

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

Form #5

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FILED

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: 21

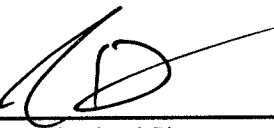
TITLE OF RULE BEING AMENDED: THE INSTRUCTION OF EMPLOYEES AND SUPERVISION OF
APPRENTICES; ANNUAL EXAMINATION OF PERSONS USING
FLAME SAFETY LAMPS; RECORDS OF EXAMINATION;
MAINTENANCE OF METHANE DETECTORS

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

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

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: **THE INSTRUCTION OF EMPLOYEES AND SUPERVISION OF APPRENTICES; ANNUAL EXAMINATION OF PERSONS USING FLAME SAFETY LAMPS; RECORDS OF EXAMINATION; MAINTENANCE OF METHANE DETECTORS**, Title 36, Section 21

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 April 23, 1982 as it has been filed in the Code of State Regulations.

TITLE 36
LEGISLATIVE RULES
BOARD OF COAL MINE HEALTH AND SAFETY

FILED

SERIES 21

2010 MAY -4 PM 4: 19

THE INSTRUCTION OF EMPLOYEES AND SUPERVISION OF APPRENTICES; ANNUAL EXAMINATION OF PERSONS USING FLAME SAFETY LAMPS; RECORDS OF EXAMINATION; MAINTENANCE OF METHANE DETECTORS

WEST VIRGINIA
SECRETARY OF STATE

§36-21-1. General.

1.1 Scope. Rules and Regulations Governing the Instruction of Employees and Supervision of Apprentices; Annual Examination of Persons Using Flame Safety Lamps; Records of Examinations; Maintenance of Methane Detectors.

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

1.3 Filing Date. May 4, 2010

1.4 Effective Date. May 4, 2010

§36-21-2. Effects 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 enforcement are applicable to the enforcement of these rules and regulations.

§36-21-3. Definitions.

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

§36-21-4. Instruction Of Employees And Supervision Of Apprentices; Annual Examination Of Persons Using Flame Safety Lamps; Records Of Examinations; Maintenance Of Methane Detectors, Etc.

4.1. It shall be the duty of the mine foreman or assistance mine foreman of every coal mine in this state to see that every person employed to work in such mine shall, before beginning work therein, be instructed in the particular danger incident to his work in such mine and be furnished a copy of the mining laws and rules of such mine. It shall be the duty of every mine operator who employs apprentices, as that term is used in Sections 3 and 4, Articles 10, Chapter 22 of the West Virginia Code, to ensure that the apprentices are effectively supervised with regard to safety practices and to instruct apprentices in safe mining practices. Every apprentice shall work under the direction of the mine foreman or his assistant mine foreman and they shall be responsible for his safety. The mine foreman or assistant mine foreman may delegate the supervision of an apprentice to an experienced miner, but the foreman and his assistant mine foreman shall remain responsible for the apprentice. During the first ninety (90) days of employment in a mine, the apprentice shall work within sight and sound of the mine foreman assistant mine foreman or an experienced miner, and in such a location that the mine foreman, assistant mine foreman or experienced miner can effectively respond to cries for help of the apprentice. Such location shall be on the same side of any belt, conveyor or mining equipment.

No person shall be qualified for testing for methane and oxygen deficiency unless each such person has been trained and demonstrates to the satisfaction of an authorized representative of the director of the department of energy that he is qualified to test for methane with a flame safety lamp or other approved methane detectors. Records of such examinations shall be kept by the operator and the director of the department of mines.

Persons whose duties require them to use a flame safety lamp and other approved detectors, that have been qualified by the department of energy to test for methane and oxygen deficiency, shall be examined at least annually to their competence by a certified mine foreman-fire boss and a record that such examination was given, together with pertinent data relating thereto, shall be kept on file by the operator and a copy shall be furnished to the department of energy.

Persons whose duties require them to administer the annual examinations for methane and oxygen deficiency shall be examined annually by a qualified official from the department of energy. Each operator shall provide for the proper maintenance and care of the permissible flame safety lamp or any other approved device for detecting methane and oxygen deficiency by a person trained in such maintenance, and before each shift, care shall be taken to insure that such lamp or other device is in a permissible condition. Flame safety lamps shall be given proper maintenance and inspection before each working shift in a manner recommended by the manufacturing company and approved by the Director of the Department of Energy. Other approved gas detectors shall be given proper maintenance and shall be tested in accordance with the manufacturer's recommendations before each working shift and calibrated each thirty (30) calendar days.