



Effective 1/15/84
(Remove done on this date)

State of West Virginia

Department of Mines

Charleston 25305

JOHN D. ROCKEFELLER, IV.
Governor

WALTER N. MILLER
Director

December 8, 1983

The Honorable A. James Manchin
Secretary of the State of West
Virginia
State Capitol Building
Charleston, West Virginia 25305

Dear Secretary Manchin:

Enclosed are revised rules and regulations promulgated by the Board of Coal Mine Health and Safety governing Written Reports of Accidents. These regulations were promulgated by the Board pursuant to Chapter 22, Article 2A, Sections 4 and 4(a) of the Code of West Virginia, and become effective January 15, 1984.

These regulations will replace the existing Series 30 Administrative regulations now in effect.

Please be advised that these rules and regulations promulgated by the Board of Coal Mine Health and Safety are exempted by West Virginia Code 22-2A-4(a) from the Legislative Rule-Making Review Committee.

Please file these rules and regulations in the appropriate State register.

Yours for Mine Safety

Walter N. Miller, Director
West Virginia Department of Mines

WNM:te

Enclosures

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 12-8-83

Administrative Law Division



State of West Virginia

Department of Mines

Charleston 25305

JOHN D. ROCKEFELLER, IV.
Governor

WALTER N. MILLER
Director

TO: All Persons Interested in the Rules and Regulations
Constructed by the Board of Coal Mine Health and
Safety

FROM: Mark A. Scott, Health and Safety Administrator

SUBJECT: Admendments to Series 30, Rules and Regulations
Governing Written Reports of Accidents

DATE: December 12, 1983

ACTION: Final rule.

AUTHORITY: These amendments are promulgated in accordance with Chapter 22,
Article 2A, Section 4 of the West Virginia Code.

SUMMARY

These amendments revise the existing Series 30 Administrative Regulations of the West Virginia Department of Mines governing the submission of written reports of accidents to the Department.

The Board has found that:

1. The purpose of written accident reports is to maintain an up-to-date record of injury occurrences, to compile summary injury statistics and calculate injury frequency rates, for evaluation of company safety programs by the Department of Mines, and for possible investigation, if the accident results in a fatality later on.
2. Code 22-2-67 requires that mine superintendents report in writing any accident at the mine resulting in loss of life or serious personal injury, within 24 hours of occurrence to the Department of Mines.
3. Administrative Regulation Series 30, effective March 5, 1982, requires operators to report in writing any accident resulting in personal injury or death, within 72 hours of occurrence to the Department of Mines.

4. Federal regulation (30 CFR Part 50) requires operators to report in writing any accident resulting in personal injury or death, within 10 days of occurrence to the Mine Safety and Health Administration, U. S. Department of Labor.
5. Several problems have arisen concerning the time period for submitting written accident reports to the Department of Mines. These problems include:
 - a. Incomplete reports: Reports filed with the Department are often incomplete because the circumstances surrounding the accident could not be totally determined within 72 hours. This has resulted in an incomplete understanding of why the accident occurred and the severity of the victim's injuries.
 - b. Duplication of reporting requirements: Operators are required to file two separate reports at two separate times on a single accident occurrence. This poses an unreasonable burden on the operator with no contribution to safety.
 - c. Inconsistent reporting requirements: Code 22-2-67 requires written reports within 24 hours, while Administrative Regulations Series 30 requires such reports within 72 hours.
6. Existing requirements for reporting accidents do not provide a complete understanding of hazardous conditions in the mines, because there are no consistent requirements for investigation of accidents, and because the definition of "accident" in Code 22-1-1 does not cover certain hazard occurrences which may not result in injuries but which are serious in nature.
7. It is important that persons working at a mine are aware of accidents that have occurred at that mine, in order to establish a greater safety awareness on the part of the work force and to help reduce further accidents.

Therefore, the Board has made several changes to Series 30 to address these findings. The intent of these changes is: (1) to make the existing regulation consistent with the requirements of Code 22-2-67; (2) to allow a more reasonable time period for submission of more complete accident reports; and (4) to increase the awareness of hazardous conditions in the mines.

The specific changes to Series 30 are:

1. Add definitions of "accident" and "occupational injury" to Section 3.
2. Amend Section 4 to require certain written reports within 24 hours and other reports within ten (10) days.
3. Add a new Section 5 to clarify the difference between "medical treatment" and "first aid."

4. Add a new Section 6 to require investigations of all fatalities and certain non-fatal accidents by the Department of Mines and the mine operator.
5. Add a new Section 7 to insure the prevention of evidence needed to conduct the investigations in Section 6.

DISCUSSION OF MAJOR COMMENTS RECEIVED

On July 22, 1983, the proposed amendments were mailed to interested persons for comment. On August 30, a public hearing was held in Charleston to receive additional comments on the proposal.

The following is a section-by-section discussion of the major comments received:

Section 1 - General: No major comments

Section 2 - Effect of Regulations: No major comments

Section 3 - Definitions:

1. Several commenters recommended that the definitions of "mine fire" in Section 3.02 be changed to limit fires which must be reported to those which cannot be extinguished within 30 minutes. The Board disagreed because the members felt that all fires burning for any length of time pose safety hazards. However, it was also recognized that minor fires which are extinguished immediately do not pose a significant hazard. Therefore, the Board amended the definition of reportable mine fires to those fires that are not extinguished within five (5) minutes of time of ignition.

Section 4 - Notification:

1. Several commenters made suggestions concerning immediate notification of serious accidents and fatalities to the Department of Mines. Some commenters felt it was unnecessary to notify both the Director and the district inspector. The Board disagrees in that all Board regulations must be consistent with State law and not reduce the level of safety provided by the State mining laws, and Code 22-2-67 requires notification to both persons. Another commenter suggested that immediate notification should also be provided to the safety committee at the mine. The Board disagreed because it was felt that no justification was provided for requiring the operator to immediately notify the safety committee, while such notification to the Department representatives is justified by their statutory duties.
2. A few commenters recommended that a specified telephone number be set up in the Department of Mines, and attended at all hours, for receiving immediate notification of serious accidents and fatalities. This suggestion is beyond the scope of the regulations and the Board's authority; however, it will be passed on to the Department for consideration.

3. Several commenters recommended changing the deadline for submitting accident reports from 10 days to 72 hours. The Board disagreed in that this change is inconsistent with the Board's findings, and that no justification was provided for making this change.
4. One commenter suggested that a copy of the written accident report should be provided to the miner's representative by the operator. The Board agreed that such reports could assist the miners in understanding accident occurrences in the mines. The regulations have been amended to require that the report be made available to the miners representative by the operator upon request.

Section 5 - Difference between medical treatment and first aid: No major changes recommended.

Section 6 - Investigation:

1. Several commenters recommended eliminating the requirement for involving the miners representative in accident investigations. The Board agreed that this requirement does not need to be included in the regulation because the miners representative already has the right to participate in investigations of fatalities and accidents as defined by the regulations. However, the Board amended the definition of "accident" to include injuries requiring hospitalization (other than strains, sprains, and for observation) to insure that miners representatives have the opportunity to participate in investigations of all serious accidents.

Section 7 - Preservation of evidence: No major changes recommended.

ADDITIONAL INFORMATION

Questions and requests for copies of this regulation should be addressed to:

Mark A. Scott, Health and Safety Administrator
Board of Coal Mine Health and Safety
West Virginia Department of Mines
Rm. E-153, State Capitol
Charleston, West Virginia 25305
(304) 348-3937

MAS:te

Attachment

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

DEPARTMENT OF MINES

CHAPTER 22-4

SERIES 30

(1983)

SUBJECT: RULES AND REGULATIONS GOVERNING WRITTEN REPORTS OF ACCIDENTS

PROMULGATED
REGULATION

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 12-8-83

Administrative Law Division

FINAL
REGULATION

I N D E X

SUBJECT: Rules and Regulations Governing Written Reports of Accidents

General	Section 1
Authority	Section 1.01
Effective Date	Section 1.02
Effect of Regulations	Section 2
Definitions	Section 3
Notification of accidents and occupational	Section 4
Differences between medical treatment and first aid	Section 5
Investigation of accidents	Section 6
Preservation of evidence following accident or disaster	Section 7

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

DEPARTMENT OF MINES

CHAPTER 22-4

SERIES 30

SUBJECT: Rules and Regulations Governing Written Reports of Accidents

Section 1. General

1.01 Authority - These rules and regulations are issued under authority of Section 4, Article 2A, Chapter 22 of the West Virginia Code.

1.02 Effective Date - These rules and regulations were promulgated on the 1st day of December, 1983, and become effective on the 15th day of January, 1984.

Section 2. Effect of Regulations

2.01 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 1, Chapter 22 of the Code relative to enforcement are applicable to the enforcement of these rules and regulations.

Section 3. Definitions

3.01 All terms used in these rules and regulations, not defined herein, shall have the meanings set forth in Section 1, Article 1, Chapter 22 of the West Virginia Code.

3.02 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 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 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 hour;
- (10) 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, 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 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) 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.

3.03 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.

Section 4. Notification of accidents and occupational injuries

4.01 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 Mines 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 hours, report the same in writing to the Director of the Department of Mines, giving full details thereof.

4.02 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 working days, report the same in writing to the Director of the Department of Mines 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.

Section 5. Differences between medical treatment and first aid

5.01 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 and third 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.

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

5.03 The guidelines contained in 30 CFR 50.20-3 and any subsequent amendments to such regulation shall be used by the Department of Mines to differentiate between medical treatment and first aid for specific types of injuries.

Section 6. Investigation of accidents

6.01 The mine inspector shall visit the scene of each accident as defined in Section 3.02 occurring in any mine within his district and shall make an ex-

amination into the particular facts of such accidents. The inspector shall make a report to the Director of the Department of Mines, 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.

6.02 The mine inspector may investigate an occupational injury as defined in Section 3.03. However, the operator shall investigate each occupational injury that requires hospitalization within ten (10) days of occurrence.

Section 7. Preservation of evidence following accident or disaster

7.01 Following a mine accident resulting in the death of one 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 Mines has been completed.