



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/27/2023 1:01:31 PM

Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Miners Health Safety And Training TITLE-SERIES: 56-14
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 56-14 Rule Pertaining to the Office of Miners' Health, Safety and Training Application Process
for the West Virginia Innovative Mine Safety Technology Tax Credit Act

PRIMARY CONTACT

NAME: Frank Foster Director
ADDRESS: Office Of Miners Health Safety And Training
7 Players Club Drive Suite 2
Charleston, WV 25311
EMAIL: frank.g.foster@wv.gov
PHONE NUMBER: 304-558-1425

CITE STATUTORY AUTHORITY: W. Va. Code 11-13BB-13

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code 11-13BB-13 states that the Director shall promulgate legislative rules to provide necessary clarification in the administration of Article 13BB.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/21/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/21/2023

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

N/A

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule details the application process for the West Virginia Innovative Mine Safety Technology Tax Credit. The changes to this rule are for the purpose of updating language and incorporating formatting recommendations of the Secretary of State's office.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule is necessary for the purpose of detailing the application process for the West Virginia Innovative Mine Safety Technology Tax Credit.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

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

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	-0-	-0-	-0-
Personal Services	-0-	-0-	-0-
Current Expenses	-0-	-0-	-0-
Repairs and Alterations	-0-	-0-	-0-
Assets	-0-	-0-	-0-
Other	-0-	-0-	-0-
2. Estimated Total Revenues	-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

Garner Marks -- 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 56
LEGISLATIVE RULE
OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING

SERIES 14
RULES GOVERNING PERTAINING TO THE OFFICE OF MINERS' HEALTH, SAFETY
AND TRAINING THE APPLICATION PROCESS FOR THE WEST VIRGINIA
INNOVATIVE MINE SAFETY TECHNOLOGY TAX CREDIT ACT

§56-14-1. General.

1.1. Scope. -- This rule governs the application process for the West Virginia Innovative Mine Safety Technology Tax Credit Act.

1.2. Authority. -- W. Va. Code §11-13BB-13.

1.3. Filing Date. -- ~~March 29, 2012~~ _____.

1.4. Effective Date. -- ~~May 1, 2012~~ _____.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon August 1, 2029.

1.6. ~~1.5.~~ Applicability. -- This rule shall apply to all taxpayers making application to the West Virginia Office of Miners' Health, Safety and Training for certification of the tax credit authorized under W. Va. Code §11-13BB-1 *et seq.*

§56-14-2. Definitions.

2.1. Unless the context in which a word or phrase appears clearly requires a different meaning, all terms used in this rule that are not defined herein shall have the meanings set forth in W. Va. Code §22A-1-2.

2.2. ~~2.1.~~ The term "Director" shall mean the Director of the Office of Miners' Health, Safety and Training provided for in W. Va. Code §22A-1-3.

2.3. ~~2.2.~~ The term "Mine Safety Technology Tax Force" shall mean the Mine Safety Technology Task Force provided for in W. Va. Code §22A-11-2.

§56-14-3. Application and Certification Process.

3.1. Until the Director has received the list of approved innovative mine safety technologies and/or safety equipment from the Mine Safety Technology Task Force, no applications for the tax credit shall be accepted.

3.2. Once the Director has received the list of approved innovative mine safety technologies and/or safety equipment from the Mine Safety Technology Task Force, the Director shall approve or amend the list in accordance with the requirements of W. Va. Code §11-13BB-4. The Director shall publish the approved or amended list in the State Register within thirty (30) days.

3.3. The application for tax credit shall be available at all regional offices of the Office of Miners' Health, Safety and Training and shall also be available on the website www.wvminesafety.org.

3.4. The application requires the applicant to provide the following information:

3.4.1. Applicant's name, address and telephone number,

3.4.2. Applicant's taxpayer identification number,

3.4.3. Mine name and permit number,

3.4.4. Description of the approved mine safety technology and/or safety equipment,

3.4.5. A purchase order or other means of proof that the innovative mine safety technology and/or safety equipment is in use at the mine,

3.4.6. Whether that mine safety technology and/or safety equipment is listed on the approved list published by the Director,

3.4.7. The applicant's qualified investment in the mine safety technology and/or safety equipment and the amount of the allowable credit,

3.4.8. The amount the applicant seeks to apply to the applicable tax years,

3.4.9. If the entity seeking the tax credit is a corporation, the application shall list all officers of the corporation (as registered with the West Virginia Secretary of State) together with the last four digits of each officer's social security number and be signed by an officer of the corporation,

3.4.10. If the entity seeking the tax credit is a limited liability company, the application shall list all members of the limited liability company (as registered with the West Virginia Secretary of State) together with the last four digits of each member's social security number and be signed by one of its members,

3.4.11. If the entity seeking the tax credit is a sole proprietor (as registered with the West Virginia State Tax Department) together with the last four digits of the sole proprietor's social security number and the application shall be signed by the owner of said sole proprietorship,

3.4.12. The signatures on the application shall be notarized.

3.5. The applicant shall pay a one hundred dollar (\$100.00) application fee at the time the application is submitted. Applications will not be processed if the ~~one hundred dollars (\$100.00)~~ application fee is not submitted with the application.

3.6. Applicants who desire to submit an application for certification shall hand deliver ~~to the Danville, Region 3, office~~ an original and one (1) copy of the completed application to the West Virginia Training and Conference Center, 431 Running Right Way, Julian, WV 25529, for time stamping. The copy shall be time stamped and returned to the person delivering the application as evidence of the date and time filed.

3.7. Applicants who desire to submit an application for certification electronically shall email the application to the email address found on the Office of Miners' Health, Safety and Training's website and

pay the application fee utilizing the E-pay system for online orders and payments found on the same website: www.wvminesafety.org.

3.8. ~~3.7.~~ After the application is submitted, the Office of Miners' Health, Safety and Training shall complete a computer search to determine whether any entity, officer, member or sole proprietor listed on the application owes delinquent assessments. If there are delinquent assessments owed to the Office of Miners' Health, Safety and Training, the application shall be refused and the application and the application fee shall be returned to the applicant by regular mail. If the applicant pays the delinquent assessments and returns the application with the application fee, the application will be considered a new application and processed accordingly.

3.9. ~~3.8.~~ All incomplete applications and application fees shall be returned to the applicant by first class United States mail.

3.10. 3.9. All completed applications shall be processed, and the tax credit allocated based upon the order in which it was received.

3.11. ~~3.10.~~ A Letter of Certification shall be sent by first class United States mail to each eligible applicant showing the amount of the allocated tax credit.

3.12. ~~3.11.~~ When the two million dollars (\$2,000,000) of authorized tax credit is exhausted, the remaining eligible applicants shall be sent a letter by first class United States mail informing them that the authorized tax credit amount has been exhausted.

§56-14-4. Objections and Hearings.

4.1. An applicant determined to be ineligible for a tax credit or whose application is rejected, may file written objections with the Director. An applicant who files a written objection pursuant to this section shall be afforded an opportunity to contest the Director's determination and the opportunity to present testimony and enter evidence in support of its position.

4.2. An objection shall be deemed timely filed if received by the Office of Miners' Health Safety and Training within ten (10) calendar days of the date of the Director's determination.

4.3. A hearing shall be conducted in accordance with the contested cases provisions of W. Va. Code §29A-5. However, notwithstanding time requirements for notice and hearing contained W. Va. Code §29A-5-1, the following time requirements shall govern the expedited administrative hearings held pursuant to this section:

4.3.1. An expedited administrative hearing shall be held within ten (10) days of an applicant's timely request for a hearing.

4.3.2. Evidence from any party must be submitted to the hearing examiner before, or at, the administrative hearing.

4.3.3. Hearings shall not be continued except by agreement of the parties or upon the most compelling of good cause. Good cause determinations will be strictly resolved in view of the legislative mandate to expedite the resolution of the issue.

4.3.4. The hearing officer shall issue a decision within ten (10) days of the date of the administrative hearing.

4.4. Either party may appeal the hearing officer's decision to the Kanawha County Circuit Court in accordance with W. Va. Code §29A-5-4.