



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: Miner Training Education And Certification TITLE-SERIES: 48-04
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Initial Training Program for Prospective Mine
Rescue Team Members and Additional Mine
Rescue Requirements

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: 06/17/2021 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

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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 rule establishes the training standards and requirements for West Virginia underground coal industry mine rescue teams, mine rescue team members and mine rescue team instructors. The rule also establishes the experience and physical criteria one must meet for each industry new mine rescue team member and instructor.

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 rule modifies and updates 48 C.S.R. 3 to cross-reference the correct authorizing portions of the West Virginia Code and corrects typographical errors including errors in paragraph numbering.

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		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.0	0.0	0.0
Personal Services	0.0	0.0	0.0
Current Expenses	0.0	0.0	0.0
Repairs and Alterations	0.0	0.0	0.0
Assets	0.0	0.0	0.0
Other	0.0	0.0	0.0
2. Estimated Total Revenues	0.0	0.0	0.0

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 48
LEGISLATIVE EXEMPT RULE
BOARD OF MINER TRAINING, EDUCATION AND CERTIFICATION

SERIES 4
INITIAL TRAINING PROGRAM FOR PROSPECTIVE MINE RESCUE TEAM
MEMBERS AND ADDITIONAL MINE RESCUE REQUIREMENTS

§48-4-1. General.

1.1. Scope. -- ~~Rules and regulations~~ Rule governing the initial training program for prospective mine rescue team members in the state of West Virginia.

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

1.3. Filing Date. -- ~~November 30, 2010~~ _____.

1.4. Effective Date. -- ~~December 30, 2010~~ _____.

§48-4-2. Criteria for the Initial Mine Rescue Team Member Training Program for Prospective Mine Rescue Team Members in West Virginia.

2.1. Physical Requirements.

2.1.1. ~~2.1.a.~~ An applicant for initial mine rescue training shall not have reached their fiftieth (50) birthday. Any person making application to participate in initial mine rescue training shall have had an examination by a physician, who shall certify that such applicant is physically fit to perform mine rescue and recovery work while wearing a self-contained oxygen breathing apparatus. The physical examination shall be completed within thirty (30) days prior to scheduled initial training. A team member requiring corrective eyeglasses will not be disqualified provided the eyeglasses can be worn securely within an approved facepiece.

2.1.2. ~~2.1.b.~~ A physician shall fill out a West Virginia Office of Miners' Health Safety and Training physical form, and such form shall be presented to the ~~M~~ine ~~R~~escue ~~T~~raining ~~I~~nstructor not less than five (5) days prior to scheduled initial training. These forms shall be kept on file at the mine rescue station for a period of one (1) year. In determining whether a miner is physically capable of performing mine rescue duties, the physician shall take the following conditions into consideration:

2.1.2.a. ~~2.1.b.1.~~ Seizure disorder;

2.1.2.b. ~~2.1.b.2.~~ Perforated eardrum;

2.1.2.c. ~~2.1.b.3.~~ Hearing loss without a hearing aid greater than 40 decibels at 400, 1000, and 2000 Hz;

2.1.2.d. ~~2.1.b.4.~~ Repeated blood pressure reading (controlled or uncontrolled by medication) reading which exceeds 160 systolic, or 100 diastolic, or which is less than 105 systolic, or 60 diastolic;

2.1.2.e. ~~2.1.b.5.~~ Distant visual acuity (without glasses) less than 20/50 Snellen scale in one eye, and 20/70 in the other;

2.1.2.f. ~~2.1.b.6.~~ Heart disease;

2.1.2.g. ~~2.1.b.7.~~ Hernia;

2.1.2.h. ~~2.1.b.8.~~ Absence of a limb or hand; or

2.1.2.i. ~~2.1.b.9.~~ Any other condition which the examining physician determines is relevant to the question of whether the miner is fit for rescue team service.

2.1.3. ~~2.1.c.~~ Each member of a mine rescue team shall be examined annually by a physician who shall certify that each person is physically fit to perform mine rescue and recovery work for prolonged periods under strenuous conditions.

§48-4-3. Experience Requirements.

3.1. An applicant for initial mine rescue training shall have been employed underground for a total of one (1) year or more within the three (3) preceding years except that members of contract mine rescue teams shall have a minimum of three (3) years underground coal mine experience that shall have occurred within the ten- (10) year period preceding their employment on the contract mine rescue team. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground meet the experience requirement. The underground experience requirement is waived for those members of a mine rescue team on the effective date of this ~~statute~~ rule.

§48-4-4. Training Requirements.

4.1. Each applicant for initial mine rescue training shall complete a thirty-two (32) hour course of instruction, as prescribed and approved by the ~~Board of Miner Training, Education, and Certification~~ Board of Coal Mine Health and Safety in Section 6.1, in the use, care, and maintenance of the type of apparatus that will be utilized.

4.1.1. ~~4.1.a.~~ Upon completion of the initial training, all team members shall receive at least ninety-six (96) hours of refresher training annually, which shall include participation in local mine rescue contests and training at the covered mine.

4.2. If the type of apparatus is changed, a mine rescue team member shall receive an additional eight (8) hours of training.

4.3. Each member of a mine rescue team shall have completed a West Virginia Office of Miners' Health, Safety and Training approved first-aid course.

4.4. Each mine rescue team member shall train at intervals not exceeding thirty (30) calendar days. Each training session shall not be less than four (4) hours. Training shall include the wearing and use of the apparatuses by the mine rescue team members for a period of at least ~~one (1) hour~~ two (2) hours while under oxygen every two (2) months.

4.4.1. ~~4.4.a.~~ Sessions underground at least once each six (6) months;

4.4.2. ~~4.4.b.~~ Where applicable, the use, care, capabilities, and limitations of auxiliary mine rescue equipment, or a different breathing apparatus;

4.4.3. ~~4.4.c.~~ Advanced mine rescue training and procedures, as prescribed by the Director;

4.4.4. ~~4.4.d.~~ Mine map training and ventilation procedures; and

4.4.5. ~~4.4.e.~~ The wearing of mine rescue apparatus while in smoke, simulated smoke, or an equivalent environment at least once during each twelve- (12) month period.

4.5. A mine rescue team member who is absent from more than two (2) of the four (4) hour training sessions in one (1) year shall be replaced unless additional training is received to make up for the time missed. Except that in an event of illness or injury, time extensions shall be permitted as established by the Director.

4.6. A record of training of each team member shall be on file at such locations where the apparatuses are stored.

§48-4-5. Mine Rescue Instructor Requirements.

5.1. Must have been a mine rescue team member for at least two (2) years or received special training approved by the Director ~~of the Office of Miners Health Safety and Training.~~

5.2. Must have at least three (3) years underground mining experience or received special training approved by the Director ~~of the Office of Miners Health Safety and Training.~~

5.3. Must be thoroughly trained with the use and care of all types of detection instruments and apparatuses to be used by the team.

5.4. Must demonstrate to the Director ~~of the Office of Miners Health Safety and Training~~ or his/her representative that he/she is qualified to serve as an instructor.

5.5. Instructors for initial training of mine rescue team members shall be approved by the Director ~~of the Office of Miners Health Safety and Training.~~ Previously approved instructors need not be re-designated to teach the approved courses as long as they have taught those courses within the twenty-four (24) months prior to the effective date of this ~~part~~ rule.

§48-4-6. Course Outline of the Initial Training Program for Mine Rescue Team Members.

6.1. This course outline is sequenced for thirty-two (32) hours of student-instructor contact.

6.1.1. ~~6.1.a.~~ First session:

6.1.1.a. 4 hours - Introduction, and lecture in use, care and maintenance of apparatus

6.1.1.b. 1 hour - Charging, testing, and readying the apparatus to wear

6.1.1.c. 1 hour - Wearing apparatus (walking, no manual labor)

6.1.1.d. 1/2 hour - Removing and putting apparatus away

6.1.1.e. 1 hour - Lecture in mine rescue procedures

6.1.2. ~~6.1.b.~~ Second Session:

6.1.2.a. 4 hours - Lecture in use, care and maintenance of apparatus and question and answer period

6.1.2.b. 1/2 hour - Testing apparatus for use

6.1.2.c. 1 1/2 hours - Wearing apparatus (performing strenuous work)

6.1.2.d. 1 1/2 hours - Cleaning apparatus

6.1.3. ~~6.1.c.~~ Third Session:

6.1.3.a. 1 hour - Question and answer period

6.1.3.b. 1/2 hour - Readyng apparatus for use

6.1.3.c. 1 1/2 hours - Wearing apparatus (performing strenuous work)

6.1.3.d. 1 hour - Care and cleaning of apparatus

6.1.3.e. 4 hours - Mine rescue procedures

6.1.4. ~~6.1.d.~~ Fourth Session:

6.1.4.a. 1 hour - Question and answer period

6.1.4.b. 1/2 hour - Recharging and testing apparatus for use

6.1.4.c. 1 1/2 hours - Wearing apparatus (performing strenuous work and working in smoke room wearing apparatus)

6.1.4.d. 1 hour - Care and cleaning apparatus

6.1.4.e. 4 hours - Procedure and examination - testing shall determine if student knows how to cope with malfunctions which he/she could possibly be confronted with during rescue work:

6.14.f. 1 hour - Discussion of procedures for removal of individuals in a mine shelter:

6.2. At the completion of the thirty-two (32) hour training in ~~Mmine R~~rescue and ~~Mmine R~~rescue ~~P~~procedures, the student shall reveal by examination that he/she is capable of, or had knowledge of, caring and cleaning apparatus, recharging oxygen cylinders, properly washing face pieces, wearing apparatus, working bypass, use and operation of oxygen pump, use and operation of cascade system, and properly trained in testing the high pressure and low pressure of the breathing apparatus.

§48-4-7. Alternate Approved Training Program.

7.1. An operator electing to develop an alternate training program, must obtain approval of its program from the Board of ~~Miner Training, Education, and Certification~~ Coal Mine Health and Safety.

7.2. Any operator not using the training course guidelines established by the ~~Department of Energy~~ Office of Miners' Health, Safety and Training and seeks approval of its training program shall submit such program to the Board of ~~Miner Training, Education, and Certification~~ Coal Mine Health and Safety for approval.

§48-4-8. Certification.

8.1. Upon completion of the thirty-two (32) hour training program, a mine rescue certification certificate will be issued to such a person who has demonstrated by examination his/her competency and qualifications.

8.2. A mine rescue certification certificate may also be issued to a person with prior mine rescue experience in another state who has demonstrated by examination his/her competency and qualifications and meets all the following requirements:

8.2.1. Has three (3) years of underground mining experience within the last ten (10) years of employment.

8.2.2. Has a minimum of one (1) year experience within the last two (2) years being a member on a mine rescue team as defined in 30 CFR Part 49.

8.2.3. Receives eight (8) hours of training on the type of apparatus he/she would be using and mine rescue procedures from a West Virginia certified mine rescue instructor.

8.2.4. Receives and passes a physical examination as required in Subsection 2.1.1. of this rule. The physical examination shall be completed within thirty (30) days prior to demonstrating by examination his/her competency and qualifications.

§48-4-9. Requirements for all Coal Mines.

9.1. Each operator of an underground mine who provides rescue teams under this Section shall send the Director a statement describing the mine's method of compliance with this ~~subpart~~ Section. The statement shall disclose whether the operator has independently provided mine rescue teams or entered into an agreement for the services of mine rescue teams. The name of the provider and the location of the services shall be included in the statement. A copy of the statement shall be posted at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the statement within thirty (30) days.

9.2. The operator of each underground coal mine shall make available two (2) certified mine rescue teams whose members:

9.2.1. 9-2.a: Are familiar with the operations of the mine, and

9.2.2. 9-2.b: Participate at least annually in two (2) local mine rescue contests as defined in ~~W. Va. Code §48-4-15(a)~~ Section 15.1. of this rule and one (1) Mine Emergency Response Development (MERD) drill as defined in ~~W. Va. Code §48-4-15(b)~~ Section 15.2. of this rule.

9.3. Team members shall meet the following:

9.3.1. 9-3.a: Mine-site team. Members who work at the mine and participate in mine rescue

training at the mine at least annually.

9.3.2. ~~9.3.b.~~ Composite team. A mine rescue team that covers multiple mines and whose members:

9.3.2.a. ~~9.3.b.1.~~ Include at least two (2) members from each covered large mine and at least one (1) member from each covered small mine,

9.3.2.b. ~~9.3.b.2.~~ Are knowledgeable about the operations and ventilation of each covered underground coal mine, and

9.3.2.c. ~~9.3.b.3.~~ Participate in mine rescue training at each covered mine at least semi-annually.

9.3.3. ~~9.3.c.~~ Contract team. A mine rescue team that is provided by an arrangement with another coal mine or with a third party and whose members:

9.3.3.a. ~~9.3.c.1.~~ Are knowledgeable about the operations and ventilation of each covered underground coal mine, and

9.3.3.b. ~~9.3.c.2.~~ Participate in mine rescue training at each covered large mine at least quarterly and at each covered small mine at least semi-annually.

9.4. For the purpose of mine rescue team membership, a member employed by an operator of multiple mines is considered to be an employee of each mine at which the member regularly works.

9.5. For the purpose of mine rescue team training at each covered mine, a portion of the training must be conducted underground.

9.6. No mine served by a mine rescue team shall be located more than one (1) hour ground travel time from the mine rescue station with which the rescue team is associated.

§48-4-10. Requirements for all Small Coal Mines.

10.1. At mines with thirty-six (36) or fewer underground employees, mine rescue team members shall be knowledgeable about the operations and ventilation of each covered mine. For those mines who do not choose to have an individual mine-site team, individual miners at said underground mines shall receive hands-on training in the use of a fire extinguisher and a charged fire hose on live fires. Such training will be approved by the Board of ~~Miner Training, Education and Certification~~ Coal Mine Health and Safety and will be conducted every two (2) years after the first occurrence.

§48-4-11. Requirements for Large Coal Mines.

11.1. At mines with more than thirty-six (36) underground employees, one (1) of the two (2) certified mine rescue teams shall be an individual mine-site team or a composite team. For those mines who do not choose to have an individual mine-site team, individual miners at said underground coal mines shall receive hands-on training in the use of a fire extinguisher and a charged fire hose on live fires. Said training shall be approved by the Board of ~~Miner Training, Education and Certification~~ Coal Mine Health and Safety and will be done every two (2) years after the first occurrence.

§48-4-12. Certification of Coal Mine Rescue Teams.

12.1. For each mine rescue team designated to provide mine rescue coverage at an underground coal mine, the mine operator shall send the Director an annual statement certifying that each team meets the requirements of this ~~subpart~~ Section as listed in the following ~~Table 49.50-A 48-4-A and Table 49.50-B 48-4-B~~ at the end of this rule.

12.2. The operator shall notify the Director within sixty (60) days of any change in team membership.

§48-4-13. Other Individuals in Mine Rescue Operations.

13.1. Those individuals and organizations who are directing or performing tasks relating to mine rescue or recovery operations shall be considered a “duly qualified emergency service worker” as defined in W. Va. Code §15-5-11.

§48-4-14. Additional Mine Rescue Equipment.

14.1. An oxygen resuscitator to revive or help survivors breathe during rescue operations following mine fires or explosions shall be provided at the mine rescue station for use by the mine rescue team. Said resuscitator shall be rated for a minimum of sixty (60) minutes.

§48-4-15. Requirements for a Local Mine Rescue Contest.

15.1. A local mine rescue contest is one that:

15.1.1. ~~15.1.a.~~ Is conducted in the United States;

15.1.2. ~~15.1.b.~~ Uses MSHA-recognized rules;

15.1.3. ~~15.1.c.~~ Has a minimum of three (3) mine rescue teams competing;

15.1.4. ~~15.1.d.~~ Has one (1) or more problems conducted on one (1) or more days with a determined winner;

15.1.5. ~~15.1.e.~~ Includes team members who:

15.1.5.a. ~~15.1.e.1.~~ Have the necessary equipment to participate in a simulated mine rescue team exercise,

15.1.5.b. ~~15.1.e.2.~~ Participate in a simulated mine rescue team exercise while being timed and observed by trained judges who evaluate the performance of each team and provide written feedback, ~~and~~

15.1.5.c. ~~15.1.e.3.~~ Wear oxygen breathing apparatus while participating in a simulated mine rescue team exercise; and

15.1.6. ~~15.1.f.~~ Includes contest judges who have completed annual training for mine rescue contest judges.

15.2. A local mine rescue contest is training that provides an objective evaluation of demonstrated mine rescue team skills and can be a Mine Emergency Response Development (MERD) exercise or a practical simulation exercise, such as a fire or explosion drill, where the team participates in simulated mine rescue team exercises and wears breathing apparatus.

15.3. Upon request from the Director, the operator shall provide information concerning each designated team's schedule of participation in upcoming local mine rescue contests.

Table 48-4-A. ~~Table 49-50-A~~ -- Initial Criteria To Certify the Qualifications of Mine Rescue Teams

Qualification	Criteria (30 CFR)
(1) Team is available at all times when miners are underground.	49.12(a); 49.12(g)
(2) Except where alternative compliance is permitted, team has five members and one alternate.	49.12(b)
(3) Members have experience working in an underground coal mine.	49.12(c)
(4) Team is available within 1-hour ground travel time from the mine rescue station to the mine.	49.12(f)
(5) Appropriate mine rescue equipment is provided, inspected, tested, and maintained.	49.16
(6) Members are physically fit.	49.17
(7) Members have completed initial training.	49.18(a)

Table 48-4-B. ~~Table 49-50-B~~ -- Annual Criteria To Maintain Mine Rescue Team Certification

Qualification	Criteria (30 CFR)
(1) Members are properly trained annually.	49.18(b)
(2) Members are familiar with the operations of each covered mine.	49.20(a)(1)
(3) Members participate in at least two local mine rescue contests annually. Judges certify results.	49.20(a)(2)
(4) Members participate in mine rescue training at each covered mine.	49.20(b)(1); 49.20(b)(2)(iii); 49.20(b)(3)(ii); 49.20(b)(4)
(5) Members are knowledgeable about the operations and ventilation of each covered mine.	49.20(b)(2)(ii); 49.20(b)(3)(i); 49.30