

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

Director of the Office of Miners' Health, Safety & Training Certification TITLE NUMBER: 48 56

CITE AUTHORITY WV Code 22-9-6

AMENDMENT TO AN EXISTING RULE: YES NO

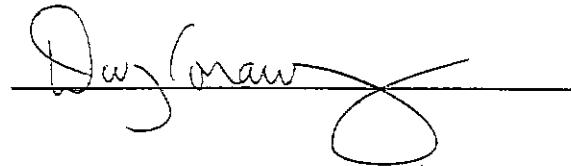
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: 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.



4.00

KEN HECHLER
Secretary of State

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SECRETARY OF STATE

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help we can get)

FAX: (304) 558-0900

May 28, 1993

Tony Grbac
Miners Health Safety & Training
1615 Washington St., E
Charleston, WV 25311

HB 100 authorizing, Title 56, Series 5, Standards for Certification of Blasters for Surface Coal Mines & Surface Areas of Underground Coal Mines, passed the Legislature on **May 26, 1993**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs HB 100, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office. Authorization for your legislative rule is cited in **HB 100** section **64-3-18**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, PLEASE SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

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

TITLE 48 SERIES 5

TITLE: 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: 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
Filing Date	1.3
Effective 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

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
BOARD OF MINER TRAINING, EDUCATION AND CERTIFICATIONOFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 48 SERIES 5

TITLE: Standards for Certification of Blasters for Surface
Coal Mines and Surface Areas of Underground Coal
Mines

Section 48.5.1 General

1.1 Scope - This rule pertains to the certification of blasters for surface coal mines and surface areas of underground coal mines by the Office of Miners' Health, Safety and Training.

1.2 Authority - This rule is issued under authority of West Virginia Code 22-9-6, in accordance with the provisions of 29A-3-1 et seq., and in accordance with the Resolution of Understanding by the Board of Miner Training, Education, and Certification, dated December 4, 1979.

1.3 Filing Date - This rule was filed in the Office of the Secretary of State on the ____ day of _____, 199__.

1.4 Effective Date - June 1, 1993

1.5 Certification - This rule is certified authentic by the Director of the Office of Miners' Health, Safety and Training for those portions under his or her 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 - means a person who has successfully completed an examination in accordance with Section 5.3 of this rule, and is considered certified on record by the Office of Miners' Health, Safety and Training under Section 3.1 of this rule.

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 - 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 West Virginia Code 22A-3-1 et seq.

2.6 Active Blasting Experience - Experience gained by a person who actively worked on a blasting crew or supervised a blasting crew.

- (a) Experience may be gained by active participation in activities associated with the handling, preparation, transportation and use of explosives or the immediate supervision of the aforementioned activities within surface coal mines, and the surface areas of underground coal mines. Ideally, experience should have been related to surface mine blasting; however, the Director may accept other related blasting experience on a case-by-case basis as appropriate.
- (b) "Worked on a blasting crew" means that a person physically participated in the loading and wiring of blast holes.
- (c) "Supervised a blasting crew" means 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, a certified blaster shall 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 or her knowledge and skill of the use, handling, and storage of explosives, and all State and Federal laws pertaining thereto by completing any training and certification examinations required by this rule.

(b) Training requirements include, but are not limited to, those subject areas set forth in Section 5.2(a)(1) and Section 5.3(a)(1) of this rule, 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, is required prior to certification.

Section 48.5.4 Certified Blaster Examiners/Inspectors

4.1 All persons employed by the Office of Miners' Health, Safety and Training, 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 of this rule for a blaster/examiner does not constitute certification under the provisions of Section 3.1 of this rule, which pertain to a certified blaster; however, certification under Section 5.3 would suffice for certification under Section 4.

5.2 Examinations for Certified Blaster Examiners / Inspectors. (a) The 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) A written multiple choice examination covering:
 - (a) Type A, B and C explosives and their properties, to include selection of appropriate explosive;
 - (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) A written simulation. The applicant must correctly and properly complete a blasting log.

(3) A hands-on simulation. The applicant must wire, check, and shoot 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 direction of the Office of Miners' Health, Safety and Training.

5.3 Examination for Certified Blaster. (a) The 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) A written multiple choice examination covering:
 - (a) Types of explosives and their properties, to include selection of appropriate explosive(s);
 - (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) A written simulation. The applicant must correctly and properly complete a blasting log.
- (3) A hands-on simulation. The applicant must wire, check, and shoot 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) The Office of Miners' Health, Safety and Training shall notify all individuals 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 or her examination results from the Office of Miners' Health, Safety and Training 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) The Director shall not issue a blaster certification to persons who:

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

(b) Addiction to, or unlawful use of, alcohol, narcotics, or other dangerous drugs in the work place shall be cause for a blaster's certification 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), is 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 Director of the Office of Miners' Health, Safety and Training. Upon receipt of an application for examination, the Office shall, after determining the applicant's compliance with the provisions of Section 3 of this rule, notify the applicant of the date, time, and location of the scheduled examination.

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

Section 48.5.7 Recertification Requirements for Certified Blaster

7.1 Recertification. (a) All certified blasters must be recertified every three (3) years. Each applicant for recertification must be currently certified and submit validated documentation to the Office of Miners' Health, Safety and Training in compliance with the requirements of Section 3.1 of this rule on forms prescribed by the Director.

(b) The applicant must submit validated proof of one shift of refresher training, as provided for in Section 3.1(b) of this rule, within the previous 12 calendar months, 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) An applicant must also comply with Section 6.1 of this rule for recertification in the same manner as for certification.

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 Office of Miners' Health, Safety and Training's Administrative Regulations, 36 CSR 24.

(b) Upon request of an authorized representative of the Director of the Office of Miners' Health, Safety and Training, Director of the Department of Environmental Protection, or the Director of the Office of Surface Mining, U. S. Department of the Interior, a certified blaster shall exhibit his or her certificate.

(c) The certified blaster shall take all reasonable means to protect his or her certificate from loss or unauthorized duplication, and shall immediately report any such loss or duplication to the Office of Miners' Health, Safety and Training.

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 this rule.

8.4 Withdrawal of Certification. Pursuant to WV Code 22A-1A-29, the Director of the Office of Miners' Health, Safety and Training may initiate proceedings charging a person certified in accordance with WV Code 22A-3-31, with neglect or failure to perform duties mandated by WV Code 22A-1A-1 et seq., and 22A-2-1 et seq., and rules promulgated thereunder; or, the West Virginia Code.

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 Director 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 this rule.



WEST VIRGINIA LEGISLATURE
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
 Room M-152, State Capitol
 Charleston, West Virginia 25305
 (304) 340-3286

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OFFICE OF WEST VIRGINIA
 SECRETARY OF STATE

Senator Joe Manchin III, Co-Chair
 Delegate Brian A. Gallagher, Co-Chair

Debra A. Graham, Counsel
 Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

February 9, 1993

TO: Ken Hechler, Secretary of State, State Register

TO: Anthony M. Grbac, Training Coordinator
 Board of Miner Training, Education and
 Certification

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: 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: