



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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7/28/2023 9:25:05 AM

Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Miner Training Education And Certification TITLE-SERIES: 48-09
RULE TYPE: Legislative Exempt Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: DUTIES AND STANDARDS FOR
CERTIFICATION OF UNDERGROUND OUTBY
MINE EXAMINERS FOR COAL MINES

CITE STATUTORY AUTHORITY: W. Va. Code §§22A-6-4 and 22A-6-5.

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/30/2023 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Kevin Kidd or James Dean
ADDRESS: 1900 Kanawha Blvd., East Building 1, Room W-435
Charleston, WV 25305
EMAIL: kevin.c.kidd@wvago.gov james.dean@mail.wvu.edu

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule pertains to the certification and duties of outby mine examiners in the state of West Virginia. This rule includes specific definitions as used in WV Code §22A-1-2, proposed duties of the outby mine examiners, criteria to be eligible for certification, examination details, and application and testing procedures.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

The Coal Board felt it was necessary and helpful to create an additional outby mine examiner certification to assist with the creation of a career track to later become an Assistant Mine Foreman Fireboss and/or Mine Foreman Fireboss. Having additional mine workers with a proposed outby certification will increase safety and efficiency of the coal mining operation and will hopefully encourage more mine workers to become certified.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	N/A	N/A	N/A
Personal Services	N/A	N/A	N/A
Current Expenses	N/A	N/A	N/A
Repairs and Alterations	N/A	N/A	N/A
Assets	N/A	N/A	N/A
Other	N/A	N/A	N/A
2. Estimated Total Revenues	N/A	N/A	N/A

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Graham Platz -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 48 LEGISLATIVE EXEMPT RULE
BOARD OF MINER TRAINING, EDUCATION AND CERTIFICATION
(NOW BOARD OF COAL MINE HEALTH AND SAFETY)

SERIES 9
DUTIES AND STANDARDS FOR CERTIFICATION OF UNDERGROUND OUTBY MINE
EXAMINERS FOR COAL MINES

§48-9-1. General.

1.1. Scope. -- This rule pertains to the certification and duties of outby mine examiners in the state of West Virginia.

1.2. Authority. -- W. Va. Code §§22A-6-4 and 22A-6-5.

1.3. Filing Date. --

1.4. Effective Date. --

§48-9-2. Definitions.

2.1 All terms used in this rule shall have the meanings set forth in WV Code §22A-1-2.

§48-9-3. Duties.

3.1 The duties of the Outby Mine Examiner, acting as a certified person, to assist the Assistant Mine Foreman Fireboss / Mine Foreman Fireboss in performing required examinations (pre-shift, on-shift, and supplemental) of the mine for all hazardous conditions and violations of mandatory health or safety standards in the following areas:

3.1.1 Roof control;

3.1.2. Ventilation, methane;

3.1.3. Accumulations of combustible materials and application of rock dust;

3.1.4. Maintenance of travelways along belt conveyors, off-track haulage roadways, track haulage and its components;

3.1.5. Guarding moving machine parts; and

3.1.6. Maintenance of belt conveyor components.

3.2 The Outby Mine Examiner is limited to performing his/her duties in areas outby the

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working section as defined in WV Code §22A-1-2.(c)(13).

§48-9-4. Criteria for Outby Mine Examiner Certification.

4.1 Prior to any person being issued an Outby Mine Examiner certification, such applicant must:

4.1.1 Possess a miner's certification (see 48 CSR 2-2.9, "Guidelines for Issuing Underground Miner's Certificate");

4.1.2 Have a minimum of two (2) years' experience and provide evidence on a form prescribed by the Director.

4.2 The experience requirements set out in Section 4.1.2 are intended to ensure that such individual possesses a basic and general knowledge of the mine environment and related hazards.

4.3 For those individuals currently holding a belt examiner certification issued by the Office of Miners' Health, Safety and Training issued prior to August 1, 2023 may gain certification as an Outby Mine Examiner by:

4.3.1 Providing proof of said belt examiner certification;

4.3.2 Applying for the Outby Mine Examiner certification; and

4.3.3 Attending a four (4) hour course of instruction provided by the OMHST covering at a minimum the following topics/requirements:

4.3.3.a. Lifeline.

4.3.3.b. SCSR and Cache.

4.3.3.c. Refuge Alternative.

4.3.3.d. Mine Ventilation and Controls – overcast, undercasts, regulators and seals.

4.3.3.e. Actions Required for excessive methane

4.3.3.f. Haulage Safety and track components if applicable

§48-9-5. Examination Components.

5.1 The purpose of the Outby Mine Examiner certification is to have the applicant demonstrate his or her knowledge of dangerous mine gases and their detection, mine safety, first aid, safety appliances, state and federal mining laws and regulations.

5.2. Examinations for Outby Mine Examiner certification shall consist of the following two parts:

5.2.1. Written:

- 5.2.1.a. Mine Ventilation.
- 5.2.1.b. Mine Gases and Instruments.
- 5.2.1.c. Roof Control.
- 5.2.1.d. Lifeline.
- 5.2.1.e. SCSR Cache.
- 5.2.1.f. Refuge Alternative.
- 5.2.1.g. Accumulations of combustible materials.
- 5.2.1.h. Actions for excessive methane.
- 5.2.1.i. Fire Hazards.
- 5.2.1.j. Haulage Requirements.
- 5.2.1.k. Inspection and reporting procedures.
- 5.2.1.l. Belt Conveyor legal requirements.
- 5.2.1.m. Machine Guarding.

5.2.2. Practical:

- 5.2.2.a. Anemometer.
- 5.2.2.b. Approved multi-gas detector.
- 5.2.2.c. Map.

§48-9-6. Application for Certification and Testing Procedures.

6.1 Any person desiring to become certified as an Outby Mine Examiner must complete an application for certification and submit the same to the West Virginia Office of Miners' Health, Safety and Training. The applicant will be notified by the nearest regional office of the time and place of the next regularly scheduled examination.

6.2. A score of eighty percent (80%) on the written part, and passage of the practical part, is required for successful passage of the exam. The practical portion of the exam and subparts thereof will be scored on a pass/fail basis.

6.3. Upon taking the examination, any person who fails to achieve a score of eighty percent (80%) on the written part, or fails the practical part, shall be required to retake the entire examination in order to receive a certificate.

6.4. The Director of the Office of Miners' Health, Safety and Training, in conjunction with the Board of Coal Mine Health and Safety, shall develop the application form and guidelines for processing applications and administering examinations.



WEST VIRGINIA SECRETARY OF STATE

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ADMINISTRATIVE LAW DIVISION

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1/24/2024 2:28 PM

Office of West Virginia
Secretary Of State

NOTICE OF TECHNICAL AMENDMENT

AGENCY: Miner Training Education And Certification TITLE-SERIES: 48-09

RULE TYPE: LegislativeExe
mpt

RULE NAME: DUTIES AND STANDARDS FOR
CERTIFICATION OF UNDERGROUND OUTBY
MINE EXAMINERS FOR COAL MINES

CITE STATUTORY AUTHORITY: W. Va. Code § 22A-6-4 and § 22A-6-5

LIST WITH DETAIL EACH SPECIFIC CHANGE MADE TO THE RULE AND WHERE IT CAN BE FOUND:

3.1: Added the word "weekly."

"The duties of the Outby Mine Examiner, acting as a certified person, to assist the Assistant Mine Foreman Fireboss / Mine Foreman Fireboss in performing required examinations (pre-shift, on-shift, supplemental, and weekly) of the mine for all hazardous conditions and violations of mandatory health or safety standards in the following areas:"

3.2: Added the word "except" and replaced the word "outby."

"The Outby Mine Examiner is limited to performing his/her duties in areas except the working section as defined in WV Code §22A-1-2.(c)(13)."

FILING DATE: 02/01/2024

EFFECTIVE DATE: 01/10/2024

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Garner Marks -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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TITLE 48
LEGISLATIVE EXEMPT RULE
BOARD OF MINER TRAINING, EDUCATION AND CERTIFICATION
(NOW BOARD OF COAL MINE HEALTH AND SAFETY)

SERIES 9
DUTIES AND STANDARDS FOR CERTIFICATION OF UNDERGROUND OUTBY MINE
EXAMINERS FOR COAL MINES

§48-9-1. General.

1.1. Scope. -- This rule pertains to the certification and duties of outby mine examiners in the state of West Virginia.

1.2. Authority. -- W. Va. Code §§22A-6-4 and 22A-6-5.

1.3. Technical amendment filed. -- February 1, 2024.

1.4. Effective Date. -- January 10, 2024.

§48-9-2. Definitions.

2.1. All terms used in this rule shall have the meanings set forth in WV Code §22A-1-2.

§48-9-3. Duties.

3.1. The duties of the Outby Mine Examiner, acting as a certified person, to assist the Assistant Mine Foreman Fireboss / Mine Foreman Fireboss in performing required examinations (pre-shift, on-shift, supplemental, and weekly) of the mine for all hazardous conditions and violations of mandatory health or safety standards in the following areas:

3.1.1. Roof control;

3.1.2. Ventilation, methane;

3.1.3. Accumulations of combustible materials and application of rock dust;

3.1.4. Maintenance of travelways along belt conveyors, off-track haulage roadways, track haulage and its components;

3.1.5. Guarding moving machine parts; and

3.1.6. Maintenance of belt conveyor components.

3.2. The Outby Mine Examiner is limited to performing his/her duties in areas except the working section as defined in WV Code §22A-1-2.(c)(13).

§48-9-4. Criteria for Outby Mine Examiner Certification.

4.1. Prior to any person being issued an Outby Mine Examiner certification, such applicant must:

4.1.1. Possess a miner's certification (see 48 CSR 2-2.9., "Guidelines for Issuing

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Underground Miner's Certificate");

4.1.2. Have a minimum of two (2) years' experience and provide evidence on a form prescribed by the Director.

4.2. The experience requirements set out in Section 4.1.2 are intended to ensure that such individual possesses a basic and general knowledge of the mine environment and related hazards.

4.3. For those individuals currently holding a belt examiner certification issued by the Office of Miners' Health, Safety and Training issued prior to August 1, 2023 may gain certification as an Outby Mine Examiner by:

4.3.1. Providing proof of said belt examiner certification;

4.3.2. Applying for the Outby Mine Examiner certification;

4.3.3. Attending a four (4) hour course of instruction provided by the OMHST covering at a minimum the following topics/requirements:

4.3.3.a. Lifeline.

4.3.3.b. SCSR and Cache.

4.3.3.c. Refuge Alternative.

4.3.3.d. Mine Ventilation and Controls – overcast, undercasts, regulators and seals.

4.3.3.e. Actions Required for excessive methane

4.3.3.f. Haulage Safety and track components if applicable; and

4.3.4. At the completion of the course of instruction in subsection 4.3.3, the trainee will be issued a 5000-23 form by a OMHST instructor documenting completion of the course. A copy of the completed 5000-23 form will be submitted with the application for outby mine examiner certification.

§48-9-5. Examination Components.

5.1 The purpose of the Outby Mine Examiner certification is to have the applicant demonstrate his or her knowledge of dangerous mine gases and their detection, mine safety, first aid, safety appliances, state and federal mining laws and regulations.

5.2. Examinations for Outby Mine Examiner certification shall consist of the following two parts:

5.2.1. Written:

5.2.1.a. Mine Ventilation.

5.2.1.b. Mine Gases and Instruments.

5.2.1.c. Roof Control.

5.2.1.d. Lifeline.

- 5.2.1.e. SCSR Cache.
- 5.2.1.f. Refuge Alternative.
- 5.2.1.g. Accumulations of combustible materials.
- 5.2.1.h. Actions for excessive methane.
- 5.2.1.i. Fire Hazards.
- 5.2.1.j. Haulage Requirements.
- 5.2.1.k. Inspection and reporting procedures.
- 5.2.1.l. Belt Conveyor legal requirements.
- 5.2.1.m. Machine Guarding.

5.2.2. Practical:

- 5.2.2.a. Anemometer.
- 5.2.2.b. Approved multi-gas detector.
- 5.2.2.c. Map.

§48-9-6. Application for Certification and Testing Procedures.

6.1 Any person desiring to become certified as an Outby Mine Examiner must complete an application for certification and submit the same to the West Virginia Office of Miners' Health, Safety and Training. The applicant will be notified by the nearest regional office of the time and place of the next regularly scheduled examination.

6.2. A score of eighty percent (80%) on the written part, and passage of the practical part, is required for successful passage of the exam. The practical portion of the exam and subparts thereof will be scored on a pass/fail basis.

6.3. Upon taking the examination, any person who fails to achieve a score of eighty percent (80%) on the written part, or fails the practical part, shall be required to retake the entire examination in order to receive a certificate.

6.4. The Director of the Office of Miners' Health, Safety and Training, in conjunction with the Board of Coal Mine Health and Safety, shall develop the application form and guidelines for processing applications and administering examinations.