MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

## Safe mines: **safe workers**

# Response to Submissions

MB 12552 SEP 2013

**MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

# Ministry of Business, Innovation and Employment (MBIE)

## Hīkina Whakatutuki  Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

MBIE combines the former Ministries of Economic Development, Science + Innovation, and the Departments of Labour and Building and Housing.

ISBN 978-0-478-41700-5 (Online)
September, 2013

Cover image provided by Solid Energy

# Safe mines: safe workers
# Response to submissions

## Contents

# Introduction

This document summarises feedback to the Ministry of Business, Innovation and Employment (the Ministry) on proposals affecting the mining industry set out in *Safe mines: safe workers*.

It outlines:

- what we initially proposed
- what industry and interest groups thought about the proposals, and
- what we are now proposing.

The *Safe mines: safe workers* discussion document was released in May 2013. It explained our proposals for implementing a number of recommendations made by the Royal Commission on the Pike River Coal Mine Tragedy (the Royal Commission); in particular, those relating to the regulation of the mining industry and its approach to managing hazards. We wanted to know what you thought and whether any changes were needed.

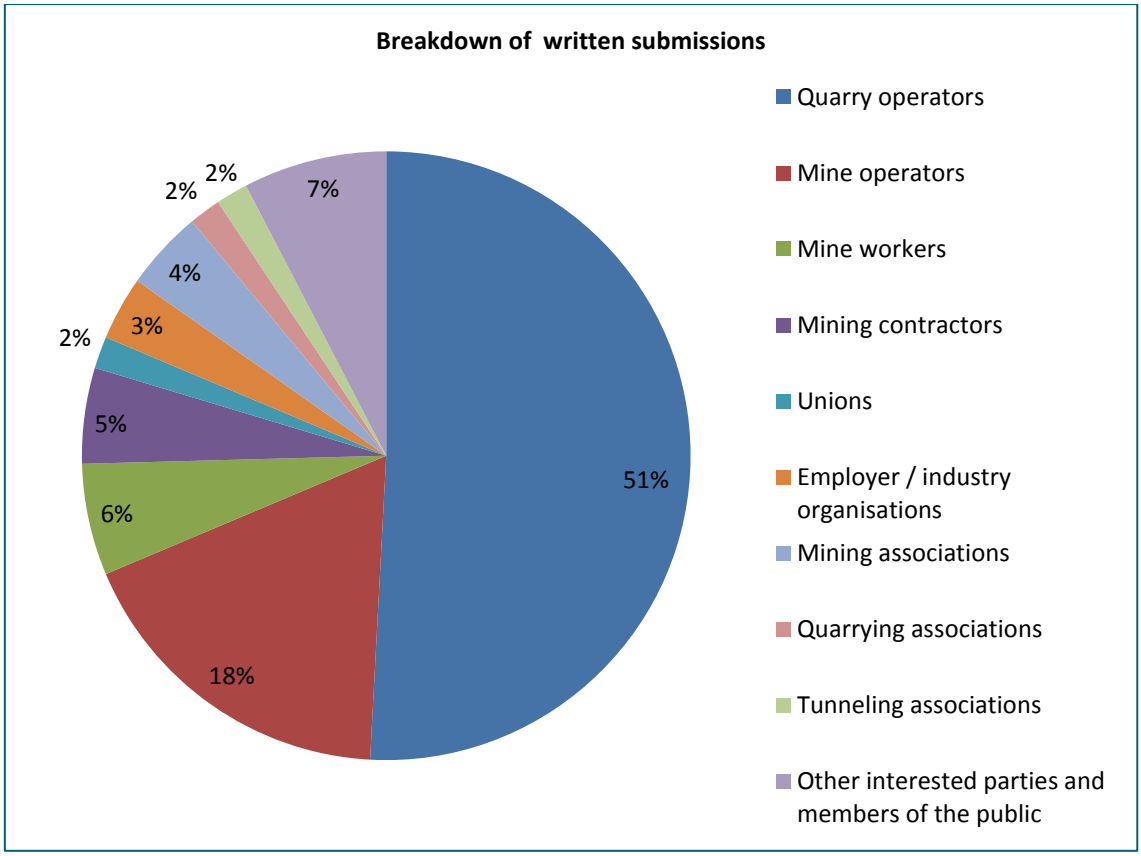
## Thank you for having your say

We received your feedback on *Safe mines: safe workers* through written submissions and at three rounds of public meetings held around New Zealand. As a result, we have revised some of our proposals as explained later in this document.

We received 113 written submissions by the 1 July 2013 deadline. These came from the following groups (a breakdown of these is also shown in the pie chart). Numbers are approximate based on the information provided by submitters:

- 55 from quarry operators, related downstream industries, and either alluvial rock, mineral or aggregate operators
- 21 from mine operators including all the major coal and metalliferous mining operators
- seven from individual mine workers
- six from mining contractors
- two from unions
- four from employer or industry organisations
- five from mining associations, two from quarrying associations, and two from tunnelling associations, and
- nine from other industries, interested parties and the public.

We also received feedback at a number of public and industry meetings held around New Zealand in June 2013. These were held in Auckland, Hamilton, Huntly, Waihi, Palmerston North, Christchurch, Westport, Greymouth and Dunedin.




## What happens next

Having considered your feedback on the *Safe mines: safe workers* discussion document, the Government has now made decisions on the key elements of the proposed mining health and safety regulations. The Ministry will be consulting with the mining industry about the draft regulations in September.

Some of the proposals from *Safe mines: safe workers* are addressed in the *Health and Safety (Pike River Implementation) Bill*, which is currently being considered by Parliament's Transport and Industrial Relations Committee. We do not include revised proposals in these cases as the issues are still before Parliament.

## How to use this document

**For an overview:** The following table gives a snapshot of the feedback we have received and our revised proposals. We have colour coded each section to match the chapters in *Safe mines: safe workers.*

**For more detail:** Each chapter (except transitional arrangements) has its own section in this document with:

- a discussion of the main issues
- a table of what we proposed, what you said and the response.

To find out more, visit the Ministry's webpage at www.mbie.govt.nz/what-we-do/pike-river-implementation-plan where you can:

- download a summary of our original proposals
- download *Safe mines: safe workers*. This has two volumes: one with an explanation of our original proposals and the other with technical appendices, and
- read a number of the submissions we received on *Safe mines: safe workers*.

## Our updated proposals: a snapshot

| Broadening the Royal Commission's recommendations to all types of mining | |
|---|---|
| **The approach we will take** | **Your feedback on the initial proposals** |
| • The regulations will cover underground, opencast, coal and metalliferous mining operations, as well as some larger and more complex tunnels (those defined as 'within scope').<br>• Instead of including quarries in the new mining regulations, we now propose to develop separate regulations more suitable to the risks that quarries carry. As regulations can take some time to develop, we will start by preparing guidelines with industry assistance. Alluvial mining (including sand mining) operations will also be included in the intended quarrying regulations.<br>• The proposed mining regulations will not cover peat farms and waste pits. | • Quarries and alluvial mining operations do not have the same risk of multiple fatalities as other mining operations.<br>• While the quarry sector needs better regulation of health and safety, the proposed regime is not appropriate for the sector.<br>• As peat is classified as a form of coal, the proposed regulations would capture peat farms. |
| **A new regulatory approach** | |
| **The approach we will take** | **Your feedback on the initial proposals** |
| • A new set of regulations for mining health and safety will replace the existing regulations.<br>• The regulations will apply to principal hazards that could create a risk of multiple fatalities in a single incident – the focus will be on catastrophic failure. Less hazardous activities will continue to be managed under the *Health and Safety in Employment Act*.<br>• Risk-based health and safety management systems will be required, including plans for managing principal hazards. Principal control plans will be required for groups of controls, such as ventilation or electrical systems that can address a number of principal hazards.<br>• All mining operations will still be required to have a site senior executive (SSE), although a person may be appointed SSE to more than one operation with the regulator's agreement. The mine manager may be | • Safety critical roles, such as ventilation officers and electrical engineering managers, should not have to be filled unless a relevant principal hazard exists.<br>• The SSE role is not always necessary.<br>• The regulations should not cover all workers, only those exposed to the hazards. |

| | |
|---|---|
| appointed to the SSE position provided he is able to discharge the accountabilities of both roles.<br>• Other specific safety critical roles, such as ventilation officer or electrical engineering manager, will only be required where the relevant principal hazard exists.<br>• Rather than placing health and safety duties on employers and employees the regulations will place these duties on mine operators and mine workers. The mine operator will be the person or company that carries out the operation. The mine operator will be responsible for the health and safety of all persons working in an operation that are exposed to principal hazards. This includes employees and contractors. | |
| **Training and qualifications** | |
| **The approach we will take** | **Your feedback on the initial proposals** |
| • Competencies will be required for existing and new safety critical roles at mining operations and will be specified in the regulations. These will be aligned with Australia.<br>• People with lifetime certificates of competence (CoCs) can retain these and continue to practice once the new regulations take effect if they meet continuing professional development (CPD) requirements and acquire the new competencies required within five years.<br>• Those with existing time-limited CoCs can retain them for the rest of the term provided they meet the CPD requirements. They will be required to acquire the new competencies before the expiry of their CoC.<br>• CoCs will be valid for five years instead of the three years initially proposed.<br>• There will be minimum training requirements for mine workers if they are required to work without direct supervision.<br>• Mine managers will be required to have competence in risk management, health and safety, human factors and emergency preparedness.<br>• All site senior executives (SSEs) will be required to have a CoC that qualifies them as | • The removal of the lifetime CoC could result in an exodus that the industry can't afford.<br>• A better approach would be to require CPD in addition to lifetime CoCs.<br>• The need for a separate qualification for SSEs depends on the scale of the operation: most can probably be covered with existing mine manager/quarry manager qualifications.<br>• Concern was expressed over the tight timeframes to have the qualification framework in place and ensure mine workers held the appropriate competencies. |

| | |
|---|---|
| an SSE before they are appointed to the role. In addition, SSEs of underground coal mining and underground metalliferous mining operations will also be required to have the appropriate mine manager's CoC.<br>• An independent board of examiners will set the standards and assess applicants.<br>• A staggered transitional arrangement has been proposed that allows for the large number of CoC holders to access the required training. | |
| **Worker participation** | |
| **The approach we will take** | **Your feedback on the initial proposals** |
| The Health and Safety (Pike River Implementation) Bill provides that:<br>• All mining operations must have documented worker participation systems.<br>• All mine workers will be covered by worker participation systems while at work in a mining operation.<br>• Results of health and safety monitoring will automatically be provided to all mine workers.<br>• Site health and safety representatives (SHSRs) will have new functions and powers.<br>• Industry health and safety representatives will be established. | • The Bill is currently being considered by the Transport and Industrial Relations Committee.<br>• There was a number of suggestions offered on the qualifications for IHSRs and SHSRs.<br>• There were mixed views on the establishment of IHSRs and a number of alternatives were proposed.<br>• There was concern from submitters regarding the compliance costs relating to SHSRs.<br>• There were mixed views on the issue of the functions and powers of SHSRs, and whether these should be negotiable.<br>• Many submitters were concerned that the worker participation for all mine workers would extend to include office/non-operational staff. |
| **Emergency management** | |
| **The approach we will take** | **Your feedback on the initial proposals** |
| • There will continue to be new requirements for emergency equipment and facilities in underground mines.<br>• All mining operations must have an emergency management plan (EMP). | • Some of the specified standards regarding processes and equipment are too specific to underground operations. They need to be clarified as to how they apply in relation to other sectors; e.g. tunnels and underground metalliferous mines. For example, how do the requirements relating to a second means of egress apply to tunnels and underground metalliferous mines? |

| | |
|---|---|
| The Health and Safety (Pike River Implementation) Bill provides that:<br>• The Mines Rescue Service (MRS) will have broader coverage and be better funded.<br>• The MRS will be extended to cover all underground mining operations (coal and metalliferous), some longer tunnels and opencast coal mines. | • The Bill is currently being considered by the Transport and Industrial Relations Committee.<br>• There were mixed views on the issue of extending the Mines Rescue Service. While many submitters (from both industry and unions) agreed, some felt that underground metalliferous mines should not be covered.<br>• Some also commented that opencast coal mines should not be covered. |
| **Transitional arrangements** | |
| **The approach we will take** | **Your feedback on the initial proposals** |
| • We recognise the need to allow enough time to comply with the proposed regulations. In response to your submissions, we are revising the transition timeframes to ensure sufficient time is available for training and assessment of employees who are required to hold the new competencies. | • We received a lot of feedback expressing concern over the timeframes for transition to the new regime in all areas of the proposed regulations. |

# Your feedback and our response

## Broadening the Royal Commission's recommendations to all types of mining

We consulted on:

- *Which mining operations should be covered by the new regulatory regime*
- *Whether you agreed with the proposed features for tunnels and quarries to be covered.*

### Coverage of quarries, peat farms, alluvial mines and tourist mines

Our key proposal in this chapter of *Safe mines: safe workers* was that the new mining regulations would cover all types of mining operations. This would also include quarries and tunnels meeting specific criteria, leaving the smaller operations to be covered under general health and safety legislation.

The proposed coverage received a lot of feedback, with some common themes relating to quarries, peat farms and other ancillary extractives operations emerging from the written submissions as well as from our consultation meetings.

**What you said**

- Quarries and mines are very different and quarries should not be captured by the same regulatory regime.
- Quarries, peat farms and alluvial mining operations do not carry principal hazards as defined in the proposals.
- The riskier operators are often the smaller mines and quarries. By capturing the larger operators and leaving the smaller ones to the general health and safety inspectorate, the regulations will not serve their purpose.
- The cost of the proposed regulatory regime will allow for smaller operators without the expense of compliance to undercut the market. This will make it harder for larger operators to stay afloat.
- The quarrying sector supports increased regulation. However, it needs to have its own separate regulatory regime.
- Tourist mines are small operators and this regime is not suitable and too costly.

In response to your submissions, we now propose that alluvial mining operations and quarries are excluded from the proposed regime and that these should be covered by a separate set of regulations. As regulations can take some time to put in place, we will work with industry groups in the meantime to create some guidance for quarry and alluvial mining operators.

Peat farms and pits used to dispose of waste were not intended to be captured by the regulations, so these will also be excluded from coverage.

Smaller mines such as tourist mines will continue to be covered by the regulations. However, the regulations will need to be adjusted to better meet the requirements of these operations.

Note that the definition of a 'mining operation' is also found in the Health and Safety (Pike River Implementation) Bill (the Pike River Bill) which is currently before the Transport and Industrial Relations Committee.

### Structure of the regulations

Volume two of *Safe mines: safe workers* contained a proposed table of contents for the new mining regulations. We received a lot of feedback on the structure of the regulations relating to how easily these could be read and understood by the different types of mining operations.

We appreciate this feedback and will structure the regulations to make it easier for different sectors to understand which parts of the regulations apply to them and which do not.

### When does a 'mining operation' begin?

This matter is a part of the Pike River Bill and is currently being considered by Parliament. Decisions on this matter will be released in due course.

| Broadening the Royal Commission's recommendations to all types of mining | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **1. Regulations extended to cover the quarrying industry (including recycling plants and crushing plants)** | • There has not been a multiple fatality in the quarrying industry for many years.<br>• Riskier quarries are not being captured in the regulations as the risky quarries are the smaller operations.<br>• Coal based regulations being imposed on the quarrying industry is not practical.<br>• There are no principal hazards in quarrying.<br>• The industry prefers a move to a modified version of the 1983 quarrying regulations or a New Zealand version of the 1999 UK quarrying regulations. | We will not include quarries in the base regulatory regime for mining operations. We will develop a separate regulatory approach. |
| **2. Regulations extended to cover the alluvial gold industry** | • Alluvial gold mines do not carry the same risks as coal mines, tunnels or quarries.<br>• Many alluvial gold mines are merely 'sand pits'.<br>• Coal based regulations being imposed in alluvial gold mines is not practical. | We will follow the same approach for alluvial gold mines as proposed for quarries. |
| **3. Regulations extended to cover peat farms** | • As peat is classified as a form of coal, the regulations capture peat farms.<br>• No consideration has been made for the type of product that peat is.<br>• No consideration has been made for the way peat is extracted in comparison with other mines. | Peat farms will not be included in the regulations. |
| **4. Regulations extended to cover tourist mines** | • As framed, the proposed regulations are too costly for smaller operations such as tourist mines to implement. | Tourist mines will continue to be covered, but the regulatory regime will need to be adjusted to fit the requirements of small mines. |
| **5. Regulations extended to cover tunnels** | • Civil tunnels are significantly different from mining and quarrying and, as such, must be treated differently. | Tunnels will be included subject to confirmation of the criteria for a tunnel 'in scope'. |

| Broadening the Royal Commission's recommendations to all types of mining | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **6. Regulations to be structured per the discussion document structure**<br><br>Volume two of the discussion document contained a proposed table of contents for the new mining regulations. | • The proposed structure creates confusion as there is an emphasis on coal throughout the regulations.<br>• The proposed structure uses coal based language which is unique to the coal sector.<br>• The proposed structure is not sufficiently clear regarding to the requirements for individual sectors. | We will clarify the proposed structure of the mining regulations to make it easier for different sectors to see which parts apply to them. |
| **7. When does a 'mining operation' actually begin?**<br><br>This issue was not explicitly addressed in the discussion document. | • It is unclear when a 'potential' mining operation becomes an 'actual' mining operation.<br>• It is unclear when a mining operation 'ceases' to be a mining operation.<br>• It is unclear when certain safety critical roles would be required in the life of a mining operation. | This issue is being considered as part of the select committee process on the Pike River Bill. |
| **8. The coverage of operations that use pits to dispose of waste**<br><br>These operations are not defined as mining operations. | • Will waste pits be covered by the new regulations? | Pits used to dispose of waste should be generally excluded unless there are common roads or access points. |

# A new regulatory approach

We consulted on:

- *A new regulatory approach, with stronger hazard and risk management*
- *New specific safety critical roles for mining operations*
- *Establishing a mining sector advisory group.*

Most of the feedback on our proposals focused on the content and use of principal hazard management plans and principal control plans. We also received a lot of feedback on safety critical roles.

## A new regulatory approach, with stronger hazard and risk management

***Principal hazard management plans***

We asked if you supported our proposals to require principal hazard management plans (PHMPs) and principal control plans (PCPs). While there was very clear support for the introduction of risk-based regulations and for the use of PHMPs and PCPs as the means of managing hazards, some submitters queried the requirement for PHMPs to be in place before approved codes of practice (ACoPs) were developed.

In response, we note that, under the general duties of the *Health and Safety in Employment Act 1992* (HSE Act), there is already an overarching principle that hazards are managed – including in the absence of codes. The regulations will codify this requirement for mine operators to develop plans with existing resources or by using draft codes as they are developed. Many industry submitters suggested that this was already happening and we do not propose any change.

***Principal control plans***

Some submitters thought that the use of PCPs alongside PHMPs would lead to confusion and duplication of work.

Our view is that PCPs span across PHMPs, as PCPs identify controls relevant to a number of hazards and provide the opportunity for a systems perspective without duplicating PHMPs. Therefore, our original proposal to require both PHMPs and PCPs is unchanged.

***List of principal hazards***

Some submitters suggested that the list of principal hazards in the regulations was incomplete: they felt that this list should be exhaustive. Unfortunately, we cannot produce an exhaustive list because of the range of conditions that exist in different mining operations. We also have to provide for

emerging technologies. Mine operators will need to identify the principal hazards in their own operations.

## Safety critical roles

***Who replaces those in safety critical roles when they are absent?***

There was a lot of interest in how the role of site senior executive (SSE) would be carried out under the new regulations. Submitters were unsure who would be able to take over this role if the appointed SSE was away; e.g. on holiday or sick leave.

Such delegation arrangements are part of the mining operation's management system and should be documented. If the SSE is absent, the mine operator will need to determine whether somebody is required in his or her absence and, if so, find someone with equivalent competencies to fill the role (we expect that this would usually be the mine manager). If a mine manager is absent, a competent person with at least the next level of qualification should be appointed as acting mine manager.

The same approach applies if anyone else in a safety critical role is absent.

It is important to note that the delegation arrangements for the SSE and other safety critical roles will need to be context specific and based on a risk assessment. For example, if a ventilation officer is absent for an extended period during a major ventilation change, the level of qualification or competencies required will be different from when the systems are in normal operating mode.

***Is every safety critical role required at every operation?***

We received a lot of feedback on the need for certain safety critical roles. The concern of smaller mining operators in particular was that new safety critical roles such as mechanical engineering manager and electrical engineering manager would be required for all mining operations and that this was unreasonable and unnecessary.

In response, we have clarified that the intention is only to require those roles where the relevant hazards and controls exist. For example, a mining operation without a high voltage electricity supply or fire and explosion risks will not have the requisite principal hazard management plans or electrical engineering control plan. Therefore, in this case it may not be required to appoint an electrical engineering manager.

The regulations will clarify that safety critical roles are only required where the principal hazard specific to that role exists. However, note that an SSE is required for every mining operation.

***Multiple roles and sites***

We asked what you thought about a person being able to hold more than one safety critical role and whether you considered that an SSE could be responsible for more than one mine site. There was general acceptance that smaller mining operations would require people to hold more than one safety critical role in certain cases. Similarly, there was also general acceptance that an SSE should be able to be appointed to more than one mining operation, subject to review by WorkSafe New Zealand.

We recommend that a person is able to hold more than one safety critical role as long as they have the required competencies. However, the regulations will provide that:

- the regulator may require information regarding an individual's ability to perform multiple roles effectively, and
- if the regulator considers that is not the case, it can require the SSE to appoint another person to one or more of the roles.

## Mine workers

The proposed mining health and safety regulations will place obligations on mine operators (including tunnel operators) to look after the health and safety of workers in a mining operation (this includes mines and tunnelling operations). By workers we mean both employees and contractors.

Your feedback was that our proposed definition for a mine worker was too wide: it should only capture those directly exposed to principal hazards, and should not include short term and 'one-off' contractors.

The definition of mine worker is in the Health and Safety (Pike River Implementation) Bill. It covers those who work in a mining operation and who are involved in the extraction of coal or minerals. The Bill is currently being considered by the Transport and Industrial Relations Committee.

## Establishing a mining sector advisory group

Feedback regarding the new mining sector advisory group had some consistent themes. In particular, you asked if there should be one group for each industry sector or an assurance that a single group would represent them all.

In response to your concerns, we will recommend to WorkSafe New Zealand that it establishes the advisory group with:

- an overall advisory board that will:
    - focus on the state of health and safety in the sector
    - alert the Ministry of any potential problems with the new regulations, and
    - consider the operation of the regulatory regime, and
- sub-groups that will consider specific aspects of the regime, such as:
    - emergency preparedness and response
    - the Board of Examiners/training and qualifications system, and
    - other specialised duties as necessary and appropriate.

This group will need to be set up carefully so that the number of representatives and where they come from means that the different industry sectors are represented appropriately and the workers' voice is not lost.

| A new regulatory approach | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **9. Safety critical roles – when they are required**<br><br>It is proposed that mining operations are required to have certain safety critical roles when relevant; e.g. ventilation officer, electrical/mechanical engineering managers. An SSE would be required at every mining operation.<br><br>The proposals do not address the issue of safety critical roles in smaller operations explicitly, although there is a proposal that one person could hold more than one safety critical role (see below). | • It is unclear when ventilation and electrical engineers would be required.<br>• Certain operations without electrical or ventilation related hazards may not require these roles.<br>• In certain circumstances where the hazards are not present, ventilation and electrical engineers should only be required on a part time or contract basis. For example, some mines and quarries have no electric/ac power supply.<br>• The SSE role is not always necessary. Most quarries and mines have a health and safety specialist and, if not, that role falls to the quarry/mine manager.<br>• It is not viable for a two to four person operation to have all safety critical roles covered off.<br>• It is too costly for small operations to hire an SSE as this would be an expensive resource.<br>• The SSE role would be better reflected in the smaller operations by making sure the quarry/mine managers are trained instead of requiring a new role. | The requirement for safety-critical roles shall be determined by the operator as part of the risk assessment process that determines what principal hazards exist and what controls need to be put in place. |

| A new regulatory approach | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **10. More than one safety critical role able to be held by one person**<br><br>A person can hold more than one safety critical role if they hold the required competencies. | • Agree: this makes the issues of safety critical roles more viable for smaller operations.<br>• Agree: however, this should be considered in conjunction with the complexity and size of the mining operation.<br>• Agree: this is essential for smaller operations.<br>• Agree: the quarry/mine manager should be able to hold all positions if they hold the necessary qualifications. | It is up to the SSE to determine if each role is able to be undertaken satisfactorily. If WorkSafe New Zealand has reason to question the appointment, it can either do so or request that the SSE appoints somebody else to the role. |
| **11. Who acts for the SSE when they are away?**<br><br>This was not explicitly addressed in the proposals. | • There needs to be some provision for when the SSE is sick or on annual leave.<br>• There needs to be a level of delegation for an SSE's absence. | The operator will need to determine whether somebody is required in the SSE's absence and, if so, find someone with equivalent competencies to fill the role. If a mine manager, underviewer or supervisor is absent, a competent person with at least the next level of qualification down should be appointed as acting manager, underviewer or supervisor.<br><br>In regard to covering the other statutory safety critical roles, the same approach should apply as for the SSE. These delegation arrangements are part of the mine's management system and would be documented.<br><br>Delegation arrangements will need to be context specific; e.g. if a ventilation officer is absent for an extended period during a major ventilation change, the level of qualification/competence required will be different from when the systems are in normal operating mode. |

| A new regulatory approach | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **12. The requirement for PHMPs to be in place before ACoPs are developed**<br>The timetable for developing the ACoPs relating to each of the PHMPs and PCPs runs to 2015. Should mine operators be required to develop PHMPs before these ACoPs are in place? | • PHMPs should not be required before ACoPs are developed.<br>• The timing is poor. Money will be spent creating PHMPs before the ACoPs are released. If the PHMPs are significantly different, reviewing them could become very costly.<br>• It is not reasonable to expect PHMPs to be created before the release of ACoPs as PHMPs may not reflect the required regulatory standard. | Our proposal remains unchanged as operators are still required to manage hazards in the absence of ACoPs. |
| **13. Definition of 'principal hazard'**<br>A principal hazard is defined as one having the potential to cause multiple fatalities in one incident or fatalities in a series of recurring incidents. | • Quarries do not have multiple fatalities but a high rate of single fatalities.<br>• Principal hazards should include single fatalities. | The intent of the new regulatory regime is to focus on the low probability events that can lead to catastrophic failure and multiple fatalities. Redefining 'principal hazard' risks diluting this focus. We would also lose regulatory consistency with Australia. Hazards and risks that could lead to single fatalities only still need to be addressed under the HSE Act.<br>We propose that no change is made to the definition of 'principal hazard'. |
| **14. PCPs to be required along with PHMPs**<br>It is proposed that PCPs are required when PHMPs identify the need for them. | • Requiring PCPs along with PHMPs will lead to confusion and duplication of work.<br>• PHMPs should be accepted without accompanying PCPs. | Our proposal stands, as PCPs span across PHMPs by identifying controls relevant to a number of different hazards. |

| A new regulatory approach | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **15. Definition of a 'mine worker'**<br><br>A mine worker is defined as any worker (including a contractor or labour hire worker) who works at a mining operation. The definition hinges on the definition of 'mining operation'. | • The definition is too wide. It should only capture those directly exposed to principal hazards.<br>• Short term and 'one-off' contractors should not fall within the definition of a 'mine worker'. | A mine worker will be a person who works in a mining operation who is exposed to principal hazards. |
| **16. Workers should be involved in the creation of health and safety management systems** | • PHMPs should be developed by people with the relevant qualifications and experience: this should supersede the overarching principle of worker participation. | The SSE is required to ensure that the site health and safety representative and other workers with the relevant skills and competencies are involved in the development of health and safety management systems. |
| **17. The PHMP system and structure** | • Creating plans for individual principal hazards may create silos; i.e. other risks may not be picked up or may fall between the cracks. | We note this in relation to quarries and tunnels, but support our original proposal. While PHMPs require operators to focus on principal hazards, PCPs provide the opportunity for a systems perspective. We are happy to discuss how to address industry concerns. |
| **18. Acceptable risk/all practicable steps** | • These terms need to be better understood for the law to be properly followed. | No change recommended to initial proposals. |
| **19. Risk assessment/risk appraisal** | • These terms need to be clarified so this can be carried out properly. | No change recommended to initial proposals. |
| **20. PHMPs/PCPs listed in regulations** | • Some principal hazards are not listed and, if the list is to be exhaustive, should be added.<br>• PHMPs that could apply to quarries are not listed. | There needs to be a 'catch all' phrase included in the list because principal hazards will never be exhaustive due to emerging technologies. |

| A new regulatory approach | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **21. Transitional arrangements** | • There is a need to develop an integrated timeframe for transition to the new regime. | A staggered transitional arrangement has been proposed that allows for the large number of CoC holders to access the required training. |
| **22. Exemption from 12 month transitional period** | • Some submitters suggested that workers should be consulted when any requests for exemptions to the 12 month transition period are considered. | We agree. Workers are to be consulted when requests for exemptions to the 12 month transition period are considered. |
| **23. PHMPs and PCPs must be provided to the regulator** | • The regulator should approve or at least provide feedback on PHMPs and PCPs. | The submission of draft PHMPs and PCPs to the regulator indicates: (a) compliance with the legislation, and (b) will help frame the inspectors' audit and inspection plan/process.<br><br>Any feedback from the regulator on these plans should be addressed through on-site inspections and audits (rather than by providing written feedback on the submitted plan).<br><br>The regulator's inspections and audits should in no way be seen as a substitute for the requirement for operator commissioned audits of the mine's health and safety systems. |
| **24. Health and safety management systems must be disclosed to all mine workers** | • Contractors should be able to get information on the health and safety systems on a mining site and gain access to the site for auditing purposes. | The disclosure obligations will be placed on the person controlling a site so contractors can gain access to undertake their own due diligence. |

| A new regulatory approach | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **25. A mining sector advisory group be established** | • The group should represent the whole industry: e.g. alluvial mining, quarrying, underground metalliferous etc.<br>• More than one group is required to focus on different sectors in the industry (e.g. one for underground, one for coal, and one for surface mining/quarrying).<br>• This could be a function of the Mines Inspector.<br>• There should be worker/union representation in the group.<br>• This group duplicates the role of MinEx.<br>• This group should only be established for a limited time period. | We will recommend to WorkSafe New Zealand that it establishes one mining sector advisory group for the whole extractive sector and that the group is suitably representative of all industries and workers.<br><br>We propose that this group has: an overall advisory board to focus on the state of health and safety in the sector and the operation of the regulatory regime; and a set of sub-groups to look at specific aspects of the regime, e.g.:<br>• emergency preparedness and response, and<br>• the board of examiners/training and qualifications system.<br><br>The board could also potentially be charged with alerting the Ministry of any problems with the new regulations.<br><br>There needs to be some care taken with the number and composition of representatives to make sure the different sectors are represented and the workers' voice is not lost. |

# Training and qualifications

We consulted on:

- *Competencies required for existing and new safety critical roles at mining operations*
- *A greater role for the regulator in setting and assessing competencies*
- *Health and safety responsibilities and training for mine managers.*

We wanted your views on the minimum qualifications and competencies people should have at all levels of the sector, from mine worker to mine manager to site senior executive (SSE).

## Lifetime certificates of competence

One of the key issues you disagreed on was the removal of lifetime certificates of competence (CoCs). Your feedback included suggestions that these should be retained, as the bulk of qualification holders were not far off retirement and that any change would result in an exodus of valuable experience before the industry was ready for it. A popular suggestion was for continuing professional development (CPD) alongside the CoC.

We have listened to your concerns and considered the potential consequences to the industry. As a result, we propose that:

- Current holders of lifetime CoCs can retain these certificates as long as they maintain CPD requirements set by the (new) board of examiners.
- They will also be required to gain the new competencies within five years.
- People who do not meet these requirements will retain their certificates but will not be able to practise.
- Current holders of time-limited CoCs will be required to maintain CPD and gain the new competencies at the next renewal date of their time-limited CoC.

People who leave the industry for longer than a prescribed period (to be determined in the regulations) will need to satisfy the board of examiners of their competence if they wish to return. CPD may not be sufficient in these cases.

## Qualifications of the site senior executive

We wanted to know what level of qualification you thought an SSE should have and whether this should differ depending on the type of mining operation. Feedback was split between whether there should be a separate qualification for the SSE or a mine manager's qualification.

We propose that there is a specific CoC for SSEs. This will be mandatory for SSEs of all mining operations.

SSEs of underground mines must also hold the relevant mine manager's qualification. This will effectively bridge the health and safety gap between the corporate side of the business and the work being done at the site.

### Human factors

There was general agreement from submitters to include training in 'human factors' for safety critical roles. However, you raised some questions:

- How would this be measured or assessed?
- Would this requirement create alignment issues with Australia?

MITO, the industry training organisation (ITO) responsible for the mining sector, will determine how this training will be delivered and assessed in New Zealand. We will also advise Australian regulators of our intention to introduce this training.

### Consolidating certificates of competence

We asked whether certificates of competence should be consolidated where practicable. However, as most submitters disagreed with this proposal we will no longer consider doing this.

### Training for new or untrained mine workers

We also proposed minimum training requirements for new or untrained mine workers before they can work without direct supervision. Submissions were received on two main issues:

- The level and length of training – a number of you thought that the training should be substantive rather than just a few hours' worth, and that the induction should be at level 2 of the New Zealand qualifications framework.
- Who needs to be trained – some of you said it was not necessary for non-operational staff such as office staff or for one-off and casual contractors doing specific jobs to go through induction training.

We had initially proposed a new New Zealand Certificate in Mining (Induction). In response to your feedback we do not think a whole new qualification is necessary. We agree that induction training should be at level 2 on the NZQA framework and substantive. We will also put in place a process to assess the current training programmes of individual mining operators to avoid unnecessary duplication of training effort.

The induction requirements are only proposed for people working in the physical mining operation, including those involved in maintenance of a mining operation, who are exposed to a principal hazard. Induction training would only be considered a minimum basic requirement and would not cover all safety training that a mine worker may need to carry out a specific task.

Casual contractors who are not exposed to any principal hazard while carrying out their work will not be required to undertake induction training. Instead, they will be covered by the health and safety training that applies to their specific task.

| Training and qualifications | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **26. Certificates of competence (lifetime)**<br>It is proposed that holders of lifetime CoCs are required to obtain a time-limited CoC within three years. | • Lifetime CoCs should be retained as the bulk of those who have them won't be far off retirement.<br>• Removal of the lifetime CoC could result in an exodus that the industry (especially quarrying) can't afford.<br>• Quarry workers would welcome CPD along with their lifetime CoC rather than lose them in favour of a different qualification. | People will be able to retain their lifetime CoCs. However, if they do not meet ongoing CPD requirements they will not be able to practice.<br>Lifetime CoC holders will also be required to pick up the new competencies within five years.<br>People who leave the industry for longer than a prescribed period (to be determined) will need to satisfy the board of examiners of their competence. CPD may not be sufficient in these cases. |
| **27. Retaining A and B grade CoC distinction**<br>It is proposed that the A and B grade distinction is retained for quarry managers. | • Agree with retaining the distinction. | The A and B grade distinction will be considered as part of the new quarrying regulations. |
| **28. Duration of certificates of competence (three years)**<br>It is proposed that CoCs be three years. | • The three-year timeframe could lead to overload for ITOs.<br>• Given the number of those holding lifetime CoCs due to retire over next five or so years, it would be better to allow for a five year period to help prevent ITO overload. | The gas testing certificate of three years should remain, but all other CoCs should have a five year term.<br>Time-limited CoC holders will be required to gain the new competencies at their next time limited CoC renewal and to meet the CPD requirements. |

| Training and qualifications | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **29. Renewal of CoCs – process**<br>It is proposed that candidates must meet both competency and CPD requirements before these are renewed. | • It is unclear at present what the renewal requirements and process will be for CoCs.<br>• Qualifications should have to be renewed no more frequently than every five years.<br>• Workers that have been employed in the industry continuously should not require renewal as they have received their training 'on the job'. | While detailed requirements for the CoC should be a matter for the board of examiners, we expect that renewal of a CoC will be based around CPD and/or continued employment in the sector.<br>If a person has not been continuously employed in a mining operation and/or has not maintained the required CPD and is re-entering the industry, they may need to be trained and/or reassessed. |
| **30. Qualification levels for electrical and mechanical engineering managers**<br>Qualifications for these safety critical roles are set out in the proposals. | • Qualifications for these safety critical roles are set too high.<br>• Trade certification should be all that is required along with relevant health and safety training.<br>• These roles should be able to be filled using existing competencies.<br>• In many operations, these safety critical roles aren't even needed. | A level 5 NZQA qualification will be required.<br>With regard to designing the systems, the level of qualifications required should be based on the risks. It is the SSE's responsibility to establish the qualification levels required.<br>The term 'engineering manager' should be replaced with a more suitable title, such as 'superintendent'. |
| **31. Shift supervisor qualification levels**<br>It is proposed that supervisors have:<br>• for underground coal mines – underviewer<br>• for other underground mining operations – B grade tunnel manager<br>• for opencast/surface mining operations – aligned to the Queensland opencut examiner CoC. | • An underviewer's certificate should be considered appropriate for underground shift supervisors.<br>• A B grade certificate should be considered appropriate for quarrying/surface mining shift supervisors. | As originally proposed:<br>• Shift supervisors in underground coal mines will be required to hold an underviewer's certificate.<br>• Shift supervisors in all other operations will be required to hold a minimum of a requisite B grade certificate.<br>The SSE or the regulator could require a certificate of competence if the risks in the operation justified it. |

| Training and qualifications | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **32. Emergency management competencies** | • It is not clear what competencies are required for emergency management for mine/quarry managers and SSEs. | We propose that the SSE, mine managers and supervisors will have emergency management training. Opencast operations will also have requirements for emergency management plans. |
| **33. Requirement of mine surveyor in opencast mines**<br>Mine surveyor is an existing statutory position. | • Opencast mines do not require mine surveyors as there is no principal hazard that would warrant the need for one. | Where a principal hazard exists, in the case of underground mines and opencast mines with old underground workings, the surveyor must hold a mine surveyor's certificate of competence. |
| **34. Adopting Australian standards for training and qualifications**<br>It is proposed that New Zealand unit standards are aligned with Australia. This is except when New Zealand standards are higher, in which case Australia will be encouraged to adopt the New Zealand standards. | • Adopting Australian standards would make it easier for Australia to 'poach' workers.<br>• New Zealand is not Australia and should have its own independent system.<br>• We should maintain close links with Australia but retain our own standards.<br>• Geology and equipment in Australian mines is different to that of New Zealand. It would be entirely inappropriate for New Zealand to adopt Australian standards. | We have not changed our original proposals. |
| **35. The SSE should have a mine manager's ticket**<br>It is proposed that the SSE is required to hold the mine manager's CoC for the operation concerned, as well as a new SSE CoC which will include competencies in risk management, occupational health and safety, mining legislation, emergency management and human factors. | • The mine manager is ultimately responsible.<br>• There should be a separate qualification specifically for SSEs.<br>• This depends on the scale of the operation: most can probably be covered with existing mine manager/quarry manager qualifications. | SSEs of underground mining operations should have the relevant mine manager's qualification.<br>All SSEs will be required to have the SSE CoC. |

| Training and qualifications | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **36. Transitional arrangements for CoCs** | • There should be a five year transition period.<br>• There is a perception (among industry) that there are too many CoCs for MITO to be able to handle the workload in the proposed timeframe.<br>• A five year transition period would take care of the issue of a large proportion of lifetime CoCs as many of them are at or near retirement age. | A staggered transitional arrangement has been proposed that allows for the large number of CoC holders to access the required training. |
| **37. Proposal to include training in 'human factors' for safety critical roles** | There was broad agreement from submitters to this proposal. However, a number of comments/questions were raised:<br>• How would it be measured or assessed?<br>• Would this create alignment issues with Australia?<br>• More information is needed. | The Ministry needs to work with MITO to determine how this training would be measured and introduced into New Zealand.<br>We would advise our Australian counterparts of our intention to introduce this training. |
| **38. Should CoCs be consolidated where practicable?** | • Most submitters disagreed with this proposal. | CoCs will not be consolidated (as originally proposed). |

| Training and qualifications | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **39. There will be a minimum training requirement for new or untrained mine workers** | • Induction training should be at level 2 and done in either two days or over 12 months<br>• The induction training needs to be substantive, not just a few hours.<br>• Non-operational staff such as office staff should not have to undergo induction training.<br>• One-off and casual contractors doing specific jobs should not have to be put through the induction training before undertaking the work they are contracted to do.<br>• There should be an exemption for alluvial gold workers with two or more years' experience.<br>• Training should be different for underground and opencast mines.<br>• This should be unit 7146 (level 2) + extra units.<br>• Training needs to be regulated and done in company time, or it may not happen at all. | We agree that induction training should be substantive. However there will not be an induction CoC as initially proposed.<br><br>We also agree that it should not apply to all staff. The induction requirements are only proposed for people working without direct supervision in the physical mining operation, including maintenance of the mining operation, who are exposed to any principal hazard.<br><br>This is a minimum requirement and does not cover all the safety training a person may require to carry out a specific task.<br><br>This would exclude casual contractors who would not be exposed to any principal hazard while working on the site. Instead, they would be covered by a health and safety training regime that applies to their particular task.<br><br>We agree that training should be different for workers in opencast and underground mines.<br><br>Only operational mine workers will require training, as follows:<br>• Unit 7146, level 2, 4 credits is suitable for underground operations<br>• Unit 17696 is suitable for opencast operations.<br><br>It is the employer's responsibility to ensure that training occurs.<br><br>*[proposal 39 ctd]* |

| Training and qualifications | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| ***[proposal 39 ctd]*** | • This qualification should be able to be transferred between mines.<br>• Sites that offer minimum induction training should be accredited to issue qualifications. | We agree that the qualification should be transferrable between mining operations, as long as these operations are comparable.<br><br>We also agree that the induction training some operators already have in place should be accredited, provided that the training has been assessed by an independent person to align with proposed standards.<br><br>The Ministry will work with MITO to determine how to do this in practice, including regular review. |
| **40. Composition of board of examiners**<br><br>• The Chief Inspector of Mines (Chair)<br>• A suitably qualified person from the coal mining industry<br>• A suitably qualified person from the mining or tunnelling industry<br>• A suitably qualified person from the opencast mining or quarrying industry<br>• A suitably qualified inspector appointed by the regulator<br>• Up to two persons who teach mining related qualifications, and<br>• The Chief Executive of MITO. | A number of comments were received regarding the composition of the Board, including:<br>• MITO should not be represented as there is a potential conflict of interest<br>• The quarry sector should be represented<br>• The tunnelling sector should be represented, and<br>• Academic members are not required. | The composition of the Board of Examiners will be determined by WorkSafe in accordance with the requirements in the Pike River Bill. We will recommend to WorkSafe that the Board be composed as follows:<br><br>• one person who teaches mining related qualifications at a tertiary education organisation<br>• one to two representatives from WorkSafe New Zealand: the Chief Inspector (chair) and one mines inspector<br>• one underground coal professional (preferably a person who holds a first class coal mine manager or an A grade qualification and has managed a mining operation)<br>• one underground metalliferous professional (preferably a person who holds a first class or an A grade qualification and has managed a mining operation)<br><br>*[proposal 40 ctd]* |

| Training and qualifications | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| ***[ proposal 40 ctd]*** | | • one opencast professional (preferably a person who holds an A grade qualification and has managed a mining operation)<br>• if quarry qualifications are covered by the Board, one quarry professional (preferably a person who holds an A grade qualification and has managed a quarry operation)<br>• one civil tunnelling professional (preferably a person who holds an A grade qualification and has managed a tunnelling operation)<br>• the Chief Executive of MITO, and<br>• an industry health and safety representative or an alternate. |
| **41. Functions of the board**<br>Functions include assessing applicants for certificates of competency. | • Some submitters commented that the distinction between the board and the examination panels needs to be clarified. | It is intended that the examination panels will be separately appointed by the board as appropriate for the specific parts of the extractives industry. Board members may serve on the examination panels as appropriate.<br>It is expected that the members of the panel will hold at least the qualification level that they are examining. |
| **42. Composition of the board** | • Some submitters proposed that there should be more than one board, e.g.:<br>• An underground board and an opencast board, or<br>• A coal board and a non-coal board. | We do not agree with these suggestions. The proposed board composition (see above) is designed to cover all sectors. |

| Training and qualifications | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **43. The regulator establishes the board** | • Suggestions were made that already established bodies could take on the proposed role of the board, e.g.:<br>• IPENZ for engineers<br>• The existing ITO. | We do not agree. The proposed board structure and function is intended to meet the Royal Commission's recommendation for greater regulator involvement and to align ourselves with Australia. |
| **44. A board of examiners will assess applicants for certificates of competency** | • There are literacy issues among the quarrying sector that could make assessment unfair.<br>• There should be no assessment; only a need to complete a qualification.<br>• Being asked to undergo a competency assessment may offend those with many years' experience in the industry. | No change has been proposed. The board will decide on the appropriate method of examination. |
| **45. The board will work with Australian counterparts** | • There were mixed views from submitters on whether we should work towards joint accreditation. | We propose an independent New Zealand board working towards joint accreditation with Australia. |
| **46. A levy on industry is proposed to cover the board's on-going costs** | • There were a range of suggestions for funding this board:<br>• funding from government (most supported this option)<br>• industry contribution to examination panels<br>• levy based on size of workforce<br>• levy based on production. | We will discuss a proposal with WorkSafe New Zealand that it pays the cost of the board of examiners but applicants pay the costs of the examination. |

# Worker participation

We consulted on:

- *All mining operations to have documented worker participation systems*
- *All mine workers, including contractors, to be covered*
- *Results of health and safety monitoring to be provided to all workers*
- *Site health and safety representatives having new functions and powers*
- *Industry health and safety representatives to be established.*

Most of your feedback on worker participation focussed on site health and safety representatives (SHSRs) and industry health and safety representatives (IHSRs). There were mixed views regarding both roles. It is important to note at this stage that most of these proposals are addressed in the Pike River Bill. We do not include revised proposals on these issues as the Bill is still being considered by the Transport and Industrial Relations Committee.

## Site health and safety representatives

Submitters were divided on the issue of SHSRs, especially where functions and powers were concerned. In general, smaller operators were concerned with the cost of compliance. Feedback from unions supported the proposal but argued that all functions and powers should be prescribed. This means there would not be any room for negotiation of functions and powers.

You also made a number of suggestions regarding the training requirements for SHSRs. These included:

- unit standard 20198
- a certain number of years' experience in the industry
- training in risk management
- supervisor level qualifications
- a deputy's qualification (for underground coal only).

The training requirements for SHSRs will be set out in the regulations. We recommend that SHSRs are provided with a training package of NZ/20198 (G2 equivalent) along with supervisory, occupational safety and health systems and auditing training.

## Industry health and safety representatives

There were differing views on the establishment of IHSRs, some supporting the proposal and some not in favour. A number of alternatives were suggested:

- Mines Rescue Service provides the IHSRs

- New Zealand follows Queensland's district worker representative model (in Queensland's metalliferous sector)
- there are extra mine inspectors rather than IHSRs
- IHSRs are only required for underground coal mines.

These issues are dealt with in the Pike River Bill. The Bill is still before Parliament and is being considered by the Transport and Industrial Relations Committee.

### Immunity from liability for site health and safety representatives and industry health and safety representatives

There were mixed views across all sectors regarding whether SHSRs and IHSRs should have immunity from liability. This issue is also being considered as part of the select committee process on the Pike River Bill.

| Worker participation | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **47. Functions and powers of site health and safety representatives (SHSRs)**<br>It is proposed that the functions and powers of SHSRs are set out explicitly in legislation, with a provision that further functions and powers can be negotiated. | • Submitters were split on this issue. Smaller operators, particularly from the quarry sector, were concerned with the compliance of costs of the proposed worker participation requirements.<br>• Unions supported the proposal but did not agree with negotiated functions/powers, instead arguing that *all* functions/powers should be stated explicitly. | This issue is being considered as part of the select committee process on the Pike River Bill. |
| **48. Industry health and safety representatives (IHSRs)**<br>It is proposed that a new position of IHSR is established. These would be appointed and funded by a union or other group of mine workers. | • There was a range of views on the establishment of IHSRs. The following alternatives were proposed:<br>  ○ Mines Rescue Service to provide IHSRs<br>  ○ Follow Queensland district worker representative model (metalliferous)<br>  ○ Extra inspectors rather than IHSRs<br>  ○ Make IHSRs for underground coal only. | This issue is being considered as part of the select committee process on the Pike River Bill. |
| **49. Immunity from liability for SHSRs and ISHRs** | • There were mixed views on whether SHSRs and IHSRs should have immunity from liability. | This issue is being considered as part of the select committee process on the Pike River Bill. |
| **50. Training requirements for SHSRs**<br>It is proposed that the mining regulations enable the regulator to determine sufficient training for SHSRs. The discussion document sought views on what would be appropriate. | • A number of suggestions were made, including:<br>• unit standard 20198<br>• a certain number of years' experience<br>• training in risk management<br>• deputy's qualification (underground coal only)<br>• supervisor level. | SHSRs should have a minimum of 2 years' experience in the type of mining they are in and have acquired risk management competence unit standard 26856. |

| Worker participation | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **51. Training requirements for IHSRs**<br>It is proposed that IHSRs have a deputy's certificate as a minimum requirement. | • Suggestions were similar to those made for SHSRs. | IHSRs should have at least a deputy's certificate, five years' mining experience and risk management competence to unit standard 23547. |
| **52. Code of practice for worker participation** | • There was broad support for having a code of practice for worker participation. | A code of practice on worker participation will be developed. |
| **53. Worker participation arrangements cover all mine workers at a mining operation**<br>This would include contractors, sub-contractors and labour hire workers. | • Submissions were divided on the issue of contractors. Some felt that all contractors regardless of whether they were full time or part time should be included. Others thought only contractors who were full time, or 'integral' to the operation should be included. | This issue is being considered as a part of the select committee process on the Pike River Bill. |

# Emergency management

We consulted on:

- *Emergency preparedness, including requirements for emergency management plans*
- *Broadening the coverage of the Mines Rescue Service (MRS)*
- *Changing the make-up of the Mines Rescue Trust Board.*

## Broadening coverage of the Mines Rescue Service

We asked your views on the proposed scope of the MRS and responses were polarised. While many people agreed with the proposal to extend MRS's coverage, some did not agree that underground metalliferous mines should be covered. Some submitters also argued against including opencast coal mines.

This issue is dealt with in the Pike River Bill. The Bill is still before Parliament and is being considered by the Transport and Industrial Relations Committee.

## Emergency management plans

A number of you commented that the proposed emergency management processes are not suitable for above ground operations.

Emergency management plans are intended to be responsive to different types of operation. Therefore, our initial proposal for all operations to have an emergency management plan remains.

## Minimum standards for emergency preparedness

Most feedback we received on minimum standards for emergency preparedness were from sectors other than underground operations: you said these standards were too specific to underground mining. Submitters from the underground metalliferous sector also said we needed to specify whether the minimum requirements applied to other sectors.

We agree. The regulations will specify the standards to apply to different types of mining operations such as metalliferous mines and tunnels.

| Emergency management | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **54. Emergency management plans**<br>All mining operations will require an EMP to set out emergency management processes to be followed at a mining operation. EMPs will also show how the operation complies with minimum standards for matters such as equipment and facilities. | • A number of submitters, particularly from the quarrying sector, commented that the emergency management processes described are not suitable for above ground operations. They need to be responsive to different types of mining operation. | No change to the proposal. EMPs are intended to be responsive to different types of operation. |
| **55. The regulations will set out minimum standards for emergency preparedness and equipment and facilities** | • Some of the specified standards regarding processes and equipment are too specific to underground operations. It is not clear how they apply in relation to other sectors, e.g. tunnels and underground metalliferous mines.<br>• For example, how do the requirements relating to a second means of egress apply to tunnels and underground metalliferous mines? | We agree. The regulations will clarify how standards will apply to different types of mining operation. |
| **56. Extending the coverage of the Mines Rescue Service**<br>The MRS currently covers underground and opencast coal mines. It is proposed that it also covers underground metalliferous mines and tunnels that are, or are intended to be, longer than 150m. It is also proposed that the MRS is involved in the preparation of EMPs. | • There were mixed views on this. While many submitters agreed, some felt that underground metalliferous mines should not be covered.<br>• Some also commented that opencast coal mines should not be covered. | This issue is being considered as part of the select committee process on the Pike River Bill. |

| Emergency management | | |
|---|---|---|
| **What we proposed** | **What you said** | **The response** |
| **57. Reviewing the levy charged by Mines Rescue Service.**<br>It is proposed the MRS levy is broadened to include the increased coverage of MRS's service. The levy mechanism will be reviewed as part of this process to ensure it is fair and adequate. | Feedback received from the Safe mines: safe workers discussion document includes:<br>• The Mines Rescue Service should be paid for by coal mining operators<br>• The levy should be based on a number of employees, level of risk or a combination of both factors. | The process with industry concerning the levy will conclude on 18 September 2013. Options for a new levy mechanism include a levy on production output or a levy on workers. The mechanism is likely to include a risk weighting based on the type of mine and may incorporate both a fixed base and variable component. |
| **58. The reform of Mines Rescue Service will be implemented by 1 April 2014** | • A number of submitters (across industry) questioned whether the MRS would be in a position to fulfil its expanded functions on 1 April 2014. | The Pike River Bill provides that the new Mines Rescue Trust Board will take effect on a day specified in the *New Zealand Gazette.* |
| **59. Coordinated Incident Management System (CIMS)**<br>The Royal Commission recommended that the incident controller have mining expertise as well as incident management skills.<br>This issue was included in the discussion document for information only. | • Submitters commented that either the industry or the MRS needs to fill the role of incident controller in the CIMS model.<br>• Submitters also requested more guidance on emergency management under the CIMS model. | An interagency protocol for dealing with large scale mining emergencies is being developed. The draft protocol requires that the mines incident controller have mining expertise. It is being tested in late September and will be finalised in December. |
| **60. Limitation of liability**<br>It is proposed that the Mines Rescue Trust Act is amended to include a provision limiting liability for the MRS for any damage caused by actions done in good faith during rescue operations. | • Mine staff who assume a control role in an emergency should be covered by the limitation of liability provisions. | We agree in principle and are considering whether this needs to be addressed in legislation. |

# Glossary

| | |
|---|---|
| **ACoP** | A code of practice approved under section 20 of the Health and Safety in Employment Act 1992 |
| **CIMS** | Co-ordinated Incident Management System, used by New Zealand's emergency services |
| **Code of practice** | A statement of preferred work practice (see also 'ACoP') |
| **Competency** | The demonstrated skill and knowledge required to carry out a task to the standard necessary |
| **CoC** | Certificate of competency |
| **CPD** | Continuing professional development |
| **EMP** | Emergency management plan |
| **HSE Act** | Health and Safety in Employment Act 1992 |
| **Human factors** | The study of how people interact with each other and with the work system |
| **IHSR** | Industry health and safety representative |
| **IPENZ** | Institution of Professional Engineers New Zealand |
| **ITO** | Industry training organisation |
| **Mine operator** | The legal entity responsible for the mining operation |
| **Mine worker** | Anyone working in a mining operation, including employees, contractors and labour hire workers, and exposed to the workplace hazards of a mining operation |
| **MinEx** | MinEx Health & Safety Council |
| **Mining operation** | A mine or tunnel that is covered by the mining regulations |
| **Mine operator** | The person or company that carries out the mining operation. The mine operator is responsible for the health and safety of persons working in the mining operation. |
| **Ministry** | Ministry of Business, Innovation and Employment (MBIE) |
| **MITO** | NZ Motor Industry Training Organisation – the industry training organising responsible for the mining sector |

| | |
|---|---|
| **MRS** | Mines Rescue Service |
| **MRT** | Mines Rescue Trust |
| **MRT Act** | Mines Rescue Trust Act 1992 |
| **NZQA** | New Zealand Qualifications Authority |
| **Opencut** | The Australian term for 'opencast' |
| **Opencast mine** | A surface mine |
| **Pike River Bill** | Health and Safety (Pike River Implementation) Bill |
| **PCP** | Principal control plan |
| **Principal hazard** | A workplace hazard with the potential to cause multiple fatalities in a single incident or fatalities in a series of recurring incidents |
| **PHMP** | Principal hazard management plan |
| **Regulations** | Regulations for health and safety in the mining industry, under the HSE Act |
| **Regulator** | The organisation that implements and enforces the new mining regime – WorkSafe New Zealand |
| **Royal Commission** | Royal Commission on the Pike River Coal Mine Tragedy |
| **Safety critical roles** | The positions held by employees or contractors at mining operations that contribute to health and safety and that are prescribed in the mining regulations. |
| **Scope** | The types of mining operation that are covered by the mining regulations are 'in scope'. Mining operations that are not covered are 'out of scope'. |
| **SHSR** | Site health and safety representative |
| **SSE** | Site senior executive – the representative of the mine operator who is responsible for the maintenance of health and safety management systems, ensuring worker participation, and who is the point of contact with the regulator |
| **Worker participation** | The ways that workers can get involved in the health and safety management in their workplace |
| **WorkSafe New Zealand** | The (Crown agent) organisation that will be established in 2013 to administer and enforce the Health and Safety in Employment Act 1992 |