

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

Form #5

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2008 FEB 20 PM 12:25

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 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: 18

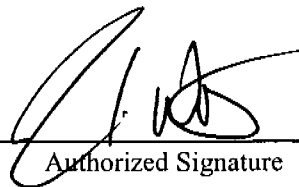
TITLE OF RULE BEING AMENDED: Responsibility for Care and Maintenance of Equipment.

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 January 1, 2009

  
Authorized Signature

\$3.00

FILED  
2008 FEB 20 PM 12:25  
OFFICE OF THE  
SECRETARY OF STATE

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

**SERIES 18  
THE RESPONSIBILITY FOR CARE AND MAINTENANCE  
OF EQUIPMENT**

**§36-18-3. General**

- 1.1. Scope. – This rule is to provide that personnel carriers used to transport miners to a working section must be maintained at the working section and must have sufficient capacity to transport all persons out of the working section in the event of an emergency.
- 1.2. Authority. – WV Code Chapter 22-6-4
- 1.3. Filing Date. – February 20, 2008
- 1.4. Effective Date. – January 1, 2009

**§36-18-3. Effect of Regulations**

2.1

- (a) 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 of law. All provisions of Title 36 Series 18 of the Code, relative to enforcement, are applicable to the enforcement of these rules and regulations
- (b) These proposed regulations are intended to provide that personnel carriers or trip cars used to transport miners to a working section must be maintained at the working section and must have sufficient capacity to transport all miners out of the working section in the event of an emergency.

**§36-18-3. Definitions**

- 3.2 Unsafe Equipment: The term "Unsafe Equipment" shall mean any equipment designated to be operated by a miner that has a defect which is covered by state law, or rule or regulation, and that creates a condition which involves a potential hazard that could reasonably be expected to cause a miner in the vicinity to be placed in danger of injury or death.

**§36-18-4. Responsibility for care and maintenance of equipment.**

- 4.1. Mine operators shall maintain equipment in safe operating condition. Equipment operators shall exercise reasonable care in the operation of the equipment entrusted to them and shall promptly report defects known to them, provided, if equipment has been taken out of service, by being properly tagged out, the operator shall not be issued a violation under the provision of this section; provided however, such tag placed on such equipment shall indicate the date and time such equipment was removed from service.

The person removing the equipment from service and tagging such equipment shall place his signature upon the tag.

**§36-18-5. Pre-Operational Equipment Check.**

- 5.1. Each working shift prior to its operation, all self-propelled section equipment to be operated during that shift shall be examined by the equipment operator for safety defects and/or unsafe conditions.
- 5.2. Pre-Operational equipment examination required under 5.1 of this rule shall include the following items at a minimum. In addition, a list of these items shall be maintained on such equipment.
  - 5.2.1. Stop/Start Control
  - 5.2.2. Panic Bar
  - 5.2.3. Tram Controls
  - 5.2.4. Steering
  - 5.2.5. Service Brakes
  - 5.2.6. Automatic Emergency Brakes
  - 5.2.7. Lights
  - 5.2.8. Warning Device
  - 5.2.9. Canopies Where Required
  - 5.2.10. ATRS System and Boom Controls on Roof Bolting Machines
- 5.3. Upon completion of the required examination under 5.1, if the equipment is determined to be unsafe, the individual making the examination shall report such unsafe equipment to his/her foreman. Any unsafe equipment shall be taken out of service and tagged until such unsafe condition is corrected. Before the unit of equipment can be placed back into service, the operator of such unit shall make a pre-operational examination.

**§36-18-6. Maintenance of Personnel Carriers.**

- 6.1. By January 1, 2009, on working sections where personnel carriers are used to transport miners underground, the personnel carrier or combination of personnel carriers, shall be of sufficient capacity to accommodate the number of persons reasonably likely to be on the section and shall be available to transport persons to a safe area in the event of an emergency.

**§36-18-7. Load Locking Valves.**

- 7.1. All continuous-mining machines and loading machines shall be equipped with load-locking valves in the boom and head lift cylinders.

Title 36  
Legislative Rule  
Board of Coal mine Health and Safety

Series 18  
The Responsibility for Care and Maintenance of Equipment.

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

A sub-committee consisting of Board members Hamilton, Egnor and Russell agreed on the proposed regulation with minor clarifications and added the effective date of 1 January 2009 to allow the industry additional time to make necessary equipment purchases.

Changes:

Proposed:	Final:
<p>§36-18-6.1 Personnel carriers or trip cars used to transport miners to a working section must be maintained at the working section, be readily available and must have sufficient capacity to transport all miners out of the working section in the event of an emergency. A man trip of sufficient size to accommodate the number of men reasonably likely to be working on the section shall be available to transport that number of men to a safe area in the even of an emergency.</p>	<p>§36-18-6.1 By 1 January 2009, on working sections where personnel carriers are used to transport miners underground, the personnel carrier or combination of personnel carriers, shall be of sufficient capacity to accommodate the number of persons reasonably likely to be on the cession and shall be available to transport persons to a safe area in the even of an emergency.</p>

# 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 18, Section 6.

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. The purpose and intent of the readily available vehicle on a section is to transport sick and injured persons. The likelihood of an entire crew being injured at one time is minimal at best. In the event they all are injured, it is very likely that none would be able to operate the vehicle provided.
2. In some cases having a mantrip that is this size presents problems in carrying enough people. It will also cause persons to be endangered due to the trip being either too long or too wide to safely maneuver the travelways.
3. If this regulation is implemented, persons should have the ability to utilize more than 1 vehicle or even a trailer to tow behind the mantrip as long as the proper hitches are provided in advance.
4. If rubber-tired trips are used, including diesel, the capacity to carry 12 or more persons is very impractical. This would necessitate that the equipment be designed in a manner that is not safe to operate and should not be done. Mines that have track therefore will have a competitive advantage versus the mines that are currently using rubber-tired transportation; not only from an economic standpoint but from a safety standpoint as well. Additionally, lower seams do not allow enough clearance to install track which is the reason they have rubber tired transportation.
5. Additionally, if an incident were to occur, the more persons on a trip means that more persons are likely to be injured.
6. As previously stated, there is nothing wrong with the readily available vehicle for the transportation of sick and injured persons standard that is in place currently under existing State Code 22A-2-60 (g) which has served the industry without incident for over 30 years.

Thank you,  
*Ken Perdue*  
Ken Perdue  
Safety Manager  
Alpha Natural Resources Services  
Central West Virginia