



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 8 -- NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE (Page 1)

AGENCY **Miners' Health Safety And Training**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE No TITLE-SERIES **56-22**
RULE NAME **Certification, Recertification and Training of EMT-Miners and the Certification of EMT-M Instructors**
CITE AUTHORITY **§§16-4C-6(c)(g), 22A-1-6**

DATE EMERGENCY RULE WAS ORIGINALLY FILED

Friday, April 29, 2016

FIRST EMERGENCY AMENDMENT TO AN EXISTING RULE

SECOND EMERGENCY AMENDMENT TO AN EXISTING RULE

DATE OF FIRST EMERGENCY AMENDMENT

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Joshua L Jarrell -- 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-Series: 56-22



Rule Id: 10115



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FORM 8 -- NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE (Page 2)

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THE ATTACHED IS AN EMERGENCY AMENDMENT TO AN EXISTING EMERGENCY RULE. THIS EMERGENCY AMENDMENT BECOMES EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY AMENDMENT ARE AS FOLLOWS:

After reviewing the public comments, OMHST plans to incorporate some of those comments into the agency-approved rule. Those changes also need to be included in the emergency rule.

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FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 1)

AGENCY Miners' Health Safety And Training

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RULE NAME Certification, Recertification and Training of EMT-Miners and the Certification of EMT-M Instructors

CITE AUTHORITY §§16-4C-6(c)(g), 22A-1-6

PRIMARY CONTACT

William A. Tucker

Office of Miners' Health, Safety and Training

7 Players Club Drive, Suite 2

Charleston, STATE ZIP

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CITE AUTHORITY §§16-4C-6(c)(g), 22A-1-6

DATE OF FILING

Tuesday, June 07, 2016

STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE

W. Va. Code §§16-4C-6c(g), 22A-1-6

DATE OF FILING OF PROPOSED LEGISLATIVE RULE

Friday, April 29, 2016

**DOES THE EMERGENCY RULE ADOPT NEW LANGUAGE OR DOES IT AMEND OR APPEAL A
CURRENT LEGISLATIVE RULE?**

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND EXPIRED?

No

**STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE
EMERGENCY RULE NECESSARY FOR THE IMMEDIATE PRESERVATION OF PUBLIC PEACE,
HEALTH, SAFETY OR WELFARE.**

**In the 2016 legislative session, H.B. 4726 was passed amending W. Va. Code § 16-4C-6c to transfer
administration, certification and training of EMT-M's and EMT-M Instructors to Office of Miners'
Health, Safety & Training (OMHST), effective June 9, 2016.**

SEE Memorandum dated May 23, 2016, from Barry L. Koerber to E. Ashley Summitt.

**Joshua L Jarrell -- 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.**



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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.

§16-4C-6c(g). Time sensitive. The law takes effect 90 days after passage so the Rule has to be in place when the statute is effective. The law was passed on March 11, 2016, and will become effective June 9, 2016.

STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE EMERGENCY RULE NECESSARY TO PREVENT SUBSTANTIAL HARM TO THE PUBLIC INTEREST.

In the 2016 legislative session, H.B. 4726 was passed, amending W. Va. Code §16-4C-6c to transfer administration, certification and training of EMT-M's and EMT-M Instructors to the Office of Miners' Health, Safety & Training (OMHST), effective June 9, 2016.

This included giving OMHST, in conjunction with the Board of Miner Training, Education and Certification, specific authority to propose emergency and legislative rules to implement the mandates of this legislation. W. Va. Code § 16-4C-6c(g).

SEE Memorandum dated May 23, 2016, from Barry L. Koerber to E. Ashley Summitt.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY Miners' Health Safety And Training

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 56-22

RULE NAME Certification, Recertification and Training of EMT-Miners and the Certification of EMT-M Instructors

CITE AUTHORITY §§16-4C-6(c)(g), 22A-1-6

PRIMARY CONTACT

William A. Tucker
Office of Miners' Health, Safety and Training
7 Players Club Drive, Suite 2
Charleston, STATE ZIP

SECONDARY CONTACT

Eugene White, Director
Office of Miners' Health, Safety and Training
7 Players Club Drive, Suite 2
Charleston, STATE SECONDARY ZIP SECONDARY

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SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

Revenue: We will charge \$10 to certify each EMT-miner. $3000 \times \$10 = \$30,000$. (§56-22-4.3) There will NOT be a charge to re-certify. We estimate the number of Instructors to be 200, who will be charged \$10 to certify, generating \$2,000. (§56-22-5.4)

Cost to agency initially: Training fees for our people: \$6,255 plus hotel and per diem for nine days ($9 \times \$150$; $5 \times \$150$); $\$6,255 + \$2,750 = \$9,005$)

Supplies--\$7,000 initially; \$6,000 over next two years.

Recertifications: There are currently approximately 3000 EMT-M's. There will be a savings of \$50 per person every year they get their 8-hour module for rretraining. (Company savings \$150,000 per year.)

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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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	22,005.00	0.00	22,005.00
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	9,000.00	9,000.00
ESTIMATED TOTAL REVENUES	32,000.00	0.00	32,000.00

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CITE AUTHORITY §§16-4C-6(c)(g), 22A-1-6

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

The cost of a card to certify a miner is \$10. We estimate certifying 3000 miners for a revenue of \$30,000. We estimate the number of Instructors to be 200, who will be charged \$10 to certify, generating \$2,000.

We anticipate a minimal amount of revenue being generated after the initial inception of this Rule mainly due to the decline in the coal industry and the low demand for EMT-Miners.

Costs include training fees for OMHST employees of approximately \$9,005 and supplies (\$7,000 initially; \$6,000 over the next two years.)

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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.

A minimal amount of revenue will be generated after the initial inception of this Rule mainly due to the decline in the coal industry and the low demand for EMT-Miners.

We are estimating that approximately 200 individuals will be certified as Instructors.

No additional employees will be hired. Current employees will assume these responsibilities.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

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CITE AUTHORITY **§§16-4C-6(c)(g), 22A-1-6**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

This Rule transfers certification authority of emergency medical technician-miners from the Department of Health and Human Resources, Office of Emergency Medical Services (OEMS), to the Office of Miners Health, Safety and Training (OMHST).
This Rule provides that an EMT-M certified by OEMS in good standing on or before December 15, 2015, shall be recognized by the Director of OMHST as an EMT-M and shall be recertified thereafter as set forth in this Rule.
Certification and recertification requirements for Emergency Medical Technician-Miners (EMT-M) are: the applicant be at least 18 years old, apply on a form prescribed by the Director, possess a valid CPR certification, successfully complete the EMT-M education program and successfully pass the EMT-M cognitive and skills examinations.
The Director may charge a \$10 fee for the issuance of an EMT-M certification, and that initial EMT-M certification is valid for a period of three years from the date of issuance. To recertify as an EMT-M, the applicant must apply on a form prescribed by the Director, possess a valid CPR certification, successfully complete either a 32 hour EMT-M recertification course prior to the expiration of the 3-year anniversary of the certification or an 8-hour retraining and testing program, and successfully pass the EMT-M mining cognitive and skills recertification examination(s).
The EMT-M Instructor must submit a roster of the

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Yes

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 2)

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SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

individuals who successfully complete the annual certification module and instructor evaluations to the Director. The certificate of any individual not completing the annual refresher course, absent just cause, shall become invalid until such time as the individual takes the missed module, as long as it is taken by December 31 of the following year. If two consecutive modules are missed, the individual must retake the initial 60-hour course and pass the required examinations. This includes individuals who failed to take their recertification module in 2015.

The EMT-M Instructor shall keep copies of the students' examination sheets for at least one year when conducting the annual refresher course.

An EMT-M may only provide EMT-M services on mining property permitted by OMHST.

An EMT or medical professionals in other jurisdictions who possess equivalent training as an EMT-M may apply to be certified as an EMT-M subject to approval by the Director in consultation with the Board of Miner Training, Education and Certification.

After December 31, 2016, the Director or his authorized representative shall conduct the examination for the initial EMT-M certification unless another entity is authorized by the Director.

The initial applicant must have a minimum score of 70% to be certified as an EMT-M.

The initial applicant shall have up to one year to retake the parts of the test that he or she failed in order to obtain the EMT-M certification.

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SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

After one year has passed, if the applicant fails to obtain his/her certification, he/she must repeat the entire EMT-M course.

The EMT-M curriculum in conjunction with the National DOT Curriculum for First Responders shall be followed when teaching the sixty hour EMT-M certification course. Updates in the DOT curriculum will also apply to the EMT-M curriculum.

EMT-M Instructors in good standing on the effective date of the Rule shall be recognized by the Director as EMT-M Instructors and shall be certified as set forth in the Rule.

The Rule sets forth certification requirements for Emergency Medical Technician-Miner Instructors (EMT-M Instructors). Commencing June 9, 2016, to become an EMT-M Instructor, an applicant must be a certified or qualified first-aid instructor or a medical professional approved by the Director in consultation with the Board, a CPR instructor, at least 18 years old, and apply on a form prescribed by the Director.

An EMT-M Instructor's certification shall remain valid so long as that Instructor meets the requirements of the Rule or it is revoked by the Director for good cause.

The Director may charge a \$10 fee for the issuance of an EMT-M Instructor certification.

Any person desiring to teach the EMT-M course and annual refresher course shall possess a current EMT-M Instructor certification issued by the Director.

The EMT-M Instructor may use people with special expertise to assist in

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SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

teaching the course.

The EMT-M Instructor shall notify the regional office in the region where the certification or recertification course is being given and shall provide directions to the training facility, contact information and the number of applicants.

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

SERIES 22
RULES GOVERNING THE CERTIFICATION,
RE-CERTIFICATION AND TRAINING OF EMT-MINERS
AND THE CERTIFICATION OF EMT-M INSTRUCTORS

§56-22-1. General.

1.1. Scope. -- This rule establishes a program for the certification, recertification and training of EMT-Miners (EMT-M) and the certification of EMT-M Instructors.

1.2. Authority. -- W. Va. Code §§16-4C-6c(g) and 22A-1-6.

1.3. Filing Date. -- ~~April 28, 2016.~~ June 7, 2016.

1.4. Effective Date. --

1.5. Sunset Date. -- This rule will sunset five years after its effective date.

§56-22-2. Purpose.

2.1. This rule establishes a program for the certification, recertification and training of EMT-Miners and the certification of EMT-M Instructors.

§56-22-3. Definitions.

3.1. All definitions found in W. Va. Code §22A-1-2 and W. Va. Code R. §56-3-3 are applicable to this Rule.

3.2. Board. The term "Board" means the Board of Miner Training, Education and Certification.

3.3. CPR. The term "CPR" means cardiopulmonary resuscitation.

3.4. Director. The term "Director" means the Director of the Office of Miners' Health, Safety and Training.

3.5. EMT-M. The term "EMT-M" means an individual trained and certified to be an emergency medical technician for the mining industry. The term "EMT-M" means an EMT-Miner as well as EMT-Mining.

3.6. EMT-M Instructor. The term "EMT-M Instructor" means an individual certified by the Director to teach the certification and recertification courses and administer the examinations based on his or her qualifications, experience and background.

3.7. Form prescribed by the Director. The term "form prescribed by the Director" means a form which at a minimum shall require: The full legal name, the full Social Security number, date of birth, mailing address, telephone number (including cell number), and E-mail address of the applicant.

3.8. National DOT Curriculum for First Responders. The term "National DOT Curriculum for First Responders" means the United States Department of Transportation, National Highway Traffic Safety Administration, First Responder National Standard Curriculum.

§56-22-4. Certification and Recertification Requirements for EMT-M.

4.1. Grandfather Clause.

4.1.a. An EMT-M~~s~~ certified by the Office of Emergency Medical Services in good standing on ~~or before June 9, 2016~~ December 31, 2015, shall be recognized by the Director as an EMT-M~~s~~ and shall be recertified thereafter as set forth in this Rule.

4.2. Commencing June 9, 2016, an applicant for certification as an EMT-M shall:

4.2.a. Be at least eighteen (18) years old;

4.2.b. Apply on a form prescribed by the Director;

4.2.c. Possess a valid CPR certification;

4.2.d. Successfully complete the EMT-M education program authorized by the Director in consultation with the Board; and

4.2.e. Successfully pass the EMT-M cognitive and skills examinations authorized by the Director in consultation with the Board.

4.3. The Director may charge a ten dollar (\$10.00) fee for the issuance of an EMT-M certification.

4.4. The initial EMT-M certification is valid for a period of three (3) years from the date of issuance; however, the EMT-M must complete an eight~~-~~ (8) hour module during the third year and every year thereafter to remain current or comply with paragraph 4.5.c.1.

4.5. To be recertified as an EMT-M, a certificate holder shall:

4.5.a. Apply on a form prescribed by the Director;

4.5.b. Possess a valid CPR certification;

4.5.c. Successfully complete one of the following:

4.5.c.1. A thirty-two (32) hour EMT-M recertification course authorized by the Director in consultation with the Board prior to the expiration of the three-year anniversary of the certification; or

4.5.c.2. Annual eight~~-~~ (8) hour retraining and testing programs authorized by the Director in consultation with the Board ; and

4.5.d. Successfully pass the EMT-M mining cognitive and skills recertification examination(s) authorized by the Director in consultation with the Board. The recertification examination(s) shall be part of the Instructor evaluations.

4.6. At the end of the annual refresher course or thirty-two (32) hour recertification course, the EMT-M instructor shall submit a roster of the individuals who have successfully completed the annual certification module and instructor evaluations. The EMT-M certification of any individual not completing the annual refresher course, absent just cause as determined by the Director, shall become invalid until such time as he or she takes the missed module, as long it is taken by December 31 of the following year. If at any time two (2) consecutive modules are missed, then the

individual must retake the initial sixty- (60) hour course and pass the required examinations. This includes those individuals who failed to take their recertification module in 2015.

4.7. The EMT-M Instructor shall keep copies of the students' examination skill sheets for at least one (1) year when conducting the annual refresher course.

4.8. An EMT-M may only provide EMT-M services on mining property permitted by the West Virginia Office of Miners' Health, Safety and Training.

4.9. An EMT's or medical professionals in other jurisdictions who possess equivalent training as an EMT-M under this Rule may apply on a form prescribed by the Director to be certified as an EMT-M's subject to approval by the Director in consultation with the Board.

4.10. After December 31, 2016, the Director or his authorized representative shall conduct the examinations for the initial EMT-M certification unless another entity is authorized by the Director in consultation with the Board to conduct the examinations.

4.11. The initial applicant must have a minimum score of seventy (70) percent to be certified as an EMT-M.

4.12. The initial applicant shall have up to one (1) year to retake the parts of the test that he or she failed in order to obtain the EMT-M certification. After one (1) year has passed, if the applicant fails to obtain his/her certification, he/she must repeat the entire EMT-M course.

4.13. The EMT-M curriculum in conjunction with the National DOT Curriculum for First Responders shall be followed when teaching the sixty (60) hour EMT-M certification course. Updates in the DOT curriculum will also apply to the EMT-M curriculum.

§56-22-5. Certification Requirements for EMT-M Instructor.

5.1. Grandfather Clause.

5.1.a. An EMT-M Instructors in good standing on the effective date of this Rule shall be recognized by the Director as an EMT-M Instructors and shall be certified as set forth in this Rule.

5.2. Commencing June 9, 2016, an applicant for certification as an EMT-M Instructor shall:

5.2.a. Be a certified or qualified first-aid instructor or a medical professional approved by the Director in consultation with the Board;

5.2.b. Be a CPR instructor;

5.2.c. Be at least eighteen (18) years old; and

5.2.d. Apply on a form prescribed by the Director.

5.3. An EMT-M Instructor's certification shall remain valid so long as ~~that~~ the Instructor meets the requirements of subsections 5.2.a. and 5.2.b. of this section, or the EMT-M Instructor certification is revoked by the Director for good cause.

5.4. The Director may charge a ten dollar (\$10.00) fee for the issuance of an EMT-M Instructor certification.

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5.5. Any person desiring to teach the EMT-M course and annual refresher course shall possess a current EMT-M Instructor certification issued by the Director.

5.6. ~~The~~ An EMT-M Instructor may bring in persons with special expertise to assist in teaching the course ~~as~~ so long as they are under the direct supervision of ~~the~~ an EMT-M Instructor.

5.7. The EMT-M Instructor shall notify the regional office in the region where the certification or recertification course is being given as soon as practical prior to starting the course. The EMT-M Instructor shall provide directions to the training facility, contact information and the number of applicants. The class shall be limited to twenty-five (25) students unless approved by the Director.