



Who is a Competent Person?

T.R. Marshall¹

Affiliation:

¹Explorations Unlimited,
South Africa.

Correspondence to:

T.R. Marshall

Email:

marshall.tania@gmail.com

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Synopsis

SAMREC (The South African Code for the Reporting of Exploration Results, Mineral Resources and Mineral Reserves) Clause 7 notes that 'Documentation detailing Exploration Results, Mineral Resources and Mineral Reserves from which a Public Report is prepared must be prepared by, or under the direction of, and signed by a Competent Person.' Similar statements with respect to Competent Valuers (CVs) and Qualified Reserves Evaluators (QREs) are contained in the SAMVAL (South African Code for the Reporting of Mineral Asset Valuations) and SAMOG (South African Code for the Reporting of Oil & Gas Resources) codes respectively.

What does it mean to be a Competent Person (CP) in the context of compiling/signing-off on SAMCODE (South African Mineral Code) compliant documents? What do the registration and experience requirements mean? Who is ultimately responsible for the report and what does such responsibility prescribe?

Keywords

Reporting Codes, SAMREC, Competent Person.

Introduction

SAMREC (The South African Code for the Reporting of Exploration Results, Mineral Resources and Mineral Reserves) Clause 7 notes that 'Documentation detailing Exploration Results, Mineral Resources and Mineral Reserves from which a Public Report is prepared must be prepared by, or under the direction of, and signed by a Competent Person (CP).' Similar statements with respect to Competent Valuers (CVs) and Qualified Reserves Evaluators (QREs) are contained in the SAMVAL (South African Code for the Reporting of Mineral Asset Valuations) and SAMOG (South African Code for the Reporting of Oil & Gas Resources) codes respectively.

The definition of a CP is one of the fundamental definitions embodied in the CRIRSCO (Committee for Mineral Reserves International Reporting Standards) template (www.crirSCO.com/template.asp), and this paper emphasises that this (CRIRSCO definition) is the only criterion that qualifies an author to sign off on Public Documents under the SAMCODES and/or the jurisdiction of the Johannesburg Stock Exchange (JSE). Various international/regional bodies have different definitions for CPs (for example, the United Nations Framework Classification (UNFC) (UNECE, 2020), the African Mineral and Energy Resources Classification and Management System (UNFC-AMREC-PARC, 2019), and associated Pan-African Reserves and Resources Reporting Code (PARC) definitions) or for persons who are simply deemed competent as per common dictionary definitions. These definitions are not relevant for SAMCODE compliance. Persons who define themselves as CPs in terms of any definition not aligned to the CRIRSCO Template may not necessarily be acceptable to the SAMCODE or the JSE (or, in fact, to any CRIRSCO-aligned Code or reporting jurisdiction). It is incumbent on the individual to be aware of the specific definitions and any additional requirements of the jurisdiction in which they are reporting.

A CP is defined by the SAMCODE in terms of both registration and relevant experience. Both registration and experience criteria are required; one without the other is not acceptable.

While the term Competent Person (*sensu stricto*) is defined in terms of CRIRSCO-type documentation, in this paper mention is made of Competent Valuers (defined in terms of the SAMVAL Code) and Qualified Reserves Evaluators (defined in terms of the SAMOG Code) for completeness, since all of these codes form part of the South African mineral reporting regime (SAMCODE).

Who is a Competent Person?

Registration

For SAMREC/SAMVAL, registration of CPs and CVs is typically defined in terms of statutory bodies (SACNASP, ECSA, SAGC), professional membership (GSSA, SAIMM, IMSSA), SAICA (for SAMVAL), and applicable Recognised Professional Organisations (RPOs). SAMOG registration requires a professional to be in good standing with SACNASP, ECSA, the SPEE, the AAPG (Certified Petroleum Geologist category), and/or a member of any other relevant RPO.

The acronyms used in this section are listed below:

- SACNASP—South African Council for Natural Scientific Professions
- ECSA—Engineering Council of South Africa
- SAGC—South African Geomatics Council
- GSSA—Geological Society of South Africa
- SAIMM—Southern African Institute of Mining & Metallurgy
- IMSSA—Institute of Mine Surveyors of South Africa
- SAICA—South African Institute of Chartered Accountants
- SPEE—Society of Petroleum Evaluation Engineers
- AAPG—American Association of Petroleum Geologists

Statutory Registration

There are currently three South African statutory bodies that are applicable for SAMCODE registration – SACNASP, ECSA, and SAGC.

South African Council for Natural Scientific Professions (SACNASP)

SACNASP has several different registration categories:

- Professional (Pr.Sci.Nat.), which requires a recognized 4-year degree/diploma or equivalent, plus three years' experience (or some 10 years of recognized prior learning (RPL))
- Certificated (Cert.Sci.Nat.), which recognises
 - o A 2- or 3-year degree/diploma or equivalent, with less than three years' experience.
 - o Some 10 years of RPL.
- Can didate (Cand.Sci.Nat.), which recognizes a 4-year degree or 2- or 3-year diploma or equivalent, with no work experience – effectively a newly graduated geoscientist in training.

The Pr.Sci.Nat. category is the only acceptable category for CP, CV, or QRE sign-off. Certificated Natural Scientists with a 2- or 3-year degree or diploma (or equivalent) may qualify as long as they fulfil the +10-year RPL/work experience criteria.

Engineering Council of South Africa (ECSA)

Likewise, ECSA recognizes two different categories:

- Professional, which comprises the Professional Engineer (Pr.Eng.), the Professional Engineering Technologist, the Professional Certificated Engineer, and the Professional Engineering Technician.
- Candidate (persons who meet the academic requirements for registration in the Professional categories referred to above and who are undergoing professional development). 'Engineers in Training' are the equivalent of 'Candidate Engineers'.

Only the Professional Engineer (Pr.Eng.) category fulfils the registration requirement for CP (and, by extension, CV and/or QRE) status.

South African Geomatics Council (SAGC)

Similarly, surveyors need to be registered in the Professional registration category; technologist, technician or candidate categories are not sufficient.

Professional Membership

Applicable professional/chartered bodies include the GSSA, SAIMM, IMSSA, and SAICA.

No Member/Fellow of the GSSA, SAIMM, or IMSSA may sign off on a publicly released Competent Person Report (CPR) or Competent Valuers Report (CVR) without undergoing the peer review process. This is not applicable for members also registered with a statutory body (e.g. SACNASP, ECSA, or SAGC). This peer review requirement was put in place by the Councils/MANCOs of the professional bodies (GSSA by-law 1.18.4 / SAIMM by-law G). The purpose of the process is to confirm that a person wishing to sign off as a CP/CV satisfies all the requirements of a CP/CV and that their professional status (in terms of appropriate education and relevant experience) has been validated by their professional association – it does not imply competence or proficiency.

In South Africa, all practising geoscientists are required by law to be registered with SACNASP, so this requirement is generally applicable to non-South-African geoscientists wishing to use their GSSA membership to sign off on CPRs. Under specific circumstances, some South African resident geoscientists may not be registered with SACNASP (some academic, research or government geoscientists, for example), but still wish to sign off on Public Reports – they would also be subject to the peer review requirement. South African engineers, in contrast, are not currently legislated to be registered with ECSA. Therefore, many mining engineers signing off as CPs/CVs/QREs may wish to use their SAIMM membership for this purpose.

Members of the GSSA, SAIMM, or IMSSA who wish to sign off on a specific Public Report lodged with any Stock Exchange must submit to this peer review process. This process is to be followed for each public, newly released CPR, or Valuation Report attached to a CPR. Those members wishing to apply for such review should download the relevant application form from the SAMCODES website..

Recognised Professional Organisations

Typical requirements of an RPO are that it should:

- Be a self-regulatory organization covering professionals in the mining and/or exploration industries
- Admit members primarily based on their academic qualifications and experience (*i.e. not purely a learned/scientific society*)
- Require compliance with the professional standards of competence and ethics established by the organization (*inclusive of a Continuing Professional Development (CPD) programme*)
- Be able to discipline members and have the power to suspend or expel a member (*Code of Ethics/Conduct; Complaints & Disciplinary procedures*).

Notwithstanding the above, the JSE reserves the right, in conjunction with the SAMCODES Standards Committee (SSC), to include additional criteria (for example, to require specific categories of membership or fields of practice) or even waive certain criteria for specific organizations or individual members. Such rights of waiver are applicable to all international reporting

Who is a Competent Person?

jurisdictions where the relevant stock exchange may impose such additional criteria. It is incumbent upon authors wishing to sign off documents for any other jurisdiction to check the current requirements and specifications on the relevant code/exchange website.

A list of RPOs is posted on the SAMCODES website for reference. Any organization that believes it fulfils the requirements of an RPO may apply in writing to the SSC to be included in this list.

Experience

All of the Codes require relevant experience in addition to registration.

- ▶ SAMREC requires that a CP must have a minimum of five years *relevant* experience in the style of mineralization or type of deposit under consideration, and in the activity which that person is undertaking (for example, exploration, Resource estimation or Reserve estimation).
- ▶ SAMOG requires that a QRE have a minimum of ten years' practical experience in petroleum engineering, geology, or geophysics, with at least three recent years of such experience in the evaluation of Reserves and Resources.
- ▶ SAMVAL, in contrast, simply states that the CV needs *sufficient* relevant experience in valuing mineral assets; listing instead a set of specific competencies and occupational tasks that the CV needs to be able to master (Appendix B of the 2016 SAMVAL Code).

Responsibilities of the CP

1. Persons called upon to sign as a CP must be clearly satisfied in their own minds that they are able to face their peers and demonstrate competence in the commodity, type of deposit, and situation under consideration. It is fundamental to understand that the SSC (or any of the SAMREC, SAMVAL, or SAMOG Code Committees) does not confer competence on anyone. Just completing a SAMCODE workshop/course does not mean that an individual is competent – this simply means that they should have the tools to understand what is required for SAMCODE compliance. There are no 'competency exams'; such competence is claimed by the author subject to the provision that the author may be called on by their peers to demonstrate their competence. There is also no list of approved CPs or CVs held by the SSC, the professional/statutory bodies, or the JSE.
2. If a lead CP is appointed, it is important that they accept overall responsibility for a Mineral Resource or Mineral Reserve report that has been prepared in whole or in part by others and are satisfied that the work of the other contributors, who may be CPs in their own right, is acceptable and that the constituent parts of the Report have been signed off by such contributors. It is not necessary that the lead CP be classified as a CP in each of the aspects contained in the report. It is, however, necessary for him/her to have sufficient background in all of the aspects covered in the report to be able to take overall responsibility for the document.
3. Facing one's peers does not mean always being in agreement. It is understood that authors will always have different backgrounds, abilities, and experience and that personal preferences will also come into play in the estimation and/or valuation of Mineral Resources/Reserves. However, the concept of 'reasonableness' should hold sway in cases of

disagreement between CPs. In this context, reasonableness means that other appropriately qualified and experienced professionals with access to the same information, as of the same effective date, should arrive at a broadly comparable result. A 'reasonableness test' serves to identify estimations or valuations that may be out of step with industry standards or norms.

4. SAMREC Sections 7-11 (under the heading 'Competence and Responsibility') detail the requirements for the author of a Public Report or CP. Nowhere in these sections is allowance made for the CP to devolve his/her responsibility to the commissioning entity (if they are not the same). A company (the commissioning entity) may have an agreement with the CP (whether as a consultant or an employee) to provide administrative and technical assistance, reviews, and as well as legal support for any public document authored under their name, but that does not abrogate the professional responsibility of the CP.

All professional/statutory bodies also note that any complaints in respect of a Public Report are made against a member of that body (not against a company), indicating that the responsibility for the Public Report lies with the author/CP. They retain that responsibility even if they should leave the company and join another (or even retire). There is no prescription for responsibility for a Public Report.

The South African Companies Act (Act 71 of 2008) notes that the final responsibility for any statement signed, consented to, or authorized by the Board of Directors is the responsibility of the Board or the specific signatory.

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