

WORK HEALTH AND SAFETY (MINES AND PETROLEUM SITES) REGULATION 2022

Registration of Breathing Apparatus to Assist Escape (Including Self-Rescuers) Design Order 2022

I, **Garvin Burns**, Chief Inspector, with the delegated authority of the Secretary, Regional NSW, pursuant to clause 187(5) of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022, make the following Order.

Dated this 29th day of August 2022

Garvin Burns
Chief Inspector
Regional NSW

1. Name of Order

This Order is the *Registration of Breathing Apparatus to Assist Escape (Including Self-Rescuers) (No.2) Design Order 2022*.

2. Commencement

This Order commences on the day it is published in the NSW Government Gazette.

3. Interpretation

In this Order:

breathing apparatus is a reference to breathing apparatus to assist escape (including self-rescuers) used in underground coal mines.

TRG is a reference to a technical reference guide produced by the Department of Regional NSW's Resources Regulator and published on its website.

4. Revocation

The *Registration of Breathing Apparatus to Assist Escape (including Self-Rescuers) Design Order 2022* published in the NSW Government Gazette No.183 of 29 April 2022 is revoked.

5. Design requirements

- 5.1. Except as provided in paragraphs 5.2 and 5.3, all breathing apparatus used in underground coal mines must be designed in accordance with the *TRG*:

Escape breathing apparatus for underground mining applications, as identified in the following parts as amended from time to time:

- (a) Section 2 – design requirements
- (b) Section 3 – additional design requirements for chemical and compressed oxygen apparatus
- (c) Section 4 – additional design requirements for chemical and compressed oxygen apparatus

5.2. Where a design does not fully comply with the requirements in paragraph 5.1, the designer must specify the published technical standards or the engineering principles used to identify controls, in accordance with the hierarchy of risk control measures in Part 3.1 of the Work Health and Safety Regulation 2017, that have been incorporated in the design to achieve at least an equivalent level of safety as the requirements of paragraph 5.1.

5.3. If the design of breathing apparatus that is registered under Part 5.3 of the Work Health and Safety Regulation 2017 is altered and the alteration may affect health or safety:

- (a) the altered parts of the breathing apparatus must be designed to comply with the design requirements in paragraphs 5.1 – 5.2 of this Order.
- (b) an assessment must be undertaken, and documented, by the designer to assess the impact that the design alteration has on unaltered parts of the breathing apparatus.
- (c) where the assessment undertaken in paragraph 5.3(b) shows there has been a reduction in the effectiveness of existing control measures of any other parts of the breathing apparatus, that is, there has been a detrimental effect on health and safety caused by the alteration, these parts must comply with the design requirements in paragraphs 5.1 – 5.2 of this Order.
- (d) Any parts of the breathing apparatus which are not affected by the alteration must continue to comply with the design requirements of the design order that was in effect on the date that the registration for the design of the breathing apparatus was granted.

6. Test facility

6.1. The test facility used for testing the breathing apparatus must be a test facility which is independent of the designer, manufacturer or supplier.

6.2. The test facility must have test equipment with calibration traceable to the International System of Units (SI) by reference to national measurement standards, quality processes and work methods for performing the specific

tests described in the standards referred to in this Order. This must be demonstrated through:

- (a) accreditation by the National Association of Testing Authorities (NATA);
or
- (b) where demonstrated to the regulator that a NATA-accredited facility is not available
 - (i) through accreditation by an organisation that is a signatory to the ILAC MRA (International Laboratory Accreditation Cooperation Mutual Recognition Arrangement); or
 - (ii) a suitably qualified and experienced testing facility along with past test experience with breathing apparatus, which has been independently audited within the last 2 years.

7. Determination of applications for registration of design made before commencement of this Order

If an application for the registration of design of breathing apparatus made in accordance with clause 250 of the Work Health and Safety Regulation 2017 to which the standards specified in the *Registration of Breathing Apparatus to Assist Escape (including Self-Rescuers) Design Order 2022* applies is made before the commencement of this Order, and the application has not been finally determined before that commencement, the application is to be determined as if this Order had not commenced.