

attempts to transfer the license does not make this section less effective than the Federal regulations because of section 210.19. An attempt to transfer the license would constitute a violation of Chapter 210 and would give Pennsylvania the authority to take action on the license. Taken together these two sections are no less effective than 30 CFR 850.15(e)(2) in preventing the transfer of blaster's licenses.

Section 210.14(a)(2) of the current regulations provides that a person must have at least one year of experience as a blaster learner in preparing blasts to be eligible for a blaster's license. The Federal regulations at 30 CFR 850.14(a)(2) require the regulatory authority to ensure that candidates for blaster certification have practical field experience. The Federal requirement does not specify how much experience is needed before someone can apply for certification. Less than a year of experience could suffice under the Federal rules. Therefore, we find that Pennsylvania's regulation is no less effective than the Federal regulation and we are approving it.

Section 210.14(a)(3) provides that a person must take Pennsylvania's class on explosives to be eligible for a blaster's license. Section 30 CFR 850.13(b) of the Federal regulations requires the regulatory authority to ensure that courses are available to train persons responsible for the use of explosives in surface coal mining operations. In a rulemaking dated April 4, 1985 (50 FR 13315), we noted that Pennsylvania submitted a Blaster Training Course Outline, and Assorted Blasting Training Course Materials (among other documents) in consideration for approval of its blaster certification program. We approved the submission of these documents noting that the materials submitted were no less effective than the Federal blaster training and examination requirements at 30 CFR 850.13 and 850.14. In an e-mail dated July 15, 2003 (Administrative Record No. PA 878.08), Pennsylvania confirmed that these materials were still used in its blaster certification program. Accordingly, based on Pennsylvania's July 15 response, we find that this section is no less effective than the Federal regulations and we are approving it.

Section 210.19 of the current regulations provides that Pennsylvania may suspend, modify, or revoke a blaster's license for violations of Chapter 210 and 211. Former section 210.2(f) contained similar provisions, but it did not provide for modification of the blaster's license, only for suspension or revocation of the license.

Additionally, former section 210.2(f) provided that an appeal of a revocation of a blaster's license may be made to the Environmental Hearing Board and only allowed a suspension for due cause. The right to appeal was not stated in 210.19. The Federal regulations at 30 CFR 850.15(b) provide for suspension or revocation of a blaster's certification, but it also notes that the regulatory authority can take other necessary actions with regard to the certification. While the term "other necessary actions" was not defined in the Federal regulations, it is not unreasonable to interpret this phrase as allowing a modification of a blaster's license. The Federal rules at 30 CFR 850.15(b) require written notice and a hearing whenever a blaster's certification is suspended, revoked or other adverse action is taken. While the right to appeal a revocation, suspension, or modification was not stated in section 210.19, Pennsylvania in an e-mail dated July 15, 2003 (Administrative Record No. PA 878.08), confirmed, through copies of Notice of Suspension of Blaster's License it submitted to us, that blasters served with suspension or revocation notices are provided the right of appeal to the Environmental Hearing Board. Additionally, Pennsylvania law at 2 Pa. Consolidated Statutes (C.S.) 504 and 35 Pennsylvania Statute (P.S.) 7514, requires an opportunity for a hearing before the Environmental Hearing Board of all orders, permits, licenses or decisions of the Pennsylvania Department of Environmental Resources (now known as PADEP, pursuant 71 P.S. 1340.101). Thus, Pennsylvania provides the same level of hearing requirements as the Federal regulations. For these reasons, we are approving this provision as being no less effective than the Federal counterpart.

Section 211.133(a) provides that blasting records must be made available to Pennsylvania upon request. The section also lists the items that must be noted on the blasting report. The Federal regulations at 30 CFR 816/817.68 require that the records be made available to the public as well as the regulatory authority. Pennsylvania's approved program at 25 Pa. Code 87.129 requires that the blasting records be made available to the public. The items to be noted on blast reports are the same as in the approved program at 25 Pa. Code 87.129 except that it includes two additional items: the blasting activity permit or mining permit number and a description of the nearest building location not owned or leased by the permittee based upon local landmarks. Taken together these two sections are no

less effective than the requirements at 30 CFR 816/817.68. As a result, we are approving this section.

Section 211.155 lists the duties a blaster-in-charge must perform prior to detonating a blast. There is no Federal counterpart for the duties listed in subsections (1) through (4). These duties apply to safety in and around the blast area. The duties listed in subsections (5) and (6) apply to protecting the public on public roads and to sounding a warning signal prior to detonating a blast. These sections are similar to the Federal regulations at 30 CFR 816/817.66(b) which provide for warning signals and 30 CFR 816/817.67(a) which provides for prevention of injury to persons and property damage outside the permit area. These provisions, when taken with the provisions from 25 Pa. Code 87.127, such as subsection (c) that we already approved, are no less effective than the corresponding Federal requirements.

E. Revisions to Pennsylvania's Rules With No Corresponding Federal Regulation

Several sections of Pennsylvania's program that we previously approved and that have no Federal counterparts were modified by this amendment. Each of these sections is described below.

Former section 210.1(d) regarding examinations for a blaster's license requires a notarized application form to be mailed to Pennsylvania with a check or money order for \$10.00. This section was recodified as section 210.15(a). Section 210.15(a) dropped the requirement for the application to be notarized and increased the fee to \$50.00. This section also requires the application to be submitted at least two weeks prior to the examination. There are no corresponding Federal regulations to this section and we have found that the modification does not make Pennsylvania's program less effective than the Federal regulations.

Former section 210.2(a) regarding the issuance and status of licenses required the applicant to be at least nineteen years of age in order to apply for a blaster's license. This section was recodified as section 210.14(a)(1). Section 210.14(a)(1) increased the age requirement to twenty-one. There is no Federal counterpart to the age requirement, however this section is consistent with the Federal regulations at 30 CFR 850.14 that requires the regulatory authority to verify that applicants for blaster certification are competent and have practical field experience. This requirement is also similar to the age requirement for blaster certification in Federal program States