

Maintenance of competence scheme
for practising certificates

NSW Minerals Council Submission

NSW MINERALS COUNCIL

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Executive summary

The NSW Minerals Council (NSWMC) welcomes the Government's move to establish a *Maintenance of Competence Scheme for Practising Certificates* (the Scheme) that, if implemented well, will benefit the mining industry through continued education, enhanced competence, and an improved knowledge base for its workers with key roles and responsibilities that will ultimately deliver improved safety outcomes.

However NSWMC is concerned that the design of the proposed Scheme will create an overly complex, highly administrative, impractical, inflexible and costly mechanism for maintaining and ensuring the competency of mine workers. The key issues with the proposed scheme are:

- The mechanism for dealing with non-compliance matters is unnecessarily harsh.
- It lacks flexibility to account for workers with special circumstances (such as extended leave, a limited ability to leave shift for long durations, or a limited ability to travel large distances to attend training).
- The proposed record keeping and audit system is primitive and unreliable.
- It does not focus on the most safety critical topics.
- The scope and requirements of the scheme are untried and untested in NSW.
- Queensland and NSW requirements are potentially misaligned.

To alleviate these key issues, NSWMC recommends that:

- Flexibility and leniency be built into the Scheme to resolve minor non-compliance matters and provide for unforeseen or special circumstances.
- Standard online training and/or refresher testing be implemented as alternative means of meeting competency requirements.
- A comprehensive online management system be established to upload, track, store and audit records.
- The Scheme specify and mandate training requirements for the most safety critical topics, which should be selected in consultation with industry.
- The Scheme be introduced administratively only for a period of time. Following a review of the scheme, its regulatory measures can be refined and any issues resolved, before being formalised.
- The NSW Government liaise with its Queensland counterparts to ensure that the Scheme's requirements are transferable, and vice versa.

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About the NSW Minerals Council

The NSW Minerals Council (NSWMC) is the peak industry association representing the NSW minerals industry. Our membership includes approximately 100 members, ranging from junior exploration companies to international mining companies, as well as associated service providers.

Introduction

The NSW Minerals Council welcomes the opportunity to comment on the *Discussion Paper: Maintenance of competence scheme for practising certificates* (the Scheme). The Scheme, if well implemented, will ensure that core worker competencies are maintained, and therefore enhance the safety of mining workplaces.

NSWMC is broadly supportive of the Scheme, however there are a number of issues that relate to its appropriate implementation and management, which are discussed below, along with NSWMC's recommendations.

Key issues

Scheme suitability

The proposed Scheme is untried and untested in NSW

Since the Scheme is untried within NSW, the Scheme should initially be introduced administratively only, without any penalties for not adhering to it. After a full year of operation administratively the Scheme should be reviewed in consultation with industry and workers. Following the review, and implementation of any recommendations from the review, the Scheme can be formally enacted (including any requirements for retesting to enable renewal of certificates).

Queensland and NSW competency requirements are potentially misaligned

It is understood that both NSW and Queensland are currently in the process of drafting Maintenance of Competency arrangements. Since both states are in the development phase of a practice certificate scheme, there is an opportunity for the schemes to align, in order to simplify the requirements for workers that may practise their skills in both states.

Recommendations

- Initially introduce the Scheme administratively only, without any penalties for not adhering to the rules. Formalise the Scheme once it has been fully rolled out.
- The NSW Government should liaise with its Queensland counterparts to ensure that the scheme's requirements are aligned

Competence areas

The proposed Scheme does not provide sufficient focus on the most safety critical topics

The areas of competence and topics are broad in scope, which risks a lack of attention to the most important topics and the key objectives of the Scheme (i.e. to ensure and adequate understanding and awareness of safety and health issues, technology and hazards that may prevent incidents). Practicing certificate holders need to maintain focus on the core objectives of the proposed Scheme – the prevention of serious incidents, otherwise there is a risk that Scheme requirements are achieved for topics that are unrelated or less relevant to the technical and operational hazards of a mine (e.g. leadership topics). Therefore there is an opportunity to highlight 'Catastrophic and Fatal Hazards' as a specific separate section. A separate section for 'Plant and Equipment' would also be useful in order to focus on critical systems such as maintenance, roads and vehicle operations. Specific and/or prescribed training requirements could be set for these types of key topics.

Rolling out the Scheme administratively only in the first instance, will provide the opportunity to identify any other gaps in areas of competence and suitability of topics.

Recommendation

- Include 'Catastrophic and Fatal Hazards' and 'Plant and Equipment' as additional areas of competence. Prioritise or specify training requirements for critical safety areas of competence.
- Review the areas of competence and suitability of topics following an administrative introduction of the Scheme.

Learning requirements

The proposed Scheme lacks flexibility for workers with special circumstances

The proposed model is suitable for most worker situations, under the idealistic assumption that all workers are employed on an ongoing, fulltime basis and have a number of formal / informal training opportunities available to them. However the Scheme does not consider special circumstances that workers experience, which may result in their absence from work in NSW, or at all for some period of time, and which may hinder their ability to undertake any (or a sufficient number of hours of) formal or informal training in a particular year(s). Examples of these types of special situations include:

- Extended sick or carer's leave.
- Workers transferring interstate or internationally, as they may not have maintained these records.
- Extended leave.
- Having limited ability to attend training sessions due to the working hours (e.g. evening / weekend) and/or unavailability outside limited working hours.
- Unemployed practitioners.
- Being located far away from formal / informal training opportunities, and being hindered by difficulties travelling.

Some form(s) of alternative and/or special consideration needs to be made available for workers experiencing the above or similar issues. For example, a "refresher" testing mechanism and/or online training options could be put in place to check competency, so that these individuals and their employers are not unfairly disadvantaged by an unduly harsh system.

Some of the learning requirements may require adjustment

The suitability of formal and informal training (including the type, number of hours and percentage split) should be reviewed and revised (as appropriate) following the administrative introduction of the Scheme. Nevertheless, some initial observations include:

- Many of the formal types of training are not suitable or relevant to the bulk of statutory tickets. For example, delivering industry seminars/workshops, presenting papers, and publishing learned/peer reviewed papers is not applicable to many levels, such as Deputies and Undermanagers, which make up the largest number of statutory tickets.
- There is a current lack of industry forums to adequately meet the hour requirements. Given the current contraction of the mining industry this is unlikely to improve in the near future.
- It is important to ensure that formal training is available in remote locations, close to mines; otherwise it may be difficult for some workers (particularly supervisors) to attend a sufficient number of hours of training.
- Company based training sessions such as legislation, principle mining hazards and site controls are highly relevant and thorough, and therefore should be classified as 'formal' training.
- There are other elements that should also be considered as part of informal training, such as:
 - Meetings / inspections with the mines inspector.
 - Sessions with neighbouring mines about sharing incidents and events (both delivering or participating in such sessions).
- A 50 / 50 per cent split would be a more reasonable split as workers in these roles are regularly interacting with internal and external persons who are experts in the field, which better reflects the on-the-job learning that workers are exposed to.
- For underground mine supervisors the split should be even more focused on informal training (e.g. 66% informal and 33% formal) since it is questionable as to how an Underground Mining Deputy or Undermanager would achieve the necessary hours per year by attending any of the types of formal learning processes described in Figure 3 categories 1-10.

Recommendations

- The Scheme should be amended to provide alternative/additional processes and/or provisions for allowing workers with special circumstances to maintain their practicing certificates (e.g. testing, online training).
- Review learning requirements following an initial administrative application of the Scheme.
- Ensure that all roles are realistically able to meet the requirements of the Scheme.
- Ensure that travel requirements are not unreasonable, factoring in the remote location of many mines.
- Expand the scope of informal training to include other on-the-job learning opportunities.
- Initially set a 50 / 50 per split between formal and informal training. A stronger focus on informal training may be necessary for underground mine supervisors i.e. 33% formal / 66% informal.

Reasonableness and practicality of the scheme

It is difficult for companies to ensure that all workers have undertaken the required training

The current forums and formal training opportunities don't cater for the number of ticket holders in the industry. Companies cannot afford to have "all" ticket holders to be released from their shift at one time to attend a relevant training session. In particular, workers in statutory positions can't be released from shift for training at the same time, therefore a company would be required to run several courses per crew or require statutory ticket holders to attend work on days off work. This would exacerbate training costs and also increase overtime costs. A financial impacts analysis should be undertaken to understand and minimise the financial impacts. DRE should consider online and other competency requirements that could be set to minimise the costs of travel, attending training and/or being off work.

The mechanism for dealing with non-compliance matters is unnecessarily harsh

The requirement for persons that do not satisfy the requirements to redo the written and oral examinations is unnecessarily harsh. This is an extreme outcome for what could potentially be a minor non-compliance, miscalculation / administrative error, or special circumstance. The regulation of such non-compliances should be reasonable, lenient and flexible, for example, workers could be provided an additional three months to meet the necessary training requirements and/or fix any errors with their file.

Recommendation

- A financial impact analysis should be undertaken to understand and minimise the financial implications of the Scheme on companies. Online and alternative competency requirements could be set to minimise the costs of travel, attending training and/or being off work.
- Build in flexibility and leniency into the enforcement of the Scheme to resolve minor non-compliance matters and circumstances that require special consideration.

Record keeping requirements

The proposed record keeping and audit system is primitive and unreliable

Managing and maintaining renewal of certificates is an arduous task for individual workers, their companies and the regulator. There are likely to be thousands of practising certificates that would need to be maintained. Relying on written logbooks is a primitive and unreliable approach as they are subject to loss, destruction, tampering, inconsistencies, illegibility and other faults. In 2016, it is not appropriate for a government department to be proposing a hardcopy record keeping system when most business systems are now electronic.

An online management system should be established that facilitates all of the necessary record keeping requirements. It should include the ability for individual certificate holders to review and manage their training requirements online, including uploading evidence of training, viewing competency expiration dates, and other routine requirements.

Organisations would also require access, to ensure that their staff have (and will continue to have) the necessary competency requirements. However the onus will need to be on the individual to organise and attend suitable training and maintain records.

Recommendation

- Establish an online management system to enable a user-friendly record keeping system for practising certificates.

Departmental governance mechanisms

An online record keeping system, as described above, would significantly enhance DRE's ability to manage maintenance certificates. Auditing could be undertaken automatically / on an ongoing basis to ensure that all users (not just five per cent) have met the necessary requirements of the Scheme.

Some form of ongoing communication mechanism would also be beneficial to resolve queries such as common non-compliances, questions or areas of confusion etc.

It may be difficult for a worker to know whether a particular type of training is 'formal'. An approval program for 'formal' training could be established to ensure that individuals are assured that they have met the requirements. However, some of the current requirements for providers of formal training are unnecessary and impractical, and may impede the provision of technical training programs. Requiring trainers to hold relevant qualifications for the content of the course and credentials for adult education is impractical. For example, a strata engineer, a mining engineer, or a ventilation officer, that have the suitable qualifications and experience to develop and deliver a training program might not satisfy these requirements.

In addition, as DRE already audits the Training and Competence Management Plan under the Safety Management System, there is a potential synergy with the requirements of this Scheme that could be useful.

Recommendation

- Establish a communication mechanism to resolve issues with the Scheme on an ongoing basis.
- Review the requirements for formal training providers. Establish a formal recognition and approval process for formal training and its providers.

Other issues

NSWMC notes that there are a number of less significant issues that should also be resolved prior to the formal implementation of the Scheme:

- The applicability of the Scheme to Electrical Engineers is poorly described in section 1.3 as it is unclear in which circumstances they are / are not included.
- The discussion paper does not adequately explain the current requirements for (and maintenance of) practising certificates. Any future documentation and roll out of the Scheme should adequately explain the existing arrangements versus the proposed changes.
- There are references to New Zealand qualifications throughout the document – these should be updated to reflect the Australian equivalents.

- The language used throughout the document is not common within the NSW industry, i.e. Operating and Safety systems.
- The various requirements set out in the tables are complicated and poorly structured (particularly Figure 5 that has several variables in each segment, leading to confusion - this could be rectified by creating a suitable matrix).
- It is understood that 'leadership' is not assessed by the Competency Board and Examination Panel in the assessment of competence in the first instance. Therefore its significance in the learning requirements is potentially overstated.
- Further clarification is required regarding how catch-up hours would be managed.

