertaking the functions of the test station, the gas traffic and types of cylinders each person is accredited to inspect and certify. These persons are referred to as "signatories" in the accreditation documentation.

The Test Station authorisation process relies on third parties to undertake the assessment of technical competence and quality assurance. The Test Station must either:

- a. be accredited to ISO 17025² by International Accreditation New Zealand (IANZ); or
- b. be an accredited member of a body recognised by WorkSafe³.

Collectively IANZ and recognised bodies are referred to as "the accreditation body" throughout this section of the policy document.

To grant an authorisation, WorkSafe must receive the application fee and sufficient information in the application to be satisfied that the Test Station has demonstrated its technical competence, testing equipment, and quality assurance processes to the standards required by the respective accreditation body.

For example, if an applicant intends to examine and test composite cylinders, their ISO 17025 accreditation must indicate that at least one of the signatories has demonstrated compliance with the provisions of AS 2337.3, the standard for the periodic inspection and testing of transportable composite cylinders.

An authorisation issued by WorkSafe will generally be for a term of 5 years from the date of authorisation.

If an authorised test station does not maintain their accreditation for the duration of their authorisation, the authorisation may be cancelled.

An authorisation may be granted subject to any conditions WorkSafe considers appropriate.

The conditions will reflect the scope of the test station functions covered by the authorisation.

Typical conditions include requiring the Test Station to:

- a. notify WorkSafe about changes to signatories and information requirements for new signatories;
- b. notify WorkSafe with specified information about exact matched cylinders brought into compliance, and about deficiencies in manufacturing or design specifications;
- c. limit the following assessments and sign off activities to the scope applicable to each signatory as specified in the test station authorisation:

² NZS ISO/IEC 17025 General Requirements for the Competence of Testing and Calibration Laboratories: Supplementary and Specific Criteria for accreditation to Gas Cylinder Testing.

³ The decision to recognise a membership body is delegated to the General Manager Operations and Specialist Services who has approved recognition of the New Zealand Underwater Association (NZUA), for the purposes of testing scuba and breathing air cylinders, to enable the existing arrangements for test stations to continue.

- i. cylinder inspections, test reports and documents of certification
- ii. appraising cylinders and marking to bring them into compliance;
- d. retain for a nominated minimum period information specified in the regulations and associated standards; including details of cylinder test reports, records of cylinder examinations and cylinder compliance appraisals;
- e. maintain their IANZ or NZUA accreditation/ membership for the duration of the authorisation.

The authorisation will lapse on its expiry date unless it is renewed before this date. As the regulations do not provide an explicit process for renewal of an authorisation as a test station, an application for renewal will be treated as a new application.

An application to change the scope of authorisation, for example to include new cylinder types or other gas traffic, will be treated as a new application.

WorkSafe is required to maintain a public register of authorised Test Stations, which will include the names of Test Stations and their business contact details. This information will be collected and used in accordance with the requirements of the Privacy Act.

Test Station Investigations or complaints

If a complaint or concern is received by WorkSafe about the conduct or performance of a Test Station or a named signatory of a Test Station, WorkSafe may refer that complaint or concern to the accreditation body.

However, WorkSafe may choose to investigate the performance of a Test Station in accordance with our Regulatory Function Policy-Investigations and Operational Policy-Investigation of Hazardous Substances Authorisations. An investigation may result in further action in accordance with WorkSafe's policies.

Arrangements with Test Station accreditation body

WorkSafe will have an operational agency level agreement with each accreditation body to ensure:

- a. Test Station accreditation criteria align with the technical requirements in the regulations.
- b. Test Stations operate in an impartial manner that promotes safety.
- c. Test Stations' performance is reviewed regularly against the accreditation criteria.
- d. There is a process for investigating complaints or concerns about Test Stations conduct or ability.
- e. There is a timely exchange of information about Test Stations with WorkSafe that may affect their accreditation or authorisation status.

Bringing Cylinders into Compliance

All cylinders accepted into the New Zealand system must conform to a verified cylinder design which is recorded on the register of cylinder records.

Cylinders must also comply with prescribed marks before they are charged (filled) or issued an in-service document of certification by a test station.

Cylinder appraisals

Sometimes a cylinder is presented at a filling station or Test Station without all the prescribed marks on the cylinder. These are usually single or small numbers of cylinders used in specialised cases, such as for medical equipment or fire suppression. Test Stations are able to appraise the design of the cylinder by comparing the cylinder marks with the details of a verified cylinder design to determine if they are identical.

In cases where an exact match is found, Test Stations are authorised to mark cylinders for compliance and must notify WorkSafe of the match, including the matched cylinder's serial number and owner.

WorkSafe will monitor notification of cylinders by Test Stations and update its records as required.

Special records and exemptions

If a cylinder is not an exact match, the PCBU in control of the cylinder may apply to WorkSafe for exemptions from the design verification, importation, and pre-commissioning certification requirements⁴. As part of considering the cylinder for an exemption (see regulation 15.18(3)(a)) WorkSafe will review its similarity to other cylinders supplied by the manufacturer (see regulation 15.18(3)(d)). This will be based on the similarity to a design specifications and marks on the cylinder that has a record number allocated.

If WorkSafe grants an exemption, WorkSafe will allocate a special record number, which is not transferable to other cylinders, to the design of the cylinder. If a cylinder has been allocated a special record number, a Test Station will be able to mark it with the information required by the regulations, thereby enabling the cylinder to be refilled.

WorkSafe will usually not consider an exemption for a batch of more than six cylinders of the same design, but the primary consideration is whether the additional cylinder exemptions would result in a substantially greater level of risk to health and safety than if the exemption is not granted. An exemption will generally only be considered when the cylinders are present in very low numbers and are similar to a known design. A known design is one that has undergone design verification, has a record number allocated on WorkSafe's register, and WorkSafe has historical data

⁴ WorkSafe standard exemptions policy and process will apply. Regulations 15.18 and 15.39 prescribe requirements for exemptions granted under Health and Safety at Work Act 2015 Section 220, for cylinders and fittings respectively, for which a special record number is allocated and recorded on the register.

about the performance of the manufacturer and the matched cylinder in service.

WorkSafe will record details of the cylinder on its register of special numbers allocated and confirm the information required for the Test Station to mark the cylinder to bring it into compliance.

Should WorkSafe receive an application to exempt a cylinder that is identical to one that has previously been allocated a special number, it will consider risks that the additional cylinder may present to health and safety and may require the PCBU to obtain a design verification certificate before any further exemptions are considered. With a design verification certificate in place the PCBU may apply for an import clearance certificate exemption and precommissioning certificate exemption as required.

Cylinder repair and retest

If a cylinder fails an inspection or test due to neck thread inserts or re-machining or markings being obliterated it cannot be repaired or retested. If a cylinder fails for any other reason, WorkSafe may consent to the cylinder being retested, subject to any conditions that WorkSafe may specify.

If a cylinder fails an inspection or test and requires repair, the cylinder may only be repaired if the standard to which the cylinder was manufactured allows for that type of repair. WorkSafe must consent to the cylinder being removed from a Test Station to effect repairs, and may grant this consent subject to any conditions in the interests of safety.

A repaired cylinder must be examined by an RIA who will, if satisfied, provide a manufacturing certificate to confirm the repair has been carried out in accordance with the cylinder design and that it meets the quality assurance requirements specified in the design standard. With the manufacturer's certificate confirming the repair, the cylinder may continue in service.

Recalls

Should WorkSafe become aware of cylinders failing periodic tests, or cylinders or fittings being unsafe or of an unsafe design, WorkSafe may:

- a. suspend, withdraw or cancel cylinder design verification certificates and their associated record numbers, and
- b. suspend, withdraw or cancel compliance certificates for fittings and their associated record numbers, and
- c. require the recall of the cylinder or fitting.

Charging cylinders from aircraft and ships

WorkSafe acknowledges that cylinders used exclusively on ships or aircraft and of a type not approved under the Regulations may be charged, provided that the cylinder contains a gas under pressure that is:

- a. used as the motive power for, or to control, the ship or aircraft; or
- b. is contained in the fuel system, electrical system, control system, or emergency system of the ship or aircraft.

Review and publication of this policy

This policy will be reviewed as needed to ensure it is still achieving its objectives, address any identified operational inefficiencies and recognise any relevant changes to legislation or regulations.

This policy is included within WorkSafe's practice framework and will be available externally.

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