

## Board of Coal Mining Examiners Meeting

The following is a summary of the January 26, 2007, meeting

- I. Meeting called to order at 9:15 AM by Frank Linkous, Chairman. Members present were Frank Linkous, Gerald Kendrick, Kenneth Johnson, Joseph Buchanan and Arvil H. McConnell, Jr. All Board members were present.**
- II. Opening statement delivered by Frank Linkous, Chairman**
- III. Motions made and seconded to accept January 26, 2007 meeting agenda and approve August 17, 2006 meeting summary. All members were in favor to approve.**
- IV. Call for old business**

Reviewed certification classification on Surface Facilities certification when applicable to contractors performing face up activities and reclamation –bond release work. Discussed providing for a certification classification for contractors who provide services both at surface operations for facilities and for facing up underground mines and reclamation bond release work. Board debated whether to propose in next rule making for review and modification to amend the surface facilities foreman description to include this type of work, or to propose a different type of classification. Board advised to develop the criteria for a new, different certification to submit for rule making.

Discussed issue of immigrant labor workers being able to understand and speak the English language. Recommended amending the Coal Mine Safety Act Sec. 45.1-161.29, Examinations, required for Coal Mining Certifications to try to provide for the issue of ensuring that miners who are certified as general miners or who possess other certifications are able to be competent to meet the standards in the protections afforded by the Code. Language would be inserted that all examinations shall be administered in the English language and applicants for certification must pass without the assistance of an interpreter. Due to hazards of mining and total exposure by the certified miner, it is imperative that mining workers have communication skills and command of English language to be able to understand commands and what is required of them. Currently, there are no restrictions other than that an individual must take an exam without assistance in reading, and no exams are provided in any foreign language. Board gave concurrence to proceed and to involve the Coal Mine Safety Board with a possible joint meeting to discuss the considerations and processes.

## V. Review of cases of Virginia certificate holders.

- William Junior McCall – An individual Notice of Violation #V-138573 was issued to Mr. McCall in reference to 45.1-161.123.D. of the Coal Mine Safety Laws of Virginia. Mr. McCall was observed performing an unsafe act while tramming the continuous miner by remote by positioning himself in a red zone pinch point. Mr. McCall did not appear at the Division of Mines to take the individual training required to alleviate the violation. Board reviewed Mr. McCall's pending application for General Miner Certification.

Board Decision: Mr. McCall was issued General Miner certification on January 26, 2007, subsequent to completing the individual training required to correct the individual violation to be provided on January 26, 2007, and submittal of proper paperwork. His General Miner certification was then placed on a one-year probationary period, during which time he is to notify the Division of Mines of any employment change in coal mining. During the one-year probationary period, he will be subject to a planned job observation for work performance.

- Freddie C. Deatherage – Requested review of First Class Mine Foreman certification reinstatement status. The review was requested based on Mr. Deatherage's completion of application and written examination requirements and appearance before the Board as provided under Sec. 45.1-161.36 Re-examination, to prove to the satisfaction of the Board that the cause for revocation of his certification has ceased to exist.

Board Decision: First Class Mine Foreman certification will be reinstated on the condition of notifying the Division of Mines in writing when he accepts a position as a First Class Mine Foreman. A one-year probationary period from the time of acceptance of a position as a First Class Mine Foreman will be required. During the one-year probationary period, a job observation will be conducted by Division of Mines personnel for work performance.

- Wilbur T. Davis – An individual Notice of Violation #JVS0005879 was issued under 45.1-161.66.B. in reference to Mr. Davis making false entries into the pre-shift / on-shift record examination book. Notice of Violation #JVS0005882 was issued under 45.1-161.256.E., in reference to Mr. Davis failing to make a pre-shift examination of the area where a gas line was located before instructing work to be conducted in that area. Notice of Violation #JVS0005874 was issued for not complying with the plan to mine within 200 feet of a gas pipeline. Notice of Violation #JVS0005881 was issued under 45.1-161.257.C., in reference to Mr. Davis failing to take prompt action that disclosed a hazardous condition.

Board Decision: Surface Foreman certification, #54580, was revoked based on the conditions under which the certification was granted. Mr. Davis legally is allowed to reapply and take the Surface Foreman examination three months after revocation date of January 26, 2007. Should Mr. Davis reapply and pass the

Surface Foreman Examination, he will be required to appear before the Board prior to issuance of Surface Foreman certification to establish and prove to the Board that causes for the revocation of Surface Foreman certification have ceased to exist.

**VI. Lunch**

**VII. Review and Discussion on Kentucky issues**

- Proposed State legislation on certification reciprocity:  
Reviewed proposed Kentucky legislation of a new section of KRS 351 on reciprocal acceptances of other state certifications. In lieu of an examination prescribed by law or regulation, the Kentucky Mining Board may enter into a reciprocal agreement with other states which authorizes Kentucky's Mining Board to issue to any person holding a certificate issued by another state a certificate permitting him to perform similar tasks in Kentucky with provisions. The Board recommended that the DMME proceed in developing a Memorandum of Agreement (MOA) with Kentucky, after which the MOA will be brought before the Board.
- Records of suspension for substance abuse forwarded to Virginia:  
Reviewed report of names of those which had Kentucky actions taken against certifications due to substance abuse who also have Virginia certifications.

**VIII. Review of SB 1091 Coal Miner Certification and Mine Safety**

Reviewed Senate Bill No. 1091, which was drafted with input from the Coal Mine Safety Board to develop the substance abuse control legislation, and patroned by Senator Puckett and Delegate Carico. Mr. Linkous anticipates the legislation to become law with some amending. The Board discussed the logistics and resources required for implementing the law regarding those individuals who are reported by employer or by complaint, accident or fatality that has probable cause to be tested for substance abuse that result in suspension of certification. Discussed time frames for addressing cases. The Board recommended convening a joint meeting with the Coal Mine Safety Board to work towards a consensus in writing strategies for administering Board reviews mandated by this legislation if passed.

**IX. Open Agenda**

Start time of future BCME meetings was discussed; 9:00 am start time was approved.

**X. Adjournment – 1:50 PM**