



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

AGENCY: Coal Mine Health And Safety TITLE-SERIES: 36-18

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: The Responsibility for Care and Maintenance of
Equipment

CITE STATUTORY AUTHORITY: W. Va. Code §§22A-6-4 and 22A-6-5

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

February 11, 2021

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 18
THE RESPONSIBILITY FOR CARE AND
MAINTENANCE OF EQUIPMENT

§36-18-1. General.

- 1.1. Scope. -- This rule is to govern the responsibility for care and maintenance of equipment.
- 1.2. Authority. -- W. Va. Code §§22A-6-4 and 22A-6-5.
- 1.3. Filing Date. -- January 11, 2021.
- 1.4. Effective Date. -- February 11, 2021.

§36-18-2. Effect of Regulations.

2.1. This Series shall have the effect of law and violations shall be deemed a violation of law and so cited with the same effect of law. All provisions of W. Va. Code §22A-1-1 *et seq.*, relative to enforcement, are applicable to the enforcement of this rule.

2.2. Personnel carriers or trip cars used to transport miners to a working section must be maintained at the working section and must have sufficient capacity to transport all miners out of the working section in the event of an emergency.

§36-18-3. Definitions.

3.1. Unsafe Equipment -- The term "Unsafe Equipment" shall mean any equipment designated to be operated by a miner that has a defect which is covered by state law, or rule or regulation, and that creates a condition which involves a potential hazard that could reasonably be expected to cause a miner in the vicinity to be placed in danger of injury or death.

§36-18-4. Responsibility for Care and Maintenance of Equipment.

4.1. Mine operators shall maintain equipment in safe operating condition. Equipment operators shall exercise reasonable care in the operation of the equipment entrusted to them and shall promptly report defects known to them, provided, if equipment has been taken out of service, by being properly tagged out, the operator shall not be issued a violation under the provision of this section; provided however, such tag placed on such equipment shall indicate the date and time such equipment was removed from service. The person removing the equipment from service and tagging such equipment shall place his signature upon the tag.

§36-18-5. Maintenance of Personnel Carriers.

5.1. On working sections where personnel carriers are used to transport miners underground, the personnel carrier or combination of personnel carriers shall be of sufficient capacity to accommodate the

number of persons reasonably likely to be on the section and shall be available to transport persons to a safe area in the event of an emergency.