

**PART 955--CERTIFICATION OF BLASTERS IN FEDERAL PROGRAM STATES AND
ON INDIAN
LANDS**

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Sec. 955.1 Scope

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This part establishes rules pursuant to Part 850 of this chapter for the training, examination and certification of blasters by OSM for surface coal mining operations in States with Federal programs and on Indian lands. It governs the issuance, renewal, reissuance, suspension and revocation of an OSM blaster certificate, replacement of a lost or destroyed certificate, and reciprocity to a holder of a certificate issued by a State regulatory authority.

Sec. 955.2 Implementation.

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In accordance with Sections 750.19, 816.61(c) and 817.61(c) of this chapter, after June 30, 1987, in Federal program States and on Indian lands any person who is responsible for conducting blasting operations at a blasting site shall have a current OSM blaster certificate.

Sec. 955.5 Definitions.

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As used in this part:

Applicant means a person who submits an application for an OSM blaster certificate.

Application means a request for an OSM blaster certificate submitted on the prescribed form, including the required fee and any applicable supporting evidence or other attachments.

Issue and issuance mean to grant to an applicant his or her first OSM blaster certificate that is not granted through reciprocity.

Reciprocity means the recognition by OSM of a blaster certificate issued by a State regulatory authority under an OSM-approved blaster certification program as qualifying an applicant for the grant of an OSM blaster certificate.

Reissue and reissuance are synonymous with the term recertification in Section 850.15(c) of this chapter, and mean to grant to an applicant who holds a renewed OSM blaster certificate, or who holds an OSM blaster certificate that expired more than 1 year prior to the date of his or her application, or who held an OSM blaster certificate that was revoked, a subsequent certificate that is not granted through reciprocity and for which additional training and examination are required.

Renew and renewal mean to grant to an applicant who holds an issued or reissued OSM blaster certificate a subsequent certificate that is not granted through reciprocity and for which additional training and examination are not required.

Replace and replacement mean to grant to an applicant a duplicate OSM blaster certificate as a substitute for one that was lost or destroyed.

Sec. 955.10 Information collection.

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The information collection requirements in this part were approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029-0083. This information is needed to meet the requirements of sections 504, 515, 516, 710 and 719 of Pub. L. 95-87, and will be used by OSM in the certification of blasters. The obligation to respond is mandatory.

Sec. 955.11 General requirements.

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To qualify for an OSM blaster certificate, a person shall:

(a) Be at least 20 years old prior to submitting an application, and at least 21 years old prior to the grant of a certificate;

(b) In the 3 years prior to submitting an application have been qualified and worked as a blaster or the equivalent, or have worked under the direction of a blaster or the equivalent, for the following cumulative length of time:

(1) Certificate issuance -- 2 years; or

(2) Certificate renewal or reissuance -- 1 year;

(c) For certificate issuance or reissuance, have received on-the-job training, completed a training course, and obtained satisfactory evidence of having completed training, as provided in Section 955.12;

(d) Be competent, possess practical knowledge of blasting techniques, understand the hazards involved in the use of explosives, and exhibit a pattern of conduct consistent with the acceptance of responsibility for blasting operations;

(e) Submit an application as provided in Section 955.13;

(f) For certificate issuance or reissuance, pass a written examination as provided in Section 955.14;

(g) For a certificate through reciprocity, meet the requirements of Section 955.16;and

(h) Not be subject to suspension, revocation or other action under Section 955.17.

Sec. 955.12 Training.

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(a) On-the-job training. Except as provided in Section 955.14(c) for reexamination, each applicant for the issuance of an OSM blaster certificate who does not qualify as a blaster or the equivalent shall:

(1) 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; and

(2) 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.

(b) Training course. Except as provided in Section 955.14(c) for reexamination, each applicant for the issuance or reissuance of an OSM blaster certificate shall:

(1) Within 2 years prior to submitting an application, have completed a training course as follows:

(i) For certificate issuance the course shall cover the technical aspects of blasting operations and State and Federal laws governing the storage, transportation and use of explosives, including the topics specified in Section 850.13(b) of this chapter; or

(ii) For certificate reissuance the course shall cover any significant changes that have occurred in the topics specified in Section 850.13(b) of this chapter since the applicant last completed a course that was accepted by OSM for the issuance or reissuance of an OSM blaster certificate. If OSM determines that no significant changes have occurred, OSM may waive this requirement; and

(2) Have obtained from the training provider satisfactory evidence that he or she has completed training in accordance with paragraph (b)(1) of this section.

(c) Availability. OSM shall ensure that courses are available as provided in Section 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.

Sec. 955.13 Application.

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(a) Submission procedures. Any person seeking an OSM blaster certificate shall:

(1) Complete and submit to OSM an application on the form prescribed by paragraph (b) of this section;

(2) Include as part of the application a nonrefundable fee as follows:

(i) Issuance or reissuance . . . \$122

(ii) Reexamination 61

(iii) Renewal 61

(iv) Replacement 28

(v) Reciprocity 61;

(3) For certificate issuance or reissuance, include as part of the application satisfactory evidence of having completed training as provided in Section 955.12;

(4) For certificate issuance or reissuance, specify in the application the date when the applicant desires to take a previously scheduled examination; and

(5) Submit the application in advance of the date of examination, or of certificate expiration, as follows:

(i) For certificate issuance, not less than 60 days before the date on which the applicant desires to take a previously scheduled examination;

(ii) For certificate renewal, not less than 60 days before the expiration date of the applicant's current certificate;

(iii) For certificate reissuance, not less than 60 days before the date on which the applicant desires to take a previously scheduled examination that will be held at least 60 days before the expiration date of the applicant's current certificate; or

(iv) For a certificate through reciprocity, not less than 45 days before the expiration date of the applicant's current certificate.

(b) Application form. OSM shall make available to any person seeking an OSM blaster certificate an application form and instructions for its completion. The form shall include a statement in accordance with law that the information provided is true and accurate to the best knowledge and belief of the applicant, and shall require the signature of the applicant.

Sec. 955.14 Examination.

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(a) Certificate issuance or reissuance. After submitting an application, each applicant for the issuance or reissuance of an OSM blaster certificate shall pass a written examination, as provided in paragraph (b) of this section.

(b) Administration and content. (1) On a regular basis OSM shall schedule and hold a written examination on the technical aspects of blasting operations and State and Federal laws governing the storage, transportation and use of explosives, as provided in Section 850.14 of this chapter.

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

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

(c) Reexamination. (1) Any person who fails the examination may apply to OSM for reexamination by submitting a new application, including the prescribed fee, but no person may take the examination more than 2 times in any 12-month period.

(2) Any person who fails the examination and submits a new application within 2 years of completing training as provided in Section 955.12(a) need not repeat, or resubmit evidence of having completed, training.

(d) Failure to attend. Except where the applicant shows and OSM finds good cause, OSM may reject the pending application of any applicant who fails to take the examination after OSM has granted his or her request for admission.

Sec. 955.15 Certification.

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(a) Processing of application. (1) Upon receiving an application for an OSM blaster certificate OSM shall:

- (i) Notify the applicant of the receipt of, and of any deficiency in, the application.
- (ii) Where applicable, notify the applicant that his or her request for admission to a scheduled examination either is granted or denied.

(2) When OSM determines that an applicant has failed to qualify for an OSM blaster certificate, OSM shall reject his or her application and notify him or her accordingly.

(b) Grant of certificate. OSM shall:

- (1) Issue or reissue an OSM blaster certificate to any qualified applicant 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;
- (2) Renew one time the issued or reissued OSM blaster certificate of any qualified applicant;
- (3) Replace the OSM blaster certificate of any qualified applicant who presents satisfactory evidence that his or her certificate was lost or destroyed;
- (4) Grant an OSM blaster certificate through reciprocity as provided in Section 955.16; or
- (5) Reinstate a suspended, or reissue a revoked OSM blaster certificate as provided in Section 955.17(e).

(c) Term of certificate. OSM shall grant an OSM blaster certificate for a term to expire as follows:

- (1) Issuance -- 3 years after issue date;
- (2) Renewal -- 3 years after expiration date of applicant's current or expired certificate;
- (3) Reissuance -- 3 years after expiration date of applicant's current or expired certificate;
- (4) Replacement -- same expiration date as replaced certificate; or
- (5) Reciprocity -- 60 days after expiration date of corresponding State certificate.

(d) Limits on renewal. (1) OSM shall not renew an OSM blaster certificate more than 1 time. A blaster who seeks to extend a renewed certificate may apply to OSM for certificate reissuance.

(2) OSM shall not renew an OSM blaster certificate that expired more than 1 year prior to the date of an application for renewal. An applicant who desires to extend a certificate that expired more than 1 year prior to the date of his or her application may apply to OSM for certificate reissuance.

(e) Temporary certificate. Upon request of an applicant who demonstrates that his or her current OSM blaster certificate is about to expire, or expired within 30 days prior to the date of his or her application, for reasons beyond his or her control, OSM may issue a non-renewable temporary OSM blaster certificate for a maximum term of 90 days.

(f) Conditions of certification. Any person who holds an OSM blaster certificate shall comply with the conditions specified in Sections 850.15 (d) and (e) of this chapter.

(g) Change of Address. Any person who holds an OSM blaster certificate shall notify OSM in writing within 30 days of any change in his or her address.

Sec. 955.16 Reciprocity.

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(a) Grant of certificate. OSM shall grant an OSM blaster certificate through reciprocity to any qualified applicant who demonstrates that he or she, and whom OSM finds, holds a current State blaster certificate granted by a State regulatory authority under an OSM-approved State blaster certification program. An applicant for a certificate through reciprocity need not otherwise demonstrate that he or she meets the age, experience, knowledge, competence, training or examination requirements of this part.

(b) Subsequent certificate. (1) Any person who holds an OSM blaster certificate granted through reciprocity may qualify for a subsequent certificate either through reciprocity or by meeting directly the applicable requirements of this part for certificate issuance, renewal or reissuance.

(2) OSM shall not recognize a certificate granted through reciprocity as qualifying an applicant for certificate issuance, renewal or reissuance.

Sec. 955.17 Suspension and revocation.

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(a) Cause, nature and duration. (1) OSM may, and upon a finding of willful conduct of the blaster OSM shall, suspend for a definite or indefinite period, revoke or take other necessary action on the certificate of an OSM-certified blaster for any of the reasons specified in Section 850.15(b) of this chapter.

(2) Where OSM has reliable information which demonstrates that the storage, transportation or use of explosives by an OSM-certified blaster is likely to threaten public safety or the environment, OSM shall suspend his or her certificate as soon as is practicable.

(3) OSM shall make the nature and duration of a suspension, revocation or other action under this section commensurate with the cause of the action and what the person whose certificate is subjected to the action does to correct it.

(b) Notice and hearing. When practicable, OSM shall give a certificate holder written notice and an opportunity for an informal hearing prior to suspending, revoking or taking other action on his or her OSM blaster certificate. OSM shall limit any action taken without such notice and opportunity to a temporary suspension for a maximum term of 90 days pending a decision on a final suspension, revocation or other action after such notice and opportunity have been provided.

(c) Decision and appeal. By certified mail within 30 days after giving written notice and an opportunity for an informal hearing, OSM shall notify the certificate holder in writing of its final decision on his or her OSM blaster certificate, including the reasons for any suspension, revocation or other action. If the certificate was granted through reciprocity, OSM shall notify the State regulatory authority of its action. In any decision suspending, revoking or taking other action on an OSM blaster certificate, OSM shall grant to the certificate holder the right of appeal to the Department of the Interior Board of Land Appeals under 43 CFR 4.1280 to 4.1286.

(d) Surrender of certificate. Upon receiving written notice that his or her OSM blaster certificate was suspended, revoked or subjected to other action, a certificate was suspended, holder immediately shall surrender the certificate to OSM in the manner specified in the notice.

(e) Reinstatement and reissuance.

(1) OSM shall reinstate a suspended OSM blaster certificate by returning the certificate to the former certificate holder with notice of reinstatement when:

(i) The term of a definite suspension expires; or

(ii) The former certificate holder demonstrates, and OSM finds, that the cause of an indefinite suspension has been corrected.

(2) OSM shall reissue an OSM blaster certificate to an applicant whose certificate was revoked if his or her application demonstrates, and OSM finds, that:

(i) The cause of the revocation has been corrected; and

(ii) The applicant meets all other applicable requirements of this part.

(f) Conformance with State action. OSM shall suspend, revoke or take other commensurate action on an OSM blaster certificate granted through reciprocity if the State regulatory authority suspends, revokes or takes other action on the corresponding State certificate.