



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

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

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

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 construction and rehabilitation operations 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. 26 to cross-reference the correct authorizing portions of the West Virginia Code and corrects typographical errors including errors in paragraph numbering.

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 26
~~RULES AND REGULATIONS~~ GOVERNING CONSTRUCTION AND
REHABILITATION OPERATIONS IN UNDERGROUND MINES

§36-26-1. General.

1.1. Scope. -- ~~Rules and Regulations~~ Governing Construction and Rehabilitation Operations in Underground Mines.

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

1.3. Filing Date. -- ~~May 25, 1984~~ _____.

1.4. Effective Date. -- ~~July 1, 1984~~ _____.

§36-26-2. Effect of Regulations.

2.1. ~~These rules and regulations~~ 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 ~~Chapter 22A, Article 1A of the West Virginia Code relative to enforcement of these rules and regulations~~ 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 ~~these rules and regulations~~ this rule, not defined herein, shall have the meanings set forth in ~~Chapter 22 A, Article 1A, Section 1 of the West Virginia Code~~ 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 ~~Department of Energy~~ 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 ~~these requirements~~ this rule; and (c) the conditions at the construction or rehabilitation site.

36CSR26

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 ~~West Virginia Board of Coal Mine Health and Safety, Series 10, Section 5.3~~ 36 CSR §10-10.