

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #5

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2010 MAY -4 PM 4: 18

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Board of Coal Mine Health and Safety TITLE NUMBER: 48

CITE AUTHORITY: 22A-6-4

RULE TYPE: PROCEDURAL  INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

22A-6-4

AMENDMENT TO AN EXISTING RULE: YES  NO \_\_\_\_\_

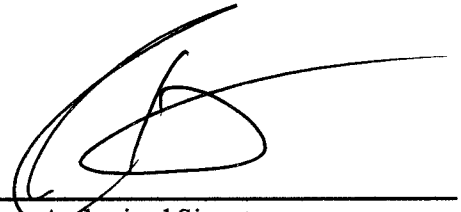
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: CERTIFICATION OF SURFACE MINE FOREMEN

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS MAY 4 2010

  
\_\_\_\_\_  
Authorized Signature



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## **WEST VIRGINIA BOARD OF COAL MINE HEALTH AND SAFETY**

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### **FINAL REGULATIONS**

To: All persons interested in Rules and Regulations constructed by the Board of Coal Mine Health and Safety

From: Joel L. Watts, Administrator – BCMH&S

Subject: **CERTIFICATION OF SURFACE MINE FOREMEN**, Title 48, Section 6

Effective Date: 4 May 2010

Authority: §22.6.4

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The Board of Coal Mine Health and Safety is filing a rule per the request of the WV Secretary of State. The Board considers this rule effective from the original effective date which was November 4, 1978 as it has been filed in the Code of State Regulations.

TITLE 48  
LEGISLATIVE RULES

SERIES 6  
CERTIFICATION OF SURFACE MINE FOREMEN

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§48-6-1. General.**

- 1.1 Scope. Rules and regulations governing the certification of surface mine foreman in West Virginia.
- 1.2 Authority. W. Va. Code 22A-6-4
- 1.3 Filing Date. May 4, 2010
- 1.4 Effective Date. May 4, 2010

**§48-6-2. Criteria for Certification of Surface Mine Foremen in West Virginia.**

2.1. In every surface mine where five (5) or more persons are employed in a period of twenty-four (24) hours, the operator shall employ at least one (1) person certified in accordance with the provisions of Article 9 of this Chapter as a mine foreman. Each applicant for certification as a mine foreman shall, at the time he is issued a certificate of competency:

- (a) Be a resident or employed in a mine in this state;
- (b) Have had at least three (3) years experience in surface mining, which shall include at least eighteen (18) months experience on or at a working section of a surface mine or be a graduate of the School of Mines at West Virginia University, or of another accredited Mining Engineering School and have had at least two (2) years practical experience on a surface mine, which shall include at least eighteen (18) months experience on or at a working section of a surface mine; and
- (c) Have demonstrated his knowledge of Mine Safety, First-Aid, Safety Appliances, Emergency Procedures relative to all equipment, State and Federal mining laws and regulations and other subjects by completing such training, education and examinations as may be required of him under Article 9 of this Chapter.

2.2. In surface mines in which the operations are so extensive that the duties devolve upon the mine foreman cannot be discharged by one (1) man, one (1) or more Assistant mine foreman may be designated. Such persons shall act under the instruction of the mine foreman who shall be responsible for their conduct in the discharge of their duties. Each assistant so designated shall be certified under the provisions of Article 9 of this Chapter. Each applicant for certification as Assistant Mine Foreman shall at the time he is issued a certificate of competency, possess all of the qualifications, be required to have at least two (2) years experience in surface mining, which shall include eighteen (18) months on or at a working section on a surface mine or be a graduate of the School of Mines at West Virginia University or of another accredited Mining Engineering School and has had twelve (12) months practical experience in a surface mine; all of which shall have been on or at a working section.

2.3. An applicant for certification as a surface mine foreman may receive certification in the State of West Virginia if such applicant:

- (a) Is a resident or employed in a mine in this state;
- (b) Has had at least three (3) years experience as a supervisor on or at a working section of a surface mine;
- (c) Is the holder of a valid temporary surface mine foreman certification issued to such applicant by the Federal Government; and
- (d) Has demonstrated his knowledge of mine safety by completing such gas testing, and flame safety lamp assembly examinations as required by the Commissioner of the West Virginia Department of Energy.

**§48-6-3. Criteria for Mine Foreman Examiner for Surface Mine Foremen in West Virginia.**

3.1. The Commissioner of the Department of Energy shall appoint a Mine Foreman Examiner to examine and certify surface mine foreman and assistant mine foremen. Such mine foreman examiner shall be a citizen of West Virginia, of good character, reputation and temperate habits. Such mine foreman examiner shall be paid a minimum salary of thirty-one thousand dollars (\$31,000) per year.

**§48-6-4. Criteria for Duties of Mine Foreman Examiner.**

- 4.1. The duties of the mine foreman examiner shall be to:
  - (a) Conduct examinations of surface mine foreman and assistant mine foremen.
  - (b) Prepare and certify to the Commissioner of the Department of Energy a register of all persons who successfully completed the examination with a passing grade of eighty percent (80%).

**§48-6-5. Criteria for Location and Time of Mine Foreman Examinations.**

5.1. The Commissioner of the Department of Energy shall determine the locations where the surface mine foreman examiner shall meet for the purpose of holding examinations, and at least two (2) weeks' notice of

the time and place where the examinations are to be held shall be given. The examinations shall be given locations designated by the Commissioner of the Department of Energy.

**§48-6-6. Criteria for Preparation of Examinations; Notice of Intention to Take Examination; Investigation and Applicants.**

6.1. The Commissioner shall have prepared from time to time, modified examinations to be administered to applicants for certification as mine foreman and assistant mine foreman. All persons who desire to appear for the examination shall notify the Commissioner's designated representatives of their intentions to appear, if possible, not less than ten (10) days prior to the date set for the examination. The mine foreman examiner or other representative of the Commissioner of the Department of Energy appointed by the Commissioner shall inquire into the character and qualifications of the applicants who present themselves for examination.

**§48-6-7. Criteria for Mine Foreman Examiner to Certify Successful Applicants to the Commissioner.**

7.1. The mine foreman examiner shall certify to the Commissioner, on a form furnished by him, every person whose examination shall disclose his fitness for the duties of surface mine foreman and assistant mine foreman, and the Commissioner shall have prepared certificates of qualifications for the successful applicants and send them to the mine foreman examiner for distribution.

**§48-6-8. Criteria for Record of Examinations**

8.1. The mine foreman examiner shall send to the Commissioner the answer and all other papers of the applicants, together with the tally sheet and a list of the questions and answers, which shall be filed in the department's records.

**§48-6-9. Surface Mine Foreman and Assistant Mine Foreman Certification Required.**

9.1. After the first day of April, 1979, certification shall be required of all surface mine foremen and assistant mine foremen in accordance with the provisions of Chapter 22A, Article 3, Section 20(b).