

	<b>U.S. DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT</b>  <b>DIRECTIVES SYSTEM</b>	<b>Subject Code:</b> REG-33
		<b>Transmittal Number:</b> 962
		<b>Date:</b> DEC 9, 2008
<b>Subject:</b> Federal Blaster Certification Program and Blasting Enforcement		
<b>Approval:</b> Brent Wahlquist		<b>Title:</b> Director

1. **Purpose.** Blasting presents the highest risk of any surface coal mining activity and could result in death, injury, and/or property damage on or off the permit area. Competent Office of Surface Mining Reclamation and Enforcement (OSM)-certified blasters (OCB) are crucial to safe blasting. This directive provides guidance on implementing the Federal Blaster Certification Program and consistent enforcement of the blasting performance standards when persons, property, or the environment are at risk due to unsafe blasting activities.

2. **Summary of Changes.** This replaces previous REG-33, *Suspension and Revocation of Federal Blaster Certification*, to update the procedures for examining potential blasters and processing applications for Federal blaster certificates, coordinating information relevant to certification actions, administering the Blaster Certificate Tracking System, revoking or suspending Federal blaster certificates, and providing guidance on enforcement of blasting performance standards when catastrophic events occur or could have occurred due to unsafe blasting practices.

3. **Definitions.**

a. **Blaster Certificate Coordinator (BCC).** A designated OSM employee who serves as a point of contact on the Federal Blaster Certification program, the team leader of the Federal Blasting Workgroup, and the administrator of the Blaster Certificate Tracking System.

b. **Federal Blasting Workgroup (FBW).** A standing self-directed team of OSM employees with expertise in investigating blasting problems that serves as a resource to the agency on blasting-related issues.

c. **Blaster Certificate Tracking System (BCTS).** A database containing information on each state- or OSM-certified blaster, status of certifications (e.g., issued, renewed, revoked, suspended, active expired), and a blasting violation history.

d. **Field Office/Field Division (FO/FD).** OSM Field Office or Field Division.

e. **Informal Hearing.** An informal review, in accordance with 30 CFR 955.17(c), by the appropriate FO/FD due to a request by an OCB who faces pending suspension or revocation of an OSM blasting certificate or other similar action.

f. OSM Blaster Certificate. Authorization to conduct blasting operations on Federally-permitted surface coal mining and reclamation operations.

g. OSM-Certified Blaster (OCB). A qualified individual who completes the applicable training, passes the examination, and is found by OSM to be competent and to have the necessary knowledge and experience to accept responsibility for blasting operations at Federally-permitted surface coal mining operations.

h. Official Admonishment. A letter of reprimand to the OCB that is maintained in OSM's official file for blasting-related infractions that do not rise to the level of seriousness of a suspension or revocation.

i. Suspension. A definite or indefinite removal of authority for an OCB to conduct blasting operations based on a finding of willful conduct that demonstrates that the storage, transportation, or use of explosives by the OCB is likely to threaten public safety or the environment.

j. Revocation. Removal of an OSM blaster certificate.

k. Reciprocity. OSM conferring OCB status on an individual who demonstrates that they hold a current blaster certificate granted by a state or tribe under an OSM-approved program. Conversely, a state or tribe may elect to grant reciprocity to an OCB.

l. Willful Conduct. An act or omission on the part of the OCB that is intentional, voluntary, or conscious, and has intentional disregard or indifference to legal requirements. For related interpretations, see definition and discussion of civil court interpretations of "willfully" in individual civil penalties rulemaking (30 CFR 724.5 and 846.5), 53 FR 3666-3667, 3675-3676, February 8, 1988; definition of "willful violation" at 30 CFR 701.5 and 843.5.

4. Policy. OSM will ensure that only qualified, competent individuals are granted and maintain OSM Blaster Certificates. OSM will maintain a general "zero tolerance" policy for flyrock incidents as defined by 30 CFR 816.67(c) and 817.67(c). OSM FOs/FDs/Regional Directors will coordinate with the BCC and FBW to assure consistency in implementing the Federal Blaster Certification Program and blasting enforcement actions.

5. Responsibilities.

a. The **BCC** will maintain the certification examination question pool; develop examinations as needed; administer the BCTS; and chair the FBW. The BCC is available to advise the FOs/FDs/Regional Directors on all matters related to the Federal blaster certification program and enforcement of blasting performance standards. The BCC will notify all FOs/FDs and states of any actions taken by OSM or the state regulatory authorities applicable to the status (issuance, expiration, suspension, revocation, etc.) of a state or OCB's certification.

b. **FOs/FDs** are responsible for receiving OCB applications; verifying completeness of applications; conducting experience checks, collecting fees, and proctoring OCB tests; issuing OSM blaster certificates; suspending and revoking OSM blaster certificates; conducting informal

reviews at the request of an OCB notified of planned suspension, revocation, or other action against the Federal blaster certification (see 30 CFR §955.17(b and c)); and preparing the administrative record for the Interior Board of Land Appeals (IBLA) review of appealed suspension/revocation or other action against an OCB. FOs/FDs who issue new certifications for OCBs will maintain the official OSM file for that blaster as well as maintaining all historic records. FOs/FDs will ensure that any blasting-related enforcement action is routinely reported and entered into the BCTS consistent with the guidance provided in this directive. FO/FDs will coordinate as needed with the BCC and appropriate members of the FBW on blasting-related matters to ensure consistency. FOs/FDs confer reciprocal OCB status upon confirmation that the approved state program requirements for blaster certification are fulfilled and current.

c. **Authorized Representatives** are responsible for issuing appropriate enforcement actions in accordance with the policies in this directive and other applicable directives (including applicable oversight procedures in primacy states) when violations of the performance standards of 30 CFR 816/817.61-68 or approved (permitted) blast plans occur at surface coal mining or reclamation operations on state primacy permits, Federal Lands, Indian lands under Federal jurisdiction, or in Federal Program states. The authorized representative may issue immediate temporary suspension of a Federal blaster's certificate when the OCB actions are inappropriate, as described in 30 CFR §850.15(b) or §955.17(a)(2).

d. **Regional Directors** are responsible for emphasizing national consistency on implementation of this directive.

e. The **FBW** is responsible for holding periodic meetings and/or conference calls to discuss the implementation of the OSM Blaster Certificate Program and nationwide blasting issues. Workgroup members advise the FO/FD/Regional Director as needed or as requested on blasting-related issues.

6. **Procedures.** To implement the above policy in Federal program states and on Indian lands under Federal jurisdiction:

a. **Certifications.** FOs/FDs will issue OCB status according to the procedure outlined in Appendix A, *Application, Examination, and Issuance of Federal Blaster Certifications*. Upon receipt of application, testing, and issuance of certification, FOs/FDs will ensure relevant data is entered into the BCTS.

b. **Blaster Certificate Tracking System.** The BCC will administer the BCTS to provide the functionality that will capture the information as outlined in Appendix B, *Tracking of Federally-Certified Blasters*. The FOs/FDs or BCC will conduct timely updates of the required tracking system information on OCBs within their jurisdiction as OCB status changes or blasting-related enforcement occurs. Updates will include issuance, suspension, revocation, expiration, and enforcement history related to each OCB. The BCC can assist with data entry issues, if needed, and answer questions about the type of information needed for required data fields.

c. Enforcement Actions. The OCB will, to the extent possible, be identified by name and certification number in the narrative of any OSM Notice of Violation (NOV) or Cessation Order (CO) issued to a state or Federal permittee as a result of blasting activity under the control of an OCB. Enforcement actions issued on state (consistent with oversight procedures) or Federal permits shall also include identification of the regulation, permit condition, or portion of the Surface Mining Control and Reclamation Act cited and a detailed and complete description of the blasting event that is subject of the enforcement action. The appropriate FBW member or BCC shall provide FOs/FDs any necessary information to ensure the enforcement action and termination are consistent with this policy and reporting requirements for the BCTS.

(1) *Flyrock* occurrence indicates a potential for imminent danger--on site, if cast beyond the area of access control for the blasting area, and off-site, if it leaves the permit area or travels more than half the distance to the nearest dwelling or occupied structure. The occurrence of flyrock beyond the access control area for each blast on the permit area site is a violation of 30 CFR §816/817.67(a), because blasting was not conducted in a manner that would “prevent injury to persons.” Similarly, flyrock leaving the permit area is a violation of 30 CFR §816/817.67(a) because blasting was not conducted in a manner that would “prevent injury to persons, damage to public or private property outside the permit area.”

When a flyrock is discovered or reported beyond the area of access control or the permit boundary, authorized representatives shall take enforcement action consistent with either 30 CFR §843.11(a)(1)(i) or 30 CFR §843.12(a). The appropriate remedial action shall include suspension of blasting activity at and adjacent to the source of flyrock (if possible to determine the source). If the flyrock source is evident, excavation of the fractured overburden from the shot (muck pile) shall also be suspended so that the flyrock cause may be investigated. Additionally, remedial action shall specify the likely cause of the flyrock and require a blasting plan, revised to preclude future flyrock, be submitted for review and approval by the regulatory authority. If the flyrock incident results in death, injury, or property damage, the authorized representative will immediately suspend the OCB certificate according to the provisions of 30 CFR §955.17(a)(2).

(2) *Other enforcement actions* against the OCB, such as inappropriate drug or alcohol use, blasting record falsification, and air blast or vibration exceedances causing off-site damage, etc., are discussed in Appendix C.

d. Suspension/Revocation. The FO/FD will coordinate with an FBW member or the BCC and Department of the Interior solicitors, as appropriate, to ensure consistent suspension or revocation of blaster certifications. The duration of suspensions must be commensurate with the cause of the action and what the OCB does to correct it. Suspensions should occur as soon as practicable when a blasting-related enforcement action is taken due to OCB willful conduct resulting in imminent harm to persons, the public, property, or the environment. Guidance is provided in Appendix C, *Guidance for Determining the Nature and Duration of a Suspension, Revocation, or Other Action against a Federally-Certified Blaster.*

The OCB must be given the opportunity to request an informal hearing (30 CFR 955.17(b) and (c)). If the OCB requests a hearing, it will be conducted by the appropriate FO/FD within 30 days before the final decision on the suspension/revocation action. The FO/FD will prepare the administrative record for OCB appeals of suspension/revocation to the IBLA.

If/when notified by a state regulatory authority of suspension or revocation of state blaster certification that was the basis for a Federal blaster certification, the BCC will notify the FO/FD who conferred OCB status. The FO/FD will, in turn, take commensurate action (suspension, revocation, etc.) against the OCB in accordance with 30 CFR 955.17(f). The BCC will also alert states and other FOs/FDs of the suspension/revocation of an OCB's certificate.

7. **Reporting Requirements.**

a. **Certifications.** The FO/FD will either complete the BCTS data entry or provide the BCC copies of applications, examination results, background verification, and other records related to the issuance of an OSM blaster certificate within 10 business days of granting OCB status. The BCC will send OSM blaster certificate expiration notices to the FO/FD within 90 days of expiration dates.

b. **Blaster Certificate Tracking System.** The FOs/FDs or BCC will update the BCTS certification status (issuance, renewal, suspension, revocation, expiration, etc.) and blasting violation information within 10 business days of receipt of such documentation. The FOs/FDs or BCC will update the BCTS within 5 business days of suspension or revocation.

c. **Suspension/Revocation.** The FO/FD will provide written notification, by certified mail, to an OCB of any planned suspension/revocation action 30 days prior to a final decision per 30 CFR 955.17(b) and (c). If the OCB requests an informal hearing, the FO/FD will notify the OCB of the delay in decision until such time that the informal hearing is concluded. Following a decision, the FO/FD will either update the BCTS or notify the BCC, who will in turn update the BCTS. The BCC will notify all other FOs/FDs of any suspension/revocation actions against an OCB within 5 business days. The FOs/FDs and BCC will coordinate to assure state regulatory authorities are notified of certification suspensions/revocations as soon as practical so that commensurate state actions are taken against state-certified blasters. The BCC will contact FOs/FDs when notified of any state action against a state-certified blaster for misconduct.

d. **Enforcement Actions Notification.** FOs/FDs will enter the requisite information from blasting-related enforcement actions in the BCTS within 10 business days of issuance or provide the information to the BCC for entry. For enforcement actions involving imminent danger, including flyrock, the FO/FD will notify the appropriate Regional Director as soon as practicable.

8. **Effects on other documents.** None

9. **References.** 30 U.S.C. §1265(b)(15), 1309; 30 CFR §§701.5, 816/817.61-68, 846, 850, and 955

10. **Effective Date.** Upon issuance
11. **Distribution.** By electronic format
12. **Appendices.**
  - a. Appendix A: *Application, Examination, and Issuance of OSM Blaster Certificates*
  - b. Appendix B: *Blaster Certification Tracking System*
  - c. Appendix C: *Guidance for Determining the Nature and Duration of a Suspension, Revocation, or Other Action against a Federally-Certified Blaster.*

**Contact:** Appalachian Regional Director

## APPLICATION, EXAMINATION, AND ISSUANCE OF OSM BLASTER CERTIFICATES

**I. Introduction.** This appendix addresses the training, testing, and certification of blasters operating on Federal permits. The Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. §1309, and regulations state that the regulatory authority is responsible for promulgating rules governing the training, testing, certification, and enforcement of an Office of Surface Mining Reclamation and Enforcement (OSM) blaster certificate program for Federally-permitted surface coal mining operations.

**II. Objective.** Establish blaster certification guidelines that will facilitate application, ensure training, establish objective examination, and guarantee prompt certificate issuance.

**III. Background.** Section 515(b)(15)(D) of SMCRA (30 U.S.C. §1265(b)(15)) states that the regulatory authority shall:

. . . require that all blasting operations be conducted by trained and competent persons as certified by the regulatory authority.

Section 719 of SMCRA states:

In accordance with this Act, the Secretary of the Interior (or the approved State regulatory authority as provided for in section 503 of this Act) shall promulgate regulations requiring the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in surface coal mining operations.

30 CFR §850 contains the permanent program template for regulatory programs (48 FR 9486, March 4, 1983). 30 CFR §955 establishes rules pursuant to 30 CFR §850 for the training, examination, and certification of blasters by OSM for surface coal mining operations in states with Federal programs and on Indian lands under Federal jurisdiction (51 FR 19444, May 29, 1986).

**IV. Application and Fee.** Form OSM-74 is the Application for an OSM Blaster Certificate in Federal program states and on Indian lands under Federal jurisdiction. The application must be submitted to the nearest OSM Field Office/Field Division (FO/FD). The FO/FD will verify training and experience information in the application and determine the completeness within 10 business days.

1. **Fee:** A fee must be submitted with the application as specified at 30 CFR §955.13. A check or money order must be made payable to “The Office of Surface Mining Reclamation and Enforcement.” The fee is good for one application and testing. If a person is required to reapply and retest, another fee will be paid. The fee is not refundable.

2. **Experience:** The application shall demonstrate the appropriate level of experience within the prior three years (30 CFR §955.11(b)).

(a) Issuance – worked for two years in any capacities as described in Section V.1 below.

(b) Reissuance or renewal – worked for one year in any capacities as described in Section V.1 below.

3. **Conduct:** The applicant must demonstrate a pattern of conduct consistent with the acceptance of responsibility for blasting operations (30 CFR §955.11(d)). This requirement will be met if the applicant has been deemed an Employee Possessor or Responsible Party by the Bureau of Alcohol, Tobacco, Firearms and Explosives under 27 CFR §555.11.

4. **Notification:** The FO/FD will send a letter to the applicant scheduling an examination if the application is complete and demonstrates that the applicant is qualified. If the FO/FD cannot verify employment and training, the application cannot be approved.

**V. Training:** 30 CFR §955.12 lists the training requirements that an applicant must meet to obtain Federal blaster certification. The applicant for certification must have received on-the-job training, completed a training course, and obtained satisfactory evidence of having completed training.

1. **On-The-Job Training:** 30 CFR §955.12(a)(1) states that an applicant for certification “have received on-the-job training, including practical field experience in blasting operations, from a blaster or the equivalent for 2 out of the 3 years preceding the submission of his or her application.” OSM will accept as equivalent only that experience gained in activities that reasonably approximate the environment, procedures, shot size, and hazards of surface coal mining (51 FR 19448).

On-the-job training should be verifiable for 24 of the 36 months prior to application and may include:

- Practical field experience
- Design of blasts
- Software use
- Permit application (Blast Plan)
- Inventory
- Blast logs
- Drilling

30 CFR §955.12(a)(2) states that applicants for OSM Blaster Certificate “have obtained from the blaster or the equivalent, the relevant employer, or other knowledgeable source, satisfactory evidence of having received on-the-job training in accordance with paragraph(a)(1) of this section.”

FOs/FDs will contact by phone: (1) the blaster; (2) the equivalent person that provided the on-the-job training; (3) the blaster's employer; or (4) the other knowledgeable source for verification of training.

2. **Classroom Training and Duration:** 30 CFR §955.12(b)(1) states that each applicant, within the two years prior to application for a certification, shall have completed a class that “. . . covers the technical aspects of blasting operations and State and Federal laws governing the storage, transportation and use of explosives, including the topics specified in §850.13(b) of this chapter.” Neither the rules nor the preamble define the depth of training or duration.

In order to cover all the subjects listed in 30 CFR §850.13(b), sufficient time should be given to present the course material and to allow the students to have enough time to practice solving problems. It is necessary for all certified blasters to acquire the knowledge and experience needed to perform their duties. The responsibility of the use of explosives in surface coal mining operations falls in the hands of the certified blaster; it is of critical importance that the blaster be adequately trained.

Considering the wide range of topics to be covered, a minimum 32-hour training session is recommended.

3. **Completion of Training:** 30 CFR §955.12.(b)(2) states that each applicant will have obtained from the training provider satisfactory evidence that he or she has completed training in accordance with paragraph (b)(1) of this section.

Satisfactory evidence of completed training includes, but is not limited to: (1) Certificate of Attendance, (2) Letter of Attendance, or (3) Transcript with passing grade.

For the purpose of applying for a new OSM blaster certificate (i.e., taking the examination), this training requirement is met if the applicant has a valid blaster certification issued by one of the state regulatory authorities.

4. **Available Training Classes:** 30 CFR §955.12(c) states that “OSM shall ensure that courses are available as provided in §850.13(b) of this chapter to train persons subject to this part who are responsible for the use of explosives in surface coal mining operations.”

The Federal rules require that OSM provides courses or otherwise makes certain that persons seeking a blaster certification are able to find the training needed. Neither SMCRA nor the Federal regulations at 30 CFR §955 specify or list the methods to be used and the degree of involvement by OSM. Across the Nation, training classes are available from explosive suppliers, universities, professional organizations, consultants, and states. “The regulatory authority may choose to accept outside courses, require combinations of MSHA and industry courses or provide its own training” (48 FR 9489, 51 FR 19449).

Applicants may contact the FOs/FDs for vendors that are capable of providing the required training of 30 CFR §955.12(c) or an applicant may submit a course outline for prior approval by the FO/FD.

5. **Continuing Education:** Applicants for reissuance of an OSM blaster certificate must show training that covers any significant changes in the topic areas of 30 CFR §850.13(b) unless OSM determines that no significant changes have occurred. Significant changes in blasting products, blast design processes, monitoring tools, and other items happen continuously. Many blasting conferences that cover these topics are available annually throughout the country.

The blaster must receive and complete at least 24 hours of continuing education within the 6 years before application for reissuance of a blaster certificate. Acceptable continuing education courses will be determined by the FO/FD on a case-by-case basis.

**VI. Examination:** Once the applicant has met the training requirements, he/she must take a written examination as outlined at 30 CFR §955.14(a).

1. **Written Examination:** The rules do not specify the language of the written examination. However, the preamble clearly states that the written examination should be in English.

The laws and regulations governing blasting are written in the English language. All the information published by the Institute of Makers of Explosives on the safe storage, transportation and use of explosives is in the English language. In order to understand the technical specifications of explosives, prepare blast designs, submit required records, interpret safety notices and other information, and give on the job training to persons under his or her supervision; a blaster must be able to read and write the English language. The only way to adequately measure a candidate's ability to understand these materials and do these things is through a written examination in the English language. (51 FR 19454)

Any written examination for OSM blaster certificate will be in the English language, and no person may take the examination more than 2 times in any 12-month period (30 CFR §955.14(c)).

2. **Examination Content:** 30 CFR §955.14(b)(2) states that:

The examination, at a minimum, shall cover the topics specified in 30 CFR §850.13(b) of this chapter, and shall include:

- (i) Objective questions;
- (ii) Blasting log problems; and
- (iii) Initiation system and delay sequence problems.

As shown in Table 1 below, two fundamental categories of topics exist in 30 CFR §850.13(b): Technical and Regulatory.

The Blaster Certificate Coordinator (BCC) will maintain a pool of questions categorized by the topics in Table 1 to ensure complete coverage of the required topics. From the question pool, the examination will consist of:

- Multiple choice questions
- 80 to 90 questions
- 100 points
- Single to five point questions
- A blast log completion problem

The examination will be formulated by the BCC. A 70 percent Technical/30 percent Regulatory split of exam questions will best establish blaster competency. Table 1 is an approximate guideline on the number of questions to be presented on each test for each category to place proper emphasis on the required topics, based on 90 questions.

<b>Table 1. Required examination subjects. (30 CFR §850.13 Subject)</b>	<b>Technical</b>	<b>Regulatory</b>
1(i) Explosives – selection of type to be used	3	
1(ii) Explosives – determination of the properties which will produce desired results at an acceptable level of risk	3	
1(iii) Explosives – handling, transportation, and storage		2
2(i) Blast designs – geologic and topographic considerations	5	
2(ii) Blast designs – design of a blast hole, with critical dimensions	8	
2(iii) Blast designs – pattern design, field layout, and timing of blast holes	6	
2(iv) Blast designs – field applications	8	
3 Loading blastholes, including priming and boosting	5	
4 Initiation systems and blasting machines	6	
5 Blasting vibrations, airblast, and flyrock	3	
5(i) Blasting vibrations, airblast, and flyrock – monitoring techniques	3	
5(ii) Blasting vibrations, airblast, and flyrock – methods to control adverse affects	7	

<b>Table 1. (continued) Required examination subjects. (30 CFR §850.13 Subjects)</b>	<b>Technical</b>	<b>Regulatory</b>
6 Secondary blasting applications	1	
7 Current Federal and State rules applicable to the use of explosives		3
8 Blast records		7
9 Schedules		2
10 Preblasting surveys		1
10(i) Preblasting surveys – availability		1
10(ii) Preblasting surveys – coverage		1
10(iii) Preblasting surveys – use of in-blast design	2	
11 Blast-plan requirements		5
12 Certification and training		1
13 Signs, warning signals, and site control		4
14. Unpredictable hazard including Lightning, Stray currents, Radio waves, and Misfires	3	
<b>Total</b>	<b>63</b>	<b>27</b>
<b>Percent</b>	<b>70</b>	<b>30</b>

3. **Passing Score:** 30 CFR §955.14 requires the applicant to pass a written examination for an OSM blaster certificate. Each applicant must demonstrate a satisfactory level of competency in blasting and in the use of explosives on surface coal mining operations in accordance with the Federal rules.

A minimum passing score of 80 percent on the written examination is necessary to demonstrate competency and achieve certification.

**VII. Certification:** Once an applicant has fulfilled the requirements of training and examination, the blaster obtains an OSM blaster certificate. The FO/FD will issue the certification within 20 days of the examination.

1. **Age:** The applicant must be 21 years of age to become certified.

2. **Certification Numbers:** The certification number will begin with OSM and be followed with a Federal program state 900 number and a sequential number for that state. Use 955 for Indian lands under Federal jurisdiction.

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3. **Reciprocity:** Reciprocity applicants will complete all items in the application (OSM-74). Once the application is deemed complete and certification in a state regulatory program is verified by the FO/FD, the applicant must obtain a photograph from the FO/FD. Two forms of ID will need to be presented.

4. **OSM Blaster Certificate Duration:** Each certificate will expire as described at 30 CFR 955.15(c).

5. **Photograph:** A digital color photograph of each applicant will be taken at the time of testing for the OSM blaster certificate identification card. Each photograph will be good for 6 years.

6. **OSM Blaster Certificate Identification Card:** The identification card will include:

- Certification number
- Color photograph
- Expiration date
- First, middle and last name
- Signature of the blaster
- Address
- Birth date
- Height
- Weight
- Color hair
- Color eyes
- Issue date
- Title of Issuing officer
- Signature of issuing officer
- Certification type
  - Issuance
  - Renewal
  - Reissuance
  - Replacement
  - Reciprocity
- Notes

- Notify OSM within 30 days of any change in address
- If found, drop in U.S. mail box: Office of Surface Mining, 1951 Constitution Ave. NW, Washington, DC 20240
- Property of the U.S. government, counterfeiting, alteration or misuse is a violation of Section 499 and 701, Title 18 U.S. Code

## **BLASTER CERTIFICATION TRACKING SYSTEM**

**I. Introduction:** The Blaster Certification Tracking System (BCTS) is a resource for Surface Mining Control and Reclamation Act (SMCRA) regulatory program personnel to monitor blaster certifications nationally. As more blasters work in more than one state and more regulatory authorities (RA) engage in blaster certification reciprocity, the tracking system will help internally track state and Office of Surface Mining Reclamation and Enforcement (OSM)- and state-certified blasters, facilitate reciprocity with other RAs, and deal with blasters who have poor performance histories. Furthermore, a tracking system will facilitate compliance inspections and notify blasters of upcoming expirations. State participation in the BCTS is voluntary.

**II. Objective:** Develop and maintain a tracking system to catalogue the status of Federal and state blaster certifications and blasting violations associated with blasters. The system should be easy to use, catalogue the minimum information necessary, and be readily available to mine inspectors.

**III. Background:** The certification of blasters is an important regulatory function under SMCRA. Highly-trained and skilled blasters are crucial to ensure safe, efficient, and compliant blasts in coal mining operations. Properly-trained blasters can design and conduct blasts that use the best technology currently available, while meeting the regulatory performance standards of SMCRA. Highly-competent and successful blasters also maintain a responsible relationship with surrounding residents, thereby reducing the number of complaints. Each RA, including the OSM, is responsible for certifying blaster competence based upon the right mix of experience, training, and testing.

An objective examination, with a good balance of technical and regulatory questions, is the backbone of the blaster certification program. After OSM certification (see Appendix A), a blaster is authorized to conduct blasting operations in any Federal program state or on Indian lands under Federal jurisdiction and may seek certifications from other RAs through reciprocal certification arrangements. OSM is responsible for tracking certifications and the performance of blasters operating within its jurisdiction. States who wish to participate in the BCTS may also track blaster performance and certification status using the BCTS. While most blasters successfully maintain spotless performance records, when appropriate, certifications must be suspended or revoked.

As reciprocity certifications increase, so too does the need for reliable, up-to-date information on the status of a blaster's certification. Currently, if an application is received for reciprocity, a RA must contact OSM to verify certification. Then, OSM must manually search the certification files for the current status of blasters. A tracking system would facilitate certification reviews and performance history queries. Furthermore, a blaster certification tracking system would help identify irresponsible blasters from repeating poor performance in other OSM regions.

For some RAs, when a certification is issued through reciprocity, they require continued certification (i.e., renewed, in good standing, etc.) in the original issuing jurisdiction. If OSM or

the states suspend or revoke certification, RAs and Field Offices/Field Divisions (FO/FD) with reciprocal certifications need to know about that action to ensure that blasters with poor performance histories are either retrained or banned from blasting at coal mines in other locations. The RAs depend upon the assistance and cooperation of OSM to carry out this part of their program.

**IV. Tracking Fields:** Data fields included in the tracking system are the minimum necessary to identify the current status of a blaster and track their performance. Most of the information is required on the Application for OSM Blaster Certificate (OSM-74). The data will be maintained by either the FO/FD or the OSM Blasting Certification Coordinator (BCC).

1. **Certification Number** – OSM blaster certificate number issued by the FO/FD in the form of OSM-9XX-XXX as described in Appendix A or state-issued certificate number;
2. **First, middle, and last name** – From the application;
3. **Address, City, State, Zip code** – From the application;
4. **Day/Home Phone Numbers** – Day and home telephone numbers from the application;
5. **ID card** - Original or if original is lost, replacement card;
6. **Certification Status** – Active, Suspended, Revoked, Expired as documented in the official certification file;
7. **Certificate Type** - Issue, Renewal, Reissuance, Reciprocity as documented in the official certification file;
8. **Issue Date**– The date the FO/FD signs the certification card;
9. **Expiration Date** – As determined by Appendix A and documented in the official certification file;
10. **Reciprocal state** – If the Federal certification is based on reciprocity, designate the state of reciprocity;
11. **Reciprocal State Card ID Number** - If the OSM blaster certificate is based on reciprocity, designate the state certification number;
12. **Reciprocal Card Expiration Date** - If the OSM blaster certificate is based on reciprocity, designate the state certification expiration date; and
13. **Performance History** – The FO/FD or BCC will enter pertinent performance information relevant to the blaster’s certification. Any information described in this section must

be documented in the blaster's official certification file as discussed in Appendix C of this directive. The field may include:

- a. Initial certification date;
- b. Enforcement actions associated with the blaster, to include enforcement action number, regulation citation, brief description;
- c. Letter of Admonishment date and brief description;
- d. Suspension date and brief description:
  - i. Immediate,
  - ii. Conditional – describe the condition(s) of re-activation,
  - iii. Definite time – list the time; and
- e. Revocation date and brief description.

**V. Access:** Access to the tracking system will be given to the following people with the rights commensurate to their responsibility.

1. BCC;
2. Regional blasting specialists (members of the Federal Blasting Workgroup);
3. FO/FD personnel responsible for granting certifications;
4. Federal and authorized state inspection personnel - The tracking system data will be viewable to all OSM inspection staff;
5. Supervisors of Federal program states and Indian lands under Federal jurisdiction;  
and
6. State blasting coordinators/managers/supervisors, as requested.

Each time the status of a blaster changes or the performance history is modified, the BCTS will be updated and a broadcast notice sent by the BCC to all supervisors responsible for Federal program states or Indian lands under Federal jurisdiction and RA counterparts.

**VI. Individual Blaster Files:** The blaster may request, in writing, a copy of their consolidated tracking system file from the FO/FD or Blaster Certificate Coordinator at any time.

**GUIDANCE FOR DETERMINING THE NATURE AND DURATION  
OF A SUSPENSION, REVOCATION, OR OTHER ACTION  
AGAINST A FEDERALLY-CERTIFIED BLASTER**

**I. Introduction:** OSM Field Offices/Field Divisions (FO/FD) are responsible for suspension or revocation of OSM blaster certificates as authorized at 30 CFR §955.17.

30 CFR §955.17(a)(1) authorizes and, in the event of a finding of willful conduct, mandates OSM to suspend, revoke, or take other necessary action against blaster certification for any of the reasons at 30 CFR §850.15(b) or 30 CFR §955.17(a)(2). A finding of willful conduct is not requisite for suspension or revocation of blaster certification; however, if a determination of willful conduct is made, OSM is obligated to suspend or revoke a certification. In addition, OSM is required to make the nature and duration of the suspension, revocation, or other action commensurate with the cause of the violation and any remediation actions taken by the certificate holder (30 CFR §955.17(a)(3)). Provisions are included at 30 CFR §955.17(b)-(f) for written notice and opportunity for a hearing, notification of decision, and opportunity for appeal, surrender of certificate, re-instatement and re-issuance of certificate, and conformity with state action.

The suspension and revocation regulations address actions directed toward protecting persons, the public, and property from irresponsible actions by OSM-Certified Blasters (OCB). By statute and regulation, OSM issues notices of violation (NOV) and cessation orders (CO) only to the permittee. The certified blaster is the only individual, other than the permittee, who OSM holds responsible for specific day-to-day mining activities and against who OSM may take direct actions for violating certain regulations. Consequently, when OSM grants an OCB the right and responsibility for handling and discharging explosives, that right may be also revoked or suspended by a FO/FD or authorized representative should an OCB's conduct become irresponsible or inappropriate.

**II. Reasons for Certification Actions:** 30 CFR §955.17(a)(1) incorporates by reference the reasons cited at 30 CFR §850.15(b) for suspension and revocation, or other necessary actions taken against an OCB. These reasons, and a brief discussion of their implications, follow:

A. Noncompliance with any order or permit condition of the regulatory authority. This includes failure or refusal to follow the blast plan of the permit or comply with any order issued by an authorized representative of OSM to the permittee, operator, or the blaster himself.

B. Unlawful use in the workplace of, or current addiction to, alcohol, narcotics or other dangerous drugs. The use of alcohol and narcotics at mine sites is explicitly prohibited. Whenever an inspector witnesses a blaster who is not in effective control during blasting activities due to intoxicants and makes a determination that unsafe conditions are present or likely to occur, the inspector is obligated under 30 CFR §955.17(a)(2) to immediately suspend the blaster's certification.

C. Violation of any provision of the state or Federal explosives laws or regulations. This includes failure to comply with the OSM performance standards and blaster certification regulations, Mine Safety and Health Administration (MSHA) regulations concerning storage and use of explosives, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulations governing explosives storage, and any state explosives laws.

D. Providing false, omitting, or misrepresenting information in order to obtain a Federal blaster certification.

E. In addition to the four reasons for certification suspension or revocation listed above, 30 CFR §955.17(a)(2) authorizes the regulatory authority to immediately suspend the certificate of a blaster if OSM has information that demonstrates that the storage, transportation, or use of explosives by that blaster is likely to threaten public safety or the environment.

**III. Suspension/Revocation of OCBs:** While all NOV's and CO's that result from blasting are issued to the permittee, there are six types of actions that may be taken against a certified blaster:

**A. Official Admonishment:** The FO/FD sends a letter to the OCB noting that a blasting-related event with which they were associated resulted in an enforcement action to the permittee and an entry in their official OCB file. The letter will include language warning the OCB that, if additional blasts for which they are responsible result in enforcement actions, OSM may have grounds to suspend or revoke their certification.

**B. Immediate suspension:** A blaster's certification may be immediately suspended on site by an authorized representative of the Secretary in the event that an imminent harm situation exists relative to blaster conduct that poses a serious threat to persons, public safety, or the environment. Because the action is taken without notice, this suspension cannot exceed 90 days before an informal hearing and final decision for suspension or revocation by the FO/FD.

**C. Indefinite suspension:** Following written notice, opportunity for an informal hearing and final decision by the FO/FD, an indefinite suspension may be imposed upon the blaster's certification. The suspension is conditioned upon the completion of remedial actions by the blaster (e.g., retraining or retesting). The FO/FD may specify a time period within which the remedial actions must be completed.

In the event that the remedial actions are completed and verified by the FO/FD, with the advice of an appropriate member of the Federal Blasting Workgroup (FBW), the certification will be reinstated. If the remedial actions are not met within the lesser of the specified time period, one year, or the expiration date of the certificate, the FO/FD may consider revocation.

**D. Suspension for a definite time period:** Following notice, opportunity for an informal hearing, and final decision by the FO/FD, the FO/FD will specify the ending date of the suspension. Special conditions or remedial actions may also be attached to this type of enforcement action. Following completion of the suspension time period and any attendant

remedial measures required of the blaster, the certificate will be reinstated.

The time period of the suspension will depend upon the nature and severity of the blaster's actions. Consideration should also be given to the blaster's past performance history and the possibility of an over-riding decision by the employer. The period of suspension should not exceed one year. If the FO/FD, with the advice of an appropriate member of the FBW, considers the blaster's actions serious enough to warrant a suspension in excess of one year or past the date of certificate expiration, it is more appropriate to revoke the certificate.

**E. Revocation:** Revocation of blaster certification may be chosen by the FO/FD following written notice and opportunity for a hearing. Generally, this type of action is for the most serious blaster violations or selected in lieu of a suspension having a time period that extends past the expiration date of the certificate or exceeds one year. If revocation takes place, the blaster must return the certification card to OSM.

**F. Other actions:** Examples of such actions may include, but are not limited to referral to another agency, such as the ATF for criminal action or the MSHA for worker safety issues.

**G. Conformance with state actions:** If a blaster receives a Federal certification through reciprocity with a state and the state suspends or revokes the state certification, then OSM must revoke the OSM blaster certificate (30 CFR §955.17(f)). Conversely, notification should be provided to the appropriate state when OSM takes action against an OCB certified through reciprocity.

**IV. Discussion:** A general sequence of events that may occur as a result of a blasting violation is outlined below:

- A. An authorized representative discovers a blasting violation.
- B. The permittee is issued an NOV or CO.
- C. The blaster's name and OSM certification number are noted in the narrative of the NOV or CO. The authorized representative documents the circumstances of the violation for inclusion in the official master blaster file. In the event of an imminent harm situation, a statement of immediate suspension of certification may be attached to the remedial action section of the CO.
- D. The FO/FD shall ensure that a copy of the NOV or CO is included in the OCB master file and that the Blaster Certification Tracking System is updated with the violation information.
- E. The blaster receives notification that such documentation has been noted in his file from the FO/FD. In the event that OSM is considering suspension, revocation, or issued an immediate suspension of certification on site, the blaster is notified of the opportunity for an informal hearing prior to final decision.

F. The FO/FD makes a final decision and notifies the blaster by certified mail of that decision within 30 days of the hearing or, in the case of immediate suspension of certification on site, within 90 days of the immediate suspension. The blaster is notified of the right to appeal the decision to the Department of the Interior Board of Land Appeals under 43 CFR §§4.1280 to 4.1286.

G. The Blaster Certificate Coordinator coordinates with the FO/FDs responsible for the certification action to notify the appropriate FO/FDs and state RAs of OSM's enforcement action.

V. **Reference Tables:** The following tables are designed to provide guidance when determining appropriate enforcement action related to suspension or revocation of Federally-certified blasters. The tables are not all inclusive, but contain a number of sample violations or infractions that represent situations in which enforcement action against the blaster is appropriate.

<b>OCB ENFORCEMENT ASSOCIATED WITH VIOLATION OF PERFORMANCE STANDARDS OR PERMIT CONDITIONS</b>					
VIOLATION	Citation Source 30 CFR§	Seriousness			Appropriate Enforcement Action
		Min	Mod	Maj	
<b>A. Noncompliance With Any Order or Permit Condition of the Regulatory Authority.</b>	955.17(a)(1), 850.15(b)(1)(i)				
-Failure to abate a NOV for an administrative violation (e.g., erroneous recordkeeping).	816/817.68	X	X		Official admonishment to suspension
-Failure to cease blasting operations in the face of a CO (e.g., failure to control site access).	816/817.66(c)			X	Immediate suspension
-Not following the operation plan for blasting in the permit.	780.13	X	X	X	Official Admonishment to revocation

<b>OCB ENFORCEMENT ASSOCIATED WITH VIOLATION OF PERFORMANCE STANDARDS OR PERMIT CONDITIONS</b>					
VIOLATION	Citation Source 30 CFR§	Seriousness			Appropriate Enforcement Action
		Min	Mod	Maj	
<b>B. Unlawful Use in the Workplace of, or Current Addiction to, Alcohol, Narcotics, Or Other Dangerous Drugs.</b>	955.17(a)(1), 850.15(b)(1)(ii)				Notification to appropriate MSHA, ATF and State agencies.
	-Intoxicated while engaging in blasting operations. 955.17(a)(2)			X	Immediate suspension.
	-Consuming alcoholic beverages while conducting blasting operations. 955.17(a)(2)			X	Immediate suspension.
	-Drug impaired 955.17(a)(2)			X	Immediate suspension
<b>C. Storage/Transportation.</b>					Action taken upon certification dependent upon ultimate responsibility for storage and a violation by ATF or MSHA. Conditional suspension or revocation.
	-Improper storage of high explosives (e.g., detonators & explosives in same container). 816.61(a), 817.61(a)		X	X	MSHA 30 CFR 77.1300 ATF 27 CFR 55.21(b), 55.164

<b>OCB ENFORCEMENT ASSOCIATED WITH VIOLATION OF PERFORMANCE STANDARDS OR PERMIT CONDITIONS</b>					
VIOLATION	Citation Source 30 CFR§	Seriousness			Appropriate Enforcement Action
		Min	Mod	Maj	
<b>D. Use of Explosives</b>					
-Failure to control flyrock.	816/817.67(c)		X	X	Immediate suspension to revocation.
-Improper calculation of weight of explosives per 8-millisecond delay period/exceeding ground vibration limits/exceeding airblast limits.	955.11(d)	X	X	X	Official admonishment to suspension.
-Inaudible warning signals.	816/817.66(b)	X			Official admonishment.
-Blasting outside the blasting schedule.	816/817.64	X			Official admonishment.
-Site Access control.	816/817.66(c)	X	X	X	Immediate suspension to revocation.
-Preblast surveys not complete.	816/817.61	X			Official admonishment.

<b>OCB ENFORCEMENT ASSOCIATED WITH VIOLATION OF PERFORMANCE STANDARDS OR PERMIT CONDITIONS</b>					
VIOLATION	Citation Source 30 CFR§	Seriousness			Appropriate Enforcement Action
		Min	Mod	Maj	
<b>E. Blasting Records</b>					
-Failure to note maximum weight of explosives per delay.	816/817.6(k)	X	X		Official admonishment to suspension.
-Failure to make a written record of any blast.	816/817.68			X	Immediate suspension.
-Failure to attach a blasting seismograph record when required.	816/817.68	X			Official admonishment.
-Incomplete blasting records.	816/817.68	X			Official admonishment to suspension.
<b>F. Storage, Transportation, or Use of Explosives is Likely to Threaten Public Safety or the Environment.</b>					
-Flyrock injures employee or private citizen	816/817.67(a)			X	Immediate suspension.
-Fumes harm people.	816/817.67(a)			X	Immediate suspension.
-Flyrock damages property outside the permit area.	816/817.67(a)			X	Immediate suspension.
-Failure to control site access that results in injury.	816/817.67(a)			X	Immediate suspension.

OCB ENFORCEMENT BASED SOLEY ON REQUIREMENTS AND CONDITIONS OF 30 CFR §955					
VIOLATION	Citation Source 30 CFR§	Seriousness			Appropriate Enforcement Action
		Min	Mod	Maj	
<b>G. Certification Conditions</b>					
-Failure to report lost certificate.	955.15(f)	X			Official admonishment with condition to obtain a replacement certificate.
-Refusal to show certification card to inspector.	955.15(f)	X	X		Official admonishment.
-Improper delegation of responsibility.	955.15(f)			X	Suspension for a definite period.
-Loss of ATF authorization as an Employee Possessor or Responsible Party (conduct not consistent with the responsibility for blasting operations).	955.11(d)			X	Immediate suspension.

OCB ENFORCEMENT BASED SOLELY ON REQUIREMENTS AND CONDITIONS OF 30 CFR §955					
VIOLATION	Citation Source 30 CFR§	Seriousness			Appropriate Enforcement Action
		Min	Mod	Maj	
<b>H. Providing False Information Or A Misrepresentation To Obtain A Certification.</b>	955.17(a)(1), 850.15(b)(1)(iv)				SMCRA, Section 518(g) provides criminal penalties for providing false information or representation on any application or other document pursuant to a Federal or Federal Lands program.
-Providing misrepresentation concerning experience.	955.11(b)			X	Immediate suspension.
-Providing false information concerning age.	955.11(a)			X	Immediate suspension.
-Providing false information on a training course.	955.12(b)			X	Immediate suspension.