

IC 22-10-3

Chapter 3. Administration; Certification of Certain Mine Workers

IC 22-10-3-1

Definitions

Sec. 1. As used in this article:

"Active workings" means all places in a mine that are ventilated and inspected regularly.

"Belt examiner" means an individual designated by the mine foreman to perform the functions as required by 30 CFR Part 75 in connection with examinations to ensure that the belt, belt drives, dump points, air movement, roof, and ribs of a mine are in safe condition.

"Board" refers to the mining board established under IC 22-10-1.5-2.

"Commercial mine" means any underground mine from which coal is produced for sale, exchange, or commercial use.

"Director" means the director of the bureau of mines and mine safety established under IC 22-1-1-4.

"Hoisting engineer" means an individual who is capable of transporting people and material in and out of a mine by means of a hoist.

"Interested persons" means the director, safety personnel designated by the operator, state and federal coal mine inspectors, and, to the extent required by law, any other person.

"Mine" means an underground commercial coal mine.

"Mine examiner" means a properly certified person designated by the mine foreman to examine the mine for gas and other dangers. A mine examiner may temporarily act as a section foreman if designated to act as such by the mine foreman.

"Mine foreman" means the person charged with the responsibility of the general supervision of the underground working of a mine and the persons employed in the mine and for the health and safety of those employees.

"Mine inspector" means the person appointed to assist in administering this article.

"Mine Safety Administration" refers to the Mine Safety and Health Administration, United States Department of Labor.

"Mining laws" means:

- (1) this article;
- (2) IC 22-1-1-5(a); and
- (3) 30 CFR part 75.

"Operator" means an individual, firm, association, partnership, limited liability company, or corporation operating an underground coal mine or any part of a mine.

"Shot-firer" means a properly certified person designated by the mine foreman to perform the functions as required in this article in connection with breaking down coal or rock.

(Formerly: Acts 1955, c.168, s.15; Acts 1975, P.L.257, SEC.1.) As amended by Acts 1979, P.L.231, SEC.1; P.L.37-1985, SEC.47;

*P.L.243-1987, SEC.1; P.L.112-1992, SEC.5; P.L.8-1993, SEC.295;
P.L.35-2007, SEC.12.*

IC 22-10-3-2

Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-3-3

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-4

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-5

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-6

Director; powers and duties; records; inspection report

Sec. 6. (a) The director shall devote the director's attention to the duties of the office during working hours and is subject to call at all times. The director and any mine inspector funded by the general assembly are authorized to enter, examine, and inspect all commercial coal mines and facilities.

(b) The director shall have full direction of the official activities of any mine inspector and shall be responsible therefor.

(c) The director and each mine inspector shall have power, and it is their duty, to stop immediately the operation of any coal mine or part thereof when any dangerous or unlawful condition exists. However, where conditions exist justifying the director or the mine inspector to do so, the director or mine inspector shall grant a reasonable period of time for making necessary repairs. Where a stop in operation is enforced, such director and mine inspector shall be empowered to subsequently allow such mine or part of a mine to be reopened when the dangerous or unlawful conditions have been remedied or removed. If the operator or a workman believes that an inspector has acted illegally in citing violations of mining law, they may appeal to the director for relief from such citation. The director may grant or deny such relief after a hearing, at which all interested parties have been notified of such hearing and given an opportunity to present evidence in support of their contentions.

(d) The director shall keep a properly indexed permanent record of all inspections made by the director and the mine inspector, and copies of all reports relating to coal mines shall be kept on file, and all such records shall be open to inspection by the public, and shall be laid before the governor at any time upon the request of the governor. The director shall cause:

(1) within sixty (60) days of the date of the inspection,

inspection reports; and
(2) for two (2) years, all reports relating to coal mines;
to be posted on the web site maintained by the bureau of mines and
mine safety created under IC 22-1-1-4(1).

(e) The director is empowered to revoke, in writing, any order issued by a mine inspector for the purpose of stopping the operation of a mine or part thereof. However, such revocation of an order shall not be made unless and until the director has made a personal examination of the mine or part thereof affected and determined it to be in a safe condition to operate.

(f) The director or mine inspector shall make a personal inspection of each mine in this state:

- (1) at least once every three (3) months, or more often if practicable, while the mine is in operation;
- (2) whenever any danger to the workmen may exist; or
- (3) whenever called upon to do so by the workmen.

During a regular inspection, the director or inspector shall have the authority to inspect the surface plant; every working place in the mine; all active haulageways, travelways, and airways in their entirety; entrances to abandoned workings; accessible old workings; escapeways and all other places where individuals work or travel; electric equipment and installations; first aid equipment; ventilation facilities; communications installations; roof and rib conditions; and blasting practices, etc. The director or inspector shall have the authority to measure the volume of air at the intake and return of the main ventilating current and of each split, and the amount passing through the last breakthrough in each pair or set of entries, and designate to the mine foreman where the director or inspector shall measure the currents of air as required by the mining laws of this state. In mines operating more than one (1) shift in a twenty-four (24) hour period, the director or inspector shall devote sufficient time to the second and third shift to determine conditions and practices related to the health and safety of the employees. The director or inspector shall make tests for gas and oxygen deficiency in each place that the director or inspector is required to inspect in the mine. Time shall be made available during an inspection for interaction with the employees of the mine by the director or the inspector to ascertain the familiarity of the employees with self-rescuers and accessible escapeways.

(g) The director or mine inspector making an inspection of a mine shall make an accurate report covering such inspection, showing:

- (1) the date of inspection and actual time required to make the inspection;
- (2) the condition in which the mine is found;
- (3) the extent to which the mining laws are violated;
- (4) the progress made in the improvement of the mine, where such progress relates to the health and safety of the employees;
- (5) the number of fatal injuries and the number of nonfatal lost-time injuries resulting from accidents in and around the mine, and their cause; and

(6) in case any violation of the mining laws is found, the specific section or sections violated, with recommendations for correcting them, and the action taken to eliminate them.

(h) The director or mine inspector making an inspection of a mine shall within three (3) days after the completion of the inspection, deliver:

(1) one (1) copy of the inspection report on the mine to the operator, superintendent, or mine foreman of the mine inspected; and

(2) one (1) copy to be posted within the three (3) day limit on a bulletin board at a prominent place on the premises where it can be conveniently read by the employees. If corrective action is implemented, the report shall remain on the bulletin board for thirty (30) days. If corrective action is not implemented, the report shall not be removed from the bulletin board until the report of the succeeding examination is posted.

The director or mine inspector shall keep the mine foreman or superintendent informed as much as is practicable of any violation or other unsafe condition as the regular inspection progresses. In instances where, in the opinion of the mine inspector, an imminent or serious disaster hazard exists, such inspector shall report the same to the director by the quickest available means.

(i) It shall be the duty of the director and mine inspectors to enforce the mining laws of this state and the mine inspectors shall perform such other official duties required by the director as may be necessary to secure full compliance with the mining laws of this state.

(Formerly: Acts 1955, c.168, s.20.) As amended by Acts 1979, P.L.17, SEC.36; P.L.231-1983, SEC.6; P.L.112-1992, SEC.6; P.L.35-2007, SEC.13.

IC 22-10-3-7

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-8

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-9

Mining board; examination; records; application for certain certifications

Sec. 9. (a) The director shall keep a record of the board's official actions concerning certificates issued under this chapter and file the record together with questions and answers pertaining to examinations established by the board, including the grade given for the answer to each question. The record shall be open for inspection by interested persons. If applications for certification are received, the board shall meet at least quarterly at such time and place as it shall consider advisable for the purpose of examining applicants for

certificates. These quarterly meetings shall be held in January, April, July, and October. The date, time, and place of examination shall be published at all coal mines in this state and posted on the web site maintained by the bureau of mines and mine safety at least thirty (30) days before the examination. By a majority vote, the board shall establish its rules of procedure and provide suitable certificates. The board shall adopt rules establishing standards for the competent practice of mine foreman, belt examiner, mine examiner, shot-firer, and hoisting engineer.

(b) A person desiring certification for mine foreman, belt examiner, mine examiner, shot-firer, or hoisting engineer must make written application to the board on forms supplied by the board not later than ten (10) days prior to the examination date.

(Formerly: Acts 1955, c.168, s.23; Acts 1971, P.L.358, SEC.4.) As amended by Acts 1979, P.L.231, SEC.3; Acts 1981, P.L.222, SEC.18; P.L.37-1985, SEC.48; P.L.35-2007, SEC.14.

IC 22-10-3-10

Mining board; examination; issuing certificates; qualifications for certification; examination fee; replacement certificate

Sec. 10. (a) It is the duty of the board to examine any person applying for a certificate for mine foreman, shot-firer, mine examiner, hoisting engineer, or belt examiner and to issue certificates of competency to the applicants who, upon examination, prove themselves competent and qualified. A certificate is valid only when the examination for certification has been held in the presence of a member of the board and signed by the chairman of the board. A certificate of competency may not be issued to any person whose grade is less than seventy-five percent (75%). The board shall observe the requirements set forth in this section in conducting the examinations.

(b) An applicant for a mine foreman certificate must have at least four (4) years of experience underground in coal mines. However, a person who has graduated and holds a degree in engineering or an approved four (4) year program in coal mining technology from an accredited school, college, or university is required to have only two (2) years of practical underground mining experience to qualify for the examination. A person who has graduated and holds a two (2) year associate in applied science degree in coal mining technology from an accredited school, college, or university is required to have only three (3) years of practical underground mining experience to qualify for the examination. An applicant must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant has a thorough knowledge of:

- (1) the theory and practice of coal mining;
- (2) the nature and properties of poisonous, noxious, and explosive gases and methods for their detection and control;
- (3) the requirements of the coal mining laws of this state; and
- (4) the responsibilities and duties of a mine foreman under such laws;

and that the applicant is otherwise qualified by law.

(c) An applicant for a mine examiner certificate must have at least three (3) years of experience underground in coal mines. However, a person who has graduated and holds a degree in engineering or an associate in applied science degree in coal mining technology from an accredited school, college, or university is required to have only two (2) years of practical underground mining experience to qualify for the examination. An applicant must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant has a thorough knowledge of:

- (1) the nature and properties of poisonous, noxious, and explosive gases and methods for their detection and control;
- (2) the practical aspects of coal mining pertaining especially to ventilation and roof control; and
- (3) the responsibilities of a mine examiner under coal mining laws of this state;

and that the applicant is otherwise qualified by law.

(d) An applicant for a shot-firer certificate must have at least one (1) year of underground experience and must have been properly trained in a course approved by the director in the safe use and handling of explosives. An applicant must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant has a working knowledge of:

- (1) the proper handling and use of explosives and blasting devices and the danger connected therewith;
- (2) the nature and properties of poisonous, noxious, and explosive gases and methods for their detection;
- (3) the coal mining laws of the state pertaining to ventilation, roof control, and blasting; and
- (4) the responsibilities of a shot-firer under applicable mining laws;

and that the applicant is otherwise qualified by law.

(e) An applicant for a hoisting engineer certificate must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant:

- (1) is capable of operating a hoist;
- (2) has a thorough knowledge of the coal mining laws of this state pertaining to hoisting operations;
- (3) has at least one (1) year mining experience;
- (4) has at least twenty (20) hours practical experience under the supervision of a certified hoisting engineer; and
- (5) is otherwise qualified by law.

(f) An applicant for a belt examiner certificate must have at least one (1) year of experience in belt maintenance or installation work. The applicant must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant has a thorough knowledge of:

- (1) the requirements of the coal mining laws of this state with particular emphasis upon those laws pertaining to the use of electrical or belt equipment and the transmission of electrical

energy into coal mines; and
(2) the responsibilities of a belt examiner under those laws;
and that the applicant is otherwise qualified by law.

(g) An applicant for an examination under this section must pay the bureau of mines and mine safety an examination fee of twenty-five dollars (\$25). All fees collected under this subsection shall be deposited in the mine safety fund established by IC 22-10-12-16. The board may set a different fee by rule under IC 22-10-1.5-4.

(h) A mine foreman, mine examiner, shot-firer, hoisting engineer, or belt examiner certificate issued before September 1, 1979, is valid under the mining laws of Indiana.

(i) A person who was issued a fire-boss certificate before July 1, 2007, shall be issued a replacement mine examiner certificate upon request to the director.

(j) A person designated as mine superintendent or assistant mine superintendent, or acting in either capacity, must hold a mine foreman certificate.

(k) A certificate may be granted to an applicant who presents to the board satisfactory evidence that the applicant has not been convicted of:

(1) an act which would constitute a ground for disciplinary sanction under section 11.1(b) of this chapter; or

(2) a felony that has a direct bearing on the applicant's ability to act competently as a mine foreman, shot-firer, mine examiner, hoisting engineer, or belt examiner.

(l) For the purpose of safety, the board may refuse to examine an applicant who cannot:

(1) readily understand the written English language; or

(2) express himself or herself in the English language.

(Formerly: Acts 1955, c.168, s.24; Acts 1971, P.L.358, SEC.5; Acts 1973, P.L.242, SEC.1.) As amended by Acts 1979, P.L.231, SEC.4; Acts 1981, P.L.210, SEC.1; Acts 1981, P.L.222, SEC.19; Acts 1982, P.L.113, SEC.6; P.L.231-1983, SEC.7; P.L.37-1985, SEC.49; P.L.35-2007, SEC.15.

IC 22-10-3-11

Certificates; loss or destruction; duplicates; filing at mine office; inspection

Sec. 11. (a) In event of loss or destruction of any certificate issued under the mining laws of this state, the board, upon satisfactory proof of such loss or destruction, shall issue a duplicate certificate upon receipt of five dollars (\$5). The fee shall be deposited into the mine safety fund established by IC 22-10-12-16. The board may set a different fee by rule under IC 22-10-1.5-4.

(b) The holder of a mine foreman, mine examiner, shot-firer, hoisting engineer, or belt examiner certificate must present the same or a photostatic copy to the official of the mine where the holder is employed, who shall file it in the office at such mine, and such file shall be available for inspection by interested persons.

(Formerly: Acts 1955, c.168, s.25.) As amended by Acts 1979, P.L.231, SEC.5; Acts 1981, P.L.210, SEC.2; Acts 1981, P.L.222, SEC.20; P.L.231-1983, SEC.8; P.L.35-2007, SEC.16.

IC 22-10-3-11.1

Practitioner; definition; standards of conduct; sanctions; grounds; submission to examination

Sec. 11.1. (a) As used in this section, "practitioner" means an individual who holds a certificate issued under this chapter.

(b) A practitioner shall conduct his duties as he is so certified in accordance with the standards established by the board under section 9(a) of this chapter and is subject to the exercise of the disciplinary sanctions under subsection (e), if after a hearing, the board finds:

(1) the practitioner has employed or knowingly cooperated in fraud or material deception in order to obtain a certificate, or has engaged in fraud or material deception in the course of professional services or activities, or has advertised services in a false or misleading manner;

(2) the practitioner has been convicted of a crime which has a direct bearing on the practitioner's ability to continue to practice competently;

(3) a practitioner has knowingly violated section 12 of this chapter, or any rule adopted by the board under section 9(A) under this chapter;

(4) a practitioner has continued to practice as certified although he has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction or severe dependency upon alcohol or other drugs which endangers the public by impairing a practitioner's ability to practice safely;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to clients; or

(6) a practitioner has allowed his name or certificate issued to him under this chapter to be used in connection with any individual who renders mining services beyond the scope of his training, experience or competence.

(c) The board may order a practitioner to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

(d) Failure to comply with a board order to submit to a physical or mental examination shall render a practitioner liable to the summary revocation procedures under subsection (f).

(e) The board may impose any of the following sanctions, singly or in combination, when it finds that a practitioner is guilty of any offense under subsection (b):

(1) permanently revoke a practitioner's certificate;

- (2) suspend a practitioner's certificate;
- (3) censure a practitioner;
- (4) issue a letter of reprimand; or
- (5) place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters which are the basis of probation;
 - (B) limit practice to those areas prescribed by the board; or
 - (C) continue or renew professional education under a practitioner approved by the board until satisfactory degree of skill has been attained in those areas which are the basis of the probation.

The board may withdraw the probation if it finds that the deficiency which required disciplinary action has been remedied.

(f) The board may summarily suspend a practitioner's certificate for a period of ninety (90) days in advance of a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if he is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for a period of ninety (90) days or less.

(g) A certificate issued under this chapter is automatically suspended upon the conviction of the practitioner of a felony under 30 U.S.C. 820. A practitioner whose certificate is suspended under this subsection may apply for reinstatement under subsection (h) if at least five (5) years have elapsed from the practitioner's date of discharge from probation, imprisonment, or parole from the felony.

(h) The board may reinstate a certificate which has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill and safety. As a condition for reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

(i) The board shall seek to achieve consistency in the application of the sanctions authorized in this section, and significant departures from prior decisions involving similar conduct shall be explained in the board's findings or orders.

As added by Acts 1981, P.L.222, SEC.21. Amended by P.L.165-1997, SEC.1.

IC 22-10-3-12

Certification required for employment; persons certified in other states; inexperienced miner identification pending certification

Sec. 12. (a) It is unlawful for any person to serve in the capacity of mine foreman, mine examiner, shot-firer, hoisting engineer, or belt examiner at any time unless the person is properly certified. However, any person who meets the appropriate experience requirements of this chapter and who is properly certified in one (1) of these capacities or its equivalent in another state which recognizes the certification of Indiana may serve in such a capacity until the next examination by the board, when the person must apply to the

board for a certificate of competency in the person's particular classification.

(b) It is unlawful for an operator in this state to employ any person in the capacity of mine superintendent, assistant mine superintendent, mine foreman, mine examiner, shot-firer, hoisting engineer, or belt examiner at any time unless the person is properly certified.

(c) Before any person certified in another state may perform in the capacity of mine superintendent, assistant mine superintendent, mine foreman, mine examiner, shot-firer, hoisting engineer, or belt examiner in Indiana, the person must present personally to the director evidence of the out-of-state certificate or certificates.

(d) Every inexperienced miner is required to wear an orange hard hat until the miner receives a certificate of competency.

(Formerly: Acts 1955, c.168, s.26; Acts 1971, P.L.358, SEC.6.) As amended by Acts 1979, P.L.231, SEC.6; P.L.231-1983, SEC.9; P.L.37-1985, SEC.50; P.L.112-1992, SEC.7; P.L.35-2007, SEC.17.

IC 22-10-3-13

Certificate of competency; fee; report

Sec. 13. (a) A person may not be employed underground in any coal mine in this state unless the person possesses a certificate of competency issued by the director, except that a person who does not possess a certificate may be employed to work under the supervision of a person who does possess a certificate for the purpose of becoming qualified to obtain a certificate. A person who intends to work underground in a coal mine to obtain a certificate must first obtain a permit from the director by stating the person's date of birth and residence address. The director shall grant a permit to an applicant who is of legal age and who has intelligence and character such that the person will not be a danger to life and property.

(b) A certificate of competency shall be granted to an applicant who has at least six (6) months experience underground in coal mines, subject to subsection (f).

(c) The director's record shall include the names of applicants for certificates and the names of persons to whom certificates are issued, correlated with the certificate numbers.

(d) An applicant for a certificate must pay the director at the time of application a fee of five dollars (\$5). All money received under this subsection shall be deposited in the mine safety fund established by IC 22-10-12-16. The board may set a different fee by rule under IC 22-10-1.5-4.

(e) The board shall report to the director the names of all persons issued certificates, the amount of money received, the names of all persons refused certificates, and the reasons for the refusals, and such reports shall be open for inspection by interested persons.

(f) If a person has been convicted of a felony under 30 U.S.C. 820 and fewer than five (5) years have elapsed from the person's date of discharge from probation, imprisonment, or parole, the person may not:

- (1) obtain a certificate of competency;

(2) be employed to work with a person who does possess a certificate; or

(3) obtain a permit to work toward a certificate of competency; under subsection (a).

(Formerly: Acts 1955, c.168, s.27; Acts 1971, P.L.358, SEC.7; Acts 1973, P.L.242, SEC.2.) As amended by Acts 1979, P.L.231, SEC.7; Acts 1981, P.L.210, SEC.3; P.L.37-1985, SEC.51; P.L.165-1997, SEC.2; P.L.35-2007, SEC.18.

IC 22-10-3-14

Supervision of mines

Sec. 14. A mine shall be supervised by one (1) or more certified mine foremen who shall see that compliance with mining laws that pertain to the commercial mine's duties and to the health and safety of the employees is met. When the mine workings are so extensive that the mine foremen are unable personally to carry out the duties required of them by law, the operator shall employ a sufficient number of properly certified assistants who shall act under the direction of the mine foremen. The mine foremen or their assistants shall not permit a person to work in an unsafe place except for the purpose of making it safe, and such work shall be under the direction and instruction of a certified official.

(Formerly: Acts 1955, c.168, s.28.) As amended by P.L.231-1983, SEC.10; P.L.35-2007, SEC.19.

IC 22-10-3-15

Copies of forms; accidents; reports; operator of mine; duties

Sec. 15. (a) The operator of a mine shall submit to the director a copy of the Mine Safety Administration Form 7000-2 when the operator files the form with the Mine Safety Administration.

(b) The operator of a mine shall notify the director immediately when an:

(1) accident occurs which prohibits the normal operation of the mine for one (1) or more shifts, or for the remainder of the shift during which the accident occurred; and

(2) injury has been reported to the Mine Safety Administration.

(c) It shall be the duty of the operator of any mine to operate such mine in full conformity with the coal mining laws of this state.

(Formerly: Acts 1955, c.168, s.29.) As amended by P.L.35-2007, SEC.20.