



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Coal Mine Health And Safety TITLE-SERIES: 36-15
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: RULES AND REGULATIONS GOVERNING VENTILATION BY USE OF MECHANICALLY OPERATED FANS AND INTENTIONAL CHANGES IN THE VENTILATION SYSTEM

CITE STATUTORY AUTHORITY: W. Va. Code §22A-6-4

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 11/25/2019 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Mallory Yates Hicks
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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

The Series governs ventilation by use of mechanically operated fans.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Pursuant to the regulatory review and reform initiatives established in West Virginia Code § 29A-3-20 (2016) and Executive Order No. 3-18, the proposed legislative-exempt rules modify and update Series 15 of Title 36 of the Code of State Rules to cross-reference the correct authorizing portions of the West Virginia Code, to correct several typographical errors, to reflect the appropriate designations for certain State agencies such as the Office of Miners Health, Safety, to utilize the current citation formats, and to renumber provisions according to the outline required under W. Va. Code R. §153-1-5.22. & §153-1-6. The proposal also adds uniform language to certain definitions within the Series for the sake of clarity and consistency.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

The proposed legislative-exempt rule is not anticipated to impact the revenues of State Government. The proposal simply updates Series 15 of Title 36 of the Code of State Rules to reflect proper citations to the West Virginia Code, the proper names of certain State agencies, and the current citation and numbering formats pursuant to the regulatory review and reform initiatives established in West Virginia Code § 29A-3-20 (2016) and Executive Order No. 3-18.

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

The proposed legislative-exempt rule is not anticipated to economically impact the State or its residents. The proposal simply updates Series 15 of Title 36 of the Code of State Rules to reflect proper citations to the West Virginia Code, the proper names of certain State agencies, and the current citation and numbering formats pursuant to the regulatory review and reform initiatives established in West Virginia Code § 29A-3-20 (2016) and Executive Order No. 3-18.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs and Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The proposed legislative-exempt rule is not anticipated to have a fiscal impact.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Wesley H White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 36
LEGISLATIVE RULES
BOARD OF COAL MINE HEALTH AND SAFETY

SERIES 15
RULES AND REGULATIONS GOVERNING VENTILATION
BY USE OF MECHANICALLY OPERATED FANS
AND INTENTIONAL CHANGES IN THE VENTILATION SYSTEM

§36-15-1. General.

- 1.1. Scope. -- Rules and regulations governing ventilation by use of mechanically operated fans.
- 1.2. Authority. -- W. Va. Code ~~'22-6-4~~ §22A-6-4.
- 1.3. Filing Date. -- ~~October 18, 1995~~.
- 1.4 Effective Date. -- ~~December 1, 1995~~.

§36-15-2. Effect of Regulations.

2.1. ~~These rules and regulations~~ This Series 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 W. Va. Code ~~'22A-1A~~ §22A-1-1 et seq. relative to enforcement are applicable to the enforcement of ~~these rules and regulations~~ this Series.

§36-15-3. Definitions.

3.1. ~~(a)~~ Competent person – ~~The term “Competent person” shall mean~~ a person who has been adequately trained by an authorized representative of the Office of Miners' Health, Safety and Training as prescribed by the ~~Board of Miner Education, Training and Certification~~ Board of Coal Mine Health and Safety and who possesses documentation of such training to perform daily fan inspections.

~~3.1. (b)~~ 3.2. All terms used in these rules and regulations, not defined herein, shall have the meanings set forth in W. Va. Code ~~'22A-1A~~ §22A-1-2.

§36-15-4. Fans.

4.1. ~~(a)~~ The ventilation of mines, the systems for which extend for more than two hundred (200) feet underground and which are opened after the effective date of this article, shall be produced by a mechanically operated fan or mechanically operated fans. The fan or fans shall be kept in continuous operation, unless written permission to do otherwise be granted by the Director of the Office of Miners' Health, Safety and Training. In case of interruption to a ventilating fan or its machinery whereby the ventilation of the mine is interrupted, immediate action shall be taken by the mine operator or his management personnel, in all mines, to cut off the power and withdraw the men from the face regions or other areas of the mine affected. If ventilation is restored in fifteen (15) minutes, the face regions and other places in the affected areas where gas (methane) is likely to accumulate, shall be re-examined by a certified person; and if found free of explosive gas, power may be restored and work resumed. If ventilation is not restored in fifteen (15) minutes, all underground employees shall be removed from the mine, all power shall

be cut off in a timely manner, and the underground employees shall not return until ventilation is restored for at least fifteen (15) minutes and the mine examined by certified persons, mine examiners or other persons holding a certificate to make preshift examination.

~~(b)~~ 4.2. All main fans installed after the effective date of this article shall be located on the surface in fireproof housings offset not less than fifteen (15) feet from the nearest side of the mine opening, equipped with fireproof air ducts, provided with explosion doors or a weak wall and operated from an independent power circuit. In lieu of the requirements for the location of fans and pressure-relief facilities, a fan may be directly in front of, or over a mine opening: ~~Provided, that~~ Provided, That such opening is not in direct line with possible forces coming out of the mine if an explosion occurs: ~~Provided, however, that~~ Provided, however, That there is another opening having a weak-wall stopping or explosion doors that would be in direct line with forces coming out of the mine. All main fans shall be provided with pressure-recording gauges or water gauges. A daily inspection shall be made of all main fans and machinery connected therewith by a certified electrician, or a competent person and a record kept of the same in a book prescribed for this purpose or by adequate facilities provided to permanently record the performance of the main fans and to give warning of an interruption to a fan.

~~(e)~~ 4.3. Auxiliary fans and tubing shall be permitted to be used in lieu of or in conjunction with line brattice to provide adequate ventilation to the working faces: ~~Provided, that~~ Provided, That auxiliary fans be so located and operated to avoid recirculation of air at any time. Auxiliary fans shall be approved and maintained as permissible.

~~(d)~~ 4.4. If the auxiliary fan is stopped or fails, the electrical equipment in the place shall be stopped and the power disconnected at the power source until ventilation in the working place is restored. During such stoppage, the ventilation shall be by means of the primary air current conducted into the place in a manner to prevent accumulation of methane.

~~(e)~~ 4.5. In places where auxiliary fans and tubing are used, the ventilation between shifts, weekends and idle shifts shall be provided to face areas with line brattice or the equivalent to prevent accumulation of methane.

~~(f)~~ 4.6. If the air passing through the auxiliary fan or tubing contains gas in excess of one percent, the current shall at once be switched off and the trailing cable shall forthwith be disconnected from the power supply until the place is pronounced safe.

~~(g)~~ 4.7. The Director may require that when continuous mine equipment is being used, all face ventilating systems using auxiliary fans and tubing shall be provided with machine-mounted diffuser fans, and such fans shall be continuously operated during mining operations.

~~(h)~~ 4.8. In the event of a fire or explosion in any coal mine, the ventilating fan or fans shall not intentionally be started, stopped, speed increased or decreased or the direction of air current changed without the approval of the general mine foreman, or in his absence one other certified mine foreman-fire boss employed at such mine, and designated by the mine foreman, who is completely familiar with the ventilating controls of the mine, and, if neither is immediately available, a representative of the Office of Miners' Health, Safety and Training. A duly authorized representative of the employees should be consulted if practical under the circumstances.

§36-15-5. Intentional Changes In the Ventilation System.

5.1. ~~(a)~~ The Director shall be notified prior to the implementation of, and a person designated by the operator shall supervise any intentional change in ventilation that

~~(1)~~ 5.1.1. Alters the main air current or any split of the main air current in a manner that could materially affect the safety or health of persons in the mine; or

~~(2)~~ 5.1.2. Affects section ventilation by 9,000 cubic feet per minute of air or more in bituminous mines.

~~(b)~~ 5.2. Intentional changes as described in this section shall be made only under the following conditions:

~~(1)~~ 5.2.1. Electric power shall be removed from areas affected by the ventilation change and mechanized equipment in those areas shall be shut off before the ventilation change begins.

~~(2)~~ 5.2.2. Only persons making the change in ventilation shall be in the mine.

~~(3)~~ 5.2.3. Electric power shall not be restored to areas affected by the ventilation change and mechanized equipment shall not be restarted until a certified person has examined these areas for methane accumulation and for oxygen deficiency and has determined that the areas are safe.

~~(c)~~ 5.3. If at anytime changes are made in corresponding ~~Federal~~ federal regulations that pertain to intentional changes in the ventilation system, the Board of Coal Mine Health and Safety will review those changes to determine if appropriate modifications are needed.