

STATE RESPONSES
MSHA RFI (Section G) Re. Certification of Persons to Perform Mine Examinations

Question 41: "What criteria does the state use for certifying persons to perform mine examinations?"

ARKANSAS --

Foreman Certification:

Age: 25 + years old.

Experience: At least 5 years' experience as practical coal miners, mining engineers, or persons of general underground experience. Anyone holding a 1st grade foreman's certificate may serve as a foreman in any mine and may serve as a fire boss.

Exam: Satisfy the Board of Examiners that they are of good moral character and are not users of intoxicating liquors. Oral or written examinations in the presence of and relating to explosive gas required. Demonstrate competency to act as mine foremen in mines which generate explosive and noxious gases.

Skills: Read and write English.

Other: U.S. citizen.

Fire Boss Certification:

Age: 25 + years old.

Experience: Qualifications and experience in the mines of Arkansas or elsewhere and shall also have had experience in mines that generate explosive and noxious gases.

Exam: Satisfy the Board of Examiners that they are of good moral character and are not users of intoxicating liquors. Oral or written examinations in the presence of and relating to explosive gas required. Demonstrate competency to act as mine foremen in mines which generate explosive and noxious gases.

Skills: Read and write English.

ALABAMA --

Foreman Certification:

Age: 23 years or older.

Experience: 4 years' practical underground mining experience.

Degree: 1 year credit for graduating from accredited university or attaining mine tech. associate degree.

Required Knowledge: Coal mining theory and practice, poisonous, noxious, and explosive gases, mine ventilation and state law.

Exam: 3 day test is administered and graded by the board. 7 part test. Must make 70% on each section, >80% over all.

Specific Training: Must demonstrate air reading and methane examination. Ventilate mine map.

Skills: English fluency.

Other: Drug and alcohol free; U.S. citizen; good moral character, known temperate habits, an affidavit (signed by three reputable citizens, at least one holder of a mine foreman's certificate) of meeting the foregoing requirements to include that he is not a member of any political party or organization that advocates the overthrow of the government of the U.S.

Fire Boss Certification:

Age: 23 years or older.

Experience: Same as foreman – 3 or more years.

Degree: 1 year credit for graduating from accredited university or attaining mine tech associate degree.

Required Knowledge: Coal mining theory and practice, poisonous, noxious, and explosive gases, mine ventilation and state law.

Exam: 3 day test is administered and graded by board. 7 part test. Must make 70% on each section, >80% over all.

Specific Training: Must demonstrate air reading and methane examination. Ventilate mine map.

Skills: English fluency.

Other: See "Foreman" above.

AB85-COMM-14-1

Certification of competency for fire bosses and mine foreman testing is administered by a Board of Examiners appointed by the Governor. The Board consists of the Chief Inspector, three active practical miners, three operators of coal mines and one practicing mining engineer.

COLORADO –

Underground Mine Foreman Certification:

Age: 21 years or older.

Experience: 3 + years experience in coal mines or equivalent, at least one of which was in underground coal mines documented on company letterhead, and 4 or more months as a fireboss (mine examiner).

Degree: Mining Engineering degree substitutes for 2 years mining experience.

Required Knowledge: Federal and state regulations, western mining and ventilation systems, mine gases use and care of gas meters, anemometers, etc., practical mine examination skills, math skills, ventilation of a mine map, recognition and mitigation of hazards in an underground coal mine.

Exam: 80% + to pass on each section: Fed Law I, II, III; Math; Mine Gases; Practical and Ventilation of Mine Map. May include practical demonstration at mine site.

Specific Training: MSHA Methane/O₂ deficiency qualification, first aid and interactive study guide DVD provided to each candidate.

Skills: English fluency expected.

Other: Must sign candidate agreement stipulating that information on application is correct and they will adhere to national testing standards when they sit for the exam.

Reciprocity: Certification from another state with requirements substantially similar to Colorado. Case-by-case basis.

Fire Boss (Mine Examiner) Certification:

Age: 21 years or older.

Experience: 3 + years in gassy underground mining, one of which is in an underground coal mine documented on company letterhead.

Degree: Mining Engineering degree substitutes for 2 years mining experience.

Required Knowledge: Federal and state regulations, western mining and ventilation systems, mine gases use and care of gas meters, anemometers, etc., practical mine examination skills, math skills, ventilation of a mine map, recognition and mitigation of hazards in an underground coal mine.

Exam: 80% + to pass on each section: Fed Law I, II, III; Math; Mine Gases; Practical and Ventilation of Mine Map.

Specific Training: MSHA Methane/O₂ deficiency qualification, first aid and interactive study guide DVD provided to each candidate.

Skills: English fluency expected.

Other: Must sign candidate agreement stipulating that information on application is correct and they will adhere to national testing standards when they sit for the exam.

Reciprocity: Certification from another state with requirements substantially similar to Colorado. Case-by-case basis.

Underground Electrician:

Experience: 1 + year of training and experience to perform electrical work, and must provide proof of at least 1 year of experience performing electrical work in an underground coal mine, or in underground mining determined to be equivalent by the Board.

Required Knowledge: Must have previously been qualified by MSHA as a methane and oxygen deficiency tester and must possess proof of current First Aid (5000-3 or Red Cross) training.

Exam: 80% + on Colorado certification examination in order to receive a certificate of competency. The Coal Mine Board of Examiners establishes criteria including: education and training, past work experience, and competency standards, to examine all applicants for positions in coal mines for which certification is required by federal law.

Underground Shot Firer:

Experience: 1 + year of practical field experience in underground mining. Must provide proof of previous training as a shot firer.

Required Knowledge: Must have previously been qualified by MSHA as a methane and oxygen deficiency tester and must possess proof of current First Aid (5000-3 or Red Cross) training.

Exam: 80% + on Colorado certification examination in order to receive a certificate of competency. The Coal Mine Board of Examiners establishes criteria including: education and training, past work experience, and competency standards, to examine all applicants for positions in coal mines for which certification is required by federal law. May be required to perform a practical demonstration for the examiner.

Surface Mine Foreman:

Age: 21 years or older.

Experience: 3 + years experience in coal mines, or in mining determined to be equivalent by the Board, at least one of which years shall have been in a surface coal mine.

Degree: Mining Engineering degree substitutes for 2 years mining experience.

Required Knowledge: Must have previously been qualified by MSHA as a methane and oxygen deficiency tester and must possess proof of current First Aid (5000-3 or Red Cross) training.

Exam: 80% + on Colorado certification examination in order to receive a certificate of competency. The Coal Mine Board of Examiners establishes criteria including: education and training, past work experience, and competency standards, to examine all applicants for positions in coal mines for which certification is required by federal law.

Surface Electrician:

Experience: The applicant must provide proof of training and experience to perform electrical work, and must provide proof of at least 1 year of experience performing electrical work in a surface coal mine, or in surface mining determined to be equivalent by the Board.

Required Knowledge: Must have previously been qualified by MSHA as a methane and oxygen deficiency tester and must possess proof of current First Aid (5000-3 or Red Cross) training.

Exam: 80% + on Colorado certification examination in order to receive a certificate of competency. The Coal Mine Board of Examiners establishes criteria including: education and training, past work experience, and competency standards, to examine all applicants for positions in coal mines for which certification is required by federal law.

Surface Blaster:

Experience: Applicant must have Colorado certification as a surface shot firer and must provide proof of at least 1 year of practical experience in the use and handling of explosives. Applicant must also provide proof of U.S. Office of Surface Mining training as a surface blaster.

Required Knowledge: Must have previously been qualified by MSHA as a methane and oxygen deficiency tester and must possess proof of current First Aid (5000-3 or Red Cross) training.

Exam: 80% + on Colorado certification examination in order to receive a certificate of competency. The Coal Mine Board of Examiners establishes criteria including: education and training, past work experience, and competency standards, to examine all applicants for positions in coal mines for which certification is required by federal law.

Surface Shot Firer:

Experience: Applicant must provide proof of at least 1 year of practical experience in surface mining.

Required Knowledge: Must have previously been qualified by MSHA as a methane and oxygen deficiency tester and must possess proof of current First Aid (5000-3 or Red Cross) training.

Exam: 80% + on Colorado certification examination in order to receive a certificate of competency. The Coal Mine Board of Examiners establishes criteria including: education and training, past work experience, and competency standards, to examine all applicants for positions in coal mines for which certification is required by federal law. May be required to perform a practical demonstration for the examiner.

ILLINOIS –

Certifications by Illinois Office of Mines and Minerals (criteria/procedures):

Mine Examiner:

Age: At least 21 years of age.

Experience and Education: At least 4 years underground mining experience.

Degree: 2 years underground mining experience if a graduate with a degree in engineering or four year program in coal mining technology or 3 years underground mining experience if graduated with a two-year Associate in Applied Science degree in Coal Mining Technology.

Exam: Written/oral examinations; properly ventilate an underground mine map; practical examination of detection equipment.

Specific Training: First aid, mine rescue.

Other: Must be a U.S. citizen. Must possess a First Class Certificate of Competency issued by Office of Mines and Minerals.

Mine Manager:

Age: At least 23 years of age.

Experience and Education: At least 4 years underground mining experience.

Degree: 2 years underground mining experience if a graduate with degree in engineering or four year program in coal mining technology or 3 years underground mining experience if graduated with a two-year Associate in Applied Science degree in Coal Mining Technology.

Exam: Written/oral examinations; properly ventilate an underground mine map.

Specific Training: First aid, mine rescue.

Other: Must be a U.S. citizen. Must possess a Certificate of Competency as Mine Examiner or its equivalent issued by another state. If applicant has Mine Examiner Certificate they must be in possession of this certification for at least six months prior to taking examination for Mine Manager.

Electrical Hoisting Engineer:

Age: At least 21 years of age.

Experience and Education: At least 2 years experience with electrical hoisting equipment or completion of training course. All electrical hoisting engineer applicants must complete the mandatory training course. Applicants without prior experience must provide a log of at least 30 hours spent operating hoist equipment.

Exam: Written/oral examinations; practical test operating hoist equipment.

Other: Must be a U.S. citizen.

State Mine Inspector:

Age: At least 30 years of age.

Experience and Education: At least 10 years mining experience, of which at least 2 years in Illinois operations.

Exam: Written/oral examinations; properly ventilate an underground mine map.

Other: Must be a U.S. citizen. Must possess Certificate of Competency as Mine Manager issued by the Office of Mines and Minerals.

Shot Firer:

Experience and Education: Attend a mandatory training course administered by Office of Mines and Minerals personnel.

Exam: Written/oral examinations; properly ventilate an underground mine map; practical examination of detection equipment.

Other: Must be a U.S. citizen. Must possess a First Class Certificate of Competency issued by Office of Mines and Minerals.

General Surface Supervisor:

This is for General Surface Supervisor of an underground mine (Also, a person employed in a supervisory capacity for a contractor engaged in construction, demolition or dismantling of an underground coal mine surface facility or coal preparation plant).

Experience and Education: Minimum of 2 years experience at a coal mine surface facility or coal preparation plant.

Exam: Written/oral examinations.

First Class Certificate of Competency:

Experience and Education: Not less than 1 year experience on coal producing section or not less than 6 months if the miner has a two-year Associate in Applied Science degree in Coal Mining Technology or a degree in engineering from an approved college/university.

Exam: Oral examination.

Other: Must possess 5000-23 form.

Independent Contract Supervisor:

Experience and Education: At least 2 years underground mining experience in independent contract work at surface mines or at the surface of an underground mine.

Exam: Written/oral examinations.

Shaft-Slope Examiner:

Experience and Education: At least 2 years of shaft, slope or underground construction experience or one year experience if graduated with degree in engineering or have a degree in a mining engineering program.

Exam: Written/oral examinations.

Shaft-Slope Supervisor:

Experience and Education: At least 3 years of shaft, slope or underground construction experience or 18 months experience if graduated with degree in engineering or have a degree in a mining engineering program.

Exam: Written/oral examination.

Shaft-Slope Worker:

Experience and Education: At least 6 months experience in shaft and slope construction. Must have completed a course in first aid, mine rescue and shaft ventilation.

Exam: Oral examination.

Crane Hoist Operator:

Experience and Education: At least 1 year experience in operation of a crane or device of the type to be certified and understands the handling and care of same.

Exam: Practical examination on operating crane hoist.

Other: Certificate shall apply only to the mine and device applicant is tested upon and valid for a period not to exceed one year; however, can be issued renewal.

Surface Supervisor:

Experience and Education: At least 2 years surface mining experience.

Exam: Written/oral examinations. Examinations administered in the following areas: overburden stripping; drilling and shooting; the pit coal loading operation, reclamation work at the mine. Applicant can take the examination for any category or all categories.

INDIANA –

Certification for Foreman:

Experience: 4 + years' experience in underground coal mines.

Degree: 2 years' experience credit for degree in engineering or 1 year experience credit for mining-related associate degree.

Required Knowledge: Coal mining theory and practice; poisonous, noxious, and explosive gases and state laws.

Exam: Pass 75% or more written and oral demonstration.

Skills: English fluency.

Other: Drug and alcohol free.

Certification of Examiner:

Experience: 3 + years' experience in underground coal mines.

Degree: 1 year experience credit for degree in engineering or 1 year experience credit for mining-related associate degree.

Required Knowledge: Coal mining theory and practice; poisonous, noxious, and explosive gases and state laws; ventilation and roof control.

Exam: Pass 75% or more written and oral demonstration.

Skills: English fluency.

Other: Drug and alcohol free.

Reciprocity:

Certification in the same capacity from another state until next exam by Board; evidence must be presented personally.

KENTUCKY –

Kentucky has a certification program and certifying body for the state. The Office of Mine Safety and Licensing in Kentucky employs full time instructors in each district office to teach, train and test miners. We offer 18 different mining certifications.

Certification for foreman and assistant foreman (criteria/procedures):

Age: 18 years or older

Experience: 5 or more years' experience for foreman, or 3 or more years' experience for assistant foreman, of which 1 year is practical mining experience underground.

Degree: For foreman certificate, credit of 2 years' experience for 4-year mining engineering degree or associate degree in mining; for assistant foreman certificate credit of 2 years' experience for 4-year mining engineering degree or 1 year experience for associate degree in mining.

Required knowledge: Demonstrate competency in: ventilating a mine, correct use of an anemometer and a methane detector, completing an accident report, and completing a preshift miner examiner's report.

Exam: Pass 80% or more of 50-question test on each of nine subject areas; also pass oral examination.

Specific training: Preshift examination, substance abuse, mining law, gases, proper use of explosives, fires and explosives, electricity and apparatus, ventilating a mine, first aid and CPR, general mining.

Skills: English fluency.

Other: Drug and alcohol free.

Reciprocity: In lieu of examination, Kentucky may enter into a reciprocal agreement with another state regarding certification of miners. On notice from a reciprocal state of disciplinary action issued to a miner who also holds corresponding Kentucky licenses or certifications, Kentucky shall impose analogous sanctions against the miner's Kentucky licenses or certifications. Kentucky will not grant certification to any person that, at the time of application, had certificate suspended or revoked by another state.

Any mine foreman or assistant mine foreman may act as a fire boss or mine examiner in Kentucky.

MARYLAND –

Foreman Certification:

Experience: Underground mining for past year and 5 years underground mining within past 8 years.

Fire Boss Certification:

Experience: Underground for past year and 3 years underground within the past 6 years.

MONTANA –

Foreman Certification:

Experience: Must have 5 years' experience underground mining.

Degree: The division may, in its discretion, allow a substitution of formal education for the experience requirements.

Required Knowledge: The theoretical, technical, and practical knowledge of coal mining; general safety matters; first aid to the injured; the different systems of working coal mines; the safe operation of coal mines; the ventilation and sanitation of coal mines; the nature of noxious, poisonous, and explosive gases in coal mines; the nature and properties of coal dust; the mechanics relating to coal mining machinery and equipment; the explosives used in coal mines; coal mine maps and their use in coal mining; and any other subjects valuable in the safe operation of coal mines which the division considers includable in the examination.

Exam: Pass at least 75%.

Reciprocity: Holder of valid certificate from another state, U.S. territory, or another nation may apply for a similar certificate, issued at division's discretion.

NEW MEXICO –

Mine Examiner Certification:

Age: 20 years of age or older.

Experience: Must have 2 years of underground coal mine experience.

Degree: A degree in mining engineering counts as one year of experience.

Required Knowledge: Must have underground gas card for O₂ deficiency and methane detection from MSHA. Must have current 5000-23 for retraining.

Exam: Must pass exam on the following subjects:

- New Mexico mining safety regulations
- First Aid
- Mine Gases
- The Mine Act
- Code of Federal Regulations Title 30
- Part 47 – HazCom
- Part 48 – Training
- Part 49 – Mine Rescue
- Part 50 – Accidents
- Part 62 – Noise
- Part 70 – Health
- Part 75 – Mandatory Safety Standards Underground Coal Mining
- Qualified/Certified Persons
- Roof Control
- Ventilation (includes examiner's report)
- Combustible Materials and Rock Dusting
- Electrical
- Fire Protection
- Communications

Mine Foreman Certification:

Age: 22 years of age or older.

Experience: Must have 4 years of underground coal mine experience and serve 6 months as a certified mine examiner.

Degree: A degree in mining engineering counts as two years of experience.

Required Knowledge: Must have underground gas card for O₂ deficiency and methane detection from MSHA. Must have current 5000-23 for retraining.

Exam: Must pass exam on the following subjects:

- New Mexico mining safety regulations
- First Aid
- Mine Gases
- The Mine Act
- Code of Federal Regulations Title 30
- Part 47 – HazCom
- Part 48 – Training
- Part 49 – Mine Rescue
- Part 50 – Accidents
- Part 62 – Noise
- Part 70 – Health
- Part 75 – Mandatory Safety Standards Underground Coal Mining
- Qualified/Certified Persons
- Roof Control
- Ventilation (includes underground ventilation map)
- Combustible Materials and Rock Dusting
- Electrical
- Fire Protection
- Communications

OHIO –

Criteria for Foreman/Mine Foreman Certification:

All state and federal required examinations in Ohio underground coal mines must be conducted ONLY by Ohio state-certified Foremen and Mine Foremen of Gaseous Mines certificate holders. Ohio has very specific criteria and requirements for certification for its Coal Foremen and Mine Foremen. This certification has been a pillar of Ohio Mining Law since the late 1800's. Ohio rigidly depends on these individuals to maintain the safety of operations at all times for the protection of its miners and coal mines.

Ohio has the Ohio Department of Natural Resources (ODNR), Division of Mineral Resources Management (DMRM) Mine Safety Certification Program.

Eligibility to apply for OH DMRM Mine Safety Certification:

1561.16 Credit for practical experience; qualifications of foreman of gaseous mines:

- Must be able to read and write the English language
- Three years actual practical mining experience in the mining discipline for which application is made OR the equivalent thereof in the judgment of the Chief of the DMRM for Foreman of Gaseous Mine. Five years for Mine Foreman Gaseous Mine. Two years' experience credit for a four-year Mine Engineering Degree from an accredited institution of higher learning OR one year credit for a mining-related degree.
- Knowledge of the dangers and nature of noxious gases.
- Pay an examination fee.
- Submit to, and successful pass, a formal, structured examination administered by the DMRM Mine Safety certification staff that tests the knowledge, skill sets, and practical application for the specific mining certification.
- State certification as a Foreman/Mine Foreman Gaseous Mine does not expire under the condition that the certified individual maintains *continuous work in or around an underground coal mine*, and that the certified person have his or her Annual Refresher Training (ART) as required.

OH DMRM Mine Safety certifies for the following mining official positions in the state:

- Foreman/Mine Foreman Gaseous Mine (coal)
- Coal Mine Electrician
- Surface Coal & Auger Foreman/Mine Foreman
- Preparation Plant/Tipple Foreman
- Surface Mine Blaster
- Quarry Mine Foreman
- Sand & Gravel Mine Foreman
- Mine Medical Responder – (specialized Emergency Medical Technician)
- Surface Salt Foreman
- Stone Foreman/Mine Foreman – Underground

Certification for Foreman (gaseous mine):

Experience: 3 + years' actual practical experience (meaning a regular presence in the type of mining operation in which the experience is required to exist; participation in functions relating to the hazards involved in and the utilization of equipment, tools, and work crews and individuals for that type of mining; and regular exposure to the methods, procedures and safety laws applicable to that type of mining in mines applied for).

Degree: Credit of up to 1 year for a portion of the required experience time may be given upon documentation being presented to the Chief of the Division of Mineral Resources Management of an educational degree in a field related to mining. Credit of up to 2 years of the required experience time may be given upon presentation to the Chief of proof of graduation from an accredited school of mines or mining after a 4-year course of study with employment in the mining industry during interim breaks during the school years.

Exam: Pass formal, structured exam testing knowledge, skill sets, and practical application for underground mining.

Specific Knowledge: Knowledge of danger and nature of noxious gases.

Skills: Read/write English.

OKLAHOMA –

Criteria for certifications:

Oklahoma has the following certifications:

460:15-1-10 --

- Shot-firer (2 year renewal)
- Hoisting engineer
- Fire-boss
- Mine foreman
- Superintendent
- Practical miner

These certifications have minimum qualification standards. Recertification is not required except for shot-firer.

Title 45, Chapter 11 –

- Surface Supervisor Certification (2 year renewal)

Certification for Foreman:

Experience: 3 + years experience underground.

Degree: 2 or 4 year mining program credited for 1 year experience.

Exam: Written or oral.

Specific Training: First aid certificate issued within the year.

Certification for Examiner:

Experience: 2 + years experience underground.

Degree: 2 or 4 year mining program credited for 1 year experience.

Exam: Written or oral.

Specific Training: First aid certificate issued within the year.

PENNSYLVANIA –

Pennsylvania administers a certification/decertification program for mine officials for Anthracite and Bituminous coal. In the anthracite region certifications include Mine Foreman, Assistant Mine Foreman and Mine Examiner. In the bituminous region certifications include Mine Foreman, Assistant Mine Foreman, Mine Examiner and Mine Electrician. All mine officials are qualified to conduct mine examinations required by state and federal law, with the exception of Bituminous Mine Electrician. Mine Superintendents in Bituminous are required to be certified as Mine Foreman. Pennsylvania law does not provide for reciprocity or require recertification/renewal.

Criteria and procedures for certifications for Mine Foreman, Assistant Foreman, Mine Examiner, Mine Electrician:

Anthracite Mine Foreman is certified in accordance with “ACT 346” Anthracite Coal Mining Laws of Pennsylvania for Underground Mines.

Boards of Examiners and certification of mine foremen and assistant mine foremen (Anthracite) (criteria/procedures):

Employment of mine foreman: It shall not be lawful, neither shall it be permitted, for any person or persons to act as mine foreman, assistant mine foreman or mine examiner of any coal mine or colliery, unless they are registered as a holder of a certificate of qualification or service under this act. The mine foreman shall have full charge of all the inside workings and the persons employed therein, subject, however, to the supervision and control of the operator or the superintendent, in order that all the provisions of this act, so far as they relate to his duties, shall be complied with and the regulations for each class of workmen under his charge carried out in the strictest manner possible. Nothing in this article shall prevent a mine foreman or assistant mine foreman from acting as a mine examiner in case of an emergency. Upon the effective date of this act and after an examination has been given for the certification of mine foremen, assistant mine foremen, and mine examiner, it shall be unlawful for any operator or superintendent to employ a mine examiner who has not been certified as such by the Department of Mines and Mineral Industries.

Experience: All applicants for mine foreman, assistant mine foreman and mine examiner must provide satisfactory evidence of at least five years practical experience as a miner, and of good conduct, capability and sobriety.

Exam: The method of scoring the Examining Board is currently using 1 point for each correct answer with 100 questions on the examination. Applicants must score in the minimum following range to qualify:

- Mine foreman: 85% to 100%
- Assistant mine foreman: 75% to 84%
- Mine examiner: 65% to 74%

There is also a practical examination that includes the proper techniques and ability to take air reading with an anemometer and gas tests with an approved multi gas detector. If an applicant fails this part of the examination they cannot take the written examination until the next examination. The Department provides two days of training in subject matter pertaining to the duties of an Anthracite Mine Foreman prior to the examination.

Anthracite Act (Section 205, 202)

Section 202. Boards of Examiners; Mine Foreman, Assistant Foreman and Mine Examiner; Certificates

For the purpose of examination of candidate for such certificate, a board of examiners shall be appointed in each of the inspection districts provided for by this act. The said board shall consist of the district inspector of mines, two practical miners and one engineer, operator, or superintendent of a mine. The said inspector shall act ex officio and the said boards shall be appointed by the courts of common pleas of the county in which the inspection districts are located. The said boards shall act as such for the period of one year from the date of their appointment. Meetings of the board may be held at any time and they may make such rules and conduct such examinations as in their judgment may seem proper for the purpose of such examinations. The said board shall report their action to the Secretary of the Department of Mines and Mineral Industries, and at least three of the members thereof shall certify to the qualification of each candidate who has passed such examination.

Section 205. Certificates of Qualification; Fees

Certificates of qualification to mine foreman, assistant mine foreman, and mine examiner shall be granted by the Secretary of Mines and Mineral Industries to every applicant who may be reported by the examiners as having passed a satisfactory examination and as having given satisfactory evidence of at least five years' practical experience as a

miner, and of good conduct, capability and sobriety. The certificate shall be in a manner and form as shall be prescribed by the Secretary of Mines and Mineral Industries and a record of all certificates issued shall be kept in the department. Certificates of qualification and certificates of service shall contain the full name, age and place of birth of the applicant, and also the length and nature of his previous service in or about the mines. Before the examination for certificates of qualification to mine foremen, assistant mine foremen, and mine examiners in the anthracite mines, each applicant shall pay a fee of two dollars (\$2), and each successful applicant shall pay an additional fee of three dollars (\$3) before receiving a certificate. The money thus received from applicants shall be transmitted to the Secretary of the Department of Mines and Mineral industries to be deposited in the State Treasury. In case of the loss or destruction of a certificate, the Secretary of Mines and Mineral Industries shall, upon the presentation of satisfactory evidence of the loss or destruction, issue a copy of the certificate, to the original possessor, on the payment of the sum of one dollar (\$1).

Certification of miners (Anthracite Act):

No person whosoever shall be employed or engaged in the anthracite coal region of this Commonwealth, as a miner in any anthracite coal mine, without having obtained a certificate of competency and qualification so to do from the miners' examining board of the proper district, and having been duly registered as herein provided.

Board of Examiners for miners (Anthracite Act):

There shall be established in each of the Counties of Luzerne, Lackawanna, Carbon, Schuylkill and Northumberland a board to be known as the "Miners' Examining Board" to consist of three miners, who shall be appointed by the judges of the court of common pleas of the county from among the most skillful miners actually engaged in said business in their respective counties who must have had five years' practical experience in the same. The said persons so appointed shall each serve for a term of two years from the date on which their appointment takes effect. The Miners' Examining Board in the County of Luzerne shall examine and register applicants for the Counties of Luzerne and Sullivan; the Miners' Examining Board in the County of Lackawanna shall examine and register applicants for the Counties of Lackawanna, Wayne and Susquehanna; the Miner's Examining Board in the County of Carbon shall examine and register applicants for the County of Carbon; the Miners' Examining Board in the County of Schuylkill shall examine and register applicants for the Counties of Schuylkill and Columbia; and the Miners' Examining Board for the County of Northumberland shall examine and register applicants for the Counties of Northumberland and Dauphin. Each member of the examining boards shall receive as compensation for his services thirty dollars (\$30) per day, for each day actually engaged in this service, and all legitimate and necessary traveling expense incurred in attending the meetings of the board under the provisions of this act at the prevailing State rate. The members of the boards shall submit monthly statements approved by the president of the board, setting forth the number of days during which each member has actually been in attendance at the sessions of the board, together with any expenses that may have been incurred, to the Secretary of Mines and Mineral Industries who, upon approval of the statements shall submit them to the State Treasurer for payment.

The Department provides 1 day of training in subject matter pertaining to the duties of a miner as defined by "ACT 346". The training includes proper techniques in blasting and gas detection and requires the applicant to demonstrate their abilities to perform both with hands on and written examinations. If an applicant fails this course of instruction the Department does not issue a Certificate of Competency to the individual and the miners Examining Board will not issue a Miners Certificate.

Certification criteria for miners (Bituminous Act):

- Miners shall be examined and granted certificates under regulations of the department.
- No individual shall be qualified to take the examination unless the individual produces evidence of having not less than one year's experience in bituminous coal mines. "Year of experience" – For the purposes of issuing certifications, the term shall mean working 240 eight-hour days or the hourly equivalent within a 12-month period beginning with the first day of employment in a mine.
- Individuals will appear before Department and answer at minimum eight (8) required questions on general mine safety. Note – All individuals possessing certificates of qualification issued by the Commonwealth entitling them to

act as mine foremen, assistant mine foremen, mine examiners or mine electricians shall be eligible to engage at any time as miners in bituminous coal mines of this Commonwealth.

Certification criteria for mining machine operators and shot-firers (Bituminous Act):

- **General Rule** – It shall be unlawful to employ as a mining machine operator or shot-firer in any bituminous coal mine any individual who has not given evidence to the department as to his fitness and competency to handle and use an approved gas detection device and his ability to determine the presence or absence of explosive gas and other dangerous conditions.
- the manner of determining fitness and competency shall be prescribed by the department. The department shall issue a certificate to those found competent, on a form prescribed by the department.

Machine Runner --

Experience: Applicants for machine runners shall have at minimum, one year experience in an underground bituminous mine.

Exam: Individuals will appear before Department and answer at minimum eight (8) required questions with regard to operating bituminous face equipment.

Shot-firers –

Experience: Applicants for shot-firers shall have at minimum, one year experience in an underground bituminous mine.

Exam: Shall pass a written examination with a passing score of 80%. Shall demonstrate to the Department in a simulated setting, the proper way to examine, load and detonate a simulated coal face.

Bituminous Act (Section 202, 110)

Section 202. Qualifications for certification.

Experience: In order to be eligible to sit for a certification examination an applicant must demonstrate the following levels of work experience in an underground bituminous coal mine. For each of these certification categories, a minimum of two years' experience must have been in a working section:

- *Mine foreman or mine electrician*, 5 years;
- *Assistant mine foreman*, 4 years;
- *Mine examiner*, 3 years.

Degree: if an applicant holds a bachelor's degree in mining engineering or an associate degree in mining technology from a recognized institution of higher education in the case of a mine foreman, assistant mine foreman or mine examiner, or a bachelor's degree in electrical engineering or an associate degree in electrical technology from a recognized institution of higher education in the case of a mine electrician, in order to be eligible to sit for a certification examination, the following shall apply. For each of these certification categories, a minimum of one year's experience must have been in a working section –

- *Mine foreman of mine electrician*, 4 years
- *Assistant mine foreman*, 3 years
- *Mine examiner*, 2 years

Required Knowledge:

- ***Mine foremen*** – Individual must demonstrate to the department satisfactory evidence of their ability to perform the duties of mine foreman and must have received training by individuals approved by the department in determining the presence of explosives and noxious gases, and in the use and mechanics of all gas detection devices.
- ***Assistant mine foremen*** – Individual must demonstrate to the department satisfactory evidence of their ability to perform the duties of assistant mine foreman and must have received training by individuals approved by the department in determining the presence of explosive and noxious gases, and in the use and mechanics of all gas detection devices.
- ***Mine examiners*** – Individual must demonstrate to the department satisfactory evidence of their ability to perform the duties of mine examiners and who have received training by individuals approved by the department in determining the presence of explosive and noxious gases, and in the use and mechanics of all gas detection devices.
- ***Mine electrician*** – Individual must demonstrate to the department satisfactory evidence of their ability to perform the duties of mine electrician and must have received training by individuals approved by the department in determining the presence of explosive and noxious gases, and in the use and mechanics of all gas detection devices.

Exam:

- **Mine foremen** – Must receive an average of at least 80% in the examination.
- **Assistant mine foremen** – Must receive an average of at least 70% in the examination.
- **Mine examiners** – Must receive an average of at least 75% in the mine examiners' examination.
- **Mine electrician** – Must receive an average of at least 75% in the mine electricians' examination.

Skills: All applicants shall be able to read and write the English language intelligently.

Other: All applicants shall furnish the department with a notarized statement from previous employers setting forth the length of service and type of work performed in the different mines.

Two Week Training Period: All applicants who have satisfactorily passed examinations, after being certified but before assuming their duties as mine foremen, mine electricians, assistant mine foremen or mine examiners, shall accompany a certified mine foreman or certified assistant mine foreman for not less than two weeks for training purposes in accordance with a training program submitted by the operator and approved by the department. Any applicant who has been granted a mine official certificate prior to the effective date of the act need not undergo this training. The record of such training shall be maintained at the mine.

Certificates Granted Prior to the Date of the Act: Certificates of qualification or service granted prior to the effective date of the act shall have equal value with certificates of qualification granted under the act.

- Every superintendent, mine foreman, assistant mine foreman, mine electrician and mine examiner shall represent the Commonwealth in the mine in which he is employed and shall be deemed an officer of the Commonwealth in enforcing the provisions of this act and performing the mine official's duties under this act. The superintendent, mine foreman, assistant mine foreman, mine electrician or mine examiner shall perform these duties during such times as the mine is in operation and at such other times as the department deems to be necessary or appropriate to make the mine safe and to protect the health and safety of those who work in and around the mine.

Section 110. Mine officials' certification.

- (a) Administration – After evaluating the examinations, the department shall issue certificates to those candidates who have met the established criteria for each certification category.
- (b) Committee –
 - (1) The department shall appoint a committee to annually review and update the department's database of examination questions and answers. The committee shall be made up of an equal number of persons representing the viewpoints of the department, operators and miners.
 - (2) Members of the committee shall be compensated in the same manner as members of the board under section 106(h). An individual committee member may waive the right to all or part of the compensation under this paragraph.
 - (3) Members of the committee shall, after the committee has been duly organized, take and subscribe the following oath before an officer authorized to administer oaths: We, the undersigned, do solemnly swear that we will perform the duties of members of this committee, and we will not divulge or make known to an individual any question prepared for the mine officials, or in any manner assist any applicant to pass the examination.
- (c) Confidential records – Records pertaining to certification examinations shall not constitute a public record under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

Shot-firers –

Experience: Applicants for shot-firers shall have at minimum, one year experience in an underground bituminous mine.

Exam: Shall pass a written examination with a passing score of 80%. Shall demonstrate to the Department in a simulated setting, the proper way to examine, load and detonate a simulated coal face.

Industrial Minerals

Certification criteria for the Industrial Minerals Mine Foreman are contained in Title 25 of the Pennsylvania Code Chapter 207 and are summarized as follows:

Employment of foreman: The owner or operator of an underground non-coal mine shall employ a foreman who possesses the Department's certificate of qualifications to be a foreman.

Examining committee:

(a) The Department will appoint a committee consisting of a non-coal underground mine foreman and a representative of the Department to prepare the initial draft of the examination to be given to applicants for the mine foreman's certificate of qualification. A bank of questions shall be developed by the committee. The Department will assemble the examination from this bank of questions.

(b) This committee shall review and score the results of the examinations given to applicants for the foreman's certificate of qualification. These results shall be transmitted to the Department for issuance of the certificate.

Certification requirements: To be eligible to apply for a certificate of qualification, the individual shall:

- (1) Be at least 21 years of age.
- (2) Have at least 2 years of practical experience as a non-coal underground miner or have 1 year of practical experience as a non-coal underground miner and either possess a Bachelor of Science Degree in mining engineering, possess a certificate of qualification under section 205 of the Pennsylvania Anthracite Coal Mine Act (52 P.S. § 70-205) or section 206 of the Pennsylvania Bituminous Coal Mine Act (52 P.S. § 701-206) or possess an acceptable certificate of qualification issued by another state.

Standards for issuing certificates of qualification:

- (a) The Department will only issue certificates of qualification to be a foreman to applicants who have demonstrated the ability to ensure the safety of persons and the inside portions of a non-coal underground mine under their supervision. Applicants make this demonstration by correctly answering at least 80% of the Department's written examination covering applicable mine safety laws and regulations of the Commonwealth.
- (b) The Department may refuse to issue to an applicant a certificate of qualification when the applicant had demonstrated an inability or unwillingness to comply with the mine safety laws and regulations of the Commonwealth or the mine safety laws or regulations administered by MSHA.

Enforcement:

- (a) The Department has the authority to issue orders necessary to ensure compliance with section 2(f) of the act of May 18, 1937 (P.L. 654, No. 174) (43 P.S. § 25-2(f)), known as the General Safety Law, and this chapter. This authority includes others:
 - (1) Revoking or suspending a certificate of qualification to be a foreman.

Construction supervisor: Similarly the Department requires a Supervisor for the development of a shaft or slope entry to an underground mine. The authority for the requirement of a construction supervisor flows from the following laws and regulations:

The Pennsylvania Anthracite and Bituminous Coal Mine Acts (Acts) (52 P.S. §§ 70-101 et. seq. and §§ 701-101 et. seq.); Section 2(f) of the General Safety Law (43 P.S. 25-2(f); The Coal and Non-Coal Surface Mining Conservation and Reclamation Acts (SMCRA) (52 P.S. §§ 1396.1 et. seq. and §§ 3301 et. seq.); Sections 1915-A and 1917-A of the Administrative Code of 1977 (§§ 510-15 and 17); and 25 Pa. Code Chapters 87,88, 89, 207 and 210.

Guidance for the certification process is outlined in Document Number 580-2200-011 Shaft and Slope Construction Supervisor:

The person immediately responsible for supervising persons engaged in the sinking of a shaft or slope entry is responsible for ensuring compliance with applicable safety requirements and the safety of persons engaged in the activity. At a minimum, the Department expects this supervisor to be the person who: ensures the adequacy of the entry's ventilation, performs all required checks for methane and oxygen, checks the walls of the entry for loose rock after a blast and ensures the adequacy of the entry's ground control. In general the Department will consider a person competent, by issuing a certificate of competency, to supervise persons engaged in the sinking of shafts or slopes if that person [meets the following qualifications]:

Age: At least 21 years of age.

Experience: Has at least 2 years of experience in the sinking of slopes and shafts or has 1 year of practical experience in the sinking of slopes and shafts and either possess:

- (i) A Bachelor of Science Degree in mining engineering.
- (ii) A certificate of qualification to be a coal mine foreman or assistant coal mine foreman issued pursuant to the Acts.
- (iii) A certificate of qualification to be an industrial mineral underground mine foreman.
- (iv) An acceptable certificate of qualification issued by another state.

Training: Has been trained in the detection of oxygen and explosive gases, as well as the use and mechanics of all gas detection devices.

Exam: Has demonstrated the ability to ensure the safety of persons engaged in the sinking of slopes and shafts by successfully answering at least 80% of the questions in an examination administered by the Department. The Department provides each classification applicant two days of training in subject matter related to the duties of a Mine Foreman prior to the examination.

TENNESSEE –

Certification for foreman:

Skills: Qualified to test methane with a detector.

Other: Good conduct, honesty, capability, and sobriety.

UTAH –

Certification for foreman:

Experience: 4+ years underground coal.

Degree: Credit 2 year for 4-year mining engineer degree or 1 year for mine technical 2-year degree.

Exam: Offer study guide on web site.

Certification for fire boss (Examiner):

Experience: 2 + years.

Degree: Credit 1 year for 4-year mining engineer degree or 6 months for 2-year mine technical degree.

Exam: Offer study guide on web site.

VIRGINIA –

Criteria/procedures for certification:

First Class Mine Foreman certifications (does mine examinations) requires:

Age: 23 + years of age.

Experience: 5 years of coal mining experience, 3 years must be underground.

Degree: A 4 year mining engineering degree can be used for 3 years of the required experience; however, the remaining 2 years **must be underground mining experience.**

Training: Must hold a current First Aid certification or hold a current MSHA 5000-23 Annual Refresher.

Exam: A score of 85% must be achieved on each section of the examination and practical demonstration in gas detection. Topics include: electrical; explosives; first aid; fires and explosions; haulage; mine gases; mining laws; ventilation; federal regulations; records; pre-shift/on-shift; weekly examination – practical exercises in ventilation and emergency response; maps.

Other requirements: Must hold a VA General Miner Certification.

Reciprocity: Virginia has a reciprocal agreement with the state of West Virginia and the Commonwealth of Kentucky. These two states have similar certification requirements to Virginia. Current first aid training, current West Virginia foreman card, general coal miner certification, 85% on Virginia mining laws section of exam, letter of good standing from reciprocating state, and has reciprocal acceptances of other certifications.

WEST VIRGINIA –

Certification criteria/procedures:

The West Virginia Office of Miners Health Safety and Training administers certifications for Apprentice Electrician, Surface Coal Mine Truck Driver Certification, certificate of apprentice (Surface), Certificate of Apprentice (Underground), Coal Miner's Certificate (Underground), Coal Miner's Certificate (Surface), Shaft and Slope Superintendent, Shaft and Slope Examiner Foreman, Surface Construction Supervisor, Clay Mine Foreman, Mine Rescue Team Member, Gas Testing Instructor, Shaft and Slope Shot Firer, Belt Examiner Certification, Mine Rescue Instructor, 40-Hour Instructor, 80-Hour Instructor, Certified Electrician, Low/Medium/High Gas Test Instructor – Construction, Shaft/Slope Superintendent, Qualified Diesel Instructor, Qualified Clearing Crew, and Qualified

Person Electrical. While the Office requires Emergency Medical Technician (EMT) certifications, they are administered by the Bureau of Public Health, Office of emergency Services.

Mine Foreman:

Experience: 5 + years' experience in the working, ventilation, and drainage of underground coal mines with 18 months in the face.

Degree: 4-year degree in mining, electrical, mechanical, or civil engineering and 2 years' practical experience in underground mines of which 18 months is on a working section, or an associates' degree in mining, electrical, mechanical, or civil engineering and 4 years' practical experience in underground mines of which 18 months is on a working section.

Training and exam: Applicant must have demonstrated knowledge of mine safety, first aid, safety appliances, emergency procedure relative to all equipment, state and federal mining laws and regulations and other subjects, by completing such training, education and examinations as may be required under Section 7 of the WV Certification Policy Manual. Must score 80% or higher on each section – practical and written portions.

Required knowledge: Dangerous mine gases and their detection, mine safety, safety appliances, first aid, state and federal mining laws and regulations.

Other requirements: Applicant must be a resident or employed in a mine in the state of WV and must be drug and alcohol free.

Assistant Mine Foreman:

Each applicant for certification as assistant mine foreman shall, at the time of issuance of a certificate of competency, possess all of the qualifications required of a mine foreman.

Continuing Education Requirements for Underground Foreman – Fire Boss:

An underground mine foreman-fire boss must complete continuing education requirements every two years after initial certification. In order to receive continuing education credit, a mine foreman-fire boss shall satisfactorily complete a mine foreman-fire boss continuing education course approved by the board and taught by a qualified instructor approved by the director.

Reciprocity of Mine Foreman Certification and Experience Miner Certification:

As of April 1, 1999, the Director, in consultation with the board of miner training, education and certification, shall make reciprocity of mine foreman certification and experience miner certification available to any person certified by a state which accepts West Virginia's mine foreman or experienced miner certifications, if that state's qualifications, examination and certification criteria are substantially equivalent to those utilized by West Virginia. A person requesting either of these certifications by reciprocity must:

- Submit a photographic identification, a current copy of his or her certification card or certificate, verifiable documentation of all degrees held, continuing education successfully completed, and documentation of other training, if required for the certification, and shall also comply with any other criteria as the Director, in consultation with the Board, may reasonably require from time to time: Provided that the criteria shall include, but is not limited to, the following minimum requirements:

- (1) When a reciprocity agreement applicable to mine foreman certification has been established with another state, any applicant holding a mine foreman certificate from that state shall take the component of the West Virginia mine foreman certification examination that pertains only to specific West Virginia mining laws and rules and shall pass the examination with a score of at least 80% prior to being issued a West Virginia mine foreman certificate;
- (2) When a reciprocity agreement applicable to experienced miner certification has been established with another state, any applicant holding an experienced miner's certificate from that state shall receive hazard training in accordance with provisions contained in 30 CFR Part 48.11 if the applicant is an underground miner, or in accordance with the provisions contained in 30 CFR Part 48.31 if the applicant is a surface miner, and shall receive instruction in West Virginia's mining laws and rules pertinent to any duties that are or will be assigned the miner prior to the miner performing any duties; and
- (3) Records of all training and instruction shall be kept in a book provided exclusively for that purpose which shall be made available upon request.

West Virginia has a certification program for blasters on surface coal mines. Under our Legislative Rule Title 199 Series 1 those in charge of blasting on surface coal mines must be certified through the Office of Explosives and Blasting.

Age: At least 23 years of age.

Experience: Must demonstrate he has had one (1) year of active blasting experience under the supervision of a certified blaster within the three (3) years preceding filing their application.

Training: They must complete the OEB self-study course, and attend the OEB 8 hour refresher class to take the Certification exam.

Exam: They must pass all three portions of the exam to obtain their certification.

Other requirements: They must have proof of passing a background check (ATF, State Police) for felonies.

Renewal: Certification expires every three (3) years unless renewed.

WYOMING –

Certification criteria/procedures:

Wyoming has certifications for mine examiner and mine foreman for the following categories: Underground Coal; Surface Coal; Underground Trona; Underground Metal and Non-Metal; Underground Petroleum; Surface Metal and Non-Metal; and Underground Uranium.

Examinations for these certifications are administered by the Wyoming Mining Council and are done each May. The examinations are both written and oral.

Wyoming also certifies underground shot firers for all minerals, gassy and non-gassy. These certifications are administered by the State Mine Inspector.

Wyoming also has a contractor certified person examination for contractors at surface coal mines. These certifications are administered by the State Mine Inspector.

Foreman:

Age: 23 + years.

Experience: 3 years “hands on” experience at or near the point of extraction in the type of mineral for which you wish to be certified as a foreman.

Degree: The council may grant 1 year experience credit for not less than 5 years’ experience in an underground gassy metal or nonmetal mine for underground coal mining experience. When applicant seeks to receive practical experience credit for holding a mining engineering degree, provide verifiable documentation of the degree and hold a valid mine examiner’s certificate.

Exam: 75% or greater score to pass.

Required knowledge: Mining practices in type of mine and mineral involved, including: ventilation, health and safety, rescue and recovery work involved following mine disasters, detection and control of gasses, fire and explosion prevention and control, use of blasting procedures, electricity and mine equipment, and applicable state mining laws.

Examiner:

Age: 23 + years.

Experience: 2 years “hands on” experience at or near the point of extraction in the type of mineral for which you wish to be certified as an examiner.

Degree: Mining engineering degree considered the equivalent of 1 year practical experience for mine foreman. A degree related to mining is equivalent to 1 year practical experience for mine foreman certificate and 1 year for mine examiner certificate. No practical experience credit given for degree, mining experience credit or combination exceeding 1 year for mine examiner certificate. Degree limited to baccalaureate, masters, or doctorate. Underground coal mine experience shall qualify for gassy metal and nonmetal mine experience. Gassy metal or nonmetal mine experience shall not qualify for underground coal mine experience.

Exam: 75% or greater score to pass.

Question 42: “If the state requires that certified persons renew their certifications, what procedures are used to recertify a person after a suspension or decertification?”

ALABAMA –

Recertification after decertification:

Alabama does not have a recertification program.

Renewal of certification:

No specific information provided.

COLORADO –

Renewals and recertifications:

Recertification is required annually for surface or underground electricians. Recertification is also required every 5 years for surface blasters. At this time there are the only certified coal mine officials that require periodic recertification. Renewal of lapsed certification is on a case-by-case basis and may require proof of refresher training or employment.

Recertification after decertification:

Shall be considered on a case-by-case basis. The Board may consider recertification with or without partial or complete re-examination.

ILLINOIS –

Illinois currently does not have any recertification requirements.

INDIANA –

Recertification after decertification:

Board may reinstate after suspension. Can reapply after 5 years.

KENTUCKY –

Kentucky utilizes our Mine Safety Review Commission and Mining Board for the recertification process. Typically, during the recertification process the miner will have to start from the beginning and retake the class, exam and a drug test.

Recertification after decertification:

Show proof of completing substance abuse treatment and after revocation period, retake and pass exam.

Renewal of certification:

24 hours annual retraining and reeducation regarding alcohol and substance abuse; safety laws; retreat mining; new safety technology; cases before Review Commission.

MARYLAND –

Renewal of certification:

Active underground mining for past 3 years; attended annual refresher training.

MONTANA –

Renewal of certification:

Expires if inactive for 5 or more years.

NEW MEXICO –

Recertification:

Relative to recertification the New Mexico Administrative Code requires:

19.6.4.11 CERTIFICATION PERIOD AND RECERTIFICATION PROCESS:

A. Certification of officials shall be issued for a period of five years. All officials certified by the state mine inspector prior to June 15, 2007, shall have their certification period extended five years. Each official is required to have retraining as a qualified/certified person on an annual basis from the mine in which they are employed as required in 30 CFR 75.160, 30 CFR 75.161, 30 CFR 77.107 and 30 CFR 77.107-1. Failure to have re-training as a qualified/certified person on an annual basis may result in suspension of certification.

B. Each official has the responsibility to notify the state mine inspector of any change in address or change in mine employment within thirty days of such change. Failure to provide current contact information may result in suspension of certification.

C. Certified persons may apply for recertification within twelve months prior to the end of the certification period. Every certification shall automatically expire on the last day of the certification period if the official has not recertified prior to that date. Recertification will require the applicant to submit an application and appropriate documentation as required by the state mine inspector.

D. Recertification may be done by taking an exam every five years, prior to certification expiration, or an organization may submit an alternative plan for the inspector's approval as follows:

(1) officials taking an exam every five years will follow the same process required for original certification; or
(2) an organization may submit an alternative plan, for the state mine inspector's approval; the alternative plan may be carried out over the give year period; the alternative plan shall include the subjects to be covered, the minimum amount of time per subject, the methods of instruction, and the methods of participant evaluation during process completion; following completion, the applicant shall provide the state mine inspector with verification that all training for the recertification period is current; and

(3) applicants shall submit an application, pay the applicable fee, and provide all appropriate documentation as required by the state mine inspector, before receiving recertification.

E. Mine examiners may fulfill the recertification requirements for mine examiner by successfully completing the examination for mine foreman certification or recertification.

Relative to reciprocity, the State Mine Inspector may recognize certification from other states. However that is not the practice. Current practice is to allow testing based on certification by another state and a check with that state's program to ascertain that the certification is in good standing.

OHIO –

Renewal of certification:

Certification does not expire if certified individual maintains continuous work in/around underground coal mine.

Recertification after decertification:

- A certified mine foreman of a gaseous coal mine who has not worked in an underground coal mine for a period of more than 2 calendar years shall obtain recertification from the Chief.
 - A certified mine foreman of a gaseous coal mine who has not worked in an underground coal mine for a period of 1 or more calendar years shall successfully complete a retraining course before performing the duties of a mine foreperson or a foreperson of a gaseous mine.
-

OKLAHOMA –

Recertification is not required except for shot-firer.

PENNSYLVANIA –

No recertification/renewal requirements: Anthracite would require law change; Bituminous would require regulation change. Lifetime certification unless revoked for just cause.

No reciprocity provisions: Anthracite would require law change; Bituminous would require regulation change. Lifetime certification unless revoked for just cause.

TENNESSEE –

Certification expires if inactive for 5 or more years.

VIRGINIA –

Specific certifications such as First Class Mine Foreman require a 4 hour continuing education every two years. This continuing education is designed by our agency and taught by instructors certified by our agency. Failure of the individual to attend this continuing education results in suspension of the certification for a period of two years (cannot act as a certified foreman during this suspension period but during this time can obtain the continuing education to reactivate the certification). Failure to complete the training in the two year period results in REVOCATION of the certification. This status will require the individual to recertify (retest) in accordance with our law.

WEST VIRGINIA –

Recertification after decertification (criteria):

Charleston, West Virginia office maintains revocation database. Complete of training requirements or exam established by the Board for recertification.

Renewal of certification (criteria):

Complete 8 hours of continuing education within 2 years of certification and every 2 years thereafter. Satisfactorily complete a mine foreman – fire boss continuing education course.

Recertification for blasters:

We have a recertification program under West Virginia's Legislative Rule Title 199 Series 1. The blaster must reapply, providing all documentation they provided for their initial application, every three (3) years to maintain a valid blasters certification. Every six (6) years they must also retake the examination. Should a blaster's certification be suspended or revoked they must comply with the remedial measures stipulated prior to being recertified.

WYOMING –

Currently Wyoming does not have any recertification programs. Persons whose certificate has been revoked under this section shall not be reissued a certificate unless the Wyoming Mining Council finds the incapacity, if any, on which the revocation was based has ceased to exist.

Question 43: *“If the state also has a decertification program, what criteria and procedures are used to suspend or decertify a person’s certification? What procedures are used to recertify a person after a suspension or decertification?”*

ALABAMA –

Foreman -- Basis for decertification (criteria/procedures):

- Certificate of any person may be cancelled or revoked by the board of examiners whenever it shall be established to the satisfaction of the board that the holder of the certificate has become unworthy of official endorsement by reason of violation of this chapter, intemperate habits, manifest incapacity, abuse of authority, or for other reasons satisfactory to the board.
- Convicted on the hearing of the charge of violating any part of this chapter, his or her certificate shall be revoked by the board. The director, after a thorough investigation, may suspend the holder pending a meeting of the board of examiners and its final action.

Fire Boss – Basis for decertification (criteria/procedures):

- Forge or counterfeit a certificate.
- Knowingly make or cause to be made any false statement in any certificate of competency provided.
- Any fire boss in a mine who fails to perform any duty imposed on him by the laws of AL as fire boss shall be guilty of a misdemeanor.

**** Procedures used to recertify after suspension or decertification question redundant. See Question 42 response (Alabama does not have a recertification program).***

ARKANSAS –

Basis for decertification (criteria):

Intoxication; mental disabilities; neglect of duty; other sufficient cause; any person who forges, alters, or counterfeits a certificate, secures or attempts to secure employment by use of the forged, altered, or counterfeited certificate, or falsely represents that he is a holder of a certificate regulatory issued to him shall be guilty of a misdemeanor.

COLORADO –

Basis for decertification (criteria/procedures):

Suspended or non-absolute revocation of certification: the Board may schedule a meeting with the individual and/or the employer to discuss the situation and circumstances leading up to the suspension or revocation.

ILLINOIS –

Basis for decertification:

Fraud or misrepresentation of experience; violation of the law; intemperate habits; incapacity; and abuse of authority or any other cause. See more detailed information below.

Decertification criteria/procedures:

The Office of Mines and Minerals has statutory authority through the State Mining Board to revoke or suspend any of the certifications it offers (per response to Question 41). Below are some of the statutory certification requirements and agency authority.

(225 ILCS 705/4.26) (from Ch. 96 ½, Par. 426)

Sec. 4.26. Any State Mine Inspector who discovers that any section of this Act, or part thereof, is being neglected or violated, shall order immediate compliance therewith, and, in case of failure to comply shall have power to stop the operation of the mine or to remove any offending person or persons from the mine until the law is complied with.

(Source: Laws 1953, p. 701.)

(225 ILCS 705/5.04) (from Ch. 96 ½, par. 504)

Sec. 5.04. The certificate of any mine manager may be cancelled and revoked by the Mining Board upon notice and hearing as provided by this Act, if it shall be established in the judgment of said Mining Board that the holder thereof has obtained said certificate by fraud or misrepresentation of his experience or has become unworthy to hold said certificate by reason of violation of the law, intemperate habits, incapacity, abuse of authority or for any other cause. Any person against whom charges or complaints are made hereunder shall have the right to appear before the Mining Board and defend himself against said charges, and he shall have 15 days' notice in writing of such charges previous to such hearing. The Mining Board, in its discretion, may suspend the certificate of any person charged as aforesaid, pending such hearing, but said hearing shall not be unreasonable deferred.

(Source: Laws 1953, p. 701.)

(225 ILCS 705/5.05) (from Ch. 96 ½, par. 505)

Sec. 5.05. Effective on or after January 1, 1977, it shall be unlawful for the operator of any underground mine to employ as a superintendent any person who does not hold a certificate of competency as a mine manager issued by the Mining Board. Upon request, the Mining Board may issue a temporary Certificate of Competency as mine examiner or mine manager to any person who possesses a valid equivalent certificate issued by the appropriate agency in another state, provided however that such temporary certificate shall be valid only until the first available examination given by the Mining Board or 6 months, whichever is longer.

(Source: P.A. 79-460)

(225 ILCS 705.6.13) (from Ch. 96 ½, par. 613)

Sec. 6.13. Effective on or after January 1, 1977, it shall be unlawful for the operator of any mine to employ underground any person in a supervisory capacity who does not hold a certificate of competency as a mine examiner or mine manager issued by the Mining Board; except those engineering and maintenance supervisors who supervise persons engaged in the maintenance and repair of underground equipment, provided that these supervisors have had training in mine ventilation and mine related hazards approved by the Mining Board. Upon request, the Mining Board may issue a temporary certificate of competency as mine examiner or mine manager to any person who possesses a valid equivalent certificate issued by the appropriate agency in another state, provided however that such temporary certificate shall be valid only until the first available examination given by the Mining Board or 6 months, whichever is longer.

(Source: P.S. 80-296.)

(225 ILCS 705/6.14) (from Ch. 96 ½, par. 614)

Sec. 6.14. The certificate of any mine examiner may be cancelled and revoked by the Mining Board upon notice and hearing as hereinafter provided, if it shall be established in the judgment of the Mining Board that the holder thereof has obtained said certificate by fraud or misrepresentation of his experience or has become unworthy to hold said certificate by reason of violation of the law, intemperate habits, incapacity, abuse of authority or for any other cause. However, any person against whom charges or complaints are made hereunder shall have the right to appear before the Mining Board and defend himself against said charges, and he shall have 15 days' notice in writing of such charges previous to such hearing. The Mining Board, in its discretion, may suspend the certificate of any person charged as aforesaid, pending such hearing, but the hearing shall not be reasonably deferred.

(Source: Laws 1953, p. 701.)

(225 ILCS 705.7.03) (from Ch. 96 ½, par. 703)

Sec. 7.03. It shall be unlawful for the operator of any mine to permit any person who does not hold a certificate of competency as hoisting engineer issued by the Mining Board to hoist or lower men, or to have charge of the hoisting engine when men are underground. No certified engineer shall be required for automatically operated cages or platforms. Provided, at any slope mine where the angle of the slope is not more than twenty degrees and men are

not lowered into and/or hoisted out of the mine by hoisting equipment, and there is ample room in the slope and it would be practicable in the event of an accident to remove an injured person from the mine, no hoisting engineer holding a certificate of competency issued by the Mining Board shall be required.
(Source: Laws 1957, p. 2413.)

Sec. 7.05. The certificate of any hoisting engineer may be cancelled and revoked by the Mining Board upon notice and hearing as hereinafter provided, if it shall be established in the judgment of said Mining Board that the holder thereof has obtained said certificate by fraud or misrepresentation of his experience or has become unworthy to hold said certificate by reason of violation of the law, intemperate habits, incapacity, abuse of authority or for any other cause. However, any person against whom charges or complaints are made hereunder shall have the right to appear before the Mining Board and defend himself against said charges, and he shall have 15 days' notice in writing of such charges previous to such hearing. The Mining Board, in its discretion, may suspend the certificate of any person charged as aforesaid, pending such hearing, but said hearing shall not be unreasonably deferred.
(Source: Laws 1953, p. 701.)

INDIANA –

Procedures used to decertify:

Indiana has not had anyone decertified at the time this response is being written. If we were to decertify an individual, they would have a hearing before the State Mining Board. If their certification was revoked we would then notify all the mines in the state by letter, phone and e-mail of the findings.

Basis for decertification (criteria):

Material deception to obtain a certificate; engaged in fraud or in the course of professional services or activities, or has advertised services in a false manner; convicted of a crime which has a direct bearing on competence; continued to practice as certified although he has become unfit to practice; professional incompetence; failure to keep abreast of current professional theory or practice; physical or mental disability; addiction or severe dependency on alcohol or other drugs which impairs safety; engaged in a course of lewd or immoral conduct in connection with the delivery of services to clients; allowed name or certificate issued to be used in connection with any individual services beyond the scope of his training, experience, or competence; failure to comply with a board order to submit to a physical or mental exam.

COLORADO –

Basis for decertification (criteria/procedures):

The Colorado Division of Reclamation, Mining & Safety (Division) is the administrative arm of the Colorado Coal Mine Board of Examiners (Board). The Board of Examiners consists of four voting members and one ex officio member that are appointed by the Governor and confirmed by the state senate. All voting members come from a representative sampling of the Colorado coal mining industry. In addition, the Board appoints 2 – 3 representatives from the mining industry to serve on an Electrical Advisory Panel. The Board has an MOU with MSHA concerning the Board's primacy in certifying electricians to work in Colorado coal mines.

For good cause shown, the Board has the authority to investigate, hold hearings and, if warranted, suspend or revoke a certification in accordance with Colorado law and rules. No certification shall be revoked by the Board except where the Board finds, in writing, based on evidence of a hearing record, that person is guilty of:

- a) reckless disregard of applicable mining law, or
- b) reckless disregard for compliance with health and safety standards, or
- c) demonstrated incompetence in the mine which endangers life or property,
- d) intentional withholding or altering of mine examination information or reports where life and property is endangered.

The individual is notified by certified mail of just cause and the date of the hearing. A public notice of the hearing is distributed. Colorado has had no decertifications or suspensions within the last 10 years at the time of this response being written. There has been one request for decertification. In this case, the Board found no grounds for decertification.

KENTUCKY –

In Kentucky we have a Mine Safety Review Commission which reviews all disciplinary cases which has the authority to decertify or sanction miners in our state.

Basis for decertification (criteria):

- Intentional violation of safety laws that places miners in imminent danger.
- Violation of drug and alcohol free status or not submitting to drug and alcohol test is cause for immediate suspension.
- Willful failure to complete annual retraining and reeducation requirements.

NEW MEXICO –

Basis for decertification and recertification (criteria/procedures):

Relative to decertification and procedures to recertify the New Mexico Administrative Code states the following:

19.6.4.12 REFUSAL TO CERTIFY OR RECERTIFY AND SUSPENSION OR REVOCATION OF CERTIFICATION:

A. The inspector may refuse to certify or recertify or may suspend or revoke any certification held or applied for under 19.6.4 NMAC upon grounds that the applicant or certified person:

- (1) gave false or forged evidence to the inspector to obtain certification;
- (2) is grossly negligent or incompetent in duties as a certified person;
- (3) has failed to maintain certification;
- (4) has violated or aided or abetted any person in a violation of the Federal Mine Safety and Health Act of 1977 or the New Mexico mine safety laws; or
- (5) has been disciplined in another state that certified mine personnel.

B. If the inspector contemplates taking any of the actions described in Subsection A of 19.6.4.12 NMAC for any of the reasons provided in that subsection, the inspector shall provide written notice to the applicant or certified person. The notice shall include a statement that the inspector has sufficient evidence that, if not rebutted or explained, will justify the inspector in taking the contemplated action, that indicates the general nature of the evidence and that provides the applicant or certified person at least twenty days to submit written evidence to rebut or explain the allegations.

C. If, after the response period ends, the state mine inspector takes any action of a type specified in Subsection B of 19.6.4.12, the inspector shall serve upon the applicant or certified person a written notice of the action containing a statement that the applicant or certified person may file a petition for review with the mining safety board pursuant to the Mining Safety Act 69-8-1 MNSA 1978.

19.6.4.13 APPEAL TO MINING SAFETY BOARD OF CERTIFICATION ACTIONS BY INSPECTOR TO MINING SAFETY BOARD: An appeal of an inspector's action may be made to the board by the person affected by the action.

A. A person affected by the inspector's action shall file a written petition for review of the action within twenty days after service of the action. Unless a timely written appeal for review is made, the action of the inspector shall be final and not subject to judicial review.

B. The petition shall be filed in writing with the chair of the board or the chair's designee, and include the action number and the name of the appellant.

C. If a timely petition is made, the board shall consider the petition at a hearing held no sooner than thirty days and no more than ninety days after receipt of the written petition. The board shall notify the petitioner and the inspector of the date, time and place of the hearing at which the petition will be considered.

D. No board member with any financial interest affected or potentially affected by the outcome of an adjudicatory proceeding may serve as a hearing officer in that proceeding or otherwise participate in the hearing. All board members shall adhere with the Governmental Conduct Act.

E. The board shall review the record compiled before the inspector and shall allow any party to submit arguments at the hearing.

F. Within 20 days following the hearing the board shall render a written decision affirming, modifying or reversing the action of the inspector, and stating reasons for that action. The decision shall be signed by the board chair or the chair's designee, and shall be served on both parties within 30 days after the decision is rendered and signed. A

person who is adversely affected by a decision of the board pursuant to this section may appeal to the district court pursuant to the provisions of Section 39-3-1.1. NMSA 1978.

OHIO –

Basis for decertification (criteria/procedures):

Ohio has a decertification program. The state has laws by which a certified individual can have his or her certificate revoked or suspended for infractions of the Mine Safety laws OR can have his or her certificate become null and void for absence from the underground coal mining industry for specific periods of time.

■ **1565.08 Revocation or suspension of certificate.**

“If a person certified by the Chief of the Division of Mineral Resources management purposely violates the mining laws, the person’s certificate may be revoked by the Chief after investigation and a hearing in accordance with Chapter 119 of the Revised Code.

No person whose license, certificate, or similar authority to perform any certifiable mining duties in another state is suspended or revoked by that state shall be certified for an equivalent mining certificate in this state during the period of the suspension of revocation in the other state.”

■ **Absence of one, but less than two, calendar years.**

“A person who has been issued a certificate as a Mine Foreperson or a Foreperson of a coal mine, and who has not worked in an underground coal mine for one, but less than two, calendar years shall complete the MSHA-approved Experienced Miner Training before being re-certified by the State.”

■ **Absence of more than two calendar years from the underground coal mine industry.**

“A person who has been issued a certificate as a Mine Foreperson or a Foreperson of a coal mine, and who has not worked in an underground coal mine for two or more calendar years, shall complete the MSHA-approved Experienced Miner Training *AND* shall apply for re-certification to the Chief at which time he or she shall submit to and successfully pass a re-certification examination before being re-certified by the State.”

■ **Re-certification following revocation or suspension.**

“Depending upon the nature of the infraction or infractions that caused the suspension or revocation, the Chief shall prescribe the duration of the suspension or revocation, and the conditions and provisions under which the person may become re-certified. In a serious situation the Chief may prohibit the individual from ever again being certified in the State of Ohio.”

■ **Temporary certification of eligible, qualified miners at the request of the mine operator.**

“Ohio Revised Code 1565.06 provides for the appointment by the mine operator, of an eligible, qualified miner to be temporarily certified. This is permitted due to accident, death, illness, or for any other reason in which an adequate number of certified foremen are not available that will ensure the operator’s ability to examine and operate the mine safely. The name and experience credentials of the miner must be submitted to, and approved by, the Chief of the Division of Mineral Resources Management before the miner may work as a non-certificate foreman.

Temporary certification is not granted to a requesting individual. The temporary certification is a one-time issue for a period not to exceed six (6) calendar months. To be eligible, the appointee must be within six (6) months of having accrued the three years of actual, practical mining experience required to be certified. Should the miner take and pass the certification examination during this period he or she will continue to ‘work out’ the balance of the temporary period and then, contingent upon the accrual of the required three years, receive full certification.”

A certified foreman from another state whose underground coal foreman certification is in good standing will be granted a temporary foreman card, again at the request of the mine operator, until such time as he/she takes and passes the Ohio foreman examination. If the exam is not taken and the six-month period expires, the temporary foreman card becomes null and void and will not be renewed under any circumstances.

Coal Foreman/Mine Foreman Certification Reciprocity with State of West Virginia – Ohio has a reciprocal agreement for underground coal Foreman/Mine Foreman certification, along with Surface Coal Mine Foreman and Coal Mine Electrician, with the State of West Virginia only.

Under this agreement each state requires only an abbreviated reciprocity examination for Foreman/Mine Foreman of the person certified in the other state. This is done following investigation, communication with, and evidence from the other state that the individual's certificate in that state is current, up to date, and in good standing. This facilitates good logistics for mine operators and miners moving back and forth between the active coal fields of northern West Virginia and southeastern Ohio.

Note:

As of November 2013 (as appeared in Ohio's response to an MSHA RFI re. state certification programs), Ohio had de-certified only one miner in the previous ten years for violating the Mine Safety laws of the State. The decertification was for working beneath unsupported top. This was a permanent revocation with the miner having the option to train and recertify to regain state certification. The miner had since done so.

OKLAHOMA –

Revocations of a certificate:

The Oklahoma Mining Commission shall have the power to revoke any certificate, be it granted because of incompetence, intoxication, or other sufficient cause, provided that the person against who charges are made shall have ten (10) days written notice from the Commission and shall have opportunity to be heard by the Commission on his/her behalf.

PENNSYLVANIA –

Basis for decertification/recertification (criteria/procedures) -- Anthracite:

Anthracite Act (Certified Mine Officials Act 52 P.S.) Suspension/Decertification/Recertification

An Act providing that every Mine Foreman, Assistant Mine Foreman, and Mine Examiner is an officer of the Commonwealth in the mine in which employed, for the suspension or revocation of such officials certificates and temporary suspension of said certificates. Also addresses recertification.

Anthracite Act (Section 1301, 1303, 1304, 1306, 1307, 1308) Criminal Sanctions:

Section 1301. Affidavit Presented to Judge of Court of Quarter Sessions

Any judge of the court of quarter sessions of the peace of the county in which the mine or colliery, at which the offense, act of omission as hereinafter stated has occurred, is situated, is hereby authorized and required, upon the presentation to him of the affidavit of any citizen of the Commonwealth setting forth that the operator or superintendent, or any other person employed in or about such mine or colliery had been negligently guilty of an offense against the provisions of this act, whereby a dangerous accident had resulted or might have resulted to any person or persons employed in such mine or colliery, to issue a warrant to the sheriff of said county, directing him to cause such person or persons to be arrested and brought before said judge, who shall hear and determine the guilt or innocence of the person or persons charged, and if convicted he or they shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), in all cases not otherwise provided for in this act, or an imprisonment in the county jail for a period not exceeding three months, or both, at the discretion of the court: Provided, That any defendant may waive trial before a judge as herein provided and at any time, at or before the time of such trial, demand a trial by a jury in the court of quarter sessions, in which case he may enter into a recognizance before said judge with such surety or sureties and in such sum as said judge may approve, conditioned for his appearance at the next court of quarter sessions to answer the charge against him and abide the orders of the court in the premises, meanwhile to be of good behavior and keep the peace, or in default of such recognizance to be committed to the county jail to await such trial.

Section 1303. Liable to Higher Penalty in Opinion of Court

Nothing in this act shall prevent any person from being indicted or liable under any other act to any higher penalty or punishment than I herein provided, and if the court before whom any such proceeding is had shall be of the opinion that proceedings ought to be taken against such persons under any other act, or otherwise, he may adjourn the case to enable such proceedings to be taken.

Section 1304. Offenses; Misdemeanors

All offenses under this act are declared to be misdemeanors and in default of payment of any penalty or costs by the party or parties sentenced to pay the same, he or they may be imprisoned for a period not exceeding three months and not less than thirty days.

Section 1305. Violation of Duty by Mine Inspector

For any violation of duty by the mine inspector prescribed by this act, he shall be deemed guilty of a misdemeanor and, upon conviction, be sentenced to pay a fine of not more than three hundred dollars (\$300) or be imprisoned for a period not exceeding three months, or either, or both, at the discretion of the court.

Section 1306. Fines Paid to County Treasury

All fines imposed under this act shall be paid into the county treasury for the use of the county.

Section 1307. Conviction or Acquittal Under Act Not Received in Evidence in Any Action for Damages

No conviction or acquittal under this act, in any complaint, shall be received in evidence upon the trial of any action for damages arising from the negligence of any owner, operator or superintendent or employee in any mine or colliery.

Section 1308. Criminal Penalties

Any person who shall intentionally or carelessly disobey any order given in carrying out the provisions of this act, or do any other act whatsoever, whereby the lives or the health of the persons employed, or the security of the mine or the machinery are endangered, or who neglects or refuses to perform the duties required of him by this act, or who makes any false statement in any report required by this act, or who is responsible for failure to comply with any decision made in accordance with this act, or who violates any of the provisions or requirements thereof, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in the court of quarter sessions of the county in which the misdemeanor was committed, unless otherwise specified hereinbefore, be punished by a fine not exceeding two hundred dollars (\$200), or imprisonment in the county jail for a period not exceeding three months, or both, at the discretion of the court.

Basis for decertification (criteria/procedures) – Bituminous:

The department may modify, suspend or revoke any of the above certifications under the act if it determines that the holder has done any of the following:

- Failed to comply with the act, a regulation under the act or any approval, standard or order under the act.
- Interfered with the safe and lawful operation of any mine.
- Engaged in unlawful conduct under this act.

Basis for retesting/recertification – Bituminous:

A mine official whose certificate has been revoked shall have the right after five years of work experience in an underground bituminous coal mine, two years of which must be in a working section, to be reexamined and upon receipt of a satisfactory score on the examination, the mine official shall be given another certificate of qualification.

Complete sections of the Bituminous Act related to administrative penalties, unlawful conduct, criminal penalties and certification actions as abbreviated above follow:

“ACT 55” Bituminous Coal Mine Safety Act (Sections 503, 510, 505, 511):**Section 503. Administrative penalties.**

- (a) Declaration of Threat – The following actions by mine officials are declared to pose an imminent and substantial threat to the health and safety of miners:
 - (1) Assigning an employee without training or proper certification.

- (2) Requiring or condoning a violation of this act, a regulation promulgated under this act or any approval, standard or order issued under this act.
 - (3) Failing to perform a required examination.
 - (4) Failing to address promptly the dangers identified through a mine examination or inspection by the department.
 - (5) Supplying inaccurate information to the department.
 - (6) Failing to notify the department as required by this act.
 - (7) Failing to de-energize electrical power as required by this act.
 - (8) Failing to evacuate the mine when required to do so by a provision in this act.
- (b) Penalty for mine officials and operator liability –
- (1) If the department finds that a mine official has engaged in any of the actions under subsection (a), the department may assess an administrative penalty of up to \$2,500 against the mine official. In every instance in which an administrative penalty is assessed against a mine official, the department may assess an administrative penalty of the same amount against the operator of the mine where the violations occurred.
 - (2) If the department finds that the operator directed or condoned an unsafe act or a violation of the act:
 - (i) The department may assess an administrative penalty of not less than \$10,000 and not more than \$200,000 against the operator; and
 - (ii) The individual that directed or condoned the action shall be removed from any position of command and control.
- (c) Nonexclusive remedy – Assessment of a penalty under this section does not preclude the department from exercising any other remedy available to it.
- (d) Factors – In determining the amount of a penalty, the department shall consider the following:
- (1) The degree to which the conduct was reckless or intentional.
 - (2) Whether an individual was fatally or seriously injured.
 - (3) The potential for the violation resulting in death or serious injury to an individual.
 - (4) Whether the conduct is in violation of an outstanding order.
 - (5) In the case of an operator, the economic benefit to the operator from not complying with the applicable requirements.
- (e) Practice and procedure – A penalty under this section is subject to:
- (1) 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of the Commonwealth agencies) and 7 Subch. A (relating to judicial review of the Commonwealth agency action); and
 - (2) 25 Pa. Code Ch. 1021 (relating to practice and procedures).
 - (3) The act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act.

Section 504. Unlawful conduct.

It is unlawful for a person to do any of the following:

- (1) Violate this act, a regulation under this act or any approval, standard or order under this act.
- (2) Cause or assist another in a violation under paragraph (1).
- (3) Hinder or threaten an agent or employee of the department in the course of performance of a duty under this act, including entry and inspection.
- (4) Do any of the following on mine property:
 - (i) Venture into areas with unsupported roof.
 - (ii) Fail to make required gas checks.
 - (iii) Work on energized equipment without de-energizing, locking out and tagging that equipment.
 - (iv) Change approved equipment without obtaining the department's approval.
 - (v) Circumvent a safety device.
 - (vi) Disable an alarm.
 - (vii) Possess or use alcohol, drugs or smoking materials in an unlawful manner on mine property.
 - (viii) Assign an employee without training or proper certification to perform the assigned work.

- (ix) Require or condone a violation of this act, a regulation under this act or any approval, standard or order under this act.
- (x) Require or condone performance of an unsafe act.
- (xi) Fail to perform a required examination.
- (xii) Fail to abate promptly the dangers identified through a mine examination or inspection by the department.
- (xiii) Supply inaccurate information to the department.
- (xiv) Fail to:
 - (A) notify the department as required by this act;
 - (B) de-energize electrical power as required by this act; or
 - (C) evacuate the mine when required.

Section 505. Criminal penalties.

- (a) **Prohibition** – A person commits a felony of the second degree if all of the following apply:
 - (1) The person:
 - (i) violates this act, a regulation under this act or any approval, standard or order under this act;
 - (ii) submits false information to the department; or
 - (iii) fails to notify the department as required by this act.
 - (2) The action or inaction under paragraph (1):
 - (i) either results in the death of or substantial bodily injury to an individual; or
 - (ii) creates a condition that poses a substantial likelihood of causing death of substantial bodily injury to an individual.

Section 510. Certification actions.

- (a) **Denial** – The department shall not issue a certification if, after investigation and an opportunity for an informal hearing, it finds that the applicant lacks the ability or intent to comply with this act.
- (b) **Sanctions** –
 - (1) The department may modify, suspend or revoke a certification under this act if it determines that the holder has done any of the following:
 - (i) Failed to comply with this act; a regulation under this act or any approval, standard or order under this act.
 - (ii) Interfered with the safe and lawful operation of any mine.
 - (iii) Engaged in unlawful conduct under this act.
 - (2) An appeal to the Environmental Hearing Board shall be treated as a petition for a supersedeas.
 - (3) An action under this subsection shall be taken only if the monetary penalty under section 503 is inadequate.
 - (4) This subsection is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of the Commonwealth agency action) and the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act.
- (c) **Retesting** – A mine official whose certificate has been revoked shall have the right after five years of work experience in an underground bituminous coal mine, two years of which must be in a working section, to be reexamined and upon receipt of a satisfactory score on the examination, the mine official shall be given another certificate of qualification.
- (d) **Other remedies** – This section is in addition to any other remedy afforded the department under this act or any other provision of law.

Section 511. Withdrawal of certification.

If a superintendent receives information that any mine foreman, assistant mine foreman, mine examiner or mine electrician neglects duties or is incapacitated, the superintendent shall make a thorough investigation. If the superintendent finds evidence to sustain neglect or incapacity, the superintendent shall suspend the individual and inform the department.

TENNESSEE –

Basis for decertification:

The commissioner of labor and workforce development may revoke a mine foreman certificate upon a finding that the holder has been guilty of incompetence in the performance of the holder's duties or for any cause for which issuance of a certificate could have been refused.

VIRGINIA –

Decertification criteria/procedures:

A personal violation (intentional violation of safety laws) can result in an individual being required to appear before the Board of Coal Mining examiners (Board) for review of the violations and actions regarding such violation. This violation can result in decertification. Ninety days after the decertification the individual may request an appearance before the Board to resolve all issues related to the decertification. Decertification requires the individual to complete all certification requirements established by the Board the MAY result in retesting.

An individual refusing to submit to a drug and alcohol test or testing positive for such test will have their certification put into suspension until their case is heard by and cleared with the Board. This could also result in revocation, which would require retesting for all certifications. Also, as stated in Question 42, if a certified mine foreman fails to complete continuing education requirements, their certification will go into suspension for two years, and if continuing education requirements are not met within the two years will result in revocation.

Criteria for decertification include: failed to comply with continuing education requirements within period following suspension of certificate; intoxicated while in duty status or used controlled substance without prescription of a licensed prescriber; neglected duties; violated any provision of this Act or any other Virginia mining law; failed to display thorough understanding of roof control plan and ventilation for area of mine for which responsible when examined onsite by a mine inspector.

WEST VIRGINIA –

Revocation of West Virginia Certification (criteria/procedures):

Basis for decertification includes: charge of breach of duty (neglect, refusal, or failure to perform any duty mandated pursuant to West Virginia code) by mine inspector or the Director, West Virginia Office of Mine Safety, Health, and Training; discharge for failing a substance abuse test; engagement in any act or activity interfering with the safe and lawful operation of any mine. Failure to complete the continuing education requirements results in suspension of certification.

A mine inspector or the director may charge a mine foreman, assistant mine foreman, fire boss or any other certified person with neglect or failure to perform any duty mandated pursuant to the WV Certification Policy Manual. The charge shall state the name of the person charged, the duty or duties he or she is alleged to have violated, the approximate date and place so far as is known of the violation of duty, the capacity of the person making the charge, and shall be verified on the basis of information and belief or personal knowledge. The charge is initiated by filing it with the director or with the board of appeals. A copy of any charge filed with the board of appeals or any member thereof, shall be transmitted promptly to the director. The director shall maintain a file of each charge and of all related documents which shall be open to the public.

The board of appeals evaluates the charge and determines whether or not a violation of duty has been stated. In making such a determination the board shall evaluate all documents submitted to it by all persons to determine as nearly as possible the substance of the charge and if the board of appeals is unable to determine the substance of the charge it may request the director to investigate the charge. Upon request, the director shall cause the charge to be investigated and report the results of the investigation to the board of appeals within ten days of the director's receipt of the charge. If the board determines that probable cause exists to support the allegation that the person charged has violated his or her duty, the board by the end of the twenty-day period shall set a date for hearing which date shall be within eighty days of the filing of the charge.

The chair of the board has the power to administer oaths and subpoena witnesses and require production of any books, papers, records, or other documents relevant or material to the appeal inquiry.

Any person charged who without just cause refuses or fails to appear before the board or cooperate in the investigation or gathering of evidence shall forfeit his or her certificate or certificates for a period to be determined by the board, not to exceed five years, and such certificate or certificates may not be renewed except upon a successful completion of the examination prescribed by the law for mine foremen, assistant mine foremen, fire bosses or other certified persons.

The board may suspend or revoke the certificate or certificates of a charged party for a minimum of thirty days or more including an indefinite period or may revoke permanently the certificate or certificates of the charged party, as it sees fit, subject to the prescribed penalties and monetary fines imposed elsewhere in this chapter.

Revocation in other states:

No person whose certification is suspended or revoked under this provision can perform any duties under any other certification issued under the appropriate chapter in the WV Certification Policy Manual, during the period of the suspension imposed herein.

Any person whose license, certificate or similar authority to perform any supervisory or fire boss duties in another state has been suspended or revoked by that state cannot be certified under any provision of the WV Certification Policy Manual during the period of such suspension or revocation in the other state.

WYOMING –

Decertification criteria/procedures:

Basis for decertification includes: intoxication while in duty status; mental disabilities; neglect of duty; or actions that pose a serious threat to the health and safety of miners.

Wyoming has a procedure for decertification which was developed by the mining council. The appeal process that individuals or companies must follow is also included.

Question 44: “How does the state notify mine operators and other states that it has decertified or recertified a person to conduct mine examinations? What types of actions are taken by other states based on your state’s decertification?”

ALABAMA –

Notification of mine operators:

The drug sanctions list is on our agency’s website for the public or companies to view.

Notification of other states:

Decertifications that occur as a result of drug violations are shared via email with the states with which we have a reciprocal agreement (West Virginia and Virginia).

COLORADO –

Notification of other states:

Colorado does not notify other states.

INDIANA –

Notification of mine operators:

Indiana has not had anyone decertified. If the state were to decertify an individual the state would notify all of the mines in the state by letter, phone, and e-mail of the findings. Since Indiana has not had anyone decertified, there is no public record at the time of writing this response. However, if a person were to be decertified, there would be a public record. All records in the Indiana Bureau of Mines are public record and available upon request.

Notification of other states:

State-to-state notification: When a person from Indiana is applying for certification we receive a call from the state where they are applying inquiring as to whether the person is in good standing. Indiana does the same when someone from another state is applying for certification in Indiana.

NEW MEXICO –

Notification of mine operators and other states:

New Mexico notifies the mine operators by sending a copy of the Notice of Action to the operator and to the MSHA Field Office Supervisor. We do not notify other states. In discussions with MSHA 4 years ago the state programs requested that MSHA initialize a national data base to which the states could report revocations-decertification actions. The states could then report and access the database when considering certification actions. To date MSHA has not undertaken any activity in this regard. If New Mexico is presented with a certification from another state, that state agency is contacted to check on the standing of the certification.

OHIO –

Notification of mine operators and other states:

Ohio does not initiate communications to other states or mine operators when an Ohio Foreman of Mine Foreman has been decertified for unsafe conduct, infraction of the mining law, or due to absence from the mining industry as prescribed in Ohio Senate Bill 323 of 2008. However, Ohio will provide any known information and certification status of any individual immediately upon request by any other state mining agency, mine operator, or MSHA.

Note re. notification:

As noted above in question 43, as of November 2013 when Ohio previously responded to an MSHA request for information on state certification, Ohio had only issued a single de-certification over the previous ten years. Therefore, this has not been a significant issue in Ohio. If it were to become more pronounced, Ohio, of course,

would develop protocol to properly address notification with the industry and other state programs. Ohio does provide letters of good standing for other state programs upon request.

PENNSYLVANIA –

Notification of other states:

Notification is made both verbally and in writing to States and MSHA upon decertification or criminal conviction.

VIRGINIA –

Notification of mine operators and other states:

If a miner is decertified because of a mine violation, the mine operator is involved in these violations (i.e. a substance abuse violation is reported by the mine operator).

We notify our reciprocal states (West Virginia and Kentucky) of any suspension or decertification and they notify us with the same type of information. The same process is used for recertification.

Question 45: “What criteria should a miner meet to be a certified person to conduct mine examinations under 30 CFR 75.100, e.g. education, knowledge, training, and other skills?”

NEW MEXICO –

As the New Mexico State Mine Inspector it is my belief that the New Mexico criteria are reasonable expectations. I also believe that the states should set the requirements that they believe are necessary according to the conditions prevailing in that state.

OHIO –

(Specifics found in Ohio answer to Question 42.)

Ohio firmly and without reservation believes that its current law and other requirements previously noted are completely adequate in regard to a person being capable, able, and legally permitted to conduct the required examinations specified in Ohio Mine Safety law and the Code of Federal Regulations.

PENNSYLVANIA –

In order to be eligible to sit for a certification examination the following shall apply:

Experience: An applicant must demonstrate the following levels of work experience in an underground bituminous coal mine. For each of these certification categories, a minimum of two years’ experience must have been in a working section –

- **Mine foreman or mine electrician**, 5 years;
- **Assistant mine foreman**, 4 years;
- **Mine examiner**, 3 years.

Degree: if an applicant holds a bachelor’s degree in mining engineering or an associate degree in mining technology from a recognized institution of higher education in the case of a mine foreman, assistant mine foreman or mine examiner, or a bachelor’s degree in electrical engineering or an associate degree in electrical technology from a recognized institution of higher education in the case of a mine electrician, in order to be eligible to sit for a certification examination, the following shall apply. For each of these certification categories, a minimum of one year’s experience must have been in a working section –

- **Mine foreman of mine electrician**, 4 years
- **Assistant mine foreman**, 3 years
- **Mine examiner**, 2 years

Required Knowledge:

- **Mine foremen** – Individual must demonstrate to the department satisfactory evidence of their ability to perform the duties of mine foreman and must have received training by individuals approved by the department in determining the presence of explosives and noxious gases, and in the use and mechanics of all gas detection devices.
- **Assistant mine foremen** – Individual must demonstrate to the department satisfactory evidence of their ability to perform the duties of assistant mine foreman and must have received training by individuals approved by the department in determining the presence of explosive and noxious gases, and in the use and mechanics of all gas detection devices.
- **Mine examiners** – Individual must demonstrate to the department satisfactory evidence of their ability to perform the duties of mine examiners and who have received training by individuals approved by the department in determining the presence of explosive and noxious gases, and in the use and mechanics of all gas detection devices.
- **Mine electrician** – Individual must demonstrate to the department satisfactory evidence of their ability to perform the duties of mine electrician and must have received training by individuals approved by the department in determining the presence of explosive and noxious gases, and in the use and mechanics of all gas detection devices.

Exam:

- **Mine foremen** – Must receive an average of at least 80% in the examination.
- **Assistant mine foremen** – Must receive an average of at least 70% in the examination.
- **Mine examiners** – Must receive an average of at least 75% in the mine examiners’ examination.
- **Mine electrician** – Must receive an average of at least 75% in the mine electricians’ examination.

Skills: All applicants shall be able to read and write the English language intelligently.

Other: All applicants shall furnish the department with a notarized statement from previous employers setting forth the length of service and type of work performed in the different mines.

Two Week Training Period: All applicants who have satisfactorily passed examinations, after being certified but before assuming their duties as mine foremen, mine electricians, assistant mine foremen or mine examiners, shall accompany a certified mine foreman or certified assistant mine foreman for not less than two weeks for training purposes in accordance with a training program submitted by the operator and approved by the department. Any applicant who has been granted a mine official certificate prior to the effective date of the act need not undergo this training. The record of such training shall be maintained at the mine.

Certificates Granted Prior to the Date of the Act: Certificates of qualification or service granted prior to the effective date of the act shall have equal value with certificates of qualification granted under the act.

VIRGINIA –

We feel every miner should meet the qualifications that we require in Virginia to be a certified mine examiner. At least 23 years of age; five years of mining experience, three of which should be underground; credit for mining engineering degrees or degree in mining technology. The Virginia examination is an excellent measurement of their mining knowledge and training.

Question 46: “What criteria and procedures would you recommend for the suspension or decertification (revocation) of a person’s certification? What criteria and procedures would you recommend for recertification? Please include time frames for recertification.”

NEW MEXICO --

As the New Mexico State Mine Inspector it is my belief that the New Mexico criteria for decertification-revocation are reasonable expectations. Further, this criteria as well as criteria for recertification should be set by the states based on the requirements that they believe are necessary according to the conditions prevailing in that state. The certifying agency should also be given latitude to exercise judgment according to the circumstances that initiated the decertification-revocation action. There should not be set timeframes. Again, depending on the circumstances, recertification may never be an option.

OHIO –

See Ohio Response to Question 41.

PENNSYLVANIA –

Criteria for suspension/decertification/recertification:

It is unlawful for a person to do any of the following:

- (5) Violate this act, a regulation under this act or any approval, standard or order under this act.
- (6) Cause or assist another in a violation under paragraph (1).
- (7) Hinder or threaten an agent or employee of the department in the course of performance of a duty under this act, including entry and inspection.
- (8) Do any of the following on mine property:
 - (xv) Venture into areas with unsupported roof.
 - (xvi) Fail to make required gas checks.
 - (xvii) Work on energized equipment without de-energizing, locking out and tagging that equipment.
 - (xviii) Change approved equipment without obtaining the department’s approval.
 - (xix) Circumvent a safety device.
 - (xx) Disable an alarm.
 - (xxi) Possess or use alcohol, drugs or smoking materials in an unlawful manner on mine property.
 - (xxii) Assign an employee without training or proper certification to perform the assigned work.
 - (xxiii) Require or condone a violation of this act, a regulation under this act or any approval, standard or order under this act.
 - (xxiv) Require or condone performance of an unsafe act.
 - (xxv) Fail to perform a required examination.
 - (xxvi) Fail to abate promptly the dangers identified through a mine examination or inspection by the department.
 - (xxvii) Supply inaccurate information to the department.
 - (xxviii) Fail to:
 - (A) notify the department as required by this act;
 - (B) de-energize electrical power as required by this act; or
 - (C) evacuate the mine when required.

Decertification actions:

- (e) Denial – The department shall not issue a certification if, after investigation and an opportunity for an informal hearing, it finds that the applicant lacks the ability or intent to comply with this act.
- (f) Sanctions –
 - (5) The department may modify, suspend or revoke a certification under this act if it determines that the holder has done any of the following:

- (iv) Failed to comply with this act; a regulation under this act or any approval, standard or order under this act.
- (v) Interfered with the safe and lawful operation of any mine.
- (vi) Engaged in unlawful conduct under this act.
- (6) An appeal to the Environmental Hearing Board shall be treated as a petition for a supersedeas.
- (7) An action under this subsection shall be taken only if the monetary penalty under section 503 is inadequate.
- (8) This subsection is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of the Commonwealth agency action) and the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act.
- (g) Retesting – A mine official whose certificate has been revoked shall have the right after five years of work experience in an underground bituminous coal mine, two years of which must be in a working section, to be reexamined and upon receipt of a satisfactory score on the examination, the mine official shall be given another certificate of qualification.
- (h) Other remedies – This section is in addition to any other remedy afforded the department under this act or any other provision of law.

Recertification:

Retesting – A mine official whose certificate has been revoked shall have the right after five years of work experience in an underground bituminous coal mine, two years of which must be in a working section, to be reexamined and upon receipt of a satisfactory score on the examination, the mine official shall be given another certificate of qualification.

VIRGINIA –

Same criteria/procedures we use in Virginia now. See answer to Question 43.

Time frames should be determined the same way we determine them in Virginia now – ruling by the Board of Coal Mine Examiners.

Question 47: “What are the advantages, disadvantages, and administrative costs of having uniform criteria and procedures for the certification, decertification, and recertification of persons to conduct mine examinations in underground coal mines?”

NEW MEXICO –

Advantages and disadvantages of uniform criteria and procedures for certification, decertification, and re-certification:

The state programs who are Interstate Mining Compact Commission (IMCC) members have been through several sets of discussions on this issue with MSHA. New Mexico sees no advantages to uniform criteria and procedures. The states are in a better position to determine the criteria according to the conditions prevalent in the state. IMCC did request that MSHA create a national database that the states could utilize to register their certified coal mine officials and to register decertification-revocation actions. However this request has not been acted upon by MSHA.

Disadvantages are huge. The state’s certification language is set in statute and regulation. Any changes that the federal government would make to instituted “common core requirements” would create large cost to state governments to make the necessary changes within their respective legislatures and administrative law divisions. I would estimate New Mexico’s cost at \$100,000.

There is also no advantage along the lines of reciprocity. It is realized that this may be an issue in the West Virginia, western areas of Virginia and Eastern Kentucky areas and perhaps in other contiguous eastern states. It is not an issue in the west. Mining conditions vary greatly according to geography and the states should have the latitude to determine the requirements for certification.

I know of no circumstances where the certification requirements of the states have resulted in a single fatality. Certified individuals failing to perform their duty is, and will always be an area that has and will continue to cause accidents and possible fatalities. However that has nothing to do with the process. While there have been cases of false certifications, nothing in the certification process can change cases of intentional fraud or forgery of certification.

OHIO –

Advantages of uniform criteria and procedures for certification, decertification, and re-certification:

When people transfer from state to state the certification/qualification requirements to conduct the examination having been similar in nature will provide for uniform performance levels and skill levels that will conversely provide uniform results. A nationally maintained database could or would provide for spontaneous verification that could serve to ensure that the individual is, in fact, certified, and in what particular states he or she holds that certification and, just as importantly, that the individual’s certification is not under suspension or revocation in any other state.

Disadvantages of uniform criteria and procedures for certification, decertification, and re-certification:

These could be that some agency or entity must incur, take on, or assume the administrative and equipment costs. This would include staffing levels of such for the effective gathering and maintenance of the information and records from all states. An important point as Ohio sees it is that should a ‘minimum uniform standard’ be put into place, this standard or requirement should in no case, way, shape, or form be forced upon a state whose standards already exceed any newly proposed minimum standard. No state should be forced, compelled, or required to accept an individual into its state mining workforce with a ‘rubber stamp’ as being qualified to conduct these important safety examinations, and who does not meet or exceed the state standard as specifically set forth in the criteria of that state’s Certification Program.

Further comment re. uniform criteria and procedures:

These requirements, if set forth across the board for all states, **should define the minimum standard only**. Any requirements or standards above and beyond the uniform criteria or standard shall remain in place for that state and continue to be a requirement to be met by those wishing to become certified in that state.

Perhaps a Memorandum of Understanding (MOU) might be explored as a practical vehicle for accomplishing the parameters of standards, as is currently the case with the Coal Mine Electrician state certification and MSHA qualification MOU that has existed between Ohio and MSHA since signed by Assistant Secretary of Labor Mr. David Lauriski and EMRM Mine Safety manager Mr. Jerry L. Steward in late 2002 and early 2003.

PENNSYLVANIA –

The Pennsylvania certification/decertification program is one of the more stringent programs nationwide. I am not opposed to national uniform minimum standards, as long as the states that have programs continue to administer and control the programs. I am not opposed to a renewal/continuing education component, but it will require additional funding to expand our existing program. A national registry would be good and I would support an MSHA registry for certified persons.

The states need to control certification, decertification and if required a recertification process. A funding stream would be very helpful.

VIRGINIA –

There would be good advantage to having uniform criteria for continuity between the states and for workers who move from one state to another to find jobs, and in if individuals are decertified in one state it would keep them from working in any coal states until they cleared up the reason for their decertification.

We feel our system in Virginia works just as well as having uniform criteria would through the reciprocity with out neighboring states between which workers move back and forth to find coal jobs. It also works well if a miner is decertified. The reciprocal states are immediately notified and take the same actions as Virginia. Once the action that caused the decertification is corrected by the individual, then they are reinstated in the other states as well as in Virginia.