

# Summary of submissions

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***HEALTH AND SAFETY AT WORK (MINING OPERATIONS  
AND QUARRYING OPERATIONS – PRESCRIBED COMPETENCY  
REQUIREMENTS FOR CERTIFICATES OF COMPETENCE)  
SAFE WORK INSTRUMENTS***

August 2023



**Te Kāwanatanga o Aotearoa**  
New Zealand Government

**WORKSAFE**  
Mahi Haumarū Aotearoa



# CONTENTS

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Background	1
Consultation	1
Submissions to be considered in future amendments to the SWI	1
Summary of submissions	2

## Background

The Health and Safety at Work (Mining Operations and Quarrying Operations – Prescribed Competency Requirements for Certificates of Competence) Safe Work Instrument 2023 (the SWI) sets requirements for certificates of competence (CoC) for safety critical roles in the extractives industry.

These requirements were previously set by notices in the *New Zealand Gazette*, but amendments to the Health and Safety at Work (Mining and Quarrying) Regulations 2016 (the Regulations) mean that these are now prescribed in a SWI under the Health and Safety at Work Act 2015 (HSWA).

WorkSafe New Zealand consulted on the SWI between 13 April and 5 May 2023. The SWI commenced on 13 July 2023, and is published on our website.

This document is a summary of submissions made on the SWI, WorkSafe's response to submitters' feedback, and the resulting changes made to the SWI.

## Consultation

WorkSafe consulted on the proposed SWI with all CoC holders and stakeholders listed on WorkSafe's consultation database, as well as Business New Zealand and the Council of Trade Unions. The draft SWI was also available to the public on our website.

WorkSafe received 20 submissions on the proposed SWI from PCBUs, CoC holders, industry bodies, and government agencies. The feedback from the submissions led to changes to the SWI. The summary below outlines the submissions and resulting changes to the SWI.

## Submissions to be considered in future amendments to the SWI

The primary purpose of this SWI was to transfer the competency framework (including unit standards) for CoCs from notices in the *New Zealand Gazette* to a SWI, with updates to the framework where available.

For this reason, submissions recommending a more wide-ranging review of the competency framework will be considered when we next amend the SWI. These suggestions are summarised below.

The requirements in the SWI had to be in place when the amended Regulations came into effect (18 July 2023). Accordingly, the SWI does not incorporate unit standards that were not developed or completed, or that were not offered by training providers, before then.

When those unit standards are complete and training providers can make them available to potential students, WorkSafe will consult on amending the SWI to incorporate them as requirements for the relevant CoCs.

## Summary of submissions

### Submissions on specific certificates of competence

SUBMISSION	WORKSAFE RESPONSE
Site Senior Executives (SSEs) should, as a prerequisite, be required to hold another CoC.	The amended Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016 (the Regulations) do not require prerequisites for this CoC. However, for any underground operation, an SSE would have to hold a First Class/First Class Coal CoC.
The SWI should have a mechanism that allows an applicant to renew multiple CoCs at the same time.	Regulation 44(4)(ii) of the Regulations provides for this.
The CoC framework should be changed to a hierarchical system where holders of higher-level CoCs become de facto holders of lower-level CoCs.	WorkSafe's view is that such an approach would not sufficiently reflect the specialised competencies required for different CoCs.
The wording in clause 7 'senior management role' is not inclusive of applicants with other relevant non-senior management experience.	The wording has been changed to 'a management role' to widen the scope of eligible applicants.
Subclauses 10(3)(b) and 11(3)(b) should include an extra subclause for 'coal exploration', as this type of work is an important component of the work experience that would qualify an applicant for these CoCs.	WorkSafe agrees that experience in coal exploration is an important component of the work experience that would qualify an applicant for the First-class Coal Mine Manager and A-grade Opencast Coal Mine Manager CoCs. 'Coal exploration' has been added to 10(3)(b) and 11(3)(b) (and 10(2) and 11(2)).
Requiring an applicant for the Gas Monitor CoC to have 12 months' experience in coal exploration operations or in a coal mining operation is unreasonable given the typically short duration of coal mining operations in New Zealand.	WorkSafe agrees and has reduced the requirement from 12 months' experience in coal exploration operations, or in a coal mining operation, to three months' experience. WorkSafe is confident that three months' experience is an appropriate prerequisite for holding a Gas Monitor CoC.
The Gas Monitor CoC contains no unit standards specifically addressing gas monitoring and gas knowledge.	Unit standards specifically addressing gas monitoring and gas knowledge are currently being developed and will be incorporated in a future revision to the SWI.
The competency requirements for a Manager of Specified Quarrying Operation CoC and a Mine Surveyor CoC should include the capability to develop standard operating procedures.	WorkSafe will consider whether to address this feedback in a future revision to the SWI.
The Mechanical Superintendent and Electrical Superintendent CoCs should include additional requirements for use in underground coal mine operations.	WorkSafe will consider whether to address this feedback in a future revision to the SWI.

### Definitions

SUBMISSION	WORKSAFE RESPONSE
The term 'back-bye' is not a term used in quarrying and should be changed.	WorkSafe has kept the 'back-bye' terminology but has added a definition.  There is no common term for this concept across the extractives industry.
The definitions for a 'winding engine' and 'slope haulage' in the Regulations should be improved in the SWI.	The SWI does not modify terms used in the Regulations.

## Unit standards requirements

SUBMISSION	WORKSAFE RESPONSE
The requirements for B-grade CoCs have been set too high, which discourages people from applying for B-grade CoCs.	WorkSafe is confident that the B-grade CoCs have been set at an appropriate level to manage risks to health and safety in the extractives industry.
Coordinated Incident Management System (CIMS) unit standards should not be included in B-grade CoCs, as these standards are too high-level.	WorkSafe's view is that the CIMS unit standards provide useful training for CoC holders to communicate, coordinate and work with emergency services. This is valuable for all CoC holders who manage others.
WorkSafe should be notified whenever CoCs are awarded to applicants.	A notification of this sort would require a regulatory change, which is outside the scope of the proposed SWI.
The SWI should require specific unit standards, or unit standards dealing with specific capabilities, for specific CoCs.	WorkSafe is not able to incorporate unit standards that are still being developed or are not yet offered by training providers. A future revision to the SWI may incorporate unit standards completed after this SWI takes effect.
The mine surveyor CoC competency requirements should include knowledge of topics such as opencast mine surveying, interpretation of operational designs, survey task planning, risk management, and resource allocation.	WorkSafe will consider whether to address this feedback in a future revision to the SWI. The purpose of this SWI was to transfer the existing framework from notices in the <i>New Zealand Gazette</i> to the SWI, rather than to review the competency framework.
The SWI should incorporate unit standards related to contractor management for appropriate CoCs due to the comparatively high rates of health and safety incidents amongst contractors in the extractives industry.	WorkSafe will consider whether to address this feedback in a future revision to the SWI. The purpose of this SWI was to transfer the existing framework from notices in the <i>New Zealand Gazette</i> to the SWI, rather than to review the competency framework.

## Additional requirements

SUBMISSION	WORKSAFE RESPONSE
Too many CoCs have additional requirements attached to them, the amount of additional requirements should be reduced.	WorkSafe is confident that the additional requirements set in CoCs are needed to manage risks to health and safety in the extractives industry.
Lifetime CoC holders should not be required to meet additional requirements in order to work with explosives, as the number of lifetime CoC holders is very small, all of whom have the required competency in this area.	WorkSafe agrees and has removed the requirement for lifetime CoC holders to meet additional requirements to work with explosives. WorkSafe is confident that all existing lifetime CoC holders have the competency required to work with explosives.
Unit standards in the explosives additional requirements should be revised to include knowledge of how to manage a shotfirer and how to handle misfires. These are essential skills for people working with explosives.	WorkSafe does not determine the content of unit standards, which are developed by Hanga-Aro-Rau. WorkSafe will share this feedback with Hanga-Aro-Rau.

## Continuing professional development requirements

SUBMISSION	WORKSAFE RESPONSE
Transitional arrangements should be in place to help students part-way through their training to complete their CoC. Students should not have to repeat content in replacement unit standards added by the SWI.	WorkSafe agrees that students should not have to repeat qualifications and has added a provision to the SWI that allows students to gain recognition for unit standards that NZQA officially recognises as replacement unit standards.
The number of CPD hours required for a Winding Engine Driver CoC (30 hours) is too high when compared with other CoCs.	WorkSafe will consider whether to address this feedback in a future revision to the SWI.

## Other

SUBMISSION	WORKSAFE RESPONSE
The unit standards in the SWI schedules should be listed in numerical order to aid the reader.	WorkSafe agrees and has amended the SWI to list the unit standards in the schedules in numerical order.

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