

1501:14-2-07 **Certified mine foreperson.**

(A) ~~The operator of a surface mining operation shall employ either a certified mine foreperson or a person who is qualified in accordance with division (E) of section 1514.47 of the Revised Code and rule 1501:14-2-08 of the Administrative Code to conduct examinations of surface mining operations for purposes of 30 C.F.R. part 56, as amended.~~

(1) The operator of a surface mining operation shall employ a certified mine foreperson to be in charge of the conditions and practices at the mine and to be responsible for conducting examinations of the surface mining operation under 30 C.F.R. part 56, as amended.

(2) Examinations of surface mining operations for the purposes of 30 C.F.R. part 56, as amended, shall be conducted by one of the following:

(a) A certified mine foreperson;

(b) A person who is qualified to conduct such examinations as provided in division (D) of section 1514.47 of the Revised Code and paragraph (C) of rule 1501:14-2-08 of the Administrative Code;

(c) A person designated by the certified mine foreperson as a competent person.

(3) For purposes of this rule, a competent person is a person who has been trained in accordance with 30 C.F.R. part 46 and been determined by a certified mine foreperson to have demonstrated the ability, training, knowledge, or experience necessary to perform the duty to which the person is assigned. A person is not a competent person if the chief demonstrates, with good cause, that the person does not have the ability, training, knowledge, or experience necessary to perform that duty.

(4) The operator of a surface mining operation shall maintain records demonstrating that a competent person designated by a certified mine foreperson has the ability, training, knowledge, or experience to perform the duty to which the person is assigned as well as records of the competent person's training in accordance with 30 C.F.R. part 46. The operator shall make the records available to the chief upon request.

(B) Qualifications, fees and procedures governing the examination for certification as a mine foreperson for surface mines.

(1) A person who applies for certification as a mine foreperson shall be able to read and write the English language and shall have at least two years' experience working with or under the direction of a certified mine foreperson.

- (2) Persons may be certified for either or both of the following:
- (a) Sand and gravel mine foreperson for surface mining operations permitted under Chapter 1514. of the Revised Code and these rules which do not use explosives.
 - (b) Quarry mine foreperson, which shall be valid for all surface mining operations permitted under Chapter 1514. of the Revised Code and these rules.
- (3) An applicant for certification as a mine foreperson shall file an application for certification with the chief, including a notarized affidavit establishing the applicant's qualifications as set forth in paragraph (B)(1) of this rule, to take the certified mine foreperson examination. An applicant may apply for certification as both a sand and gravel foreperson and a quarry mine foreperson. Such application and affidavit shall be made on a form prescribed by the chief.
- (4) The chief shall conduct mine foreperson certification examinations as often as practical in accordance with these rules.
- (5) The chief shall grade each examination, and certify an applicant attaining a grade of seventy per cent or higher on each portion of the examination.
- (6) An applicant not attaining a passing grade on one part of the examination may apply to be retested on that part only.
- (7) An applicant not attaining a passing grade on two or more parts of the examination shall wait at least thirty days before reapplying for examination. An applicant not attaining a passing grade on two or more parts of the examination shall retake the entire examination.
- (8) Each applicant for examination shall pay a non-refundable fee of twenty-five dollars, submitted with each application for examination. This fee shall be paid by check or money order payable to "~~Treasurer, State of Ohio~~ Treasurer of State." Any moneys collected under this rule shall be paid into the state treasury to the credit of the surface mining fund created in section 1514.06 of the Revised Code.
- (9) A certificate issued under paragraph (B) of this rule after September 29, 2015, shall not expire ~~five years after the date of issuance unless it is renewed in~~

accordance with paragraph (E) of this rule unless, as provided in division (C)(1) of section 1514.47 and paragraph (E)(3) of this rule, the certificate holder has not been employed in a surface mining operation for five consecutive years.

- (C) Temporary certification of mine foreperson. An ~~applicant~~operator may submit a request to the chief, on a form provided by the chief, asking for temporary certification for one of his or her employees who is within six months of having accumulated the required experience for certification as a sand and gravel foreperson or a quarry mine foreperson so that the employee may submit a request to the chief, on a form provided by the chief, to act in the capacity of a certified sand and gravel foreperson or a certified quarry mine foreperson on a temporary basis until such time as the applicant has accumulated the minimum necessary experience.
- (1) The recipient of a temporary certification may apply for and take the examination for certification, administered under paragraph (B) of this rule, during the period within which the individual has a temporary certification. If the applicant passes the examination and, upon completion of all eligibility requirements, submits the required information on a notarized form provided by the chief documenting the accrual of the balance of the required experience, the chief shall issue the applicant a mine foreperson certification shall be issued by the chief.
- (2) Temporary certification as a mine foreperson shall be valid for a maximum of six months. If the individual holding a temporary certification does not pass the examination by the end of the six-month period, the temporary certification shall expire and the applicant shall cease performing all duties of a certified mine foreperson.
- (3) If the individual holding a temporary certification has applied to take the examination for certification and the application to take the examination has been postmarked by midnight of the expiration date of the temporary certification, the temporary certification shall remain in effect until the date of the next certification examination scheduled by the division of mineral resources management. The division will notify the applicant of the examination date. If the applicant does not take the next scheduled examination or does not pass that examination, the temporary certification shall expire and the applicant shall cease performing all duties of a certified mine foreperson.
- ~~(3)~~(4) No person shall be eligible to receive temporary certification more than one time unless the chief determines that exigent circumstances warrant otherwise.

- ~~(4)~~(5) The chief may waive any part of the requirements for temporary certification if the chief determines exigent circumstances so warrant.
- (D) A copy of each mine foreperson certificate and temporary certificate shall be kept at the mine site and made available to the chief upon request.
- (E) Qualifications, fees and procedures governing the ~~renewal~~reissuance and expiration of mine foreperson certification. ~~A certificate issued under paragraph (B) of this rule may be renewed, provided that the applicant verifies that all required training pursuant to 30 C.F.R. part 46, as amended, has been completed and any other requirements for renewal have been satisfied.~~
- (1) ~~A mine foreperson certificate issued pursuant to section 1514.47 of the Revised Code and this rule shall expire five years after issuance of the certificate. If a person holds a certificate issued under paragraph (B) of this rule that has not expired prior to September 29, 2015, the chief, upon request, shall reissue to the person a certificate that does not expire.~~
- (2) ~~A mine foreperson certificate issued pursuant to section 1514.47 of the Revised Code and this rule may be renewed six months prior to expiration of such certification upon completion of the following: If a person holds a certificate issued under this rule that expired on or after April 7, 2012, and has not been issued a new certificate prior to September 29, 2015, the chief, upon request, shall issue to that person a certificate that does not expire, provided that the person is in compliance with all other applicable requirements established in Chapter 1514. of the Revised Code and rules adopted under it. An applicant for reissuance of a mine foreperson certification pursuant to this paragraph shall file an application for reissuance with the chief, on a form prescribed by the chief, and pay a non-refundable fee of twenty-five dollars. This fee shall be paid by check or money order payable to "Ohio Treasurer of State."~~
- ~~(a) An applicant for recertification shall file an affidavit with the chief establishing the applicant's qualifications for recertification. Such affidavit shall be made on a form prescribed by the chief and notarized prior to submission.~~
- ~~(b) An applicant for recertification shall provide the chief with copies of training records verifying that the applicant has received annual refresher training, as required in rules adopted and incorporated by reference pursuant to division (A) of section 1514.40 of the Revised Code, each year during the five preceding years.~~
- ~~(c) An applicant for recertification shall pay a non-refundable fee of~~

~~twenty five dollars, submitted with each application for renewal. This fee shall be paid by check or money order payable to "Treasurer, State of Ohio." Any moneys collected under this paragraph shall be paid into the state treasury to the credit of the surface mining fund created in section 1514.06 of the Revised Code.~~

~~(d) The chief may issue a certificate of renewal to an applicant completing all requirements of division (C) of section 1514.47 of the Revised Code and this rule.~~

(3) ~~A foreperson or mine foreperson certificate issued prior to April 6, 2007, shall expire on April 6, 2012. A person holding such a certificate shall be eligible for renewal provided he or she meets the requirements of section 1514.47 of the Revised Code and this rule.~~A mine foreperson certificate issued pursuant to section 1514.47 of the Revised Code and this rule shall not expire unless the certificate holder has not been employed in a surface mining operation for five consecutive years. If the certificate holder has not been employed in a surface mining operation for five consecutive years, the certificate holder may retake the mine foreperson examination and fulfill the other certification requirements of division (B) of section 1514.47 of the Revised Code and paragraph (B) of this rule, or may petition the chief to accept past employment history in lieu of being employed in a surface mining operation for five consecutive years. The petition shall be made on a form prescribed by the chief and shall include a notarized affidavit establishing the certificate holder's qualifications as set forth in paragraph (B)(1) of this rule. The certificate holder shall submit with the petition copies of training records verifying that within the past twelve months the certificate holder has received annual refresher training as required in rules adopted and incorporated by reference pursuant to division (A) of section 1514.40 of the Revised Code. The chief shall grant or deny the petition by issuance of an order. If the chief grants the petition, the certificate holder shall pay a non-refundable fee of twenty-five dollars, paid by check or money order payable to "Ohio Treasurer of State," and the chief shall reissue the certificate. If the chief denies the petition, the certificate holder may apply for a new certificate by retaking the mine foreperson examination and fulfilling the other certification requirements of division (B) of section 1514.47 of the Revised Code and paragraph (B) of this rule.

(4) ~~A person not renewing his or her certification prior to its expiration shall cease performing all duties of a certified foreperson upon expiration of the certificate.~~If a certificate holder has not been employed in a surface mining operation for five consecutive years, he or she shall not perform the duties of a certified mine foreperson unless the chief reissues his or her certificate pursuant to division (C)(1) of section 1514.47 of the Revised Code and paragraph (E)(3) of this rule or the chief issues him or her a new certificate

pursuant to division (B) of section 1514.47 of the Revised Code and paragraph (B) of this rule.

~~(5) A person for whom certification has expired must apply for and pass the examination conducted under paragraph (B) of this rule for the desired certification prior to performing the duties requiring certification.~~

(F)

(1) If a certificate, including a temporary certificate, issued under this rule is suspended, the certificate shall not be renewed or reissued until the suspension period expires and the person whose certificate is suspended successfully completes all actions required by the chief. If an applicant's license, certificate, or similar authority that is issued by another state to perform specified mining duties is suspended or revoked by that state, the applicant shall be ineligible for a certification test or for renewal or reissuance of a certificate, including a temporary certificate, in this state during that period of suspension or revocation.

(2) A certificate, including a temporary certificate, issued under this rule that has been revoked shall not be renewed or reissued.

(G) If a person who has been certified by the chief under section 1514.47 of the Revised Code and this rule purposely violates Chapter 1514. of the Revised Code or Chapters 1501:14-1 to 1501:14-6 of the Administrative Code, the chief may suspend or revoke the certificate after an investigation and hearing conducted in accordance with Chapter 119. of the Revised Code are completed.

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CERTIFIED ELECTRONICALLY

Certification

08/12/2016

Date

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