



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Coal Mine Health And Safety TITLE-SERIES: 36-15

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Rules and Regulations Governing Ventilation by Use of Mechanically Operated Fans and Intentional Changes in the Ventilation System

CITE STATUTORY AUTHORITY: W. Va. Code § 22A-6-4

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 03/30/2026 5 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: John F Willems

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Charleston, WV 25305

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule provides for the ventilation of underground mines by fans, and more specifically, for the inspection of those fans by electricians or other competent persons.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

This rule relieves the requirement to inspect fans when the underground mine is idle and no one is underground.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

This rule should increase revenues by relieving the burden on coal producing companies and encouraging economic growth.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

This rule should increase special revenue accounts by relieving the burden on coal producing companies and encouraging economic growth.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

This rule should encourage economic growth by relieving the burden of inspection on coal companies within the state.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There should be no cost to relieving the requirement to inspect a fan while a mine is idle and the revenue impact should be positive, though difficult to measure.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

John F Willems -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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**Title 36
Legislative Exempt Rule
Board of Coal Mine Health & Safety**

**Series 15
Rules and Regulations Governing Ventilation by Use of Mechanically Operated Fans and
Intentional Changes in the Ventilation System**

§36-15-1. General.

- 1.1. Scope. -- Rules and regulations governing ventilation by use of mechanically operated fans.
- 1.2. Authority. -- W. Va. Code § 22A-6-4.
- 1.3. Filing Date. -- ~~December 13, 2019.~~
- 1.4. Effective Date. -- ~~March 12, 2020.~~

§36-15-2. Effect of Rule.

2.1. This Series shall have the effect of law and violations shall be deemed a violation of law and so cited with the same effect as law. All provisions of W. Va. Code § 22A-1-1 *et seq.*, relative to enforcement are applicable to the enforcement of this Series.

§36-15-3. Definitions.

3.1. Competent person -- The term “Competent person” shall mean a person who has been adequately trained by an authorized representative of the Office of Miners’ Health, Safety and Training as prescribed by the Board of Coal Mine Health and Safety and who possesses documentation of such training to perform daily fan inspections.

3.2. All terms used in these rules and regulations, not defined herein, shall have the meanings set forth in W. Va. Code § 22A-1-2.

§36-15-4. Fans.

4.1. The ventilation of mines, the systems for which extend for more than two hundred (200) feet underground and which are opened after the effective date of this article, shall be produced by a mechanically operated fan or mechanically operated fans. The fan or fans shall be kept in continuous operation, unless written permission to do otherwise be granted by the Director of the Office of Miners’ Health, Safety and Training. In case of interruption to a ventilating fan or its machinery whereby the ventilation of the mine is interrupted, immediate action shall be taken by the mine operator or his management personnel, in all mines, to cut off the power and withdraw the men from the face regions or other areas of the mine affected. If ventilation is restored in fifteen (15) minutes, the face regions and other places in the affected areas where gas (methane) is likely to accumulate, shall be re-examined by a certified person; and if found free of explosive gas, power may be restored and work resumed. If ventilation is not restored in fifteen (15) minutes, all underground employees shall be removed from the mine, all power shall be cut off in a timely manner, and the underground employees shall not return until ventilation is restored for at least fifteen (15) minutes and the mine examined by certified persons, mine examiners or other persons holding a certificate to make preshift examination.

4.2. All main fans installed after the effective date of this article shall be located on the surface in

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fireproof housings offset not less than fifteen (15) feet from the nearest side of the mine opening, equipped with fireproof air ducts, provided with explosion doors or a weak wall and operated from an independent power circuit. In lieu of the requirements for the location of fans and pressure-relief facilities, a fan may be directly in front of, or over a mine opening: *Provided*, That such opening is not in direct line with possible forces coming out of the mine if an explosion occurs: *Provided, however*, That there is another opening having a weak-wall stopping or explosion doors that would be in direct line with forces coming out of the mine. All main fans shall be provided with pressure-recording gauges or water gauges. A daily inspection shall be made of all main fans and machinery connected therewith by a certified electrician, or a competent person and a record kept of the same in a book prescribed for this purpose or by adequate facilities provided to permanently record the performance of the main fans and to give warning of an interruption to a fan.

4.2.1. The daily inspection requirement shall not be in effect when the mine is idle and no one is underground. If the mine resumes production or any type of work underground resumes, the daily inspection requirement shall once again be in effect.

4.2.2. On days such as weekends, holiday periods, vacation periods, or on any day when no one enters the mine, including certified electricians or trained competent persons, the main ventilation fan is not required to be examined.

4.2.3. During times after the mine has been idle and nobody has been underground, and persons are scheduled to work that day a certified electrician or a trained competent person shall check the fan chart for any fan outages during the idle period.

4.2.4. If there has been a fan outage during the time that no persons were underground, the fan must be operated at least two hours after the outage prior to any certified electricians or trained competent persons entering the mine to perform examinations.

4.2.5. If the main fan has had no outages during the time no persons were underground then a mine fan examination must be conducted by a certified electrician or trained competent person before any miners enter the mine.

4.2.6. If the main fan should become inoperative at any time, all fan outage plans must be complied with and in addition the fan shall run for two hours before anyone enters the mine for pre-shift examinations.

4.3. Auxiliary fans and tubing shall be permitted to be used in lieu of or in conjunction with line brattice to provide adequate ventilation to the working faces: *Provided*, That auxiliary fans be so located and operated to avoid recirculation of air at any time. Auxiliary fans shall be approved and maintained as permissible.

4.4. If the auxiliary fan is stopped or fails, the electrical equipment in the place shall be stopped and the power disconnected at the power source until ventilation in the working place is restored. During such stoppage, the ventilation shall be by means of the primary air current conducted into the place in a manner to prevent accumulation of methane.

4.5. In places where auxiliary fans and tubing are used, the ventilation between shifts, weekends and idle shifts shall be provided to face areas with line brattice or the equivalent to prevent accumulation of methane.

4.6. If the air passing through the auxiliary fan or tubing contains gas in excess of one percent, the current shall at once be switched off and the trailing cable shall forthwith be disconnected from the power supply until the place is pronounced safe.

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4.7. The Director may require that when continuous mine equipment is being used, all face ventilating systems using auxiliary fans and tubing shall be provided with machine-mounted diffuser fans, and such fans shall be continuously operated during mining operations.

4.8. In the event of a fire or explosion in any coal mine, the ventilating fan or fans shall not intentionally be started, stopped, speed increased or decreased or the direction of air current changed without the approval of the general mine foreman, or in his absence one other certified mine foreman-fire boss employed at such mine, and designated by the mine foreman, who is completely familiar with the ventilating controls of the mine, and, if neither is immediately available, a representative of the Office of Miners' Health, Safety and Training. A duly authorized representative of the employees should be consulted if practical under the circumstances.

§36-15-5. Intentional Changes In the Ventilation System.

5.1. The Director shall be notified prior to the implementation of, and a person designated by the operator shall supervise any intentional change in ventilation that

5.1.1. Alters the main air current or any split of the main air current in a manner that could materially affect the safety or health of persons in the mine; or

5.1.2. Affects section ventilation by 9,000 cubic feet per minute of air or more in bituminous mines.

5.2. Intentional changes as described in this section shall be made only under the following conditions:

5.2.1. Electric power shall be removed from areas affected by the ventilation change and mechanized equipment in those areas shall be shut off before the ventilation change begins.

5.2.2. Only persons making the change in ventilation shall be in the mine.

5.2.3. Electric power shall not be restored to areas affected by the ventilation change and mechanized equipment shall not be restarted until a certified person has examined these areas for methane accumulation and for oxygen deficiency and has determined that the areas are safe.

5.3. If at anytime changes are made in corresponding federal regulations that pertain to intentional changes in the ventilation system, the Board of Coal Mine Health and Safety will review those changes to determine if appropriate modifications are needed.