

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

Form #5

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2010 MAY -4 PM 4: 19

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

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

CITE AUTHORITY: 22A-6-4

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

22A-6-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11

TITLE OF RULE BEING AMENDED: UNDERGROUND MINE FOREMAN-FIRE BOSS REQUIRED;
~~ASSISTANTS; CERTIFICATION; THE REOPENING OF ABANDONED
MINES AND THE DE-ENERGIZATION OF SELF-PROPELLED
ELECTRIC COAL FEEDERS; PERFORMANCE REQUIREMENTS~~

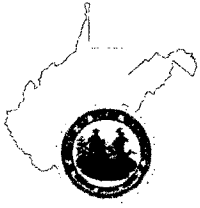
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS MAY 4 2010


Authorized Signature



WEST VIRGINIA BOARD OF COAL MINE HEALTH AND SAFETY

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FINAL 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: **UNDERGROUND MINE FOREMAN-FIRE BOSS REQUIRED; ASSISTANTS; CERTIFICATION; THE REOPENING OF ABANDONED MINES AND THE DE-ENERGIZATION OF SELF-PROPELLED ELECTRIC COAL FEEDERS; PERFORMANCE REQUIREMENTS, Title 36, Section 11**

Effective Date: 4 May 2010

Authority: §22.6.4

The Board of Coal Mine Health and Safety is filing a rule per the request of the WV Secretary of State. The Board considers this rule effective from the original effective date which was January 1, 1982 as it has been filed in the Code of State Regulations.

FILED

2010 MAY -4 PM 4: 19

**TITLE 36
LEGISLATIVE RULES
BOARD OF COAL MINE HEALTH AND SAFETY**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**SERIES 11
UNDERGROUND MINE FOREMAN-FIRE BOSS REQUIRED; ASSISTANTS;
CERTIFICATION; THE REOPENING OF ABANDONED MINES AND THE DE-
ENERGIZATION OF SELF-PROPELLED ELECTRIC COAL FEEDERS; PERFORMANCE
REQUIREMENTS**

§36-11-1. General.

1.1 Scope. Rules and Regulations Governing When Underground Mine Foreman-Fire Boss Required; Assistants; Certification; The Reopening of Abandoned Mines; and the De-energization of Self-Propelled Electric Coal Feeders; Performance Requirements.

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

1.3 Filing Date. May 4, 2010

1.4 Effective Date. May 4, 2010

§36-11-2. Effect of Regulations.

These rules and regulations have the effect of the law and violations shall be deemed a violation of law and so cited with the same effect as law. All provisions of Article 1A, Chapter 22A of the Code relative to enforcement are applicable to the enforcement of these rules and regulations.

§36-11-3. Definitions.

All terms used in these rules and regulations, not defined herein, shall have the meanings set forth in Section 1, Article 1A, Chapter 22A of the Code.

§36-11-4. When Underground Mine Foreman-Fire Boss Required; Assistants; Certification.

(a) In every underground mine where five (5) or more persons are employed in a period of twenty-four (24) hours, the operator shall employ at least one (1) person certified in accordance with the provisions of Article 9, Chapter 22 of the West Virginia Code, as a mine foreman-fire boss. Each applicant for certification as a mine foreman-fire boss shall, at the time he is issued a certificate of competency: (1) Be a resident or employed in a mine in this state; (2) have had at least five (5) years' experience in the underground working, ventilation and drainage of a coal mine, which shall include at least eighteen (18) months' experience on or at a working section of a underground mine or be a graduate of the School of Mines at West Virginia University or of another accredited mining engineering school with a bachelor's degree in mining engineering technology, electrical, mechanical or civil engineering; and have had at least two (2) years practical experience in an underground mine, which shall include at least eighteen (18) months' experience on or at a working section of an underground mine; or be a graduate of an accredited college or university with an associate degree in mining, electrical, mining engineering technology, mechanical engineering or civil engineering and have at least four (4) years' practical experience in an underground mine, which shall include at least eighteen (18) months' experience on or at a working section of an underground mine; and (3) have demonstrated his knowledge of dangerous mine gases and their detection, mine safety, first aid, safety appliances, state and federal mining laws and regulations and other subjects by completing such training, educations and examinations as may be required of him under these rules and regulations.

(b) In mines in which the operations are so extensive that the duties devolving upon the mine foreman-fire boss cannot be discharged by one man, one or more assistant mine foremen-fire bosses may be designated. Such persons shall act under the instruction of the mine foreman-fire boss, who shall be responsible for their conduct in the discharge of their duties. Each assistant so designated shall be certified under the provisions of Article 9, Chapter 22 of the West Virginia Code. Each applicant for certification as assistant mine foreman-fire boss shall, at the time he is issued a certificate of competency, posses all the qualifications required of a mine foreman-fire boss: Provided, That he shall at the time he is certified be required to have at least three (3) years' experience in the underground working, ventilation and drainage of coal mines, which shall include eighteen (18) months on or at a working section of an underground mine or be a graduate of the School of Mines at West Virginia University or of another accredited engineering school with a bachelor's degree in mining engineering technology, electrical, mechanical or civil engineering; and have had twelve (12) months' practical experience in an underground mine, all of which shall have been on or at a working section or be a graduate of an accredited college or university with an associate degree in mining, electrical,

mining engineering technology, mechanical or civil engineering and have had at least two (2) years' practical experience in an underground mine, which shall include at least eighteen (18) months' experience on or at a working section of an underground mine.

(c) Any person holding a mine foreman's certificate issued by any other state may act in the capacity of mine foreman-fire boss in any mine in this state until the next regular mine foreman-fire boss' examination held by the department, but not to exceed a maximum of ninety (90) days.

(d) After the effective date of this section, all duties heretofore performed by persons certified as mine foreman, assistant mine foreman or fire boss shall be performed by persons certified as underground mine foreman-fire boss or an assistant underground mine foreman fire boss. After the effective date of this section, every certificate heretofore issued to an assistant mine foreman or fire boss shall be deemed to be equal value to a certificate issued hereafter to an assistant mine foreman-fire boss, and every certificate heretofore issued to a mine foreman shall be deemed to be equal value to a certificate issued hereafter to a mine foreman-fire boss.

§36-11-5. Reopening Of Abandoned Mines.

No person, shall reopen for any purpose any old or abandoned mine without first giving the Director of the Department of Energy ten (10) days written notice. Such notice shall state clearly the name or names of the owner or owners of the mine proposed to be reopened.

Upon receipt of such notice, the Director of the Department of Energy shall have his representative present at the time at the mine designated in the notice for such opening, who shall have full authority necessary to protect the health and safety of those persons performing such work.

No old or abandoned mine shall be reopened for the purpose of producing coal unless a permit approval is obtained from the Director of the Department of Energy as required by Chapter 22A, Article 2, Section 63 of the West Virginia Code.

§36-11-6. De-energization Of Self-propelled Electric Coal Feeders; Performance Requirements.

Three (3) months after the effective date of these rules and regulations, de-energization of the tramming motors of self propelled electric coal feeders shall be provided by:

- (1) Mechanical actuation of an existing push button emergency stopswitch;
- (2) Mechanical actuation of an existing lever emergency stopswitch;
- (3) The addition of a separate electro-mechanical switch assembly.

The existing emergency stopswitch or additional switch assembly shall be actuated by a bar or lever which shall extend a sufficient distance in each direction to permit quick de-energization of the tramming motors of self-propelled electric coal feeders from all locations from which the equipment can be operated.

Movement of not more than two (2) inches of the actuating bar or lever, resulting from the application of not more than fifteen (15) pounds of force upon contact with any portion of the equipment operator's body at any point along the length of the actuating bar or lever, shall cause de-energization of the tramming motors of the self-propelled electric coal feeders.