



WEST VIRGINIA SECRETARY OF STATE

MAC 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: 36-05

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

RULE NAME: Rule Governing Telephone Service or Communication Facilities

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

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 01/28/2021 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Mallory Yates Hicks

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Charleston, WV 25311

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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 legislative exempt rule establishes requirements for the location and maintenance of telephone service or communication facilities in underground mines.

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

Pursuant to the regulatory review and reform initiatives established in W. Va. Code § 29A-3-20 (2016) and Executive Order No. 3-18, this proposed legislative-exempt rule modifies and updates 36 C.S.R. 5 to cross-reference the correct authorizing portions of the West Virginia Code and corrects typographical errors including errors in paragraph numbering.

The circumstances requiring the changes are primarily due to changes in technology.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

This proposed legislative-exempt rule is not anticipated to impact the revenues of state government.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

This proposed legislative-exempt rule is not anticipated to impact special revenue accounts.

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

This proposed legislative-exempt rule is not anticipated to economically impact the State or its residents.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs and Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

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

N/A

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 RULES
BOARD OF COAL MINE HEALTH AND SAFETY

SERIES 5
RULE GOVERNING TELEPHONE SERVICE
OR COMMUNICATION FACILITIES

§36-5-1. General.

1.1. Scope. -- This ~~legislative~~ rule establishes requirements for the location and maintenance of telephone service or communication facilities in underground mines.

1.2. Authority. -- W. Va. Code ~~§22-2A-4~~ §§22A-6-4 and 22A-6-5.

1.3. Filing Date. -- ~~July 18, 1985~~ _____.

1.4. Effective Date. -- ~~July 18, 1985~~ _____.

§36-5-2. Telephone Service or Communication Facilities.

2.1. Telephone service or equivalent two-way communication facilities shall be provided in all mines at least one of which shall be in service at all times as follows:

2.1.1. ~~2.2.~~ A telephone or equivalent two-way communication facility shall be located on the surface within five (500) hundred feet of all main portals, and shall be installed either in a building or in a boxlike structure designed to protect the facilities from damage by inclement weather.

2.1.2. At least one of these communication facilities shall be located within five (500) hundred feet of at least one main portal where a responsible person is always on duty when ~~men~~ personnel are underground so such person can hear the facility and respond immediately in event of an emergency.

2.2. "Two-way communication facility" shall mean a system maintained to allow voice contact to come in and out of the working section at all times.

2.3. Telephone or equivalent two-way communication facilities provided on each working section shall be equipped with an audible or visual device and shall be located not more than five (500) hundred feet outby the last open crosscut and not more than eight ~~(800)~~ hundred (800) feet from the farthest point of penetration of the working places on such section.

2.3.1. ~~(1)~~ The incoming communication signal shall activate an audible alarm, distinguishable from the surrounding noise level, or a visual alarm that can be seen by a miner employed on the working section. Such alarm signal, whether audible or visual, indicating an incoming telephone call shall be continuously activated until a response is received. However, such signal may be deactivated if communicated is no longer desired.

2.3.2. ~~(2)~~ If a communication system other than telephones is used and its operation depends entirely upon power from the mine electric system, means shall be provided to permit continued communication in the event the mine electric power fails or is cut off: Provided, that where trolley phones and telephones are both used, an alternate source of power for the trolley phone system is not required.

2.3.3. ~~(3)~~ Telephones or equivalent two-way communication facilities shall be maintained in good operating condition at all times. In the event of any failure in the system that results in loss of communication, repairs shall be started immediately, and the system restored to operating condition as soon as possible.

2.3.4. If after a reasonable time the failed system is not restored to an operating condition, all persons shall be removed from the working section, unless a trolley radio phone or its equivalent as specified in the next ~~paragraph, Subsection~~ is used. As used herein, a reasonable time shall be defined as such time as is required to promptly examine, after discovery of the loss of communication, the section communications line to the section branch line, and if the cause of the failure is determined during this examination, to immediately correct the same.

2.3.5. If a trolley radio phone or its equivalent is available, it may be utilized for communications in the event of a failure in the system that results in the loss of communications provided that such trolley radio phone or its equivalent shall be located not more than eight hundred (800) feet from the farthest penetration of working places on a working section with a person continually stationed with the trolley radio phone and provided further that efforts are being made to restore the communication system to an operating condition.

2.3.6. ~~(4)~~ Where required by the ~~director~~ Director, trucks used for haulage of coal, ~~men~~ personnel or supplies by an operator shall be equipped with two-way communication instruments.

2.4. ~~On or after the first day of January, one thousand nine hundred seventy-eight (1978), unless~~ Unless the ~~director~~ Director for good cause grants a waiver, all such telephones or equivalent two-way communications shall be connected to regular telephonic and other means of communication available in the community so that in the event of an emergency, emergency medical attendants or other personnel can communicate from within the mine directly to health care facilities.

2.5. Such telephonic and other means of communication available in the community shall be the primary source of communication from the mine to health care facilities. The ~~director~~ Director, at any time, upon application from the operator, may grant a waiver providing for a back-up system of communication that may be used in the event of a malfunction in the primary communication system; in order to maintain communication from the mine to health care facilities.

2.6. In the event the primary system of outside communications; and, if applicable, the back-up system of communication malfunction, so that there is no communication from the mine to the health care facilities, all employees shall be removed from the underground, unless the ~~director of the Department of Energy;~~ Director, for cause, grants a waiver.

2.7. ~~2-5.~~ Telephone lines and cables shall be carried on insulators installed on the opposite side of trolley wires and at least twelve (12) inches from all other insulated power wires other than those classified as Class two (2) or Class three (3) circuits by the National Electric Code, and where such telephone lines or cables cross power or trolley wires, they shall be insulated adequately.

2.8. Lightning arrestors shall be provided at the points where telephone circuits enter the mine.