

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

Form #2

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

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

RULE TYPE: Legislative CITE AUTHORITY: 22A-6-4

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 54

TITLE OF RULE BEING PROPOSED: INITIAL TRAINING PROGRAM FOR PROSPECTIVE MINE RESCUE TEAM  
MEMBERS AND ADDITIONAL MINE RESCUE REQUIREMENTS

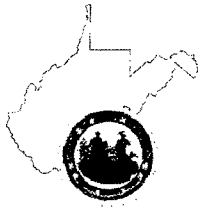
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 28 May AT 5:00pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

1615 Washington Street East  
Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



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## **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

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### **PROPOSED 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: **INITIAL TRAINING PROGRAM FOR PROSPECTIVE MINE RESCUE TEAM MEMBERS AND ADDITIONAL MINE RESCUE REQUIREMENTS**, Title 36, Section 54

Date: 22 April 2010

End Date for Comments: 28 May 2010

Authority: §22.6.4

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The Board of Coal Mine Health and Safety is posting a proposed regulation which creates a new rule addressing the additional requirements for participation on mine rescue teams.

You may send all written comments to

1615 Washington Street East  
Charleston, WV 25311

All comments must be post-marked by 28 May in order to be accepted by the Board for consideration.

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

**SERIES 54  
INITIAL TRAINING PROGRAM FOR PROSPECTIVE MINE RESCUE TEAM MEMBERS  
AND ADDITIONAL MINE RESCUE REQUIREMENTS**

**§36-54-1. General.**

1.1 Scope. Rules and regulations governing the initial training program for prospective mine rescue team members in the state of West Virginia.

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

1.3 Filing Date.

1.4 Effective Date.

**§36-54-2. Criteria For The Initial Mine Rescue Team Member Training Program For Prospective Mine Rescue Team Members In West Virginia.**

**2.1. Physical Requirements.**

(a) An applicant for initial mine rescue training shall not have reached their fiftieth (50) birthday. Any person making application to participate in initial mine rescue training shall have had an examination by a physician, who shall certify that such applicant is physically fit to perform mine rescue and recovery work while wearing a self-contained oxygen breathing apparatus. The physical examination shall be completed within thirty (30) days prior to scheduled initial training. A team member requiring corrective eyeglasses will not be disqualified provided the eyeglasses can be worn securely within an approved facepiece.

(b) A physician shall fill out West Virginia ~~Department of Energy~~ Office of Miners Health Safety and Training physical form, and such form shall be presented to the Mine Rescue Training Instructor not less than five (5) days prior to scheduled initial training. These forms shall be kept on file at the mine rescue station for a period of 1 year. In determining whether a miner is physically capable of performing mine rescue duties, the physician shall take the following conditions into consideration:

- (1) Seizure disorder;
- (2) Perforated eardrum;
- (3) Hearing loss without a hearing aid greater than 40 decibels at 400, 1000, and 2000 Hz;
- (4) Repeated blood pressure (controlled or uncontrolled by medication) reading which exceeds 160 systolic, or 100 diastolic, or which is less than 105 systolic, or 60 diastolic;
- (5) Distant visual acuity (without glasses) less than 20/50 Snellen scale in one eye, and 20/70 in the other;
- (6) Heart disease;
- (7) Hernia;
- (8) Absence of a limb or hand; or
- (9) Any other condition which the examining physician determines is relevant to the question of whether the miner is fit for rescue team service.

(c) Each member of a mine rescue team shall be examined annually by a physician who shall certify that each person is physically fit to perform mine rescue and recovery work for prolonged periods under strenuous conditions.

### **§36-54-3. Experience Requirements.**

3.1. An applicant for initial mine rescue training shall have been employed underground for a total of one (1) year or more within the three (3) preceding years except that members of contract mine rescue teams shall have a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground meet the experience requirement. The underground experience requirement is waived for those members of a mine rescue team on the effective date of this statute.

### **§36-54-4. Training Requirements.**

4.1. Each applicant for initial mine rescue training shall complete a ~~thirty-one (31)~~ thirty-two (32) hour course of instruction, as prescribed and approved by the Board of Miner Training, Education, and Certification in Section 6 in the use, care, and maintenance of the type of apparatus that will be utilized. (b) Upon completion of the initial training, all team members shall receive at least 96 hours of refresher training annually, which shall include participation in local mine rescue contests and training at the covered mine.

4.2. If the type of apparatus is changed, a mine rescue team member shall receive an additional eight (8) hours of training.

4.3. Each member of a mine rescue team shall have completed a West Virginia Office of Miners Health Safety and Training ~~Department of Energy~~-approved First-Aid course.

4.4. Each mine rescue team member shall train at intervals not exceeding thirty (30) calendar days. Each training session shall not be less than four (4) hours. Training shall include the wearing and use of the apparatuses by the mine rescue team members for a period of at least one (1) hour under oxygen.

(1) Sessions underground at least once each 6 months;

(2) Where applicable, the use, care, capabilities, and limitations of auxiliary mine rescue equipment, or a different breathing apparatus;

(3) Advanced mine rescue training and procedures, as prescribed by Director;

(4) Mine map training and ventilation procedures; and

(5) The wearing of mine rescue apparatus while in smoke, simulated smoke, or an equivalent environment at least once during each 12-month period.

4.5. A mine rescue team member who is absent from more than ~~three (3)~~ two (2) of the four (4) hour training sessions in one (1) year shall be replaced unless additional training is received to make up for the time missed. Except that in an event of illness or injury, time extensions shall be permitted as established by the Director ~~Commissioner of the Department of Energy~~.

4.6. A record of training of each team member shall be on file at such locations where the apparatuses are stored.

### **§36-54-5. Mine Rescue Instructor Requirements.**

5.1. Must have been a mine rescue team member for at least two (2) years or received special training approved by the ~~Commissioner of the Department of Energy~~ Director of the Office of Miners Health Safety and Training.

5.2. Must have at least three (3) years underground mining experience or received special training approved by the ~~Commissioner of the Department of Energy~~ Director of the Office of Miners Health Safety and Training.

5.3. Must be thoroughly trained with the use and care of all types of detection instruments and apparatuses to be used by the team.

5.4. Must demonstrate to the ~~Commissioner of the Department of Energy~~ Director of the Office of Miners Health Safety and Training or his representative that he is qualified to serve as an instructor.

5.5. Instructors for initial training of mine rescue team members shall be approved by the ~~Department of Energy~~ Director of the Office of Miners Health Safety and Training.

Previously approved instructors need not be re-designated to teach the approved courses as long as they have taught those courses within the 24 months prior to the effective date of this part.

### **§36-54-6. Course Outline of the Initial Training Program for Mine Rescue Team Members.**

6.1. This course outline is sequenced for ~~thirty-one (31)~~ thirty-two (32) hours of student-instructor contact.

(a) First session

4 hours - Introduction, and lecture in use, care and maintenance of apparatus

1 hour - Charging, testing, and readying the apparatus to wear

1 hour - Wearing apparatus (walking, no manual labor)

1/2 hour - Removing and putting apparatus away

1 hour - Lecture in Mine Rescue Procedures

(b) Second Session

4 hours - Lecture in use, care and maintenance of apparatus and question and answer period

1/2 hour - Testing apparatus for use

1 1/2 hours - Wearing apparatus (performing strenuous work)

1 1/2 hours - Cleaning apparatus

(c) Third Session

1 hour - Question and answer period

1/2 hour - Readying apparatus for use

255

1 1/2 hours - Wearing apparatus (performing strenuous work)

1 hour - Care and cleaning of apparatus

4 hours - Mine Rescue Procedures

(d) Fourth Session

1 hour - Question and answer period

1/2 hour - Recharging and testing apparatus for use

1 1/2 hours - Wearing apparatus (performing strenuous work and working in smoke room wearing apparatus)

1 hour - Care and cleaning apparatus

4 hours - Procedure and examination - testing shall determine if student knows how to cope with malfunctions which he could possibly be confronted with during rescue work.

1 hour - Discussion of procedures for removal of individuals in a mine shelter.

6.2. At the completion of the ~~thirty-one (31)~~ thirty-two (32) hour training in Mine Rescue and Mine Rescue Procedures the student shall reveal by examination that he is capable of, or had knowledge of, caring and cleaning apparatus, recharging oxygen cylinders, properly washing face pieces, wearing apparatus, working bypass, use and operation of oxygen pump, use and operation of cascade system, and properly trained in testing the high pressure and low pressure of the breathing apparatus.

**§36-54-7. Alternate Approved Training Program.**

7.1. An operator electing to develop an alternate training program, must obtain approval of its program from the Board of Miner Training, Education, and Certification.

7.2. Any operator not using the training course guidelines established by the Department of Energy and seeks approval of its training program shall submit such program to the Board of Miner Training, Education, and Certification for approval.

**§36-54-8. Certification.**

8.1. Upon completion of the ~~thirty-one (31)~~ thirty-two (32) hour training program a mine rescue certification certificate will be issued to such a person who has demonstrated by examination his competency and qualifications.

**§36-54-9. Requirements for all coal mines.**

(h) Each operator of an underground mine who provides rescue teams under this section shall send the Director a statement describing the mine's method of compliance with this subpart. The statement shall disclose whether the operator has independently provided mine rescue teams or entered into an agreement for the services of mine rescue teams. The name of the provider and the location of the services shall be included in the statement. A copy of the statement shall be posted at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the statement within 30 days.

(a) The operator of each underground coal mine shall make available two certified mine rescue teams whose members—

- (1) Are familiar with the operations of the mine, and
- (2) Participate at least annually in two local mine rescue contests as defined in §48-4-15 (a) and one Mine Emergency Response Development (MERD) drill as defined in §48-4-15 (b).

(b) Team members shall meet the following:

- (1) Mine-site team. Members who work at the mine and participate in mine rescue training at the mine at least annually.
- (2) Composite team. A mine rescue team that covers multiple mines and whose members—
  - (i) Include at least two members from each covered large mine and at least one member from each covered small mine,
  - (ii) Are knowledgeable about the operations and ventilation of each covered underground coal mine, and
  - (iii) Participate in mine rescue training at each covered mine at least semi-annually.
- (3) Contract team. A mine rescue team that is provided by an arrangement with another coal mine or with a third party and whose members—
  - (i) Are knowledgeable about the operations and ventilation of each covered underground coal mine, and
  - (ii) Participate in mine rescue training at each covered large mine at least quarterly and at each covered small mine at least semi-annually.

(c) For the purpose of mine rescue team membership, a member employed by an operator of multiple mines is considered to be an employee of each mine at which the member regularly works.

(d) For the purpose of mine rescue team training at each covered mine, a portion of the training must be conducted underground.

(e) No mine served by a mine rescue team shall be located more than 1 hour ground travel time from the mine rescue station with which the rescue team is associated

**§36-54-10. Requirements for all small coal mines.**

(a) At mines with 36 or fewer underground employees, mine rescue team members shall be knowledgeable about the operations and ventilation of each covered mine. For those mines who do not choose to have an individual mine-site team, individual miners at said underground mines shall receive hands-on training in the use of a fire extinguisher and a charged fire hose on live fires. Such training will be approved by the Board of Miner Training, Education and Certification and will be conducted every two years after the first occurrence.

**§36-54-11. Requirements for large coal mines.**

At mines with more than 36 underground employees, one of the two certified mine rescue teams shall be an individual mine-site team or a composite team. For those mines who do not choose to have an individual mine-site team, individual miners at said underground coal mines shall receive hands-on training in the use of a fire extinguisher and a charged fire hose on live fires. Said training shall be approved by the Board of Miner Training, Education and Certification and will be done every two (2) years after the first occurrence.

**§36-54-12. Certification of coal mine rescue teams.**

(a) For each mine rescue team designated to provide mine rescue coverage at an underground coal mine, the mine operator shall send the Director an annual statement certifying that each team meets the requirements of this subpart as listed in the following Table 49.50-A and Table 49.50-B.

(b) The operator shall notify the Director within 60 days of any change in team membership.

**§36-54-13. Other individuals in mine rescue operations.**

(a) Those individuals and organizations who are directing or performing tasks relating to mine rescue or recovery operations shall be considered a "duly qualified emergency service worker" as defined in WV Code § 15-5-11.

**§36-54-14. Additional Mine rescue equipment.**

(a) An oxygen resuscitator to revive or help survivors breathe during rescue operations following mine fires or explosions shall be provided at the mine rescue station for use by the mine rescue team. Said resuscitator shall be rated for a minimum of 60 minutes.

**§36-54-15 Requirements for a local mine rescue contest.**

(a) A local mine rescue contest is one that—

- (1) Is conducted in the United States;
- (2) Uses MSHA-recognized rules;
- (3) Has a minimum of three mine rescue teams competing;
- (4) Has one or more problems conducted on one or more days with a determined winner;
- (5) Includes team members who—
  - (i) Have the necessary equipment to participate in a simulated mine rescue team exercise,
  - (ii) Participate in a simulated mine rescue team exercise while being timed and observed by trained judges who evaluate the performance of each team and provide written feedback, and

(iii) Wear oxygen breathing apparatus while participating in a simulated mine rescue team exercise;  
and

(6) Includes contest judges who have completed annual training for mine rescue contest judges.

(b) A local mine rescue contest is training that provides an objective evaluation of demonstrated mine rescue team skills and can be a Mine Emergency Response Development (MERD) exercise or a practical simulation exercise, such as a fire or explosion drill, where the team participates in simulated mine rescue team exercises and wears breathing apparatus.

(c) Upon request from the Director, the operator shall provide information concerning each designated team's schedule of participation in upcoming local mine rescue contests.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: INITIAL TRAINING PROGRAM FOR PROSPECTIVE MINE RESCUE TEAM MEMBERS AND ADDITIONAL MINE RESCUE REQUIREMENTS

Type of Rule:  Legislative  Interpretive  Procedural

Agency: WV Board of Coal Mine Health and Safety

Address: 1615 Washington Street

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

**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.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title: INITIAL TRAINING PROGRAM FOR PROSPECTIVE MINE RESCUE TEAM

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

### MEMORANDUM

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.

Date: April 27, 2010

Signature of Agency Head or Authorized Representative

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