

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #2

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2015 MAR 25 P 12:07

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: Board of Coal Mine Health and Safety TITLE NUMBER: 36

RULE TYPE: Legislative Exempt CITE AUTHORITY: 22A-6-4

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 58

TITLE OF RULE BEING AMENDED: Rules Governing Impoundment Safety Procedures

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 30 April 2015 AT 5:00pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

\_\_\_\_\_  
Joel L. Watts  
Board of Coal Mine Health and Safety  
1900 Kanawha Blvd Bldg 6 Ste 652  
Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



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**WEST VIRGINIA BOARD OF COAL MINE HEALTH AND SAFETY**

1900 Kanawha Blvd Bldg 6 Ste 652 Charleston WV 25311 304.957.2306

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**NOTICE: COMMENT PERIOD FOR PROPOSED LEGISLATIVE EXEMPT RULE**

To: All persons interested in Rules and Regulations constructed by the Board of Coal Mine Health and Safety

From: Joel L. Watts, Administrator – BCMH&S

Subject: Comment period on proposed rules, 36.58 – **RULES GOVERNING IMPOUNDMENT SAFETY**

**PROCEDURES**

Authority: §22A-6-4;

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The Board of Coal Mine Health and Safety is created pursuant to WV Code §22A-6-1

On 30 November 2012 a fatal accident occurred when a dozer slid into a slurry impoundment, after the ground gave way. This led to the dozer operator suffering the loss of life due to drowning. Since that time, the Board of Coal Mine Health and Safety has heard from various agencies and experts, including the Office of Miner's Health, Safety and Training and the West Virginia Department of Environmental Quality. It was then decided to ask for recommendations from the Director of the Office of Miner's Health, Safety and Training.

On 24 March 2015, the Board of Coal Mine Health and Safety, with few changes to the director's recommendations, voted to accept the recommendations as a proposed rule. This notice serves to begin the required 30-day comment period.

The comment period begins on 26 March and lasts until 30 April 2015 at 5:00 pm. You may send comments to:

Joel L. Watts  
Board of Coal Mine Health and Safety  
1900 Kanawha BLVD, Bldg 6, Ste. 652  
Charleston, WV 253

Email: [joel.l.watts@wv.gov](mailto:joel.l.watts@wv.gov)

Fax: 304.558.1224

**TITLE 36  
LEGISLATIVE RULE  
BOARD OF COAL MINE HEALTH AND SAFETY**

**SERIES 58  
RULES GOVERNING IMPOUNDMENT SAFETY PROCEDURES**

FILED

2015 MAR 25 P 12:00

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**36.58.1. General.**

- 1.1. Scope. -- This rule establishes procedures governing impoundment safety procedures
- 1.2. Authority. -- W. Va. Code 22-6-4.
- 1.3. Filing Date. --
- 1.4. Effective Date. --

**36.58.2. Definitions.**

2.1. All terms used in these rules and regulations, not defined herein, shall have the meanings set forth in W. Va. Code 22A-1-1.

2.2. Life-saving skiff shall be defined as a shallow, flat-bottomed open boat with sharp bow and square stern

**36.58.3. General Safety Procedures.**

- 1) Dumping areas or material fill areas shall be constructed, installed and maintained in a manner to ensure safe operation and stability.
- 2) All persons whose job assignments require exposure to the hazards involved with dumping areas or fill areas shall be trained in the procedures and potential hazards that exist in these areas. A record shall be kept of such instructions.
- 3) Additional safeguards related to slurry impoundments, but not limited to the following:
  - a) Employees working over or near water, where the danger of drowning exists, shall be provided with United State Coast Guard approved life jackets or buoyant work vests.
  - b) Prior to and after each use, the buoyant work vests or life preservers shall be inspected for defects that would alter their strength or buoyancy. Defective units shall not be used.
  - c) Ring buoys with at least ninety (90) feet of line shall be provided and readily available for emergency rescue operations.
  - d) At least one (1) life-saving skiff shall be immediately available at locations where employees are working over or adjacent to water.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rules Governing Impoundment Safety Procedures

Rule Title: \_\_\_\_\_

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Board of Coal Mine Health and Safety

Address: 1900 Kanawha Blvd East Bldg 6, Ste 652, Charleston, WV 25301

\_\_\_\_\_

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Phone Number: 3049572306 Email: joel.l.watts@wv.gov

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

N/A

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next 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 & 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

Rule Title: \_\_\_\_\_

Rule Title: \_\_\_\_\_

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

N/A

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

n/a

Date: 25 March 15

Signature of Agency Head or Authorized Representative

