



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: 36-14
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
Exempt
RULE NAME: Rule Governing Electrical Equipment in Mines;
Required Examinations
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: 01/28/2021 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Mallory Yates Hicks
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Charleston, WV 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:

This legislative exempt rule governs electrical equipment in mines and required examinations related thereto.

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. 5 to cross-reference the correct authorizing portions of the West Virginia Code and corrects typographical errors including errors in paragraph numbering.

The circumstances requiring the changes are primarily due to changes in technology.

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

Jack M Rife -- 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 14
~~RULES AND REGULATIONS~~ GOVERNING ELECTRICAL
EQUIPMENT IN MINES; REQUIRED EXAMINATIONS

§36-14-1. General.

1.1. Scope. -- Rule ~~Rules and regulations~~ governing electrical equipment in mines; required examinations.

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

1.3. Filing Date. -- ~~February 20, 2008~~ _____.

1.4. Effective Date. -- ~~April 1, 2008~~ _____.

§36-14-2. Effect of ~~Regulations~~ Rule.

2.1. ~~These rules and 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 provisions of ~~Article 1A, Chapter 22A of the Code~~ W. Va. Code §22A-1-1 et seq. relative to ~~the enforcement of these rules and regulations~~ enforcement are applicable to the enforcement of this rule.

§36-14-3. Definitions.

3.1. All terms in ~~these rules and regulations~~ this rule, not defined herein, shall have the meanings set forth in W. Va. Code ~~§22A-1A-11~~ §22A-1-2.

3.2. Cutting and welding shall refer to any procedure where compressed gas cylinders or electrical arc welding is used to cut, weld or heat metal objects.

§36-14-4. Electric Equipment in Mines.

4.1. All examinations, as required in the ~~paragraphs~~ Sections below, shall be made at a point ~~not less than eight (8) inches~~ at least twelve (12) inches from the roof, face, ~~and ribs~~ and floor in accordance with W. Va. Code §22A-2-43(b).

4.2. In all mines, electric haulage locomotives operated from trolley wire and all other non-permissible electrical equipment or devices which may ignite gas shall not be used in return air, unless permission is granted by Director of the Office of Miners' Health, Safety and Training for a specified area. Permissible electrical equipment may be used in return airways: Provided, that:

4.2.1. ~~(a)~~ The mine operator gives notice to the ~~Inspector-at-Large~~ inspector-at-large or the ~~District Mine Inspector~~ district mine inspector in the division in which the mine is located, when such work is performed in return airways at any point exceeding four hundred (400) feet ~~out by~~ outby the last open crosscut;

4.2.2. ~~(b)~~ The work area is preshift examined in accordance with W. Va. Code §22A-2-20;

4.2.3. ~~(c)~~ The mine foreman or assistant mine foreman examines the working area in the return airway in which miners will be working at the beginning of each shift before any equipment is energized;

4.2.4. ~~(d)~~ The working area is examined at least every two (2) hours during a working shift for hazards, by a certified mine foreman or assistant mine foreman;

4.2.5. ~~(e)~~ Methane gas examinations are made at frequent intervals as work progresses, but not to exceed twenty (20) minutes;

4.2.6. ~~(f)~~ The electrical equipment is examined at least once each shift for permissible deficiencies,

4.2.7. ~~(g)~~ No temporary splices are in the trailing cables of the equipment being used; and

4.2.8. ~~(h)~~ The work area is provided with two portable fire extinguishers.

4.3. For the purpose of this ~~provision~~ Section, return air shall mean a volume of air that has passed through and ventilated all the working places in a mine section.

4.4. ~~4.3:~~ No person shall be placed in charge of a coal-cutting machine in any mine who is not a qualified person, capable of determining the safety of the roof and sides of the working places and of detecting the presence of explosive gas, unless they are accompanied by a certified or qualified person who has passed such examination.

4.5. ~~4.4:~~ In any mine, no machine shall be brought in by inby the last breakthrough next to the working face until the machine ~~man~~ operator shall have made an inspection for gas in the place where the machine is to work. If explosive gas in excess of one (1%) percent is found in the place, the machine shall not be taken in until the danger is removed.

4.6. ~~4.5:~~ In working places, a ~~safety lamp, or other~~ suitable approved apparatus for the detection of explosive gas, shall be provided for use with each mining machine when working, and should any indication of explosive gas in excess of one ~~(1%)~~ percent (1%) appear on the ~~flame of the safety lamp, or on other~~ apparatus used for the detection of explosive gas, the person in charge shall immediately stop the machine, cut off the current at the nearest switch and report the condition to the mine foreman or supervisor. The machine shall not again be started in such place until the condition found has been corrected and been pronounced safe by a certified person.

4.7. ~~4.6:~~ No electric equipment shall be operated in a mine for a longer period than twenty (20) minutes without an examination as above described being made for gas; and if gas is found in excess of one (1%) percent, the current shall at once be switched off the machine, and the trailing cable shall forthwith be disconnected from the power supply until the place is pronounced safe by a certified person.

4.8. ~~4.7:~~ Machine runners and helpers shall use care while operating mining machines. No person except those persons necessary shall remain near the machine while it is in operation. They shall examine the roof of the working place to see that it is safe before starting to operate the machine. They shall not move the machine while the cutter chain is in motion.

§36-14-5. Cutting and Welding in Mines.

5.1. When cutting and welding has been performed in any area of an underground coal mine, that area shall be examined for any hot spots immediately after the work is completed. A second examination for hot spots shall be conducted within two (2) hours, but no sooner than thirty (30) minutes after the first examination has been completed. The second examination shall be performed by a qualified person and recorded in a book provided for that purpose by a certified person.