

Board of Coal Mining Examiners Meeting

The following is a summary of the September 4, 2007, meeting

- I. Meeting called to order at 9:00 AM by Frank Linkous, Chairman. Members present were Frank Linkous, Gerald Kendrick, Ricky O'Quinn, 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 September 4, 2007 meeting agenda and approve June 21, 2007 meeting summary. All members were in favor to approve.
- IV. Review of actions – West Virginia
- V. Review of cases of Virginia certificate holders
 - Joseph L. Maggard – An individual Notice of Violation #V-139921 was issued to Mr. Maggard in reference to 45.1-161.177.A. of the Coal Mine Safety Laws of Virginia. Mr. Maggard had been discharged for carrying smoking articles underground. His General Miner Underground Certification and Gas Detection Certification were temporarily suspended pending appearance before the Board.

Board Decision: Board determined that effective September 4, 2007, all certifications granted to Mr. Maggard are revoked for a period of eighteen months. At the end of the eighteen-month period, March 4, 2009, Mr. Maggard may request to appear before the Board to show cause why certifications should be considered for reinstatement.

- Ezra L. Rogers – An individual Notice of Violation #FXL0004748 was issued to Mr. Rogers in reference to 45.1-161.177.A. of the Coal Mine Safety Laws of Virginia. Upon a search for smoking articles in the presence of Division of Mines representatives, smoking articles were found in Mr. Roger's lunch pail and on his person. His General Miner Underground Certification and Gas Detection Certification were temporarily suspended pending appearance before the Board. Mr. Rogers failed to appear.

Board Decision: Board determined that effective September 4, 2007, all certifications granted to Mr. Rogers are revoked for a period of three years. At the end of the three-year period, September 4, 2010, Mr. Rogers may request to appear before the Board to show cause why certifications should be considered for reinstatement.

VI. Review of cases of Kentucky actions for substance abuse for Virginia certificate holders (Closed session)

Of the cases that resulted in hearings, evidence was taken by the Board in closed session, pursuant to Va. Code §§ 2.2-3711(A)(4) and 45.1-161.35(E). In the closed session, the Board worked out agreements, allowing individuals to return to work conditionally, and took other disciplinary actions including revocation of all certifications held by miners.

VII. Review of Virginia substance abuse cases (Closed session)

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VIII. Open Agenda

During open agenda discussions, the Board considered the appropriateness of the immediate temporary suspension of miner certifications for certain individual violations of the Coal Mine Safety Act which are clearly established during investigations as being willful acts on the part of the miner. The Board voted unanimously to support such suspensions by Mine Inspectors after case review by the Inspector Supervisor and Chief to determine that such actions are justified.

IX. Adjournment – 2:20 PM