

This is an amendment to 19.6.4 NMAC, Sections 7, 9, 11 and 12, effective 10/16/2018.

19.6.4.7 DEFINITIONS:

- A. “Board” means the state mining safety board.
 - B. “Certificate” means a document issued by the state mine inspector, or certifying agency from another state, allowing the holder to be employed as a coal mine official in the state of origin.
 - C. “CFR” means Code of Federal Regulations.
 - D. “Days” means calendar days.
 - E. “Inspector” means the state mine inspector.
 - F. “Mining engineering graduate” means a person having a B.S. degree in mining or mineral engineering from an accredited college or university.
 - G. “Official” means coal mine official, including underground coal mine foreman, underground coal mine examiner, general underground coal mine foreman, or surface coal mine foreman Table Subsection G of 19.6.4.9 NMAC.
 - H. “Revoke” means to permanently invalidate a certification.
 - I. “Service” means providing any document, paper or pleading to a person either personally or by certified mail, return receipt requested.
 - J. “Suspend” means to invalidate a certification for a specified period of time.
- [19.6.4.7 NMAC - N, 09/30/2008; A, 10/16/2018]

19.6.4.9 METHODS AND REQUIREMENTS OF CERTIFICATION:

- A. The state mine inspector may recognize the foreman’s or mine examiner’s certificate issued by another state and issue certificates accordingly when:
 - (1) the state mine inspector reviews the certification requirements of another state and determines that the requirements are equivalent or more stringent than New Mexico’s, and are pertinent to the mining conditions found in New Mexico’s coal mines; or
 - (2) an agreement of reciprocity is signed between the state mine inspector and the director of the certification agency from another state.
- B. Persons with four or more years of experience in or about underground coal mines, and providing underground foreman certification from another state program or persons with four or more years of experience in or about surface coal mines, and providing surface foreman certification from another state program, meet the requirements for testing.
- C. The state mine inspector shall hold written examinations, at times, dates and places to be given out at least sixty days in advance, to all persons desiring to secure mine foreman certificates or mine examiner certificates. Alternatively, at the discretion of the state mine inspector, such examinations may be administered by appointment.
- D. The state mine inspector shall require that any applicant for examination to the position of mine foreman or mine examiner submit a completed application at least ~~[thirty]~~ 30 days prior to the examination date and shall meet the experience requirements of this section as summarized in Table Subsection G of 19.6.4.9 NMAC. The state mine inspector may require documentation from an applicant supporting his/her qualification and competency. Every person desiring to secure an underground coal mine foreman's certificate and not already in such position or not holding such certificate from another state shall first ~~[serve as a mine examiner for six months]~~ have regularly performed the duties of an underground coal mine examiner for six months and shall have at least four years of underground coal mine experience to participate in the underground coal mine foreman's examination. Every person desiring to secure a surface coal mine foreman’s certificate, and not already holding such certificate from another state, shall have at least four years of surface coal mine experience to participate in the surface coal mine foreman’s examination. A person who holds a certificate for surface coal mine foreman who wishes to take the underground coal mine foreman test must have a minimum of four years of experience in underground coal mine workings. A person who holds an underground coal mine foreman certificate and who wishes to participate in the surface coal mine foreman examination must have at least two years of surface coal mine experience. A person who holds an underground coal mine foreman certificate and who wishes to participate in the general underground coal mine foreman examination must have at least two years of surface mine experience or two years of surface experience at an underground mine. Every person desiring to secure an underground coal mine examiner's certificate and not

already in such position or not holding such certificate from another state recognized by the state mine inspector, shall have at least two years of underground coal mine experience to participate in the underground coal mine examiner's examination.

E. The state mine inspector may allow a mining engineering graduate or a person with other credentials that attest to advanced competency including applicable experience at non-coal mines to participate in the foreman's or examiner's examination if the ~~[mining engineering graduate]~~ candidate meets at least one-half of the experience requirements and all other prerequisites listed in Subsections B and D of this section ~~[and a mining engineering graduate must pass the underground mine examiner's examination and shall first serve as an underground mine examiner for six months]~~ prior to taking the ~~[underground mine foreman]~~ examination.

F. All candidates for certification or recertification must achieve a cumulative score of eighty percent or higher on the corresponding written exam.

G. Table in Subsection G of 19.6.4.9 NMAC is incorporated into this section as a guide to the prerequisites and areas of responsibility for coal mine officials.

Certification Title	Qualification	Authorization
Underground Coal Mine Examiner	2-years underground mining experience, or 1-year underground mining experience and advanced competency, or Equivalent experience and certification from another state	Underground areas at underground coal mines.
Underground Coal Mine Foreman	4-years underground mining experience with six months examiner experience, or 2-years underground mining experience with six months examiner experience and advanced competency, or Equivalent experience and certification from another state.	Underground areas at underground coal mines.
General Underground Coal Mine Foreman	Current NM certification as underground coal mine foreman and 2-years of experience at surface areas of underground coal mines.	Underground areas at underground coal mines. Surface areas at underground coal mines.
Surface Coal Mine Foreman	4-years surface mining experience, or 2-years surface mining experience and advanced competency, or Equivalent experience and certification from another state, or Current NM certification as underground coal mine foreman and 2-years of experience at surface coal mines or surface areas of underground coal mines	Surface coal mines Surface areas at underground coal mines

[19.6.4.9 NMAC - N, 09/30/2008; A, 10/16/2018]

19.6.4.11 CERTIFICATION PERIOD AND RECERTIFICATION PROCESS:

A. Certification of officials shall be issued for a period of five years. All officials certified by the state mine inspector prior to June 15, 2007 shall have their certification period extended five years. Each official is required to have retraining as a qualified/certified person on an annual basis from the mine in which they are employed as required in 30 CFR 75.160, 30 CFR 75.161 and 30 CFR 77.107 and 30 CFR 77.107-1 Failure to have re-training as a qualified/certified person on an annual basis may result in suspension of certification. Should a certified official fail to meet the annual training requirement for any reason; or should a certified official be absent from mine employment in New Mexico for a period of one year or more and upon resumption of mine employment in New Mexico; the certified official may appeal to the state mine inspector for reinstatement of active certification. The state mine inspector may require testing, remedial training, interviews, evidence of applicable training, or other criteria to assure competency before re-activating said certification.

B. Each official has the responsibility to notify the state mine inspector of any change in address or change in mine employment within thirty days of such change. Failure to provide current contact information may result in suspension of certification.

C. Certified persons may apply for recertification within twelve months prior to the end of the certification period. Every certification shall automatically expire on the last day of the certification period if the official has not recertified prior to that date. The state mine inspector may extend the certification period for an official for no more than six months to facilitate the recertification process. Recertification will require the applicant to submit an application and appropriate documentation as required by the state mine inspector.

D. Recertification may be done by taking an exam every five years, prior to certification expiration, or an organization may submit an alternative plan for the inspector's approval as follows:

(1) officials taking an exam every five years will follow the same process required for original certification; or

(2) an organization may submit an alternative plan, for the state mine inspector's approval; the alternative plan may be carried out over the five year period; the alternative plan shall include the subjects to be covered, the minimum amount of time per subject, the methods of instruction, and the methods of participant evaluation during process completion; following completion, the applicant shall provide the state mine inspector with verification that all training for the recertification period is current; and

(3) applicants shall submit an application, pay the applicable fee, and provide all appropriate documentation as required by the state mine inspector, before receiving recertification.

E. ~~[Mine]~~ Underground coalmine examiners may fulfill the recertification requirements for underground coal mine examiner by successfully completing the examination for underground coal mine foreman certification or recertification.

[19.6.4.11 NMAC - N, 10/01/10; A, 10/16/2018]

19.6.4.12 REFUSAL TO CERTIFY OR RECERTIFY AND SUSPENSION OR REVOCATION OF CERTIFICATION:

A. The inspector may refuse to certify or recertify or may suspend or revoke any certification held or applied for under 19.6.4 NMAC upon grounds that the applicant or certified person:

(1) gave false or forged evidence to the inspector to obtain certification;

(2) is grossly negligent or incompetent in duties as a certified person;

(3) has failed to maintain certification;

(4) has violated or aided or abetted any person in a violation of the Federal Mine Safety and Health Act of 1977 or the New Mexico mine safety laws; or

(5) has been disciplined by a state mine regulatory authority in another state that certifies mine personnel.

B. If the inspector contemplates taking any of the actions described in Subsection A of 19.6.4.12 NMAC for any of the reasons provided in that subsection, the inspector shall provide written notice to the applicant or certified person. The notice shall include a statement that the inspector has sufficient evidence that, if not rebutted or explained, will justify the inspector in taking the contemplated action, that indicates the general nature of the evidence and that provides the applicant or certified person at least twenty days to submit written evidence to rebut or explain the allegations.

C. If, after the response period ends, the state mine inspector takes any action of a type specified in Subsection B of 19.6.4.12 NMAC, the inspector shall serve upon the applicant or certified person a written notice of the action containing a statement that the applicant or certified person may file a petition for review with the mining safety board pursuant to the Mining Safety Act 69-8-1 NMSA 1978.

[19.6.4.12 NMAC - N, 10/01/2010; A, 10/16/2018]