

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1958



ENROLLED

HOUSE BILL No. 2

(By Mr. Myles and Mr. Seibert)



PASSED February 4 1958

In Effect July 1, 1958 ~~Passage~~



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AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting article one and article two thereof, and by adding to said chapter a new article, designated article two-b, all relating to coal mining, the safety and health of persons employed within or at mines within this state and the protection and preservation of mining property and property used in connection therewith; and providing penalties for violation of certain provisions thereof.

*Be it enacted by the Legislature of West Virginia:*

That chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting article one and article two thereof and by adding to said chapter a new article, designated article two-b, all to read as follows:

**Article 1. Administration; Enforcement**

Section 1. *Definitions.*—Mine: In this chapter the term  
2 “mine” shall include the shafts, slopes, drifts or inclines  
3 connected with excavations penetrating coal seams or  
4 strata, which excavations are ventilated by one general  
5 air current or divisions thereof, and connected by one  
6 general system of mine haulage over which coal may be  
7 delivered to one or more points outside the mine, and  
8 the surface structures or equipment connected therewith  
9 which contribute directly or indirectly to the mining,  
10 preparation or handling of coal.

11 Operator: The term "operator" shall mean any firm,  
12 corporation, partnership or individual operating any coal  
13 mine or part thereof.

14 Department: The term "department" shall mean the  
15 state department of mines provided for in section two of  
16 this article.

17 Director of the Department of Mines: The term "direc-  
18 tor of the department of mines" shall mean the director  
19 of the department of mines provided for in section three  
20 of this article, and is synonymous with the term, "chief  
21 of the department of mines."

22 Mine Inspector: The term "mine inspector" shall mean  
23 a state mine inspector provided for in section seven of  
24 this article.

25 Mine Inspectors' Examining Board: The term "mine  
26 inspectors' examining board" shall mean the mine inspec-  
27 tors' examining board provided for in section nine of this  
28 article.

29 Coal Mine Safety Board of Review: The term "coal  
30 mine safety board of review" shall mean the coal mine  
31 safety board of review provided for in section fourteen  
32 of this article.

33 Certified Person: The term "certified person", when  
34 used to designate the kind of person to whom the per-  
35 formance of a duty in connection with the operation of a  
36 mine shall be assigned, shall mean a person who is quali-  
37 fied under the provisions of this chapter to perform such  
38 duty.

Sec. 2. *Department of Mines.*—There shall be a state  
2 department of mines, which shall have for its purpose the  
3 supervision of the execution and enforcement of the pro-  
4 visions of this chapter, enacted for the protection of the  
5 safety and health of persons employed within or at the  
6 mines within this state, and for the protection and preser-  
7 vation of mining property and property used in connection  
8 therewith.

Sec. 3. *Director of the Department of Mines; Appoint-  
2 ment; Term of Office.*—There shall be a director of the  
3 department of mines, who shall be appointed by the gov-

4 ernor with the advice and consent of the senate and who  
5 shall serve for a term of four years, subject to the pro-  
6 visions of chapter six, article six, section four of this  
7 code, as amended. The original term of the director of  
8 the department of mines appointed under this section  
9 shall commence as of the effective date of this article as  
10 amended and all appointments to such office made there-  
11 after shall be made for a full term of four years, except  
12 that in case of a vacancy the appointment shall be made  
13 for the unexpired term only.

Sec. 4. *Powers and Duties.*—The director of the depart-  
2 ment of mines shall have full charge of the department.  
3 He shall have the power and duty to:

4 (1) Supervise and direct the execution and enforce-  
5 ment of the provisions of this chapter;

6 (2) Appoint a deputy director of the department of  
7 mines, fix his compensation and prescribe his powers and  
8 duties;

9 (3) Employ such assistants, clerks, stenographers and  
10 other employees as may be necessary and fix their com-  
11 pensation, except as otherwise provided in this article;

12 (4) Employ mine inspectors and assign them to divi-  
13 sions or districts in accordance with the provisions of sec-  
14 tion seven of this article, and to supervise and direct such  
15 mine inspectors in the performance of their duties;

16 (5) For good cause, to suspend any mine inspector  
17 without compensation for a period not exceeding thirty  
18 days in any calendar year;

19 (6) Prepare report forms to be used by mine in-  
20 spectors in making their findings, orders and notices, upon  
21 inspections made in accordance with this chapter;

22 (7) Hear and determine applications made by mine  
23 operators for the annulment or revision of orders made  
24 by mine inspectors, and to make inspections of mines, in  
25 accordance with the provisions of this article;

26 (8) Cause a properly indexed permanent and public  
27 record to be kept of all inspections made by himself or by  
28 mine inspectors;

29 (9) Make annually a full and complete written report  
30 of the administration of his department to the governor

31 of the state for the year ending the thirty-first day of  
32 December. Such report shall include the number of visits  
33 and inspections of mines in the state by mine inspectors,  
34 the quantity of coal, coke and other minerals (including  
35 oil and gas) produced in the state, the number of men  
36 employed, number of mines in operation, statistics with  
37 regard to health and safety of persons working in the  
38 mines, improvements made, prosecutions, such other in-  
39 formation in relation to the subject of mines, mine in-  
40 spections and needed legislation as he may deem of public  
41 interest and beneficial to the mining interest of the state.  
42 Such reports shall be filed with the governor on or before  
43 the thirtieth day of June next succeeding the year for  
44 which it was made, and shall upon proper authority be  
45 printed and distributed to interested persons;

46 (10) Conduct such research and studies as he shall  
47 deem necessary to aid in protecting the health and safety  
48 of persons employed within or at mines in this state, to  
49 improve mining methods and to provide for the more  
50 efficient protection and preservation of mines and prop-  
51 erty used in connection therewith;

52 (11) Perform all other duties which are expressly im-  
53 posed upon him by the provisions of this chapter.

54 All records of the department shall be open to the  
55 public.

Sec. 5. *Eligibility; Salary.*—The director of the depart-  
2 ment of mines shall be a male citizen of West Virginia,  
3 shall be a competent person of good repute and temperate  
4 habits and shall have had at least fifteen years' experience  
5 underground in coal mines, at least ten of which shall  
6 have been underground in mines in this state. He shall  
7 possess a practical knowledge of the different systems  
8 of working, ventilating and draining coal mines, and a  
9 practical and scientific knowledge of all noxious and  
10 dangerous gases found in such mines. A diploma in min-  
11 ing engineering from the West Virginia university school  
12 of mines, or any similarly accredited engineering school  
13 shall be counted as two years' working experience. The  
14 director shall devote all of his time to the duties of his  
15 office, and shall not be directly or indirectly interested

16 financially in any mine in this state. The salary of the  
17 director of the department of mines shall be twelve  
18 thousand dollars per year, and traveling expenses, which  
19 shall be paid out of the state treasury upon a requisition  
20 upon the state auditor, properly certified by the director  
21 of the department of mines.

Sec. 6. *Oath; Bond.*—The director of the department  
2 of mines shall, before entering upon the discharge of his  
3 duties, take the oath of office prescribed by section five,  
4 article four of the constitution, and shall execute a bond  
5 in the penalty of two thousand dollars, with security to  
6 be approved by the governor, conditioned upon the  
7 faithful discharge of his duties, a certificate of which  
8 oath and which bond shall be filed in the office of the  
9 secretary of state.

Sec. 7. *Mine Inspectors; Districts and Divisions; Em-*  
2 *ployment; Tenure.*—Notwithstanding any other provi-  
3 sions of law, mine inspectors shall be selected, serve and  
4 be removed as in this article provided.

5 The director of the department of mines shall divide  
6 the state into not more than forty-five mining districts,  
7 and not more than five mining divisions, so as to equalize,  
8 as far as practical, the work of each inspector. He shall  
9 assign inspectors to districts, designate and assign an  
10 inspector at large for each such division and shall desig-  
11 nate their places of abode, at points convenient to the  
12 mines of their district or division.

13 Mine inspectors serving on the effective date of this  
14 section, may continue to serve for a probationary period  
15 not exceeding one year and shall be eligible to qualify  
16 for appointment during such probationary period in  
17 accordance with the provisions of section eight of this  
18 article.

19 Except as in the next preceding paragraph provided, all  
20 mine inspectors appointed after the mine inspectors'  
21 examining board has certified to the director of the de-  
22 partment of mines an adequate register of qualified eli-  
23 gible candidates in accordance with section eight of this  
24 article, so long as such register contains the names of at

25 least three qualified eligible candidates, shall be appointed  
26 from the names on such register. Each original appoint-  
27 ment shall be made by the director of the department of  
28 mines for a probationary period of not more than one year.

29 The director of the department of mines shall make  
30 each appointment from among the three qualified eligible  
31 candidates on the register having the highest grades:  
32 *Provided, however,* That the director of the department  
33 of mines may, for good cause, at least thirty days prior  
34 to making an appointment, strike any name from the  
35 register. Upon striking any name from the register the  
36 director of the department of mines shall immediately  
37 notify in writing each member of the mine inspector's  
38 examining board of his action, together with a detailed  
39 statement of the reasons therefore. Thereafter, the mine  
40 inspector's examining board, after hearing, if it finds  
41 that the action of the director of the department of mines  
42 was arbitrary or unreasonable, may order the name of  
43 any candidate so stricken from the register to be rein-  
44 stated thereon. Such reinstatement shall be effective from  
45 the date of removal from the register.

46 Any candidate passed over for appointment for three  
47 years shall be automatically stricken from the register.

48 After having served for a probationary period of one  
49 year to the satisfaction of the director of the department  
50 of mines, a mine inspector shall have permanent tenure  
51 until he becomes sixty-five years of age, subject only to  
52 dismissal for cause in accordance with the provisions of  
53 section eight of this article. No mine inspector while in  
54 office shall be directly or indirectly interested as owner,  
55 lessor, operator, stockholder, superintendent or engineer  
56 of any coal mine. Before entering upon the discharge of his  
57 duties as a mine inspector, he shall take the oath of office  
58 prescribed by the constitution, and shall execute a bond  
59 in the penalty of two thousand dollars, with security to  
60 be approved by the director of the department of mines,  
61 conditioned upon the faithful discharge of his duties, a  
62 certificate of which oath and bond shall be filed in the  
63 office of the secretary of state.

Sec. 8. *Eligibility for Appointment as Mine Inspector;*

2 *Qualifications; Salary and Expenses; Removal.*—(a) No  
3 person shall be eligible for appointment as a mine inspec-  
4 tor after the effective date of this article unless, at the  
5 time of his probationary appointment he: (1) Is a citizen  
6 of West Virginia, in good health, not less than thirty nor  
7 more than fifty-five years of age, and of good character,  
8 reputation and temperate habits; (2) has had at least  
9 ten years practical experience in coal mining, at least five  
10 years of which, immediately preceding his original ap-  
11 pointment, shall have been in mines in this state: *Pro-*  
12 *vided, however,* That graduation from the school of mines  
13 of West Virginia university or any other accredited col-  
14 lege of mining engineering shall be considered the equiv-  
15 alent of two years practical experience; (3) has had  
16 practical experience with dangerous gases found in coal  
17 mines; and (4) has a good theoretical and practical knowl-  
18 edge of mines, mining methods, mine ventilation, sound  
19 safety practices and applicable mining laws.

20 (b) In order to qualify for appointment as a mine  
21 inspector an eligible applicant shall submit to a written  
22 and oral examination by the mine inspectors' examining  
23 board and furnish such evidence of good health, charac-  
24 ter and other facts establishing eligibility as the board  
25 may require. If the board finds after investigation and  
26 examination that an applicant: (1) Is eligible for ap-  
27 pointment and (2) has passed all written and oral exami-  
28 nations, with a grade of at least ninety percent, the board  
29 shall add such applicant's name and grade to the register  
30 of qualified eligible candidates and certify its action to  
31 the director of the department of mines. No candidate's  
32 name shall remain in the register for more than three  
33 years without requalifying.

34 (c) Salaries of mine inspectors shall not be less than  
35 seven thousand two hundred dollars per annum, nor more  
36 than eight thousand four hundred dollars per annum, and  
37 reasonable traveling expenses. Within the limits pro-  
38 vided by law, the salary of each inspector shall be fixed  
39 by the director of the department of mines, subject to the  
40 approval of the mine inspectors' examining board. In

41 fixing salaries of mine inspectors, the director of the de-  
42 partment of mines shall consider ability, performance of  
43 duty, responsibility and experience. No reimbursement  
44 for traveling expense shall be made except upon an item-  
45 ized account of such expenses submitted by the inspector,  
46 who shall verify, upon oath, that such expenses were  
47 actually incurred in the discharge of his official duties.

48 (d) A mine inspector, after having received a perma-  
49 nent appointment shall be removed from office only for  
50 physical or mental impairment, incompetency, neglect of  
51 duty, drunkenness, malfeasance in office, or other good  
52 cause.

53 Proceedings for the removal of a mine inspector may  
54 be initiated by the director of the department of mines  
55 whenever he has reasonable cause to believe and does  
56 believe that adequate cause exists, warranting removal.  
57 Such a proceeding shall be initiated by a verified petition,  
58 filed with the board by the director of the department of  
59 mines, setting forth with particularity the facts alleged.  
60 Not less than twenty reputable citizens, who are operators  
61 or employees in mines in the state, may petition the  
62 director of the department of mines for the removal of a  
63 mine inspector. If such petition is verified by at least  
64 one of the petitioners, based on actual knowledge of the  
65 affiant, and alleges facts which, if true, warrant the re-  
66 moval of the inspector, the director of the department of  
67 mines shall cause an investigation of the facts to be made.  
68 If, after such investigation, the director finds that there  
69 is substantial evidence which, if true, warrants removal  
70 of the inspector, he shall file a petition with the board  
71 requesting removal of the inspector.

72 On receipt of a petition by the director of the depart-  
73 ment of mines seeking removal of a mine inspector the  
74 board shall promptly notify the inspector to appear before  
75 it at a time and place designated in said notice, which  
76 time shall be not less than fifteen days thereafter. There  
77 shall be attached to the copy of the notice served upon  
78 the inspector a copy of the petition filed with the board.

79 At the time and place designated in said notice, the  
80 board shall hear all evidence offered in support of the

81 petition and on behalf of the inspector. Each witness  
82 shall be sworn and a transcript shall be made of all evi-  
83 dence taken and proceedings had at any such hearing.  
84 No continuance shall be granted except for good cause  
85 shown.

86 The chairman of the board and the director of the  
87 department of mines shall have power to administer oaths  
88 and subpoena witnesses.

89 Any mine inspector who shall wilfully refuse or fail  
90 to appear before the board, or having appeared, shall  
91 refuse to answer under oath any relevant question on  
92 the ground that his testimony or answer might incrimi-  
93 nate him, or shall refuse to waive immunity from prose-  
94 cution on account of any relevant matter about which he  
95 may be asked to testify at any such hearing before the  
96 board, shall forfeit his position.

97 If, after hearing, the board finds that the inspector  
98 should be removed, it shall enter an order to that effect.  
99 The decision of the board shall be final and shall not be  
100 subject to judicial review.

Sec. 9. *Mine Inspectors' Examining Board.*—There shall  
2 be a mine inspectors' examining board consisting of five  
3 members who, except for the public representative on  
4 such board, shall be appointed by the governor, by and  
5 with the advice and consent of the senate. Members so  
6 appointed may be removed only for the same causes and  
7 in like manner as elective state officers. One of the mem-  
8 bers of the board shall be a representative of the public  
9 who shall be the director of the school of mines at West  
10 Virginia university. Two members of the board shall be  
11 persons who by reason of previous training and experi-  
12 ence may reasonably be said to represent the viewpoint  
13 of coal mine operators and two members shall be persons  
14 who by reason of previous training and experience may  
15 reasonably be said to represent the viewpoint of coal mine  
16 workers.

17 The director of the department of mines shall be an  
18 "exofficio" member of the board, and shall serve as secre-  
19 tary of the board without additional compensation, but he

20 shall have no right to vote with respect to any matter  
21 before the board.

22 The members of the board, except the public representa-  
23 tive, shall be appointed for overlapping terms of eight  
24 years, except that the original appointments shall be for  
25 terms of two, four, six and eight years respectively. Any  
26 member whose term expires may be reappointed by the  
27 governor.

28 Each member of the board shall receive forty dollars  
29 per diem while actually engaged in the performance of  
30 the work of the board; and shall receive mileage at the  
31 rate of ten cents for each mile actually traveled going  
32 from the home of the member to the place of the meeting  
33 of the board and returning therefrom, which shall be paid  
34 out of the state treasury upon a requisition upon the state  
35 auditor, properly certified by such members of the board.

36 The public member shall serve as chairman of the  
37 board. Members of the board, before performing any duty  
38 shall take and subscribe to the oath required by article  
39 four, section five of the constitution of West Virginia.

40 The mine inspectors examining board shall meet at  
41 such times and places as shall be designated by the chair-  
42 man. It shall be the duty of the chairman to call a meet-  
43 ing of the board on the written request of three members  
44 or the director of the department of mines. Notice of each  
45 meeting shall be given in writing to each member by the  
46 secretary at least five days in advance of the meeting.  
47 Three members shall constitute a quorum for the trans-  
48 action of business.

49 In addition to other duties expressly set forth elsewhere  
50 in this article, the board shall:

51 (1) Establish, and from time to time revise, forms of  
52 application for employment as mine inspector and forms  
53 for written examinations to test the qualification of candi-  
54 dates for that position;

55 (2) Adopt and promulgate reasonable rules and regu-  
56 lations relating to the examination, qualification and cer-  
57 tification of candidates for appointment as mine inspectors,  
58 and hearings for removal of inspectors, required to be  
59 held by this article. All of such rules and regulations

60 shall be printed and a copy thereof furnished by the secre-  
61 tary of the board to any person upon request;

62 (3) Conduct, after public notice of the time and place  
63 thereof, examinations of candidates for appointment as  
64 mine inspector. By unanimous agreement of all members  
65 of the board, one or more members of the board or an  
66 employee of the department of mines may be designated  
67 to give to a candidate the written portion of the examina-  
68 tion;

69 (4) Prepare and certify to the director of the depart-  
70 ment of mines a register of qualified eligible candidates  
71 for appointment as mine inspectors. The register shall  
72 list all qualified eligible candidates in the order of their  
73 grades, the candidate with the highest grade appearing at  
74 the top of the list. After each meeting of the board held  
75 to examine such candidates, and at least annually, the  
76 board shall prepare and submit to the director of the de-  
77 partment of mines a revised and corrected register of  
78 qualified eligible candidates for appointment as mine in-  
79 spector, deleting from such revised register all persons  
80 (a) who are no longer residents of West Virginia, (b)  
81 who have allowed a calendar year to expire without, in  
82 writing, indicating their continued availability for such  
83 appointment, (c) who have been passed over for appoint-  
84 ment for three years, (d) who have become ineligible for  
85 appointment since the board originally certified that such  
86 person was qualified and eligible for appointment as mine  
87 inspector, or (e) who, in the judgment of at least four  
88 members of the board, should be removed from the reg-  
89 ister for good cause;

90 (5) Cause the secretary of the board to keep and pre-  
91 serve the written examination papers, manuscript, grad-  
92 ing sheets and other papers of all applicants for appoint-  
93 ment as mine inspector, together with the correct solu-  
94 tion of each question prepared by the examining board  
95 and the stenographer's transcript of the oral examinations  
96 of such applicants;

97 (6) Issue a certificate of qualification to each success-  
98 ful, eligible candidate;

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99 (7) Hear and determine proceedings for the removal  
100 of mine inspectors in accordance with the provisions of  
101 this article;

102 (8) Hear and determine appeals of mine inspectors  
103 from suspension orders made by the director pursuant  
104 to the provisions of section four (5) of this article: *Pro-*  
105 *vided, however,* That an aggrieved inspector in order to  
106 appeal from any order of suspension, shall file such appeal  
107 in writing with the mine inspectors examining board not  
108 later than ten days after receipt of notice of suspension.  
109 On such appeal the board shall affirm the action of the  
110 director unless it be satisfied from a clear preponderance  
111 of the evidence that the director has acted arbitrarily;

112 (9) Make an annual report to the governor and the  
113 director of the department of mines concerning the ad-  
114 ministration of mine inspection personnel in the state  
115 service, making such recommendations as the board con-  
116 siders to be in the public interest.

Sec. 10. *Inspections; Reports.*—The director of the de-  
2 partment of mines shall have authority to visit, enter and  
3 examine any mine, whether underground or on the sur-  
4 face, and may call for the assistance of any district mine  
5 inspector or inspectors wherever such assistance is neces-  
6 sary in the examination of any mine. The operator of  
7 every coal mine shall furnish the director of the depart-  
8 ment of mines or mine inspector proper facilities for en-  
9 tering such mine and making examination or obtaining  
10 information.

11 Mine inspectors shall devote their full time and un-  
12 divided attention to the performance of their duties, and  
13 they shall examine all of the mines in their respective  
14 districts at least once in every four months, and as often,  
15 in addition thereto, as the director of the department of  
16 mines may direct or the necessities of the case or the con-  
17 dition of the mine or mines may require, and shall make  
18 a personal examination of each working face, and also  
19 entrances to abandoned parts of the mine where gas is  
20 known to liberate, for the purpose of determining whether  
21 a danger described in section eleven of this article exists  
22 in any such mine, or whether any provision of article two

23 of this chapter is being violated in any such mine, or  
24 whether any such mine is a gassy mine.

25 The mine inspector shall visit the scene of each fatal  
26 accident occurring in any mine within his district, and  
27 shall make an examination into the particular facts of  
28 such accident and make a report to the director of the  
29 department of mines, setting forth the results of such  
30 examination including the condition of the mine and the  
31 cause or causes of such fatal accident, if known, and all  
32 such reports shall be made available to the interested  
33 parties, upon written requests.

Sec. 11. *Mine Inspectors; Findings; Orders.*—(a) If a  
2 mine inspector, upon making an inspection of a mine as  
3 authorized by this article, finds danger that a mine ex-  
4 plosion, mine fire, mine inundation, man-trip or man-hoist  
5 accident will occur immediately or before the imminence  
6 of such danger can be eliminated, he shall also find the  
7 extent of the area of such mine throughout which such  
8 danger exists. Thereupon he shall immediately make an  
9 order requiring the operator of such mine to cause all  
10 persons, excepting persons referred to in paragraph (e)  
11 of this section, to be withdrawn from, and to be debarred  
12 from entering such area. Such findings and order shall  
13 contain a detailed description of the conditions which  
14 the mine inspector finds cause and constitute such danger,  
15 and a description of the area of such mine throughout  
16 which persons must be withdrawn and debarred. Upon  
17 the written statement of the operator that such danger  
18 has been removed, such inspector shall make another  
19 inspection and shall make an order withdrawing or con-  
20 tinuing the requirements of such previous order.

21 (b) If a mine inspector, upon making an inspection of  
22 a mine as authorized by this article, finds that any pro-  
23 vision of article two of this chapter is being violated, but  
24 that the conditions created by such violation do not cause  
25 danger that a mine explosion, mine fire, mine inundation,  
26 man-trip or man-hoist accident will occur in such mine  
27 immediately or before the imminence of such danger  
28 can be eliminated, he shall find what would be a reason-  
29 able period of time within which such violation should be

30 totally abated. Such findings shall contain reference to  
31 the provisions of article two of this chapter which he  
32 finds are being violated, and a detailed description of the  
33 conditions which cause and constitute such violation.

34 (c) The period of time so found by such mine inspec-  
35 tor to be a reasonable period of time may be extended by  
36 such inspector, or by any other mine inspector duly au-  
37 thorized by the director of the department of mines, from  
38 time to time, but on not more than three occasions, upon  
39 the making of a special inspection to ascertain whether  
40 or not such violation has been totally abated. The direc-  
41 tor of the department of mines shall cause a special in-  
42 spection to be made: (A) Upon expiration of such period  
43 of time as originally fixed or as extended, unless the  
44 director is satisfied that the violation has been abated;  
45 and (B) whenever an operator of a mine, prior to the  
46 expiration of any such period of time, requests him to  
47 cause a special inspection to be made at such mine. Upon  
48 making such a special inspection, such mine inspector  
49 shall find whether or not such violation has been totally  
50 abated. If he finds that such violation has not been totally  
51 abated, he shall find whether or not such period of time  
52 as originally fixed, or as so fixed and extended, should  
53 be extended. If he finds that such period of time should  
54 be extended, he shall find what a reasonable extension  
55 would be. If he finds that such violation has not been  
56 totally abated, and if such period of time as originally  
57 fixed, or as so fixed and extended, has then expired, and  
58 if he also finds that such period of time should not be  
59 further extended, he shall also find the extent of the area  
60 of such mine which is affected by such violation. There-  
61 upon, he shall make an order requiring the operator of  
62 such mine to cause all persons in such area, excepting  
63 persons referred to in paragraph (e) of this section, to  
64 be withdrawn from, and to be debarred from entering  
65 such area. Such findings and order shall contain reference  
66 to the specific provisions of article two of this chapter  
67 which are being violated and a detailed description of  
68 the area of such mine throughout which persons must be  
69 withdrawn and debarred.

70 (d) If a mine inspector, upon making an inspection

71 of a mine as authorized by this article, finds that methane  
72 has been ignited in said mine, or has been detected with  
73 a permissible flame safety lamp, or by laboratory analysis  
74 of a sample of air collected in active workings, in an air  
75 current perceptible by smoke tube or other visible means,  
76 taken not less than twelve inches from the roof, face  
77 and rib, in an amount of twenty-five hundredths per  
78 cent or more, he shall enter an order classifying the  
79 mine as a gassy mine.

80 (e) No order issued under this section shall require  
81 any of the following persons to be withdrawn from, or to  
82 be debarred from entering, the area described in the  
83 order: (A) Any person whose presence in such area is  
84 necessary, in the judgment of the operator of the mine,  
85 to eliminate the danger described in an order or to abate  
86 the violation described in an order; (B) the director of  
87 the department of mines or any mine inspector whose  
88 official duties require him to enter such area; or (C) any  
89 technical consultant, or any authorized representative of  
90 the employees of the mine, who is himself an employee  
91 of the mine or, if not an employee of the mine, who as-  
92 sumes all risks to which he may be subject while in or  
93 around the mine, who is a certified person qualified to  
94 make mine examinations, or is accompanied by such a  
95 person, and whose presence in the area is necessary for  
96 the proper investigation of the conditions described in  
97 the order.

98 (f) Notice of each finding and order made under this  
99 section shall promptly be given to the operator of the  
100 mine to which it pertains, by the person making such  
101 finding or order.

102 (g) No order shall be issued under the authority of  
103 this section which is not expressly authorized herein.

*Sec. 12. Review by Director of Department of Mines.—*

2 Any operator notified of findings or an order made by a  
3 mine inspector pursuant to section eleven of this article,  
4 may apply to the director of the department of mines  
5 for annulment or revision of such order. Upon receipt of  
6 such application the director of the department of mines  
7 shall make a special inspection of the mine affected by

8 such order, or cause two duly authorized mine inspectors,  
9 other than the mine inspector who made such order, to  
10 make such inspection of such mine and to report thereon  
11 to him. Upon making such special inspection himself, or  
12 upon receiving the report of such inspection made by  
13 such mine inspectors, the director of the department of  
14 mines shall make an order which shall include his findings  
15 and shall annul, revise or affirm the order of the inspector.

16 The director of the department of mines shall cause  
17 notice of each finding and order made under this section  
18 to be given promptly to the operator of the mine to  
19 which it pertains.

20 At any time while an order made pursuant to section  
21 eleven, or this section, of this article, is in effect, the  
22 operator of the mine affected by such order may apply to  
23 the director of the department of mines for annulment  
24 or revision of such order. The director of the department  
25 of mines shall thereupon proceed to act upon such ap-  
26 plication in the manner provided in this section.

27 In the view of the urgent need for prompt decision of  
28 matters submitted to the director of the department of  
29 mines under this section, all actions which he, or mine  
30 inspectors designated by him, are required to take under  
31 this section shall be taken as rapidly as practicable, con-  
32 sistent with adequate consideration of the issues involved.

Sec. 13. *Notices.*—(a) All findings and orders made  
2 pursuant to sections eleven or twelve of this article and  
3 all notices required to be given of the making of such  
4 findings and orders, shall be in writing. All such findings  
5 and orders shall be signed by the person making them,  
6 and all such notices shall be signed by the person charged  
7 with the duty of giving the notice. All such notices shall  
8 contain a copy of the findings and orders referred to  
9 therein.

10 (b) Each operator of a mine shall maintain an office  
11 on or near the premises of such mine and shall maintain  
12 thereon a conspicuous sign designating it as the office of  
13 such mine. Each operator of a mine shall maintain a  
14 bulletin board at such office or at some conspicuous place  
15 near the entrance of such mine, in such manner that

16 notices required by law to be posted on the mine bulletin  
 17 board may be posted thereon, be easily visible to all  
 18 persons desiring to read them, and be protected against  
 19 damage by weather and against unauthorized removal.  
 20 The operator shall maintain on such bulletin board a  
 21 conspicuous sign designating it as the bulletin board of  
 22 such mine. Notice of any finding or order required by  
 23 sections eleven or twelve of this article to be given to  
 24 an operator shall be given by causing such notice, ad-  
 25 dressed to the operator of the mine to which it pertains,  
 26 to be delivered to the office of such mine provided for  
 27 in this subsection; and by causing a copy of such notice  
 28 to be posted on the bulletin board of such mine provided  
 29 for in this subsection. The requirement of the preceding  
 30 sections that a notice shall be "addressed to the operator  
 31 of the mine to which it pertains," shall not require that  
 32 the name of the operator for whom it is intended shall be  
 33 specifically set out in such address. Addressing such  
 34 notice to "Operator of \_\_\_\_\_ Mine," specifying  
 35 the mine sufficiently to identify it, shall satisfy such  
 36 requirement.

37 (c) The director of the department of mines shall  
 38 cause a copy of such notice to be mailed immediately to  
 39 a designated representative of the employees of the mine  
 40 to which it pertains.

Sec. 14. *Coal Mine Safety Board of Review; Appoint-  
 2 ment; Eligibility; Terms.*—(a) There is hereby created  
 3 a board to be known as the coal mine safety board of  
 4 review, which shall be composed of <sup>five</sup>~~four~~ members who,  
 5 except for the public representative, shall be appointed  
 6 by the governor, by and with the advice and consent of  
 7 the senate. Members so appointed may be removed only  
 8 for the same causes and in like manner as elective state  
 9 officials. One of the members of the board shall be the  
 10 public representative who shall be the director of the  
 11 school of mines at West Virginia university. Two mem-  
 12 bers of the board shall be persons who by reason of  
 13 previous training and experience may reasonably be  
 14 said to represent the viewpoint of coal mine operators  
 15 and two members shall be persons who by reason of

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16 previous training and experience may reasonably be said  
17 to represent the viewpoint of coal mine workers.

18 (b) The members of the board, except the public  
19 representative, shall be appointed for terms of four years,  
20 and any member whose term expires may be reappointed  
21 by the governor.

22 (c) Each member of the board shall receive forty  
23 dollars per diem while actually engaged in the perform-  
24 ance of the work of the board; and shall receive mileage  
25 at the rate of ten cents for each mile actually traveled  
26 going from the home of the member to the place of  
27 meeting of the board and returning therefrom.

28 (d) The board after being duly organized shall take  
29 and subscribe to, before any official authorized to admin-  
30 ister the same, the oath prescribed by section five of  
31 article four of the constitution of West Virginia.

32 (e) The board shall employ and prescribe the duties  
33 of a secretary of the board and such other office or clerical  
34 assistance as it deems necessary. Every official act of  
35 the board shall be entered of record, and its hearings and  
36 records shall be open to the public.

37 (f) The mine safety board of review shall hear and  
38 determine applications filed pursuant to section fifteen  
39 of this article, for annulment or revision of findings or  
40 orders made pursuant to sections eleven or twelve of  
41 this article, and shall hear and determine applications  
42 filed pursuant to section sixteen of this article. The board  
43 shall not make or cause to be made any inspection of a  
44 mine for the purpose of determining any pending ap-  
45 plication.

46 (g) The board is authorized to make such rules as  
47 are necessary for the orderly transaction of its proceed-  
48 ings, which shall include requirement for adequate notice  
49 of hearing to all parties.

50 (h) Any member of the board may sign and issue  
51 subpoenas for the attendance and testimony of witnesses  
52 and the production of relevant papers, books and docu-  
53 ments, and administer oaths. Witnesses summoned be-  
54 fore the board shall be paid the same fees and mileage  
55 that are paid witnesses in the circuit courts of the state.

56 (i) The board may order testimony to be taken by  
57 deposition in any proceeding pending before it, at any  
58 stage of such proceeding. Reasonable notice must first  
59 be given in writing by the party or his attorney proposing  
60 to take such deposition to the opposite party or his at-  
61 torney of record, which notice shall state the name of  
62 the witness and the time and place of the taking of his  
63 deposition. Any person may be compelled to appear and  
64 depose, and to produce books, papers or documents, in  
65 the same manner as witnesses may be compelled to appear  
66 and testify and produce like documentary evidence before  
67 the board, as provided in subsection (h) of this section.  
68 Witnesses whose depositions are taken under this sub-  
69 section shall be entitled to the same fees as are paid for  
70 like services in the circuit courts of the state.

71 (j) In case of contumacy by, or refusal to obey a sub-  
72 poena served upon, any person under this section, the  
73 circuit court of any county in which such person is found  
74 or resides or transacts business, upon proper application  
75 thereto, and after notice to such person and hearing,  
76 shall have jurisdiction to issue an order requiring such  
77 person to appear and give testimony before the board  
78 or to appear and produce documents before the board,  
79 or both; and any failure to obey such order of the court  
80 may be punished by such court as a contempt thereof.

Sec. 15. *Review by Board.*—(a) Any operator notified  
2 of an order or finding made pursuant to section eleven  
3 of this article, may apply to the coal mine safety board  
4 of review for annulment or revision of such finding or  
5 order without seeking its annulment or revision under  
6 section twelve of this article; and any operator notified  
7 of an order made pursuant to section twelve of this article  
8 may apply to the board for annulment or revision of such  
9 order: *Provided, however,* That any such application shall  
10 be filed with the board not later than thirty days after  
11 the receipt of notice of such order or finding.

12 (b) The operator shall be designated as the applicant  
13 in such proceeding and the application filed by him shall  
14 recite the order complained of and other facts sufficient  
15 to advise the board of the nature of the proceeding. He

16 may allege in such application: That danger as set out  
17 in such order does not exist at the time of the filing of  
18 such application; that violation of the provisions of article  
19 two of this chapter as set out in such finding or order,  
20 has not occurred; that such violation has been totally or  
21 partially abated; that the period of time within which  
22 such violation should be totally abated, as fixed in the  
23 findings upon which such order was based, was not rea-  
24 sonable; that the area of the mine described in such order  
25 as the area affected by the violation referred to in such  
26 order is not so affected at the time of the filing of such  
27 application; or that the mine described in such order is  
28 not a gassy mine. The director of the department of mines  
29 shall be the respondent in such proceeding, and the ap-  
30 plicant shall send a copy of such application by registered  
31 mail to the director of the department of mines.

32 (c) Immediately upon the filing of such an application  
33 the board shall fix the time for a prompt hearing thereof.

34 (d) An application for annulment or revision of a  
35 finding or order filed in accordance with the provisions  
36 of this section shall act as a supersedeas of such finding  
37 or order, unless such finding or order is entered pursuant  
38 to the provisions of section eleven (a).

39 Pending final hearing on an application to annul or  
40 revise a finding or order entered pursuant to the pro-  
41 visions of section eleven (a), the applicant may file  
42 with the board a written request for temporary relief  
43 from such finding or order, and upon a showing of good  
44 cause temporary relief may be granted.

45 (e) The board shall not be bound by any previous  
46 findings of fact by the respondent or by any mine inspec-  
47 tor, or by any other representative of the department of  
48 mines. Evidence relating to the making of the order  
49 complained of and relating to the questions raised by the  
50 allegations of the pleadings or other questions pertinent  
51 in the proceeding may be offered by both parties to the  
52 proceeding. If the respondent claims that danger or a  
53 violation of article two of this chapter, as set out in such  
54 order, existed at the time of the filing of the application,  
55 or that gas has been ignited or found in such mine as set  
56 out in the order under review, the burden of proving the

57 then existence of such danger or violation, or that gas  
58 has been ignited or found in such mine as set out in the  
59 order under review, shall be upon the respondent, and  
60 the respondent shall present his evidence first to prove  
61 the then existence of such danger or violation. Following  
62 presentation of respondent's evidence the applicant may  
63 present his evidence, and thereupon respondent may pre-  
64 sent evidence to rebut the applicant's evidence.

65 (f) After the conclusion of such hearing the board  
66 shall make its findings and shall enter an order annulling,  
67 revising or affirming the finding or order under review.

68 (g) Each finding and order made by the board shall  
69 be in writing. It shall show the date on which it is made,  
70 and shall bear the signatures of the members of the board  
71 who concur therein. Upon making a finding and order  
72 the board shall cause a true copy thereof to be sent by  
73 registered mail to all parties or their attorneys of record.  
74 The board shall cause each such finding and order to be  
75 entered on its official record, together with any written  
76 opinion prepared by any member in support of, or dis-  
77 senting from, any such finding or order.

78 (h) In view of the urgent need for prompt decision  
79 of matters submitted to the board under this section, all  
80 actions which the board is required to take under this  
81 section shall be taken as rapidly as practicable, consistent  
82 with adequate consideration of the issues involved.

Sec. 16. *Review of Other Administrative Action.*—(a)

2 Any operator aggrieved by any action or ruling of the  
3 director of the department of mines or any mine inspector,  
4 or other authorized representative of the department of  
5 mines, pursuant to any provision of article two of this  
6 chapter, which action or ruling is not reviewable under  
7 section fifteen of this article, may apply to the coal mine  
8 safety board of review for annulment, correction or re-  
9 vision of such action or ruling: *Provided, however,* That  
10 an operator applying to the board for annulment, correc-  
11 tion or revision of such action or ruling, not reviewable  
12 under section fifteen of this article, shall file such appli-  
13 cation with the board not later than thirty days after  
14 receiving notice of such action or ruling.

15 (b) Upon the filing of such an application the board  
16 shall proceed to hear and determine the matter in accord-  
17 ance with the procedure set forth in section fifteen of  
18 this article, insofar as the same may be applicable, and  
19 shall thereupon make such findings as may be appro-  
20 priate, and enter an order, consistent with such findings,  
21 affirming, annulling, correcting or revising the action or  
22 ruling under review.

Sec. 17. *Judicial Review.*—(a) Any final order issued  
2 by the board under sections fifteen or sixteen of this  
3 article shall be subject to judicial review by the circuit  
4 court of the county in which the mine affected is located  
5 or the circuit court of Kanawha county upon the filing  
6 in such court or with the judge thereof in vacation, of a  
7 petition for appeal by the director of the department of  
8 mines or the operator aggrieved by such final order,  
9 within thirty days from the date of the making of such  
10 final order.

11 (b) The party making such appeal shall forthwith  
12 send a copy of such petition for appeal, by registered  
13 mail, to the other party and to the board. Upon receipt  
14 of such copy of such petition for appeal the board shall  
15 promptly certify and file in such court a complete tran-  
16 script of the record upon which the order complained of  
17 was made. The costs of such transcripts shall be paid by  
18 the party making the appeal.

19 (c) The court or judge thereof in vacation, shall hear  
20 such appeal on the record made before the board, and  
21 shall permit argument, oral or written or both, by both  
22 parties. The court shall permit such pleadings, in addition  
23 to the pleadings before the board, as it deems to be re-  
24 quired.

25 (d) Upon such conditions as may be required and to  
26 the extent necessary to prevent irreparable injury, any  
27 circuit court to which an appeal has been made as pro-  
28 vided in subsection (c) of this section, may, after due  
29 notice to and hearing of the parties to the appeal, issue all  
30 necessary and appropriate process to postpone the effec-  
31 tive date of the final order of the board or to grant such

32 other relief as may be appropriate pending final determi-  
33 nation.

34 (e) A circuit court to which an appeal has been made  
35 as provided in subsection (c) of this section, may affirm,  
36 annul, or revise the final order of the board, or it may  
37 remand the proceeding to the board for such further  
38 action as it directs.

39 (f) The decision of a circuit court on an appeal from  
40 the board shall be final, subject only to review by the  
41 supreme court of appeals of West Virginia upon a petition  
42 for certiorari filed in such court within sixty days from  
43 the entry of the order and decision of the circuit court  
44 upon such appeal from the board.

Sec. 18. *Penalties.*—Any person who has notice of a  
2 valid order made pursuant to sections eleven or twelve  
3 of this article, who wilfully disobeys or fails to comply  
4 with such order, or who interferes with the director of  
5 the department of mines or a mine inspector in the dis-  
6 charge of duties hereunder, shall be guilty of a misde-  
7 meanor and upon conviction thereof shall be fined not  
8 less than ten nor more than five hundred dollars.

Sec. 19. *Mine Rescue Stations; Equipment.*—The direc-  
2 tor of the state department of mines is hereby authorized  
3 to purchase, equip and operate for the use of said depart-  
4 ment such mine rescue stations and equipment as he may  
5 deem necessary.

Sec. 20. *Mine Rescue Crews.*—The director of the state  
2 department of mines is hereby authorized to have trained  
3 and employed at the rescue stations operated by that  
4 department within the state, such rescue crews as he may  
5 deem necessary. Each member of a rescue crew shall  
6 devote four hours each month for training purposes, and  
7 shall be available at all times to assist in rescue work at  
8 explosions and mine fires. Regular members shall receive  
9 for such services the sum of seven dollars per month and  
10 captains shall receive eight dollars per month, payable  
11 on requisition approved by the director of the department  
12 of mines, and such other sums, to be paid by the operat-  
13 ing company, as may be agreed upon when engaged in

14 rescue work at explosions or mine fires. The director of  
15 the department of mines may remove any member of a  
16 rescue crew at any time.

Sec. 21. *Supervision of Mine Rescue Work.*—The direc-  
2 tor of the department of mines is hereby authorized to  
3 assign mine rescue teams and such mine rescue and re-  
4 covery work to inspectors or other qualified employees  
5 of the department of mines as he may deem necessary.

Sec. 22. *Provisions of Article Severable.*—The various  
2 provisions of this article shall be construed as separable  
3 and severable, and should any of the provisions, sentences,  
4 clauses, or parts thereof be construed or held unconstitu-  
5 tional or for any reason be invalid, the remaining pro-  
6 visions of this article shall not be thereby affected.

## Article 2. Coal Mines

Section 1. *Definitions.*—Mine: In this article the term  
2 “mine” shall include the shafts, slopes, drifts or inclines  
3 connected with excavations penetrating coal seams or  
4 strata, which excavations are ventilated by one general  
5 air current or divisions thereof, and connected by one  
6 general system of mine haulage over which coal may be  
7 delivered to one or more points outside the mine, and the  
8 surface structures or equipment connected therewith  
9 which contribute directly or indirectly to the mining,  
10 preparation or handling of coal.

11 Excavations and Workings: The term “excavations and  
12 workings” shall mean any or all parts of a mine exca-  
13 vated or being excavated, including shafts, slopes, drifts,  
14 tunnels, entries, rooms, and working places, whether  
15 abandoned or in use.

16 Shaft: The term “shaft” shall mean a vertical opening  
17 through the strata that is or may be used for purposes  
18 of ventilation, drainage, and the hoisting and transporta-  
19 tion of men and material, in connection with the mining  
20 of coal.

21 Slope: The term “slope” shall mean a plane or incline  
22 roadway, usually driven to a coal seam from the surface  
23 and used for the same purposes as a shaft.

24 Drift: The term "drift" shall mean a horizontal or ap-  
25 proximately horizontal opening through strata or in a  
26 coal seam and used for the same purpose as a shaft.

27 Operator: The term "operator" shall mean any firm,  
28 corporation, partnership or individual operating any coal  
29 mine or part thereof.

30 Superintendent: The term "superintendent" shall mean  
31 the person who shall have, on behalf of the operator,  
32 immediate supervision of one or more mines.

33 Mine Foreman: The term "mine foreman" shall mean  
34 the person charged with the responsibility of the general  
35 supervision of the underground workings of a mine and  
36 the persons employed therein. He shall hold a certificate  
37 of competency for such position issued to him by the  
38 department of mines after taking an examination held by  
39 the department of mines.

40 Assistant Mine Foreman: The term "assistant mine  
41 foreman" shall mean a person designated to assist the  
42 mine foreman in the supervision of a portion or the whole  
43 of a mine or of the persons employed therein.

44 Supervisor: The term "supervisor" shall mean a super-  
45 intendent, mine foreman, assistant mine foreman, or any  
46 person specifically designated by the superintendent or  
47 mine foreman to supervise work or employees and who  
48 is acting pursuant to such specific designation and in-  
49 structions.

50 Fire Boss: The term "fire boss" shall mean any person  
51 designated to examine a mine for gas and other dangers.  
52 Such person shall have the qualifications required by this  
53 article.

54 Shot Firer: The term "shot firer" shall mean any com-  
55 petent person having had at least three years practical  
56 experience in coal mines; who has a knowledge of ventila-  
57 tion, mine roof and timbering; and who has demonstrated  
58 knowledge of mine gases and the use of a flame safety  
59 lamp, by examination given him by the mine foreman.

60 Approved: The term "approved" shall mean any equip-  
61 ment, device, or explosive, approved by the director of  
62 the department of mines.

63 Permissible: The term "permissible" shall mean any

64 equipment, device, or explosive, that has been approved as  
65 permissible by the United States bureau of mines, and  
66 meets all requirements, restrictions, exceptions, limita-  
67 tions and conditions attached to such classification by said  
68 bureau.

69 Nongassy Mine: The term "nongassy mine" shall mean  
70 any coal mine which is not classified as gassy.

71 Gassy Mine: The term "gassy mine" shall mean any  
72 mine in which methane has been ignited, or has been  
73 detected with a permissible flame safety lamp, or by  
74 laboratory analysis of an air sample collected in active  
75 workings, in a perceptible air current, taken not less than  
76 twelve inches from the roof, face and rib, in an amount  
77 of twenty-five hundredths per cent or more.

78 Interested Persons: The term "interested persons" shall  
79 include the operator, members of any mine safety com-  
80 mittee at the mine affected and other duly authorized  
81 representatives of the mine workers, and state mine in-  
82 spectors.

83 Abandoned Workings: The term "abandoned work-  
84 ings" shall mean excavations, either caved or sealed, that  
85 are deserted and in which further mining is not intended,  
86 and open workings which are ventilated and not inspected  
87 regularly.

## MINE MAPS

Sec. 2. *Mine Maps; Certificate of Engineer.*—The oper-  
2 ator of every coal mine shall make, or cause to be made,  
3 an accurate map or plan of such mine, on a scale of not  
4 less than one hundred, and not more than one thousand  
5 feet to the inch. Such map or plan shall show the open-  
6 ings or excavations, the shafts, slopes, entries and air-  
7 ways, with darts or arrows showing directions of air cur-  
8 rents, headings, rooms, pillars, and such portions of such  
9 mine or mines as may have been abandoned, the general  
10 inclination of the coal strata, and so much of the property  
11 lines and the outcrop of the coal seam of the tract of land  
12 on which the mine is located as may be within one thou-  
13 sand feet of any part of the workings of such mine. A  
14 true copy of such map or plan shall be forwarded annually

15 by such operator, to the inspector of his district, to be  
 16 preserved among the records of his office and turned over  
 17 to his successor in office; but in no case shall any copy  
 18 of the same be made without the consent of the operator,  
 19 nor shall the map be used by any person for any purpose  
 20 other than as intended by this article. The original map,  
 21 or a true copy thereof, shall be kept by such operator at  
 22 the office of the mine, and open at all reasonable times  
 23 for the examination and use of the inspector, and such  
 24 operator shall, twice within every twelve months, while  
 25 the mine is in operation, cause such survey and the map  
 26 thereof to be extended so as to accurately show the prog-  
 27 ress of the workings, the property lines and outcrops as  
 28 above provided.

29 The map or maps required by this section shall have  
 30 the certificate and seal of the engineer, in the following  
 31 form:

32 "I, the undersigned, hereby certify that this map is  
 33 correct and shows all the information, to the best of my  
 34 knowledge and belief, required by the mining laws of this  
 35 state, and covers the period ending.....

36  
 37

Engineer"

### VENTILATION

2 Sec. 3. *Plan of Ventilation; Approval by Director of*  
 3 *Department of Mines.*—Every operator of a coal mine,  
 4 before making any new or additional openings, shall sub-  
 5 mit to the director of the department of mines, for his  
 6 information and approval, a general plan showing the  
 7 proposed system of ventilation and ventilating equipment  
 8 of the openings with their location and relative positions  
 9 to adjacent developments; and no such new or additional  
 10 openings shall be made until approved by the director  
 11 of the department of mines. The director of the depart-  
 12 ment of mines shall promptly approve any such plans  
 13 submitted if the proposed system of ventilation and venti-  
 lating equipment meet the requirements of this article.

2 Sec. 4. *Fans.*—The ventilation of mines which extend  
 more than two hundred feet underground, and which are

3 opened after the effective date of this article, shall be pro-  
4 duced by a mechanically operated fan or mechanically  
5 operated fans. Ventilation by means of a furnace is pro-  
6 hibited in any mine. The fan or fans shall be kept in  
7 continuous operation, unless written permission to do  
8 otherwise be granted by the director of the department  
9 of mines. In case of accident to a ventilating fan or its  
10 machinery whereby the ventilation of the mine is seri-  
11 ously interrupted, immediate action shall be taken by  
12 mine management, in a gassy mine, to cut off the power  
13 and withdraw the men from the face regions or other  
14 areas of the mine affected. If the ventilation is restored  
15 in a reasonable time, the face regions and other places,  
16 in the affected areas, where gas (methane) is likely to  
17 accumulate, shall be reexamined by a certified or com-  
18 petent person and if found free of explosive gas, power  
19 may be restored and work resumed. If ventilation is not  
20 restored in a reasonable time all underground employees  
21 shall be removed from the mine or the affected areas. In  
22 mines classified as nongassy, when the ventilation is  
23 seriously interrupted by fan stoppage or failure, imme-  
24 diate action shall be taken by the mine management to  
25 cut off the power and withdraw the men from the face  
26 regions or other areas of the mine affected. If the venti-  
27 lation is restored within a reasonable time, the face re-  
28 gions and other places in the affected areas shall be re-  
29 examined by a certified or competent person, and if found  
30 in safe condition, work may be resumed. If ventilation is  
31 not restored within a reasonable time all underground  
32 employees shall be removed from the mine or affected  
33 areas. If the ventilation is not restored within thirty  
34 minutes in any mine the men shall be removed from the  
35 mine or affected areas: *Provided, however,* That in mines  
36 liberating gas in large quantities the men shall be re-  
37 moved from the affected area unless the ventilation has  
38 been restored in fifteen minutes.

39 All main fans installed after the effective date of this  
40 article shall be located on the surface in fireproof housings  
41 offset not less than fifteen feet from the nearest side of  
42 the mine opening, equipped with fireproof air ducts pro-

43 vided with explosion doors or a weak wall, and operated  
44 from an independent power circuit. In lieu of the re-  
45 quirements for the location of fans and pressure-relief  
46 facilities, a fan may be directly in front of, or over, a  
47 mine opening: *Provided, however,* That such opening is  
48 not in direct line with possible forces coming out of the  
49 mine if an explosion occurs: *And provided further,* That  
50 there is another opening having a weakwall stopping or  
51 explosion doors that would be in direct line with forces  
52 coming out of the mine. All main fans shall be provided  
53 with pressure-recording gauges, or water gauges. A daily  
54 inspection shall be made of all main fans and machinery  
55 connected therewith by a competent person and a record  
56 kept of the same in a book prescribed for this purpose, or  
57 by adequate facilities provided to permanently record the  
58 performance of the main fan and to give warning of an  
59 interruption to a fan.

60 Auxiliary blower or exhaust fans may be used to venti-  
61 late shaft-and-slope-sinking operations and their under-  
62 ground connections, rock tunnels being driven between  
63 coal beds or through faults and wants, or in the driving  
64 of single entries or rooms by mining equipment in use  
65 at the time of the acquisition of the mine by the operator  
66 or prior to the effective date of this article, or equipment  
67 which may hereafter be developed through technological  
68 progress, provided they are powered by permissible driv-  
69 ing units when installed underground, operated contin-  
70 uously while any work is being performed in the area be-  
71 ing ventilated, and so placed that recirculation of the air is  
72 not possible. The inby end of the tubing, line curtain or  
73 other device shall be kept sufficiently close to the face to  
74 dilute, render harmless and carry away all dangerous  
75 gasses.

Sec. 5. *Ventilation of Mines in General.*—The operator  
2 or mine foreman of every coal mine, whether worked by  
3 shaft, slope or drift, shall provide and hereafter maintain  
4 for every such mine adequate ventilation. In mines classi-  
5 fied as gassy the quantity of air passing through the last  
6 open crosscut in any pair or set of entries shall be not  
7 less than six thousand cubic feet of air per minute, and

8 as much more as is necessary to dilute and render harm-  
9 less and carry away flammable and harmful gases: *Pro-*  
10 *vided, however,* That the quantity of air reaching the  
11 last crosscut in pillar sections may be less than six thou-  
12 sand cubic feet per minute if at least six thousand cubic  
13 feet of air per minute is being delivered to the intake of  
14 the pillar line. In nongassy mines the quantity of air  
15 being circulated shall not be less than one hundred fifty  
16 cubic feet per man per minute. If animals are used in a  
17 mine, five hundred cubic feet per animal per minute must  
18 be provided in addition to the minimum volume specified  
19 for men. The air current shall under any conditions have  
20 a sufficient volume and velocity to reduce and carry away  
21 smoke from blasting and any flammable or harmful gases.  
22 All active underground working places in a mine shall  
23 be ventilated by a current of air containing not less  
24 than nineteen and five-tenths per centum of oxygen, and  
25 not more than one per centum of carbon dioxide, and no  
26 harmful quantities of other noxious or poisonous gases.  
27 As working places advance, crosscuts for air shall be  
28 made not to exceed eighty feet apart in pillars, or line  
29 brattice or other approved methods of ventilation shall  
30 be used so as to properly ventilate the face. With the  
31 approval of the state department of mines, greater dis-  
32 tances than those so specified may be made between cross-  
33 cuts. All crosscuts between the main intake and return  
34 airways not required for passage of air and equipment  
35 shall be closed with stoppings substantially built with in-  
36 combustible material, so as to keep working places well  
37 ventilated.

38 In gassy mines a system of bleeder openings or air  
39 courses designed to provide positive movement of air  
40 through and/or around abandoned or caved areas, suffi-  
41 cient to prevent dangerous accumulation of gas in such  
42 areas and to minimize the effect of variations in atmos-  
43 pheric pressure, shall be made a part of pillar recovery  
44 plans projected after the effective date of this article.

45 Not more than sixty persons shall be permitted to work  
46 in the same air current: *Provided,* That a larger number,  
47 not exceeding eighty persons, may be allowed by the

48 director of the department of mines where it is imprac-  
49 ticable to comply with the foregoing requirements.

50 No operator or mine foreman shall permit any persons  
51 to work where they are unable to maintain the quantity  
52 and quality of the air current as heretofore required:  
53 *Provided, however,* That such provision shall not pro-  
54 hibit the employment of men to make places of employ-  
55 ment safe.

56 The ventilation of any mine shall be so arranged by  
57 means of airlocks, overcasts, or undercasts, that the use  
58 of doors on passageways where men or equipment travel  
59 may be kept to a minimum. Where doors are used in a  
60 gassy mine they shall be erected in pairs so as to provide  
61 a ventilated airlock, unless the doors are operated me-  
62 chanically: *Provided, however,* That such provision shall  
63 not apply to doors in or between panel or room entries.  
64 In mines not classified as gassy, single doors may be used,  
65 provided such doors are closed promptly after men or  
66 equipment have passed through them.

67 Overcasts or undercasts shall be constructed of incom-  
68 bustible material and maintained in good condition.

69 Where practicable, a crosscut shall be provided at or  
70 near the face of each entry or room before such places  
71 are abandoned.

72 Rooms, entries, airways, or other working places shall  
73 not be driven in advance of air currents. Such provision  
74 shall not prohibit, as the room, entry or aircourse ad-  
75 vances, the "necking" of any place for a distance which  
76 shall not exceed that actually required for the installation  
77 of mining equipment in use at this location: *Provided,*  
78 *however,* That such room necks or entries are kept free  
79 of accumulations of methane by use of line brattice or  
80 other adequate means.

Sec. 6. *Unused and Abandoned Parts of the Mine.*—In  
2 a gassy mine, all workings which are abandoned after  
3 the effective date of this article, or the date such mine  
4 became a gassy mine, whichever is later, shall be sealed  
5 or ventilated. If such workings are sealed, the sealing  
6 shall be done with incombustible material in a manner  
7 prescribed by the director of the department of mines;

8 and one or more of the seals of every sealed area shall  
9 be fitted with a pipe and cap or valve to permit the  
10 sampling of gases and measuring of hydrostatic pressure  
11 behind such seals. For the purpose of this section, work-  
12 ings within a panel shall not be deemed to be abandoned  
13 until such panel is abandoned.

14 In a gassy mine, air that has passed through an aban-  
15 doned panel which is inaccessible for inspection, or air  
16 that has been used to ventilate an area from which the  
17 pillars have been removed, shall not be used to ventilate  
18 any active face area in such mine: *Provided, however,*  
19 That such provision shall not apply to air which is being  
20 used to ventilate an active pillar line and rooms which are  
21 necessary to establish and maintain such pillar line.

#### CLASSIFICATION OF MINES AND EXAMINATIONS

##### Sec. 7. *Gassy Mines; Nongassy Mines; Examination.*—

2 In a gassy mine, within four hours immediately preceding  
3 the beginning of a coal-producing shift, and before any  
4 workman in such shift, other than those who may be  
5 designated to make the examinations, enter the under-  
6 ground areas of such mine, a certified foreman or fireboss,  
7 designated by the operator of such mine to do so, shall  
8 make an examination of such areas.

9 Idle or abandoned sections shall be examined for gas  
10 and other dangerous conditions by a certified foreman  
11 or fire boss before other employees are permitted to enter  
12 to work in such places. No persons other than certified  
13 persons shall enter any underground area in a gassy mine,  
14 except during a coal-producing shift, unless an examina-  
15 tion of such area has been made within twelve hours im-  
16 mediately preceding their entrance into such area.

17 In a nongassy mine an examination shall be made at  
18 least once in each calendar day during which coal is pro-  
19 duced. This examination shall be made within four hours  
20 immediately preceding the beginning of the first coal-  
21 producing shift on such day.

## MINE FOREMAN

2 *Sec. 8. Mine Foreman; When to Be Employed; Quali-*  
3 *fications; Assistants.*—In every coal mine where five or  
4 more persons are employed in a period of twenty-four  
5 hours, the operator shall employ a mine foreman who  
6 shall be a competent and practical person, holding a  
7 certificate of competency for such position issued to him  
8 by the department of mines after an examination by such  
9 department. In order to receive a certificate of com-  
10 petency to qualify as mine foreman, he shall at the time  
11 he takes the examination, be a citizen and resident of  
12 this state, be at least twenty-five years of age, of good  
13 moral character and temperate habits, having had at least  
14 five years experience in the underground working, venti-  
15 lation and drainage of coal mines, or be a graduate of  
16 the school of mines of West Virginia university or of  
17 another accredited mining engineering school and have  
18 had three years practical experience in coal mines: *Pro-*  
19 *vided, however,* That in order for any person to be em-  
20 ployed as a mine foreman in a gassy mine, three years of  
21 his practical experience shall have been in a mine liber-  
22 ating methane.

23 In mines in which the operations are so extensive that  
24 all the duties devolving upon the mine foreman cannot  
25 be discharged by one man, competent persons having had  
26 at least three years experience in coal mines may be  
27 designated as assistants, who shall act under the mine  
28 foreman's instructions and the mine foreman shall be  
29 responsible for their conduct in the discharge of their  
duties under such designation.

2 *Sec. 9. Mine Foreman; Duties; Ventilation; Loose Coal,*  
3 *Slate or Rock; Props; Drainage of Water.*—The duties of  
4 mine foreman shall be to keep a careful watch over the  
5 ventilating apparatus, the airways, traveling ways, pumps  
6 and drainage. He shall see that as the miners advance  
7 their excavations proper breakthroughs are made so as  
8 to properly ventilate the mine; that all loose coal, slate  
9 and rock overhead in the working places and along the  
haulways are removed or carefully secured so as to pre-

10 vent danger to persons employed in such mines, and that  
11 sufficient suitable props, caps, timbers, roof bolts, or other  
12 approved methods of roof supports are furnished for the  
13 places where they are to be used, and delivered at suitable  
14 points. The mine foreman shall have all water drained  
15 or hauled out of the working places where practicable,  
16 before the miners enter, and such working places shall  
17 be kept dry as far as practicable while the miners are at  
18 work. It shall be the duty of the mine foreman to see  
19 that proper crosscuts are made, and that the ventilation  
20 is conducted by means of such crosscuts through the rooms  
21 by means of checks or doors placed on the entries or other  
22 suitable places, and he shall not permit any room to be  
23 opened in advance of the ventilating current. The mine  
24 foreman, or other certified persons designated by him,  
25 shall measure the air current with an anemometer at  
26 least twice each month at the inlet and outlet at or near  
27 the faces of the advanced headings, and shall keep a  
28 record of such measurements in a book or upon a form  
29 prescribed by the director of the department of mines.  
30 Signs directing the way to outlets or escapeways shall be  
31 conspicuously placed throughout the mine.

Sec. 10. *Mine Foreman; Haulage Roads.*—The mine  
2 foreman shall require that all slopes, incline planes and  
3 haulage roads used by any person in the mine shall con-  
4 form to the provisions of this article.

Sec. 11. *Mine Foreman; Signals on Haulways; Lights  
2 at Mouth and Bottom of Shaft; Operation of Cages.*—On  
3 all haulways, where hauling is done by machinery of any  
4 kind, the mine foreman shall provide for a proper system  
5 of signals, and a conspicuous light on the front and rear  
6 of every trip or train of cars when in motion in a mine.  
7 When hoisting or lowering of men occurs in the morning  
8 before daylight, or in the evening after darkness, at any  
9 mine operated by shaft, the mine foreman shall provide  
10 and maintain at the shaft mouth a light of stationary  
11 character sufficient to show the landing and all surround-  
12 ing objects distinctly and sufficient light of a stationary  
13 character shall be located at the bottom of the shaft so

14 that persons coming to the bottom may clearly discern  
15 the cages and other objects contiguous thereto. The mine  
16 foreman shall require that no cages on which men are  
17 riding shall be lifted or lowered at a rate of speed greater  
18 than one thousand feet per minute, and that no mine cars,  
19 either empty or loaded, shall be hoisted while men are  
20 being lowered or hoisted, and no cage having an unstable  
21 self dump platform, shall be used for the carrying of  
22 workmen unless the same is provided with some device  
23 by which it may be securely locked when men are being  
24 hoisted or lowered into the mine.

Sec. 12. *Mine Foreman; Bore Holes.*—It shall further  
2 be the duty of the mine foreman to have bore holes kept  
3 not less than twenty feet in advance of the face, and  
4 where necessary, one each cut on sides of the working  
5 places that are being driven toward, and in dangerous  
6 proximity to, an abandoned mine or part of mine which  
7 may contain inflammable gases or which is filled with  
8 water. These holes shall be drilled whenever any work-  
9 ing place in an underground mine approaches within fifty  
10 feet of abandoned workings in such mine as shown by  
11 surveys made and certified by a competent engineer or  
12 surveyor, or within two hundred feet of any other aban-  
13 doned workings of such mine, which cannot be inspected.

Sec. 13. *Mine Foreman; Instruction of Employees.*—It  
2 shall be the duty of the mine foreman, or the assistant  
3 mine foreman, of every coal mine in this state, to see  
4 that every person employed to work in such mine shall,  
5 before beginning work therein, be instructed in the par-  
6 ticular danger incident to his work in such mine, and  
7 furnished a copy of the mining laws and rules of such  
8 mine. Every inexperienced person so employed shall work  
9 under the direction of the mine foreman, his assistant, or  
10 such other experienced worker as may be designated by  
11 the mine foreman or assistant, until he is familiar with the  
12 danger incident to his work.

Sec. 14. *Mine Foreman; Daily Inspection of Working  
2 Places.*—The mine foreman or his assistants shall visit  
3 and carefully examine each working place in the mine

4 at least once each shift while the miners of such places  
5 are at work, and shall direct that each working place  
6 shall be secured by props, timbers, roof bolts, and/or  
7 other approved methods of roof supports where neces-  
8 sary, to the end that the working places shall be made  
9 safe. Should the mine foreman or his assistants find a  
10 place to be in a dangerous condition, they shall not leave  
11 the place until it is made safe, or shall remove the persons  
12 working therein until the place is made safe by some  
13 competent persons designated for that purpose.

Sec. 15. *Mine Foreman; Safety Inspection; Gas.*—It  
2 shall be the duty of the mine foreman, or other certified  
3 person designated by him, to examine all working places  
4 under his supervision for hazards at least once during  
5 each coal-producing shift, or oftener if necessary for  
6 safety. In a gassy mine such examinations shall include  
7 tests with a permissible flame safety lamp for methane  
8 and oxygen deficiency. It shall also be his duty to remove  
9 as soon as possible after its discovery any accumulations  
10 of explosive or noxious gases in active workings and,  
11 where practicable, any accumulations of explosive or  
12 noxious gases in the worked out and abandoned portions  
13 of the mine.

Sec. 16. *Mine Foreman; Dangerous Places.*—The mine  
2 foreman shall direct and see that all dangerous places  
3 and the entrance or entrances to worked out and aban-  
4 doned places in all mines are properly dangered off across  
5 the openings.

Sec. 17. *Mine Foreman; Examinations and Reports of  
2 Fire Boss.*—The mine foreman shall also, each day, read  
3 carefully and countersign with ink or indelible pencil all  
4 reports entered in the record book of the fire bosses, and  
5 he shall supervise the fire boss, or fire bosses, except as  
6 hereinafter provided in section twenty-three of this  
7 article.

Sec. 18. *Mine Foreman; Ascertainment, Record and  
2 Removal of All Dangers.*—The mine foreman shall give  
3 prompt attention to the removal of all dangers reported

4 to him by his assitants, the fire boss, or any other person  
5 working in the mine, and in case it is impracticable to  
6 remove the danger at once, he shall notify all persons  
7 whose safety is menaced thereby to remain away from  
8 the area where the dangerous condition exists. He, or  
9 his assistants, or certified persons designated by him,  
10 shall, at least once each week, travel and examine the air  
11 courses, roads and openings that give access to old work-  
12 ings or falls, and make a record of the condition of all  
13 places where danger has been found, with ink or indelible  
14 pencil in a book provided for that purpose.

Sec. 19. *Mine Foreman; Duty to Notify Operator When  
2 Unable to Comply With Law; Duty of Operator.*—The  
3 mine foreman shall notify, in writing, the operator or  
4 superintendent of the mine of his inability to comply  
5 with any of the requirements of sections eight to eighteen  
6 of this article, and it shall then become the duty of such  
7 operator or superintendent promptly to attend to the  
8 matter complained of by the mine foreman so as to enable  
9 him to comply with the provisions hereof if such com-  
10 pliance be practicable. Every operator of a mine shall  
11 furnish all supplies necessary for the mine foreman to  
12 comply with the requirements of this article, after being  
13 requested to do so in writing by the mine foreman.

Sec. 20. *Death or Resignation of Mine Foreman; Suc-  
2 cessor.*—In case of the death or resignation of a mine  
3 foreman, the superintendent or manager shall appoint a  
4 certified man to act as mine foreman, if one be available;  
5 and if not, he may temporarily appoint any other com-  
6 petent man who may serve with the approval of the  
7 director of the department of mines until the next ex-  
8 amination.

### FIRE BOSS

Sec. 21. *Fire Boss; When to Be Employed; Qualifica-  
2 tions.*—Every operator whose mines are classified as  
3 gassy, shall employ a fire boss, who shall hold a certificate  
4 of competency for such position issued to him by the  
5 department of mines after taking an examination held

6 by the department of mines. In order to receive a cer-  
7 tificate of competency to qualify as a fire boss, he shall  
8 at the time he takes the examination, be a citizen of this  
9 state, having had at least five years experience in the  
10 underground working, ventilation and drainage of coal  
11 mines, and shall have had at least three years experience  
12 in mines liberating explosive gas; he shall have such  
13 knowledge of methane and other dangerous gas or gases  
14 as to be able to detect the same with a permissible flame  
15 safety lamp; he shall have a practical knowledge of the  
16 subject of ventilation of mines and the machinery and  
17 appliances used for that purpose; and he shall also be a  
18 person of good moral character and temperate habits.

Sec. 22. *Fire Boss or Certified Person Acting as Such;*  
2 *Duties.*—It shall be the duty of the fire boss, or a certified  
3 person acting as such, to prepare a danger signal (a sepa-  
4 rate signal for each shift) with red color at the mine  
5 entrance at the beginning of his shift or prior to his  
6 entering the mine to make his examination and, except  
7 for those persons already on assigned duty, no person  
8 except the mine owner, operator, or agent, and only then  
9 in the case of necessity, shall pass beyond this danger  
10 signal until the mine has been examined by the fire boss  
11 or other certified person and the mine or certain parts  
12 thereof reported by him to be safe. When reported by  
13 him to be safe, the danger sign or color thereof shall be  
14 changed to indicate that the mine is safe in order that  
15 employees going on shift may begin work. Each person  
16 designated to make such fire boss examinations shall be  
17 assigned a definite underground area of such mine, and,  
18 in making his examination shall examine all active work-  
19 ing places in the assigned area and make tests with a  
20 permissible flame safety lamp for accumulations of  
21 methane and oxygen deficiency; examine seals and doors;  
22 examine and test the roof, face, and ribs in the working  
23 places and on active roadways and travelways, approaches  
24 to abandoned workings and accessible falls in active sec-  
25 tions. He shall place his initials and the date at or near  
26 the face of each place he examines. Should he find a  
27 condition which he considers dangerous to persons enter-

28 ing such areas, he shall place a conspicuous danger sign  
29 at all entrances to such place or places. Only persons  
30 authorized by the mine management to enter such places  
31 for the purpose of eliminating the dangerous condition  
32 shall enter such place or places while the sign is posted.  
33 Upon completing his examination he shall report by suit-  
34 able communication system or in person the results of  
35 this examination to a certified person designated by mine  
36 management to receive and record such report, at a des-  
37 ignated station on the surface of the premises of the mine  
38 or underground, before other persons enter the mine to  
39 work in such coal-producing shifts. He shall also record  
40 the results of his examination with ink or indelible pencil  
41 in a book prescribed by the director of the department  
42 of mines kept for such purpose at a place on the surface  
43 of the mine designated by mine management. All records  
44 of daily and weekly reports, as prescribed herein shall  
45 be open for inspection by interested persons.

Sec. 23. *Fire Boss or Certified Person Acting as Such;  
2 No Superior Officer.*—In the performance of the duties  
3 devolving upon fire bosses, or certified persons acting as  
4 such, they shall have no superior officers, but all the  
5 employees working inside of such mine or mines shall be  
6 subordinate to them in their particular work.

Sec. 24. *Unlawful to Enter Mine Until Fire Boss Re-  
2 ports It Safe; Exceptions.*—No person shall enter such  
3 mine or mines for any purpose at the beginning of work  
4 upon each shift therein until such signal or warning has  
5 been given by the fire boss or bosses as to the safety  
6 thereof, as by statute provided, except under the direc-  
7 tion of the fire boss or bosses, and then for the purpose  
8 of assisting in making the mine safe: *Provided, however,*  
9 *That men regularly employed on a shift during which*  
10 *the mine is being preshift examined by a fire boss or cer-*  
11 *tified person shall be permitted to leave or enter the mine*  
12 *in the performance of their duties.*

Sec. 25. *Fire Boss; Authority to Perform Other Duties.*  
2 —Notwithstanding any other provision in this article con-  
3 tained, any person who holds a certificate issued by the

4 state department of mines certifying his competency to  
5 act as fire boss may perform the duties of a fire boss and  
6 any other duties, statutory or otherwise, for which he is  
7 qualified, in the same mine or section and on the same  
8 day or shift.

#### COAL DUST AND ROCK DUST

Sec. 26. *Control of Coal Dust; Rock Dusting.*—In all  
2 mines, dangerous accumulations of fine, dry, coal dust  
3 shall be removed from the mine, and all dry and dusty  
4 operating sections and haulageways and the back entries  
5 for at least one thousand feet out by the first active work-  
6 ing place in each operating section shall be kept watered  
7 down or rock dusted, or dust allayed by such other  
8 methods as may be approved by the director of the de-  
9 partment of mines.

10 All mines or locations in mines that are too wet or too  
11 high in incombustible content for a coal dust explosion  
12 to initiate or propagate are not required to be rock dusted  
13 during the time any of these conditions prevail. Coal dust  
14 and other dust in suspension in unusual quantities shall  
15 be allayed by sprinkling or other dust allaying devices.

16 In all dry and dusty mines, or sections thereof, rock dust  
17 shall be applied and maintained upon the roof, floor and  
18 sides of all operating sections, haulageways and parallel  
19 entries connected thereto by open crosscuts. Back entries  
20 shall be rock dusted for at least one thousand feet out  
21 by the junction with the first active working place. Rock  
22 dust shall be so applied to include the last open crosscut  
23 of rooms and entries, and to within forty feet of the faces.  
24 Rock dust shall be maintained in such quantity that the  
25 incombustible content of the mine dust that could initiate  
26 or propagate an explosion shall not be less than sixty-five  
27 per cent.

28 Rock dust shall not contain more than five per cent by  
29 volume of quartz or free silica particles and shall be  
30 pulverized so that one hundred per cent will pass through  
31 a twenty mesh screen and seventy per cent or more will  
32 pass through a two hundred mesh screen.

## ROOF — FACE — RIBS

2       Sec. 27. *Employees; Instruction of; Examination of*  
3 *Working Area; Duties.*—It shall be the duty of the mine  
4 foreman and his subordinate supervisors to ascertain  
5 that all workmen are trained in the proper methods of  
6 testing roof, face and ribs. The mine foreman shall  
7 designate the tool or tools to be used for testing. Face  
8 workers and other employees whose work exposes them  
9 to hazards or falls of roof and coal shall thoroughly test  
10 the roof, face and ribs, before starting to work or before  
11 starting a machine, and frequently thereafter. The re-  
12 quired tests may be made by any competent person for a  
13 crew. If roof, face or rib conditions are found to be  
14 unsafe, they shall be corrected by taking down loose  
15 material, or shall be securely supported, before work is  
16 started. If roof, face or rib conditions are found to be  
17 unsafe, and the unsafe condition cannot be corrected by  
18 normal taking down or supporting practices, the place  
19 shall be guarded or a danger sign erected to prevent  
20 unauthorized entrance, and the supervisor promptly noti-  
21 fied. Only men capable of correcting the dangerous con-  
22 dition may be delegated to do such work. Supervisors  
23 shall examine for unsafe conditions the roof, faces, ribs  
24 and timbers or supports of all working places each time  
25 they visit a place. Unsafe conditions found by them shall  
be corrected promptly.

2       Sec. 28. *Roof Support.*—Minimum timbering or other  
3 roof support methods suitable to the roof conditions and  
4 mining system of each mine or part of a mine shall be  
5 adopted and complied with. Additional timbering or sup-  
6 porting shall be used when and where necessary. It shall  
7 be the duty of the mine foreman or his subordinate super-  
8 visors to instruct all workmen in proper methods of set-  
9 ting timbers or placing roof supports; and, it shall be the  
10 duty of the workmen to comply with the instructions in  
11 setting timbers and roof supports. The roof in all under-  
12 ground working places, unless self-supporting, shall be  
13 secured to protect employees from falls. Safety posts,  
14 jacks or temporary crossbars shall be set close to the face  
when necessary for safety before other operations are

15 begun and as needed thereafter. Where roof supports  
16 are required at the working faces, persons shall not ad-  
17 vance beyond supported roof, except those who are as-  
18 signed to install supports. Timbering or roof support  
19 materials to be used as required in supporting the roof in  
20 underground workings shall be delivered at or near the  
21 working faces. In hand loading mines the miner shall  
22 order timbers and roof support materials at least one day  
23 in advance in order to have in his working place a suf-  
24 ficient supply for his needs. He shall place his order with  
25 his supervisor stating his requirements. Roof bolts shall  
26 not be used in lieu of conventional timbering unless a  
27 permit has been issued by the state department of mines.  
28 Roof bolts shall not be recovered where complete extrac-  
29 tion of pillars is attempted; nor shall bolts be removed  
30 adjacent to clay veins; nor at the location of other  
31 irregularities that introduce abnormal hazards. Where  
32 roof bolt recovery is practiced, it shall be done only by  
33 reasonable methods approved by the director of the de-  
34 partment of mines. Recovery of roof supports shall not  
35 be done except by experienced persons and only where  
36 adequate temporary support is provided.

#### EXPLOSIVES AND BLASTING

Sec. 29. *Authorized Explosives.*—Permissible explosives  
2 or permissible blasting devices only shall be used in  
3 blasting coal or other material in underground coal mines.

Sec. 30. *Surface Magazines for Explosives.*—Separate  
2 surface magazines shall be provided for storage of ex-  
3 plosives, detonators and blasting heater elements. Surface  
4 magazines shall be constructed of incombustible mate-  
5 rials, be reasonably bullet proof and with no metal or  
6 sparking material exposed inside the magazine. Surface  
7 magazines shall be provided with doors constructed of  
8 at least one-fourth inch steel plate lined with a two-inch  
9 thickness of wood or the equivalent, properly screened  
10 ventilators, and with no openings except for entrances  
11 and ventilation, and shall be kept locked securely when  
12 unattended. The area for a distance of at least twenty-five  
13 feet in all directions shall be kept free of materials of a

14 combustible nature; suitable warning signs shall be  
15 erected, so located that a bullet passing directly through  
16 the face of the sign will not strike the magazine. The  
17 location of magazines shall be not less than two hundred  
18 feet from any mine openings, occupied buildings or public  
19 roads unless barricaded. If magazines are illuminated  
20 electrically, the lamps shall be of vapor-proof type prop-  
21 erly installed and wired, and smoking and open lights  
22 shall be prohibited in or near any magazine.

Sec. 31. *Transportation of Explosives.*—Individual con-  
2 tainers used to carry permissible explosives or detonators  
3 shall be constructed of substantial, nonconductive ma-  
4 terials, kept closed and maintained in good condition.  
5 When explosives or detonators are transported under-  
6 ground in cars moved by means of locomotives, ropes, or  
7 other motive power, they shall be in substantially covered  
8 cars or in special substantially-built covered containers  
9 used specifically for transporting detonators or explosives.  
10 Explosives or detonators shall not be hauled into or out  
11 of a mine within five minutes preceding or following a  
12 man-trip. Where explosives and detonators are trans-  
13 ported underground by belts they shall be handled in the  
14 following manner: In the original and unopened cases,  
15 in special closed cases constructed of nonconductive ma-  
16 terial, or in suitable individual containers. Clearance  
17 requirements shall be a minimum of eighteen inches; stop  
18 controls shall be provided at loading and unloading points,  
19 and an attendant shall supervise the loading and unload-  
20 ing. Neither explosives nor detonators shall be trans-  
21 ported on flight or shaking conveyors, mechanical loading  
22 machines, locomotives, scrapers, cutting machines, drill  
23 trucks, or any self-propelled mobile equipment. If ex-  
24 plosives and detonators are transported in the same  
25 explosives car or in the same special container, they shall  
26 be separated by at least four inches of hardwood partition  
27 or the equivalent; the bodies of such cars or containers  
28 shall be constructed or lined with nonconductive ma-  
29 terial. No hand loader shall take into any mine any larger  
30 quantity of explosives or detonators than he may reason-  
31 ably expect to use in any one shift.

2       Sec. 32. *Underground Storage of Explosives.*—Explo-  
3 sives and detonators stored underground shall be kept in  
4 section boxes or magazines of substantial construction  
5 with no metal exposed on the inside, and be located at  
6 least fifteen feet from roadways and power wires in a  
7 well rock-dusted location protected from falls of roof.  
8 If not kept in separate boxes or magazines not less than  
9 five feet apart they may be kept in the same box or maga-  
10 zine if separated by at least a four-inch hardwood parti-  
11 tion or the equivalent. Not more than a forty-eight hour  
12 supply of explosives or detonators shall be stored under-  
13 ground in section boxes or magazines. These boxes or  
14 magazines shall be kept at least one hundred feet from the  
faces and out of the direct line of blasting.

2       Sec. 33. *Preparation of Shots; Blasting Practices.*—Only  
3 competent and experienced persons designated by mine  
4 management shall be permitted to handle explosives and  
5 to do blasting. Only electric detonators of proper strength  
6 fired with permissible shot firing units shall be used and  
7 drillholes shall be stemmed with at least twenty-four  
8 inches of incombustible material, or at least one-half of  
9 the length of the hole shall be stemmed if the hole is less  
10 than four feet in depth unless other permissible stemming  
11 devices or methods are used. Drillholes shall not be drilled  
12 beyond the limits of the cut, and as far as practicable  
13 cuttings and dust shall be cleaned from the holes before  
14 the charge is inserted. Charges of explosives exceeding  
15 one and one-half pounds, but not exceeding three pounds,  
16 shall be used only if drillholes are six feet or more in  
17 depth. Ample warning shall be given before shots are  
18 fired, and care shall be taken to determine that all persons  
19 are in the clear before firing. Men shall be removed from  
20 adjoining places and other places when there is danger of  
21 shots blowing through. No shots shall be fired in any  
22 place known to liberate explosive gas until such place  
23 has been properly examined by a competent person who  
24 is designated by mine management for that purpose, and  
25 no shots shall be fired in any place where gas is detected  
26 with a permissible flame safety lamp until such gas has  
been removed by means of ventilation. After firing any

27 shot, or shots, the person firing the same shall not return  
28 to the working face until the smoke has been cleared  
29 away and then he shall make a careful examination of  
30 the working face before leaving the place, or before per-  
31 forming any other work in the place. Multiple shooting  
32 may be practiced but only as prescribed by the depart-  
33 ment of mines. A maximum of ten holes may be fired in  
34 bottom or roof rock during grading operations provided  
35 this work is being performed in intake air only. Electrical  
36 equipment shall not be operated in the face areas and only  
37 work in connection with timbering and general safety  
38 shall be performed while bore holes are being charged.  
39 Shots shall be fired promptly after charging. Mudcap  
40 (adobes) or any other unconfined shots shall not be per-  
41 mitted in any coal mine. No solid shooting shall be per-  
42 mitted without written permission of the department of  
43 mines.

44 Blasting cables shall be well insulated and shall be as  
45 long as may be necessary to permit persons authorized to  
46 fire shots to get in a safe place out of the line of fire. The  
47 cable when new shall be at least one hundred twenty-five  
48 feet in length and never less than one hundred feet.  
49 Shooting cables shall be kept away from power wires and  
50 all other sources of electric current, connected to the leg  
51 wires by the person who fires the shot, staggered as to  
52 length or well separated at the detonator leg wires, and  
53 shunted at the battery end until ready to connect to the  
54 blasting unit.

Sec. 34. *Misfires of Explosives.*—Where misfires occur  
2 with electric detonators, a waiting period of at least five  
3 minutes shall elapse before anyone returns to the shot.  
4 After such failure, the blasting cable shall be disconnected  
5 from the source of power and the battery ends short-  
6 circuited before electric connections are examined.

7 Explosives shall be removed by firing a separate charge  
8 at least two feet away from, and parallel to, the misfired  
9 charge or by washing the stemming and the charge from  
10 the borehole with water, or by inserting and firing a new  
11 primer after the stemming has been washed out.

12 A careful search of the working place, and, if necessary,  
13 of the coal after it reaches the tippie shall be made after  
14 blasting a misfired hole, to recover any undetonated  
15 explosive.

16 The handling of a misfired shot shall be under the  
17 direct supervision of the mine foreman or a competent  
18 person designated by him.

Sec. 35. *Other Blasting Devices.*—The provisions govern-  
2 ing the handling, storage, transportation and use of per-  
3 missible explosives shall apply to all other blasting de-  
4 vices employing a heater element when used under-  
5 ground.

6 Where compressed air is used for blasting, the air-lines  
7 shall be grounded at the compressor and, if practical, at  
8 other low-resistant ground connections along the lines.  
9 They shall not be connected in any way to rails, water  
10 lines, or other electric return conductors and shall be  
11 adequately insulated and protected where they cross  
12 electric wires, underneath track, or at places where  
13 equipment passes over or under. Steel, copper, or other  
14 airlines connected therewith shall not be handled or  
15 repaired when air pressure is in the line. Shutoff valves  
16 shall be installed every thousand feet in all compressed-  
17 air blasting lines and at all points where branch lines  
18 leave the main line and blowdown valves shall not be less  
19 than fifty feet from the face and shall be around a corner.

20 When misfires occur with any other blasting devices  
21 they shall be handled in a safe manner and under the  
22 supervision of the mine foreman or a competent person  
23 designated by him.

## HOISTING

Sec. 36. *Hoisting.*—The operator of every coal mine  
2 worked by shaft, shall provide and maintain a metal  
3 tube, telephone or other approved means of communica-  
4 tion from the top to the bottom and intermediate landings  
5 of such shaft, suitably adapted to the free passage of  
6 sound, through which conversation may be held between  
7 persons at the top and at the bottom of the shaft; a  
8 standard means of signaling; an approved safety catch,

9 bridle chains, automatic stopping device, or automatic  
10 overwind; a sufficient cover overhead on every cage used  
11 for lowering or hoisting persons; an approved safety gate  
12 at the top of the shaft; and an adequate brake on the drum  
13 of every machine used to lower or hoist persons in such  
14 shaft. Such operator shall have the machinery used for  
15 lowering and hoisting persons into or out of the mine kept  
16 in safe condition, equipped with a reliable indicator, and  
17 inspected once in each twenty-four hours by a competent  
18 person. Where a hoisting engineer is required he shall  
19 be readily available at all times when men are in the mine.  
20 He shall operate the empty cage up and down the shaft  
21 at least one round trip at the beginning of each shift and  
22 after the hoist has been idle for one hour or more before  
23 hoisting or lowering men, and there shall be cut out  
24 around the side of the hoisting shaft, or driven through  
25 the solid strata at the bottom thereof, a traveling way  
26 not less than five feet high and three feet wide to enable  
27 a person to pass the shaft in going from one side of it to  
28 the other without passing over or under the cage or other  
29 hoisting apparatus. Positive stop blocks or derails shall  
30 be placed near the top and at all intermediate landings of  
31 slopes and surface inclines and at approaches to all shaft  
32 landings. A waiting station with sufficient room, ample  
33 clearance from moving equipment, and adequate seating  
34 facilities shall be provided where men are required to  
35 wait for man-trips or man cages, and the men shall re-  
36 main in such station until the man-trip or man cage is  
37 available.

38 No operator of any coal mine worked by shaft, slope, or  
39 incline, shall place in charge of any engine or drum used  
40 for lowering or hoisting persons employed in such mine  
41 any but competent and sober engineers or drum runners;  
42 and no engineer or drum runner in charge of such ma-  
43 chinery shall allow any person, except such as may be  
44 designated for this purpose by the operator, to interfere  
45 with any part of the machinery; and no person shall  
46 interfere with any part of the machinery; and no person  
47 shall interfere with or intimidate the engineer or drum  
48 runner in the discharge of his duties. Where the mine is  
49 operated or worked by shaft or slope, a minimum space

50 of two and one-half square feet per person shall be avail-  
51 able for each person on any cage or car where men are  
52 transported. In no instance shall more than twenty men  
53 be transported on a cage or car without the approval of  
54 the director of the department of mines. No person shall  
55 ride on a loaded cage or car in any shaft, slope, or incline:  
56 *Provided, however,* That this shall not prevent any trip  
57 rider from riding in the performance of his authorized  
58 duties. No engineer shall be required for automatically  
59 operated cages, elevators, or platforms.

### TRANSPORTATION

2       *Sec. 37. Haulage; Equipment; Practices.*—The roadbed,  
3 rails, joints, switches, frogs, and other elements of all  
4 haulage roads shall be constructed, installed and main-  
5 tained in a manner consistent with speed and type of  
6 haulage operations being conducted to insure safe opera-  
7 tion.

8       Track switches, except room and entry development  
9 switches, shall be provided with properly installed throws,  
10 bridle bars and guard rails; switch throws and stands,  
11 where possible, shall be placed on the clearance side.

12       Haulage roads on entries developed after the effective  
13 date of this article shall have a continuous unobstructed  
14 clearance of at least twenty-four inches from the farthest  
15 projection of any moving equipment on the clearance side.

16       On haulage roads where trolley lines are used, the clear-  
17 ance shall be on the side opposite the trolley lines.

18       On the trolley-wire or "tight" side, there shall be at  
19 least six inches of clearance from the farthest projection  
20 of any moving equipment. On haulage roads developed  
21 after the effective date of this article, where conditions  
22 permit there shall be a clearance of twelve inches main-  
23 tained on the tight or wire side, but in no instance shall  
24 the clearance be less than six inches.

25       The clearance space on all haulage roads shall be kept  
26 free of loose rock, coal, supplies or other materials, pro-  
27 vided that not more than twenty-four inches need be  
28 kept free of such obstructions.

Ample clearance shall be provided at all points where

29 supplies are loaded or unloaded along haulage roads or  
30 conveyors.

31 Shelter holes shall be provided along haulage entries  
32 driven after the effective date of this article where loco-  
33 motive, rope or animal haulage is used. Such shelter  
34 holes shall be spaced not more than eighty feet apart.  
35 Except where the trolley wire is six feet six inches or  
36 more above the roadbed or guarded effectively at the  
37 shelter holes, they shall be on the side of the entry oppo-  
38 site the trolley wire.

39 Shelter holes made after the effective date of this article  
40 shall be at least five feet in depth, not more than four  
41 feet in width, and as high as the traveling space. Room  
42 necks and crosscuts may be used as shelter holes even  
43 though their width exceeds four feet.

44 Shelter holes shall be kept clear of refuse and other ob-  
45 structions.

46 Shelter holes shall be provided at switch throws, and  
47 manually operated permanent doors, except where more  
48 than six feet of clearance is maintained, and at room  
49 switches.

50 No steam locomotive shall be used in mines where men  
51 are actually employed in the extraction of coal, but this  
52 shall not prevent operation of a steam locomotive through  
53 any tunnel haulway or part of a mine that is not in actual  
54 operation and producing coal.

55 Underground equipment powered by internal combus-  
56 tion engines using petroleum products, alcohol, or any  
57 other compound shall not be used in a coal mine unless  
58 such equipment has been approved by the United States  
59 bureau of mines for underground use in coal mines, and  
60 only then when this equipment is maintained in compli-  
61 ance with the requirements of the approval schedule.

62 Locomotives, mine cars, supply cars, shuttle cars, and  
63 all other haulage equipment shall be maintained in a safe  
64 operating condition. Each locomotive shall be equipped  
65 with a suitable lifting jack and handle. An audible warn-  
66 ing device and headlights shall be provided on each loco-  
67 motive and each shuttle car. All other mobile equipment,  
68 using the face areas of the mine, purchased after the  
69 effective date of this article, shall be provided with a

70 conspicuous light or other effective method, so as to re-  
71 duce the possibility of collision.

72 No persons other than those necessary to operate a trip  
73 or car shall ride on any loaded car or on the outside  
74 of any car.

75 The pushing of trips, except for switching purposes, is  
76 prohibited on main haulage roads. Motormen and trip  
77 riders shall use care in handling locomotives and cars.  
78 It shall be their duty to see that there is a conspicuous  
79 light on the front and rear of each trip or train of cars  
80 when in motion: *Provided, however,* That trip lights  
81 need not be used on cars being shifted to and from loading  
82 machines, on cars being handled at loading heads during  
83 gathering operations at working faces or on trips being  
84 pulled by animals. No persons shall ride on locomotives  
85 or loaded cars unless granted permission by the mine  
86 foreman.

87 No motorman, trip rider or brakeman shall get on or  
88 off cars, trips, or locomotives while they are in motion,  
89 except that a trip rider or brakeman may get on or off  
90 the rear end of a slowly moving trip or the stirrup of a  
91 slowly moving locomotive to throw a switch, align a  
92 derail or open or close a door.

93 Flying or running switches, and riding on the front  
94 bumper of a car or locomotive are prohibited. Back poling  
95 shall be prohibited except with precaution to the nearest  
96 turning point (not over eighty feet), or when going up  
97 extremely steep grades and then only at slow speed. The  
98 operator of a shuttle car shall face in the direction of  
99 travel except during the loading operation when he shall  
100 face the loading machine.

101 A system of signals, methods or devices shall be used  
102 to provide protection for trips, locomotives, and other  
103 equipment, coming out onto tracks used by other equip-  
104 ment. Where a dispatcher is employed to control trips,  
105 traffic under his jurisdiction shall move only at his  
106 direction.

107 Motormen shall inspect locomotives and report any  
108 mechanical defects found to the proper supervisor before a  
109 locomotive is put in operation.

2       Sec. 38. *Transportation of Men.*—Man trips shall be  
3 pulled (unless self propelled) at safe speeds consistant  
4 with the condition of roads and type of equipment used,  
5 but not to exceed twelve miles an hour, except where  
6 special substantially covered man trip cars are used. Each  
7 man trip shall be under the charge of a certified person  
8 or other competent person designated by a mine foreman  
9 or assistant mine foreman. It shall be operated inde-  
10 pendently of any loaded trip of coal or other heavy ma-  
11 terial, but may transport tools, small machine parts and  
12 supplies. When mine cars are used for man trips on steep  
13 grades a locomotive shall be used on each end of the trip.

14       Cars on the man trip shall not be overloaded, and suffi-  
15 cient cars in good mechanical condition shall be provided.

16       Where “drop-bottom” cars are used, special safety pre-  
17 cautions shall be taken.

18       No person shall ride under the trolley wire unless suit-  
19 able covered man cars are used.

20       Men shall not load or unload before the cars in which  
21 they are to ride, or are riding, come to a full stop. Men  
22 shall proceed in an orderly manner to and from man trips.

23       When belts are used for transporting men, a minimum  
24 clearance of eighteen inches shall be maintained between  
25 the belt and the roof or cross-bars, projecting equipment,  
26 cap pieces, overhead cables, wiring, and other objects.  
27 Where the height of the coal seam permits, the clearance  
28 shall not be less than twenty-four inches.

29       The belt speed shall not exceed two hundred and fifty  
30 feet per minute where the minimum overhead clearance  
31 is eighteen inches, or three hundred feet per minute where  
32 the minimum overhead clearance is twenty-four inches,  
33 while men are loading, unloading, or being transported.  
34 A signaling system or method shall be provided for stop-  
35 ping the belt and men shall ride not less than six feet  
36 apart.

37       An assistant mine foreman or some other person desig-  
38 nated by the mine foreman shall supervise the loading  
39 and unloading of belts and man trips. Where men are re-  
40 quired to regularly cross over belts adequate and safe  
facilities shall be provided.

41 Adequate clearance and proper illumination shall be  
42 provided where men board or leave conveyer belts.

### ELECTRICITY

Sec. 39. *Electricity; General Provisions.*—Operators of  
2 coal mines in which electricity is used as a means of power  
3 shall comply with the following provisions:

4 All surface transformers, unless of a construction which  
5 will eliminate shock hazards, or unless installed at least  
6 eight feet above ground, shall be enclosed in a house or  
7 surrounded by a fence at least six feet high. If the en-  
8 closure is of metal, it shall be grounded effectively. The  
9 gate or door to the enclosure shall be kept locked at all  
10 times, unless authorized persons are present.

11 Underground transformers purchased after the effective  
12 date of this article, shall be air cooled or cooled with non-  
13 inflammable liquid or inert gas.

14 Underground stations containing transformers or cir-  
15 cuit breakers filled with inflammable oil shall be provided  
16 with door sills or their equivalent, which will confine the  
17 oil if leakage or explosion occurs, and shall be of fireproof  
18 construction.

19 Transformers shall be provided with adequate over-  
20 load protection.

21 Battery charging stations, motor generator sets, rotary  
22 converters and oil filled transformers and switches, used  
23 underground shall be housed in fireproof buildings ven-  
24 tilated by a separate split of air direct to the main return  
25 (rectifiers excepted).

26 "Danger — high voltage" signs shall be posted con-  
27 spicuously on all transformer enclosures, high-potential  
28 switchboards, and other high-potential installations.

29 Circuit breakers or other overload devices shall be pro-  
30 vided to protect power circuits.

31 Insulating platforms of wood, rubber, or other suitable  
32 nonconductive material shall be kept in place at each  
33 switchboard, and at stationary machinery where shock  
34 hazards exist.

35 All power wires and cables in hoisting shafts, slopes and  
36 power bore holes shall be properly insulated, substan-  
37 tially installed and well maintained.

38 All power wires, except trailing cables, especially de-  
39 signed cable used as electrical conductors to underground-  
40 rectifier or transformer stations, portable power cables or  
41 bare or insulated ground and return wires, shall be sup-  
42 ported on well-installed insulators and shall not contact  
43 combustibile material, roof or ribs.

44 Trolley and feeder wires shall be installed as follows:  
45 Where installed on permanent haulage, after the effective  
46 date of this article, they shall be: (1) at least six inches  
47 outside the track gauge line; (2) provided with cutout  
48 switches at intervals of not more than two thousand feet,  
49 and near the beginning of all branch lines; and (3) kept  
50 taut and not permitted to touch the roof, rib, or cross  
51 bars. Particular care shall be taken where they pass  
52 through door openings to preclude bare wires from coming  
53 in contact with combustibile material.

54 Trolley or bare feeder cables shall be guarded ade-  
55 quately where it is necessary for men to pass or work  
56 under them regularly unless the wires are more than six  
57 and one-half feet above the top of the rail. They shall also  
58 be guarded adequately on both sides of doors, and at all  
59 stations designated for the loading and unloading of man  
60 trips, and at sand boxes.

61 After the effective date of this article, new underground  
62 installations of electric face equipment in new mines shall  
63 not exceed six hundred volts direct current, (five hundred  
64 fifty volts D. C. equipment) or four hundred eighty volts  
65 alternating current, (four hundred forty volts A. C. equip-  
66 ment). No provision of this section shall prohibit the  
67 use of voltages in excess of four hundred forty volts alter-  
68 nating current on service lines to rectifiers, converters,  
69 transformers or switches connected thereto located in  
70 areas out by the immedate face regions.

71 In a gassy mine trolley and feeder wires shall not extend  
72 beyond the last open crosscut and shall be kept at least one  
73 hundred and fifty feet from open pillar workings. Trolley  
74 wires and feeder wires shall be anchored securely, in-

75 sulated, and properly identified at the ends. Metallic  
76 frames, casings, and other enclosures of stationary electric  
77 equipment that can become "alive" through failure of in-  
78 sulation or by contact with energized parts shall be  
79 grounded effectively, or equivalent protection shall be  
80 provided.

Sec. 40. *Electricity; Circuit Breakers, Switches, and*  
2 *Switchboards.*—Automatic circuit-breaking devices or  
3 fuses of the correct type and capacity shall be installed  
4 so as to protect all electric equipment against excessive  
5 overload: *Provided, however,* That this shall not apply to  
6 locomotives operated regularly on grades exceeding five  
7 per cent.

8 Disconnecting switches shall be installed underground  
9 in all main direct current power circuits within five hun-  
10 dred feet of the bottom of shafts and boreholes, and at  
11 other places where main power circuits enter the mine.

12 Electric equipment and circuits shall be provided with  
13 switches or other controls of safe design, construction and  
14 installation.

15 When not in use, power circuits underground shall be  
16 de-energized on idle days and idle shifts. Suitable danger  
17 signs shall be posted conspicuously at all high-potential  
18 switchboard installations.

Sec. 41. *Electricity; Bonding.*—Where track is used as  
2 a power conductor, rails and switches on main entries  
3 shall be bonded and cross-bonded in such manner as to  
4 assure adequate return. At least one rail on secondary  
5 track-haulage roads shall be welded or bonded at every  
6 joint, and crossbonds shall be installed at intervals of not  
7 more than two hundred feet: *Provided, however,* That  
8 rail joints in such secondary haulage roads need not be  
9 bonded where a copper feeder adequate in size parallels  
10 the track and is electrically connected thereto at intervals  
11 of not more than two hundred feet by crossbonds.

Sec. 42. *Electricity; Telephone.*—Telephone service or  
2 equivalent two-way communication facilities shall be  
3 provided in all mines between the surface and each work-

4 ing section that is more than one thousand five hundred  
5 feet from the main portal.

6 Telephone lines, other than cables, shall be carried on  
7 insulators, installed on the opposite side from power or  
8 trolley wires, and where they cross power or trolley wires  
9 they shall be insulated adequately.

10 Lightning arresters shall be provided at the points  
11 where telephone circuits enter the mine.

Sec. 43. *Electric Equipment in Gassy Mines.*—After the  
2 effective date of this article all electric face equipment  
3 acquired for use in a mine classified as gassy shall be per-  
4 missible: *Provided, however,* That nonpermissible electric  
5 equipment may be used in a mine classified as gassy if,  
6 before the effective date of this article or the date such  
7 mine became a mine classified as gassy, whichever is later,  
8 the operator of such mine, or his successor, owned or  
9 leased such equipment or had ordered such equipment.

10 Electric equipment shall not be taken into or operated  
11 in any place where methane can be detected with a flame  
12 safety lamp at any point not less than eight inches from  
13 the roof, face, or rib.

14 In a mine classified as gassy electric haulage locomotives  
15 operated from trolley wire shall not be used in return air.  
16 For the purpose of this provision, air used to ventilate  
17 a section of a mine shall not be considered return air until  
18 such time as the air has ventilated all of the workings in  
19 the section.

20 No person shall be placed in charge of a coal cutting  
21 machine in any mine classified as gassy, who is not a com-  
22 petent person, capable of determining the safety of the  
23 roof and sides of the working places and detecting the  
24 presence of explosive gas. Machine runners in mines  
25 classified as gassy shall be required to undergo examina-  
26 tion by a mine foreman to determine their fitness to de-  
27 tect explosive gas before they are permitted to have charge  
28 of machines in such mines, unless they are accompanied  
29 by a certified or competent person who has passed such  
30 an examination.

31 In any mine classified as gassy, a coal cutting ma-  
32 chine shall not be brought in by the last break-through

33 next to the working face until the machine man shall have  
34 made an inspection for gas in the place where the machine  
35 is to work, unless such examination is made by some other  
36 competent person authorized and designated for that pur-  
37 pose by the mine foreman. If explosive gas in excess of  
38 one per cent is found in the place, the machine shall not  
39 be taken in until the danger is removed.

40 In working places where explosive gas is likely to be  
41 encountered, a safety lamp, or other suitable approved  
42 apparatus for the detection of explosive gas, shall be pro-  
43 vided for use with each mining machine when working,  
44 and should any indication of explosive gas in excess of  
45 one per cent appear on the flame of the safety lamp, or on  
46 other apparatus used for the detection of explosive gas,  
47 the person in charge shall immediately stop the machine,  
48 cut off the current at the nearest switch and report the  
49 condition to the mine foreman or supervisor. The machine  
50 shall not again be started in such place until the mine  
51 foreman, supervisor, or a person authorized by one of  
52 them has examined it and pronounced it safe.

53 No coal cutting machine shall be operated in a mine  
54 classified as gassy for a longer period than thirty minutes  
55 without an examination as above described being made for  
56 gas, and if gas is found in excess of one per cent the current  
57 shall at once be switched off the machine, and the trailing  
58 cable shall forthwith be disconnected from the power sup-  
59 ply until the place is pronounced safe: *Provided, however,*  
60 *That at locations where continuous mining machines are*  
61 *operating, such examinations for methane shall be made*  
62 *at intervals not exceeding twenty minutes.*

63 Machine runners and helpers shall use care while  
64 operating mining machines. They shall not permit any  
65 person to remain near the machine while it is in opera-  
66 tion. They shall examine the roof of the working place  
67 and see that it is safe before starting to operate the ma-  
68 chine. They shall not move the machine while the cutter  
69 chain is in motion.

Sec. 44. *Electricity; Hand-held Drills; Trailing Cables.*

2 —Electric drills and other electrically operated rotating

3 tools intended to be held in the hands shall have the  
4 electric switch constructed so as to break the circuit when  
5 the hand releases the switch, or shall be equipped with  
6 friction or safety clutches.

7 All new trailing cables purchased after the effective  
8 date of this article shall be safely and effectively insulated  
9 by flame resistive materials. Splices in trailing cables  
10 shall be made in a workmanlike manner, mechanically  
11 strong and well insulated so as to exclude moisture so far  
12 as possible.

Sec. 45. *Electricity; Underground Illumination.*—Elec-  
2 tric lights, or other approved methods of lighting, shall  
3 be installed so that they do not come in contact with com-  
4 bustible materials, and the wires shall be supported by  
5 suitable insulators and fastened securely to the power  
6 conductors.

Sec. 46. *Welding and Cutting; Blowtorches; Fuel.*—

2 Blowtorches may be used by competent persons in mines,  
3 provided (1) suitable precautions are taken against igni-  
4 tion of methane, coal dust, or combustible materials, (2)  
5 means are provided for prompt extinguishment of fires  
6 accidentally started, and (3) fuel is properly controlled.  
7 Blowtorches must be maintained at all times in good oper-  
8 ating condition and leakproof.

9 Fuel for blowtorches, in quantities not exceeding one  
10 day's supply, shall be transported from the surface in  
11 approved safety cans, leakproof and sturdy. In trans-  
12 ferring fuel to the torch, a funnel or flexible nozzle shall  
13 be used to avoid spillage, and neither the supply can nor  
14 the torch shall be opened within twenty-five feet of any  
15 open light or other thing containing or apt to contain fire,  
16 arcs, or sparks.

17 Welding and cutting may be done in mines: *Provided,*  
18 That all equipment and gauges are maintained in good  
19 order and not abused, that suitable precautions are taken  
20 against ignition of methane, coal dust, or combustible  
21 materials, that means are provided for prompt extinguish-  
22 ment of fires accidentally started, and that only persons  
23 who have demonstrated competency in welding and cut-

24 ting are entrusted to do this work. Adequate eye protec-  
25 tion shall be used by all persons doing welding or cutting,  
26 and precautions shall be taken to prevent other persons  
27 from exposure that might be harmful to their eyes.

28 In mines classed as gassy, a certified person shall ex-  
29 amine for gas with permissible flame safety lamps before  
30 and during welding or cutting in, at or near working faces.  
31 The safety of the equipment and methods used in such  
32 cases shall be subject to approval of the director of the  
33 department of mines.

Sec. 47. *Responsibility for Care and Maintenance of*  
2 *Face Equipment.*—Mine operators shall maintain face  
3 equipment in safe operating condition. Equipment oper-  
4 ators shall exercise reasonable care in the operation of  
5 the equipment entrusted to them, and shall promptly  
6 report defects known to them.

Sec. 48. *Control of Dust and Other Inhalation Hazards.*  
2 —Men exposed for short periods to gas-, dust-, fume-, and  
3 mist-inhalation hazards shall wear permissible respiratory  
4 equipment. When exposure is for prolonged periods, dust  
5 shall be controlled by the use of permissible dust collec-  
6 tors, or by water or other approved methods.

#### SAFEGUARDS FOR MECHANICAL EQUIPMENT

Sec. 49. *Safeguards for Mechanical Equipment.*—The  
2 cutter chains of mining machines shall be locked securely  
3 by mechanical means or electrical interlocks while such  
4 machines are parked or being trammed. Loading machines  
5 shall not be trammed with loading arms in motion except  
6 when loading materials.

7 Belt, chain or rope drives and the moving parts of  
8 machinery which are within seven feet of the floor, ground  
9 or platform level, unless isolated, shall be guarded ade-  
10 quately. Repair pits shall be kept covered or guarded at  
11 all times when not in use. Machinery shall not be lubri-  
12 cated or repaired while in motion, except where safe  
13 remote lubricating devices are used. Machinery shall not  
14 be started until the person lubricating or repairing it has  
15 given a clear signal. Guards which have been removed  
16 shall be replaced before the machinery is again put into

17 use. Provision shall be made to prevent accumulations of  
18 spilled lubricants.

19 Mechanically operated grinding wheels shall be equip-  
20 ped with safety washers, substantial retaining hoods, and,  
21 unless goggles are used, eye shields.

22 Rubber conveyor belts installed underground after the  
23 effective date of this article shall be provided with cen-  
24 trifugal switches. With the exception of main slopes,  
25 where rubber conveyor belts are used, multiple entries  
26 (three or more) shall be driven and the belt placed on a  
27 separate split of air. Where fire resistant belts are in-  
28 stalled, two or more entries shall be driven and a single  
29 line of permanent stoppings may be used between the  
30 intake and return airways and the belt installed in intake  
31 air.

#### SURFACE STRUCTURES AND PRACTICES

2 Sec. 50. *Tipple and Cleaning Plant.*—In unusually dusty  
3 locations, electric motors, switches and controls shall be  
4 of dust-tight construction, or enclosed with reasonably  
5 dust-tight housings or enclosures. Open-type motors,  
6 switches or controls in use at the effective date of this  
7 article in tipples and cleaning plants in unusually dusty  
8 locations may be continued in use until such dust-tight  
9 equipment can be procured, or until they can be provided  
10 with reasonably dust-tight housings or enclosures.

11 Structures shall be kept free of excessive coal dust  
12 accumulations.

13 Where coal is dumped at or near air intake openings,  
14 reasonable provisions shall be made to prevent dust from  
15 entering the mine.

16 Where repairs are being made to the plant, proper  
17 scaffolding and proper overhead protection shall be pro-  
18 vided for workmen wherever necessary.

19 Welding shall not be done in dusty atmospheres and  
20 dusty locations shall be well cleaned, and firefighting  
21 apparatus shall be readily available during welding.

22 Stairways, elevated platforms and runways shall be  
23 equipped with handrails. Railroad car trimmer platforms  
are excepted from such requirement.

24 Elevated platforms and stairways shall be provided  
25 with toe-boards where necessary, and they shall be kept  
26 clear of refuse and ice and maintained in good repair.

Sec. 51. *Housekeeping.*—Good housekeeping shall be  
2 practiced in and around mine buildings and yards. Such  
3 practices include cleanliness, orderly storage of materials,  
4 and the removal of possible sources of injury, such as  
5 stumbling hazards, protruding nails and broken glass.

Sec. 52. *Lamp House.*—Naphtha or other flammable  
2 liquids in lamp houses shall be kept in approved contain-  
3 ers or other safe dispensers.

Sec. 53. *Smoking in and Around Surface Structures.*—  
2 Smoking in or about surface structures shall be restricted  
3 to places where it will not cause fire or an explosion.

#### MISCELLANEOUS SAFETY PROVISIONS AND REQUIREMENTS

Sec. 54. *Duties of Persons Subject to Article; Rules and  
2 Regulations of Operators.*—It shall be the duty of the  
3 operator, mine foreman, supervisors, fire bosses and other  
4 officials to comply with and to see that others comply  
5 with the provisions of this article.

6 It shall be the duty of all employees and checkweigh-  
7 men to comply with this article and to cooperate with  
8 management and the department of mines in carrying  
9 out the provisions hereof.

10 Reasonable rules and regulations of an operator for the  
11 protection of employees and preservation of property that  
12 are in harmony with the provisions of this article and  
13 other applicable laws shall be complied with. They shall  
14 be printed on cardboard or in book form in the English  
15 language and posted at some conspicuous place about the  
16 mine or mines, and given to each employee upon request.

Sec. 55. *Protective Clothing.*—Welders and helpers shall  
2 use proper shields or goggles to protect their eyes. All  
3 employees shall have approved goggles or shields and use  
4 same where there is a hazard from flying particles, or  
5 other eye hazards.

6 Employees engaged in haulage operations and all other  
7 persons employed around moving equipment on the sur-  
8 face and underground shall wear snug-fitting clothing.  
9 Protective gloves shall be worn when material which  
10 may injure hands is handled, but gloves with gauntleted  
11 cuffs shall not be worn around moving equipment.

Sec. 56. *Checking Systems.*—Each mine shall have a  
2 check-in and check-out system that will provide positive  
3 identification upon the person of every individual under-  
4 ground. An accurate record of the men in the mine,  
5 which shall consist of a written record, a check board, or  
6 a time-clock record, shall be kept on the surface in a place  
7 that will not be affected in the event of an explosion.  
8 Said record shall bear a number or name identical to the  
9 identification check carried by, or fastened to the belt of,  
10 all persons going underground.

Sec. 57. *No Act Permitted Endangering Security of*  
2 *Mine; Search for Intoxicants, Matches, Etc.*—No miner,  
3 workman or other person shall knowingly injure any  
4 shaft, lamp, instrument, air course, or brattice, or obstruct  
5 or throw open airways, or carry matches or open lights  
6 in the places worked by safety lights, or disturb any part  
7 of the machinery or appliances, open a door closed for  
8 directing ventilation and not close it again, or enter any  
9 part of a mine against caution, or disobey any order of any  
10 mine foreman or assistant mine foreman given in carrying  
11 out any of the provisions of this section.

12 Open lights, smoking, and smokers' articles including  
13 matches, are prohibited in mines where electric or safety  
14 lamps are used. No person shall at any time enter such  
15 mines with or carry therein any matches, pipes, cigars,  
16 cigarettes, or any device for making lights or fire not  
17 authorized or approved. In all such mines the operator  
18 shall at frequent intervals search, or cause to be searched,  
19 any person, including his clothing and material belong-  
20 ings, entering or about to enter the mine, or inside the  
21 mine, to prevent such person from taking or carrying  
22 therein any of the above mentioned articles.

23 No person shall at any time carry into any mine any  
24 intoxicants, or enter any mine while under the influence  
25 of intoxicants.

Sec. 58. *Fire Protection.*—Suitable fire protection shall  
2 be provided at surface installations of fans, shops, tipples  
3 and preparation plants, sub-stations, hoist rooms and com-  
4 pressor stations.

5 Suitable underground fire protection shall be provided  
6 at stationary sub-stations and compressor stations, shops,  
7 pumps, doors, transformer stations, battery charging sta-  
8 tions, where oil and grease is stored, at conveyor loading  
9 or discharge points, and strategic points along rubber  
10 belt lines, stables, and on active working sections.

11 Rock dust in quantities of five hundred pounds or more  
12 shall be considered suitable for fire protection at the  
13 above mentioned underground locations, except that a  
14 fire extinguisher suitable for the hazards present shall  
15 be provided as additional protection at underground  
16 shops, permanent sub-stations, compressor stations, bat-  
17 tery charging stations and transformer stations.

18 Mine openings, where there is danger of fire entering  
19 the mine, shall have adequate protection against surface  
20 fires or dangerous volumes of smoke entering the mine.

Sec. 59. *Stable in Mines.*—No operator, agent or mine  
2 foreman shall provide a horse or mule stable inside of  
3 any mine unless space is excavated in solid strata of rock,  
4 slate or coal. If excavated in the coal seam, the wall  
5 shall be built of brick, stone or concrete not less than four  
6 inches in thickness, or of steel plates, and shall be built  
7 from the bottom slate to the roof. No wood or other  
8 combustible material shall be used in the construction  
9 of the inside of the stable. The air current used for the  
10 ventilation of the stable shall not be intermixed with the  
11 air current used for ventilating any other portion of the  
12 mine, but shall be conveyed directly to the return air  
13 current. No open lights shall be permitted in any stable  
14 in any mine. No hay or straw shall be taken into any  
15 mine, unless pressed or made up in compact bales, and  
16 shall be transported from the surface to any underground

17 location in incombustible closed cars, which shall be kept  
18 in a storehouse built apart from the stable, constructed  
19 in the same manner as the stable. Under no circumstances  
20 shall hay be stored in the stable. All refuse and waste  
21 shall be removed from the stable and shall not be allowed  
22 to accumulate in the mine.

Sec. 60. *First Aid Equipment.*—In every mine where  
2 not more than fifty men are employed underground, it  
3 shall be the duty of the operator thereof to keep always  
4 on hand at the mine two properly constructed stretchers,  
5 two woolen and waterproof blankets, and all necessary  
6 requisites; and for each additional fifty men so employed,  
7 one additional stretcher and equipment as above specified  
8 shall be furnished. Such material shall be provided on  
9 the surface and at strategic locations underground near  
10 the working section. No first-aid material shall be re-  
11 moved or diverted, without authorization, except in case  
12 of accident in or about the mine.

Sec. 61. *Mine Openings or Outlets; Roadways; Hoisting  
2 Equipment at Shaft Outlets; Limitation of Section.*—No  
3 operator or mine foreman of any coal mine shall employ  
4 any person to work in such mine, or permit any persons  
5 to be in the mine for the purpose of working therein,  
6 unless they are in communication with at least two open-  
7 ings, or outlets, to each seam, separated by natural strata,  
8 such openings to be not less than three hundred feet  
9 apart, if the mine be worked by shaft; if the mine be  
10 worked by shaft and slope such openings shall be sepa-  
11 rated by one hundred feet of natural strata; and not less  
12 than fifty feet apart at the outlets, if worked by slope  
13 or drift; but this requirement of a distance of three hun-  
14 dred feet between openings or outlets to shaft mines  
15 shall not apply where such openings or outlets have been  
16 made prior to the effective date of this article. To each  
17 of the outlets there shall be provided from the interior  
18 of the mine a safe and available roadway, properly  
19 drained, which shall at all times, while the mine is in  
20 operation, be kept free from all obstructions that might  
21 prevent travel thereon in case of an emergency. If either

22 of the outlets be by shaft, it shall be fitted with safe and  
23 available appliances, such as stairs or hoisting machinery,  
24 which shall at all times when men are underground be  
25 kept in order and ready for immediate use, whereby per-  
26 sons employed in the mine may readily escape in case of  
27 accident.

28 This section shall not apply to any mine while work is  
29 being prosecuted with reasonable diligence in making  
30 communication between outlets, necessary repairs, or re-  
31 moving obstructions, so long as not more than twenty  
32 persons are employed at any one time in the mine; neither  
33 shall it apply to any mine, or part of a mine, in which  
34 a second outlet has been rendered unavailable by reason  
35 of the final robbing of pillars, preparatory to abandon-  
36 ment, so long as not more than twenty persons are em-  
37 ployed therein at any one time; but before a limited  
38 number of men are so permitted to work, approval of  
39 the necessity therefor shall be obtained from the depart-  
40 ment of mines.

*Sec. 62. No Mine to Be Opened or Reopened Without  
2 Prior Approval of Director of Department of Mines.—*  
3 After the effective date of this article, no mine shall be  
4 opened or reopened unless prior approval has been ob-  
5 tained from the director of the department of mines,  
6 which approval shall not be unreasonably withheld. "The  
7 operator shall pay for such approval a fee of five dollars,  
8 which payment shall be tendered with the operator's  
9 application for such approval."

*Sec. 63. Survey on Closing of Mine.—*When any coal  
2 mine is worked out, or is about to be abandoned or  
3 indefinitely closed, the operator of the same shall make or  
4 cause to be made a final survey, where not already made,  
5 of all parts of such mine, and the results of the same shall  
6 be duly extended on all maps of the mine and copies  
7 thereof, so as to show all excavations and the most  
8 advanced workings of the mine and their exact relation  
9 to the boundary or section lines on the surface, and such  
10 abandoned mines shall be properly fenced off.

2       Sec. 64. *Mining Close to Abandoned Workings.*—Any  
3 operator working up to an abandoned coal mine may be  
4 permitted to work to his property line, if approved by  
5 the director of the department of mines, but in such cases  
6 precaution must be taken as provided in this article.

2       Sec. 65. *Explosion or Accident; Investigation by Depart-*  
3 *ment of Mines.*—Whenever, by reason of any explosion  
4 or other accident in or about any coal mine or the  
5 machinery connected therewith, loss of life or serious  
6 personal injury shall occur, it shall be the duty of the  
7 superintendent of the mine, and in his absence, the mine  
8 foreman in charge of the mine, to give immediate notice  
9 to the director of the department of mines and the in-  
10 spector of the district, stating the particulars of such  
11 accident. If anyone is killed, the inspector shall imme-  
12 diately go to the scene of such accident and make such  
13 suggestions and render such assistance as he may deem  
14 necessary for the future safety of the men, and investigate  
15 the cause of such explosion or accident and make a record  
16 thereof which he shall preserve with the other records  
17 of his office, the cost of such records to be paid by the  
18 department of mines, and a copy shall be furnished the  
19 operator and other interested parties. To enable him to  
20 make such investigations, he shall have the power to  
21 compel the attendance of witnesses and to administer  
22 oaths or affirmations. The director of the department of  
23 mines shall have the right to appear and testify and to  
24 offer any testimony that may be relevant to the question  
and to cross-question witnesses.

2       Sec. 66. *Written Report of Accidents.*—Whenever any  
3 accident occurs in or about any coal mine to any employee  
4 or person connected with the mining operation, resulting  
5 in personal injury or death, the operator shall, within  
6 twenty-four hours, report the same in writing to the  
7 director of the department of mines and to the district  
8 mine inspector of the district in which the accident occurs,  
9 giving full details thereof upon forms furnished by the  
department of mines.

Sec. 67. *Scene of Accident; Preservation of Evidence.*—

2 Following a mine accident resulting in the death of one  
3 or more persons and following any mine disaster, the  
4 evidence surrounding such occurrence shall not be dis-  
5 turbed after recovery of bodies or injured persons until  
6 an investigation by the department of mines has been  
7 completed: *Provided, however,* That sufficient wreckage  
8 or debris may be moved to allow recovery work after  
9 disasters or continued general operation of the mine  
10 following fatalities not caused by mine fires or mine  
11 explosions.

Sec. 68. *Fire in or About Mine; Notification of Director*

2 *and District Mine Inspector.*—The operator or mine fore-  
3 man, upon the discovery of fire in or about a mine, shall  
4 immediately notify the director of the department of  
5 mines and the district mine inspector in whose district  
6 the mine is located.

#### WEIGHING OR MEASURING COAL

Sec. 69. *Weighing and Measuring Coal; Appliances;*

2 *Testing Correctness Thereof.*—It shall be the duty of  
3 every operator who compensates any employees by  
4 weight or measure of coal mined to provide scales or  
5 measures and whatever else may be necessary to cor-  
6 rectly weigh or measure such coal.

7 It shall be the duty of the commissioner of labor of the  
8 the state of West Virginia, upon the reasonable request  
9 of any operator of a mine or of two or more miners work-  
10 ing therein, to cause such mine to be visited by one of  
11 his deputies for the purpose of testing such scales or  
12 measures.

Sec. 70. *Marking and Weighing Cars Used in Hauling*

2 *Coal.*—At any mine where employees are paid on the  
3 basis of weight or measure, each car used for removal of  
4 coal shall be numbered and plainly marked. Where coal  
5 mining is paid for on the basis of weight, every car so  
6 used shall be weighed and the weight thereof shall be  
7 plainly marked thereon. Where coal mining is paid for  
8 on the basis of measure, every car so used shall be plainly

9 marked with the number of bushels of coal such car will  
10 hold when loaded to its capacity. No car shall be used  
11 for such purposes until the provisions of this section are  
12 complied with.

Sec. 71. *Weighing Coal Before Screening; Payment for*  
2 *Coal.*—All coal mined and paid for by weight shall be  
3 weighed before it is screened, and shall be paid for  
4 according to the weight so ascertained, at such price per  
5 ton as may be agreed upon by the operators and miners  
6 who mined the same. All coal mined and paid for by  
7 measure shall be paid for according to measure or number  
8 of bushels marked upon cars in which it is removed from  
9 the mine, and before it is screened, and the price paid for  
10 each measure or bushel so ascertained shall be such as  
11 may be agreed upon as aforesaid.

Sec. 72. *Weighman; Checkweighman; Employment;*  
2 *Oath.*—At every mine where mining of coal is paid for  
3 by weight or measure, the operator shall employ a  
4 weighman, and the miners working in such mine may  
5 employ a checkweighman as provided by general law,  
6 and the two so employed shall supervise the weighing  
7 of each car while empty, and the weighing of the same  
8 when loaded with coal so paid for by weight, or the  
9 measurement of such coal, as the case may be. Where  
10 such checkweighman is employed by the miners, the  
11 operator shall furnish such checkweighman with a check  
12 or number and pay him for all coal placed to his check  
13 or number in the same manner as other miners are paid.  
14 If the miners fail to employ a checkweighman, then the  
15 weighman employed by the operator shall supervise  
16 weighing and measuring. All weighmen and check-  
17 weighmen, before entering upon the discharge of their  
18 duties, shall take an oath or affirmation to honestly and  
19 impartially perform the duties of such employment and  
20 do equal and exact justice between employer and  
21 employees to the best of their judgment, skill and ability.  
22 Where a weighman is mutually selected by a majority  
23 of the miners working in a mine and the operator, it shall  
24 not be necessary to employ a checkweighman. Whenever

25 either of the parties to such an agreement shall become  
26 dissatisfied with such weighman, they may dismiss him  
27 on ten days notice.

Sec. 73. *Reopening Old or Abandoned Mine.*—No per-  
2 son, without first giving to the director of conservation ten  
3 days written notice thereof, shall reopen for any purpose  
4 any old or abandoned mine wherein water or mine  
5 seepage has collected or become impounded or exists in  
6 such manner or quantity that upon the opening of such  
7 mine such water or seepage may drain into any stream  
8 or watercourse. Such notice shall state clearly the name  
9 or names of the owner or owners of the mine proposed  
10 to be opened, its exact location, and the time of the  
11 proposed opening thereof.

12 Upon receipt of any such notice, the director of con-  
13 servation shall have his representative present at the  
14 mine at the time designated in the notice for such opening,  
15 who shall have full supervision of the work of opening  
16 such mine with full authority to direct said work in such  
17 manner as to him seems proper and necessary to prevent  
18 the flow of mine water or seepage from such mine in  
19 such manner or quantity as will kill or be harmful to the  
20 fish in any stream or watercourse into which such mine  
21 water or seepage may flow directly or indirectly.

Sec. 74. *Annual Report By Operator of Mine; Owner's*  
2 *Report in Case of Sale.*—The operator of every coal mine  
3 shall annually, during the month of January, mail or  
4 deliver to the director of the department of mines a report  
5 for the preceding calendar year. Such report shall state  
6 the name of the operator, the quantity of coal mined, and  
7 such other information not of a private nature, as may be  
8 required by the director of the department of mines.  
9 Forms for such reports shall be furnished by the director  
10 of the department of mines. Whenever any operator of a  
11 coal mine shall transfer the ownership thereof, such  
12 operator shall, within thirty days, report such transfer  
13 to the director of the department of mines, together with  
14 a statement of the tons of coal produced at such mine dur-  
15 ing the current calendar year.

2       Sec. 75. *Permits.*—Whenever permits are issued by the  
3 department of mines, frequent examination shall be made  
4 by the mine inspector during the tenure of the permit to  
5 determine that the requirements and limitations of the  
6 permit are complied with.

2       Sec. 76. *Compliance.*—Whenever any equipment or  
3 supplies required by this article, including rock-dusting  
4 machines, flame safety lamps, and permissible electric  
5 equipment, are unobtainable in the normal course of busi-  
6 ness, compliance with the requirements of this article  
7 with respect thereto is suspended so long as such items  
8 remain unobtainable. Due allowance shall also be made  
9 for planning, institution of change procedures, and in-  
10 stallation of new equipment.

2       Sec. 77. *Intimidation of Workmen.*—No person or per-  
3 sons, or combination of persons, shall, by force, threats,  
4 menaces or intimidations of any kind, prevent or attempt  
5 to prevent from working in or about any mine any person  
6 or persons who have the lawful right to work in or about  
7 the same, and who desire so to work in or about the  
8 same, and who desire so to work; but this provision shall  
9 not be so construed as to prevent any two or more persons  
10 from associating together under any name they may  
11 desire, for any lawful purpose, or for using moral suasion  
12 or lawful argument to induce any one not to work in and  
13 about any mine.

2       Sec. 78. *Penalties.*—Any person who shall wilfully  
3 violate sections two, seven, twelve, nineteen, twenty-four,  
4 thirty-three, fifty-seven, fifty-eight, sixty, sixty-two,  
5 seventy, seventy-one, seventy-four, seventy-five or  
6 seventy-seven of this article shall be fined not less than  
7 ten nor more than five hundred dollars.

2       Sec. 79. *Provisions of Article Severable.*—The various  
3 provisions of this article shall be construed as separable  
4 and severable, and should any of the provisions, sentences,  
5 clauses, or parts thereof be construed or held unconstitu-  
6 tional or for any reason be invalid, the remaining pro-  
7 visions of this article shall not be thereby affected.

**Article 2-B. Auger Mining**

Section 1. *Permit Required.*—No auger mining shall  
2 be conducted by any person without securing a permit  
3 issued by the department of mines. Such permit shall be  
4 on a form prescribed by the director of the department  
5 of mines. Such permit shall not be unreasonably with-  
6 held. The operator shall pay for such permit a fee of five  
7 dollars, which payment shall be tendered with the op-  
8 erator's application for such permit.

Sec. 2. *Duties of Operator.*—It shall be the duty of the  
2 operator to see that all work is performed in a safe  
3 manner; equipment where necessary shall be properly  
4 guarded; high walls shall be carefully scaled; and loose  
5 and overhanging materials taken down.

6 If, after auger mining is completed, the operator decides  
7 to deep mine the remaining area, he shall comply with  
8 the provisions of article two that are applicable.

Sec. 3. *Reports.*—The operator of any auger mining  
2 shall furnish to the director of the department of mines  
3 the reports required in article two of this chapter.

Filed in Office of the Secretary of State  
of West Virginia FEB 12 1958

HELEN HOLT  
SECRETARY OF STATE

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*E. H. McEurt*  
Chairman Senate Committee

*W. E. Chilton*  
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1958 ~~passage~~

*Howard Myers*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Ralph Bean*  
President of the Senate

*W. E. Jeanneret*  
Speaker House of Delegates

The within approved this the 11th

day of February, 1958.

*Jeff H. Underwood*  
Governor



Filed in Office of the Secretary of State  
of West Virginia **FEB 12 1958**

HELEN TOLT