

**Managing the Approval to Audit Cooling Water Systems
Process**



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CONTENTS

1	BACKGROUND	2
1.1	Auditing risk assessments	2
1.2	Key definitions	2
1.3	Legal and legislative framework	3
2	CRITERIA FOR APPROVAL OF AUDITORS	3
2.1	Application for approved auditor	3
2.1.1	Approval to audit	4
2.1.2	Qualifications and experience	4
2.1.3	Mutual recognition of qualifications	5
3	THE APPROVAL PROCESS	5
3.1	Application for approval	5
3.1.1	Auditor approval panel	5
4	REVOKING AN APPROVAL TO AUDIT COOLING WATER SYSTEMS	6
4.1	Criteria for revoking an approval to audit	6
4.1.1	Auditor revocation panel	6
4.1.2	Withdrawal of approval to audit	6

1 BACKGROUND

1.1 Auditing risk assessments

Part 2 of the *Public Health Regulation 2022* (the Regulation) requires the occupier of a premises containing a cooling water system to engage, every year, an independent auditor to conduct an audit of compliance with the risk assessment and the Regulation.

The Regulation only permits audits to be conducted by a person approved by the Secretary as an auditor.

A person seeking to become an auditor must submit an application in the Approved form (Approved Form 5) to the Secretary who may grant an approval for a specified period. To obtain approval as an independent auditor, a person must fulfil minimum criteria in respect to educational qualifications and auditing experience.

An auditor must be independent of each of the following:

- the occupier,
- the person who undertook the risk assessment,
- a duly qualified person who installed, operated and maintained the cooling water system in the previous 5 years,
- the person who operates a laboratory that carried out any monthly testing of the cooling water system in the previous 5 years, or
- A person employed or engaged by the person who employed or engaged a person referred to above (except the occupier).

The Regulation also allows the Secretary to revoke an auditor approval in writing at any time should the auditor fail to act in an appropriate manner.

1.2 Key definitions

Approved Form means a form approved by the Secretary.

Audit means an assessment, in accordance with the Regulation, of the compliance of a cooling water system with the actions and timeframes required by the RMP, and mandatory actions. The audit must be conducted every year (based on 12 months of data and documentation), by an independent auditor.

Auditor means a person engaged by the occupier to conduct an annual audit. The auditor must be approved by the NSW Health Secretary, have appropriate qualifications and experience, undergo specified training, and be independent of the occupier, competent person, duly qualified person, and laboratory.

Cooling Water System is a device for lowering the temperature of water or other liquid by evaporative cooling, or an evaporative condenser that incorporates a device containing a refrigerant or heat exchanger, together with its associated equipment and pipe work.

Duly Qualified Person (DQP) is a person who installs, operates, or maintains the cooling water system on a routine basis. This person is typically employed by a water treatment

company, mechanical services company, or other industry organisation. The Regulation allows the occupier to carry out this role if they meet the definition of DQP.

Occupier is the owner of a premises (e.g. building) on which a cooling water system is located; the person entitled to occupy the premises (e.g. leaseholder or tenant); or the owners corporation of premises under a strata scheme. The occupier is responsible for ensuring that their cooling water system is managed (installed, operated and maintained) in accordance with the Act and Regulation.

Risk Assessment means a risk assessment that is required by AS/NZS 3666.3:2011.

1.3 Legal and legislative framework

The *Public Health Regulation 2022* section 15 only allows audits of risk assessments to be undertaken by an independent auditor approved by the Secretary as follows:

(2) However, the Secretary may not approve the following—

- (a) the occupier,*
- (b) the person who undertook the risk assessment,*
- (c) a duly qualified person who installed, operated or maintained the cooling water system at any time in the previous 5 years,*
- (d) the operator of a laboratory that carried out testing of the cooling water system at any time in the previous 5 years,*
- (e) a person employed or engaged by the person who employed or engaged a person referred to in paragraph (b), (c) or (d).*

Section 15 of the Regulation requires a person to apply, in the Approved form (Approved Form 5), to the Secretary to become an approved auditor. The Secretary may approve an application for a specific period of time, however the Secretary may revoke an approval in writing at any time.

2 CRITERIA FOR APPROVAL OF AUDITORS

2.1 Application for approved auditor

Persons applying to become approved auditors must apply to NSW Health by completing the Application for approval to audit cooling water systems (Approved Form 5), which is available on NSW Health's website, and provide necessary supporting information and documentation that is clearly labelled.

Persons applying for approval as auditors must demonstrate appropriate qualifications and experience and independence in order to comply with the Regulation and *NSW Guidelines for Legionella Control in Cooling Water Systems* (Guidelines).

Applicants will be notified in writing about the outcome of their applications. Applicants that are declined will need to reapply and address all deficiencies.

There is currently no fee for persons applying for approval as an auditor of cooling water systems.

2.1.1 Approval to audit

An approval may be granted for a period of no more than five years and is subject to the auditor complying with the Regulation and the Guidelines. Approval may be given for a lesser time period if the panel agrees it is warranted. Once a person has been approved as an auditor of cooling water systems, they will receive written confirmation and be included on a list of persons approved by NSW Health.

At the end of an approval period, an auditor is required to renew their auditor approval by completing Approved Form 5 and submitting this to NSW Health three (3) months before their current approval expires. An auditor who fails to renew their approval before the expiration date, will cease to be an approved auditor, is ineligible to perform audits of cooling water systems, and will be removed from the list of auditors maintained by NSW Health.

An auditor must notify NSW Health of a change in circumstances relevant to their approval, such as change of employer, or an issuing authority revoking a professional certification, registration, license, or auditor approval and provide supporting documentation. A new Approved form 5 is to be completed and submitted with evidence of the change in circumstances.

2.1.2 Qualifications and experience

To be considered for approval, applicants must satisfactorily complete the training course in Legionella Control in Cooling Water Systems (including all units of competency that are mandatory for an independent auditor) provided by TAFE NSW.

Appropriate qualifications to obtain approval as an independent auditor can include, but is not limited to, applicable qualifications obtained through TAFE NSW (Certificate III, IV and Diploma level courses in air-conditioning and refrigeration). Likewise, a person may be licensed by NSW Fair Trading: such as Certificate III in Air-conditioning and Refrigeration, which requires completion of the TAFE NSW Electrotechnology training package (National code UEE11, with completion of applicable certificate and Diploma level courses in Air-conditioning and refrigeration).

Appropriate experience to obtain approval as an independent auditor in NSW can include, but is not limited to, relevant experience in conducting audits for another government agency, or commercial organisation, in a comparable area to cooling water systems. For example, this may be demonstrated by having a role:

- As an approved auditor of a cooling tower system risk management plan under legislation managed by the Victorian Department of Health and Human Services
- Under the site auditor scheme administered by the NSW Environment Protection Authority (EPA)
- Under the Regulatory Food Safety Auditor System administered by the NSW Food Authority

- As a drinking water quality auditor on the Technical Services and Water Licensing Audit Panel administered by the NSW Independent Pricing and Regulatory Tribunal (IPART).

NSW Health will only consider evidence of qualifications and experience submitted with the application.

Auditors are responsible for maintaining their professional certifications, registrations and licences that are necessary to retain approval as an approved auditor of cooling water systems and to notify NSW Health if a qualification is revoked. In the event that an issuing authority revokes a professional certification, registration or license, which is an appropriate qualification in obtaining approval as an auditor, NSW Health will initiate the process for revoking a person's approval as an auditor.

2.1.3 Mutual recognition of qualifications

NSW Health recognises cooling water system auditors approved in other jurisdictions consistent with the *Commonwealth Mutual Recognition Act 1992*. However, applicants must demonstrate a working knowledge of NSW legal obligations in respect to Legionella Control. Where this requirement is not satisfied, applicants may be requested to undertake further training in Legionella Control through TAFE NSW.

3 THE APPROVAL PROCESS

3.1 Application for approval

An application must be made on the approved application form for approval to audit cooling water systems (Approved Form 5). Applications may only be considered when all required information is provided by the applicant. Upon receipt, all applications and supporting documentation will be reviewed for completeness and checked for accuracy, authenticity and relevance. Satisfactorily completed applications and supporting documentation will be assessed against the requirements of the Regulation and Guidelines in respect to qualifications, experience and independence. Applications that satisfactorily meet requirements of the Regulation and Guidelines, including applications for mutual recognition of qualifications, will progress to reference checks to validate information detailed in applications.

All applications, including notification of a change in circumstances, will be considered by the Auditor Approval Panel, which will be convened on a basis to ensure that applications are processed within a reasonable period of time. Decisions made by the Panel in respect to applications will be communicated in writing to applicants.

3.1.1 Auditor approval panel

A Delegate of the Secretary will convene a panel to approve a person as an auditor of risk assessments for cooling water systems and decisions will be documented. The Panel will be comprised of the Delegate, Manager Environmental Health Regulation Unit,

Environmental Health Branch, and a representative from a Local Health District Public Health Unit.

4 REVOKING AN APPROVAL TO AUDIT COOLING WATER SYSTEMS

4.1 Criteria for revoking an approval to audit

The Secretary may revoke an auditor approval in writing at any time should the auditor fail to act in an appropriate manner. This includes, but is not limited to:

- Issuing a certificate of audit completion fraudulently or by concealing the facts.
- Conducting audits incorrectly.
- Conducting audits without a requisite professional certification, registration or licence.
- Failing to adhere to the independence requirements of section 15 of the Regulation (as detailed in section 1.3).
- Failing to comply with the Regulation.
- Failing to conform to the Guidelines.
- Failing to record in the approved form non-conformances with Risk Assessments, or non-compliances with the Regulation that are detected in audits.
- An auditor who fails to renew their approval before the expiration date of their current approval, will cease to be an approved auditor and is ineligible to perform audits of cooling water systems.
- An auditor who has a professional certification, registration or license cancelled by an issuing authority, which is an appropriate qualification in obtaining approval as an auditor, will cease to be an approved auditor and is ineligible to perform audits.

NSW Health will commence formal reviews of auditors where evidence indicates that auditors have failed to act appropriately. In these circumstances, the Auditor revocation panel will be convened to consider whether an approval should be revoked.

4.1.1 Auditor revocation panel

A Delegate of the Secretary will convene a panel to consider whether an auditor approval should be revoked, and decisions will be documented. The Panel will be comprised of the Delegate, Manager Environmental Health Regulation Unit, Environmental Health Branch, and a representative from a Local Health District Public Health Unit.

NSW Health may inform persons who are the subject of Panel determinations in respect to revoking auditor approvals. NSW Health may request an auditor to “show cause why an auditor approval should not be revoked”, or to submit supporting information and evidence for the Panel to consider within a reasonable timeframe. NSW Health will advise persons in writing of decisions made in respect to auditor approvals.

4.1.2 Withdrawal of approval to audit

If NSW Health revokes a person’s approval to audit cooling water systems, NSW Health will advise the person in writing and remove them from the list of approved auditors.