



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Coal Mine Health And Safety TITLE-SERIES: 36-07

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: Yes

RULE NAME: RULES AND REGULATION GOVERNING  
SHORTWALL MINING WITHIN THE STATE OF  
WEST VIRGINIA

CITE STATUTORY AUTHORITY: W. Va. Code § 22A-6-4; W. Va. Code § 29A-3-1a(b)

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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Charleston, West Virginia 25311

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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 regulates the operation of shortwall mines within the State.

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 Board of Coal Mine Health and Safety has determined that the Series 7 of Title 36 of the Code of State Rules is outmoded because it is unaware of any shortwall mines in West Virginia to which this series could apply. Ex. Order No. 3-18, 3. Accordingly, the Board considers Series 7 of Title 36 of the Code of State Rules unnecessary and intends to repeal it in its entirety upon approval of its agency head, see W. Va. Code §5F-2-2(12) & (13); W. Va. Code R. §153-1-5.17.

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 Board of Coal Mine Health and Safety proposes to repeal Series 7 of Title 36 of the Code of State Rules as outmoded and unnecessary because it is unaware of the existence of any shortwall mines in the State.

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 Board of Coal Mine Health and Safety proposes to repeal Series 7 of Title 36 of the Code of State Rules as outmoded and unnecessary because it is unaware of the existence of any shortwall mines in the State.

C. FISCAL NOTE DETAIL:

| Effect of Proposal                 | Fiscal Year                            |  |  |
|------------------------------------|--|--|--|
|                                    | 2019<br>Increase/Decrease<br>(use "-") | 2020<br>Increase/Decrease<br>(use "-") | Fiscal Year (Upon<br>Full<br>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 and 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   |

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 7  
RULES AND REGULATION GOVERNING SHORTWALL  
MINING WITHIN THE STATE OF WEST VIRGINIA

This rule is repealed pursuant to W. Va. Code §29A-3-1a(b) and W. Va. Code R. §153-1-5.17 by Ed Gaunch, Cabinet Secretary of the West Virginia Department of Commerce, effective the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

~~§36-7-1. General.~~

~~1.1. Scope. — Rules and regulations governing shortwall mining within the state of West Virginia.~~

~~1.2. Authority. — W. Va. Code §22-6-4.~~

~~1.3. Filing Date. — May 4, 2010.~~

~~1.4. Effective Date — May 4, 2010.~~

~~1.5. Other Law Applicable. — All provisions of the Mining Law of this state, specifically W. Va. Code §22A-2 are applicable to shortwall mining, except to the extent that these regulations cover the specific requirement.~~

~~§36-7-2. Effective Law And Regulation.~~

~~2.1. These regulations shall have the effect of the law and violation shall be deemed a violation of law and so cited with the same effect as law. All provisions of W. Va. Code 22-1 relative to enforcement are applicable to the enforcement of these regulations.~~

~~§36-7-3. Definitions.~~

~~3.1. Department — The term "Department" shall mean the State Department of Energy provided for in Section two, Article one-A, Chapter twenty-two-A of the West Virginia Code.~~

~~3.2. Approved — The term "Approved" shall mean in strict compliance with law, or in the absence of law, accepted by a recognized standardizing body or organization whose approval is generally recognized as authoritative on the subject.~~

~~3.3. Accessible Travel Route — "Accessible Travel Route" means an unobstructed passageway not less than twenty-four (24) inches wide with reflective material at twenty-five (25) foot intervals.~~

~~3.4. Retreat Shortwall Working Face — The term "Retreat Shortwall Working Face" shall mean a working place in a coal mine in which work of extracting coal from its natural deposit in the earth is performed during a mining cycle by a shortwall mining system.~~

~~3.5. Retreat Shortwall Working Section — The term "Retreat Shortwall Working Section" shall mean all areas from and including the section transformer to and including the shortwall working face.~~

~~3.6. Caving Line — The term "Caving Line" shall mean the line on the roof formed by the rear most projection of the roof support canopies once the shortwall section has started retreating.~~

~~§36 7 4. Plans For Shortwall Mining; Approval By Department Of Energy.~~

~~— 4.1. After the effective date of these rules and regulation, no shortwall mining shall be started in any coal mine until required plans for shortwall mining have been filed and approved by the Department of Energy, which approval shall not be unreasonably withheld. All revisions to such approved plans shall be resubmitted for approval to the Department of Energy. Shortwall mining plans submitted for approval to the Department of Energy shall include the following:~~

~~—— 4.1.A. Company Name.~~

~~—— 4.1.B. Mine Name.~~

~~—— 4.1.C. Mine Location.~~

~~—— 4.1.D. Mine Address.~~

~~—— 4.1.E. Telephone Number (Mine).~~

~~—— 4.1.F. Name, Title and telephone number of person submitting plan.~~

~~—— 4.1.G. Mine D Number.~~

~~—— 4.1.H. Shortwall Mining Roof Control Plan.~~

~~—— (All approved roof control plans for Shortwall mining sections shall include a plan indicating the roof support to be used and the working procedures to be followed when a cavity is encountered over chocks).~~

~~—— 4.1.I. Ventilation Plan, which shall include the complete section and face ventilation controls and other bleeder systems.~~

~~—— 4.1.J. Methane and Dust Control Plan.~~

~~— 4.2. After approval of submitted plans has been obtained from the Department of Energy, as required in Section 4.1 and 4.2 of these rules and regulations, additional approvals for new shortwall sections will not be necessary; providing required plan initially approved and/or revised are complied with.~~

~~— 4.3. In coal mines where retreat shortwall mining section operations are in progress prior to the effective date of these rules and regulations, no new shortwall mining sections shall be started until required plans for shortwall mining have been filed and approved by the Department of Energy, which approval shall not be unreasonably withheld.~~

~~§36 7 5. Chock And/Or Shield Recovery Plan From Shortwall Face; Approval By Department Of Energy.~~

~~— 5.1. The operator shall develop a plan for recovery of chocks and/or shields or other shortwall roof support. Such recovery shall not be initiated until such recovery plan is approved by the Department of Energy, which approval shall not be unreasonably withheld. All revisions to such approved plan shall be resubmitted for approval to the Department of Energy.~~

~~§38 7 6. Methane Examination; Monitor: Face Area.~~

~~— 6.1. The Director or his representative shall require an approved methane monitor to be installed on the continuous mining machine.~~

~~— The methane monitor shall give warning automatically when the concentration of methane reaches a maximum percentage of not more than 1.0 volume per centum of methane.~~

~~— The operator of any mine which shortwall mining is performed shall establish and adopt a definite maintenance program designed to keep such methane monitors operative and a written description of such program shall be available for inspection. At least once each month the methane monitors shall be checked for operation accuracy with a known methane air mixture and shall be calibrated as necessary. A records of calibration tests shall be kept in a book on the surface.~~

~~— If the methane monitor on a shortwall mining section malfunctions, the operator shall have such monitor repaired within twelve (12) hours. However, during the period of time the methane monitor is inoperative, the electric equipment shall not be operated for a longer period than ten (10) minutes without an examination for methane gas, the two (2) hour examinations as required in section 7.2 of these rules and regulations shall be conducted on one (1) hour intervals and air reading on the intake side of the shortwall face shall be collected on one (1) hour intervals.~~

~~— If for extraordinary reasons parts are unavailable to correct the malfunction on the methane monitor, within twelve (12) hour, the operator shall notify the Department of Energy who will evaluate the circumstances.~~

~~— If the circumstances prevail to prevent the methane monitor from being repaired to operating condition, the Department of Energy may extend the above twelve (12) hour time limit, providing the protection to the worker is not reduced.~~

~~— If a malfunction to the methane monitor occurs on a shortwall working section, the supervisor on such shift shall indicate in his on-shift examination report, in the fire boss report books, the date and time such methane monitor malfunction.~~

~~— 6.2. It shall be the duty of the certified person designated by the mine foreman to supervise a shortwall section, to examine the shortwall face for hazards at least once every two (2) hour during each coal producing shift or more often if necessary for safety. Such examinations shall include test for methane gas and oxygen deficiency. Such methane and oxygen deficiency examination shall be made in at least one hundred (100) foot intervals, between the headgate and tailgate. The initials, date, and time shall be recorded at the test locations.~~

~~— Should one percent or more of methane gas be detected, the electrical equipment shall be immediately de-energized and the electrical power circuit then disconnected from the power supply until the place is pronounced safe by a certified person.~~

#### ~~§36-7-7. Safety Provisions—Shortwall Section.~~

~~— 7.1. All new face roof support units shall be equipped with adjacent unit controls unless units have a wide single canopy over each unit that protects the workman from falling material when operating unit controls from within the support of shield unit being removed.~~

~~— 7.2. After the effective date of these rules and regulations all new installed face roof support units shall be equipped with an outlet to facilitate measurement of the yield pressure.~~

~~— 7.3. Yield valves of the face roof support units shall be calibrated at least annually within fifteen percent (15%) of the yield pressure specified in the approved roof control plan. A legible record of such calibrations~~

of each valve shall be kept of the surface of the mine for at least eighteen (18) months and be available for inspection by interested persons.

~~§36 7 8. Cutting And Welding: Shortwall Mining.~~

~~— 8.1. Prior to cutting and welding being performed on a shortwall section face methane gas examinations shall be made by a certified mine foreman fire boss or assistant mine foreman fire boss. Cutting and welding may only be performed when methane gas is less than one percent (1%). A certified person as defined above shall be continuously present during all cutting and welding operations on the face.~~

~~— 8.2. When cutting and welding operations have been completed, a certified person as defined above shall search for fires and hot spots. If fires or hot spots are found, they shall be extinguished immediately.~~

~~§36 7 9. Shortwall Mining — General Requirements.~~

~~— 9.1. All hydraulic line repairs shall be performed in accordance with the requirements of the manufacturer's specifications.~~

~~— 9.2. All hydraulic roof support units and associated apparatus on a shortwall working face shall be visually inspected at least once during each coal production shift by a qualified person. A written record of such examination shall be maintained on the surface.~~

~~§36 7 10. Shortwall Mining; First Aid Equipment.~~

~~— 10.1. First aid equipment required on each working section defined in Chapter 22A, Article 2, Section 59, of the West Virginia Code shall be maintained in the headgate entry.~~

~~§36 7 11. Accessible Travel Route — Shortwall Mining Section.~~

~~— 11.1. An accessible travel route shall be maintained at all times off of the tailgate end of the retreat shortwall working face.~~

~~— However, when the tailgate travel routes become impassable, the shortwall operation shall cease immediately and all persons working on such shortwall section shall be familiarized of the procedures to follow for escape from such section.~~

~~— After all shortwall section personnel have been familiarized to the procedures to follow for escape from the section, normal production of coal may resume.~~

~~— The operator shall immediately notify the Department of Energy when such travel route becomes impassable.~~

~~— The Department of Energy representative shall immediately upon notification establish a scheduled meeting with the operator and representatives of the miners at such mine.~~

~~§36 7 12. Training — Shortwall Mining Section.~~

~~— 12.1 Training programs in the hazards of short wall mining shall be submitted for approval to the Director of the Department of Energy.~~

~~— The training program shall consist of the following:~~

~~— 12.1.A. Escapeway and Travel Routes.~~

~~———— 12.1.B. Ventilation.~~

~~———— 12.1.C. Roof Support.~~

~~———— 12.1.D. Location of First Aid Equipment.~~

~~———— 12.1.E. Safety Rules for Shortwall Mining.~~