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Eligibility criteria for design verifiers

Informative

Verification – competent person not involved with the design.

Clause 252 and 253 of the NSW Work Health and Safety Regulation 2017 prescribes requirements for design verification statements and the duties of design verifiers.

This information release provides important contextual information to assist designers and design verifiers comply with the requirements of these clauses.

It has been developed in response to some ongoing concerns identified during the assessment of design registration applications, and to ensure that a consistent approach to the verification process is adopted by both designers and verifiers.

Competent person

For design registration, a competent person for design verification is a person that has skills, qualification, competence, and experience to design (and verify) the type of plant being subject to verification. Examples may include:

- a qualified engineer that has experience designing a similar type of plant
- an experienced person that holds or has held suitable engineering position in a design office
- a chartered professional engineer
- an engineer that has experience with and is familiar with the design of mining equipment
- a person with suitable scope and accreditation for verification by an accreditation body.

The verifier should have relevant knowledge of:

- the technology and materials used in the design of the plant
- the fabrication and manufacturing processes used to construct the plant
- the way in which plant may be used
- any defects which may occur during the use of the plant.

The verifier must have a sound knowledge of the risk controls required to be incorporated into the design in consideration of the foreseeable use of the plant.

Not involved with the design

Clause 252 of the Regulation states that a competent person is not eligible to be the design verifier if that person was involved in the production of the design.

To ensure a designer and design verifier comply with this requirement, the following criteria should be applied:

- The verifier should be independent of any parties involved in the design.
- The verifier should not engage in any activities that may conflict with their independence of judgment and integrity in relation to their verification activities.
- The verifier should not be a part of a legal entity that is engaged in design, manufacture, supply, installation, purchase, ownership, or use of the items verified.
- The verifier should not be linked by means of the following to a separate legal entity engaged in the design, manufacture, supply, installation, purchase, ownership, or use of the items verified:
 - Common ownership, except where the owners have no ability to influence the outcome of the verification.
 - Common ownership appointees on the boards or equivalent of the organisations, except where these have functions that have no influence on the outcome of the verification.
 - Directly reporting to the same higher level of management, except where this cannot influence the outcome of a verification.

The above criteria is drawn broadly from ISO/IEC 17020 – Conformity Assessment. While this standard is not prescribed in the regulation this standard provides a useful reference for competent persons who undertake inspection activities.

Where the above criteria cannot be met, a clear separation of the responsibilities of the verifier from those of the personnel employed in the design should be established by organisational identification and the reporting methods of the verifier within the parent organisation.

Further guidance for verifiers

Verifiers cannot place themselves in the position of assuming any responsibilities of the designer. Verifiers should not:

- give advice to the designer as to the resolution of a compliance issue
- participate in risk assessments, FMEAs, functional safety assessments,
- provide design solutions or services relating to the design
- provide calculations, analysis, testing or examination that is arranged to be carried out by the designer to satisfy the designer's duty (*Work Health and Safety Act 2011 section 22*)
- represent the interests of the designer, manufacturer, supplier, installer, purchaser, owner, or user. For example, contact the Regulator on behalf of an applicant for registration.
- Assess compliance on behalf of the designer (the designer must establish how compliance is achieved. The verifier must verify the designer's claim of compliance)

Verifiers should:

- act impartially
- advise the designer of the reason(s) for being unable to verify full compliance (if applicable)
- carry out calculations, analysis, testing or examination as required to verify the design
- for the purposes of verification, provide test, examination, documentation, witness, hold and record point requirements for the designer's inspection and test plan.