

Questions and Answers concerning Industrial Code Rule 61

General Qualifications

1. Question. Section 61-1.4(b) under the “Qualifications” section says that applicants “shall not have a physical or mental condition that would prevent them from properly performing the essential functions of the certified occupation.” Would this mean that someone for example in a wheelchair could not act as a lead pyrotechnician on a display?

Answer. No. If the individual in question can be at the site and provide supervision and direction to others who are setting up the show this type of disability would not prevent them from being a lead pyrotechnician.

2. Question. Section 61-1.5(e) Certificate renewal. Will the Department be sending out renewal notices?

Answer. Yes. Certificates expire at the end of the month that they were issued. Anyone not receiving a notice two months prior to the expiration date of their certification should contact the License and Certificate Unit. Timely filing of the renewal is the responsibility of the Certificate holder.

Blasters

3. Question. There are now 6 classifications for Blasters Certificate of Competence. Will the Class A Certificate holder be able to perform the duties of all the other classifications.

Answer. No. The Class A certificate holder will be able to perform the duties of both a class B Above Ground, and C Underground only. Class D Demolition, Class E Seismic, and Class F Special Uses have been designated as unique enough to require a separate classification and certification process in order to ensure that the applicants have the necessary skills and training to perform that type of work.

4. Question. I currently have an A Blaster’s Certificate of Competence and work doing seismic blasting. Do I have to get a new certificate and pay a new fee for the Class E Certificate?

Answer. You have a choice. If you have a Class A or Class B Certificate, you can turn in your current certificate and exchange it for a Class E certificate if you wish.

You will not be charged a fee for the new certificate and it will expire on the same date as your current one does. As part of this process you will be required to demonstrate that you meet the experience requirements for the Class E certificate.

You may also keep you current certificate and apply separately for the Class E certificate. You will need to complete the required application and submit the required proof of experience along with a separate fee of \$150 for the new certificate. Going forward you will be required to complete the required training for both certifications.

5. *Question.* I am doing seismic blasting and have a Class B Certificate, I have been told that the regulations are being implemented on an emergency basis which would mean that they would become effective on the day that they are published by the Department of Labor. That would mean that I would have to have the new seismic certification immediately. Is there going to be a grace period to allow people to obtain the new correct certificate?

***Answer.* Yes. There will be a 90 day grace period to allow individuals time to apply for new certificates or exchange (see question 4) their current certificates. During this time individuals who were certified prior to the effective date of the new standard will be allowed to continue working.**

6. *Question.* For seismic blasting can someone other than the blaster perform the actual detonation of the blast?

***Answer.* Yes. Part 61-4.8(a)(2) states: “The detonation of explosives shall be under the control of the blaster in charge. The detonation of explosives may be performed by a designated authorized assistant under the direction of the blaster in charge.”**

7. *Question.* In reading the code there are references to blasters, blasters-in-charge and authorized blasting assistants. Who has to be certified and how many certified individuals have to be present at the site.

***Answer.* Every blasting operation performed in the State must be done under the control of a person properly certified by the Commissioner and designated as the blaster-in-charge. Under the regulations anyone working on a blasting operation is considered a blaster whether they are certified or not.**

At the point in the preparation for the blast that explosives are introduced, the area becomes designated as a blasting site. The only people who are allowed to be in that blasting site are the blaster-in-charge and individuals who they have authorized (authorized blasting assistants). The blaster-in-charge is responsible to make sure that all authorized assistants are either properly certified by the Commissioner or are at least 18 years old, properly trained in the performance of the tasks they are expected to perform and are aware and understand the hazards associated with the

duties. The number of certified individuals required to be present can be as few as one.

8. Question. For seismic blasting is a separate blasting report required for each detonation.

Answer. No. One report may be used provided it contains a description of the blasts being done, the person doing it, dates, times and the locations.

9. Question. The Class F (Special Uses) blaster's certification says that the holder is restricted to 50 lbs. per detonation. Does that mean that I could perform any type of work as long as no given blast exceeds 50 lbs? For example could I do work on construction sites.

Answer. No. There are two requirements for the "Special Use" blasting certification. One is that it be limited to 50 lbs. the other is that the applicant state the purpose for which the certification is being sought. Construction and quarry work for example would normally be done by A or B certified individual. The fact that circumstances are limiting the amount of explosive to be used per blast does not change the requirement that the certified person have the skill and knowledge to perform the tasks properly.

10. Question. The regulation now requires a separate certification for individuals doing demolition work. Can you define what demolition work is? Does it mean any man made structure? Does it include things such as foundations and bridge abutments?

Answer. The term demolition refers to using explosive to destroy or demolish man made structures including foundations and bridge abutments.

11. Question. One of the new requirements is the "duty to report". If there are two or more certified blasters working at a location and something goes wrong who is responsible for reporting that incident, the blaster in charge?

Answer. Each certified individual working at a site is equally responsible for making sure the incident is reported. It does not mean the each one has to report the same incident separately, it means that they each will be held accountable if it isn't reported.

12. Question. Under the duty to report do I have to report anyone who gets injured or any property damage that occurs even while drilling or setting up the shot?

Answer. The duty to report pertains to injuries and or damage that occurred as a result of the detonation of explosives. It does not pertain to drilling or setting up a shot unless the injuries occurred as a result of a detonation.

13. Question. The regulation has a requirement for practical exams for blasters. What will be the nature of these practical exams?

Answer. Part 61-4.5(b)(2) states: “Practical examination. An applicant who passes the written examination may also be required to take a practical examination in the use of explosives.” It only says that the applicant may be required to pass the exam. At the current time there are no plans to require practical exams as part of the certification process for blasters.

14. Question. The regulations say that a person can be issued a Class D, E or F certificate without taking an exam if they can demonstrate 3 years experience working in the field. If I have had a Demolition Certification from Pennsylvania for the last three years will that meet the requirement for proof of having experience?

Answer. No. You will still need to submit proof that you have actually worked in the field not just been certified.

15. Question. What do I need to submit for proof of blasting experience?

Answer. Send a letter on company letterhead, signed by management, explaining the training and experience you have to date. The letter must be specific and answer the following:

- Dates of employment
- Average number of weeks or months worked per year
- Job title: blaster in charge or authorized blaster assistant
- Job duties
- Time spent handling, placing, and detonating explosives (average hours per week)
- Type of blasting – aboveground , underground, demolition, seismic, special uses such as boiler cleaning, testing, bonding metals, cable splicing, or other (please explain if other)
- Types of explosives and blasting agents used
- Any other information that may be relevant to verify qualification

You must also send:

- At least one reference letter from a blaster who provided training to you and who can verify your blasting experience.
- If self employed, proof of self-employment such as: 1099s, invoices, or other appropriate documentation.

16. Question. The new regulation requires applicants for renewals to have attended approved training courses. What training courses are approved?

Answer. The Department of Labor is in the process of approving training courses. Anyone who wishes to have their course approved should submit the curricula of their training courses to the License & Certification Unit, Room 161A, Building 12, State Office Campus, Albany, NY 12240 for review. Approved courses will be posted on the web.

It is expected that the curricula would include, but not be limited to the following: blasting safety, electrical safety, safe loading & handling, transportation, flyrock, misfires, premature detonations, storage, security, new products, detonator safety, incident reporting, bulk explosives, seismographs, and NYS CR 61 regulations. Training should cover the specific hazards and control measures for the type of blasting.

Currently acceptable:

- **Blaster training course offered by ISEE -. Evidence of Proof of Training: A copy of Certificate of Completion and a copy of the subject matter (8-hours per course)**
- **ISEE Blaster Weekend Seminar -, Evidence of Proof of Training: A copy of Certificate of Attendance and a copy of subject matter/list of instructors (8-hours)**
- **MSHA 8 hour Blasting Contractor Annual Refresher Training - Evidence of Proof of Training: A copy of the MSHA Blue Card Instructor signed MSHA 5000.23 and a copy of the approved MSHA Training (8-hours per year)**

17. Question. My certification is expiring shortly; do I have to take two courses immediately to fulfill the requirement for training during the certification period? If not when will the training be required?

Answer. Candidates for renewal will be given a 2 years grace period after the effective date of the regulation to allow time for individuals to obtain the required training. The grace period starts on the effective date of the regulation. So if your certificate expires at anytime up to 2 years from the effective date of the regulation you will not be required to submit proof training. Those applying after that grace period (2 years after the effective date of the regulation) must submit proof of completion of at least 2 training courses, totaling sixteen hours.

Pyrotechnician

18. Question. When does the law requiring Pyrotechnician's to be certified by the Department of Labor take effect?

Answer. The change in the law requiring that individuals in charge of pyrotechnic displays be certified by the Department becomes effective October 4, 2009.

19. Question. What is the minimum age someone can be certified as a pyrotechnician?

Answer. The minimum age for certification as a pyrotechnician is 21.

20. Question. What is the minimum age of for a person who is working as an “authorized assistant”?

Answer. The minimum age for individuals working as an authorized assistant is 18.

21. Question. Are there certification requirements for persons working as “authorized assistants”?

Answer. No, under the current regulations there are no Department of Labor certification requirements for “authorized assistants”. However, any individual working in this capacity is required to have been trained in the tasks they are assigned, and must also have been trained with regard to the safety hazards associated with working on a pyrotechnic display.

22. Question. Will I still need a license from New York City to put on displays in the city?

Answer. The New York State Certificate of Competence, issued by the Department of Labor does not replace or superseded any local licensing or permit requirements. Anyone wishing to put on a display must obtain a permit from the local governing authority and must comply with all of their requirements.

23 . Question. I have been putting on pyrotechnic displays for a number of years; will I be required to take an exam before I can obtain my Certificate?

Answer. No. For a limited time, if you can document your prior experience and meet the other requirements for issuance, you may be issued a certificate without having to take a written examination. The specifics of what are required to meet the conditions for this exemption are contained in the certificate application instructions.

24. Question. Can I put on a fireworks display for a private party that I am planning? I have been told that all displays must be open to the public.

Answer . The Penal Law Section 405.00 has been changed to allow for non public displays. You are still required to obtain a permit from the local executive authority where you plan to have the display. You will also need to contract with a company or individual who is licensed by the Department to have the explosives and a Certified

Pyrotechnician will have to be in charge of the display.

25. Question. I currently have a valid explosive license issued by the Department of Labor, if I apply for a Pyrotechnician's Certificate of Competence will I be required to submit a new set of fingerprints and the required fees for a second criminal background check.

Answer. No. As long as you maintain your explosive license you will not be required to submit to a second background check

26. Question. Are individuals who manufacture and test fireworks and don't put on displays going to be required to be certified to test their products?

Answer. Provided that these tests involve limited number of devices, they are done at a location set aside for that purpose, are done with the knowledge and consent of local authorities and it does not involve the public, no certification will be required. This does not relieve the person performing the tests from compliance with any local ordinances including but not limited to noise and zoning.

27. Question. What do I need to submit for proof of experience as a pyrotechnician?

Answer. Send a letter on company letterhead, signed by management, explaining the training and experience you have to date. If self employed, the letter may be submitted by the show sponsor or permitting authority. The letter must be specific and answer the following:

- Dates of employment
- Dates of displays
- Location of displays
- With displays were for proximate and/or non-proximate audiences
- Job title: operator or assistant
- Job duties and any other information that may be relevant to verify qualification

28. Question. I own and operate a pyrotechnic display company. I train my employees every year on safe procedures and practices as required by 61-2.4(c). I also am a certified pyrotechnician. How am I supposed to get credit for training if I am the trainer?

Answer. As a trainer of a course approved by the Pyrotechnic Examining Board you can receive credit the same as if you took the course yourself. You will be expected to provide a list of the individuals who attended the training you provided.

29. Question. Section 61-2.7 Reporting and Recordkeeping, and 61-2.3(c) Operator's Responsibilities, makes the operator responsible for the record keeping requirements. Many time the operator of any given show is an employee of a company and yet they are responsible for keeping and having available for the Commissioner the records related to a show that may have occurred up to five years ago and that person may no longer be employed by the company. Is it permissible for the company to maintain the records on behalf of the operator?

Answer. The purpose of the requirement is to have the information available if needed. If the company wants to maintain the records on behalf of the operator that is permissible, however the operator is the party that will be held responsible if the records are missing.