

STATE OF NEW YORK DEPARTMENT OF LABOR

IN THE MATTER OF

ROBERT J. SHUE, JR

for a determination pursuant to 12 NYCRR §61-1.5(f) as to the reinstatement of a Blaster's Certificate of Competence.

**DETERMINATION
&
ORDER**

Licensing No.: LIC-11-0006

WHEREAS the Blaster Examining Board ("Board"), pursuant to 12 NYCRR §61-1.5 (f), conducted a hearing at Albany, New York on December 21, 2012 to determine whether the Blaster's Certificate of Competence, Class B, No. 94-4412 issued to Robert J. Shue, Jr. ("the Blaster") should be reinstated by the Division of Safety & Health ("Division") of the NYS Department of Labor ("Department").

WHEREAS the Blaster Examining Board, based on the sworn testimony and other evidence adduced at the hearing, made the following FINDING OF FACT:

THAT the Blaster possess reasonably good judgment, and a level of competence necessary to be in charge of blasting operations in the State of New York; and

WHEREAS the Blaster Examining Board, after due deliberation, unanimously made the following RECOMMENDATION:

THAT the Blaster's Certificate of Competence, Class B, No. 94-4412 should be renewed by the Department without the Blaster being required to retake any Blasting test; and

WHEREAS the Blaster Examining Board, in its annexed Findings and Recommendations to the Commissioner dated January 13, 2012, further recommended that the Blaster be advised by the Commissioner to:

1. Review, select and implement a safety measure to augment currently used hand signals communications which rely on physical line-of-sight between Blaster-in-Charge and guard(s) with another method, for example and where appropriate hand-held radios or mobile phones, for blast area

security communications wherein the line-of-sight between Blaster-in-Charge and guard(s) may be temporarily or for any other reason obstructed;

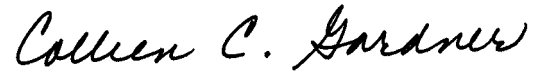
2. Review, select and implement improved safety measures to mark the physical blast site to warn the public of the danger present, other than using a large sign that states “Blasting Zone 1,000-ft” observed in one of the photos shown to the Board that was inappropriate for use, although the intention was admirable;
3. Review and implement safety measures to always physically protect himself as Blaster-in-Charge, or other individuals in his company serving as Blaster-in-Charge from the potential of flyrock that may result during the detonation of a blast; and
4. Review and implement changes to his current blasting record that are in accordance with the newly enacted provisions of Code Rule 61 regarding the required information.

NOW, upon review of the entire record made by the Blaster Examining Board, and its Findings and Recommendations, and due deliberation having been had thereon, it is:

ORDERED that the Blaster Examining Board’s Findings and Recommendations be, and hereby are, adopted; and it is further

ORDERED that the Blaster Examining Board's Recommendation be, and hereby is, adopted, and shall constitute the final **Determination & Order** of the Commissioner of Labor.

Dated: February 6, 2012
Albany, New York



Colleen C. Gardner
Commissioner of Labor
State of New York