WEST VIRGINIA CODE: §11-13BB-4

§11-13BB-4. List of approved innovative mine safety technology.

(a) List of approved innovative mine safety technology. -(The Board of Coal Mine Health and Safety, established in section two, article eleven, chapter twenty-two-a of this code, shall annually compile a proposed list of approved innovative mine safety technologies as required by subsection (g), section three, article eleven, chapter twenty-two-a of this code. The list shall be transmitted to the director for approval. The director has thirty days to approve or amend the list. At the expiration of thirty days, the director shall publish the list of approved innovative mine safety technologies. The list shall describe and specifically identify safety equipment for use in West Virginia coal mines which, in the fiscal year when the equipment is added to the list, is not required by the Mine Safety and Health Administration of the United States Department of Labor or the West Virginia Office Of Miners' Health, Safety And Training or any other state or federal agency, to be used in a coal mine or on a mine site or on any other industrial site. Safety equipment shall remain on the list from year to year until the director removes it from the list. The Office of Miners' Health, Safety and Training may establish by legislative rule or interpretive rule a shorter time period for issuance of and updating of the list of approved innovative mine safety technologies.

(b) It is the intent of the Legislature that the list of approved innovative mine safety technologies include only safety equipment that is depreciable tangible personal property for federal income tax purposes, which is so new to the industry and so innovative in concept, design, operation or performance that, in the fiscal year when it is added to the list of approved innovative mine safety technologies, the equipment has not yet been adopted by the Federal Mine Safety and Health Administration or the West Virginia Office of Miners' Health, Safety and Training or any other state or federal agency as required equipment to be used in a coal mine or on a mine site or on any other industrial site, except as specified herein.

(c) Delisting. — (1) If any item of equipment or any line of equipment or class of equipment is listed on the list of approved innovative mine safety technologies in any fiscal year, but then is subsequently adopted by the Federal Mine Safety and Health Administration or the West Virginia Office of Mine Safety or any other state or federal agency as required equipment to be used in a coal mine or on a mine site or on any other industrial site, the equipment shall be removed from the list of approved innovative mine safety technologies compiled and issued for the next succeeding periodic issuance thereafter of the list of approved innovative mine safety technologies.

(2) If it is determined by the director that any item of equipment or any line of equipment or class of equipment that is listed on the list of approved innovative mine safety technology has ceased to be innovative in concept, design, operation or performance, or is ineffective, or has failed to meet the expectations of the Board of Coal Mine Health and Safety, or has

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failed to prove its value in directly minimizing workplace injuries and fatalities in coal mines, the equipment shall be removed from the list of approved innovative mine safety technologies that is compiled and issued for the next succeeding periodic issuance of the list of approved innovative mine safety technologies after the determination has been reached.

(3) However, any eligible taxpayer who invested in the equipment as certified eligible safety property during the time the equipment was lawfully listed on the list of approved innovative mine safety technologies, shall not forfeit the credit authorized by this article as a result of the delisting of the equipment under either subdivision (1) or subdivision (2) of this subsection, so long as the requirements of this article are otherwise fulfilled by the taxpayer for entitlement to the credit.

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