

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #5

**FILED**

JAN 9 9 37 AM '95

OFFICE OF THE SECRETARY OF STATE  
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 \_\_\_\_\_, NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 42

TITLE OF RULE BEING ADOPTED: Sealing Permanently Closed or

Abandoned Mines

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS April 1, 1995

Ronald L. Harris

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** 36-42 Sealing Permanently Closed or Abandoned Mines

**Type of Rule:**      Legislative      Interpretive   xx   Procedural

**Agency** Board of Coal Mine Health and Safety

**Address** 1615 Washington Street, E.  
Charleston, WV 25311

**1. Effect of Proposed Rule**

N/A

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

**2. Explanation of above estimates:**

N/A

**3. Objectives of these rules:**

These new rules were promulgated by the Board as a result of a multiple mine fatality. The objective of these rules is to prevent a re-occurrence of this type of mining fatality.

**Rule Title:** 36-42 Sealing Permanently Closed or Abandoned Mines

**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:** January 9, 1995

**Signature of Agency Head or Authorized Representative**

Ronald L. Hanna

## Summary

In March 1992 there was a methane gas explosion which fatally injured four workers at a northern West Virginia Mine. The explosion occurred while the workers were attempting to seal an air shaft at the mine. The company had employed contractors to come onto the mine property and perform the sealing of the air shaft. Of the four fatalities, one involved an employee of the company and the other three were employees of the contractor.

After reviewing the fatal accident the Board voted to promulgate these new rules and regulations with the intention of preventing a re-occurrence of this type of fatal mining accident.

TITLE 36  
LEGISLATIVE RULES  
BOARD OF COAL MINE HEALTH AND SAFETY  
SERIES 42  
SEALING PERMANENTLY CLOSED OR ABANDONED MINES

§36-41-1. General

1.1. Rules and regulations governing sealing permanently closed or abandoned mines.

1.2. Authority - WV Code 22-6-4

1.3. Filing Date -- January 9, 1995

1.4. Effective Date -- April 1, 1995

§36-42-2. Effective Law and Regulation

2.1. These regulations shall have the effect of the law and violations shall be deemed a violation of law and so cited with the same effect as law. All provisions of Chapter 22, Article 1 of the West Virginia Code relative to enforcement are applicable to the enforcement of these regulations.

§36-42-3. Definitions

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

§36-42-4 Sealing or Capping

4.1(a) Prior to the sealing or capping of any shaft, slope or drift opening, the operator must submit to the Director for approval its written plan for the safe sealing or capping. No sealing or capping may commence without written approval from the Director. Once submitted, the approval plan required by this section shall not be unreasonably withheld. If the Director does not approve such plan, he shall provide the operator, in writing, reasons for rejecting the plan. At a minimum, the plan must contain:

(1) detailed map(s) of the mine area to be abandoned;

(2) detailed drawings of the seal or cap design;

(3) the projected time-table for commencement and completion of the sealing or capping;

(4) the procedures to be used to adequately ventilate the areas to be sealed or capped while the work is conducted; and

(5) Efforts should be taken to limit cutting and welding during sealing and capping operations however, precaution shall be taken if cutting and welding is used, including methane examinations underneath the cap.



KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

FAX: (304) 558-0900

**STATE OF WEST VIRGINIA**

**SECRETARY OF STATE**

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

TO: Ron Harris

AGENCY: Coal Mine Health & Safety

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: May 9, 1995

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 42 TITLE: 36 Coal Mine Health & Safety

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Ronald L. Harris

TITLE OF PERSON SIGNING: Administrator

DATE: 5-15-95

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.