



State of West Virginia

WV Office of Miners' Health, Safety & Training

Eugene White, Director

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

April 17, 2020

The Honorable Mac Warner
Secretary of State
Bldg. 1, Suite 157-K
1900 Kanawha Blvd. East
Charleston, WV 25305

Re: West Virginia Office of Miners' Health, Safety and Training
Suspension of parts of Titles 36-11-.2.1.c and Title 48 of the Code of State Rules

Dear Secretary Warner:

By Proclamation dated March 16, 2020, the Governor of the State of West Virginia declared a statewide State of Emergency to address the emergency created by the Covid-19 pandemic. In the March 16, 2020 Proclamation declaring that State of Emergency, the Governor also delegated to all state agencies the ability to suspend rules, if strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency.

By Executive Order 9-20 dated March 23, 2020, the Governor Declared and Ordered that coal mining and coal-fired electric generation facilities, as well as all ancillary and support functions ranging from transportation, maintenance, equipment, and supply vendors are essential businesses and shall remain open.

One ancillary and support function of coal mining is the testing of Apprentice Miners, Experienced Miners, Mine Foremen, and Certified Electricians by the West Virginia Office of Miners Health, Safety and Training (WVOMHST). However, due to the Covid-19 pandemic, all offices of the WVOMHST has been closed to the public and no testing has occurred since March 18, 2020. Additionally, another ancillary and support function of coal mining is the presence of trained primary and back-up mine rescue teams located throughout the state that are available to respond immediately to any mine disaster that might occur in this state. Every mine rescue team member must, on an annual basis, pass a mine rescue physical exam performed by a licensed medical professional. Due to the Covid-19 pandemic, some of these mine rescue team members may be unable to find a medical professional to timely perform the mine rescue physical exam.

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The West Virginia Board of Coal Mine Health and Safety (Board) met on April 14, 2020 and unanimously supports the Director of WVOMHST using his discretion regarding extending/suspending all training/retraining timeframes for certifications, specifically, but not limited to Title 48 of the Code of State Rules, W. Va. Code § 22A-8-1 *et seq.*, and Title 36 of the Code of State Rules (see attached letter).

Following the directives of the Board, the Director of the WVOMHST suspends the following time periods:

W. Va. Code R. § 36-11-4(c) – The words “but not to exceed a maximum of ninety (90) days” are suspended.

W. Va. Code R. § 48-2-2.7(a) – The words “provided that such person passes the examination within forty-five (45) days after completing the eighty (80) hour program” are suspended.

W. Va. Code R. § 48-2-2.7(b) – The words “for one (1) year” are suspended.

W. Va. Code R. § 48-2-2.7(e) – The words “provided that such person retakes and passes the exam within forty-five (45) days after completing the eight (80) hour program” are suspended.

W. Va. Code R. § 48-2-2.8(b) – The words “for twelve (12) months” are suspended.

W. Va. Code R. § 48-2-2.8(e) – The words “provided that such person retakes and passes the exam within thirty (30) days” are suspended.

W. Va. Code R. § 48-3-2.7(a) – The words “Provided, That such person passes the examination within forty-five (45) days after completing the forty (40) hour program” are suspended.

W. Va. Code R. § 48-3-2.7(b) – The words “for one year” are suspended.

W. Va. Code R. § 48-3-2.7(e) – The words “Provided, That such person retakes and passes the exam within forty-five (45) days after completing the forty (40) hour program” are suspended.

W. Va. Code § 48-3-2.8(b) – The words “for twelve (12) months” are suspended.

W. Va. Code R. § 48-3-2.8(e) – The words “Provided, That such person retakes and passes the exam within thirty (30) days” are suspended.

W. Va. Code R. § 48-4-2.1(c) – The word “annually” is suspended.

W. Va. Code R. § 48-7-6.1 - The words “within thirty (30) days of completion or the apprentice program” are suspended.

W. Va. Code R. § 48-7-7.2 – The words “but for a period not to exceed a maximum of ninety (90) days” are suspended.

W. Va. Code R. § 48-7-8.1 – The words “for eighteen months” are suspended.

W. Va. Code R. § 48-7-8.4 – The words “Provided, that the time period extension may not exceed two (2) years” are suspended.

These rule suspensions shall continue until WVOMHST terminates this notice or the State of Emergency is lifted, whichever occurs first.

Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Eugene White".

Eugene White
Director