

# WORK HEALTH AND SAFETY (MINES AND PETROLEUM SITES) REGULATION 2022

## Notice pursuant to Practising Certificate 2022

### (Maintenance of Competency)

I, **GARVIN BURNS**, Chief Inspector, with the delegated authority of the Secretary, Regional NSW, pursuant to section 142 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 (the Regulation) make the following Notice.

Dated this 16th day of November 2022.

Garvin Burns  
Chief Inspector of Mines  
NSW Resources Regulator  
Department of Regional NSW

#### 1. Name of Notice

This Notice is the *Notice pursuant to Practising Certificate 2022 (Maintenance of Competency) (No 2)*.

#### 2. Commencement

This Notice commences on the date it is published in the NSW Government Gazette and has effect until it is revoked.

#### 3. Revocation

The *Notice pursuant to Practising Certificate 2020 (Maintenance of Competency)* published in the NSW Government Gazette No 171 of 7 August 2020 at pages 3884 to 3891 is revoked on the date of commencement of this notice.

The *2021 other criteria specified by the Regulator in respect of the quarry manager statutory function for Tier-2 quarries* published in the NSW Government Gazette No 23 of 22 January 2021 is revoked on the date of commencement of this notice.

#### 4. Interpretation

In this Notice:

*conditions* mean the conditions specified at item 6 below in accordance with section 142 of the Regulation.

*formal learning* means organised and structured learning with specific learning objectives as referred to Table 3 of Schedule 1 and meets the criteria in schedule 1.

*holder* means a person who holds a practising certificate to exercise a statutory function.

*informal learning* means learning as a by-product of experience in participating or carrying out an activity as referred to in Table 3 of Schedule 1 as informal learning.

*learning hours* means the number of hours spent undertaking formal or informal learning.

*other criteria* means the criteria specified at item 5 below in accordance with section 138 of the Regulation.

*practising certificate* means a certificate issued by the regulator under section 140 of the Regulation enabling a person to exercise a statutory function as specified in Schedule 10 of the Regulation.

*Quarry manager practicing certificate* means a certificate issued by the regulator enabling a person to exercise the statutory function of a quarry manager as specified in section 31 Schedule 10 of the Regulation.

*recognised learning types* mean the types of learning specified in Schedule 1.

*the Regulation* means the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022.

*risk profiling tool* means the tool used by the regulator to assess the hazards and complexity of a specified mine.

*Tier-2 quarry* means a mine determined by the regulator using the risk profiling tool to be a Tier-2 quarry.

Terms used in this Notice have the same meaning as in the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2017*, *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2022*.

## 5. Exemption

Holders of practising certificates issued under the *Regulation* with a condition restricting them to practise at a specified mine or mines for Mines other than underground mines or coal mines, or Underground mines other than coal mines or any Teir-2 quarry are not required to comply with the requirements in this notice.

## 6. Conditions

The conditions specified in Schedule 1 below are the conditions which apply practicing certificates which contain a maintenance of competency condition that requires compliance with requirements published by the regulator in the NSW Government Gazette.

### Schedule 1

Table 1

<b>A. Maintenance of competency requirements</b>	Holders of practising certificates are required to complete the specified amount of hours of recognised learning types in areas of competence over the period for which the practising certificate is granted, including completing the specified minimum or up to the maximum number of hours of learning in each competence area, according to the function(s) the practising certificate is granted for, as set out in Table 2 and Table 3.
<b>B. Areas of competence</b>	The holder of a practising certificate must complete the specified number of hours of learning in each of the following five areas of competence required for the statutory function(s) for which the practising certificate is held, as set out in Table 2: <ul style="list-style-type: none"><li>• Mining and work health and safety (WHS) systems, including completion of hours in each of the following four compulsory subjects:</li></ul>

	<ul style="list-style-type: none"> <li>○ Safety management system</li> <li>○ Principal hazards</li> <li>○ Principal control plans</li> <li>○ Specific control measures</li> <li>● Legislation</li> <li>● Emergency management</li> <li>● Leadership and management</li> <li>● General work health and safety topics (including learning from disasters).</li> </ul> <p>The holder of a practising certificate must complete topics in each area of competence relevant to the statutory function(s) for which the practising certificate is held.</p>
<b>C. Learning hours</b>	<p>When completing learning hours, the holder of a practising certificate must:</p> <ul style="list-style-type: none"> <li>● complete no more than one third of total learning hours in any one year</li> <li>● complete learning in three or more years out of the five year period, and</li> <li>● not carry-over excess learning hours above the total number required between renewal periods.</li> </ul> <p>Where a holder has a practising certificate for multiple statutory function(s), the holder must:</p> <ul style="list-style-type: none"> <li>● satisfy each function with the highest requirements for total hours in each engineering discipline at one class of mine for which they hold a certificate of competence or the gazetted qualifications required to hold a practising certificate for that function.</li> <li>● The holder may claim learning completed against one or more functions, provided the learning completed is relevant to the topics to the areas of competence required for each function.</li> </ul> <p>Requirements for the specified number of hours are set out in Table 2</p>
<b>D. Record keeping and auditing</b>	<p>The holder of a practising certificate:</p> <ul style="list-style-type: none"> <li>● must record all learning and hours in a logbook, either electronically or in hardcopy.</li> <li>● must retain evidence of all maintenance of competency scheme activities undertaken during the current five year renewal period and the previous renewal period.</li> <li>● must maintain evidence of all maintenance of competency scheme activities until such time as the practising certificate expires.</li> <li>● is required to provide a logbook(s) and evidence to the regulator for auditing purposes when requested.</li> </ul>

**Table 2: Summary of requirements for hours by statutory function**

Statutory function	Total hours of learning over five years	Areas of competence				Minimum formal learning requirements	Maximum informal learning requirements
		Mining & WHS systems	Legislation	Emergency management	Leadership & management		
		Minimum of 33% of total hours of learning	Minimum of 33% of total hours of learning		General WHS topics Maximum of 33% of total hours of learning (as a minimum, must complete Regulator's <i>Learning from disasters</i> one-day program <b>OR</b> minimum 7 hours of other formal learning on disasters)	Minimum percentage varies according to function and is expressed as hours	Maximum percentage varies according to function and is expressed as hours
<b>Underground coal mines</b>							
Mining Engineering Manager	120	40		40	40	80	40
Undermanager	90	30		30	30	45	45
Deputy	60	20		20	20	20	40
Ventilation officer	90	30		30	30	45	45
Ventilation auditor	90	30		30	30	45	45
Dust control measures auditor	90	30		30	30	45	45
Electrical engineering manager	120	40		40	40	80	40
Mechanical engineering manager	120	40		40	40	80	40
<b>Coal mines other than underground mines</b>							
Mining engineering manager	120	40		40	40	80	40
Electrical engineer	90*	30		30	30	45	45
Mechanical engineer	90*	30		30	30	45	45
Open cut examiner	60	20		20	20	20	40

<b>Underground mines other than coal mines</b>						
Mining engineering manager	120	40	40	40	80	40
Underground mine supervisor	60	20	20	20	20	40
Electrical engineer	90	30	30	30	45	45
<b>Mines other than underground or coal</b>						
Quarry manager	90	30	30	30	45	45
Electrical engineer	90	30	30	30	45	45

## Recognised learning types

Formal and informal learning types that are recognised learning types and claimable as learning hours towards the maintenance of competency requirements are set out in Table 3.

Formal training courses must satisfy the criteria for types of learning in order to be claimable as learning hours towards maintenance of competency requirements.

**Table 3 Recognised types of formal and informal learning**

<b>Recognised types of formal learning</b>	<b>Claimable hours for formal learning</b>
1) Attending industry seminars/ webinars / workshops/ conferences with health and safety content, such as those run by industry or related organisations. These must be relevant to your practising certificate.	Actual hours per seminar/workshop (excluding any hours not relating to safety and health of your statutory function). <b>Rule:</b> this type of learning cannot account for more than half (50%) of the total formal hours required over the five years or of the total formal hours claimed to satisfy the total hours required.
2) Successfully completing formal training courses delivered externally by an organisation.	Actual hours.
3) Completing study or training towards tertiary qualifications including degrees and industry training qualifications that are prerequisites for NSW certificates of competence examinations.	<b>Rule:</b> this type of learning cannot account for more than half (50%) of the total formal hours required over the five years or of the total formal hours you claim to satisfy the total hours required.
4) Attending in-house formal training courses conducted within an organisation. <b>Note:</b> excludes meeting time for non-training content.	Actual hours. <b>Rule:</b> this type of learning cannot account for more than half (50%) of the total formal learning hours required over the five years or of the total formal hours claimed to satisfy the total hours required.
5) Attending equipment manufacturer's formal training courses.	Actual hours up to a maximum of four hours per year.
6) Attending Mines Rescue Brigades person formal training courses or similar.	Actual hours up to a maximum of four hours per year.
<b>Recognised types of informal learning</b>	<b>Claimable hours for informal learning</b>
1) Reading publications such as (but not limited to): <ul style="list-style-type: none"> <li>• technical articles</li> <li>• technical publications</li> <li>• conference papers</li> <li>• presentations</li> </ul>	Actual hours up to a maximum of four hours per year.

2) Relevant field trips to maintain competency for your statutory function, e.g. visiting other mines to see alternative mining methods.	Actual hours up to a maximum of two hours per field trip. Up to a maximum of two field trips (four hours total) per year.
3) Delivering, or participating in, workplace mentoring related to health and safety topics that is recorded in training records for the worker(s) involved or reports.	Actual hours up to a maximum of four hours per year.
4) Participation in emergency response exercises or drills.	Actual hours up to a maximum of four hours per year.
5) Organised meetings / sessions between mines/mine operators to share learnings, e.g. incidents.	Actual hours up to a maximum of four hours per year for participating in or delivering.
6) Attending industry expos, relevant to health and safety for the maintenance of competence.	Actual hours up to a maximum of four hours per year.
7)) Mines Rescue Brigades person exercises.	Actual hours up to a maximum of four hours per year.
8) Participation in high level risk assessments (does not include day to day activities involving task focused risk assessment such as Take 5, JSA).	Actual hours up to a maximum of four hours per year.
9) Development or review of principal mining hazard management plans, or principal control plans.	Actual hours up to a maximum of four hours per year.
10) Participation in conducting investigation/s into incidents reportable under WHS legislation.	Actual hours up to a maximum of four hours per year.
11) Attending industry representative meetings, such as (but not limited to): <ul style="list-style-type: none"> <li>• advisory groups</li> <li>• industry or specialist boards</li> <li>• panels of examiners membership</li> <li>• technical committees</li> </ul>	Actual hours (excluding administration and travel time).
12) Delivering industry seminars / workshops.	Actual hours per seminar / workshop (excluding travelling time and any other non-related activity).
13) Delivering in-house formal training courses	Actual hours up to a maximum of four hours per year.
14) Interactions between regulator staff and individuals for information and education programs. For example: attendance at meetings, mine site assessments or information sessions.	Actual hours up to a maximum of four hours per year.

## **Criteria for types of learning**

### **(I) Formal training courses**

In order to be eligible to claim formal learning hours from undertaking a formal training course, the holder must obtain from the training provider evidence that the course meets the following criteria:

- The course content, with or without learning objectives are documented, current and relevant to the holder's statutory function,
- The length of the course, including start and finish times are documented.
- The person(s) delivering or designing the course (including face to face, online or correspondence courses) has appropriate technical and/or educational ability, experience and qualifications relevant to the course.

The above evidence obtained by the holder should be retained in either in the holder's logbook or in separate documentation.

### **(ii) Tertiary qualifications**

Tertiary qualifications refer to any post school qualification recognised under the Australian Qualifications Framework (AQF).

If the holder is completing a tertiary qualification, they can claim study from a course that is relevant to WHS and the statutory function(s) on their practising certificate, such as:

- face to face, electronic or other form of direct interaction between the holder and the training institution
- completing required assessments either individually or as a group that involve studying and application of learning
- required reading of information or attending field excursions for the qualification.

### **(iii) Mutual recognition practising certificates**

If a holder has a NSW practising certificate in recognition of their interstate or New Zealand certificate of competence, the holder must comply with the requirements for the maintenance of competency scheme as part of the condition on their NSW Practising certificate.