WORKSAFE
NEW ZEALAND | MAHI HAUMARU AOTEAROA

TEST CERTIFIER UPDATE Issue 7/2016

The Test Certifier Update, is a WorkSafe newsletter to support test certifiers by providing information, guidance and updates on hazardous substances and test certification.

The Update is also available to other interested parties on the WorkSafe New Zealand website at www.worksafe.govt.nz

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NOTIFICATION TO ENFORCEMENT AGENCY

Test certifiers are reminded of their obligations under Section 82 of the Hazardous Substances and New Organisms (HSNO) Act 1996, in particular, of notifying WorkSafe.

Sub-section 82(4) establishes the requirement on test certifiers to notify WorkSafe when they observe what is reasonably believed to be a non-compliance that has the potential for adverse effects that cannot be satisfactorily avoided. This observation is irrespective of whether the test certifier is at the site for the purpose of issuing a test certificate or for any other reason eg as an adviser or consultant.

When reviewing a site for the purposes of advising a client or for any other purpose, the requirement to notify WorkSafe where there is a non-compliance with the potential for adverse effects must be met.

Notification can be made to WorkSafe by emailing details of the non-compliance to: **healthsafety.notification@worksafe.govt.nz**

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Please include the phrase 'HSNO non-compliant site notification' in the subject heading. When making a notification, please include the following details:

> Test certifier name
> Test certifier contact details
> Site name
> Site address
> Contact details for person in charge of site
> Description of the non-compliance. Provide as much detail as possible.

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TANKS – CERTIFICATION OF DESIGN AND CONSTRUCTION

There are two pathways for the certification of stationary tanks provided for under Schedule 8 of the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004, depending on how the tank is fabricated:

> workshop fabricated tanks
> field fabricated tanks

Clause 92(2)(b) specifies the components which are required to be verified in order for a stationary container test certificate to be issued.

WORKSHOP FABRICATED TANKS

For new tanks that are workshop fabricated, the tank's design and construction is required to be certified. Once the tank's design and/or fabricator are entered on to the **Tank Design and Fabricators Register**, the design and construction of the tank does not need to be certified again. Only the tank installation needs to be certified by a test certifier with the appropriate approval. When issuing a test certificate for the installation, the test certifier should confirm that the tank is listed on the Tank Design and Fabricators Register.

FIELD FABRICATED TANKS

Field-fabricated tanks (which includes one-off tanks that are workshop fabricated where the design is not entered onto the Tank Design and Fabricators Register), require the tank design, construction and installation to be certified.

The guidance document '**Certification of Stationary Tanks and Process Containers**' elaborates on the process and indicates that the certifier may place reliance on an assessment prepared by a chartered engineer and the tank constructor. Appendix B of this document provides a flow chart of the processes involved.

This flow chart is not intended to convey the meaning that certification can be obviated by a chartered engineer or other experienced designer who is not approved to certify the tanks in question. The tank is required to be certified by a test certifier approved for the respective components: design, construction and installation, for the capacity of the tank in question.

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CONTROLS FOR INDOOR LPG

The controls for LPG specify the maximum quantity of LPG which can be stored and used indoors. The total quantity permitted is dependent on the particular purpose the building is being used for.

For **buildings used as areas of regular habitation** (note this excludes buildings used for dwellings, factories or warehouses), table 1 of the Section 77A **controls for LPG** states the requirements for indoor storage and use of LPG. The controls are intended to differentiate between buildings that are attached and buildings that are stand-alone structures. Two different indoor storage and use thresholds therefore apply to buildings used as areas of regular habitation:

STAND-ALONE BUILDINGS	MAXIMUM QUANTITY OF INDOOR LPG
Areas of regular habitation (excluding dwellings, factories or warehouses) within buildings with a roof and three or more walls that are **not** attached to residential or other occupancies, eg hotels, bars, restaurants, public buildings, places of worship, shops, offices and laboratories	10 kg per 10 m^2 of the indoor floor area, up to a maximum total quantity of 100 kg Maximum cylinder size 10 kg
ATTACHED BUILDINGS	**MAXIMUM QUANTITY OF INDOOR LPG**
Areas of regular habitation (excluding dwellings, factories or warehouses) within buildings with a roof and three or more walls that are attached to residential or other occupancies, eg hotels, bars, restaurants, public buildings, places of worship, shops, offices and laboratories	20 kg per premises Maximum cylinder size 10 kg

The above descriptions are prone to misinterpretation. They should be interpreted as follows:

STAND-ALONE BUILDINGS

This description can be refined as: a stand-alone building with a roof and three or more walls, and that **is** an area of regular habitation (excluding dwellings, factories or warehouses); **or** a building with a roof and three or more walls that is an area of regular habitation (excluding dwellings, factories or warehouses), **and** that is attached to another building which is **not** being used as an area of regular habitation.

Any buildings which meet this description can store a maximum of 10 kg of LPG per 10 m^2 of indoor floor area up to a maximum of 100 kg.

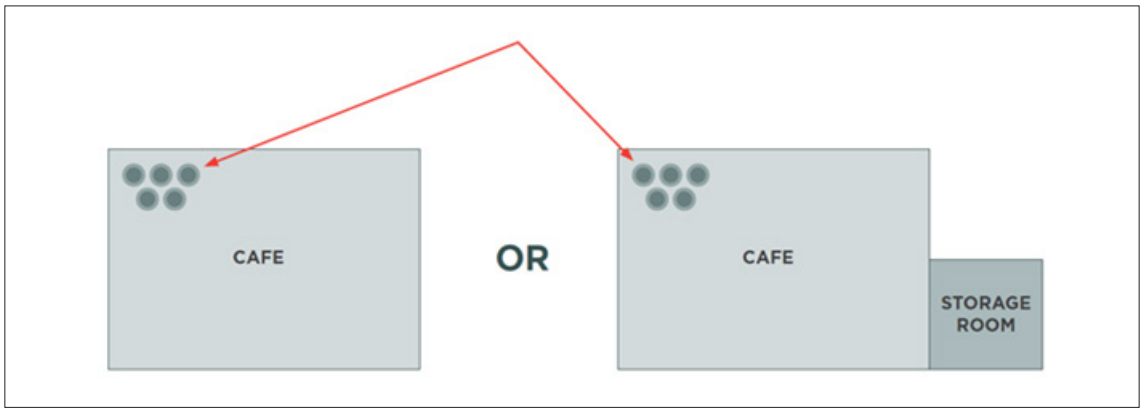

Figure 1: Maximum of 10 kg of LPG per 10 m^2 of indoor floor area up to a maximum quantity of 100 kg of LPG. Maximum cylinder size 10 kg

ATTACHED BUILDINGS

Any building which is an area of regular habitation (excluding dwellings, factories or warehouses), and is attached to other buildings which are also areas of regular habitation (excluding dwellings, factories or warehouses) are limited to a maximum of 20 kg of LPG for indoor use per premises.

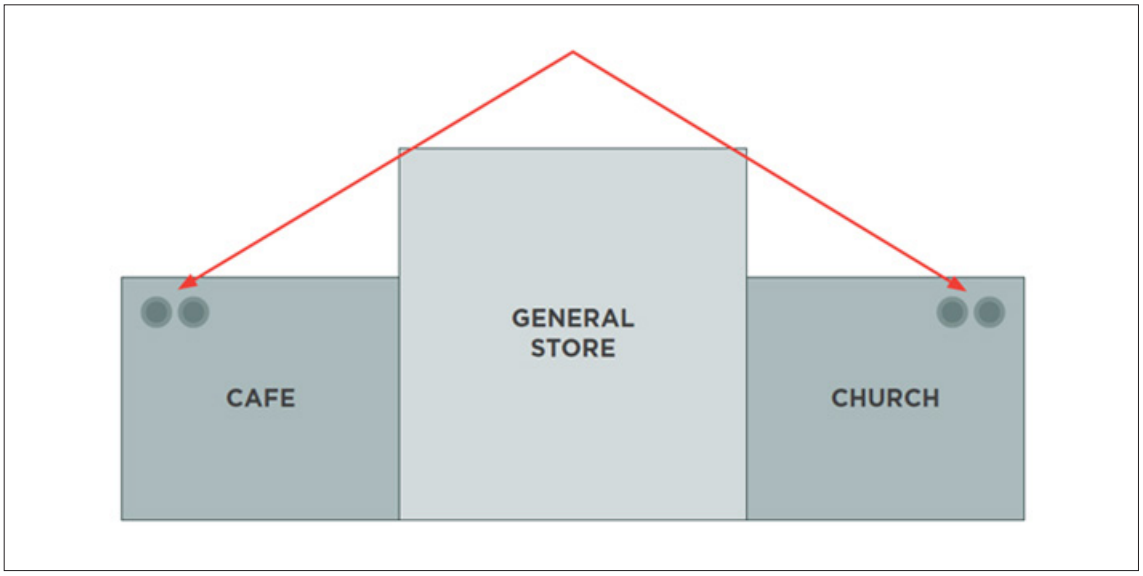

Figure 2: Maximum of 20 kg of LPG per premises. Maximum cylinder size 10 kg

An area of regular habitation includes any dwelling, hospital, school, airport, commercial premises, office, or other area where people regularly congregate.

Note that the guidance documents **LPG in Industry** and **LPG in the Hospitality Industry** have been amended to reflect this interpretation.

The controls for LPG can be found here: **www.epa.govt.nz**

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RESTRICTIONS ON STAMPING LAB NUMBERS FOR ONE-OFF CYLINDERS

A number of periodic testers have approval under Regulation 19 of the Hazardous Substances (Compressed Gases) Regulations 2004 to stamp LAB numbers for one-off cylinders. This approval only applies where there is an exact match to an existing design approval recorded on the **Register of Gas Cylinders**.

Periodic testers must not stamp a one-off LAB number for cylinders manufactured before the date of the design approval. This is because the design standard may have changed between the date of manufacture and the date of the LAB registration.

In this case, periodic testers must apply for a pre-commissioning waiver under regulation 21 of the Hazardous Substances (Compressed Gases) Regulations 2004.

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GUIDE TO GAS CYLINDER vs COMPRESSED GASES REGULATIONS

There appears to be some confusion amongst periodic testers regarding the legal standing of the Guide to Gas Cylinders. The Guide is intended to provide guidance for anyone involved with the import, manufacture, supply, filling, storage, and handling of compressed gas cylinders and fittings. It is a guide only and has no legal standing.

The Guide to Gas Cylinders provides guidance to the Hazardous Substances (Compressed Gases) Regulations 2004, but does not replace, nor obviate the requirement to comply with these regulations.

The Hazardous Substances (Compressed Gases) Regulations 2004 contains the legal requirements for determining compliance of compressed gas cylinders and fittings.

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MAJOR HAZARD FACILITIES (MHF) UPDATE

The Health and Safety at Work (Major Hazard Facilities) Regulations 2016 commenced on 4 April.

At this point in time, operators of potential MHFs are notifying WorkSafe New Zealand that they believe their facility will be designated as a major hazard facility. This is based on whether the facility holds quantities of specified hazardous substances that equal or exceed the lower tier threshold quantity specified in the Regulations. Notifications of existing and proposed facilities must be made by 4 July 2016.

Based on the notification, MHF will designate the facility upper tier, lower tier, or not included in the MHF regime. Only when the designation is made do the MHF Regulations apply to the facility (or not apply as the case may be), subject to the transitional arrangements for existing facilities (as specified in **Schedule 1** of the Health and Safety at Work (Major Hazard Facilities) Regulations 2016).

When designated, the facility will be included in an inspection programme by the MHF inspectors. For HSNO non-compliances the inspector will follow the process outlined in **Issue 5/2015** of the Test Certifier Update.

Further information on the MHF regime, including applicable dates for compliance, can be found on the WorkSafe website at: **www.worksafe.govt.nz**

Final Good Practice Guidelines for MHF operators will be published in the near future.

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HAZARDOUS SUBSTANCES INSPECTORS

WorkSafe has a new team of Health and Safety inspectors whose work will be entirely focused on hazardous substances management. The inspectors will work closely with WorkSafe's hazardous substances technical specialists, the Major Hazard Facilities (MHF) team, assessment inspectors, investigators, and the Certifications, Approvals and Registrations (CAR) team to ensure their work is risk focused and guided by operational intelligence.

Key responsibilities of the inspectors include:

> undertaking appropriate compliance and enforcement action in relation to a workplace assessment
> undertaking on-site assessments of workplaces that have completed and submitted an incident self-investigation
> providing input and support in identifying areas of concern and working with the Technical Programmes and Support (TP&S) & CAR teams to plan and implement specific work programmes.
> Providing support on notified matters of immediate and serious danger, including notifications of non-compliance from test certifiers.

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WORKSAFE POSITION STATEMENTS

WorkSafe has released a number of position statements which set our high-level approach to key issues. They provide a consistent voice on the application of the Health and Safety at Work Act (HSWA) and regulations, so that our approach is easily understood and consistently applied.

Current position statements that will be of relevance to test certifiers are:

> **Officers and due diligence**
> **Duties relating to other people at work**
> **Worker engagement, participation and representation**
> **Occupational (work-related) health**
> **Overlapping duties**
> **Risk management at work**
> **Upstream PCBUs**
> **Managing occupational health on potentially contaminated sites**
> **Remediating Asbestos – contaminated sites**

These are available at: **www.worksafe.govt.nz**

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TEST CERTIFIER WORKSHOP

It was heartening to see such a great turn out at the recent workshops on the Health and Safety at Work Act. We will shortly be sending copies of the workbook, presentations and guidance documents to those who were unable to attend. You can download the Act and Special Guide from:

Health and Safety at Work Act 2015:
www.legislation.govt.nz

Introduction to the Health and Safety at Work Act 2015 – Special Guide:
www.worksafe.govt.nz

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QUICK REFERENCE GUIDE TO HEALTH AND SAFETY AT WORK

Also distributed at the workshops was a pocket size *Quick Reference Guide to Health and Safety at Work*.

A number of certifiers have asked whether they could have additional copies of this guide to give to their clients. The guide is currently being updated, but once this is completed we will explore having additional copies printed.

If certifiers require large numbers it is likely that you will have to cover the printing cost (approximately $2 per booklet).

If you are interested, can you please let us know how many copies you may want. Email **hsinfo@worksafe.govt.nz** with the number of copies required (it can be indicative at this stage).

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NEW EDITION OF WORKPLACE EXPOSURE STANDARDS

WorkSafe has release a new edition of the Workplace Exposure Standards (WES) and Biological Exposure Indices. These are intended to be used as a guideline for occupational health professionals.
The new edition of the WES can be found at:
www.worksafe.govt.nz

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