

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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

CITE AUTHORITY WV Code §22-9-6

AMENDMENT TO AN EXISTING RULE: YES NO

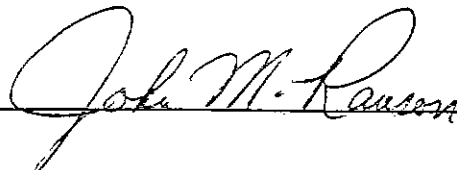
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

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, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE 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

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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.

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 Cerfitied - 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) ~~Hold a current permit issued by the State Fire Marshal's office;~~
and
- (3) 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 Section 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) Warning and shooting, to include pre-blast 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 of any of the three (3) parts of the examination, may apply within thirty (30) days of 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 and 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 the 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.



FILED

1991 SEP 24 PM 12:48

WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Room M-152, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

Senator William R. Wooten, Co-Chairman
Delegate David Grubb, Co-Chairman

Debra A. Graham, Counsel
Michael McThomas, Associate Counsel
Marie Nickerson, Adm. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

August 30, 1991.

TO: Ken Hechler, Secretary of State, State Register

TO: Anthony M. Grbac, Safety Coordinator
WV Division of Energy
Health, Safety and Training
1615 Washington Street, East
Charleston, WV 25311

FROM: Legislative Rule-Making Review Committee

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

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Tina Estep
Division of Energy