

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

Form #2

Do Not Mark In This Box

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2012 APR -9 PM 1:28

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Board of Coal Mine Health and Safety TITLE NUMBER: 36

RULE TYPE: Legislative Exempt CITE AUTHORITY: 22A-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

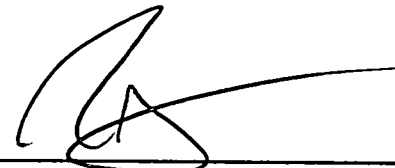
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 52

TITLE OF RULE BEING PROPOSED: Fire in about Mine; notification of director and district mine inspector; Mine emergency evacuation plan

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 10 May 2012 AT 5pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Board of Coal Mine Health and Safety _____
Building 6, Suite 652 _____
1900 Kanawha Blvd., E.
Charleston, WV 25305

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

Fire in and about mine; et al

Rule Title:

Type of Rule:

Legislative Interpretive Procedural

Agency:

Board of Coal Mine Health and Safety

Address:

1900 Kanawha BLVD East State Capitol Complex Bldg 6, ste 652
Charleston, WV 25301

Phone Number:

304.957.2306

Email: joel.l.watts@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.

N/A

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:



Rule Title: _____

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

N/A

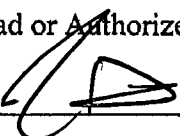
MEMORANDUM

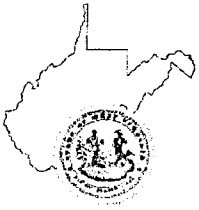
Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

N/A

Date: 9 April 2012

Signature of Agency Head or Authorized Representative





WEST VIRGINIA BOARD OF COAL MINE HEALTH AND SAFETY

1615 Washington Street, E. • Charleston, West Virginia 25311 • Telephone 304-558-1425 • Fax 304-558-6091

PROPOSED REGULATIONS

To: All persons interested in Rules and Regulations constructed by the Board of Coal Mine Health and Safety

From: Joel L. Watts, Administrator – BCMH&S

Subject: **Fire in and about mine; notification of director and district mine inspector; Mine emergency evacuation plan.** Title 36, Section 52

Date: 9 April 2012

End Date for Comments: 10 May 2012

Authority: §22.6.4

The Board of Coal Mine Health and Safety is posting a proposed regulation which amends the current statute into regulatory format to increase the degree of safety. This is a new rule requiring immediate notification of the Director of OMHST and a mine emergency evacuation plan.

You may send all written comments to

ATTN: Joel L. Watts
Board of Coal Mine Health and Safety
1900 Kanahwa BLVD East
State Capitol Complex Building 6, ste 652
Charleston, WV 25305

All comments must be post-marked by 10 May in order to be accepted by the Board for consideration.

Title 36
Legislative Rules
Board of Coal Mine Health and Safety

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2012 APR -9 PM 1: 28

Series 52
**Fire in and about mine; notification of director and district mine inspector; Mine
emergency evacuation plan**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§36-52-2. General.

1.1 Scope: Rules and Regulations Governing Underground Coal Mines in the State of West Virginia

1.2 Authority. W. Va. Code 22A-6-4

1.3 Filing Date.

1.4 Effective Date.

§36-52-2. Fire in and about mine; notification of director and district mine inspector.

The operator or mine foreman, upon the discovery of fire in or about a mine, shall immediately notify the director and the district mine inspector in whose district the mine is located.

§36-52-3 Mine Emergency evacuation plan.

a) For each shift that miners work underground, there shall be in attendance a responsible person designated by the mine operator to take charge during mine emergencies involving a fire, explosion, or gas or water inundation.

(1) The responsible person shall have current knowledge of the assigned location and expected movements of miners underground, the operation of the mine ventilation system, the locations of the mine escapeways and refuge alternatives, the mine communications system, any mine monitoring system if used, locations of firefighting equipment, the mine's Emergency Response Plan, the Mine Rescue Notification Plan, and the Mine Emergency Evacuation and Firefighting Program of Instruction.

(2) The responsible person shall be trained annually in a course of instruction in mine emergency response, as prescribed by MSHA's Office of Educational Policy and Development. The course will include topics such as the following:

- (i) Organizing a command center;
 - (ii) Coordinating firefighting personnel;
 - (iii) Deploying firefighting equipment;
 - (iv) Coordinating mine rescue personnel;
 - (v) Establishing fresh air base;
 - (vi) Deploying mine rescue teams;
 - (vii) Providing for mine gas sampling and analysis;
 - (viii) Establishing security;
 - (ix) Initiating an emergency mine evacuation;
 - (x) Contacting emergency personnel; and
 - (xi) Communicating appropriate information related to the emergency.
- (3) The operator shall certify by signature and date after each responsible person has completed the training and keep the certification at the mine for 1 year.
1. The responsible person shall initiate and conduct an immediate mine evacuation when there is a mine emergency which presents an imminent danger to miners due to fire or explosion or gas or water inundation. Only properly trained and equipped persons essential to respond to the mine emergency may remain underground.
 2. The mine operator shall instruct all miners of the identity of the responsible person designated by the operator for their workshift. The mine operator shall instruct miners of any change in the identity of the responsible person before the start of their workshift.
 3. Nothing in this section shall be construed to restrict the ability of other persons in the mine to warn of an imminent danger which warrants evacuation.

§36-52-4 Mine emergency evacuation and firefighting program of instruction

Each operator of an underground coal mine shall adopt and follow a mine emergency evacuation and firefighting program that instructs all miners in the proper procedures they must follow if a mine emergency occurs.

1. Program approval. The operator shall submit this program of instruction, and any revisions, for approval to the District Manager of the Coal Mine Safety and Health district in which the mine is located. Within 30 days of approval, the operator shall conduct training in accordance with the revised program.
2. New or revised provisions. Before implementing any new or revised approved provision in the program of instruction, the operator shall instruct miners in the change.
3. Instruction plan. The approved program shall include a specific plan designed to instruct miners on all shifts on the following:
 1. Procedures for--
 - a. Evacuating the mine for mine emergencies that present an imminent danger to miners due to fire, explosion, or gas or water inundation;
 - b. Evacuating all miners not required for a mine emergency response; and
 - c. The rapid assembly and transportation of necessary miners, fire suppression equipment, and rescue apparatus to the scene of the mine emergency.
 2. The use, care, and maintenance of self-rescue devices, including hands-on training in the complete donning and transferring of all types of self-rescue devices used at the mine.
 3. The deployment, use, and maintenance of refuge alternatives.
 4. Scenarios requiring a discussion of options and a decision as to the best option for evacuation under each of the various mine emergencies (fires, explosions, or gas or water inundations). These options shall include:
 - a. Encountering conditions in the mine or circumstances that require immediate donning of self-rescue devices.

- b. Using continuous directional lifelines or equivalent devices, tethers, and doors;
 - c. Traversing undercasts or overcasts;
 - d. Switching escapeways, as applicable;
 - e. Negotiating any other unique escapeway conditions; and
 - f. Using refuge alternatives.
5. Location and use of the fire suppression and firefighting equipment and materials available in the mine.
6. Location of the escapeways, exits, routes of travel to the surface, including the location of continuous directional lifelines or equivalent devices.
7. Location, quantity, types, and use of stored SCSRs, as applicable.
8. A review of the mine map; the escapeway system; the escape, firefighting, and emergency evacuation plan in effect at the mine; and the locations of refuge alternatives and abandoned areas.
9. A description of how miners will receive annual expectations training that includes practical experience in donning and transferring SCSRs in smoke, simulated smoke, or an equivalent environment and breathing through a realistic SCSR training unit or device that provides the sensation of SCSR airflow resistance and heat.
10. A summary of the procedures related to deploying refuge alternatives.
11. A summary of the construction methods for 15 psi stoppings constructed prior to an event.
12. A summary of the procedures related to refuge alternative use.
4. Instructors.
 1. The mine operator shall designate a person who has the ability, training, knowledge, or experience to conduct the mine emergency evacuation instruction and drills in his or her area of expertise.

2. Persons conducting SCSR donning and transferring training shall be able to effectively train and evaluate whether miners can successfully don the SCSR and transfer to additional SCSR devices.

§36-52-5 Emergency Response Plan; refuge alternatives.

1. The Emergency Response Plan (ERP) shall include the following for each refuge alternative and component:
 - a. The types of refuge alternatives used in the mine, i.e., a prefabricated self-contained unit or a unit consisting of 15 psi stoppings constructed prior to an event in a secure space and an isolated atmosphere.
 - b. Procedures or methods for maintaining approved refuge alternatives and components.
 - c. The rated capacity of each refuge alternative, the number of persons expected to use each refuge alternative, and the duration of breathable air provided per person by the approved breathable air component of each refuge alternative.
 - d. The methods for providing breathable air with sufficient detail of the component's capability to provide breathable air over the duration stated in the approval.
 - e. The methods for providing ready backup oxygen controls and regulators.
 - f. The methods for providing an airlock and for providing breathable air in the airlock, except where adequate positive pressure is maintained.
 - g. The methods for providing sanitation facilities.
 - h. The methods for harmful gas removal, if necessary.
 - i. The methods for monitoring gas concentrations, including charging and calibration of equipment.
 - j. The method for providing lighting sufficient for persons to perform tasks.
 - k. Suitable locations for the refuge alternatives and an affirmative statement that the locations are--

- i. Not within direct line of sight of the working face; and
 - ii. Where feasible, not placed in areas directly across from, nor closer than 500 feet radially from, belt drives, take-ups, transfer points, air compressors, explosive magazines, seals, entrances to abandoned areas, and fuel, oil, or other flammable or combustible material storage. However, the operator may request and the District Manager may approve an alternative location in the ERP if mining involves two-entry systems or yield pillars in a longwall that would prohibit locating the refuge alternative out of direct line of sight of the working face.
 - i. The maximum mine air temperature at each of the locations where refuge alternatives are to be placed.
2. For a refuge alternative consisting of 15 psi stoppings constructed prior to an event in a secure space and an isolated atmosphere, the ERP shall specify that--
- a. The breathable air components shall be approved by MSHA; and
 - b. The refuge alternative can withstand exposure to a flash fire of 300 degrees Fahrenheit ([deg]F) for 3 seconds and a pressure wave of 15 pounds per square inch (psi) overpressure for 0.2 seconds.
3. If the refuge alternative sustains persons for only 48 hours, the ERP shall detail advanced arrangements that have been made to assure that persons who cannot be rescued within 48 hours will receive additional supplies to sustain them until rescue. Advance arrangements shall include the following:
- a. Pre-surveyed areas for refuge alternatives with closure errors of less than 20,000:1.
 - b. An analysis to demonstrate that the surface terrain, the strata, the capabilities of the drill rig, and all other factors that could affect drilling are such that a hole sufficient to provide required supplies and materials reliably can be promptly drilled within 48 hours of an accident at a mine.
 - c. Permissions to cross properties, build roads, and construct drill sites.

- d. Arrangement with a drilling contractor or other supplier of drilling services to provide a suitable drilling rig, personnel and support so that a hole can be completed to the refuge alternative within 48 hours.
 - e. Capability to promptly transport a drill rig to a pre-surveyed location such that a drilled hole would be completed and located near a refuge alternative structure within 48 hours of an accident at a mine.
 - f. The specifications of pipes, air lines, and approved fans or approved compressors that will be used.
 - g. A method for assuring that within 48 hours, breathable air shall be provided.
 - h. A method for assuring the immediate availability of a backup source for supplying breathable air and a backup power source for surface installations.
4. The ERP shall specify that the refuge alternative is stocked with the following:
- a. A minimum of 2,000 calories of food and 2.25 quarts of potable water per person per day in approved containers sufficient to sustain the maximum number of persons reasonably expected to use the refuge alternative for at least 96 hours, or for 48 hours if advance arrangements are made under paragraph (c) of this section;
 - b. A manual that contains sufficient detail for each refuge alternative or component addressing in-mine transportation, operation, and maintenance of the unit;
 - c. Sufficient quantities of materials and tools to repair components; and
 - d. First aid supplies.