

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Board of Miners ^{Health Safety} Training, Education and Certification TITLE NUMBER: 488 56

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 Mines

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

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) H.B. 100

SECTION 64-3-18, PASSED ON May 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: July 1, 1993

Dayton

4.00

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

TITLE 48⁵⁶ 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 48⁵⁶ SERIES 5

TITLE: 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 ⁵⁶~~48~~ SERIES 5

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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 19th day of June, 1993.

1.4 Effective Date - July 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.

SENATE BILL NO. 180

1 (By Senator Manchin)

2 [Introduced March 1, 1993; referred to the
3 Committee on Energy, Industry and Mining; and
4 then to the Committee on the Judiciary.]
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10 A BILL to amend and reenact section fifteen, article three,
11 chapter sixty-four of the code of West Virginia, one thousand
12 nine hundred thirty-one, as amended, relating to authorizing
13 the public energy authority to promulgate legislative rules
14 relating to the rules and procedures for application for and
15 environmental assessment of projects seeking qualification
16 for the public energy authority's assistance.

17 Be it enacted by the Legislature of West Virginia:

18 That section fifteen, article three, chapter sixty-four of
19 the code of West Virginia, one thousand nine hundred thirty-one,
20 as amended, be amended and reenacted, to read as follows:

21 ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND
22 ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.

23 §64-3-15. Public energy authority.

1 (a) The legislative rules filed in the state register on the
2 twentieth day of December, one thousand nine hundred ninety,
3 modified by the public energy authority to meet the objections of
4 the legislative rule-making review committee and refiled in the
5 state register on the twenty-sixth day of July, one thousand nine
6 hundred ninety-one, relating to the public energy authority
7 (establishment of rules and procedure for the exercise of the
8 powers of eminent domain for qualified projects), are authorized.

9 (b) The legislative rules filed in the state register on the
10 twentieth day of December, one thousand nine hundred ninety,
11 modified by the public energy authority to meet the objections of
12 the legislative rule-making review committee and refiled in the
13 state register on the twenty-sixth day of July, one thousand nine
14 hundred ninety-one, relating to the public energy authority
15 (establishment of a fee schedule and cost allocations to the
16 issuance of bonds by the West Virginia public energy authority),
17 are authorized.

18 (c) The legislative rules filed in the state register on the
19 eighteenth day of September, one thousand nine hundred ninety-
20 two, modified by the public energy authority to meet the
21 objections of the legislative rule-making review committee and
22 refiled in the state register on the seventeenth day of February,
23 one thousand nine hundred ninety-three, relating to the public
24 energy authority (rules and procedures for application for and

1 environmental assessment of projects seeking qualification for
2 public energy authority's assistance), are authorized.

3

4 NOTE: The purpose of this bill is to authorize the Public
5 Energy Authority to promulgate legislative rules relating to
6 rules and procedures for application for and environmental
7 assessment of projects seeking qualification for the Public
8 Energy Authority's assistance.

9

10 Strike-throughs indicate language that would be stricken from
11 the present law, and underscoring indicates new language that
12 would be added.

SENATE BILL NO. 181

(By Senator Manchin)

[Introduced March 1, 1993; referred to the
Committee on Energy, Industry and Mining; and
then to the Committee on the Judiciary.]

7

8

9

10 A BILL to amend article three, chapter sixty-four of the code of
11 West Virginia, one thousand nine hundred thirty-one, as
12 amended, by adding thereto a new section, designated section
13 sixteen, relating to authorizing the director of the office
14 of miners' health, safety and training to promulgate
15 legislative rules relating to standards for certification of
16 blasters for surface coal mines and surface areas of
17 underground coal mines.

18 Be it enacted by the Legislature of West Virginia:

19 That article three, chapter sixty-four of the code of West
20 Virginia, one thousand nine hundred thirty-one, as amended, be
21 amended by adding thereto a new section, designated section
22 sixteen, to read as follows:

23 ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND
24 ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.

1 §64-3-16. Director of the office of miners' health, safety and
2 training.

3 The legislative rules filed in the state register on the
4 thirteenth day of November, one thousand nine hundred ninety-two,
5 modified by the director of the office of miners' health, safety
6 and training to meet the objections of the legislative rule-
7 making review committee and refiled in the state register on the
8 eighteenth day of February, one thousand nine hundred ninety-
9 three, relating to the director of the office of miners' health,
10 safety and training (rules and regulations governing the
11 standards for certification of blasters for surface coal mines
12 and surface areas of underground coal mines), are authorized.

13

14 NOTE: The purpose of this bill is to authorize the Director
15 of the Office of Miners' Health, Safety and Training to
16 promulgate legislative rules relating to standards for
17 certification of blasters for surface coal mines and surface
18 areas of underground coal mines.

19

20 This section is new; therefore, strike-throughs and
21 underscoring have been omitted.