

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Do Not Mark In This Box
FILED

2007 MAR 30 AM 9: 22

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Div. of Homeland Security and Emergency Management TITLE NUMBER: 170

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1

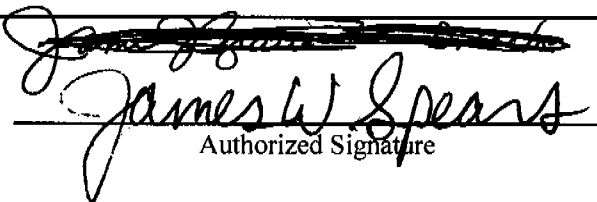
TITLE OF RULE BEING PROPOSED: Mine and Industrial Accident Rapid Response System

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 276

SECTION §64-6-3, PASSED ON March 5, 2007

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: April 2, 2007


Authorized Signature

FILED

2007 MAR 30 AM 9: 23

TITLE 170
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF HOMELAND SECURITY AND EMERGENCY
MANAGEMENT

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 1
MINE AND INDUSTRIAL ACCIDENT RAPID RESPONSE SYSTEM

§170-1-1. General.

1.1. Scope. The purpose of this rule to coordinate rapid and appropriate response to mining and industrial accidents; to govern participation by public agencies in response to mining or industrial accidents; and, to govern protections of privacy for the state's citizens and of the homeland security during the project, as well as to govern the distribution generally of records and information collected during response operations.

1.2. Authority. -- W. Va. Code §64-6-3

1.3. Filing Date. -- April 2, 2007

1.4. Effective Date. -- April 2, 2007

§170-1-2. Definitions.

The following terms shall have the meaning as used in this Rule unless in a context that requires a different meaning:

2.1. "Accident" means the following:

2.1.a. Death of an individual at a mine;

2.1.b. An injury to an individual at a mine which has a reasonable potential to cause death;

2.1.c. The entrapment of an individual;

2.1.d. The unplanned inundation of a mine by a liquid or gas;

- 2.1.e. The unplanned ignition or explosion of gas or dust;
 - 2.1.f. The unplanned ignition or explosion of a blasting agent or an explosive;
 - 2.1.g. An unplanned fire in or about a mine not extinguished within five minutes of ignition;
 - 2.1.h. An unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage;
 - 2.1.i. A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one hour;
 - 2.1.j. An unstable condition at an impoundment, refuse pile or culm bank which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area, or the failure of an impoundment, refuse pile or culm bank;
 - 2.1.k. Damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with the use of equipment for more than thirty minutes; and,
 - 2.1.l. An event at a mine which causes death or bodily injury to an individual not at the mine at the time the event occurs.
- 2.2 “Center” means Mine and Industrial Accident Emergency Operations Center, including the facility, communications equipment, personnel and procedures utilized to perform the reporting and initial notification functions of the Mine and Industrial Accident Rapid Response System.
- 2.3 “Covered facilities” means all underground mining operations, and surface mining operations regardless of the source of the hazard.
- 2.4 “Director” means the Director of the Division of Homeland Security and Emergency Management.
- 2.5 “Emergency” means an unexpected situation or event that demands immediate action to protect life and property or that requires a response that exceeds the capabilities of the covered facility or responding agency.

§170-1-3. Notification of Emergency Incidents by Covered Facilities.

3.1. All covered facilities are to report accidents or emergencies to the Division of Homeland Security and Emergency Management at the Mine and Industrial Accident Call Center at 1-866-987-2338 or other such number as may be identified by the Director.

3.2. All calls received on the published line are to be recorded for documentation purposes. Recording of calls is to be automatic, and the recorded call information, including time of call and complete voice transcripts, shall be made available to any representative of a government agency responsible for enforcing rules and regulations and investigating violations relating to mining and industrial safety upon written request. The request must describe why the information is needed and the purpose for which it will be used.

§170-1-4. Requests for Information – General Provisions.

4.1. The Director of the Division of Homeland Security and Emergency Management is the custodian of all records of the Center for the purpose of complying with W. Va. Code §29B-1-1, et seq.

4.2. All requests for information must include the following information in order for the request to be considered sufficiently specific:

4.2.a. Name of the individual and organizational affiliation of the individual making the request; and,

4.2.b. Approximate dates and times of incidents on which information records are requested.

4.3. Requests for information shall be processed in accordance with W. Va. Code §29B-1-1, et seq.

§170-1-5. Trade Secrets and Confidential Information.

5.1. Covered facilities requesting protection of information considered trade secrets or proprietary information must provide justification for such requests in writing.

5.2. Information received shall be released to appropriate regulatory or investigative agencies upon written request and upon approval by the Director or his or her designee.