

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

2011 JUN 28 AM 10:03

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Office of Miners' Health, Safety and Training TITLE NUMBER: 56

RULE TYPE: Legislative Rule CITE AUTHORITY: W. Va. Code § 11-13BB-13

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: n/a

TITLE OF RULE BEING AMENDED: n/a

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 14

TITLE OF RULE BEING PROPOSED: Rules and Regulations Governing the Application Process for the West Virginia
Innovative Mine Safety Technology Tax Credit Act

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 28, 2011 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Kathy Sloan, Administrative Assistant
WV Office of Miners' Health, Safety and Training
1615 Washington Street, East
Charleston, WV 25311

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Angel R. Moore
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations Governing the Application Process for the West Virginia Innovative Mine Safety Technology Tax Credit Act

Type of Rule: Legislative Interpretive Procedural

Agency: WV Office of Miners' Health, Safety and Training

Address: 1615 Washington Street, East
Charleston, WV 25311

Phone Number: 304-558-1425 Email: kathy.j.sloan@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule itself will have nominal impact upon the costs and revenues of state government because only administrative costs of processing the application forms will be involved.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next 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 & 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

Rule Title: Rules and Regulations Governing the Application Process for the West Virginia Innovative Mine Safety Technology Tax Credit Act

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

The West Virginia Office of Miners' Health, Safety and Training intends to charge a one hundred dollar (\$100.00) administrative fee for processing the applications for those who wish to apply for an innovative mine safety technology tax credit. Because this is a new tax credit which the Legislature approved in 2011, the one hundred dollar (\$100.00) administrative fee did not exist prior, so this constitutes a one hundred dollar (\$100.00) increase per application.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

n/a

Date: June 28, 2011

Signature of Agency Head or Authorized Representative

C.A. Phillips

**SUMMARY OF RULE AND
STATEMENT OF FACTS AND CIRCUMSTANCES**

During the legislative session of 2011, the Legislature passed H.B. 2955 which provides a tax credit for mine operators who purchase innovative mine safety technology. The tax credit law is codified in W. Va. Code § 11-13BB-1 *et seq.* Specifically, W. Va. Code § 11-13BB-13 authorizes the Office of Miners' Health, Safety and Training (OMHST) to promulgate rules to provide any necessary clarification of the provisions of the article and to efficiently provide for the general administration of the article.

This Rule sets forth the manner in which the OMHST will efficiently and fairly carry out its duties when accepting applications for the tax credit. The Rule also requires that the applicant submit a \$100.00 application fee to help cover OMHST's administrative costs in processing the applications. The Rule also provides that an applicant who has delinquent assessments owed to OMHST must first pay those delinquent assessments before its application will be accepted.

FILED

2011 JUN 28 AM 10:03

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

56 CSR 14
TITLE 56
LEGISLATIVE RULES
OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING

SERIES 14
RULES AND REGULATIONS GOVERNING THE APPLICATION PROCESS FOR
THE WEST VIRGINIA INNOVATIVE MINE SAFETY TECHNOLOGY
TAX CREDIT ACT

§ 56-14-1. General.

1.1. Scope. These rules govern the application process for the West Virginia Innovative Mine Safety Technology Tax Credit Act.

1.2. Authority. W. Va. Code § 11-13BB-13

1.3. Filing Date. June 28, 2011

1.4. Effective Date. _____

1.5. Applicability. These regulations shall apply to all taxpayers making application to the West Virginia Office of Miners' Health, Safety and Training for certification of the tax credit authorized under W. Va. Code § 11-13BB-1 *et. seq.*

1.6. Other law applicable. –

§ 56-14-2. Definitions.

2.1. The term "Director" shall mean the Director of the Office of Miners' Health, Safety and Training provided for in Chapter 22A, Article 1, Section 3 of the West Virginia Code.

2.2. The term "Mine Safety Technology Tax Force" shall mean the Mine Safety Technology Task Force provided for in Chapter 22A, Article 11, Section 2 of the West Virginia Code.

§ 56-14-3. Application and Certification Process

3.1. Until the Director has received the list of approved innovative mine safety technologies and/or safety equipment from the Mine Safety Technology Task Force, no applications for the tax credit shall be accepted.

3.2. Once the Director has received the list of approved innovative mine safety technologies and/or safety equipment from the Mine Safety Technology Task Force, the Director shall approve

or amend the list in accordance with the requirements of W. Va. Code § 11-13BB-4. The Director shall publish the approved or amended list in the State Register within thirty (30) days.

3.3. The application for tax credit shall be available at all regional offices of the Office of Miners' Health, Safety and Training and shall also be available on the website www.wvminesafety.org.

3.4.a. If the entity seeking the tax credit is a corporation, the application shall list all officers of the corporation (as registered with the West Virginia Secretary of State) and be signed by an officer of the corporation.

b. If the entity seeking the tax credit is a limited liability company, the application shall list all members of the limited liability company (as registered with the West Virginia Secretary of State) and be signed by one of its members.

c. If the entity seeking the tax credit is a sole proprietor (as registered with the West Virginia State Tax Department), the application shall be signed by the owner of said sole proprietorship.

3.5. Taxpayers who desire to submit an application for certification shall hand deliver to the Danville, Region 3, office an original and one copy of the completed application for time stamping. The copy shall be time stamped and returned to the person delivering the application as evidence of the date and time filed. When submitting the application, the Taxpayer shall also submit a purchase order or other means of proof that the innovative safety technologies and/or safety equipment is in use at the mine.

3.6. The Taxpayer shall pay a one hundred dollar (\$100.00) application fee at the time the application is submitted.

3.7. At the time the application is submitted, the Office of Miners' Health, Safety and Training shall complete a computer search to determine whether any entity, officer, member or sole proprietor listed on the application owes delinquent assessments. If there are delinquent assessments owed to the Office of Miners' Health, Safety and Training, the application shall be refused and the application fee returned. If the applicant pays the delinquent assessments and returns the application with the application fee, then the application will be considered a new application with a new time stamp.

3.8. All completed applications shall be processed and the tax credit allocated based upon the order in which it was received.

3.9. A Letter of Certification shall be sent to each eligible applicant showing the amount of the allocated tax credit.

3.10. When the two million dollars of authorized tax credit is exhausted, the remaining applicants shall be sent a Letter of Denial of Tax Credit.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations Governing the Application Process for the West Virginia Innovative Mine Safety Technology Tax Credit Act

Type of Rule: Legislative Interpretive Procedural

Agency: WV Office of Miners' Health, Safety and Training

Address: 1615 Washington Street, East
Charleston, WV 25311

Phone Number: 304-558-1425 Email: kathy.j.sloan@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule itself will have nominal impact upon the costs and revenues of state government because only administrative costs of processing the application forms will be involved.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next 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 & 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

Rule Title: Rules and Regulations Governing the Application Process for the West Virginia Innovative Mine Safety Technology Tax Credit Act

Rule Title:

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The West Virginia Office of Miners' Health, Safety and Training intends to charge a one hundred dollar (\$100.00) administrative fee for processing the applications for those who wish to apply for an innovative mine safety technology tax credit. Because this is a new tax credit which the Legislature approved in 2011, the one hundred dollar (\$100.00) administrative fee did not exist prior, so this constitutes a one hundred dollar (\$100.00) increase per application.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

n/a

Date: June 28, 2011

Signature of Agency Head or Authorized Representative

C. A. Phillips

SUMMARY OF RULE AND STATEMENT OF FACTS AND CIRCUMSTANCES

During the legislative session of 2011, the Legislature passed H.B. 2955 which provides a tax credit for mine operators who purchase innovative mine safety technology. The tax credit law is codified in W. Va. Code § 11-13BB-1 *et seq.* Specifically, W. Va. Code § 11-13BB-13 authorizes the Office of Miners' Health, Safety and Training (OMHST) to promulgate rules to provide any necessary clarification of the provisions of the article and to efficiently provide for the general administration of the article.

This Rule sets forth the manner in which the OMHST will efficiently and fairly carry out its duties when accepting applications for the tax credit. The Rule also requires that the applicant submit a \$100.00 application fee to help cover OMHST's administrative costs in processing the applications. The Rule also provides that an applicant who has delinquent assessments owed to OMHST must first pay those delinquent assessments before its application will be accepted.

56 CSR 14

TITLE 56
LEGISLATIVE RULES
OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING

SERIES 14
RULES AND REGULATIONS GOVERNING THE APPLICATION PROCESS FOR
THE WEST VIRGINIA INNOVATIVE MINE SAFETY TECHNOLOGY
TAX CREDIT ACT

§ 56-14-1. General.

1.1. Scope. These rules govern the application process for the West Virginia Innovative Mine Safety Technology Tax Credit Act.

1.2. Authority. W. Va. Code § 11-13BB-13

1.3. Filing Date. June 28, 2011

1.4. Effective Date. _____

1.5. Applicability. These regulations shall apply to all taxpayers making application to the West Virginia Office of Miners' Health, Safety and Training for certification of the tax credit authorized under W. Va. Code § 11-13BB-1 *et. seq.*

1.6. Other law applicable. –

§ 56-14-2. Definitions.

2.1. The term "Director" shall mean the Director of the Office of Miners' Health, Safety and Training provided for in Chapter 22A, Article 1, Section 3 of the West Virginia Code.

2.2. The term "Mine Safety Technology Tax Force" shall mean the Mine Safety Technology Task Force provided for in Chapter 22A, Article 11, Section 2 of the West Virginia Code.

§ 56-14-3. Application and Certification Process

3.1. Until the Director has received the list of approved innovative mine safety technologies and/or safety equipment from the Mine Safety Technology Task Force, no applications for the tax credit shall be accepted.

3.2. Once the Director has received the list of approved innovative mine safety technologies and/or safety equipment from the Mine Safety Technology Task Force, the Director shall approve

or amend the list in accordance with the requirements of W. Va. Code § 11-13BB-4. The Director shall publish the approved or amended list in the State Register within thirty (30) days.

3.3. The application for tax credit shall be available at all regional offices of the Office of Miners' Health, Safety and Training and shall also be available on the website www.wvminesafety.org.

3.4.a. If the entity seeking the tax credit is a corporation, the application shall list all officers of the corporation (as registered with the West Virginia Secretary of State) and be signed by an officer of the corporation.

b. If the entity seeking the tax credit is a limited liability company, the application shall list all members of the limited liability company (as registered with the West Virginia Secretary of State) and be signed by one of its members.

c. If the entity seeking the tax credit is a sole proprietor (as registered with the West Virginia State Tax Department), the application shall be signed by the owner of said sole proprietorship.

3.5. Taxpayers who desire to submit an application for certification shall hand deliver to the Danville, Region 3, office an original and one copy of the completed application for time stamping. The copy shall be time stamped and returned to the person delivering the application as evidence of the date and time filed. When submitting the application, the Taxpayer shall also submit a purchase order or other means of proof that the innovative safety technologies and/or safety equipment is in use at the mine.

3.6. The Taxpayer shall pay a one hundred dollar (\$100.00) application fee at the time the application is submitted.

3.7. At the time the application is submitted, the Office of Miners' Health, Safety and Training shall complete a computer search to determine whether any entity, officer, member or sole proprietor listed on the application owes delinquent assessments. If there are delinquent assessments owed to the Office of Miners' Health, Safety and Training, the application shall be refused and the application fee returned. If the applicant pays the delinquent assessments and returns the application with the application fee, then the application will be considered a new application with a new time stamp.

3.8. All completed applications shall be processed and the tax credit allocated based upon the order in which it was received.

3.9. A Letter of Certification shall be sent to each eligible applicant showing the amount of the allocated tax credit.

3.10. When the two million dollars of authorized tax credit is exhausted, the remaining applicants shall be sent a Letter of Denial of Tax Credit.