

Inspection and Certification Ordinance of TÜV NORD Systems GmbH & CO. KG for approval and certification of personnel and operating procedures for permanent joining for pressure equipment

1 Scope and Definition

The Inspection and Certification Ordinance applies to the performance of inspections and the issuing of certificates for personnel and operating procedures **for** Permanent joining ((hereinafter also referred to as the "procedures") by the Certification Body / Notified Body for pressure equipment (hereinafter also referred to as the "Notified Body") and the testing laboratories of TÜV NORD Systems GmbH & Co. KG for the fields of activity relating to pressure equipment and simple pressure vessels The inspection and certification activities are performed specifically on the basis of the German law relating to the supply of products on the market (Product Safety Law - ProdSG). The inspections are performed within the framework of the conformity assessment procedures in accordance with the Pressure Equipment Directive 97/23/EC and the Simple Pressure Vessels Directive 2009/105/EC.

Specifically, the inspections involve activities such as the performance of tests and inspections on designs and/or products as specified in harmonised standards, technical specifications and technical regulations, with the aim of verifying specific characteristics of the product.

Products in the meaning of this Inspection and Certification Ordinance are pressure vessels, pressure equipment and assemblies.

2 Inspection and certification procedure

2.1

The Client assigns the Notified Body to perform an inspection and/or certification. When a certification order is issued for the first time, the Notified Body and the Client conclude a written contract / order.

Upon the assignment of each order to the Notified Body, as a significant component of the contract, the Client shall recognise the Inspection and Certification Ordinance, as amended, as binding. Any contractual relationships shall be subject to the Inspection and Certification Ordinance valid from time to time. The valid Ordinance is available for download www.tuev-nord.de (under General Terms and Conditions) and a hard copy can be provided upon request.

By concluding a contract and accepting the further applicable documents specified therein, the Client declares that the same application for certification has not been submitted to any other Notified Body. The Notified Body must be informed in writing if the product submitted for certification has already been the object of a comparable order from another Notified Body. The Notified Body must be notified of the result of this inspection.

2.2

Approval of personnel / procedures for manufacturing of permanent joining

The Client provides the Notified Body / testing laboratory with the necessary documents and / or information of personnel or procedures product to be tested. The Client is responsible for provides of the technical equipment and test pieces, and ensures that the Notified Body has access to the corresponding areas of its company.

2.3

The Client provides the documents, information and / or test pieces required for the performance of the inspection to the Notified Body free of charge and freight costs. Shipping takes place at the Client's risk. If the return of documents, information or test samples has been agreed, this shall be done at the expense of the Client.

2.4

The inspection and certification orders are processed in the order in which the documents and/or information are received.

2.5

Inspections are performed in the testing laboratory or at the premises of the Client. Also other inspection locations may be agreed in consultation with the Client.

The Notified Body is entitled to involve subcontractors. The order shall be issued after consultation with the Client.

2.6

Following completion of the inspection and/or certification procedure, the Client is provided with a written inspection report. If the test / approval conform to the corresponding requirements of the respective directives, the Notified Body shall issue the applicant with a certificate. The certificate may contain conditions for its validity. The certificate may have one or more appendices attached. The Notified Body shall provide the inspection report and certificate also in electronic form as the case may be.

Inspection and Certification Ordinance of TÜV NORD Systems GmbH & CO. KG for approval and certification of personnel and operating procedures for permanent joining for pressure equipment

2.7

For each inspection and certification, the Client pays fees corresponding to the fee schedule of TÜV NORD Systems GmbH & Co. KG in its applicable version, unless an alternative arrangement has been agreed.

2.8

The Client is obliged to retain the documents and/or information relating to the inspection and/or certification application, and particularly also the certificate of conformity, for a period of at least 10 years after the expiry of the certificate. Any more extensive provisions of law shall remain unaffected by this. Upon request from the Notified Body, the Client shall submit these documents and/or information, including after the conclusion of the inspection and/or certification application.

The Notified Body and the testing laboratory are not liable for any damage to inspection samples and/or documents and/or information provided, either as a result of or during the inspection, or as a result of burglary, theft, fire, water or transportation. TÜV NORD Systems GmbH & Co. KG is obliged only to exercise such care as it is used to exercising in its own matters (Section 690 of the German Civil Code (BGB)).

2.9

In the event of refusal to issue a certificate, the Notified Body is not liable for the disadvantages suffered by the Client as a result of such refusal, except in cases of intent or gross negligence.

2.10

The Client shall be informed about the expiry of the accreditation and/or the approval of the testing laboratory and/or the Notified Body; thereafter, the Client is no longer entitled to advertise using references to this accreditation or approval.

3 Certificates

3.1

Issue of the certificate

3.1.1

The authorisation to use the issued certificates only applies to those natural or legal entity and their products that are explicitly listed on the certificate. In the event of an intended transfer to another natural or legal entity, the Client or holder of the certificate shall inform the Notified Body in good time. Only the Notified Body has the authority to alter the certificate or transfer it to a third party.

The certificate entitled not for fit of a CE-Marking.

3.1.2

The Certificate is valid only for the scope specified in the Certificate

3.2

Expiry, declaration of invalidity, limitation, suspension and withdrawal of certificates

3.2.1

A certificate shall expire if

- the validity mentioned in the certificate expired and if the validity is not extended by the Notified Body. The validity period of the certificate can be extended to request and on basis of the existing contract. So far not agree upon, the test and certification procedure are valid in accordance with Number 2 with a formal extension of the validity of the certificate.
- the contract for the inspection and/or the certification of the product and the use of the marking are terminated by the Client or certificate holder;
- the Client or certificate holder waives the right to the certificate and notifies the Notified Body of this in writing;
- the Client or certificate holder rejects in writing alterations made to the Inspection and Certification Ordinance within a period of 6 weeks after it comes into effect or after the possibility of notice;
- the Client or certificate holder becomes insolvent or an application for insolvency is rejected due to lack of assets;

Inspection and Certification Ordinance of TUV NORD Systems GmbH & CO. KG for approval and certification of personnel and operating procedures for permanent joining for pressure equipment

- there are changes in the statutory requirements, the requirements of the accrediting body, or the rules of engineering on which the certificate is based. The validity of the certificate shall be extended if it is established by means of a repeat inspection at the expense of the Client or certificate holder, within a reasonable period set by the Notified Body, that the personnel / procedure certified also conforms to the new regulations;
- the Client or certificate holder terminates its business operations.

3.2.2

A certificate may be declared invalid, limited, suspended or withdrawn by the Notified Body without notice, in particular if

- the report in the meaning of point 2.6 on which the certificate is based is no longer suitable to form a basis for the product certification.
- procedures or contents in the inspection and certification procedure are subsequently determined to have deviated from the regulations;
- the Notified Body was not properly approved for certification by the competent authority;
- the competent authority orders the declaration of invalidity, limitation, suspension or withdrawal;
- no corrective measures are taken or such measures are not sufficient to ensure that the requirements are fulfilled;
- the certificate or inspection report is used in misleading or otherwise unacceptable advertising;
- the fees due are not paid, after reminders, within the period set by the Notified Body. If the fees do not relate to a specific certificate, the Notified Body decides to which certificate this measure shall relate;
- on the grounds of facts that were not identifiable at the time of the inspection, the continued use of the marking is no longer justified due to its significance on the market;
- certificates or copies of certificates have been altered and hence falsified;

3.2.3

After the expiry, declaration of invalidity, limitation, suspension or withdrawal of a certificate, the original of the concerned certificate must be returned to the Notified Body immediately. In the event of a limitation of validity, the Notified Body shall issue a new certificate with the content of the restriction. In the event of suspension, the certificate shall remain with the Notified Body until the Notified Body ends the suspension.

3.2.4

The Notified Body shall give the Client or certificate holder the opportunity to comment before the invalidity, suspension, limitation or withdrawal of the certificate is declared, unless obtaining such comment is not reasonable given the urgency of the action that has to be taken.

3.2.5

The Notified Body retains the right to announce the declaration of invalidity, limitation, suspension or withdrawal of certificates within the framework of its statutory obligations.

The Notified Body reports to the approving authority

- any case in which a certificate is refused, limited, suspended or withdrawn;
- any request for information relating to conformity assessment activities that it receives from the market surveillance authorities.

The Notified Body is authorised within the framework of its statutory obligations to provide the approving authority upon request with such information as required for the fulfilment of its surveillance functions, and to provide any other support required. The Notified Body is entitled, in particular, to provide the approving authority upon request with the documents on which the conformity assessment is based.

The Notified Body shall send relevant information regarding the negative and also, upon request, regarding the positive results of conformity assessments to the other notified bodies, which are notified under the respective harmonisation regulations of the European Union, pursue similar activities.

The Notified Body informs other notified bodies regarding the certificates and/or any supplements it has issued or withdrawn, and provides its notifying authorities at regular intervals or upon request with a list of all certificates and/or supplements it has refused, suspended, or otherwise limited.

Inspection and Certification Ordinance of TUV NORD Systems GmbH & CO. KG for approval and certification of personnel and operating procedures for permanent joining for pressure equipment

If requested by the Commission, the member states and the other notified bodies, they shall be submitted a copy of the certificate and/or its supplements. If requested by the Commission and the member states, they shall be submitted a copy of the technical documents and the results of the inspections performed by the Notified Body. The Notified Body retains a copy of the certificate, its appendices and supplements, and of the technical dossier, including the documents submitted by the Client, until the validity period of the certification has expired.

Moreover, the Notified Body shall report any improper use of certificates of which it becomes aware in particular to the approving authority. This shall not be subject to any specific consent from the Client or certificate holder. The Client or certificate holder is obliged to inform the Notified Body immediately regarding any improper use of certificates issued by the Notified Body, as soon as the Client becomes aware of this.

3.2.6

The Client or certificate holder shall automatically lose the right to affix the marking to the products listed in the certificate, as soon as the certificate expires, or is suspended, limited, declared invalid, or withdrawn.

3.2.7

The Notified Body shall not be liable, except in cases of intent or gross negligence, for any disadvantages accruing to the Client or certificate holder in conjunction with the limitation, suspension, expiry, declaration of invalidity or withdrawal of the certificate, or the publication of the measures specified under section 3.2.5.

4 Publication of inspection reports and certificaten

4.1

The Client or owner of certificates or inspection reports may only disclose and/or use these in their full and unabridged form, specifying the date of issue. Publication or duplication, including of excerpts, shall always require the prior written approval of the Notified Body.

4.2

The Notified Body reserves the right to publish the name of the Client or certificate holder and certified products, e.g. in the form of reference lists. This shall not be subject to any specific consent from the Client or certificate holder.

5 Obligations of the Notified Body and the Client or certificate holder

5.1

Obligations of the Notified Body

The Notified Body undertakes to treat as confidential any information relating to the company of the Client or certificate holder, and only to use it for the agreed purpose. Documents of the company shall not be disclosed to third parties without the approval of the Client or certificate holder. This does not apply to any disclosure of information for reasons of statutory or official obligations.

5.2

Obligations of the Client or certificate holder

The Client or certificate holder is obliged for the duration of the validity of the certificate:

- to provide the Notified Body with such documents as are required for the inspection and/or certification process, and to provide access to the Notified Body where required;
- to immediately remedy any defects subsequently found in certified personnel / Procedures, and to take appropriate measures to minimise the damage. The Notified Body must be informed immediately in such cases;
- to inform the Notified Body upon request regarding any and all complaints and countermeasures taken.
- to inform the Certification Body before placing of the order in writing, if the personnel as Subject of a comparable order with another Institution and the result of this examination to communicate.
- der Zertifizierungsstelle auf Verlangen Auskunft über jegliche Beanstandungen und ergriffene Maßnahmen zu geben
- to inform the Notified Body upon request regarding any and all complaints and countermeasures taken.

Inspection and Certification Ordinance of TÜV NORD Systems GmbH & CO. KG for approval and certification of personnel and operating procedures for permanent joining for pressure equipment

6 Offences against the Inspection and Certification Ordinance

6.1

The Notified Body is entitled, in the event of culpable offences against the Inspection and Certification Ordinance being demonstrated, and in particular in the event of unlawful use of the certificate, to demand a contractual penalty of up to EUR 10,000.00 for each case of violation. The appropriateness of the extent of the contractual penalty shall be subject to examination in a court of law. Use of the certificate shall in particular be considered unlawful if personnel / procedures is offered for sale or circulated bearing the marking before the certificate is issued, or if inadmissible advertising is published.

6.2

The Notified Body reserves the right to terminate the contract for inspection and/or certification without notice and with immediate effect, and to declare invalid and withdraw any further certificates owned by the Client or certificate holder, where as a result of an offence against the Inspection and Certification Ordinance, the Notified Body can no longer rely on the contractual good faith and reliability of the Client or certificate holder.

6.3

In addition, the Notified Body reserves the right to demand from the Client or certificate holder a replacement of the expenses that have been incurred by the offence against the Inspection and Certification Ordinance.

7 Complaints

The Client or certificate holder is entitled to file complaints against inspection and certification decisions. The complaint must be submitted to the Notified Body.

The Notified Body is obliged to justify its decision to the party submitting the complaint. If no agreement is reached even after this justification, the party submitting the complaint shall have recourse to the courts.

8 Access for accreditation bodies and approval-issuing authorities

Upon issuing the order, the Client or certificate holder assents to grant access for employees of the accrediting body or approving authorities of TÜV NORD Systems GmbH & Co. KG to its facilities, within the framework of the monitoring of the Notified Body.

9 Indemnification

If claims are made by third parties against the Notified Body for reasons of the use of the inspection report, the certificate or the marking by the Client or certificate holder, on the basis of the principles of product liability, the Client or certificate holder is obliged to indemnify the Notified Body against all claims of third parties. The same shall apply in all cases in which claims are made against the Notified Body as a result of advertising statements of the Client or certificate holder, or for any other reason relating to the conduct of the latter.

10 Commencement of the Inspection and Certification Ordinance

The Inspection and Certification Ordinance shall become effective on 01 November 2012, subject to any transition periods, and shall remain effective until a new Inspection and Certification Ordinance becomes effective.

Any previous versions of this Inspection and Certification Ordinance shall become ineffective at the specified date, subject to any transition periods.