

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #5

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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: Legislative

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE Yes

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: 14

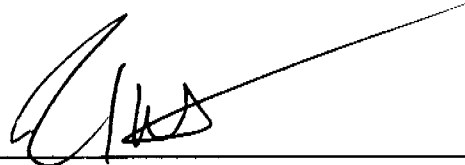
TITLE OF RULE BEING AMENDED: Electrical Equipment in Mines; Required Examinations

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 April 1, 2008



Authorized Signature

#3.20

FILED

2008 FEB 20 PM 12:25

SECRETARY OF STATE

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

**SERIES 14
RULES AND REGULATIONS GOVERNING ELECTRICAL
EQUIPMENT IN MINES; REQUIRED EXAMINATIONS**

§36-14-1. General.

- 1.1. Scope. -- Rules and regulations governing electrical equipment in mines; required examinations.
- 1.2. Authority. -- W. Va. Code §22-6-4.
- 1.3. Filing Date. -- February 20, 2008
- 1.4. Effective Date. -- April 1, 2008

§36-14-2. Effect of Regulations.

2.1. These rules and regulations shall have the effect of 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 the enforcement of these rules and regulations.

§36-14-3. Definitions.

3.1 All terms in these rules and regulations, not defined herein, shall have the meaning set forth in Section 11, Article 1A, Chapter 22A of the Code.

3.2 Cutting and welding shall refer to any procedure where compressed gas cylinders or electrical arc welding is used to cut, weld or heat metal objects.

§36-14-4. Electric Equipment in Mines.

(a) All examinations, as required in the paragraphs below, shall be made at a point not less than eight (8) inches from the roof, face and ribs.

(b) In all mines, electric haulage locomotives operated from trolley wire and all other non-permissible electrical equipment or devices which may ignite gas shall not be used in return air, unless permission is granted by Director of the Office of Miners' Health, Safety and Training for a specified area. Permissible electrical equipment may be used in return airways: **Provided**, That (a) The mine operator gives notice to the Inspector-at-Large or the District Mine Inspector in the division in which the mine is located, when such work is performed in return airways at any point exceeding four hundred (400) feet out by the last open crosscut; (b) the work area is preshift examined in accordance with Chapter 22A, Article 2, Section 20 of West Virginia

code; (c) the mine foreman or assistant mine foreman examines the working area in the return airway in which miners will be working at the beginning of each shift before any equipment is energized; (d) the working area is examined at least every two (2) hours during a working shift for hazards, by a certified mine foreman or assistant mine foreman; (e) methane gas examinations are made at frequent intervals as work progresses, but not to exceed twenty (20) minutes; (f) the electrical equipment is examined at least once each shift for permissible deficiencies, (g) no temporary splices are in the trailing cables of the equipment being used, and (h) the work area is provided with two portable fire extinguishers. For the purpose of this provision, return air shall mean a volume of air that has passed through and ventilated all the working places in a mine section.

(c) No person shall be placed in charge of a coal-cutting machine in any mine who is not a qualified person, capable of determining the safety of the roof and sides of the working places and of detecting the presence of explosive gas, unless they are accompanied by a certified or qualified person who has passed such examination.

(d) In any mine no machine shall be brought in by the last breakthrough next to the working face until the machine man shall have made an inspection for gas in the place where the machine is to work. If explosive gas in excess of one (1%) percent is found in the place, the machine shall not be taken in until the danger is removed.

(e) In working places a safety lamp, or other suitable approved apparatus for the detection of explosive gas, shall be provided for use with each mining machine when working, and should any indication of explosive gas in excess of one (1%) percent appear on the flame of the safety lamp, or on other apparatus used for the detection of explosive gas, the person in charge shall immediately stop the machine, cut off the current at the nearest switch and report the condition to the mine foreman or supervisor. The machine shall not again be started in such place until the condition found has been corrected and been pronounced safe by a certified person.

(f) No electric equipment shall be operated in a mine for a longer period than twenty (20) minutes without an examination as above described being made for gas; and if gas is found in excess of one (1%) percent, the current shall at once be switched off the machine, and the trailing cable shall forthwith be disconnected from the power supply until the place is pronounced safe by a certified person.

(g) Machine runners and helpers shall use care while operating mining machines. No person except those persons necessary shall remain near the machine while it is in operation. They shall examine the roof of the working place to see that it is safe before starting to operate the machine. They shall not move the machine while the cutter chain is in motion.

§36-14-5. Cutting and Welding in Mines.

5.1 When cutting and welding has been performed in any area of an underground coal mine, that area shall be examined for any hot spots immediately after the work is completed. A second examination for hot spots shall be conducted within 2 hours, but no sooner than 30 minutes after the first examination has been completed. The second examination shall be performed by a qualified person and recorded in a book provided for that purpose by a certified person.

Title 36
Legislative Rule
Board of Coal mine Health and Safety

Series 14
Rules and Regulations governing electrical equipment in mines; required examinations

Regulation was voted on and passed by the Board during the scheduled meeting conducted on January 14th and 15th, 2008.

A sub-committee consisting of Board members Hamilton and Hapney reported the proposed regulation now clarifies as to when the examinations would take place.

Changes:

<p>Proposed:</p> <p>§36-14-5.1 When cutting and welding has been performed in any area of an underground mine, that area shall be examined for any hot spots that may not have been discovered during the initial check of the area and recorded in the Fireboss book of that area. The examination shall be performed by a person certified pursuant to §22A-2-12 immediately after the work is completed and within two hours of the start of the oncoming shift.</p>	<p>Final:</p> <p>§36-14-5.1 When cutting and welding has been performed in any area of an underground coal mine, that area shall be examined for any hot spots immediately after the work is completed. A second examination for hot spots shall be conducted within 2 hours, but no sooner than 30 minutes after the first examination has been completed. The second examination shall be performed by a qualified person and recorded in a book provided for that purpose by a certified person.</p>
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Brooks Run

MINING COMPANY


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a subsidiary of Alpha Natural Resources, LLC

October 26, 2007

Administrator Board of Coal Mine Health and Safety
1615 Washington Street East
Charleston, WV 25311

*given to
BCMHS
11-14-07*



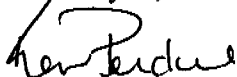
Subject: Comments concerning the proposed rule, Title 36, Series 14, Section 5.

To Whom It May Concern:

I am the safety manager of several mines and have over 33 years of experience in the mining industry with most of my experience concentrated underground. I would like to make the following comments concerning this proposed rule. I do not feel it is in the best interests of our industry to incorporate this legislation for the following reasons.

1. I think the person performing the welding or cutting should examine the work area during the welding and cutting activity as well as once the activity is completed; it should be part of his responsibility under this law and in fact is. The person performing this activity has the greater responsibility to assure the area is safe prior to starting and after completion of the job.
2. If another certified person is required to examine the area, it should be only for a specified time after the job is completed. It should in no way be tied to a pre-shift examination prior to the start of any shift, especially since welding and cutting can not always be predicted as to when it will be done. Tying it to a pre-shift examination is not only wrong, it will be difficult if not impossible to manage this requirement and will lead to utter chaos and confusion, particularly in larger mines that have multiple sections.
3. The overall objective is to check and ensure the area does not contain any hot spots left unattended or noticed. Requiring a pre-shift examination of an area that has been checked and determined to be safe by the person performing the work does not increase the measure of safety.
4. Additionally, depending on the required time of an examination, the proposed rule could require a pre-shift of the area too soon and not find any problems that may later be encountered due to time interval. Existing 22A-2-46 of the State Code has served our industry well for a long time without impairment and should be left as it is.

Thank you,



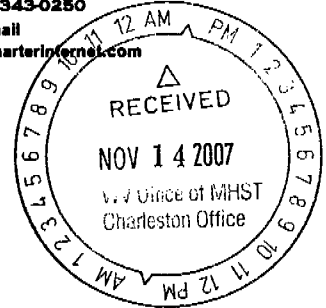
Ken Perdue
Safety Manager
Alpha Natural Resources Services
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November 13, 2007

Administrator Board of Coal Mine Health and Safety
1615 Washington Street, East
Charleston, WV 25311

Re: Comments concerning the Proposed Rule, Title 36, Series 14, Section 5

To Whom It May Concern:

I have 30+ years of mining experience, most work done underground and have worked extensively in mine health and safety. I was a Health and Safety Representative for the local union for many years. Additionally, I am a member of the West Virginia Governor's Technology Task Force and a member of the West Virginia Coal Board.

1. The proposed rule merely proposes going to a safe area of the mine. This may be a problem because in circumstances warranting evacuation, an accurate determination of a safe area may not be possible. Instead, the vehicle should continue to the outside or surface of the mine. At that point, assessment should be made to see whether mine rescue teams or fire brigade teams should be sent into the mine or if it is safe to enter the mine to resume production.

2. There may have to be a definition developed to define "mantrip" or personnel carrier.

Thank you for your kind attention to these comments.

Sincerely,

Theodore B. Hapney
International Representative