



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

2/25/2021 11:39 AM

Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

AGENCY: Coal Mine Health And Safety TITLE-SERIES: 36-26

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

RULE NAME: Rule Governing Construction and Rehabilitation
Operations in Underground Mines

CITE STATUTORY AUTHORITY: W. Va. Code §22A-6-4 and 22A-6-5

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

March 27, 2021

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

Yes

**Jack M Rife -- 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.**

TITLE 36
LEGISLATIVE EXEMPT RULE
BOARD OF COAL MINE HEALTH AND SAFETY

SERIES 26
RULE GOVERNING CONSTRUCTION AND
REHABILITATION OPERATIONS IN UNDERGROUND MINES

§36-26-1. General.

- 1.1. Scope. -- Rule Governing Construction and Rehabilitation Operations in Underground Mines.
- 1.2. Authority. -- W. Va. Code §§22A-6-4 and 22A-6-5.
- 1.3. Filing Date. -- February 25, 2021.
- 1.4. Effective Date. -- March 27, 2021.

§36-26-2. Effect of Rule.

2.1. This rule 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 rule.

§36-26-3. Definitions.

3.1. All terms used in this rule, not defined herein, shall have the meanings set forth in W. Va. Code §22A-1-2.

§36-26-4. On-shift Examination of Construction and Rehabilitation Work Areas.

4.1. In addition to the pre-shift examination, an on-shift examination shall be made of all construction and rehabilitation work areas between the third and fifth hours while persons are working, and such examination shall be recorded in a book prescribed for such purposes, and located on the surface.

§36-26-5. Automated Temporary Roof Support (ATRS) Systems on Roof Bolting Machines used for Construction and Rehabilitation.

5.1. Where required by the Director of the Office of Miners' Health, Safety and Training, roof bolting machines used for construction or for rehabilitation work shall be equipped with an approved automated temporary roof support (ATRS) system. However, when spot bolting is done on track haulage roads, machines shall not be required to have ATRS.

5.2. In determining where such ATRS system is needed, the Director shall consider the following: (a) whether the use of ATRS would pose a greater hazard than not using it; (b) whether the technology of ATRS exists to allow compliance with this rule; and (c) the conditions at the construction or rehabilitation site.

5.3. Minimum Requirements for Machines Using, or Used as, ATRS. All machines using, or used as, an automated temporary roof support system in accordance with this section shall comply with the minimum requirements for ATRS as specified in 36 CSR §10-10.