

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

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

AGENCY: Board of Miner Training, Education and Certification TITLE NUMBER: 48

CITE AUTHORITY § 22-1-15 and § 22-9-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines

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

TITLE OF RULE BEING PROPOSED: _____

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.

PUBLIC HEARING DATE: January 31, 1991

John M. Rowson

DATE: July 10, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Board of Miner Training, Education and Certification

LEGISLATIVE RULE TITLE: Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines.
1. Authorizing statute(s) citation §22-1-15 and § 22-9-6

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

December 14, 1990

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

Public Mailing List

c. Date of hearing(s): January 31, 1991 (close of comment period)

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)

July 10, 1991

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

Tony Grbac 348-3500 558-1425

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.

December 14, 1990

b. Date of hearing: Close of comment period - January 31, 1991

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

December 14, 1990

d. Attach findings and determinations and reasons:

Attached SEE ATTACHED

11 11 1991

DATE: July 10, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Board of Miner Training, Education and Certification

EMERGENCY RULE TITLE: Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines

1. Date of filing: July 17, 1990

2. Statutory authority for promulgating the emergency rule:
§ 22-1-15 and § 22-9-6

3. Date of filing of proposed legislative rule: Dec. 14, 1990

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?
Amends existing rule (T. 48, S. 5)

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare
Clarifying definition of "Active Blasting Experience" in that individuals are applying for, and becoming certified without the required experience necessary. These individuals may be conducting blasting operations in an unsafe manner. The result is that the lives of miners working in and around blasting operations may be endangered; therefore justifying this emergency amendment to an existing emergency rule.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

NONE

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Persons may be conducting blasting operations without the
necessary knowledge and experience, thus conducting blasting
operations in an unsafe manner. The result may be the lives
of miners working in and around blasting operations may be
endangered.

The regulations were filed as Emergency in the Office of the Secretary of State on June 12, 1990; and were filed as Proposed on July 17, 1990. There were no comments offered at the public hearing held August 20, 1990; therefore, the proposed amendment was submitted for final approval on December 14, 1990.

An emergency amendment to the emergency rule was also filed in the Office of the Secretary of State on December 14, 1990, and a comment period was afforded until January 31, 1991. There were no comments received at that time; therefore, the emergency amendment is being submitted as proposed with the Secretary of State and Legislative Rule Making Review Committee.

SUMMARY OF PROPOSED RULE

The proposed amendment would allow persons seeking agency certification to more clearly understand the definition of the term "**active blasting experience**" upon determining eligibility for certification.

Statement of Emergency Amendment to Emergency Rule
Title 48, Series 5

It has come to the attention of the Division of Energy, Board of Miner Training, Education, and Certification, that because of misinterpretations of the term "active blasting experience," certain individuals are applying for, and becoming certified without the required experience necessary.

It is important that all applicants clearly understand the definition of the term, otherwise such individuals may be conducting blasting operations without the necessary knowledge and experience, thus conducting blasting operations in an unsafe manner. The result is that the lives of miners working in and around blasting operations may be endangered; therefore justifying this emergency amendment to an existing emergency rule.

RECEIVED

JAN 14 1991

Legislative Rule Making
Review Committee

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines

Type of Rule: Legislative Interpretive Procedural

Agency: Board of Miner Training, Education and Certification

Address: 1615 Washington Street, East, Charleston, WV 25311

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 & Alterations					
Equipment					
Other					

2. Explanation of above estimates:

The amendment to the existing rule will not result in any increase or decrease in revenue to the State.

3. Objectives of these rules:

The proposed amendment seeks to clearly define the term "active blasting experience" to determine the eligibility of applicants for the surface blaster certification.

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

None

C. Economic impact on citizens/public at large

None

Date December 6, 1990


Signature of Agency Head/Authorized Rep.

DATE: December 13, 1990

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Board of Miner Training, Education, and Certification

LEGISLATIVE RULE TITLE: Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines

1. Authorizing statute(s) citation § 22-1-15 and § 22-9-6

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

July 17, 1990

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

Public Mailing List

c. Date of hearing (s): August 20, 1990

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)

(This filing - to delete prerequisite requirement of Fire Marshal permit)

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

Tony Grbac or Tina Estep 348-3500

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.

NONE

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

A public hearing was held on August 20, 1990, to receive comments on the proposed amendment to Title 48, Series 5, Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines.

The regulations were filed as Emergency in the Office of the Secretary of State on June 12, 1990; and were again filed as Proposed on July 17, 1990. There were no comments offered at the public hearing; therefore, the proposed amendment is submitted for final revision.


Recording Secretary

FILED

1993 DEC 14 AM 8:40

OFFICE OF THE CLERK OF COURTS
STATE OF WEST VIRGINIA

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

BOARD OF MINER TRAINING, EDUCATION, AND CERTIFICATION

TITLE 48 SERIES 5

TITLE: RULES AND REGULATIONS GOVERNING THE STANDARDS FOR CERTIFICATION OF
BLASTERS FOR SURFACE COAL MINES AND SURFACE AREAS OF UNDERGROUND COAL
MINES

TYPE OF RULE: LEGISLATIVE

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
BOARD OF MINER TRAINING, EDUCATION, AND CERTIFICATION
TITLE 48 SERIES 5

TITLE: Rules and Regulations Governing the Standards for Certification of
 Blasters for Surface Coal Mines and Surface Areas of Underground Coal
 Mines

TYPE OF RULE: Legislative

I N D E X

General	Section 48.5.1
Scope	1.1
Authority	1.2
Effective Date	1.3
Filing Date	1.4
Certification	1.5
Definitions	Section 48.5.2
Criteria for Certification of Blasters	Section 48.5.3
Certified Blaster Examiners/Inspectors	Section 48.5.4
Examinations	Section 48.5.5
Certification Procedures	Section 48.5.6
Recertification Requirements for Certified Blaster	Section 48.5.7
Presentation of Certificate; Transfer; and Delegation of Authority	Section 48.5.8
Blasting Crew	Section 48.5.9
Reciprocity with Other States	Section 48.5.10

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
BOARD OF MINER TRAINING, EDUCATION, AND CERTIFICATION

TITLE 48 SERIES 5

TITLE: Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines

Section 48.5.1 General

1.1 Scope - These rules and regulations pertain to the certification of blasters for surface coal mines and surface areas of underground coal mines by the Division of Energy, for the Division of Energy.

1.2 Authority - These rules and regulations are issued under authority of West Virginia Code Chapter 22, Article 9, Section 6, as amended, in accordance with the provisions of Chapter 29A, Article 3 of the West Virginia Code, and in accordance with the Resolution of Understanding by the Board of Miner Training, Education, and Certification, dated December 4, 1979.

1.3 Effective Date - These rules and regulations meet the requirements of Chapter 29A, Code of West Virginia, as amended, are promulgated on the ____ day of _____, 19 ____, and become effective on the ____ day of _____, 19 ____.

1.4 Filing Date - These rules and regulations were filed in the Office of the Secretary of State on the ____ day of _____, 19 ____.

1.5 Certification - These rules and regulations are certified authentic by the Commissioner of the Division of Energy for those portions under his jurisdiction.

Section 48.5.2 Definitions

2.1 Blast - Any and all detonator(s), explosive(s), and/or blasting agent(s) being initiated simultaneously by a single energy source.

2.2 Detonation - Any explosive reaction, also called a detonation wave, that moves through the material at a velocity greater than the speed of sound in the material.

2.3 Certified - Shall mean a person who has successfully completed an examination in accordance with Section 5.3 of these rules and regulations, and is considered certified on record by the Division of Energy per Section 3.1 of these rules and regulations.

2.4 Explosive(s) - Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion; including, but not limited to, water gel, slurries, emulsions, dynamites, permissibles, pellet powder, blasting caps, cast primers and boosters, detonating cord, detonating cord delay connectors, and blasting agents.

2.5 Surface Mine and Surface Area of Underground Mines - Shall mean all areas surface mined or being surface mined, as well as adjacent areas ancillary to the operations, together with preparation and processing plants, storage areas and haulageways, roads, shops and trails, which are covered by the provisions of Chapter 22A, Article 3 of the Code of West Virginia, as amended.

2.6 Active Blasting Experience - Active blasting experience shall mean a person who actively worked on a blasting crew or supervised a blasting crew.

- (a) Active participation in activities associated with the handling, preparation, transportation and use of explosives or the immediate supervision of such activities within surface coal mines, and the surface areas of underground coal mines. Ideally, experience should have been related to surface mine blasting; however, other related blasting experience may be accepted on a case-by-case basis as appropriate.
- (b) "Worked on a blasting crew" shall mean that a person physically participated in the loading and wiring of blast holes.
- (c) "Supervised a blasting crew" shall mean that a person assumed responsibility for the conduct of a blasting crew (or crews) and the crew(s) reported directly to that person.

Section 48.5.3 Criteria for Certification of Blasters

3.1 Certified Blaster. (a) In every surface coal mine or surface area of any underground coal mine when blasting operations are being conducted ~~one-year-after-the-effective-date-of-these-regulations~~, a certified blaster will be responsible for the handling and use of explosives for each and every blast in accordance with the blasting plans approved for the permit. Each applicant for certification as a blaster shall:

- (1) Have had at least one year active blasting experience within the past five (5) years; and
- (2) Have demonstrated his knowledge and skill of the use, handling, and storage of explosives, and all State and Federal laws pertaining thereto by completing such training and certification examinations as may be required by these regulations.

(b) Training requirements shall include, but are not limited to, those subject areas set forth in Section 5.2(a)(1) and Section 5.3(a)(1) of these regulations, and the requirements of 30 CFR Part 48 for initial and annual refresher training. One year of active blasting experience, with on-the-job training, shall be required prior to certification.

Section 48.5.4 Certified Blaster Examiners/Inspectors

4.1 All persons employed by the Division of Energy, whose duties will include examining and certifying blasting personnel and/or inspecting blasting operations shall be certified blaster examiners/inspectors.

Section 48.5.5 Examinations

5.1 Certification under the provisions of 5.2 does not constitute certification under the provisions of Section 3.1; however, certification under Section 5.3 would suffice for certification under Section 4.

5.2 Examinations for Certified Blaster Examiners/Inspectors. (a) Examination for certified blaster examiner/inspector shall include information presented in the Study Guide for West Virginia Surface Mine Blasters, and shall consist of three parts:

- (1) Written multiple choice examination covering:
 - (a) Types of explosives and their properties, to include selection;
 - (b) Blasting equipment and accessories, to include blasting machines;
 - (c) Blast dimensions and calculations, to include geologic and topographic considerations, blast hole design, flyrock control, secondary blasting, and blast plans;
 - (d) Delay systems, to include pattern design, field layout, and initiation systems;
 - (e) Timing;
 - (f) Blast vibration and vibration control, to include airblast, monitoring techniques, and use of pre-blast surveys;
 - (g) Loading and shooting, to include priming, scheduling, site control, warning signals and unpredictable hazards;
 - (h) Storage and transportation of explosives;
 - (i) Record keeping and reporting;
 - (j) Current State and Federal laws and regulations relating to the use, storage and transportation of explosives, the training and certification of blasting personnel, and blasting signs; and
 - (k) Responsibilities of a certified blaster.
- (2) Written simulation. Correctly and properly completing a blasting log.
- (3) Hands-on simulation. Wiring, checking, and shooting a blast.

(b) A score of 70 percent (70%) for part (1), and satisfactory completion of parts (2) and (3) are required for successful passage of the examination. An individual who fails to achieve a passing score may retake the examination subject to the Division of Energy's direction.

5.3 Examination for Certified Blaster. (a) Examination for certified blaster shall include information presented in the Study Guide for West Virginia Surface Mine Blasters, and shall consist of three (3) parts:

- (1) Written multiple choice examination covering:
 - (a) Types of explosives and their properties, to include selections;
 - (b) Blasting equipment and accessories, to include blasting machines;
 - (c) Blast dimensions and calculations, to include geologic and topographic considerations, blast hole design, flyrock control, secondary blasting, and blast plans;
 - (d) Delay systems, to include pattern design, field layout, and initiation systems;
 - (e) Timing;
 - (f) Blast vibration and vibration control, to include airblast, monitoring techniques, and use of pre-blast surveys;
 - (g) Loading and shooting, to include priming, scheduling, site control, warning signals, and unpredictable hazards;
 - (h) Storage and transportation of explosives;
 - (i) Record keeping and reporting;
 - (j) Current State and Federal laws and regulations relating to the use, storage, and transportation of explosives; the training and certification of blasting personnel, and blasting signs; and
 - (k) Responsibilities of a certified blaster.
- (2) Written simulation. Correctly and properly completing a blasting log.
- (3) Hands-on simulation. Wiring, checking, and shooting a blast.

(b) A score of 80 percent (80%) for part (1), and a "passing grade" on parts (2) and (3), which are graded on a pass/fail basis, are required for successful passage of the examination.

(c) All individuals shall be notified of their scores within 30 days of completing the examination. An individual who fails to achieve a passing score on any of the three (3) parts of the examination, may apply within thirty (30) days of the receipt of his examination results from the Division to retake the entire examination, or any portions the individual failed to pass.

Section 48.5.6 Certification Procedures

6.1 Conditions or Practices Prohibiting Certification. (a) Certification as a certified blaster shall not be issued to persons who:

- (1) Are currently addicted to alcohol, narcotics, or other dangerous drugs; or
- (2) Have exhibited a pattern of conduct inconsistent with acceptance of responsibility for blasting operations.

(b) Addition to, or unlawful use of, alcohol, narcotics, or other dangerous drugs in the work place shall cause any blaster's certification already in force to be suspended or revoked.

(c) A pattern of conduct which is not consistent with acceptance of responsibility for blasting operations, (i.e.: repeated or willful violations

of State or Federal laws pertaining to explosives), shall be grounds for suspension or revocation of a blasters certification.

6.2 Application for Certification as a Certified Blaster. Prior to taking an examination for certification, an individual must submit an application to take such examination on a form prescribed by the Commissioner of the Division of Energy. Upon receipt of an application for examination, the Division shall, after determining compliance with the provisions of Section 3 of these regulations, notify the applicant of the date, time, and location of the scheduled examination. Prior to the effective date as shown in Section 1.3 of these rules and regulations, examinations will be scheduled based upon facility and manpower availability at the various division locations. Following the effective date as shown in Section 1.3 of these rules and regulations, examinations will be regularly scheduled on a monthly basis.

6.3 Certification. Upon determination that an applicant for certification has satisfactorily passed the examination, the Division shall, within 30 days of the examination date, issue to such individual a certificate indicating that he is a Certified Blaster.

Section 48.5.7 Recertification Requirements for Certified Blaster

7.1 Recertification. (a) Recertification of all certified blasters is required every three (3) years. Each applicant for recertification must be currently certified and submit validated documentation to the Division of Energy of conformance with the requirements of Section 3.1 of these rules and regulations on forms to be prescribed by the Commissioner.

(b) Validated proof of one shift of refresher training, as provided for in Section 3.1(b), within the previous 12 calendar months, must be submitted along with the other validation required by this section, unless the applicant's one year of active blasting experience was completed any time during the previous 12 calendar months.

(c) Compliance with 6.1 of these rules and regulations shall be required for recertification in the same manner as for certification.

7.2 Re-examination. No certified blaster shall be recertified two consecutive times unless, upon the second application, the applicant also successfully passes the examination as required in Section 5.3 of these rules and regulations.

Section 48.5.8 Presentation of Certificate; Transfer; and Delegation of Authority

8.1 (a) Upon certification, each blaster shall comply with Section 6 of the West Virginia Division of Energy's Administrative Regulations, Chapter 22-4, Title 36, Series 24, formerly Series 37.

(b) Upon request of an authorized representative of the Commissioner of the West Virginia Division of Energy; or, Director, Office of Surface Mining,

U. S. Department of the Interior, a certified blaster shall exhibit his or her certificate to the requesting representative.

(c) The certified blaster shall take all reasonable means to protect his certificate from loss or unauthorized duplication, and shall immediately report any such loss or duplication to the Division of Energy.

8.2 Transfer. Blaster's certifications shall not be transferred or assigned.

8.3 Delegation of Authority. Certified blasters shall not delegate their authority or responsibility to any individual who is not a certified blaster in accordance with these rules and regulations.

8.4 Withdrawal of Certification. Pursuant to Chapter 22A, Article 1A, Section 29, the Commissioner of the Division of Energy may initiate proceedings charging a person certified in accordance with Chapter 22A, Article 3, Section 31, with neglect or failure to perform duties mandated by Chapter 22A, Article 1A and 2, and regulations promulgated thereto; Chapter 22A, Article 3, and regulations promulgated thereto; or, these rules and regulations.

Section 48.5.9 Blasting Crew

9.1 Persons who are not certified and who are assigned to a blasting crew, or assist in the use of explosives, shall receive directions and on-the-job training from a certified blaster.

Section 48.5.10 Reciprocity With Other States

10.1 Upon a recommendation by the Board of Miner Training, Education, and Certification, the Commissioner may enter into a reciprocal agreement with other states wherein persons holding a valid certification in that state may apply for certification in West Virginia, and upon approval by the Board, be certified without undergoing the training or examination requirements set forth in these regulations.

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark In this Box

FILED
1990 DEC 14 AM 8 39
OFFICE OF THE SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Board of Miner Training, Education, and Certification TITLE NUMBER: 48

RULE TYPE: Legislative; CITE AUTHORITY § 22-1-15, §22-9-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines

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

TITLE OF RULE BEING PROPOSED: _____

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 January 31, 1991 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Anthony M. Grbac, Safety Coordinator

WV Division of Energy
Health, Safety and Training
1615 Washington Street, East
Charleston, WV 25311

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



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

DATE: December 13, 1990

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Board of Miner Training, Education, and Certification

LEGISLATIVE RULE TITLE: Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines

1. Authorizing statute(s) citation § 22-1-15 and § 22-9-6

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

July 17, 1990

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

Public Mailing List

c. Date of hearing (s): August 20, 1990

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)

(This filing - to delete prerequisite requirement of
Fire Marshal permit)

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

Tony Grbac or Tina Estep 348-3500

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.

_____ NONE _____

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 _____

FILED

1990 DEC 14 AM 8 41

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

BOARD OF MINER TRAINING, EDUCATION, AND CERTIFICATION

TITLE 48 SERIES 5

TITLE: RULES AND REGULATIONS GOVERNING THE STANDARDS FOR CERTIFICATION OF
BLASTERS FOR SURFACE COAL MINES AND SURFACE AREAS OF UNDERGROUND COAL
MINES

TYPE OF RULE: LEGISLATIVE

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
BOARD OF MINER TRAINING, EDUCATION, AND CERTIFICATION
TITLE 48 SERIES 5

TITLE: Rules and Regulations Governing the Standards for Certification of
Blasters for Surface Coal Mines and Surface Areas of Underground Coal
Mines

TYPE OF RULE: Legislative

I N D E X

General	Section 48.5.1
Scope	1.1
Authority	1.2
Effective Date	1.3
Filing Date	1.4
Certification	1.5
Definitions	Section 48.5.2
Criteria for Certification of Blasters	Section 48.5.3
Certified Blaster Examiners/Inspectors	Section 48.5.4
Examinations	Section 48.5.5
Certification Procedures	Section 48.5.6
Recertification Requirements for Certified Blaster	Section 48.5.7
Presentation of Certificate; Transfer; and Delegation of Authority	Section 48.5.8
Blasting Crew	Section 48.5.9
Reciprocity with Other States	Section 48.5.10

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
BOARD OF MINER TRAINING, EDUCATION, AND CERTIFICATION

TITLE 48 SERIES 5

TITLE: Rules and Regulations Governing the Standards for Certification of Blasters for Surface Coal Mines and Surface Areas of Underground Coal Mines

Section 48.5.1 General

1.1 Scope - These rules and regulations pertain to the certification of blasters for surface coal mines and surface areas of underground coal mines by the Division of Energy, for the Division of Energy.

1.2 Authority - These rules and regulations are issued under authority of West Virginia Code Chapter 22, Article 9, Section 6, as amended, in accordance with the provisions of Chapter 29A, Article 3 of the West Virginia Code, and in accordance with the Resolution of Understanding by the Board of Miner Training, Education, and Certification, dated December 4, 1979.

1.3 Effective Date - These rules and regulations meet the requirements of Chapter 29A, Code of West Virginia, as amended, are promulgated on the ____ day of _____, 19 ____, and become effective on the ____ day of _____, 19 ____.

1.4 Filing Date - These rules and regulations were filed in the Office of the Secretary of State on the ____ day of _____, 19 ____.

1.5 Certification - These rules and regulations are certified authentic by the Commissioner of the Division of Energy for those portions under his jurisdiction.

Section 48.5.2 Definitions

2.1 Blast - Any and all detonator(s), explosive(s), and/or blasting agent(s) being initiated simultaneously by a single energy source.

2.2 Detonation - Any explosive reaction, also called a detonation wave, that moves through the material at a velocity greater than the speed of sound in the material.

2.3 Certified - Shall mean a person who has successfully completed an examination in accordance with Section 5.3 of these rules and regulations, and is considered certified on record by the Division of Energy per Section 3.1 of these rules and regulations.

2.4 Explosive(s) - Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion; including, but not limited to, water gel, slurries, emulsions, dynamites, permissibles, pellet powder, blasting caps, cast primers and boosters, detonating cord, detonating cord delay connectors, and blasting agents.

2.5 Surface Mine and Surface Area of Underground Mines - Shall mean all areas surface mined or being surface mined, as well as adjacent areas ancillary to the operations, together with preparation and processing plants, storage areas and haulageways, roads, shops and trails, which are covered by the provisions of Chapter 22A, Article 3 of the Code of West Virginia, as amended.

2.6 Active Blasting Experience - Active blasting experience shall mean a person who actively worked on a blasting crew or supervised a blasting crew.

- (a) Active participation in activities associated with the handling, preparation, transportation and use of explosives or the immediate supervision of such activities within surface coal mines, and the surface areas of underground coal mines. Ideally, experience should have been related to surface mine blasting; however, other related blasting experience may be accepted on a case-by-case basis as appropriate.
- (b) "Worked on a blasting crew" shall mean that a person physically participated in the loading and wiring of blast holes.
- (c) "Supervised a blasting crew" shall mean that a person assumed responsibility for the conduct of a blasting crew (or crews) and the crew(s) reported directly to that person.

Section 48.5.3 Criteria for Certification of Blasters

3.1 Certified Blaster. (a) In every surface coal mine or surface area of any underground coal mine when blasting operations are being conducted ~~one-year-after-the-effective-date-of-these-regulations~~, a certified blaster will be responsible for the handling and use of explosives for each and every blast in accordance with the blasting plans approved for the permit. Each applicant for certification as a blaster shall:

- (1) Have had at least one year active blasting experience within the past five (5) years; and
- (2) Have demonstrated his knowledge and skill of the use, handling, and storage of explosives, and all State and Federal laws pertaining thereto by completing such training and certification examinations as may be required by these regulations.

(b) Training requirements shall include, but are not limited to, those subject areas set forth in Section 5.2(a)(1) and Section 5.3(a)(1) of these regulations, and the requirements of 30 CFR Part 48 for initial and annual refresher training. One year of active blasting experience, with on-the-job training, shall be required prior to certification.

Section 48.5.4 Certified Blaster Examiners/Inspectors

4.1 All persons employed by the Division of Energy, whose duties will include examining and certifying blasting personnel and/or inspecting blasting operations shall be certified blaster examiners/inspectors.

Section 48.5.5 Examinations

5.1 Certification under the provisions of 5.2 does not constitute certification under the provisions of Section 3.1; however, certification under Section 5.3 would suffice for certification under Section 4.

5.2 Examinations for Certified Blaster Examiners/Inspectors. (a) Examination for certified blaster examiner/inspector shall include information presented in the Study Guide for West Virginia Surface Mine Blasters, and shall consist of three parts:

- (1) Written multiple choice examination covering:
 - (a) Types of explosives and their properties, to include selection;
 - (b) Blasting equipment and accessories, to include blasting machines;
 - (c) Blast dimensions and calculations, to include geologic and topographic considerations, blast hole design, flyrock control, secondary blasting, and blast plans;
 - (d) Delay systems, to include pattern design, field layout, and initiation systems;
 - (e) Timing;
 - (f) Blast vibration and vibration control, to include airblast, monitoring techniques, and use of pre-blast surveys;
 - (g) Loading and shooting, to include priming, scheduling, site control, warning signals and unpredictable hazards;
 - (h) Storage and transportation of explosives;
 - (i) Record keeping and reporting;
 - (j) Current State and Federal laws and regulations relating to the use, storage and transportation of explosives, the training and certification of blasting personnel, and blasting signs; and
 - (k) Responsibilities of a certified blaster.
- (2) Written simulation. Correctly and properly completing a blasting log.
- (3) Hands-on simulation. Wiring, checking, and shooting a blast.

(b) A score of 70 percent (70%) for part (1), and satisfactory completion of parts (2) and (3) are required for successful passage of the examination. An individual who fails to achieve a passing score may retake the examination subject to the Division of Energy's direction.

5.3 Examination for Certified Blaster. (a) Examination for certified blaster shall include information presented in the Study Guide for West Virginia Surface Mine Blasters, and shall consist of three (3) parts:

- (1) Written multiple choice examination covering:
 - (a) Types of explosives and their properties, to include selections;
 - (b) Blasting equipment and accessories, to include blasting machines;
 - (c) Blast dimensions and calculations, to include geologic and topographic considerations, blast hole design, flyrock control, secondary blasting, and blast plans;
 - (d) Delay systems, to include pattern design, field layout, and initiation systems;
 - (e) Timing;
 - (f) Blast vibration and vibration control, to include airblast, monitoring techniques, and use of pre-blast surveys;
 - (g) Loading and shooting, to include priming, scheduling, site control, warning signals, and unpredictable hazards;
 - (h) Storage and transportation of explosives;
 - (i) Record keeping and reporting;
 - (j) Current State and Federal laws and regulations relating to the use, storage, and transportation of explosives; the training and certification of blasting personnel, and blasting signs; and
 - (k) Responsibilities of a certified blaster.
- (2) Written simulation. Correctly and properly completing a blasting log.
- (3) Hands-on simulation. Wiring, checking, and shooting a blast.

(b) A score of 80 percent (80%) for part (1), and a "passing grade" on parts (2) and (3), which are graded on a pass/fail basis, are required for successful passage of the examination.

(c) All individuals shall be notified of their scores within 30 days of completing the examination. An individual who fails to achieve a passing score on any of the three (3) parts of the examination, may apply within thirty (30) days of the receipt of his examination results from the Division to retake the entire examination, or any portions the individual failed to pass.

Section 48.5.6 Certification Procedures

6.1 Conditions or Practices Prohibiting Certification. (a) Certification as a certified blaster shall not be issued to persons who:

- (1) Are currently addicted to alcohol, narcotics, or other dangerous drugs; or
- (2) Have exhibited a pattern of conduct inconsistent with acceptance of responsibility for blasting operations.

(b) Addition to, or unlawful use of, alcohol, narcotics, or other dangerous drugs in the work place shall cause any blaster's certification already in force to be suspended or revoked.

(c) A pattern of conduct which is not consistent with acceptance of responsibility for blasting operations, (i.e.: repeated or willful violations

of State or Federal laws pertaining to explosives), shall be grounds for suspension or revocation of a blasters certification.

6.2 Application for Certification as a Certified Blaster. Prior to taking an examination for certification, an individual must submit an application to take such examination on a form prescribed by the Commissioner of the Division of Energy. Upon receipt of an application for examination, the Division shall, after determining compliance with the provisions of Section 3 of these regulations, notify the applicant of the date, time, and location of the scheduled examination. Prior to the effective date as shown in Section 1.3 of these rules and regulations, examinations will be scheduled based upon facility and manpower availability at the various division locations. Following the effective date as shown in Section 1.3 of these rules and regulations, examinations will be regularly scheduled on a monthly basis.

6.3 Certification. Upon determination that an applicant for certification has satisfactorily passed the examination, the Division shall, within 30 days of the examination date, issue to such individual a certificate indicating that he is a Certified Blaster.

Section 48.5.7 Recertification Requirements for Certified Blaster

7.1 Recertification. (a) Recertification of all certified blasters is required every three (3) years. Each applicant for recertification must be currently certified and submit validated documentation to the Division of Energy of conformance with the requirements of Section 3.1 of these rules and regulations on forms to be prescribed by the Commissioner.

(b) Validated proof of one shift of refresher training, as provided for in Section 3.1(b), within the previous 12 calendar months, must be submitted along with the other validation required by this section, unless the applicant's one year of active blasting experience was completed any time during the previous 12 calendar months.

(c) Compliance with 6.1 of these rules and regulations shall be required for recertification in the same manner as for certification.

7.2 Re-examination. No certified blaster shall be recertified two consecutive times unless, upon the second application, the applicant also successfully passes the examination as required in Section 5.3 of these rules and regulations.

Section 48.5.8 Presentation of Certificate; Transfer; and Delegation of Authority

8.1 (a) Upon certification, each blaster shall comply with Section 6 of the West Virginia Division of Energy's Administrative Regulations, Chapter 22-4, Title 36, Series 24, formerly Series 37.

(b) Upon request of an authorized representative of the Commissioner of the West Virginia Division of Energy; or, Director, Office of Surface Mining,

U. S. Department of the Interior, a certified blaster shall exhibit his or her certificate to the requesting representative.

(c) The certified blaster shall take all reasonable means to protect his certificate from loss or unauthorized duplication, and shall immediately report any such loss or duplication to the Division of Energy.

8.2 Transfer. Blaster's certifications shall not be transferred or assigned.

8.3 Delegation of Authority. Certified blasters shall not delegate their authority or responsibility to any individual who is not a certified blaster in accordance with these rules and regulations.

8.4 Withdrawal of Certification. Pursuant to Chapter 22A, Article 1A, Section 29, the Commissioner of the Division of Energy may initiate proceedings charging a person certified in accordance with Chapter 22A, Article 3, Section 31, with neglect or failure to perform duties mandated by Chapter 22A, Article 1A and 2, and regulations promulgated thereto; Chapter 22A, Article 3, and regulations promulgated thereto; or, these rules and regulations.

Section 48.5.9 Blasting Crew

9.1 Persons who are not certified and who are assigned to a blasting crew, or assist in the use of explosives, shall receive directions and on-the-job training from a certified blaster.

Section 48.5.10 Reciprocity With Other States

10.1 Upon a recommendation by the Board of Miner Training, Education, and Certification, the Commissioner may enter into a reciprocal agreement with other states wherein persons holding a valid certification in that state may apply for certification in West Virginia, and upon approval by the Board, be certified without undergoing the training or examination requirements set forth in these regulations.