

FACT SHEET

Plant design registration - designers

August 2020

Introduction

An application for a design registration or an altered design registration under part 5.3 of the Work Health and Safety Regulation 2017 (WHS Regulation) must be in the manner and form required by the regulator. It must include a designer's statement in which the designer declares compliance with the designer's obligations under section 22 of the Work Health and Safety Act 2011 (WHS Act).

Designer's duty of care

A person conducting a business or undertaking that is a designer has a duty under section 22 of the WHS Act to ensure, so far as is reasonably practicable, that the plant is without risks to health and safety to workers throughout the life of the plant. Among other things, designers must also provide specific information to the manufacturer.

If the manufacturer advises the designer that there are safety issues with the design, the designer must revise the information to take account of these concerns or tell the manufacturer in writing the reasons why such revision is not necessary.

Designers must also carry out, or arrange the carrying out of, any calculations, analysis, testing or examination that may be necessary to ensure the plant is safe and without risks to health and safety.

Requirements for a designer's statement

An application for design registration will not be processed without a verification statement and representational drawings.

The applicant is responsible for providing a complete designer's statement when the design or altered design registration application is submitted.

If the designer's statement is inadequate, a design registration application may be refused if the regulator is satisfied that there has been a failure to give material information which should have been provided.

The regulator may publish design orders regarding the engineering standards that are to be met for a new registration or altered registration. The proposed designs for registration must meet those standards.

A designer's statement must:

- be written and signed by the designer of the item of the plant
- state that the design was produced in accordance with published technical standards stipulated in the design order
- if the design does not comply fully or in part with the standards in the design order, must identify the technical standards or engineering principles used to achieve an equivalent level of safety based on part 3.1 of the WHS Regulation.

Note: there are penalties for providing false or misleading information.

Non-compliance with design orders and equivalent levels of safety

A designer's statement must identify that the proposed design meets all requirements of the relevant design order.

Where a designer identifies a non-compliance with a technical standard stipulated in a design order, a risk assessment must be completed to identify alternative controls to achieve an equivalent level of safety or better to that provided if compliance was achieved. The assessments must be based on part 3.1 Managing risks to health and safety of the regulation. Designers should also consider the SafeWork NSW Managing the risks of plant in the workplace code of practice 2014.

Where achieving equivalent levels of safety requires other life-cycle management actions beyond the control of designers (such as maintenance or operational procedures), the designer must identify these actions and demonstrate how they are an effective control to provide an equivalent level of safety.

Inadequate designer statements

The following are commonly found deficiencies with designer statements:

- non-compliance with standards are identified without any indication of how an equivalent level of safety has been achieved
- submissions that are unsigned or incomplete
- terms such as 'adequate' or 'appropriate' instead of 'equivalent' are used
- incomplete details of the designer including their name, business address, qualifications
- designer does not provide sufficient calculations for verification. The design verifier's role is to determine if these alternative controls are equivalent to those prescribed in the technical standards stipulated in the design order.

Further information

- Resources regulator website [plant design registration](#)
- [Fact sheet – Plant design registration – for applicants](#)
- [Fact sheet – Plant design registration – for verifiers](#)

More information is available on our website. Alternatively, you may contact the Mining Authorisation Unit at cau@planning.nsw.gov.au

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