

# Summary of submissions

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*HAZARDOUS SUBSTANCES  
SAFE WORK INSTRUMENTS*

April 2023



**Te Kāwanatanga o Aotearoa**  
New Zealand Government

**WORKSAFE**  
Mahi Haumarū Aotearoa



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## **Purpose**

This document summarises the submissions made on a safe work instrument (SWI), WorkSafe's response to the feedback, and the resulting changes made to the SWI.

## **Executive summary**

The Health and Safety at Work (Hazardous Substances – Polyethylene Above Ground Stationary Tanks for Diesel Fuel) Safe Work Instrument 2017 (the Principal SWI) sets design and construction requirements for polyethylene above ground stationary tanks for diesel fuel.

In June 2022, WorkSafe consulted on a SWI that proposed to update the requirements in the Principal SWI.

The Health and Safety at Work (Hazardous Substances – Polyethylene Above Ground Stationary Tanks for Diesel Fuel) Amendment Safe Work Instrument 2022 (the Amendment SWI) amends the Principal SWI and should be read in conjunction with it.

The Amendment SWI commenced on 15 March 2023, and the SWI has been published on our website.

## **Consultation**

WorkSafe consulted on the proposed SWI between 27 June 2022 to 15 July 2022. We notified WorkSafe's social partners (Business NZ and the Council of Trade Unions) and stakeholders listed on WorkSafe's Hazardous Substances Database (over 14,000 stakeholders). The draft SWI was also available to the public on our website.

WorkSafe received five submissions on the SWI proposals from three polyethylene tank manufacturers, one tank distributor, and one city council. The proposed feedback from the submissions led to amendments to the proposed SWI. These submissions and consequential changes to the SWI are recorded in the summary below.

## **Summary of submissions**

### **Clause 12 amended (fill pipe)**

#### **SUBMISSIONS**

A submitter requested that the Principal SWI retain the requirement for tanks to have a corrosion resistant fill pipe and opposed WorkSafe's proposal to replace the fill pipe with an overfill protection device.

Another submitter recommended replacing the fill pipe with an overfill protection device only in certain cases when warranted by the risk.

A submitter noted that tanks supplied by delivery tank wagons cannot comply with the requirement for tanks to have a fill pipe.

Another submitter requested clarity on what type of overfill protection device the SWI would require.

#### **RESPONSE**

The SWI will retain the requirement for a fill pipe and will require an overfill protection device only for tanks filled by pump from a delivery tank wagon. The definition for overfill protection device does not specify the type of device, to allow flexibility in meeting this requirement.

## Clause 14 amended (general design)

### **SUBMISSIONS**

Several submitters supported requiring a means of monitoring of the interstitial space between the tank and its secondary containment, provided there is flexibility in the means of monitoring that can be used to meet this requirement.

### **RESPONSE**

The means of monitoring is not specified in the SWI to provide for the different means of monitoring that can be used to meet this requirement.

## Clause 16 replaced (quality management system for integral secondary containment systems)

### **SUBMISSIONS**

A submitter did not support removing the reference to Annex B7 of BS EN 13341 in the construction requirements for secondary containment systems, while another submitter questioned the need to retain Annex B8.

Several submitters supported the incorporation of tests for the tanks regulated by the SWI, so long as they were appropriate for the types of tanks. One submitter opposed the incorporation of OFTEC OFS T100 into the SWI, because the previous regulator, the Environmental Management Authority (ERMA), declined to incorporate it.

### **RESPONSE**

We note that the tests covered in Annex B7 of BS EN 13341 are designed for tanks not covered by this SWI, so the SWI does not need to cite Annex B7. Annex B8 requires leak tightness tests, so it is appropriate to retain the reference to that Annex.

WorkSafe considers that, in combination with the other requirements set by the SWI, OFTEC OFS TS 100 is appropriate in the clauses of the SWI where it is specified, as an alternative for certain tank types only. We understand that ERMA declined a much broader intended application of that standard.

## Clause 18 amended (construction materials: tanks)

### **SUBMISSION**

A submitter was concerned that incorporating *AS/NZS 4766:2020* would allow that standard to be applied to welding and fusion bonding fittings. While they felt the standard was appropriate for tanks, they did not believe it was suitable for those types of fittings.

Another submitter requested the rationale for moving from requiring an 8,000-hour UV exposure test to a 12,000-hour UV exposure test.

A submitter noted that requiring 12,000 hours of UV exposure testing would require international polymer manufacturers to create batches of polymer specifically for New Zealand.

### **RESPONSE**

The Amendment SWI only applies to tanks, not to the other fittings specified in the *AS/NZS 4766:2020* standard.

WorkSafe had proposed moving to a 12,000-hour UV exposure test because *AS/NZS 4766:2020* contains a note that that this is likely to be a future requirement.

We initially proposed incorporating the 12,000-hour test to future proof the SWI for any future amendments to the SWI. We will now consider updating that requirement only if *AS/NZS 4766:2020* is revised.

Clause 23 replaced (integral secondary containment system deformation test)

**SUBMISSION**

A submitter noted that horizontal cylindrical or rectangular tanks are not designed to meet the 2.5% deformation limit required in this clause.

**RESPONSE**

We have incorporated into the SWI tests from OFTEC OFS T100 as an alternative to the 2.5% deformation limit and are satisfied that this provides an appropriate alternative for horizontal cylindrical and rectangular tanks.



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