



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

12/14/2020 11:16:23 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Coal Mine Health And Safety TITLE-SERIES: 36-25

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

RULE NAME: Underground Equipment Requirements and Operation

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 governs underground equipment requirements and operation.

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. 25, and incorporates and combines other rules, namely 36 CSR 29, 36 CSR 30, 36 CSR 33, 36 CSR 34, 36 CSR 35, 36 CSR 36, 36 CSR 40, and 36 CSR 45, to cross-reference the correct authorizing portions of the West Virginia Code and corrects typographical errors including errors in paragraph numbering. Once this rule is promulgated, 36 CSR 29, 36 CSR 30, 36 CSR 33, 36 CSR 34, 36 CSR 35, 36 CSR 36, 36 CSR 40, and 36 CSR 45 will be repealed.

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)
<b>1. Estimated Total Cost</b>	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
<b>2. Estimated Total Revenues</b>	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 25  
UNDERGROUND EQUIPMENT REQUIREMENTS AND OPERATION  
OF TRACK HAULAGE LOCOMOTIVES

**§36-25-1. General.**

1.1. Scope. -- ~~Rules and regulations governing~~ Rules and regulations governing underground equipment requirements and operation of Track Haulage Locomotives.

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

1.3. File Date. -- ~~April 9, 2010~~ \_\_\_\_\_.

1.4. Effective Date. -- ~~May 10, 2010~~ \_\_\_\_\_.

**§36-25-2. 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.

~~**§36-25-3 Governing Light and Reflectors on Equipment Used on Haulways in Underground Coal Mines:**~~

~~3.1. On all haulways, where hauling is done by machinery of any kind, the mine foreman shall provide for a proper system of signals, and a conspicuous light or approved trip reflector on the rear of every trip or train, when in motion or when parked.~~

**§36-25-3. 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.

**§36-25-4. ~~§36-25-2:~~ Track Haulage Locomotives.**

4.1. ~~2-1:~~ No persons other than those necessary to operate a trip or car shall ride on any loaded car or on the outside of any car. Locomotives shall operate within the limits of its design capabilities and at speeds consistent with the conditions of the haulage road. Trailing locomotives shall be required on all trips except in instances where other equivalent means are approved by the Director. In instances where trailing locomotives are not used and approved equivalent measures exist, the locomotive operator shall have an assistant to assist him/her in his/her duties at all times. Where assistants are provided, safe riding facilities will be provided on the locomotive. In determining the approval for other equivalent means, the Director shall consider a plan certified by a registered engineer which specifies:

4.1.a. ~~2-1.a:~~ Size/weight of locomotives utilized,

4.1.b. ~~2-1.b:~~ Percent and distance of ascending grades,

4.1.c. ~~2-1.c.~~ Use of derails or other equivalent safeguards,

4.1.d. ~~2-1.d.~~ The trailing load transported and number of cars in a trip.

4.2. The Director may rescind the approval of any haulage plan for just cause. The approved equivalent means shall be posted on the mine bulletin board.

**§36-25-5. Underground Mine Car Loading Points.**

5.1. Skids shall not be placed on mine rails adjacent to the wheels of moving mine cars, unless remote means can be used to place the skids without getting underneath or between the cars.

5.2. There shall be no unnecessary visual obstructions in the immediate working areas of the underground mine car loading point operator.

5.3. These requirements shall be conspicuously posted at the underground mine car loading point, along with any other operation instructions for that facility.

**§35-25-6. Designated Areas of Safety.**

6.1. When in the vicinity of a switch, all persons shall get into an area of safety, either in a shelter hole or a crosscut, when trips are approaching.

**§36-25-7. Coupling and Uncoupling of Mine Cars.**

7.1. All track haulage cars which are regularly coupled and uncoupled shall be equipped with automatic couplers or other device approved by the Director which provides an equal or greater level of safety, which couple or uncouple without the necessity of persons going between the ends of such cars.

7.2. Mine cars shall be coupled or uncoupled in such a manner that will not require standing between the ends of such cars while coupling or uncoupling.

7.3. Persons shall not cross between moving mine cars.

**§36-25-8. General Requirements.**

8.1. The use of underground mining equipment that does not conform to the height of the seam being mined, which creates unsafe working conditions for the miners operating the equipment or others, is prohibited.

8.2. Mining equipment shall be operated safely, taking into consideration the condition of the haulage road, limit of visibility, height of the coal seam, and the size of the equipment.

8.3. No modifications to haulage equipment which limits visibility to a degree which poses a hazard to persons in the vicinity of such equipment shall be permitted.

**§36-25-9. Correction of Unsafe Conditions.**

9.1. Where haulage equipment causes damage to the roof support system or creates unsafe working conditions to miners, action shall be taken to correct such condition.

9.2. Prior to the start of self-propelled mobile equipment, an audible alarm shall be sounded.

**§36-25-10. Procedures for Refusing to Operate Unsafe Equipment.**

10.1. When an operator of equipment believes in good faith that a hazardous condition exists relative to the conformity of the equipment to the height of the coal seam, the equipment operator shall follow the procedures in West Virginia Board of Coal Mine Health and Safety, Series 8, "Right of a Miner to Refuse to Operate Unsafe Equipment."

**§36-25-11. Requirements for Lifting Jacks.**

11.1. A ten (10) ton lifting jack compatible with the seam height, or other equivalent lifting device in working condition, shall be stored within eight hundred (800) feet of the working face at a specified location on each underground working section at all times when miners are working on such sections. All section employees shall be informed of such location.

**§36-25-12. Operation of Section Haulage Equipment.**

12.1. Roadways on which section haulage equipment travels shall be maintained in a safe condition and free of hazards.

12.2. Prior to operating section haulage equipment, the equipment operator shall examine the roadway to be traveled, and shall report any hazards present to the immediate supervisor before the equipment is put into operation.

12.3. Section haulage equipment shall be operated in a safe manner, consistent with the conditions of the roadway.

12.4. No person shall start a piece of self-propelled section haulage equipment until they are in the normal operating position of such equipment.

12.5. Parking brakes shall be set on all self-propelled section haulage equipment by the equipment operator before the operator leaves the normal operating position of such equipment. Where the parking brake is not provided, or where it is necessary to perform maintenance on the equipment which requires that the park brake not be set, other methods shall be used to prevent accidental movement of the equipment.

12.6. Persons operating self-propelled section haulage equipment shall see that all persons are a safe distance away from the equipment, and out of the equipment's expected path of travel, before the equipment is started.

**§36-25-13. Cleaning of Equipment.**

13.1. Equipment cleaning shall not be done on self-propelled section haulage equipment unless the power circuits on the equipment are deenergized.

**§36-25-14. Transportation of Disabled Underground Rubber-Tired Mining Equipment.**

14.1. A solid triangular tow bar or suitable device approved by the Director shall be used to tow disabled underground rubber-tired mining equipment in all areas of the mine outby working sections, provided

however, other means of towing disabled equipment may be used if it is necessary to transport such disabled equipment short distances to the nearest location where a solid triangular tow bar or other device approved by the Director can be safely affixed to the disabled equipment.

14.2. No person shall be permitted to ride in disabled underground rubber-tired mining equipment while it is being towed using a solid triangular tow bar unless the towed vehicle is equipped with operative brakes and steering functions and controls and a protective canopy.

14.3. Pushing a disabled vehicle will not be allowed unless it becomes necessary to move such disabled vehicle out of the road of travel or to enable access to the use of a solid triangular tow bar.

14.4. No person shall be allowed to push a disabled vehicle from the operators deck end.

**§36-25-15. Deenergization of Self-Propelled Electric Coal Feeders; Performance Requirements.**

15.1. Deenergization of the tramming motors of self-propelled electric coal feeders shall be provided by:

15.1.1. Mechanical actuation of an existing push button emergency stopswitch;

15.1.2. Mechanical actuation of an existing lever emergency stopswitch; or

15.1.3. The addition of a separate electro-mechanical switch assembly.

15.2. The existing emergency stopswitch or additional switch assembly shall be actuated by a bar or lever which shall extend a sufficient distance in each direction to permit quick deenergization of the tramming motors of self-propelled electric coal feeders from all locations from which the equipment can be operated.

15.3. Movement of not more than two (2) inches of the actuating bar or lever, resulting from the application of not more than fifteen (15) pounds of force upon contact with any portion of the equipment operator's body at any point along the length of the actuating bar or lever, shall cause deenergization of the tramming motors of the self-propelled electric coal feeders.