PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.11 [Amended]

17. Section 817.11 is amended by removing paragraph (f) and redesignating paragraph (g) as paragraph (f).

18. Section 817.61 is revised to read as follows:

§ 817.61 Use of explosives: General requirements.

(a) Sections 817.61 through 817.68 apply to surface blasting activities incident to underground coal mining, including, but not limited to, initial rounds of slopes and shafts.

(b) Each operator shall comply with all applicable State and Federal laws in the use of explosives and the requirements of §§ 817.61–817.68.

(c) A blaster certified under a program pursuant to Subchapter M shall be responsible for all blasting operations including the transportation, storage, use, or destruction of explosives within a permit area.

19. Section 817.62 is revised to read as follows:

§ 817.62 Use of explosives: Preblasting survey.

(a) A resident or owner of a dwelling or structure within one-half mile of any part of the permit area may request a preblasting survey. This request shall be in writing and may be made either to the regulatory authority who will promptly notify the operator or directly to the operator. The operator shall promptly conduct a preblasting survey of the dwelling or structure and promptly prepare a written report of the survey. An updated survey of any additions, modifications, or renovations shall be performed by the operator if requested by the resident or owner.

(b) The operator shall determine the condition of the dwelling or structure and document any preblasting damage and other physical factors that could reasonably be affected by the blasting. Assessments of structures such as pipelines, cables, transmission lines, and wells, cisterns, and other water systems shall be limited to surface condition and readily available data. Special attention shall be given to the preblasting condition of wells, cisterns, and other water systems.

(c) The written report of the survey shall be signed by the person who conducted the survey, the original of the report shall be promptly provided to the regulatory authority, and copies shall be provided to the person requesting the survey. If the person requesting the survey disagrees with the contents and/or recommendations contained therein, he or she may submit to both the permittee and the regulatory authority a detailed description of the specific areas of disagreement.

(d) The operator shall provide information advising the owner or resident of a dwelling or other structure located within one-half mile of the permit area how to request a preblasting survey.

20. Section 817.64 is revised to read as follows:

§ 817.64 Use of explosives: General performance standards.

(a) A resident or owner of a dwelling or structures that is located within one-half mile of any area affected by surface blasting activities shall be notified by the operator approximately 24 hours prior to any surface blasting event.

(b) The regulatory authority may specify restrictive time periods when blasting may be conducted based on submission in writing of relevant information deemed necessary to protect the public.

§ 817.65 [Removed]

21. Section 817.65 is removed.

22. Section 817.66 is added as follows:

§ 817.66 Use of explosives: Blasting signs, warnings, and access control.

(a) If blasting is conducted incidental to surface mining activities, the operator shall—

(1) Conspicuously display signs reading "Blasting Area" where a public road or right-of-way occurs within 100 feet of a blasting area or at the point where any other road provides access to the blasting area;

(2) Place at all entrances to the permit area from public roads or highways conspicuous signs which state "Warning! Explosives In Use," which clearly explain the blast warning and all-clear signals that are in use, and which explain the marking of blast areas and charge holes within the permit area; and

(3) Prepare all signs to meet the requirements of § 817.11.

(b) Warning and all-clear signals of different character that are audible within a range of one-half mile from the point of the blast shall be given. Each person within the permit area and each person who resides or regularly works within one-half mile of the permit area shall be notified of the meaning of the signals in the blasting schedule.

(c) Access within the blasting areas shall be controlled to prevent presence of livestock or unauthorized personnel during blasting and until an authorized representative of the operator has reasonably determined—

(1) That no unusual hazards exist; such as imminent slides or undetonated charges; and

(2) That access to and travel within the blasting areas can be safely resumed.

23. Section 817.67 is revised to read as follows:

§ 817.67 Use of explosives: Control of adverse effects.

(a) *General requirements.* Blasting shall be conducted to prevent injury to persons, damage to public or private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface waters outside the permit area.

(b) *Airblast.*—(1) *Limits.* (i) Airblast shall not exceed the maximum limits listed below at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area:

Lower frequency limit of measuring system, Hz (±3 dB)	Maximum level in dB
2 Hz or lower—flat response	133 peak
6 Hz or lower—flat response	130 peak

(ii) The regulatory authority may reduce the maximum allowable airblast standard if necessary for continued compliance with damage prevention.

(iii) The operator shall minimize airblast so that it does not exceed the limits set by the regulatory authority even under adverse atmospher conditions.

(2) *Measurement.* (i) The regulatory authority may require airblast measurement of any or all blasts and may specify the location of such measurement.

(ii) Measuring systems must have an upper-end flat frequency response of at least 200 Hz.

(iii) The regulatory authority may approve the use of alternative measuring systems as long as such systems provide an equivalent monitoring level as listed above.

(c) *Flyrock.* Flyrock travelling in the air or along the ground shall not be cast from the blasting site—

(1) More than half the distance to the nearest dwelling or other occupied structure;

(2) Beyond the area of control required under § 816.66(c); nor

(3) Beyond the permit boundary.

Option 1 for § 817.67

24. Section 817.67 is amended by adding paragraph (d) to read as follows:

§ 817.67 Use of explosives: Control of adverse effects.

* * * * *

(d) *Ground vibrations.* (1) In all blasting operations, except as otherwise authorized in this § 817.67, the maximum peak-particle-velocity of ground vibration shall not exceed the value established by the regulatory authority at the location of any dwelling, public bulding, school, church, or community or institutional building. Peak-particle-velocities shall be recorded in three mutually perpendicular directions. The maximum peak-particle-velocity shall be the largest of any of the three measurements.

(2) The maximum peak-particle-velocity for surface coal mining blasting operations for a specific permit area shall be assigned by the regulatory authority based on an evaluation of the physical site conditions at and surrounding the permit area. Detailed information of the types of structures to be protected, seismic velocity, and other relevant information shall be submitted by the permittee by which to evalute the allowable ground-vibration standard as part of the permit application under 30 CFR 780.13. Permittees not requesting assignment of a site-specific peak-particle-velocity may choose to comply with the equation found in paragraph (d)(5) of this section.

(3) The peak-particle-velocity authorized by the regulatory authority for surface blasting operations shall not exceed the following limits for structure type and predominant frequency of the ground vibration due to blasting operations:

Type of structure [a]	Maximum peak-particle-velocity in inch/second allowable with seismic monitoring at indicated hertz value		
	<10 Hz	10 to 40 Hz	>40 Hz
1	0.50	0.50	0.50
2	0.75	1.0	2.0
3	1.0	1.5	2.0
4	2.0	2.0	2.0
5 [b]			

[a] 1. Sensitive or protected structures such as historic buildings, monuments, and residences with construction elements such as plaster interiors and rough stone foundation walls.
2. Older homes more than 20 years old with construction elements such as plaster-on-lath interiors and deteriorated or rigid, easily fractured construction materials.
3. Modern homes less than 20 years old with gypsum-board interior, reinforced concrete or concrete-masonry-unit foundations, and other wood-frame and wood-clad structure.
4. Structures with safety considerations such as water towers, impoundments, tunnels, pipelines, towers, and underground mines.
5. Buildings or structures designed to resist dynamic loads such as earthquake, wind, traffic, etc.
[b] Maximum peak-particle-velocity to be determined by a qualified registered professional engineer.

(4) The regulatory authority may authorize an operator to use the square-root scaled-distance equation $W=(D/Ds)^2$ without seismic monitoring, where W= the weight of explosive, in pounds, which may be detonated in any 8-millisecond period; D= the distance, in feet, from the blast to the nearest dwelling, school, church, or community or institutional building; and Ds= the scaled-distance factor (denominator of equation). The equation shall initially be approved based on the following correlation criteria:

Peak-particle-velocity (inch/second)	*Ds* (scaled-distance factor)
2.00	35
1.60	40
1.35	45
1.15	50
1.00	55
0.70	70
0.50	90

(5) All surface coal operators choosing not to submit data for the regulatory authority to assign a site-specific ground-vibration limit shall utilize a scaled-distance equation $W=(D/70)^2$ for determining the maximum charge-weight of explosives that can be detonated within any 8-millisecond period without seismic monitoring, or limit all ground vibrations to a maximum peak-particle-velocity of 0.75 inch per second verified in seismographic records.

(6) At the request of an owner or occupant of a structure in the vicinity of the mine, the regulatory authority shall evaluate data, including blast vibration frequency, type and condition of structure, or updated site information and may lower the assigned peak-particle-velocity at any time necessary to prevent damage.

Option 2 for § 817.67

25. Section 817.67 is amended by adding paragraph (d) to read as follows:

§ 817.67 Use of explosives: Control of adverse effects.

* * * * *

(d) *Ground vibration.* (1) In all blasting operations, except as otherwise authored in this § 817.67, the maximum ground vibration shall not exceed the values listed below at the location of any dwelling, school, church, or community or institutional building outside the permit area:

Distance to structure from blast site (feet)	Maximum ground-vibration limit allowable with seismic monitoring (inch/second) [1]
0–300 [2]	1.60
301–500	1.35
501–1,000	1.20
1,001–3,000	1.00
3,001–5,000	0.90
beyond 5,001	0.75

[1] Ground vibration recorded as the peak-particle-velocity. Particle velocity shall be recorded in three mutualy perpendicular directions. The peak-particle-velocity shall be the largest of any of the three measurements.
[2] Subject to owner approval for dwellings; no mining may occur within 300 feet of public buildings.

(2) The regulatory authority may approve the use of the equation $W=(D^{1.5})/90$ to determine the maximum allowable charge-weight of explosive to be detonated in any 8-millisecond delay period at distances greater than 300 feet. If blasting is conducted using this equation, the operator need not maintain seismogrphic records. W= the maximum weight of explosives, in pounds, and D= the distance, in feet, from the blast to the nearest dwelling, school, church, or community or institutional building.

(3) At the request of an owner or occupant of a structure in the vicinity of the mine, the regulatory authority shall evaluate data, including blast vibration frequency, type and condition of structure, or updated site information and may lower the allowable maximum peak-particle-velocity at any time necessary to prevent damage.

(4) The regulatory authority may require seismographic records of any and all blasts and may specify the location at which such measurements are taken.

Option 3 for § 817.67

26. Section 817.67 is amended by adding paragaphs (d) and (e) to read as follows:

§ 817.67 Use of explosives: Control of adverse effects.

* * * * *

(d) *Ground vibration.* (1) Ground vibration shall not exceed a 1.0-inch-per-second peak-particle-velocity at the location of any dwelling or public building outside the permit area, unless the recorded ground vibration and frequency conform to the alternative blasting level criteria set forth in Figure 1. Peak-particle-velocity shall be recorded in three mutually perpendicular directions. The maximum particle-velocity shall be the largest of any of the three measurements. A seismographic record shall be provided for each blast.

(2)(i) An operator may use the scaled-distance equation, $W=(D/55)^2$ to determine the allowable charge-weight of explosives to be detonated in any 8-millisecond period, without seismic monitoring. W= the maximum weight of explosives, in pounds, and D= the distance, in feet, from the blast to the nearest dwelling, school, church, or community or institutional building.

(ii) The use of an equation modified from that specified in § 817.67(d)(2)(i) to determine maximum weight of explosives per delay for blasting

operations at a particular site may be approved by the regulatory authority, on receipt of a written request by the operator accompanied by reports including seismographic records of test blasting on the site. The predicted ground vibration would not exceed a peak-particle-velocity of 1.0 inch per second.

(3) At the request of an owner or occupant of a structure in the vicinity of the mine, the regulatory authority shall evaluate data, including blast vibration frequency, type and condition of structure, or updated site information and may lower the allowable maximum peak-particle-velocity at any time necessary to prevent damage.

(4) The regulatory authority may require a seismographic record, including blast-vibration-frequency of any or all blasts and may specify the location at which such measurements are taken.

(e) If blasting is conducted in accordance with § 816.67(a), the maximum ground vibration and/or airblast standard shall not apply at the following locations:

(1) At structures owned by the person conducting the mining activity and not leased to another party; and

(2) At structures owned by the person conducting the mining activity and leased to another party, if a written waiver by the lessee is submitted to the regulatory authority prior to blasting.

27. Section 817.68 is revised to read as follows:

§ 817.68 Use of explosives: Records of blasting operations.

The operator shall retain a record of all blasts for at least 3 years. Copies of these records shall be made available to the regulatory authority on request and to the public for inspection; such records shall contain the following data:

(a) Name of the operator conducting the blast.

(b) Location, date, and time of the blast.

(c) Name, signature, and license number of the blaster conducting the blast.

(d) Identification, direction, and distance in feet to the nearest dwelling, school, church, or community or institutional building outside the permit area, except those cited under § 817.67(e).

(e) Weather conditions.

(f) Type of material blasted.

(g) Sketches of the blast pattern including burden, spacing, decks, and delay pattern.

(h) Diameter and depth of holes.

(i) Types of explosives used.

(j) Total weight of explosives used per hole.

(k) The maximum weight of explosives detonated in an 8-millisecond period.

(l) Initiation system.

(m) Type and length of stemming.

(n) Mats or other protections used.

(o) Seismographics and airblast records, if required, which shall include—

(1) Type of instrument, sensitivity, and calibration signal;

(2) Exact location of instrument and the date, time, and distance from the blast;

(3) Name of the person and/or firm taking the reading;

(4) Name of the person and firm analyzing the seismographic record; and

(5) The vibration and/or airblast level recorded.

28. Figure 1 is added following the text of Option 3 of §§ 715.19(e)(2)(ii)(A), 816.67(d)(1), and 817.67(d)(1) to read as follows:

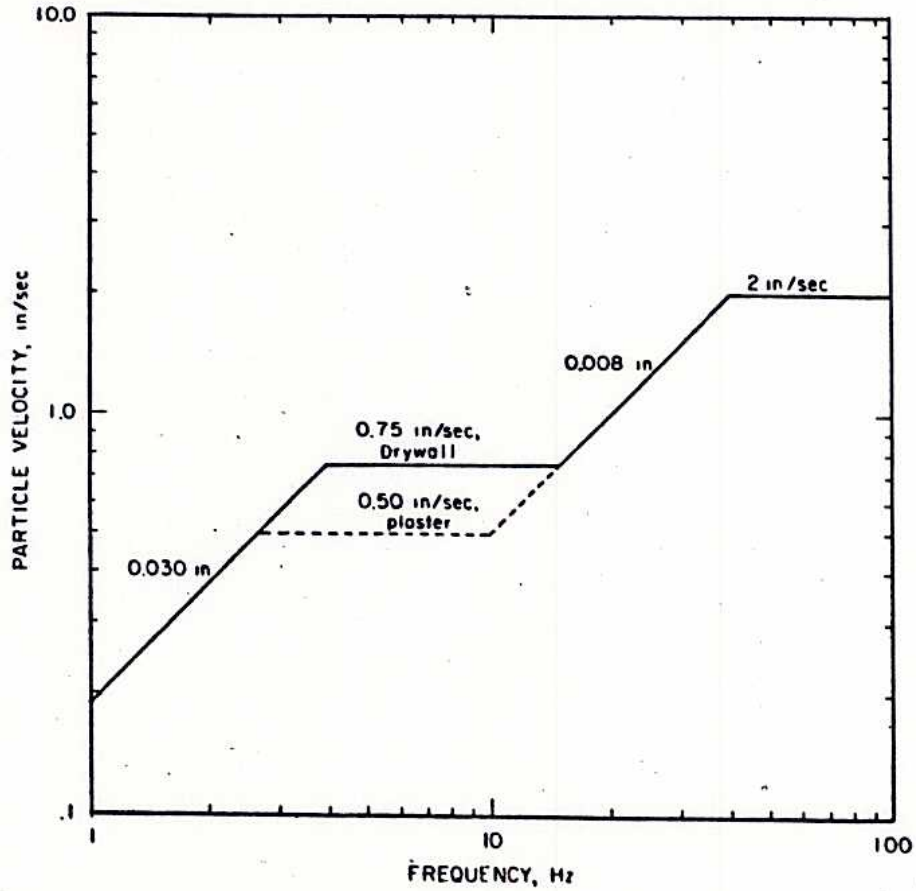

Figure 1.--Alternative blasting level criteria. (Source: Figure B-1 from Bureau of Mines RI8507.)

(Pub. L. 95–87; 30 U.S.C. Section 1201 *et seq.*)

[FR Doc. 82-7918 Filed 3-23-82; 8:45 am]
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DEPARTMENT OF THE INTERIOR

30 CFR Part 850

Permanent Regulatory Program; Training, Examination, and Certification of Blasters

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing amendments to its rules governing the training, examination, and certification of persons engaging in or directly responsible for blasting or the use of explosives in surface coal mining operations. The purpose of these amendments would be to give responsibility for training, examining, and certifying blasters to those States with State programs in effect regulating surface coal mining. OSM would retain such responsibility on Federal lands and in those States where the State has not become the regulatory authority. The detailed regulations currently in place would be replaced with a more general regulatory framework.

DATES:

Written comments: Accepted until 5 p.m. (eastern time) on April 23, 1982.

Public hearings: Held on request only, on April 16, 1982, at 9:00 a.m.

Public meetings: Scheduled on request only.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.31), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.31), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Pittsburgh, Pa.—William S. Moorehead Federal Building, Room 2212, 1000 Liberty Avenue; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: Jerry R. Ennis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202-343-7887.

Public meetings: Jose del Rio, 202-343-4022.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Background.
III. Discussion of Proposed Rules.
IV. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments are requested to submit five copies of their comments (see "Addressese"). Comments received after the time indicated under "Dates" or at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business three working days before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings.

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

Section 515(b)(15)(D) of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, 30 U.S.C. 1201 *et seq.* (the Act), requires that all blasting operations be conducted by trained and competent persons as certified by the regulatory authority. Section 719 of the Act directs that regulations be promulgated which require "the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in surface coal mining operations." Section 719 also states that such regulations may be promulgated by the "Secretary of the Interior (or the approved State regulatory authority as provided for in Section 503 of this Act)." Final regulations to implement these sections were published at 45 FR 82084-82100 (December 12, 1980). Previous proposals were published at 43 FR 41934 (September 18, 1978) and at 44 FR 38318 (June 29, 1979).

On January 28, 1981, the Secretary of the Interior ordered that all regulations which were excessive, burdensome, or counterproductive be identified and asked States and industry to recommend sections to be revised. OSM, in compliance with the administrative mandate to simplify and remove excessive regulatory burdens, is reproposing the rules governing training, examination, and certification of blasters in surface operations of coal mines.

In the December 12, 1980, rules adopting the current program, 30 CFR Part 850, OSM interpreted Section 719 of the Act as providing statutory authority to promulgate rules for a comprehensive national program to train, examine, and certify "blasters-in-charge," a regulatory term not found in the Act (45 FR 82092-94). In keeping with the current Administration's desire that State governments have more choice and flexibility, wherever possible, in carrying out the provisions of the Act, OSM is now of the opinion that the States that have achieved primacy should have the opportunity to promulgate their own blaster training, examination, and certification programs. In such States, this would allow program variations to account for regional and local conditions. In section 719, the parenthetical "(or the approved State regulatory authority . . .)" provides the necessary statutory authority. The Secretary of the Interior would be responsible for establishing rules governing training, examination, and certification of blasters in States with Federal programs and on Federal lands (except for such lands in States with cooperative agreements), and the State regulatory authorities would be responsible in States with State programs.

Regulatory authorities would be required to carry out Congress intent that all blasting operations be conducted by qualified and trained blasters. Under the proposed rule, each State could choose and develop the method of training, examining, and certifying blasters which best meets local needs while complying with the general requirements proposed herein. Thus, it is proposed that the December 12, 1980, rules be deleted and the new proposal, described in more detail below, be adopted.

OSM's first rules for blaster training and certification, as proposed on September 18, 1978, were a comprehensive program which would have required that—

(1) All members of blasting crews and all blasters-in-charge must be certified through training, and such training must be specifically approved by OSM;

(2) All blasters-in-charge must be certified by passing an examination established by OSM as well as meeting a 2-year experience requirement;

(3) All blasters-in-charge and crew members must renew certification every 3 years through completion of mandatory training; and

(4) Blasting crews must have no more than six crew members for every blaster-in-charge.

In response to comments received on these first proposed rules, OSM decided that several substantive changes should be made, and it was therefore necessary to repropose blaster training and certification rules. Accordingly, the June 29, 1979, reproposed rules would have eliminated all requirements for mandatory training, though regulatory authorities were still required to develop and provide to operators a training course that would cover all certification requirements. This second set of proposed rules still required certification of blasters-in-charge through an OSM-developed examination and experience requirement, but dropped all requirements for blasting crew members, with the exception that blasters-in-charge must ensure that crew members had adequate training to perform assigned blasting duties.

Additionally, recertification requirements of blasters-in-charge were limited to minimal retesting and experience, and allowable size of blasting crews was expanded from six to twelve crew members per blaster-in-charge.

In the December 12, 1980, final rules, all major elements of the reproposed rules were retained. In particular, existing § 850.12(a)(1) requires that each permittee "designate a blaster-in-charge for each blast to be detonated in surface coal mining and reclamation operations," and existing § 850.12(b) (3) and (4) require that the blaster-in-charge "directly supervise blast preparation and execution at the blast site to ensure that such [blast] standards are met" and "be present at the site when the blast is detonated." These rules were challenged and on May 19, 1981, in *Peabody Coal Company* v. *Watt,* Civil Action No. 81–300, the United States District Court for the District of Columbia addressed the question as to whether a single blaster-in-charge must supervise every aspect of a particular blast. In a consent order the court concluded that successive blasters-in-charge would satisfy the rules; that is, at each, relevant time there must be an identified individual acting as the responsible blaster-in-charge, but not necessarily the same individual. The proposed rules would eliminate the concept of blaster-in-charge and would require only that the blast be fired under the direction of a certified blaster.

OSM is required, by the consent order, to raise the following two questions for further consideration by the public when related rules as to qualification requirements for blasters-in-charge are proposed (as was then planned by OSM):

(A) Whether, consistent with Section 719 of the Act, the Secretary can promulgate, for a State regulatory authority, national rules pertaining to blaster training and certification, or whether the State regulatory authority, pursuant to Section 719, is solely responsible for such rules; and

(B) Whether aspects of the blaster training rules amount to work practice standards and whether such practices are authorized by the Act.

The public is requested to respond to these two questions in light of the new proposals.

While the December 12, 1980, rules technically became effective on January 12, 1981, Part 850 was promulgated without blaster qualification and experience requirements that were necessary to implement the regulatory scheme. (See 45 FR 82087, December 12, 1980.) Accordingly, while States have been given the responsibility to prepare and submit blaster training and certification elements to OSM for inclusion in their permanent State programs, no State has been required to comply with Part 850 because no blaster qualification and experience requirements have been promulgated by OSM. (See 45 FR 82091, December 12, 1980.)

In the preamble to the rule of December 12, 1980, OSM expressed its belief that it was required to follow the *Uniform Guidelines on Employee Selection Procedures,* 29 CFR Chapter XIV, Part 1607, because of equal employment opportunity requirements and potential liability under Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 *et seq.* Because Title VII may also apply to State development of blaster certification programs, OSM suggests that in complying with the proposed rules, State regulatory authorities could consult authoritative sources, such as the *Uniform Guidelines,* in developing adequate training parameters, standards to evaluate competence, and effective programs for ensuring continued compliance by those persons licensed. In addition, States may wish to consider aspects of reciprocal certification to facilitate mining operations and employment trends from State to State.

State regulatory authorities and others were asked to comment on draft proposed rules in July 1981. The responses were generally favorable. Some States, such as West Virginia and Wyoming, have undertaken to develop tests in anticipation of the adoption of these rules. Other States have demonstrated a cooperative effort in dealing with reciprocity and interstate problems. Other States, such as Kentucky and Pennsylvania, have existing programs for blaster certification and may choose, if a final rule is adopted, to submit to OSM a variation of these programs.

III. Discussion of Proposed Rules

The proposed rules are divided into several sections under Part 850. these sections provide the regulatory framework for a State to develop its individual program. Broad criteria are included for training, examination, and certification. These would replace both the general national program requirements of the current rules pertaining to blasters-in-charge, crew size, numbers of persons supervised, etc., presently contained in § 850.12, and other training and certification requirements set forth in existing §§ 850.13 and 850.14, respectively. The proposed amendments are discussed below.

Applicability and Responsibility

Proposed § 850.11 provides that the blaster rules would apply to the regulatory authorities responsible under Sections 503, 504, and 523 of the Act for implementing and enforcing permanent program rules. Proposed § 850.12 is a broad statement of responsibility that would make the regulatory authority responsibile for promulgating rules governing the training, examination, and certification of blasters in surface coal mining operations. These rules would be required to be submitted to OSM for approval under 30 CFR Parts 731 and 732 when the regulatory authority is a State. OSM also will promulgate additional rules for those situations where it is the regulatory authority for a State with a Federal program. In addition, OSM intends to adopt a blaster certification program for Federal lands in States without cooperative agreements. OSM believes that blasters within a State should not have to meet two different sets of certification requirements. Thus, comments are specifically requested as to whether the Federal lands blaster certification program should be the same in each State as the blaster certification program adopted by the regulatory authority for non-Federal lands in that State. For Federal lands in States where cooperative agreements are executed, State blaster certification programs would satisfy OSM's training, examination, and certification role.

OSM proposes to eliminate the current provision in § 850.4 that places specific responsibilities upon the Director of OSM, each Regional Director of OSM, and the States, respectively. Current rules that would be deleted make the Director of the OSM responsible for (1) establishing technically valid national examinations for blaster certification, (2) establishing valid national experience requirements for blaster certification, and (3) developing training course materials. In addition, OSM would no longer be required to provide training assistance.

Time Frame

Proposed § 850.12(b) would require the regulatory authority to develop and adopt a program to examine and certify all persons who intend to engage in the use of explosives for blasting in a surface coal mining operation. The program would have to be adopted within 12 months after the promulgation of a final rule in this rulemaking or 12 months after a State program is approved or a Federal program is implemented, whichever is later. This period has been set at 12 months in order to allow the development and collection of data, testing procedures, and other aspects of program development. Comments are requested with respect to the time frame for implementation. Under State programs, Federal programs, or Federal land programs, all blasters with responsibility for the use of explosives within a permit area would be required to be certified within 6 months of the adoption of a blaster certification program.

Training

According to proposed § 850.13, the regulatory authority would have to ensure that blasters receive training, including but not limited to technical aspects of blasting operations and the requirements of State and Federal laws governing the storage, transportation, and use of explosives. The proposed rule would also require that inexperienced persons placed on blasting crews receive direction and on-the-job training from certified blasters. This would ensure that workers involved in the use of explosives receive direction from trained persons who are knowledgeable in the proper use and handling of explosives.

Section 850.13(b) would require training courses to be available and would set forth specific subjects to be included in training courses. Comments are requested as to whether the list of subjects is indequate or too extensive,

Examination

As noted in the preamble to the rules of December 12, 1980, at 45 FR 82093 and 82094, commenters objected to nationwide certification requirements, especially an examination to measure competence to be developed by OSM and to be used by all regulatory authorities. One of the alternatives discussed was to leave certification requirements to the States. That alternative was partially rejected at that time because of OSM's concern that States would be unable to develop valid certification tests. On the other hand, the December 12, 1980, rule acknowledged that then current rules allowed States to develop their own valid tests and to submit them for OSM approval under the State window rules of § 731.13. At this time, rather than relying upon a presumption that States will be unable to develop valid tests, OSM has tentatively concluded that the regulatory authorities should be given the initial responsibility of developing their own valid certification tests within the parameters of proposed § 850.14. Only when the States have demonstrated an actual inability to develop valid tests would OSM be required to step in.

Under proposed § 850.14, the regulatory authority or other agency designated by the regulatory authority would be required to examine candidates for blaster certification by (1) reviewing and verifying the competence of persons engaged in the use of explosives in surface coal mining operations through a written examination in technical aspects of blasting and State and Federal laws governing the storage, use, and transportation of explosives; and (2) reviewing and verifying the candidate's practical field experience deemed necessary to qualify a person to accept the responsibility for blasting operations in surface coal mining operations. Such experience should demonstrate that the candidate possesses practical knowledge of blasting techniques, understands the hazards involved in the use of explosives, and otherwise has exhibited a pattern of conduct consistent with the acceptance of responsibility for blasting operations. OSM recognizes that some States have existing licensing agencies and the rule assumes that the regulatory authority responsibility for administration and licensing could be delegated within the existing administrative framework.

Specific topics to be included in any examination are covered in detail in proposed § 850.14(b). Comments are requested as to whether the list of topics is inadequate or is too extensive.

Certification Requirements

Proposed § 850.15(a) would require the regulatory authority to certify, for fixed periods, candidates who are found qualified as blasters. The fixed periods may vary from State-to-State.

Proposed § 850.15(b) would provide procedures for suspension and revocation of blasters' certifications. Paragraph (c) of § 850.15 would provide general conditions for maintaining certification and may be expanded when implementing the State Program requirements. Some of the features of Paragraphs (b) and (c) are currently set forth in existing § 850.14(e) and (f).

Program Requirements

Proposed § 850.16 would require any program to ensure that (1) the blast is to be fired only under the direction of a certified blaster, (2) no person is to be permitted to detonate explosives unless another person is present, and (3) persons responsible for blasting operations at a blasting site are to be familiar with the blasting plan and site-specific performance standards to be attained.

Comments are requested as to whether all the proposed procedures and conditions of §§ 850.15 and 850.16 should be part of OSM rules or should be left to the responsible regulatory authority.

IV. Procedural Matters

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers.

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have significant economic impacts on a substantial number of small entities. As compared with existing rules, the proposal would allow States and small coal operators increased flexibility in respectively setting and meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

OSM will request approval from the Office of Management and Budget (OMB) under 44 U.S.C. 3507 for the information collection requirements in Part 850. This approval will be codified under a new Section 10 in Part 850 when the final rules are promulgated.

The information required by 30 CFR Part 850 will be used by the regulatory authority in monitoring the implementation of the blaster training and certification programs.

OSM has previously determined that the blaster training and certification programs did not require the preparation of an environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA). (See 45 FR 82084, December 12, 1980.) In addition, OSM has prepared a draft environmental assessment (EA) on this proposed rule and has made an interim finding that it would not significantly affect the quality of the human environment. The draft EA is on file in the OSM Administrative Record at the address listed in the "Addresses" section of this preamble. A final EA will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule. OSM also is preparing an EA of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA also will be completed before this rule is made final.

Accordingly, it is proposed that 30 CFR Part 850 be revised, as set forth herein.

Dated: February 26, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

Subchapter M is revised to read as follows:

SUBCHAPTER M—TRAINING, EXAMINATION, AND CERTIFICATION OF BLASTERS

PART 850—PERMANENT REGULATORY PROGRAM REQUIREMENTS

Sec.

850.1 Scope.
850.5 Definition.
850.11 Applicability.
850.12 Responsibility.
850.13 Training.
850.14 Examination.
850.15 Certification.
850.16 Program requirements.

Authority: Pub. L. 95–87, 91 Stat. 445 *et seq.*, 30 U.S.C. 1201 et seq.

§ 850.1 Scope.

This part establishes the requirements and the procedures applicable to the development of regulatory programs for training and certification of persons engaging in or directly responsible for the use of explosives for blasting in surface coal mining operations.

§ 850.5 Definition.

As used in this part—

Blaster means a person engaging in or directly responsible for the use of explosives for blasting in surface coal mining operations.

§ 850.11 Applicability.

These rules shall apply to regulatory authorities responsible for implementing and enforcing a permanent surface coal mining regulatory program under Sections 503, 504, and 523 of the Act.

§ 850.12 Responsibility.

(a) The regulatory authority is responsible for promulgating rules governing the training, examination and certification of blasters in surface coal mining operations. When the regulatory authority is a State, the State shall submit these rules to the Office of Surface Mining Reclamation and Enforcement for approval under 30 CFR Parts 731 and 732.

(b) The regulatory authority must develop and adopt a program to examine and certify all persons who intend to engage in the use of explosives for blasting in a surface coal mining operation within 12 months after approval of a State program or implementation of a Federal program or within 12 months after [publication date of final rule], whichever is later.

All blasters with the responsibility for the use of explosives within a permit area are to be certified under the program within 6 months after its adoption.

§ 850.13 Training.

(a) The regulatory authority shall establish procedures which require that—

(1) Blasters receive training including, but not limited to, the technical aspects of blasting operations and State and Federal laws governing the storage, transportation, and use of explosives; and

(2) Persons who are not certified and who are assigned to a blasting crew or to assist in the use of explosives receive direction and on-the-job training from a certified blaster.

(b) The regulatory authority shall ensure that courses are available to train persons engaged in the use of explosives in surface coal mining operations. The courses shall provide training and discuss practical applications of—

(1) Handling, transporting, storing, and using explosives for blasting purposes;

(2) Blast design concepts;

(3) Field layout of blast patterns;

(4) Loading boreholes;

(5) Priming and boostering;

(6) Tamping and stemming;

(7) Initiation systems;

(8) Operation of blasting machines;

(9) Chemical and physical properties of explosives;

(10) Preparation of accurate reports, schedules, and blasting logs; and

(11) Methods to recognize, monitor, and minimize:

(i) Hazards and dangers involved in the use of explosives;

(ii) Blast vibrations;

(iii) Flyrock;

(iv) Airblast; and

(v) Unanticipated blasting hazards.

§ 850.14 Examination.

(a) The regulatory authority shall examine candidates for blaster certification by reviewing and verifying the—

(1) Competence of persons engaged in the use of explosives in surface coal mining operations through a written examination in technical aspects of blasting and State and Federal laws governing the storage, use and transportation of explosives; and

(2) Practical field experience of the candidates deemed necessary to qualify a person to accept the responsibility for blasting operations in surface coal mining operations. Such experience should demonstrate that the candidate possesses practical knowledge of blasting techniques, understands the hazards involved in the use of explosives, and otherwise has exhibited a pattern of conduct consistent with the acceptance of responsibility for blasting operations.

(b) Applicants for blaster certification shall be examined, at a minimum, in the following topics:

(1) Explosives, including—

(i) Selection of the type of explosive to be used; and

(ii) Determination of the properties of explosives which will produce desired results.

(2) Blast designs, including—

(i) Geologic and topographic considerations;

(ii) Design of a blast hole;

(iii) Pattern design, including—

(A) Timing of blast holes; and

(iv) Ramp cuts, sinking patterns, and field applications.

(3) Loading boreholes, including priming and boostering.

(4) Initiation systems, including—

(i) Electric blasting caps;

(ii) Nonelectric initiation systems; and

(iii) Detonating cords.

(5) Blasting vibrations, airblast, and flyrock, including—

(i) Monitoring techniques; and

(ii) Methods to control.

(6) Secondary blasting applications.

(7) Current Federal and State rules on the use of explosives.

(8) Blast records.

(9) Schedules.

(10) Preblasting surveys, including—

(i) Availability;

(ii) Coverage; and

(iii) Use of in blast design.

(11) Blast plan requirements.

(12) Certification and training.

(13) Signs, warning signals, and site control.

(14) Unanticipated hazards, including—

(i) Lightning;

(ii) Stray currents; and

(iii) Radio waves.

§ 850.15 Certification.

(a) *Issuance of certification.* The regulatory authority shall, for a fixed period, certify persons examined and found to be competent and to have the necessary experience to accept responsibility for blasting operations in surface coal mining operations.

(b) *Suspension and revocation.* (1) The regulatory authority, when practicable following written notice and opportunity for a hearing, may suspend or revoke the certification of a blaster during the term of the certification or take other necessary action for any of the following reasons:

(i) Noncompliance with any order of the regulatory authority.

(ii) Unlawful use in the work place of, or current addiction to, alcohol, narcotics or other dangerous drugs.

(iii) Violation of any provision of the State or Federal explosives laws or regulations.

(iv) Proof that false information was willfully given or a misrepresentation was willfully made to obtain the certification.

(v) Other good cause.

(2) If advance notice and opportunity for hearing cannot be provided, an opportunity for a hearing will be provided as soon as practical following the suspension, revocation, or other adverse action.

(c) *Conditions.* The regulatory authority shall specify conditions for maintaining certification which, at a minimum, include the following:

(1) A valid certificate or license shall be carried by the holder during all blasting operations.

(2) Certified blasters shall take every reasonable precaution to protect their certificate from loss, theft, or unauthorized duplication. Any such occurrence must be reported immediately to the certifying authority.

(3) A blaster shall immediately exhibit his certificate to any duly authorized representative of the regulatory authority upon request.

(4) Upon notice of the revocation of any blaster's certification, the former holder of such certification shall immediately surrender to the regulatory authority the revoked certificate.

(5) Blasters' certifications shall not be assigned or transferred.

(6) Blasters shall not delegate their responsibility to any individual who is not a certified blaster.

§ 850.16 Program requirements.

(a) The blast shall be fired only under the direction of a certified blaster.

(b) No person shall be permitted to detonate explosives unless another person is present.

(c) Persons responsible for blasting operations at a blasting site shall be familiar with the blasting plan and site-specific performance standards to be attained.

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