

**WEST VIRGINIA**  
**SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #5

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1990 APR -6 PM 2:59

OFFICE OF THE SECRETARY OF STATE

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

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

CITE AUTHORITY: 22-6-4

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

Code 22-6-4

AMENDMENT TO AN EXISTING RULE: YES X, NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 38

TITLE OF RULE BEING AMENDED: Personal Protective Equipment

36.38.5 Requirements for Safety Gloves

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 April 6, 1990

Stephen A. Chalmers

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

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FILED IN THE OFFICE OF  
THE SECRETARY OF STATE  
THIS DATE Jan - 23, 1990  
ADMINISTRATIVE LAW DIVISION

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

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

CITE AUTHORITY: Code 22-6-4

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

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Code 22-6-4

AMENDMENT TO AN EXISTING RULE: YES X, NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 38

TITLE OF RULE BEING AMENDED: Personal Protective Equipment

36.38.5 Requirements for Safety Gloves

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 January 23, 1990

Stephen A. Edman

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

Form #5

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1989 NOV -3 PM 12:36  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

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

CITE AUTHORITY: WV Code 22-6-4

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE x

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

WV Code 22-6-4

AMENDMENT TO AN EXISTING RULE: YES x, NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 38

TITLE OF RULE BEING AMENDED: Rules and Regulations Governing

Personal Protective Equipment SECTION 4 ONLY

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 November 3, 1989

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

Form #5

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1989 JUN 29 PM 3:51  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

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

CITE AUTHORITY: Code 22-6-4

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

Code 22-6-4

AMENDMENT TO AN EXISTING RULE: YES X, NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 38

TITLE OF RULE BEING AMENDED: Personal Protective Equipment  
36.38.5 Requirements for Safety Gloves (NEW SECTION)

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 29, 1989

*Stephen A. Adams*



STATE OF WEST VIRGINIA  
DEPARTMENT OF ENERGY  
Board of Coal Mine Health & Safety  
Charleston 25311

M E M O R A N D U M

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

From: Stephen A. Edens, Administrator *Stephen A. Edens*

Date: March 08, 1990

Subj: Title 36, Series 38 - Rules and Regulations  
Governing Personal Protective Equipment

ACTION:

Final Rule - Title 36, Series 38, Section 5 - requirements  
for Protective Gloves

AUTHORITY:

These regulations are amended in accordance with Chapter 22,  
Article 6, Section 4 of the West Virginia Code.

The Board has determined that it is necessary to amend the  
Protective Gloves regulation to enhance the scope and  
effectiveness of this mandatory requirement. The existing  
regulations were adopted in June 1989.

SUMMARY (TITLE 36. SERIES 38. SECTION 5.)

The Board has found that a fatal accident occurred in 1987  
in an underground mine involving contact with an energized  
trolley wire. The West Virginia Department of Energy  
determined that a fatality occurred when the victim, while  
operating a track mounted portal bus, accidentally came in  
contact with an energized trolley wire while attempting to  
connect the trolley pole.

FINDINGS OF FACT:

The Board determined that the factors which contributed to this fatal accident were:

1. The Lee-Norse portal bus involved in the accident was removed from the accident scene and taken to the surface prior to an investigation being conducted.
2. The two portal buses were being realigned to place the portal bus involved in the accident in front.
3. The victim was not wearing protective gloves at the time of the accident.
4. There were no witnesses to the accident.
5. The victim was found slumped over the portal bus with his hand on the trolley wire.
6. It was determined during the investigation that the victim had operated the same portal bus prior to the accident.
7. The victim received Annual Refresher Training on February 18 - 19 1987.

PROCEDURAL SUMMARY:

October 30, 1989: The Coal Mine Safety and Technical Review Committee recommended that the Board amend the Protective Glove Regulation language to specify "Dry" leather, cloth, or "rubber" type gloves to more clearly enhance the effectiveness and scope of this mandatory requirement.

"Dry" leather, cloth, or "rubber" type gloves, in good condition, shall be worn by all persons removing or attaching a trolley pole to an energized trolley wire.

October 30, 1989: After reviewing the amendments the Board voted 4 to 1 in favor of the proposed amendment.

November 03, 1989: Mailed notice for public comment on the amendment to 36, 38, 5.

January 23, 1989: No additional comments received.

Posting and Review of the Regulation:

1. Post the regulation for thirty (30) days, immediately upon receipt.
2. Review the regulation with all persons acting in the capacity of underground mine foreman and assistant mine foreman, during the posting period.
3. Review the regulation with all underground employees, during the week following the review with the mine foreman and assistant mine foreman.

Request for additional information:

All requests for additional information should be in writing, and mailed to:

Stephen A. Edens, Administrator  
Board of Coal Mine Health and Safety  
West Virginia Department of Energy  
1615 Washington Street East  
Charleston, West Virginia 25311  
(304) 348-3500

Attachment

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
BOARD OF COAL MINE HEALTH AND SAFETY  
TITLE 36 SERIES 38

TITLE: Rules and Regulations Governing Personal Protective Equipment

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Section 36.38.1 General

1.1 Scope - This administrative rule establishes safety requirements relating to personal protective equipment used in and around coal mining areas.

1.2 Authority - West Virginia Code Chapter 22, Article 6, Section 4.

1.3 Filing Date - These regulations were filed in the office of the Secretary of State, this date April 6, 1990.

1.4 Effective Date - Filed and effective this date, April 6, 1990.

Section 36.38.2 Definitions

2.1 All terms used in this rule, not defined herein, shall have the meanings set forth in Chapter 22A, Article 1, Section 1 of the West Virginia Code.

Section 36.38.3 Requirements for Safety-Toed Shoes with Metatarsal Guards

3.1 Within 12 months of the effective date of these regulations, safety-toed shoes equipped with metatarsal guards shall be worn by all persons while in or around a mine.

Section 36.38.4 Requirements for Approved Eye Protection

4.1 All employees shall have approved eye protection on their person and use the same where there is a hazard from flying particles, or other eye hazards. Suitable eye protection and cleaning materials shall be made available at each mine site by the operator.

Section 36.38.5 Requirements for Safety Gloves

5.1 Dry leather, cloth, or rubber type gloves, in good condition shall be worn by all persons removing or attaching a trolley pole to an energized trolley wire.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
BOARD OF COAL MINE HEALTH AND SAFETY  
TITLE 36 SERIES 38

TITLE: Rules and Regulations Governing Personal Protective Equipment

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General	Section 36.38.1
Scope	1.1
Authority	1.2
Filing Date	1.3
Effective Date	1.4
Definitions	Section 36.38.2
Requirements for Safety-Toed Shoes with Metatarsal Guards	Section 36.38.3
Requirements for Approved Eye Protection	Section 36.38.4
Requirements for Safety Gloves	Section 36.38.5

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
BOARD OF COAL MINE HEALTH AND SAFETY  
TITLE 36 SERIES 38

TITLE: RULES AND REGULATIONS GOVERNING PERSONAL PROTECTIVE  
EQUIPMENT

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STATE OF WEST VIRGINIA  
DEPARTMENT OF ENERGY  
Board of Coal Mine Health & Safety  
Charleston 25311

M E M O R A N D U M

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

From: Stephen A. Edens, Health and Safety Administrator

Date: January 23, 1990

Subj: Title 36, Series 38 - Rules and Regulations Governing Personal Protective Equipment

ACTION: Final Rule - Title 36, Series 38, Section 5 - Requirements for Protective Gloves (SECTION 5 ONLY) Effective Date: January 23, 1990

AUTHORITY: These regulations are amended in accordance with Chapter 22, Article 6, Section 4 of the West Virginia Code.

SUMMARY

The Board of Coal Mine Health and Safety has amended existing regulations Title 36, Series 38, Section 5 - pertaining to requirements for Protective Gloves. The existing regulations were adopted in June, 1909.

The Board has determined that it necessary to amend the Protective Gloves regulation to enhance the scope and effectiveness of this mandatory requirement.

Also attached in this regulation is the final language as amended by the Board, Title 36, Series 38, Section 4 - Requirements for Approved Eye Protection. These requirements became effective November 3, 1989.

Procedural Summary

June 29, 1989: The Board sent out a notice and the proposed amendments to Title 36, Series 38, Section 4 - Requirements for Approved Eye Protection, requesting comments from all interested persons.

August 15, 1989: The Board conducted a public hearing at the Glade Springs Resort in Daniels, West Virginia, to receive comments from all interested persons. After the hearing, the Board instructed the Administrator to compile Findings of Fact and Conclusions of Law (report is on file at the DOE Charleston Regional Office).

October 30, 1989: After reviewing the Findings of Fact and Conclusions of Law report, the Board voted 4 to 1 in favor of the proposed amendment.

November 3, 1989: Mailed notice for public comment on amendment to Section 5.

Posting and Review of the Regulation No additional comments received.

1. Post the regulation for thirty (30) days, immediately upon receipt.
2. Review the regulation with all person acting in the capacity of underground mine foremen and assistant mine foreman, during the posting period.
3. Review the regulation with all underground employees, during the week following the review with the mine foreman and assistant mine foreman.

#### Request for Additional Information

All requests for additional information should be in writing, and mailed to:

Stephen A. Edens, Health and Safety Administrator  
Board of Coal Mine Health and Safety  
West Virginia Department of Energy  
1615 Washington Street, East  
Charleston, West Virginia 25311  
(304) 348-3500

Attachment

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
BOARD OF COAL MINE HEALTH AND SAFETY  
TITLE 36 SERIES 38

TITLE: RULES AND REGULATIONS GOVERNING PERSONAL PROTECTIVE  
EQUIPMENT

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
BOARD OF COAL MINE HEALTH AND SAFETY  
TITLE 36 SERIES 38

TITLE: Rules and Regulations Governing Personal Protective Equipment

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General	Section 36.38.1
Scope	1.1
Authority	1.2
Filing Date	1.3
Effective Date	1.4
Definitions	Section 36.38.2
Requirements for Safety-Toed Shoes with Metatarsal Guards	Section 36.38.3
Requirements for Approved Eye Protection	Section 36.38.4
Requirements for Safety Gloves	Section 36.38.5

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
BOARD OF COAL MINE HEALTH AND SAFETY  
TITLE 36 SERIES 38

TITLE: Rules and Regulations Governing Personal Protective Equipment

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Section 36.38.1 General

1.1 Scope - This administrative rule establishes safety requirements relating to personal protective equipment used in and around coal mining areas.

1.2 Authority - West Virginia Code Chapter 22, Article 6, Section 4.

1.3 Filing Date - These regulations were filed in the office of the Secretary of State, this date

1.4 Effective Date - Filed and effective this date.

Section 36.38.2 Definitions

2.1 All terms used in this rule, not defined herein, shall have the meanings set forth in Chapter 22A, Article 1, Section 1 of the West Virginia Code.

Section 36.38.3 Requirements for Safety-Toed Shoes with Metatarsal Guards

3.1 Within 12 months of the effective date of these regulations, safety-toed shoes equipped with metatarsal guards shall be worn by all persons while in or around a mine.

Section 36.38.4 Requirements for Approved Eye Protection

4.1 All employees shall have approved eye protection on their person and use the same where there is a hazard from flying particles, or other eye hazards. Suitable eye protection and cleaning materials shall be made available at each mine site by the operator.

Section 36.38.5 Requirements for Safety Gloves

5.1 Dry leather, cloth, or rubber type gloves, in good condition, shall be worn by all persons removing or attaching a trolley pole to an energized trolley wire.

TITLE 36  
LEGISLATIVE RULE

SERIES 38  
RULES AND REGULATIONS FOR  
GOVERNING PROTECTIVE EQUIPMENT

**§36-38-1. General.**

1.1. Scope. -- This administrative rule establishes safety and requirements relating to personal equipment used in and around coal mining areas.

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

1.3. Filing Date. -- April 6, 1990

1.4. Effective Date. -- April 6, 1990

**§36-38-2. Definitions.**

2.1. All terms used in this rule, not defined herein, shall have the meanings set forth in Chapter 22A, Article 1, Section 1 of the West Virginia Code.

**§36-38-3. Requirements For Safety-Toed Shoes With Metatarsal Guards.**

3.1. Within twelve (12) months of the effective date of these regulations, safety-toed shoes equipped with metatarsal guards shall be worn by all persons while in or around a mine.

**§36-38-4. Requirements For Approved Eye Protection.**

4.1. All employees shall have approved eye protection on their person and use the same where there is a hazard from flying particles, or other eye hazards. Suitable eye protection and cleaning materials shall be made available at each mine site by the operator.

**§36-38-5. Requirements for Safety Gloves.**

5.1. Dry leather, cloth, or rubber type gloves, in good condition, shall be worn by all persons removing or attaching a trolley pole to an energized trolley wire.