



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: 36-41
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
Exempt
RULE NAME: Rule Governing Additional Requirements for
Sheathed Explosive Units
CITE STATUTORY AUTHORITY: W. Va. Code §§22A-6-4 and 22A-6-5

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 11/16/2020 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Mallory Yates Hicks
ADDRESS: 106 Dee Drive
Charleston, WV 25311
EMAIL: mallory.k.yates@wv.gov

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:

Rule governing additional requirements for sheathed explosive units.

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 W. Va. Code § 29A-3-20 (2016) and Executive Order No. 3-18, this proposed legislative-exempt rule modifies and updates 36 C.S.R. 41 to cross-reference the correct authorizing portions of the West Virginia Code and corrects typographical errors including errors in paragraph numbering.

Sections 4.1. through 4.5., which relate to preparation of shots, blasting practices and requirements for sheathed explosive units, were deleted since those requirements already exist in statute. See W. Va. Code §§22A-2-29 through 22A-2-34.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

This proposed legislative-exempt rule is not anticipated to impact the revenues of state government.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

This proposed legislative-exempt rule is not anticipated to impact special revenue accounts.

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

This proposed legislative-exempt rule is not anticipated to economically impact the State or its residents.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 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

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

N/A

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 EXEMPT RULE
BOARD OF COAL MINE HEALTH AND SAFETY

SERIES 41
RULES AND REGULATIONS GOVERNING
ADDITIONAL REQUIREMENTS FOR SHEATHED EXPLOSIVE UNITS

§36-41-1. §36-41-1 General.

1.1. Scope. -- ~~Rules And Regulations~~ Governing The Use Of Sheath Explosive Units For Underground Coal Mining in the State of West Virginia in Addition to the Requirements of W. Va. Code §§22A-2-29 through 22A-2-34.

1.2. Authority. -- ~~W. Va. Code §22-6-4~~ §§22A-6-4 and 22A-6-5.

1.3. Filing Date. -- ~~May 2, 1991~~ _____.

1.4. Effective Date. -- ~~May 2, 1991~~ _____.

1.5. Effect of Regulations. -- This rule 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 provision of W. Va. Code 22A-1A et seq. relative to enforcement are applicable to the enforcement of this rule.

~~§36-41-2. Effect of Regulations:~~

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

§36-41-2. §36-41-3: Definitions.

~~2.1. 3-1:~~ All terms used in ~~these rules and regulation~~ this rule, not defined herein, shall have the meanings set forth in W. Va. Code ~~22A-1A-1~~ §22A-1-2.

~~§36-41-4. Preparation Of Shots; Blasting Practices And Requirements For Sheathed Explosive Units:~~

~~4.1. Only a certified "shot firer" designated by mine management shall be permitted to handle explosives and do blasting. Only electric detonators of proper strength fired with permissible shot firing units shall be used except under special permits as hereinafter provided, and drillholes shall be stemmed with at least twenty-four inches on incombustible material, or at least one half of the length of the hole shall be stemmed if the hole is less than four feet in depth, unless other permissible stemming devices or methods are used. Drillholes shall not be drilled beyond the limits of the cut, and as far as practicable, cuttings and dust shall be cleaned from the holes before the charge is inserted. Charges of explosives exceeding one and one half pounds, but not exceeding three pounds, shall be used only if drillholes are six feet or more in depth. Ample warning shall be given before shots are fired, and care shall be taken to determine that all persons are in the cleat before firing. Miners shall be removed from adjoining places and other places when there is danger of shots blowing through. Shots shall be fired in any place known to liberate explosive gas, until such place has been properly examined by a competent person who is~~

designated by mine management for that purpose, and no shots shall be fired in any place where gas is detected with a permissible flame safety lamp until such gas has been removed by means of ventilation. After firing any shot, or shots, the person firing the same shall not return to the working face until the smoke has been cleared away and then he shall make a careful examination of the working face before leaving the place or before performing any other work in the place.

~~4.2. Multiple shooting in coal or rock or both is authorized only under permit issued by the director. Permission to shoot more than ten shots simultaneously may be granted by the director only after consultation with interested person, and the deputy director of safety, health and training, and such shooting will be performed by special methods and under precautions prescribed by the director. All multiple shooting in bottom or roof rock shall be performed in intake air, except by special permit from the director, after consultation with interested persons and the deputy director of safety, health and training, as hereto provided. Multiple blasting of more than ten shots performed under any permit granted by the director under this section shall be done only on noncoal-producing shifts or idle days, except as may be provided as a condition of the permit granted.~~

~~4.3. Regular or short-interval delay detonators may be used for blasting purposes with written permission from the director after consultation with the deputy director of safety, health and training. Regular delay detonators shall not be used for blasting coal, but may be used for grading above or below coal seams and during shaft, sloap, tunnel work and in faults or wants. Where short-interval delay detonators are permitted by said directors to be used, the shot firing circuit must be tested with a blasting galvanometer before firing, and the leg wires connected in series. No instantaneous, regular, or zero-delay detonators are to be fired in conjunction with short-interval delay detonators. The delay interval between dependant rows must not be less than twenty-five milliseconds or more than one hundred milliseconds, and the entire series on any one round shall not provide a delay of more than five hundred milliseconds between the first and last shot. The total number of charged holes to be fired during one round must not exceed the limit permitted by the director. Misfires must be tested with a blasting galvanometer before removing.~~

~~4.4. Electrical equipment shall not be operated in the face areas, and only work in connection with timbering and general safety shall be performed in connection with timbering and general safety shall be performed while boreholes are being charged. Shots shall be fired promptly after charging. Mudcaps (adobes) or any other unconfined shots shall not be permitted in any coal mine. No solid shooting shall be permitted without written permission of the division.~~

~~4.5. Blasting cables shall be well insulated and shall be as long as may be necessary to permit persons authorized to fire shots to get in a safe place out of the line of fire. The cable, when new, shall be at least one hundred twenty-five feet in length and never less than one hundred feet. Shooting cables shall be kept away from power wires and all other sources of electric current, connected to the leg wires by the person who fires the shot, staggered as to length or well separated at the detonator leg wires, and shunted at the battery until ready to connect to the blasting unit.~~

§36-41-3. §36.41-5: Requirements for the Use of Sheathed Explosives in Underground Mining.

~~3.1. 5-1:~~ Notwithstanding W. Va. Code §22A-2-33(d), sheathed explosives that are approved by the ~~U.S. Bureau of Mines~~ Mine Safety and Health Administration shall be permitted for use in West Virginia coal mines, provided however, that they are used in accordance with ~~subsections (a,b,c,d,e,f,g,h)~~ Sections 3.2. through 3.8. as stated herein.

~~3.2. 5-2:~~ Sheathed explosives units shall be primed and placed in a position for firing and detonated by a certified shot firer designated by mine management. To prime a sheathed explosive unit, the entire

detonator shall be inserted into the well of the unit and be held securely in place.

3.3. ~~5.3:~~ A separate instantaneous detonator shall be used to fire each sheathed explosive unit.

3.4. ~~5.4: Use of transportation or handling~~ Use, transportation, handling and storage of sheathed explosives shall be in accordance with the manufacturer's specifications and applicable to ~~to~~ State and ~~F~~federal law.

3.5. ~~5.5:~~ Sheathed explosive units shall not be primed until immediately before units are placed where they are to be fired. A sheathed explosive unit shall not be primed if it is damaged or deteriorated.

3.6. ~~5.6:~~ No more than three sheathed explosive units shall be fired at one time.

3.7. ~~5.7:~~ No sheathed explosive unit shall be fired in contact with another sheathed explosive unit.

3.8. ~~5.8:~~ Certified shot firers and all persons responsible for the use, transportation and handling of sheathed blasting explosives shall be trained in the care and use of sheathed explosives.