

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED

APR 22 1 35 PM '96

OFFICE OF WEST VIRGINIA

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: WV Board of Coal Mine Health & Safety TITLE NUMBER: 36

CITE AUTHORITY: West Virginia Code 22-6-4

RULE TYPE: PROCEDURAL YES INTERPRETIVE

EXEMPT LEGISLATIVE RULE YES

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

West Virginia Code 22-6-4

AMENDMENT TO AN EXISTING RULE: YES x, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 19

TITLE OF RULE BEING AMENDED: Rules and Regulations Governing

Written Reports of Accidents

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED:

TITLE OF RULE BEING ADOPTED:

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS June 1, 1996

Ronald L. Harris

Summary

The Mine Safety and Technical Review Committee proposed the regulation change to the Board of Coal Mine Health and Safety at the December 1995 board meeting. The board agreed to adopt the proposed regulation at the January 1996 board meeting. The board voted to send the proposed regulation out for a thirty (30) day public comment period ending on March 15, 1996. Also a public hearing was scheduled on March 15, 1996 beginning at 9:00 a.m.

The purpose of this regulation is to better define reportable accidents and reporting in a more timely manner.

FILED

TITLE 36
LEGISLATIVE RULES
BOARD OF COAL MINE HEALTH & SAFETY

APR 22 1 35 PM '96

SERIES 19
RULES AND REGULATIONS GOVERNING WRITTEN
REPORTS OF ACCIDENTS

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. -- April 22, 1996

1.4. Effective Date. -- June 1, 1996

(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;

§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.

(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;

§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.

(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;

3.2. Accident - The term "accident" means:

(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;

(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;

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.

3.4. 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 within twenty-four (24) hours report the same in writing to the director of the 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 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 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. 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 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 3.4. 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

7.1 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.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations Governing Title 36 Series 19 Written Reports of Accidents

Type of Rule: Legislative Interpretive X Procedural

Agency W.V. Board of Coal Mine Health and Safety

Address 1591 Washington St. East
Charleston W.V. 25311

1. Effect of Proposed Rule N/A

	ANNUAL FISCAL YEAR				
	DECREASE	DECREASE	CURRENT	FISCAL	HEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES	N/A				
CURRENT EXPENSE	N/A				
REPAIRS & ALTERATIONS	N/A				
EQUIPMENT	N/A				
OTHER	N/A				

2. Explanation of above estimates: N/A

3. Objectives of these rules: To better define the procedure for reporting mine accidents in a timely manner. To make state and MSHA requirements more consistent as when and what types of accidents are reported.

Rule Title: Title 36 Series 19 Rules and Regulations Governing
Written Reports of Accidents.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: April 22, 1996

Signature of Agency Head or Authorized Representative

Ronald L. Harris