

COLORADO DEPARTMENT OF REGULATORY AGENCIES
OFFICE OF POLICY AND RESEARCH

COLORADO COAL MINE BOARD OF EXAMINERS

1995 SUNSET REVIEW



**Joint Legislative Sunrise/Sunset Review Committee
1995-1996 Members**

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June 30, 1995

The Honorable Richard Mutzebaugh, Chair
Joint Legislative Sunrise/Sunset Review Committee
State Capitol Building
Denver, Colorado 80203

Dear Senator Mutzebaugh:

The Colorado Department of Regulatory Agencies has completed the evaluation of the **Coal Mine Board of Examiners**. We are pleased to submit this written report, which will be the basis for my office's oral testimony before the Joint Legislative Sunrise/Sunset Review Committee. The report is submitted pursuant to Section 24-34-104 (8)(a), of the Colorado Revised Statutes, which states in part:

"The Department of Regulatory Agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section..."

The Department of Regulatory Agencies shall submit a report and such supporting materials as may be requested, to the Sunrise and Sunset Review Committee created by joint rule of the Senate and House of Representatives, no later than July 1 of the year preceding the date established for termination..."

The report discusses the question of whether there is a need for the regulation provided under article 22 of title 34, C.R.S. The report also discusses the effectiveness of the division and staff in carrying out the intention of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Joseph A. Garcia
Executive Director

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EXECUTIVE SUMMARY

Agencies has concluded the 1995 sunset review of the Coal Mine Board of Examiners and recommends that the Board be continued by the General Assembly.

While certification of certain positions that operate in coal mines does not protect the general public, this review concludes that the existing examination and certification requirements do provide a level of protection to persons who work in coal mines. Mining is a dangerous and often complex industry with the potential for serious harm to miners.

This review also makes several recommendations to improve the regulatory program by making specific changes in the statute. Primary among these recommendations is removal of an extreme burden of proof on the Board in order to discipline or revoke a certification. The Board has had no disciplinary actions in the last 5 years. This is probably a result of statutory requirements that the Board prove "willful and deliberate disregard" or "reckless disregard." This sunset review recommends replacing that language with provisions that have proven effective in other regulatory programs.

BACKGROUND

The Coal Mine Board of Examiners is located in the Office of Active and Inactive Mines under the direction of the Division of Mines and Geology, a division of the Department of Natural Resources. The Coal Mine Board of Examiners works in tandem with the Mine Safety and Training Program to examine and certify the following mining occupations:

Underground Mines

- Mine Foreman
- Fire Boss
- Mine Electrician
- Shot-Firer

Surface Mines

- Blaster
- Electrician
- Mine Foreman

The Mine Safety and Training Program states that its mission is to protect the health and safety of the general public and the mining community of Colorado from mining-related hazards. This mission is accomplished through a variety of program initiatives including lending assistance to miners to ensure their health and safety, inspection of idle mines to determine that they are sealed or safeguarded, providing mine rescue training, and training and certification functions.

The Division of Mines has re-focused its mission and goals subsequent to the general decline of the Colorado mining industry during the past decade. Economic projections predict that the decline will continue through at least 1999 except for safety engineer positions which may demonstrate slight growth.

The Colorado General Assembly guided the Division's new focus by requiring state inspections only at mines with 75 or less employees. This change was in recognition of the inspection of large, producing mines by the federal Mine Safety and Health Administration (MSHA).

As a result of legislative changes, a task force was created in 1985 to review the role and mission of the Division. Today, the Division concentrates on education and training, certification of coal mine officials, mine emergency operations, recordkeeping, permitting of explosives and underground diesel units as well a continued inspection of mines not inspected by MSHA.

The Coal Mine Board of Examiners was created by Article 21 of Title 34. The article was repealed and reenacted in 1988; the creation, powers, and duties of the Coal Mine Board of Examiners exists in Article 22 of Title 34 subsequent to that legislative action. The powers and duties of the Board were substantially updated by the repeal and reenactment.

The Mine Safety and Training Program is responsible for the examination, training, and certification of mine foramen, fire bosses, shot-firers, and electricians in underground coal mines and examination, training and certification of mine foremen, electricians and blasters in surface coal mines.

The coal mine Board is mandated to establish criteria, including education and training, and then to examine applicants for positions in coal mines for which certification is required by federal law. The Board establishes these criteria, then prepares and conducts the examinations with assistance of the staff of the Mine Safety and Training Program staff.

The following chart shows the number and type of certificates issued from 1990-1994.

Number and Type of Certificates Issued 1990-1994					
Electrician	52	31	19	31	64
Fire Boss / UG Mine Foreman	42	27	35	29	35
Surface Mine Foreman	12	13	3	21	24
Blaster	24	8	2	9	2
UG Shot-Firer			14	29	72
Surface Shot-Firer			1	24	4
Lamp and Gas			6	12	22
TOTALS	130	72	80	155	223

The following chart shows the percentage of applicants who pass the examination. These percentages range from a low of 46% to 50% for surface foreman and electrician positions to a high of 100% for shot-firer positions.

Number of Examinations Administered and Pass/Fail Rate										
	1990		1991		1992		1993		1994	
	# Apps.	% Passing	# Apps.	% Passing	# Apps.	% Passing	# Apps.	% Passing	# Apps.	% Passing
Electrician	103	50%	44	70%	36	53%	65	48%	111	58%
Fire Boss/ UG Mine Foreman	92	46%	48	56%	58	60%	57	51%	65	54%
Surface Foreman	26	46%	19	68%	8	38%	25	84%	30	80%
Blaster	35	82%	9	89%	6	33%	9	100%	4	50%
UG Shot-Firer					14	100%	29	100%	72	100%
Surface Shot- Firer					1	100%	24	100%	4	100%
Lamp and Gas					6	100%	12	100%	22	100%
TOTALS	232		120		129		221		308	

The function of the Coal Mine Board of Examiners is primarily to provide professional expertise in the construction and administration of the various coal mine examinations. The Board has never revoked a certification or even disciplined a practitioner, although there have been accidents in Colorado in which negligence or incompetence by the certified practitioner was arguably a contributing factor.

The statute does not give the Board rule making authority. However, the Board has established policies regarding construction and administration of the examination.

SUMMARY OF STATUTE

This section of the report provides an overview of the highlights of the Colorado statute concerning the Coal Mine Board of Examiners. Article 22 of title 34 outlines Colorado's statutory requirements regarding the Coal Mine Board.

Composition of the Board

Section 34-22-102, C.R.S. creates a 4-voting member and one-non-voting member ex officio member Coal Mine Board of Examiners to be appointed by the Governor with Senate confirmation. Specific qualifications are provided for each of the 5 members as follows: an experienced Colorado underground coal miner; a Colorado coal mine owner, operator, manager or other mine official actively engaged in the surface coal mine mining industry; a Colorado coal mine owner, operator, manager or other mine official actively engaged in the underground coal mining industry; an engineer experienced in coal mining; and the commissioner or designee. Members of the Coal Mine Board of Examiners serve four-year terms.

Powers and Duties of the Board

The Board is empowered to perform the following duties under §34-22-102, C.R.S.:

Establish criteria for applicants for positions in coal mines for which certification is required by federal laws;

Establish the annual electrical retraining requirements;

Issue certificates of competency to qualified applicants;

Revoke certificates where appropriate;

Assist the Division in developing curricula for coal miner training programs; and

Establish criteria for granting state certification of belt examiners, cable splicers, lamp and gas attendants, and shot-firers.

Certificate of Competency

Certificates of Competency are required as a condition of employment for any person working in or about any coal mine in the State of Colorado. The Board may recognize certification by another state if certification requirements are substantially similar to the certification requirements in Colorado. A certificate of competency may be revoked for willful and deliberate disregard of mining law, willful or reckless disregard of safety of the mine which endangers life or property, incompetence in the mine which endangers the safety of life and property or willful withholding or altering of mine examination information.

Qualifications for the Examination

Applicants are required to pay a fee of \$25 and successfully complete an examination given by the Board to demonstrate knowledge for competent performance of the position for which certification is sought. Applicants for certification as a mine foreman, fire boss, mine electrician, or shot-firer must provide evidence of the required years of experience in their respective field to be eligible to take the examination.

SUNSET ANALYSIS

Sunset criteria ask if regulation protects the health, safety and welfare of the public. Certification of persons who work in coal mines does not meet that standard completely because the public is not placed at any risk by uncertified coal mine employees. As an example, the general public would be at a significantly higher risk in a deregulated physicians' market because patients access these practitioners directly.

The instant regulatory scheme appears to protect industry members and not the public at large. This raises the questions, why should not coal mine companies be responsible for training, examination and certification of their own employees? Why can not these functions be handled by the private sector?

The response to this query is that a significant potential of severe harm to miners exists in the deregulated market. It is generally argued that coal mining is highly specialized, technical and complex, and requires frequent review, revisions and improvement to protect the health and safety of miners. It is reasonable to argue that coal mine companies could place unskilled or incompetent persons in mines to reduce costs. The result would be an unsafe work environment.

Further, surrounding states contacted for this review appear to have reasonably similar certification requirements as Colorado.

The federal Mine Safety and Health Administrations would have authority to certify miners if the state did not continue this program. Contact with federal officials revealed that certification of Colorado miners would be a very low priority. MSHA's focus is primarily on inspections, aggressive pursuit of civil remedies, and seeking injunctive relief.

The certification functions of the Coal Mine Board of Examiners represents a minimal level of market intrusion by the state. The Board makes a concentrated effort to carry out its duties effectively and fairly.

Recommendation 1 - The General Assembly should continue the Coal Mine Board of Examiners.

RECOMMENDATIONS

Remove Requirement for Senate Confirmation of Appointees

Section §34-22-102(3), C.R.S. requires senate confirmation of board members. The General Assembly has historically removed this laborious requirement concerning membership on occupational regulation boards. A better level of oversight would be achieved by adding a provision allowing the Governor to remove any board member for misconduct, incompetence, or neglect of duty.

Recommendation 2 - The General Assembly should amend §34-22-102(3) by repealing the requirement that appointees to the Coal Mine Board of Examiners be confirmed by the Senate. Further, (3) should be amended by the addition of a new sentence:

The Governor may remove any board member for misconduct, incompetence, or neglect of duty.

Establish Penalty for Non-Compliance

Section 34-22-105(l), C.R.S. requires that certificates of competency shall be required as a condition of employment. There are two potential problems with the existing construction of the statute.

Tying certification to employment conditions places the sole burden of compliance on employers. Although this is appropriate, there should be a requirement that miners obtain certification as well.

There is no penalty for non-compliance with §34-22-105, C.R.S. Most occupational regulation acts contain a criminal provision. Often conviction of non-compliance is a class 3 misdemeanor.

The Board should be specifically empowered by statute to seek injunctive relief through a court of competent jurisdiction. This gives the Board the ability to respond to situations in which an uncertified miner may be creating a serious safety threat.

Recommendation 3 - The General Assembly should amend §34-22-102, C.R.S. to permit the Coal Mine Board of Examiners to seek an injunction through a court of competent jurisdiction.

Recommendation 4 - The General Assembly should amend article 22 of title 34 by the addition of a new subsection that makes violation of the article a class 3 misdemeanor to be prosecuted by the attorney general or the district attorney for the district in which the violation occurred.

Repeal Eyesight and Hearing Requirement

Section 34-22-112(1), C.R.S. requires that all candidates for examination demonstrate satisfactory eyesight and hearing consistent with the practice and needs of the coal mining industry.

This nebulous requirement is not an appropriate role of government. If applicants for certification have the necessary skills, knowledge and expertise to take and pass the examination, they should be certified by the state. It is the responsibility of the companies to determine hearing and eyesight health.

Recommendation 5 - The General Assembly should repeal §34-22-112, C.R.S..

**Requirements
for a
Hoistman**

Section 34-22-112(7)(a) and (b), C.R.S. establishes requirements for the position of hoistman. The Board does not issue a certificate to hoistmen so the statute is enforced, in effect, by the industry. Subsection (b) requires that a hoistman be physically and psychologically fit and that each hoistman secure a medical evaluation annually by a qualified licensed physician.

Terminology such as physically and psychologically fit are too vague to be useful in statute. The need for a medical evaluation should be the choice of the hoistman and/or mining employers. Such a provision merely creates an unnecessary cost for miners.

Recommendation 6 - The General Assembly should repeal §34-22-112(7)(a) and (b), C.R.S..

**Clarify
Positions
Requiring
Certification**

Section 34-22-105, C.R.S. establishes positions for which a certificate of competency is required. The list is incomplete and should be updated and clarified.

Recommendation 7 - The General Assembly should amend §34-22-105, C.R.S. to include Surface Mine Foreman at surface mines; Surface Shot-Firer or Blasters at surface mines; Fireboss/Section Foreman at underground mines; testing for methane and oxygen deficiency (Lamp and Gas) for electricians at underground mines.

Compliance

Section 34-22-105, C.R.S. should be amended to require certified officials to perform certified functions in accordance with legal requirements. This provision would work in conjunction with other disciplinary recommendations in this report to increase the Board's ability to protect miners by disciplining those who violate mining law.

Recommendation 8 - The General Assembly should amend by adding language to the end of §34-22-105, C.R.S. to say:

"When performing certified duties, a certified official will perform these duties in compliance with all applicable statutes and laws."

Update Board Duties and Powers

Section 34-22-102(1)(e), C.R.S. provides that the Board may establish examination criteria for belt examiners, cable splicers, lamp and gas attendants, and shot-firers. This should be updated and clarified to accurately reflect the positions for which the Board has jurisdiction.

Recommendation 9 - The General Assembly should amend §34-22-102(1)(e), C.R.S. as follows:

"To establish criteria for granting state certification of Surface Mine Foremen, Fireboss/Section Foremen, Mine Foremen at underground mines, Surface Electricians, Underground Electricians, Blasters, Shot-Firers and persons who conduct checks for methane and oxygen deficiency."

Update Shot-Firer Qualifications

Section 34-22-112(6), C.R.S. requires that applicants for certification as shot-firers must prove one year's experience in coal mines. The Board is uncomfortable with the flexibility in the language. In fact, there are any number of positions in a coal mine that would not qualify one as a shot-firer.

More relevant to the position in question would be experience dealing with explosives. It is more likely that that knowledge could be transferred to the coal mine without jeopardizing safety.

Recommendation 10 - The General Assembly should amend §34-22-112(6), C.R.S. as follows:

"Every applicant for certification as a shot-firer must have at least one year's experience in the use and handling of explosives."

**Update
Grounds for
Revocation**

The Board has not revoked or suspended a certification in 5 years. This may be due to the stringent burden of proof the Board must meet to revoke a certification. This should be amended to establish a more reasonable standard consistent with other Colorado occupational licensing statutes.

Recommendation 11 - The General Assembly should amend §34-22-107(3), (6)(a), (b) and (d) to remove the standard of: willful, willful and deliberate and willful and reckless.

APPENDICES

Sunset Statutory Evaluation Criteria

- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices of the Department of Regulatory Agencies and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance public interest.

Colorado Board of Coal Mine Examiners Statute

34-22-101. Scope of article. The provisions of this article pertain only to coal mines.

34-22-102. Board of examiners - created - duties - members. (1) There is hereby created a coal mine board of examiners, which shall have the following duties:

(a) To establish criteria, including education and training, past and current work experience, and annual electrical retraining requirements, and to examine all applicants for positions in coal mines for which certification is required by federal law;

(b) To issue certificates of competency to those applicants who qualify therefor;

(c) To revoke those certificates where revocation is deemed proper based upon sufficient investigation and in accordance with the provisions of this article;

(d) To provide assistance to the division in developing curricula for coal miner training programs;

(e) To establish criteria for granting state certification of belt examiners, cable splicers, lamp and gas attendants, and shot-firers.

(2) The board shall be composed of four voting members and one nonvoting ex officio member as follows:

(a) One member shall be a coal miner of known experience and practice in underground coal mining residing in the state of Colorado and actively engaged in the coal mining industry during the term of his office;

(b) One member shall be a Colorado coal mine owner, operator, manager, or other mine official actively engaged in the surface coal mining industry during the term of his office;

(c) One member shall be a Colorado mine owner, operator, manager, or other mine official actively engaged in the underground coal mining industry during the term of his office;

(d) One member shall be an engineer experienced in coal mining; and

(e) The commissioner, or his designee, shall serve as a nonvoting, ex officio member of the board.

(3) The members of the board shall be appointed by the governor with the consent of the senate. The term of office for each member of the board shall be four years. Any vacancies on the board shall be filled by the governor by appointment for the remainder of an unexpired term.

(4) Members of the board who are serving their terms of office on July 1, 1988, shall complete their terms prior to the implementation of the provisions of this section.

34-22-103. Salaries and expenses of the board. The members of the board who are not state employees shall be compensated at a rate of fifty dollars per day for each day of actual service on the board and shall receive actual traveling and other expenses incurred by them in attendance at the meetings of the board and in the performance of their duties. The expenses in connection with the board shall be paid out of the general fund, or from any appropriation therefor, in accordance with the rules set forth by the state personnel board upon filing of the certificates of time and expenses of the board of examiners in the office of the controller, which certificates shall show the actual time in which each member of said board is so engaged and shall be signed by the chairman of said board and accompanied by vouchers showing the said expenses and shall be approved by the director.

34-22-104. Board of examiners - meetings - examinations. (1) The board shall, by majority vote of all members, elect its chairman from among its members. The executive director of the department of natural resources, or a designee of the executive director, shall serve as administrator to the board. The office of active and inactive mines shall provide such assistance as may be necessary to the board in the performance of its duties. The board of examiners shall meet every year or more frequently, if necessary, at times and places designated by the chairman.

(2) Examinations for certifications shall be given at such times as determined by the board to applicants for certificates of competency and at places to be determined by the division. Determination of the date and location of an examination shall be announced at least thirty days preceding the examination.

34-22-105. Certificate of competency. (1) Certificates of competency shall be required as a condition of employment for any person working in or about any coal mine in this state in positions designated by federal law.

(2) Positions for which certification is required in underground coal mines include mine foreman, fire boss, mine electrician, shot-firer, and hoistman.

(3) Positions for which certification is required in surface coal mines include blaster and electrician.

(4) The board may designate such other position as may be required by federal law.

34-22-106. Reciprocity. The board may recognize certification by another state if such certification requirements are substantially similar to the certification requirements of this article. The holder of certification recognized as equivalent may be employed in coal mines of this state for a period to be determined by the board upon presentation of an equivalent certification from another state. The board, following review of such equivalent certification, may certify the applicant for the same position.

34-22-107. Revocation of certification - procedures - grounds. (1) In any case in which consideration is given to revocation of a certificate of competency issued pursuant to this article, such proceedings shall be conducted in accordance with the provisions of sections 24-4-104 and 24-4-105, C.R.S., and no certificate shall be revoked except according to the criteria stated in this article.

(2) A proceeding for the revocation of a certificate of competency may be commenced by the office of active and inactive mines upon its own motion for good cause shown or by the filing with the office of active and inactive mines of a written complaint, signed and sworn to by the complainant, stating the name of the certificate holder against whom the complaint is made, the grounds on which the complaint is made, and a description of the facts and circumstances which gave rise to the complaint. The office of active and inactive mines shall have the authority to investigate any complaint to establish good cause prior to the initiation of revocation procedures.

(3) No revocation or suspension of a certificate shall be lawful unless the office of active and inactive mines has first given the certificate holder notice, in writing, of the facts or conduct that may warrant such action, afforded the certificate holder an opportunity to submit written data, views, and arguments with respect to such facts or conduct, and, except in cases of deliberate and willful violations, given the certificate holder a reasonable opportunity to comply with all lawful requirements.

(4) Where the office of active and inactive mines has reasonable grounds to believe and finds that the certificate holder has been guilty of deliberate and willful violation of applicable mining law or where it is imperatively necessary for safety in the mines, the director may temporarily suspend a certificate pursuant to subsection (1) of this section. Written notice of such action, together with the reasons therefor, shall be promptly given to the certificate holder and to the operator of any coal mine at which the certificate holder is employed.

(5) The board shall hold a hearing within thirty days of the filing of written charges, and such hearing shall be held in accordance with the provisions of section 24-4-105, C.R.S.

(6) No certificate of competency shall be revoked except where the majority of the board finds, in writing, based on the evidence of a hearing record, that the holder of the certificate is guilty of:

- (a) Willful and deliberate disregard of applicable mining law; or
- (b) Willful or reckless disregard of safety in the mine which endangers life or property; or
- (c) Incompetence in the mine which endangers the safety of life and property; or
- (d) Willful withholding or altering of mine examination information or reports where life and property is endangered.

(7) A written decision by the board made pursuant to the provisions of section 24-4-105, C.R.S., which includes findings of fact and conclusions of law, shall be delivered to the certificate holder within ten days after the conclusion of the hearing. The written decision will accompany a written notice of revocation. Such notice shall be delivered by certified mail, and the certificate of competency shall be null and void from the time of its receipt. A copy of the notice of revocation shall be mailed to any coal mine operator who employs the person whose certification has been revoked.

(8) Final board actions and orders appropriate for judicial review may be reviewed in the court of appeals pursuant to section 24-4-106 (11), C.R.S. Judicial proceedings to enforce an order or action of the board may be instituted in accordance with section 24-4-106 (11), C.R.S.

(9) The board shall decide on a case-by-case basis whether a person whose certificate has been revoked may subsequently be issued a certificate and the duration of the revocation period, and such decision shall be written in the notice of revocation.

34-22-108. Expiration of certificates. Any certificate of competency issued pursuant to the provisions of this article shall become null and void if the certificate holder fails to be actively employed in the coal mining industry for a period of five years. This section shall not apply to federal coal mine inspectors.

34-22-109. Examinations - content. (1) Applicants shall pass such reasonable and practical examinations as may be prescribed by the board for certification. Examinations shall be designed to demonstrate whether the applicant possesses sufficient practical and theoretical knowledge for competent performance of the position for which certification is sought and whether the applicant has knowledge of the state and federal mine health and safety laws.

(2) An applicant for certification as a mine foreman or fire boss in underground coal mines shall be sufficiently knowledgeable as to coal mining, mechanical equipment, the different systems of working and ventilating coal mines, the nature and properties of noxious, explosive, poisonous gases of mines, and the nature and properties of coal dust.

(3) An applicant for certification as a shot-firer shall be sufficiently knowledgeable as to explosives, breaking agents, and blasting accessories used in coal mines, the proper placement of drill holes made for the purpose of breaking or dislodging coal and rock, the flame safety lamp and its use in detecting inflammables and noxious gases, and the proper ventilation in the working places of coal mines.

34-22-110. Examinations - notice - grading - filing. (1) Notice of examination shall be given by legible notices for a period of six months prior to the examination. The date and location of the examination shall be announced at least thirty days preceding the examination, and the conditions of eligibility shall be fully stated on the notices. Notices shall be furnished by the office of active

and inactive mines and posted in a conspicuous place at each coal mine by the operator of such mine.

(2) The office of active and inactive mines shall provide all candidates who take the examination with mathematical formulas to be used in the answering of questions given.

(3) The examination papers of all applicants who earn certificates of competency shall be kept, with the complete list of questions and their correct solutions, by the office of active and inactive mines for a period of two years.

(4) Application forms shall be provided by the office of active and inactive mines. Completed applications shall be returned at least fifteen days prior to the date of the examination.

34-22-111. Certification fee. Each individual taking an examination for certification as required in section 34-22-105 shall pay to the office of active and inactive mines a fee of twenty-five dollars for any initial examination or subsequent examinations required because of the failure to receive a passing grade. Renewals of certificates of competency where required shall be at no cost to the individual holding a valid certificate.

34-22-112. Examinations - applicant qualifications. (1) All candidates for examination for certification shall demonstrate at the time of the examination satisfactory eyesight and hearing consistent with the practice and needs of the coal mining industry.

(2) Every applicant for certification as a mine foreman or assistant mine foreman shall produce evidence satisfactory to the board of not less than three years' experience in mines or in operations determined by the board to be equivalent to coal mines. The experience of an applicant intending to work in underground mines must be in underground mining. The experience of an applicant intending to work in surface mining must be in surface mining.

(3) The holder of a college degree in engineering, which degree is determined by the board to be acceptable and suited to the intent and purpose of this article, who satisfies the board that he has at least one year of actual and satisfactory experience in the operation of underground coal mines, including experience in mining, timbering, haulage, drainage, and ventilation and including experience in the capacity of mining engineer, shall be eligible for examination as mine foreman or assistant mine foreman in underground coal mines.

(4) Every applicant for a fire boss certification shall provide evidence satisfactory to the board that he has at least three years' experience in gassy underground mines, one year of which will be in an underground coal mine.

(5) (a) Every applicant for a certificate of competency as a mine electrician shall have at least one year's experience in coal mines or noncoal mines or other electrical experience and:

(I) Shall have been qualified as a coal mine electrician by another state that has a coal mine electrical qualification program equivalent to that of this state or a state program approved by the United States secretary of labor or his authorized representative; or

(II) Shall be determined to be a person qualified to perform electrical work in underground or surface coal mines by the United States secretary of labor or his authorized representative; or

(III) Shall be qualified by training, education, and experience to perform electrical work, maintain electrical equipment, and conduct examinations and tests of electrical equipment.

(b) In the case of an applicant for a certificate of competency as an underground coal mine electrician, the requisite one year's experience shall be in underground mines.

(c) All certified coal mine electricians shall attend annually an approved electrical retraining class to retain said certification.

(6) Every applicant for certification as a shot-firer must have at least one year's experience in coal mines.

(7) All hoistmen working in coal mines must be certified as follows:

(a) Applicants must have at least one year's experience as a hoistman trainee under a certified hoistman or must have been trained in a course approved by the division or the United States mine safety and health administration.

(b) A hoistman shall be physically and psychologically fit to operate a hoist. A medical evaluation will be required annually by a qualified licensed physician.

34-22-113. Board of examiners - repeal - review of functions. Unless continued by the general assembly, this article is repealed, effective July 1, 1995, and the coal mine board of examiners is abolished. The provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the powers, duties, and functions of the board specified in this article.