

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Coal Mine Health & Safety TITLE NUMBER: 36

RULE TYPE: Legislative Exempt; CITE AUTHORITY §22-6-4

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 19

TITLE OF RULE BEING AMENDED: Rules & Regs Governing Written  
Reports of Accidents

IF NO, SERIES NUMBER OF NEW 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 March 15, 1996 AT 4:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Bd of Coal Mine Health & Safety

Attn: Ron Harris

1591 Washington Street, E

Charleston, WV 25311

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

Ronald L. Harris

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

2.80



WEST VIRGINIA BOARD OF COAL MINE HEALTH AND SAFETY

1591 Washington Street, E. • Charleston, WV 25311 • (304) 558-3721 • FAX: 558-3729

M E M O R A N D U M

TO: All Interested Parties

FROM: Ron Harris, Administrator, Board of Coal Mine  
Health and Safety

SUBJECT: Proposed regulations - Title 36, Series 19, Rules and  
Regulations Governing Written Reports of Accidents

DATE: February 15, 1996

The Board of Coal Mine Health and Safety is sending the following proposed regulation out for public comment. Comments can be addressed to the following address:

Board of Coal Mine Health and Safety  
Attention: Ron Harris  
1591 Washington Street, E.  
Charleston, WV 25311

The end of the comment period will be 4:00 p.m., on March 15, 1996. A public hearing will take place at the above address beginning at 9:00 a.m. on March 15, 1996. If additional information is needed call Ron Harris at 304-558-3727.

RH:lgh  
Attachments

TITLE 36  
LEGISLATIVE RULES  
BOARD OF COAL MINE HEALTH & SAFETY

SERIES 19  
RULES AND REGULATIONS GOVERNING WRITTEN  
REPORTS OF ACCIDENTS

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE**§36-19-1. General**

1.1. Scope. -- Rules and regulations governing written reports of accidents.

1.2. Authority. -- W.Va. Code §22-6-4.

1.3. Filing Date. --

1.4. Effective Date. --

**§36-19-2. Effect of Regulations**

2.1. These rules and regulations shall have the effect of law and violations shall be deemed a violation of law and so cited with the same effect as law. All provisions of Article one A, Chapter twenty-two A, of the Code relative to enforcement are applicable to the enforcement of these rules and regulations.

**§36-19-3. Definitions**

3.1. All terms used in these rules and regulations, not defined herein, shall have the meanings set forth in Section one, Article one A, Chapter twenty-two A of the West Virginia Code.

3.2. Accident - The term "accident" means:

- (1) A death of an individual at a mine;
- (2) An injury to an individual at a mine which has a reasonable potential to cause death;
- (3) An entrapment of an individual for more than thirty (30) minutes;
- (4) An unplanned inundation of a mine by a liquid or gas;
- (5) An unplanned ignition or explosion of gas or dust;
- (6) An unplanned ignition or explosion of a blasting agent or an explosive;

(7) An unplanned fire in or about a mine not extinguished within five (5) minutes of ignition;

(8) 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;

(9) A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one (1) hour;

(10) An unstable condition at an impoundment, refuse pile, or culm bank which requires emergency action in order to prevent failure, or which cause individuals to evacuate an area; or, failure of an impoundment, refuse pile, or culm bank;

(11) Damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with use of the equipment for more than thirty (30) minutes;

(12) An event at a mine which causes death or bodily injury to an individual not at the mine at the time the event occurs;

~~(13)~~ 3.3. Serious Personal Injury - An event at a mine which causes bodily injury to an individual which requires such individual to be admitted to a medical facility overnight for reasons other than strains, sprains or observation as determined by a physician.

~~3.3.~~ 3.4. Occupational Injury - The term "occupational injury" means any injury to a miner which occurs at a mine for which medical treatment is administered, or which results in death or loss of consciousness, inability to perform all duties on any day after an injury, temporary assignment to other duties, or transfer to another job.

#### **§36-19-4. Notification of Accidents and Occupational Injuries**

4.1. If an accident as defined in 3.2 or a serious personal injury as defined in 3.3. occurs an operator shall immediately contact the district inspector or the regional inspector at large from the regional Office of Miners' Health, Safety and Training for the area where the mine is located.

4.2. Whenever loss of life or personal injury which is determined by the attending physician to have a reasonable potential to cause death shall occur by reason of any accident or occupational injury in or about any coal mine, it shall be the duty of the operator, agent, superintendent or mine foreman to give immediate notice to the Director of the Department of Energy and the inspector of the district, stating the particulars of such accident or injury. The operator, agent, superintendent or mine foreman shall within twenty-four (24) hours report the same in writing to the director of the Department of Energy Office of Miners' Health, Safety and Training.

4.3. Whenever any accident or occupational injury occurs in or about any coal mine to any employee or person connected with the mining operation, which does not result in death or injury with a reasonable potential to cause death, the operator, agent, mine superintendent or mine foreman shall, within ten (10) working days, report the same in writing to the director of the Department of Mines Office of Miners' Health, Safety and Training and upon request, to the miner representative within twenty-four (24) hours of submittal, giving full details thereof on forms provided by the department. If the operator is not made immediately aware of the injury, the written accident/injury report shall be submitted within ten (10) working days of the date the operator was notified.

#### **§36-19-5. Difference Between Medical Treatment and First Aid**

5.1. Medical treatment includes, but is not limited to, the suturing of any wound, treatment of fractures, application of a cast or other professional means of immobilizing an injured part of the body, treatment of infection arising out of an injury, treatment of bruise by the drainage of blood, surgical removal of dead or damaged skin (debridement), amputation or permanent loss of use of any part of the body, treatment of the second (2nd) and third (3rd) degree burns. Procedures which are diagnostic in nature are not considered by themselves to constitute medical treatments. Visits to a physician, physical examinations, X-ray examinations, and hospitalization for observations, where not evidence of injury is found and no medical treatment given, do not in themselves constitute medical treatment. Procedures which are preventative in nature also are not considered by

themselves to constitute medical treatment. Tetanus and flu shots are considered preventative in nature.

5.2. First aid includes any one-time treatment, and follow-up visit for the purpose of observation, of minor injuries such as cuts, scratches, first (1st) degree burns and splinters. Ointments, salves, antiseptics, and dressings to minor injuries are considered to be first aid.

5.3. The guidelines contained in thirty (30) CFR 50.20-3 and any subsequent amendments to such regulation shall be used by the Department of Energy Office of Miners' Health, Safety and Training to differentiate between medical treatment and first aid for specific types of injuries.

#### **§36-19-6. Investigation of Accidents**

6.1. ~~The mine inspector shall visit the scene of each accident as defined in Section 3.2 occurring in any mine within his district and shall make an examination into the particular facts of such accidents. After notification of an accident by an operator, the MHS&T inspector at large will promptly decide whether to conduct an accident investigation and will promptly inform the operator of his decision. If MHS&T decides to investigate an accident it will initiate the investigation within 24 hours of notification.~~ The investigating inspector shall make a report to the director of the Department of Energy Office of Miners' Health, Safety and Training, setting forth the results of such examination, including the condition of the mine and the cause or causes of such accident, if known. All such reports shall be made available to interested parties upon written request.

6.2. The mine inspector may investigate an occupational injury as defined in Section 3.3. However, the operator shall investigate each occupational injury that requires hospitalization within ten (10) days of occurrence.

#### **§36-19-7. Preservation of Evidence Following Accident or Disaster**

7.1 ~~Following a mine accident resulting in the death of one (1) or more persons and following any mine disaster, the evidence surrounding such occurrence shall not be disturbed after recovery of bodies or injured persons until an investigation by the Department of Energy has been completed. Unless granted permission by the Office of Miners' Health, Safety and Training, no operator may alter an accident site or an accident related area until completion of all investigations pertaining to the accident except to the extent necessary to rescue or recover an individual, prevent or eliminate an imminent danger, or prevent destruction of mining equipment.~~