

To: WV Board of Coal Mine Health and Safety

Date: 4/29/2024

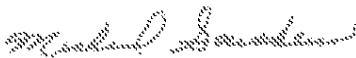
From: Michael Southern -- Surface Mine Inspector Region 1
David G McCullough -- Safety Instructor Region 1

Subject: Proposed changes to Title 36 Series 19.

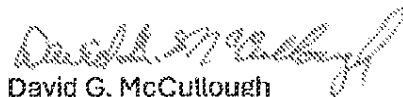
After reviewing the proposed changes, we feel that consideration of the Rules Governing the Safety In and Around Quarries dated 2015 was not taken into account. The proposed changes references 22A-2-66 located on page 82 of the Mining Laws, Rules and Regulations 2023 Reference Manual Revised January 1, 2023.

The Quarry Rules does not reference any other regulation like 22A-2-66. Therefore, we feel that any change to Title 36 Series 19 should only apply to coal operations.

Respectfully Yours



Michael Southern



David G. McCullough



**WV BOARD OF COAL MINE HEALTH & SAFETY
106 DEE DRIVE
CHARLESTON, WEST VIRGINIA 25311
304-205-4120**

May 30, 2024

Michael Southern-Surface Mine Inspector in Region 1
David G McCullough-Safety Instructor in Region 1
Westover-Region 1 Office
14 Commerce Drive
Morgantown, WV 26501

Dear Mr. Southern and Mr. McCullough:

This correspondence is in response to your official public comment made on April 29, 2024, relating to the Coal Board's proposed revisions to Title 36 Series 19 ("36-19"). Specifically, you were concerned that "the Rules Governing the Safety In and Around Quarries dated 2015 was not taken into account."

The Coal Board met on May 29, 2024, for the public Coal Board Meeting, reviewed your comment relating to 36-19, and discussed the same. The Coal Board appreciates that you sent in the public comment and plans to make additional revisions to the new 36-19 draft based upon your thoughts. With that said, please see the new draft of 36-19 that will be final filed with the West Virginia Secretary of State and effective in the near future. Thank you again for your public comment and assistance in making mining in West Virginia as safe as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "James Dean".

James Dean
Acting Administrator
Board of Coal Mine Health and Safety

Attachment (1)

TITLE 36
LEGISLATIVE EXEMPT RULE
BOARD OF COAL MINE HEALTH AND SAFETY

SERIES 19
RULE GOVERNING WRITTEN REPORTS OF ACCIDENTS

§36-19-1. General.

- 1.1. Scope. -- Rule governing written reports of accidents.
- 1.2. Authority. -- W. Va. Code §§22A-6-4 and 22A-6-5.
- 1.3. Filing Date. -- ~~January 11, 2021.~~
- 1.4. Effective Date. -- ~~February 11, 2021.~~

§36-19-2. Effect of Regulations.

2.1. This rule 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 W. Va. Code §22A-1-1 *et seq.* relative to enforcement are applicable to the enforcement of this rule.

§36-19-3. Definitions.

3.1. All terms used in this rule, not defined herein, shall have the meanings set forth in W. Va. Code §22A-1-2.

3.2. Accident -- The term "accident" means:

- 3.2.1. A death of an individual at a mine;
- 3.2.2. An injury to an individual at a mine which has a reasonable potential to cause death;
- 3.2.3. An entrapment of an individual ~~for more than thirty (30) minutes;~~
- 3.2.4. An unplanned inundation of a mine by a liquid or gas;
- 3.2.5. An unplanned ignition or explosion of gas or dust;
- 3.2.6. An unplanned ignition or explosion of a blasting agent or an explosive;
- 3.2.7. An unplanned fire in or about a mine not extinguished within five (5) minutes of ignition;
- 3.2.8. 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;
- 3.2.9. A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one (1) hour;
- 3.2.10. 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;

3.2.11. 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;

3.2.12. An event at a mine which causes death or bodily injury to an individual not at the mine at the time the event occurs.

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~~ over twenty-four (24) hours 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 Section 3.2. of this Series or a serious personal injury as defined in Section 3.3. of this Series 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. 4.1. Whenever any accident, as defined in Section 3.2. of this Series, or occupational injury, as defined in Section 3.3. and Section 3.4. of this Series, 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 Office of Miners' Health, Safety and Training. 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.~~

~~4.2. If an injury as defined in Section 3.3 of this Series occurs, but the injury does not meet the accident criteria set forth in W. Va. Code §22A-2-66, to notify within 15 minutes, the Mine and Industrial Accident Emergency Operations Center, the operator shall 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.~~

~~4.3. If an accident or injury as defined in Section 3.2, 3.3, and/or 3.4 occurs at any open-pit mine or facility that mines underground limestone and sandstone as described in W. Va. Code §22A-4-2, the operator of said mines or facilities shall 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.~~

§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 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 no 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 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 Office of Miners' Health, Safety and Training inspector at large will promptly decide whether to conduct an accident investigation and will promptly inform the operator of his/her decision. If the Office of Miners' Health, Safety and Training decides to investigate an accident, it will initiate the investigation within twenty-four (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. of this Series. 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.