

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #7 ☐

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FILED

2002 AUG 15 P 2:36

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

September 19, 2002

NOTICE OF AN EMERGENCY RULE

AGENCY: WV OFFICE OF MINERS HEALTH, SAFETY & TRAINING TITLE NUMBER: 56CSR10

CITE AUTHORITY: 22A-1-6

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 10

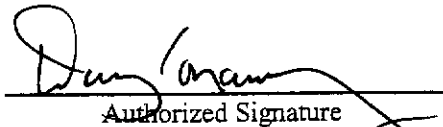
TITLE OF RULE BEING PROPOSED: RULE GOVERNING REPORTING REQUIREMENTS FOR
INDEPENDENT CONTRACTORS

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME
EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER
FILING, WHICHEVER OCCURS FIRST.

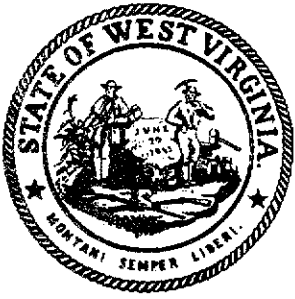
THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE
AS FOLLOWS:

REQUIRE INDEPENDENT CONTRACTORS TO REPORT THEIR EMPLOYEES, MANHOURS,
ACCIDENTS AND INJURIES. SUCH INFORMATION IS ALSO CRITICAL IN THE
DEVELOPMENT OF APPROPRIATE SAFETY PROGRAMS TO EFFECTIVELY ADDRESS
HEALTH AND SAFETY ISSUES INVOLVING INDEPENDENT CONTRACTORS.

Use additional sheets if necessary


Authorized Signature

SCANNED



STATE OF WEST VIRGINIA
BOB WISE, GOVERNOR

**OFFICE OF MINERS' HEALTH,
SAFETY AND TRAINING**
Doug Conaway, Director

1615 Washington Street, East
Charleston, WV 25311-2126
(304) 558-1425
FAX (304) 558-1282

Visit our website at:
www.state.wv.us/mhst

Regional Offices:

Region One
109 Adams Street
Fairmont, WV 26554-2800
(304) 367-2706
(304) 367-2708/Fax

Region One Satellite
16 South Kanawha Street
Buckhannon, WV 26201-2625
(304) 473-4270
(304) 473-4272/Fax

Region Two
891 Stewart Street
Welch, WV 24801-2311
(304) 436-8421
(304) 436-2100/Fax

Region Three
425 Lick Creek Road
Danville, WV 25053
(304) 369-7823
(304) 369-7826/Fax

Region Four
142 Industrial Drive
Oak Hill, WV 25901-9714
(304) 469-8100
(304) 469-4059/Fax

September 13, 2002

Terry Helmick
Secretary of State's Office
State Capitol Building
Charleston, West Virginia 25305

Dear Ms. Helmick:

Per our telephone conversation of yesterday, please find attached the revised **Emergency Rule Questionnaire** that replaces the existing questionnaire in the Emergency Rule filed under Title 56, Series 10, "*Rules Governing Reporting Requirements for Independent Contractors*".

I will be out of the office beginning Friday, September 13 and returning on Monday, September 23, if you need further information, or if you have any questions may contact my secretary, Kathy Sloan at 558-1425 extension 12. Thank you for your assistance in this matter.

Sincerely,

Doug Conaway/ks

Doug Conaway
Director

JDC:ks
Attachment

□
EMERGENCY RULE QUESTIONNAIRE

DATE: August 15, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) _____

WV Office of Miners' Health, Safety and Training

1615 Washington Street East, Charleston, WV 25311-2126

EMERGENCY RULE TITLE: Rule Governing Reporting Requirements for Independent Contractors

1. Date of filing August 15, 2002

2. Statutory authority for promulgating emergency rule:

22A-1-6

3. Date of filing of proposed legislative rule: August 15, 2002

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? New Proposed Regulation

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

Historically over 30% of all WV mine related deaths include independent contractors. Before we can develop needed safety initiatives and programs to counteract injury and death to contractors on mine property we first need critical information about the number of contractors; where they are working, and types of injuries they are experiencing. If we wait until the upcoming session to submit, realistically it will be next spring or summer before any of this data can begin to be collected.

This loss of 6-8 months is a very significant delay to the phase of addressing independent contractor accidents.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

None

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

The number of independent contractors working at coal mines has increased dramatically in recent years. It is vital to gather this information to direct resources to the areas of need so that an effort can be made to reduce accidents and injuries to contractors.

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

SERIES 10
RULE GOVERNING REPORTING REQUIREMENTS
FOR INDEPENDENT CONTRACTORS

56-10-1. General.

1.1. Scope. -- This rule governs reporting requirements for independent contractors registered with the WV Office of Miners' Health, Safety and Training.

1.2. Authority. -- W. Va. Code 22A-1-6

1.3. Filing Date. -- August 15, 2002

1.4. Effective Date. -- October 1, 2002

1.5. Applicability. -- This rule applies to each independent contractor registered with the WV Office of Miners' Health, Safety and Training as required by West Virginia Code 22A-6-63(e).

56-10-2. Effect of Law and Rule.

2.1. This rule has the effect of law and violations are a violation of law and so cited with the same effect as law.

56-10-3. Reporting Requirements.

3.1. On or before the end of each calendar month, each independent contractor registered with the West Virginia Office of Miner's Health, Safety and Training as required by West Virginia Code 22A-2-63(e), shall file with the Director a report covering the preceding calendar month on forms approved by the Director. Such report shall contain the following information for each mine(s) where independent contractors performed work or provided services:

- (1) The total number of employees performing services at a mining operation.
- (2) The total days and employee hours worked at a mining operation.
- (3) The total reported accidents and occupational injuries that occurred to employees while performing services at a mining operation pursuant to Series 19.
- (4) The mines(s) identification number where employee hours were worked and/or where the accident or occupation injury occurred.

□
EMERGENCY RULE QUESTIONNAIRE

DATE: August 15, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Office of Miners' Health, Safety & Training
1615 Washington Street East, Charleston, WV 25311-2126
(304) 558-1425

EMERGENCY RULE TITLE: Rule Governing Reporting Requirements for
Independent Contractors

1. Date of filing August 15 2002
2. Statutory authority for promulgating emergency rule:
22A-1-6
3. Date of filing of proposed legislative rule: August 15 2002
4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? New Proposed Regulation
5. Has the same or similar emergency rule previously been filed and expired?
No
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
The agency currently has no statutory ability to require submission
of this information which is essential in evaluating accident &
injury trends among independent contractors in the mining industry.
Employee hours worked are absolutely necessary for comparison
purposes.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

NONE

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

The number of independent contractors working at coal mines

has increased dramatically in recent years. It is essential

they be held to the standards as traditional mine operators.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rule Governing Reporting Requirements for Independent Contractors

Type of Rule: X Legislative Interpretive Procedural

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

Address: 1615 Washington Street East
Charleston, WV 25311-2126
(304) 558-1425

Contact: Doug Conaway EMAIL: jdconaway@mines.state.wv.us

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

The proposed rule will have no financial effect on the agency's budget.

3. Objectives of These Rules:

To require independent contractors to report employee information that will require independent contractors to the same standards as mine operators.

Rule Title: Rule Governing Reporting Requirements for Independent Contractors

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

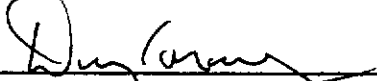
The rule will require minimal paperwork to meet filing requirements. Independent contractors should already have the requested information for payroll.

C. Economic Impact on Citizens/Public at Large.

None

Date: AUGUST 15 2002

Signature of Agency Head or Authorized Representative:



Doug Conaway, Director
WV Office of Miners' Health, Safety & Training

BRIEF SUMMARY

Title 56 Series 10

The proposed regulation requires that on or before the end of each calendar month, each independent contractor registered with the WV Office of Miners Health Safety and Training file a report covering the preceding month providing information on the number of employees, days and hours worked, any accidents and injuries, and the mining operations where employee hours were worked and/or where accidents or injuries occurred.

BRIEF FACTS AND CIRCUMSTANCES

Title 56 Series 10

Given the agency's mission of helping to assure that all people working at mine sites are provided with a reasonably safe working environment it is essential that data pertaining to employee hours worked by independent contractors be reviewed. The same data has been received from mine operators for many years. This data is used to compute relevant statistical information that is used for comparison and evaluation purposes. Such information is also critical in the development of appropriate safety programs to effectively address health and safety issues more correctly. There is no alternative equally effective method of computing appropriate health and safety comparison statistics.



BUREAU OF COMMERCE

Bob Wise, Governor • Alisa Bailey, Commerce Bureau Chief

August 14, 2002

Doug Conaway, Director
Miners' Health, Safety and Training
1615 Washington Street, East
Charleston, West Virginia 25311

Dear Director Conaway:

Upon review of your request to file a procedural rule under Title 56, Series 10, which governs reporting requirements for independent contractors registered with the West Virginia Office of Miners' Health, Safety and Training, I find your proposed rule satisfactory and approve your filing of the regulations. A copy of the proposed rule is attached for the record.

Sincerely,

A handwritten signature in black ink, appearing to read "Alisa", with a long, sweeping horizontal line extending to the right.

Alisa L. Bailey
Commerce Bureau Chief

/cfid