

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

orm #3

FILED

SEP 1 12 49 PM '00

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: West Virginia Division of Labor TITLE NUMBER: 42

CITE AUTHORITY WV Code 21-3D-3(1)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 25

TITLE OF RULE BEING PROPOSED: Crane Operator Certification Act-
Practical Examination

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

DATE: September 1, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Division of Labor

LEGISLATIVE RULE TITLE:

1. Authorizing statute(s) citation WV Code 21-3D-3 (1)

2. a. Date filed in State Register with Notice of Hearing:

July 25, 2000

b. What other notice, including advertising, did you give of the hearing?

None

c. Date of hearing (s): Public Comment Period Only

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

September 1, 2000

f. Name and phone number of agency person to contact for additional information:

Andrew A. Brown (304) 558-7890-

West Virginia Division of Labor

Room 709, Building #6

State Capitol Complex

Charleston, WV 25305

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

FILED

JUL 25 2 21 PM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #2

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Labor TITLE NUMBER: 42

RULE TYPE: Legislative; CITE AUTHORITY WV Code 21-3D-3(1)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 25

TITLE OF RULE BEING PROPOSED: Crane Operator Certification Act -
Practical Examination

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 26, 2000 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

West Virginia Division of Labor

Attn: Andrew A. Brown

Room B-749, Building 6

State Capitol Complex

Charleston, WV 25305

RECEIVED

JUL 25 2000

**Legislative Rule Making
Review Committee**

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Crane Operator Certification Act-Practical Examination

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Division of Labor

Address: Rm. B-749, Building #6
State Capitol Complex
Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. **Explanation of above estimates:** This rule (42CSR25), is mandated by WV Code 21-3D, Crane Operator Certification Act. The Act has a general application rule (42CSR24). However, the Code mandates that this rule, pertaining solely to the practical examination of crane operators, shall be filed as a separate rule. There is no fiscal impact relative to this rule.

3. **Objectives of these rules:** This rule establishes procedures for administering a practical examination to crane operator certification applicants.

Rule Title: Crane Operator Certification Act-Practical Examination

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

-none-

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

Crane operators who desire certification will be required to take a practical examination if their application is made after 9/1/2001. A fee of approximately \$50. will be charged by the testing agent.

C. Economic Impact on Citizens/Public at Large.

-none

Date: 7-25-00

Signature of Agency Head or Authorized Representative



WEST VIRGINIA DIVISION OF LABOR

319 Building Three, Capitol Complex • Charleston, West Virginia 25305

Phone (304) 558-7890 • Fax (304) 558-3797

[HTTP://WWW.STATE.WV.US/LABOR](http://www.state.wv.us/labor)

CECIL H. UNDERWOOD
Governor



STEVEN A. ALLRED
Commissioner

Facts and Circumstances

During the 2000 Regular Session of the West Virginia Legislature, House Bill 4645 (Crane Operator Certification Act, amendment) was passed. This bill required the promulgation of a legislative rule for administering a practical examination to certification applicants. House Bill 4645 (WV Code §21-3D-3(a)(1)), requires that this rule be separate from the general rule and be filed as to make it so effective on or before July 1, 2001. This is a new rule.

FILED

SEP 1 12 49 PM '00

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

42CSR24
Title 42
Legislative Rule
West Virginia Division of Labor
Series 25

Crane Operator Certification Act
Practical Examination

§42-25-1. General.

- 1.1. Scope. This legislative rule governs the practical examination of crane operators in accordance with W.Va. Code §21-3D-1 et seq, and W.Va. Code §29A-3-1 et seq.
- 1.2. Authority. W.Va. Code §21-3D-3(1).
- 1.3. Filing Date.
- 1.4. Effective Date.

§42-25-2. Application and Enforcement.

- 2.1. Application. This legislative rule applies to the West Virginia Division of Labor and all persons, materials and transactions governed or otherwise defined under coverage of the Crane Operator Certification Act, W.Va. Code §21-3D-1 et seq. as it relates to the practical examination of crane operators.
- 2.2. Enforcement. The enforcement of this legislative rule is vested with the West Virginia Division of Labor.

§42-25-3. Definitions.

- 3.1. "Class A certification" means a certification issued to a person who has met all national level certification criteria as required by the National Commission for the Certification of Crane Operators (NCCCO).

- 3.2. "Class B certification" means a certification issued to a person who has met all state level certification criteria as required by the commissioner.
- 3.3. "Commissioner" means the commissioner of labor.
- 3.4. "Division" means the West Virginia Division of Labor.
- 3.5. "Approved training course" means a training course which has been reviewed and certified by the commissioner as complying with the requirements of section eight of the Code of State Regulations §42CSR24.

§42-25-4. Adoption of standards.

4.1. National standards. For the enforcement of this article, the American National Standards Institute (A.N.S.I.) code B30 and B30.5 are hereby incorporated by reference.

4.2. State standards. [RESERVED]

§42-25-5. Practical examination.

5.1. On or after the first day of September, two thousand-one, a person who applies for a class A crane operator certification must hold a certification issued by the National Commission for the Certification of Crane Operators (NCCCO). The NCCCO requires and administers its own practical examination.

5.2. On or after the first day of September, two thousand-one, a person who applies for a class B certification shall be required to pass a practical examination as defined in this rule. *Provided, However,* A person who documents the successful completion of an approved training course and makes application prior to September 1, 2001 is entitled to certification without a practical examination.

5.3. The practical examination as required by the National Commission for the Certification of Crane Operators (NCCCO) is hereby incorporated by reference as the state practical examination required for class B crane operator certifications. The commissioner may authorize the use of an equivalent practical examination when the equivalent examination has been found to meet or exceed the requirements of the NCCCO examination.

5.4. The commissioner shall arrange for administering the practical examination through authorized examiners. The practical examination shall be given in three basic categories:

- (a). Lattice Boom Crane (truck or crawler),

(b). Telescopic Boom Crane (5 to 17.5 tons capacity)

(c). Telescopic Boom Crane (greater than 17.5 tons capacity)

5.5. The practical examination shall consist of four primary exercises or tasks:

(a) Task 1 – Rotate and place the overhaul ball in a designated stop circle;

(b) Task 2 – Follow hand signals;

(c) Task 3 – Rotate and place overhaul ball in a fixed enclosure (barrel); and

(d) Task 4 – Negotiate a zigzag corridor with a test weight.

The combination of these four tasks is designed to evaluate the applicant's skills. The skills tested are: hoisting, booming, swinging, following hand signals, and combination (multi-function) operations. Crane operations with load and without load are required.

§42-25-6. Examiners.

6.1. The commissioner shall have the authority to approve and designate examiners to administer the practical examination required for a class B crane operator certification. A person desiring to become an approved examiner must make application to the commissioner on a form provided by the commissioner. The applicant is required to hold a full and current accreditation from the NCCCO as a practical examiner or the equivalent as approved by the commissioner. A copy of the accreditation certificate must accompany the application.

6.2. An approved examiner is required to administer all practical examinations in accordance with the practical examination requirements of the NCCCO or equivalent program as approved by the commissioner.

6.3. An approved examiner may charge examination fees as authorized by the commissioner. The applicant shall pay all applicable fees directly to the approved examiner.

6.4. The approved examiner shall provide the applicant with an official document depicting the final results of the practical examination.

(a). If the applicant successfully completes the practical examination, the examiner shall provide such notice to the applicant and forward a copy thereof to the commissioner.

(b). An applicant who fails the practical examination may request and the examiner shall provide the applicant with an analysis of his or her performance on the failed examination. An applicant who fails the practical examination shall be afforded the opportunity to be re-examined after thirty (30) days and upon the submission of a new application and the payment of the required fees.

6.5. The division shall make available a list of approved examiners registered with the division. A person desiring a practical examination shall have the responsibility to contact the examiner of their choice and schedule the examination.