

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1971



## ENROLLED

HOUSE BILL No. 708

(By Mr. SPEAKER, MR. BOIARSKY, AND)  
MR. SEIBERT



PASSED MARCH 13, 1971

In Effect JULY 1, 1971 Passage



FILED IN THE OFFICE  
JOHN D. CORNELLER, IV  
SECRETARY OF STATE  
THIS DATE 4-2-71

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AN ACT to amend and reenact articles one and two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to mines and minerals and the administration and enforcement of the laws pertaining to mines and minerals; defining various terms; providing for a state department of mines; providing for a director of the department of mines, his appointment and terms of office; providing for the power and duties of said director; specifying the eligibility requirements for said director, and specifying his salary; prescribing an oath of office and requiring bond for said director; providing for selection, serving, and removal of mine inspectors, dividing the state into districts and divisions, and providing for the employment, tenure, oath of office and bond required of mine inspectors; providing for the employment of mine safety instructors, and specifying qualifications, and providing for the employment, compensation, tenure, oath of office and bond required of mine safety instructors; providing for the appointing of mine inspectors to appointive positions within the department of mines, and providing that permanent tenure benefits are not affected; providing for the employment of electrical inspectors, and specifying the qualifications, and providing for salary and expenses, tenure, oath of office, and bond required of electrical inspectors; specifying eligibility requirements for appointment, and qualifications for appointment, and providing

for salary, expenses and removal of mine inspectors; providing for a mine inspectors examining board and specifying salary and expenses and meetings and duties of said board; authorizing the director and inspectors to enter mines, providing for the duties of inspectors to examine mines, providing for the duties of inspectors to examine mines with no advance notice, and providing for reports after fatal accidents; providing for the making and issuing of findings, orders and notices; providing for the duties of mine electrical inspectors, and providing for findings and orders by such inspectors; providing for review of orders by the director; providing for posting of notices, orders, and decisions of mine offices; providing for judicial review of orders and decisions of the director; authorizing the director to institute actions, including injunctions; providing civil penalties and criminal penalties for violations; prohibiting discharge of and discrimination against miners; requiring operators to keep records and make reports; providing for a mine foreman examiner and salary of said examiner; providing for the duties of said examiner; providing for the place and time of examinations; providing for the preparation of examinations; providing for notification and appearance before said examiner; providing for certificates of qualification; providing for distribution of certificates of qualification; providing for a record of such examinations; providing for the withdrawal of certification; creating a board of appeals and prescribing its duties, powers, compensation, expenses and oath of office; authorizing the purchase of mine rescue stations and equipment; authorizing the employment of mine rescue crews and prescribing their training, compensation and qualifications; providing for mine rescue teams; providing severability clause; relating to mine maps and surveying; requiring plans for ventilation and approval by the director; specifying safety standards for ventilation of mines in general; providing for sealing or ventilating of unused and abandoned parts of mine; relating to the movement of equipment; relating to the employment of mine foremen and specifying qualifications; providing for duties of mine foreman concerning ventilation, loose coal,

slate or rock, props, drainage of water and man doors; relating to haulage roads; relating to signals on haulways, lights at mouth and bottom of shaft and operation of cages; relating to bore holes; providing for instruction of employees, annual examinations of persons using flame safety lamps, and providing for records of such examinations; relating to daily inspection of working places and records; relating to safety inspections and gas; relating to dangerous places; relating to examinations of reports of firebosses; relating to the ascertainment, record and removal of all dangers; relating to notifying of the operator when unable to comply with the law, and duty of the operator; providing for successor of a mine foreman; relating to employment and qualification of fireboss; prescribing duties of fireboss; providing that fireboss to have no superior officers; making it unlawful to enter mine until fireboss reports it safe, with certain exceptions; relating to other duties of fireboss; relating to coal dust and rock dust; relating to roof, face and rib; requiring operators to carry out roof control programs and plans; specifying safety standards for roof support, roof bolt recovery and mining methods; providing for canopies and cabs and electric face equipment; relating to explosives and blasting; requiring use of authorized explosives and making it unlawful to store or use unauthorized explosives; relating to surface magazines for explosives; specifying safety standards for transportation of explosives; specifying safety standards for underground storage of explosives; specifying safety standards for preparation of shots and blasting practices; specifying safety standards in the event of misfires of explosives; specifying safety standards for other blasting devices; relating to hoisting; specifying safety standards for hoisting machinery, telephones, safety devices, hoisting engineers, and drum runners; relating to transportation; specifying safety standards for transportation, haulage roads and equipment, shelter holes, signals and inspection and prohibiting certain practices, specifying safety standards for transportation of men by cars, self-propelled equipment and belts; specifying safety standards for belt conveyor and installation and maintenance



thereof; relating to electricity generally; specifying safety standards concerning bonding track used as a power conductor; specifying safety standards concerning telephone service or communication facilities; specifying safety standards for electric equipment in gassy mines; specifying safety standards for electric handheld tools; specifying safety standards for illumination; specifying safety standards for welding and cutting; relating to maintenance of face equipment; relating to control of dust and other inhalation hazards; relating to safeguards for mechanical equipment; relating to dust-tight electrical equipment dust control repairs, welding, hand-rails and toeboards; relating to housekeeping; relating to lamp houses; prohibiting smoking in and around surface structures; relating to miscellaneous safety provisions and requirements; providing for duties of persons subject to article and rules and regulations for operators; relating to protective clothing; providing for checking systems of identification of men; prohibiting acts endangering security of mine, and requiring search for intoxicants and matches; relating to fire protection; relating to first-aid equipment; providing for accessible outlets and safe roadways for emergencies; relating to coal storage bins, recovery tunnels and coal storage piles; relating to thermal coal dryers and plants; relating to opening and reopening of mines; approval fees; extension of certificate of approval, providing for nontransferability of certificates and requiring that provisions of this section be printed on certificates; relating to sealing of permanently closed or abandoned mines; relating to mining close to abandoned workings; providing for investigation by department of mines in event of explosion or accident; providing for written report of accidents; providing for preservation of evidence at scene of accident; providing for notification of director and district mine inspector in event of fire in and about mine; relating to shafts and slopes generally providing general provisions concerning the reopening of old or abandoned mines; relating to monthly reports by operator of mine; relating to examinations to determine compliance with permits; and providing a severability clause.

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

That articles one and two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 1. ADMINISTRATION; ENFORCEMENT.**

**§22-1-1. Definitions.**

1 Unless the context in which used clearly requires a  
2 different meaning, the following definitions shall apply  
3 to articles one and two of this chapter:

4 Mine: The term "mine" includes the shafts, slopes,  
5 drifts or inclines connected with excavations penetrating  
6 coal seams or strata, which excavations are ventilated by  
7 one general air current or divisions thereof, and con-  
8 nected by one general system of mine haulage over which  
9 coal may be delivered to one or more points outside the  
10 mine, and the surface structures or equipment connected  
11 therewith which contribute directly or indirectly to the  
12 mining, preparation or handling of coal.

13 Agent: The term "agent" means any person charged  
14 with responsibility for the operation of all or a part of  
15 a mine or the supervision of the miners in a mine.

16 Imminent Danger: The term "imminent danger" means  
17 the existence of any condition or practice in a coal mine  
18 which could reasonably be expected to cause death or  
19 serious physical harm before such condition or practice  
20 can be abated.

21 Department: The term "department" shall mean the  
22 state department of mines provided for in section two  
23 of this article.

24 Director of the Department of Mines: The term "direc-  
25 tor of the department of mines" shall mean the director  
26 of the department of mines provided for in section three  
27 of this article, and is synonymous with the term "chief  
28 of the department of mines."

29 Mine Inspector: The term "mine inspector" shall mean  
30 a state mine inspector provided for in section seven of  
31 this article.

32 Mine Inspectors' Examining Board: The term "mine  
33 inspectors' examining board" shall mean the mine in-  
34 spectors' examining board provided for in section nine of  
35 this article.

36 Operator: The term "operator" shall mean any firm,  
37 corporation, partnership, or individual operating any coal  
38 mine or part thereof.

39 Person: The term "person" shall mean any individual,  
40 partnership, association, corporation, firm, subsidiary of  
41 a corporation, or other organization.

42 Miner: The term "miner" shall mean any individual  
43 working in a coal mine.

44 Work of Preparing the Coal: The term "work of pre-  
45 paring the coal" shall mean the breaking, crushing, sizing,  
46 cleaning, washing, drying, mixing, storing, and loading  
47 of bituminous coal or lignite, and such other work of  
48 preparing such coal as is usually done by the operator  
49 of the coal mine.

50 Accident: The term "accident" shall mean any mine  
51 explosion, mine ignition, mine fire, or mine inundation, or  
52 injury to, or death of any person.

53 Abandoned Workings: The term "abandoned workings"  
54 shall mean excavation, either caved or sealed, that is de-  
55 serted and in which further mining is not intended, or open  
56 workings which are ventilated and not inspected regularly.

57 Excavations and Workings: The term "excavations and  
58 workings" shall mean any or all parts of a mine excavated  
59 or being excavated, including shafts, slopes, drifts, tunnels,  
60 entries, rooms, and working places, whether abandoned  
61 or in use.

62 Shaft: The term "shaft" shall mean a vertical opening  
63 through the strata that is or may be used for the purpose  
64 of ventilation, drainage, and the hoisting and transporta-  
65 tion of men and material, in connection with the mining  
66 of coal.

67 Slope: The term "slope" shall mean a plane or incline  
68 roadway, usually driven to a coal seam from the surface  
69 and used for the same purposes as a shaft.

70 Drift: The term "drift" shall mean a horizontal or ap-  
71 proximately horizontal opening through the strata or in  
72 a coal seam and used for the same purposes as a shaft.

73 Panel: The term "panel" shall mean workings that  
74 are or have been developed off of submain entries which  
75 do not exceed three thousand feet in length.

76 Active Workings: The term "active workings" shall  
77 mean all places in a mine that are ventilated and in-  
78 spected regularly.

79 Inactive Workings: The term "inactive workings" shall  
80 include all portions of a mine in which operations have  
81 been suspended for an indefinite period, but have not  
82 been abandoned.

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

86 Mine Foreman: The term "mine foreman" shall mean  
87 the certified person whom the operator or superintendent  
88 shall place in charge of the inside workings of the mine  
89 and of the persons employed therein.

90 Supervisor: The term "supervisor" shall mean a superin-  
91 tendent, mine foreman, assistant mine foreman, or any per-  
92 son specifically designated by the superintendent or mine  
93 foreman to supervise work or employees and who is acting  
94 pursuant to such specific designation and instructions.

95 Assistant Mine Foreman: The term "assistant mine  
96 foreman" shall mean a certified person designated to  
97 assist the mine foreman in the supervision of a portion  
98 or the whole of a mine or of the persons employed therein.

99 Shot Firer: The term "shot firer" shall mean any person  
100 having had at least two years of practical experience  
101 in coal mines, who has a knowledge of ventilation, mine  
102 roof and timbering, and who has demonstrated his knowl-  
103 edge of mine gases, the use of a flame safety lamp, and  
104 other approved detecting devices by examination and  
105 certification given him by the department of mines.

106 Qualified Person: The term "qualified person" shall  
107 mean a person who has completed an examination and is  
108 considered qualified on record by the department of mines.

109 Interested Persons: The term "interested persons" shall  
110 include the operator, members of any mine safety com-  
111 mittee at the mine affected and other duly authorized  
112 representative of the mine workers and department of  
113 mines.

114 Return Air: The term "return air" shall mean a volume  
115 of air that has passed through and ventilated all the  
116 working places in a mine section.

117 Mechanical Working Section: The term "mechanical  
118 working section" shall mean an area of a mine (1) in  
119 which coal is loaded mechanically, (2) which is comprised  
120 of a number of working places that are generally con-  
121 tiguous, and (3) which is of such size to permit necessary  
122 supervision during shift operation, including preshift and  
123 on-shift examinations and tests required by law.

124 Working Section: The term "working section" shall  
125 mean all areas of the coal mine from the loading point of  
126 the section to and including the working faces.

127 Working Face: The term "working face" shall mean  
128 any place in a coal mine in which work of extracting  
129 coal from its natural deposit in the earth is performed  
130 during the mining cycle.

131 Working Place: The term "working place" shall mean  
132 the area of a coal mine in by the last open crosscut.

133 Working Unit: The term "working unit" shall mean an  
134 area of a mine in which coal is mined with a set of pro-  
135 duction equipment; a conventional mining unit by a single  
136 loading machine; a continuous mining unit by a single  
137 continuous mining machine, which is comprised of a  
138 number of working places.

139 Face Equipment: The term "face equipment" shall  
140 mean mobile or portable mining machinery having elec-  
141 tric motors or accessory equipment normally installed or  
142 operated in by the last open crosscut in an entry or room.

143 Approved: The term "approved" shall mean in strict  
144 compliance with mining law, or, in the absence of law,  
145 accepted by a recognized standardizing body or organiza-  
146 tion whose approval is generally recognized as authorita-  
147 tive on the subject.

148 Permissible: The term "permissible" shall mean any  
 149 equipment, device, or explosive that has been approved  
 150 as permissible by the United States bureau of mines and  
 151 meets all requirements, restrictions, exceptions, limita-  
 152 tions, and conditions attached to such classification by  
 153 the bureau.

154 Certified Electrician: The term "certified electrician"  
 155 shall mean any person who is qualified as a mine elec-  
 156 trician and who has passed an examination given by the  
 157 department of mines.

158 Armored Cable: The term "armored cable" shall mean  
 159 a cable provided with a wrapping of metal, usually steel  
 160 wires or tapes, primarily for the purpose of mechanical  
 161 protection.

162 Borehole Cable: The term "borehole cable" shall mean  
 163 a cable designed for vertical suspension in a borehole or  
 164 shaft and used for power circuits in the mine.

165 Cable: The term "cable" shall mean a stranded con-  
 166 ductor (single conductor cable) or a combination of con-  
 167 ductors insulated from one another (multiple conductor  
 168 cable).

169 Flame-resistant Cable, Portable: The term "flame-  
 170 resistant cable, portable" shall mean a portable flame-  
 171 resistant cable that has passed the flame tests of the  
 172 federal bureau of mines.

173 Portable (Trailing) Cable: The term "portable (trail-  
 174 ing) cable" shall mean a flexible cable or cord used for  
 175 connecting mobile, portable or stationary equipment in  
 176 mines to a trolley system or other external source of  
 177 electric energy where permanent mine wiring is pro-  
 178 hibited or is impracticable.

179 Branch Circuit: The term "branch circuit" shall mean  
 180 any circuit, alternating current or direct current, con-  
 181 nected to and leading from the main power lines.

182 Circuit Breaker: The term "circuit breaker" shall mean  
 183 a device for interrupting a circuit between separable  
 184 contacts under normal or abnormal conditions.

185 High Voltage: The term "high voltage" shall mean  
 186 voltages of more than one thousand volts.

187 Medium Voltage: The term "medium voltage" shall  
188 mean voltages from six hundred sixty-one to one thou-  
189 sand volts.

190 Low Voltage: The term "low voltage" shall mean up  
191 to and including six hundred sixty volts.

192 Lightning Arrestor: The term "lightning arrestor" shall  
193 mean a protective device for limiting surge voltage on  
194 equipment by discharging or by passing surge current; it  
195 prevents continued flow of follow current to ground and  
196 is capable of repeating these functions as specified.

197 Mine Power Center or Distribution Center: The term  
198 "mine power center or distribution center" shall mean a  
199 combined transformer and for distribution unit, complete  
200 within a metal enclosure from which one or more low  
201 voltage power circuits are taken.

202 Delta Connected: The term "delta connected" shall  
203 mean a power system in which the windings or trans-  
204 formers or a.c. generators are connected to form a tri-  
205 angular phase relationship, and with phase conductors  
206 connected to each point of the triangle.

207 Wye-connected: The term "wye-connected" shall mean  
208 a power system connection in which one end of each phase  
209 windings or transformers or a.c. generators are connected  
210 together to form a neutral point, and a neutral conductor  
211 may or may not be connected to the neutral point, and  
212 the neutral point may or may not be grounded.

213 Zig-zag Transformer (Grounding Transformer): The  
214 term "zig-zag transformer (grounding transformer)" shall  
215 mean a transformer intended primarily to provide a  
216 neutral point for grounding purposes.

217 Neutral Point: The term "neutral point" shall mean the  
218 connection point of transformer or generator windings  
219 from which the voltage to ground is nominally zero, and  
220 is the point generally used for system groundings in wye-  
221 connected a.c. power system.

222 Neutral (Derived): The term "neutral (derived)" shall  
223 mean a neutral point or connection established by the  
224 addition of a "zig-zag" or grounding transformer to a  
225 normally ungrounded power system.

226 Effectively Grounded: The term "effectively grounded"  
 227 is an expression which means grounded through a  
 228 grounding connection of sufficiently low impedance (in-  
 229 herent or intentionally added or both) so that fault  
 230 grounds which may occur cannot build up voltages in ex-  
 231 cess of limits established for apparatus, circuits, or sys-  
 232 tems so grounded.

233 Grounded (Earthed): The term "grounded (earthed)"  
 234 shall mean that the system, circuit, or apparatus referred  
 235 to is provided with a ground.

236 Ground or Grounding Conductor (Mining): The term  
 237 "ground or grounding conductor (mining)," also referred  
 238 to as a safety ground conductor, safety ground, and  
 239 frame ground, shall mean a metallic conductor used  
 240 to connect the metal frame or enclosure of any equip-  
 241 ment, device or wiring system with a mine track or  
 242 other effective grounding medium.

243 Board of Appeals: The term "board of appeals" shall  
 244 mean as provided for in section thirty-two of this article.

245 Certified Person: The term "certified person," when  
 246 used to designate the kind of person to whom the per-  
 247 formance of a duty in connection with the operation of  
 248 a mine shall be assigned, shall mean a person who is  
 249 qualified under the provisions of this law to perform  
 250 such duty.

#### **§22-1-2. Department of mines.**

1 There shall be a state department of mines, which shall  
 2 have for its purpose the supervision of the execution and  
 3 enforcement of the provisions of this chapter, enacted for  
 4 the protection of the safety and health of persons em-  
 5 ployed within or at the mines within this state, and for  
 6 the protection and preservation of mining property and  
 7 property used in connection therewith.

#### **§22-1-3. Director of the department of mines—Appointment; term of office.**

1 There shall be a director of the department of mines,  
 2 who shall be appointed by the governor with the advice  
 3 and consent of the Senate and who shall serve for a term



4 of four years, subject to the provisions of chapter six,  
 5 article six, section four of this code, as amended. The  
 6 original term of the director of the department of mines  
 7 appointed under this section shall commence as of the  
 8 effective date of this article, as amended, and all appoint-  
 9 ments to such office made thereafter shall be made for a  
 10 full term of four years, except that in case of a vacancy,  
 11 the appointment shall be made for the unexpired term  
 12 only.

**§22-1-4. Same—Power and duties.**

1 The director of the department of mines shall have  
 2 full charge of the department. He shall have the power  
 3 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  
 14 section seven of this article, and to supervise and direct  
 15 such mine inspectors in the performance of their duties.

16 (5) Suspend, for good cause, any mine inspector with-  
 17 out compensation for a period not exceeding thirty days  
 18 in any calendar year.

19 (6) Prepare report forms to be used by mine inspec-  
 20 tors 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  
 28 by 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  
 33 visits and inspections of mines in the state by mine in-  
 34 spectors, the quantity of coal, coke and other minerals  
 35 (including oil and gas) produced in the state, the number  
 36 of men employed, number of mines in operation, statistics  
 37 with regard to health and safety of persons working in  
 38 the mines, improvements made, prosecutions, such other  
 39 information in relation to the subject of mines, mine in-  
 40 spections and needed legislation as he may deem of  
 41 public interest and beneficial to the mining interest of  
 42 the state. Such reports shall be filed with the governor  
 43 on or before the thirtieth day of June next succeeding  
 44 the year for which it was made, and shall upon proper  
 45 authority be printed and distributed to interested per-  
 46 sons.

47 (10) Call or subpoena witnesses, for the purpose of  
 48 conducting hearings into mine fires, mine explosions or  
 49 any mine accident; to administer oaths and to require  
 50 production of any books, papers, records, or other docu-  
 51 ments relevant or material to the hearing. Any witness  
 52 so called or subpoenaed shall receive forty dollars per  
 53 diem and shall receive mileage at the rate of ten cents  
 54 for each mile actually traveled, which shall be paid out  
 55 of the state treasury upon a requisition upon the state  
 56 auditor, properly certified by such witness.

57 (11) Institute civil actions for relief, including perma-  
 58 nent or temporary injunctions, restraining orders, or any  
 59 other appropriate action in the appropriate federal or  
 60 state court whenever any operator or his agent violates  
 61 or fails or refuses to comply with an lawful order, notice  
 62 or decision issued by the director or his representative.

63 (12) Perform all other duties which are expressly  
 64 imposed upon him by the provisions of this chapter.

65 (13) Make all records of the department open for in-  
 66 spection of interested persons and the public.

**§22-1-5. Same—Eligibility; salary.**

1 The director of the department of mines shall be a  
 2 male citizen of West Virginia, shall be a competent person  
 3 of good repute and temperate habits and shall have had

4 at least fifteen years' experience underground in coal  
 5 mines, at least ten of which shall have been underground  
 6 in mines in this state. He shall possess a practical knowl-  
 7 edge of the different systems of working, ventilating and  
 8 draining of coal mines, and a practical and scientific  
 9 knowledge of all noxious and dangerous gases found in  
 10 such mines. A diploma in mining engineering from the  
 11 West Virginia University school of mines or any similarly  
 12 accredited engineering school shall be counted as two  
 13 years' working experience. The director shall devote  
 14 all of his time to the duties of his office and shall not be  
 15 directly or indirectly interested financially in any mine  
 16 in this state. The salary of the director of the department  
 17 of mines shall be twenty-five thousand dollars per year  
 18 and traveling expenses, which shall be paid out of the  
 19 state treasury upon a requisition upon the state auditor,  
 20 properly certified by the director of the department of  
 21 mines.

**§22-1-6. Same—Oath and bond.**

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

**§22-1-7. Mine inspectors—Districts and divisions; employment; tenure; oath; bond.**

*See Reamending*  
 1 Notwithstanding any ~~other~~ provisions of law, mine in-  
 2 spectors shall be selected, serve and be removed as in this  
 3 article provided.

4 The director of the department of mines shall divide  
 5 the state into not more than forty-five mining districts  
 6 and not more than five mining divisions, so as to equalize,  
 7 as far as practical, the work of each inspector. He may  
 8 assign inspectors to districts, designate and assign not  
 9 more than one inspector-at-large to each division and one  
 10 assistant inspector-at-large. He shall designate the places

11 of abode of inspectors at points convenient to the mines  
12 of their respective districts, and, in the case of inspectors  
13 and assistant inspectors-at-large, their respective divi-  
14 sions.

15 Except as in the next preceding paragraph provided, all  
16 mine inspectors appointed after the mine inspectors'  
17 examining board has certified to the director of the de-  
18 partment of mines an adequate register of qualified  
19 eligible candidates in accordance with section eight of  
20 this article, so long as such register contains the names of  
21 at least three qualified eligible candidates, shall be ap-  
22 pointed from the names on such register. Each original  
23 appointment shall be made by the director of the depart-  
24 ment of mines for a probationary period of not more than  
25 one year.

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

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

45 After having served for a probationary period of one  
46 year to the satisfaction of the director of the department  
47 of mines, a mine inspector shall have permanent tenure  
48 until he becomes sixty-five years of age, subject only to  
49 dismissal for cause in accordance with the provisions of  
50 section eight of this article. No mine inspector, while  
51 in office, shall be directly or indirectly interested as

owner, lessor, operator, stockholder, superintendent or engineer of any coal mine. Before entering upon the discharge of his duties as a mine inspector, he shall take the oath of office prescribed by the constitution, and shall execute a bond in the penalty of two thousand dollars, with security to be approved by the director of the department of mines, conditioned upon the faithful discharge of his duties, a certificate of which oath and bond shall be filed in the office of the secretary of state.

The district inspectors, inspectors-at-large and assistant inspectors-at-large, together with the director, shall make all inspections authorized by articles one and two of this chapter and shall perform such other duties as are imposed upon mine inspectors by articles one, two and six of this chapter.

**§22-1-8. Mine safety instructors; qualifications; employment; compensation; tenure; oath; bond.**

The department shall employ eleven or more mine safety instructors. To be eligible for employment as a mine safety instructor, the applicant shall be (1) a citizen of West Virginia, in good health, not less than twenty-five nor more than sixty-five years of age, and of good character, reputation and temperate habits, and (2) a person who has had at least five years' experience in first aid and mine rescue work and who has had practical experience with dangerous gases found in coal mines, and who has a practical knowledge of mines, mining methods, mine ventilation, sound safety practices, and applicable mining laws.

In order to qualify for appointment as a mine safety instructor, an eligible applicant shall submit to a written and oral examination, given by the mine inspectors' examining board. The examination shall relate to the duties to be performed by a safety instructor and may, subject to the approval of the mine inspectors' examining board, be prepared by the director of West Virginia department of mines.

If the board finds after investigation and examination that the applicant (1) is eligible for appointment, and (2) has passed all oral and written examinations with a grade

24 of at least eighty percent, the board shall add such ap-  
 25 plicant's name and grade to a register of qualified eligible  
 26 candidates and certify its action to the director of the  
 27 department of mines. The director may then appoint one  
 28 of the candidates from the three having the highest  
 29 grades.

30 The salary for a mine safety instructor shall be not less  
 31 than ten thousand dollars per year, with graduations of  
 32 two hundred forty dollars annually for a ten-year period  
 33 and shall be fixed by the director of the department of  
 34 mines, who shall take into consideration ability, per-  
 35 formance of duty, and experience. Such instructor shall  
 36 devote all of his time to the duties of his office. No re-  
 37 imbursement for traveling expenses shall be made except  
 38 on an itemized accounting for such expenses submitted  
 39 by the instructor, who shall verify upon oath that such  
 40 expenses were actually incurred in the discharge of his  
 41 official duties.

42 Except as expressly provided in this section to the  
 43 contrary, all provisions of this article relating to the  
 44 eligibility, qualification, appointment, tenure and removal  
 45 of mine inspectors shall be applicable to mine safety in-  
 46 structors.

**§22-1-9. Mine inspectors—May be appointed to fill vacancy in department; permanent tenure benefits not affected.**

1 Notwithstanding any other provisions of law, if a va-  
 2 cancy occurs in any appointive position within the de-  
 3 partment of mines, any mine inspector having permanent  
 4 tenure, if qualified, may be appointed to such appointive  
 5 position without forfeiting any of the benefits which have  
 6 accrued to him because of his permanent tenure as a  
 7 mine inspector.

**§22-1-10. Employment of electrical inspectors; qualifications; salary and expenses; tenure; oath; bond.**

1 The department shall employ five or more electrical  
 2 inspectors. To be eligible for employment as an electrical  
 3 inspector, the applicant shall be: (1) A citizen and  
 4 resident of West Virginia, in good health, not less than  
 5 twenty-five nor more than fifty-five years of age, and

6 of good character, reputation and of temperate habits;  
7 and (2) a person who has had seven years' practical  
8 electrical experience in coal mines, or a degree in elec-  
9 trical engineering from an accredited electrical engi-  
10 neering school and one year's practical experience in  
11 underground coal mining.

12 In order to qualify for appointment as a mine electrical  
13 inspector, an eligible applicant shall submit to a written  
14 and oral examination given by the mine inspectors'  
15 examining board. The examination shall relate to the  
16 duties to be performed by an electrical inspector. If the  
17 board finds after investigation and examination that the  
18 applicant (1) is eligible for appointment and (2) has  
19 passed all oral and written examinations with a grade  
20 of at least ninety percent, the board shall add such  
21 applicant's name and grade to a register of qualified  
22 eligible candidates and certify its action to the director  
23 of the department of mines. The director may then  
24 appoint one of the candidates from the three having the  
25 highest grade.

26 The salary of a mine electrical inspector shall not be  
27 less than fourteen thousand five hundred dollars per  
28 year, with graduations of two hundred forty dollars  
29 annually for a ten-year period, and shall be fixed by  
30 the director of the department of mines, who shall take  
31 into consideration ability, performance of duty, and ex-  
32 perience. No reimbursement for traveling expenses shall  
33 be made except on an itemized accounting for such  
34 expense submitted by the electrical inspector, who shall  
35 verify upon oath that such expenses were actually in-  
36 curred in the discharge of his official duties.

37 Mine electrical inspectors, before entering upon the  
38 discharge of their duties, shall take and subscribe to the  
39 oath and shall execute a bond in the same penal sum,  
40 with surety approved by the director of the department  
41 of mines, all as is required by this article in the case of  
42 mine inspectors.

43 Except as expressly provided in this section to the  
44 contrary, all provisions of this article relating to the  
45 eligibility, qualifications, appointments, tenure and re-

46 moval of mines inspectors shall be applicable to mine  
47 electrical inspectors.

**§22-1-11. Mine inspectors—Eligibility for appointment; qualifications; salary and expenses; removal.**

1 (a) No person shall be eligible for appointment as a  
2 mine inspector unless, at the time of his probationary  
3 appointment, he (1) is a citizen of West Virginia, in  
4 good health, not less than thirty nor more than fifty-five  
5 years of age, and of good character, reputation and tem-  
6 perate habits; (2) has had at least ten years' practical  
7 experience in coal mines, at least five years of which,  
8 immediately preceding his original appointment, shall  
9 have been in mines in this state: *Provided*, That gradua-  
10 tion from any accredited college of mining engineering  
11 shall be considered the equivalent of two years' practical  
12 experience; (3) has had practical experience with danger-  
13 ous gases found in coal mines; and (4) has a good theoret-  
14 ical and practical knowledge of mines, mining methods,  
15 mine ventilation, sound safety practices and applicable  
16 mining laws.

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

31 (c) Salaries of district inspectors shall not be less  
32 than thirteen thousand six hundred dollars per year, with  
33 graduations of two hundred forty dollars annually for  
34 a ten-year period; assistant inspector-at-large, not less  
35 than fifteen thousand dollars per year, with graduations  
36 of two hundred forty dollars annually for a ten-year



37 period; inspectors-at-large, not less than sixteen thou-  
38 sand dollars per year, with graduations of two hundred  
39 forty dollars annually for a ten-year period, and they  
40 shall receive mileage at the rate of not less than ten  
41 cents for each mile actually traveled in the discharge of  
42 their official duties in a privately owned vehicle. Within  
43 the limits provided by law, the salary of each inspector  
44 shall be fixed by the director of the department of mines,  
45 subject to the approval of the mine inspectors' examining  
46 board. In fixing salaries of mine inspectors, the director  
47 of the department of mines shall consider ability, per-  
48 formance of duty and experience. No reimbursement for  
49 traveling expenses shall be made except upon an itemized  
50 account of such expenses submitted by the inspector,  
51 who shall verify upon oath, that such expenses were  
52 actually incurred in the discharge of his official duties.

53 (d) Any mine inspector who has fulfilled the require-  
54 ments of this section with respect to employment and who  
55 has served satisfactorily as a mine inspector for a mini-  
56 mum period of one year and who has terminated his em-  
57 ployment as a mine inspector, upon successfully passing  
58 a physical examination, may be reinstated as a mine in-  
59 spector within two years after terminating his employ-  
60 ment with the approval of the examining board and the  
61 director of the department of mines.

62 (e) A mine inspector, after having received a perma-  
63 nent appointment, shall be removed from office only for  
64 physical or mental impairment, incompetency, neglect of  
65 duty, drunkenness, malfeasance in office, or other good  
66 cause.

67 Proceedings for the removal of a mine inspector may  
68 be initiated by the director of the department of mines  
69 whenever he has reasonable cause to believe and does  
70 believe that adequate cause exists, warranting removal.  
71 Such a proceeding shall be initiated by a verified petition,  
72 filed with the board by the director of the department of  
73 mines, setting forth with particularity the facts alleged.  
74 Not less than twenty reputable citizens, who are opera-  
75 tors or employees in mines in the state, may petition the  
76 director of the department of mines for the removal of a  
77 mine inspector. If such petition is verified by at least

78 one of the petitioners, based on actual knowledge of the  
 79 affiant and alleged facts, which, if true, warrant the re-  
 80 moval of the inspector, the director of the department  
 81 of mines shall cause an investigation of the facts to be  
 82 made. If, after such investigation, the director finds that  
 83 there is substantial evidence, which, if true, warrants  
 84 removal of the inspector, he shall file a petition with the  
 85 board requesting removal of the inspector.

86 On receipt of a petition by the director of the depart-  
 87 ment of mines seeking removal of a mine inspector, the  
 88 board shall promptly notify the inspector to appear be-  
 89 fore it at a time and place designated in said notice, which  
 90 time shall be not less than fifteen days thereafter. There  
 91 shall be attached to the copy of the notice served upon  
 92 the inspector a copy of the petition filed with the board.

93 At the time and place designated in said notice, the  
 94 board shall hear all evidence offered in support of the  
 95 petition and on behalf of the inspector. Each witness  
 96 shall be sworn, and a transcript shall be made of all  
 97 evidence taken and proceedings had at any such hearing.  
 98 No continuance shall be granted except for good cause  
 99 shown. The chairman of the board and the director of the  
 100 department of mines shall have power to administer oaths  
 101 and subpoena witnesses.

102 Any mine inspector who shall wilfully refuse or fail  
 103 to appear before the board, or having appeared, shall  
 104 refuse to answer under oath any relevant question on the  
 105 ground that his testimony or answer might incriminate  
 106 him, or shall refuse to waive immunity from prosecution  
 107 on account of any relevant matter about which he may  
 108 be asked to testify at any such hearing before the board,  
 109 shall forfeit his position.

110 If, after hearing, the board finds that the inspector  
 111 should be removed, it shall enter an order to that effect.  
 112 The decision of the board shall be final and shall not be  
 113 subject to judicial review.

#### **§22-1-12. Mine inspectors examining board.**

1 There shall be a mine inspectors examining board con-  
 2 sisting of five members who, except for the public rep-  
 3 resentative on such board, shall be appointed by the gov-

4 ernor, by and with the advice and consent of the Senate.  
5 Members so appointed may be removed only for the same  
6 causes and in like manner as elective state officers. One  
7 of the members of the board shall be a representative  
8 of the public, who shall be the director of the school of  
9 mines at West Virginia University. Two members of the  
10 board shall be persons who by reason of previous train-  
11 ing and experience may reasonably be said to represent  
12 the viewpoint of coal mine operators and two members  
13 shall be persons who by reason of previous training and  
14 experience may reasonably be said to represent the view-  
15 point of coal mine workers.

16 The director of the department of mines shall be an  
17 ex officio member of the board and shall serve as secre-  
18 tary of the board, without additional compensation; but  
19 he shall have no right to vote with respect to any matter  
20 before the board.

21 The members of the board, except the public repre-  
22 sentative, shall be appointed for overlapping terms of  
23 eight years, except that the original appointments shall  
24 be for terms of two, four, six and eight years, respec-  
25 tively. Any member whose term expires may be re-  
26 appointed by the governor.

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

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

41 The mine inspectors' examining board shall meet at  
42 such times and places as shall be designated by the  
43 chairman. It shall be the duty of the chairman to call

44 a meeting of the board on the written request of three  
 45 members or the director of the department of mines.  
 46 Notice of each meeting shall be given in writing to each  
 47 member by the secretary at least five days in advance  
 48 of the meeting. Three members shall constitute a quorum  
 49 for the transaction of business.

50 In addition to other duties expressly set forth else-  
 51 where in this article, the board shall:

52 (1) Establish, and from time to time revise, forms  
 53 of application for employment as mine inspectors and  
 54 forms for written examinations to test the qualification  
 55 of candidates for that position;

56 (2) Adopt and promulgate reasonable rules and regu-  
 57 lations relating to the examination, qualification and  
 58 certification of candidates for appointment as mine in-  
 59 spectors, and hearings for removal of inspectors, re-  
 60 quired to be held by this article. All of such rules and  
 61 regulations shall be printed and a copy thereof furnished  
 62 by the secretary of the board to any person upon request;

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

70 (4) Prepare and certify to the director of the depart-  
 71 ment of mines a register of qualified eligible candidates  
 72 for appointment as mine inspectors. The register shall  
 73 list all qualified eligible candidates in the order of their  
 74 grades, the candidate with the highest grade appearing  
 75 at the top of the list. After each meeting of the board  
 76 held to examine such candidates, and at least annually,  
 77 the board shall prepare and submit to the director of  
 78 the department of mines a revised and corrected register  
 79 of qualified eligible candidates for appointment as mine  
 80 inspector, deleting from such revised register all persons  
 ✓ 81(a) who are no longer residents of West Virginia, (b)  
 82 who have allowed a calendar year to expire without,  
 83 in writing, indicating their continued availability for

84 such appointment, (c) who have been passed over for  
 85 appointment for three years, (d) who have become in-  
 86 eligible for appointment since the board originally certi-  
 87 fied that such person was qualified and eligible for ap-  
 88 pointment as mine inspector, or (e) who, in the judg-  
 89 ment of at least four members of the board, should be  
 90 removed from the register for good cause;

91 (5) Cause the secretary of the board to keep and pre-  
 92 serve the written examination papers, manuscripts, grad-  
 93 ing sheets, and other papers of all applicants for ap-  
 94 pointment as mine inspector for such period of time as  
 95 may be established by the board. Specimens of the  
 96 examinations given together with the correct solution  
 97 of each question, shall be preserved permanently by the  
 98 secretary of the board;

99 (6) Issue a letter or written notice of qualification to  
 100 each successful eligible candidate;

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

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

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

**§22-1-13. Director and inspectors authorized to enter mines;  
 duties of inspectors to examine mines; no advance  
 notice; reports after fatal accidents.**

1 The director of the department of mines shall have  
 2 authority to visit, enter, and examine any mine, whether

3 underground or on the surface, and may call for the  
4 assistance of any district mine inspector or inspectors  
5 whenever such assistance is necessary in the examina-  
6 tion of any mine. The operator of every coal mine shall  
7 furnish the director of the department of mines or mine  
8 inspector proper facilities for entering such mine and  
9 making examination or obtaining information.

10 If miners at any mine or one of their authorized repre-  
11 sentatives have reason to believe that dangerous condi-  
12 tions are existing or that the law is not being complied  
13 with, they may request the director to have an immediate  
14 investigation made.

15 Mine inspectors shall devote their full time and un-  
16 divided attention to the performance of their duties,  
17 and they shall examine all of the mines in their respec-  
18 tive districts at least four times annually, and as often, in  
19 addition thereto, as the director of the department of  
20 mines may direct, or the necessities of the case or the  
21 condition of the mine or mines may require, with no  
22 advance notice of inspection provided to any person,  
23 and they shall make a personal examination of each  
24 working face and all entrances to abandoned parts of  
25 the mine where gas is known to liberate, for the purpose  
26 of determining whether a danger, described in section  
27 eleven of this article, exists in any such mine, or whether  
28 any provision of article two of this chapter is being vio-  
29 lated in any such mine.

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

39 At the commencement of any inspection of a coal  
40 mine by an authorized representative of the director,  
41 the authorized representative of the miners at the mine  
42 at the time of such inspection shall be given an oppor-

43 tunity to accompany the authorized representative of the  
44 director on such inspection.

**§22-1-14. Findings, orders and notices.**

1 (a) If, upon any inspection of a coal mine, an au-  
2 thorized representative of the director finds that an im-  
3 minent danger exists, such representative shall determine  
4 the area throughout which such danger exists, and there-  
5 upon shall issue forthwith an order requiring the oper-  
6 ator of the mine or his agent to cause immediately all  
7 persons, except those referred to in subsection (c) (1),  
8 (2), (3), (4) of this section, to be withdrawn from and  
9 to be prohibited from entering such area until an  
10 authorized representative of the director determines that  
11 such imminent danger no longer exists.

12 All employees on the inside and outside of a mine who  
13 are idled as a result of the posting of a withdrawal order  
14 by a mine inspector shall be compensated by the operator  
15 at their regular rates of pay for the period they are idled,  
16 but not more than the balance of such shift. If such order  
17 is not terminated prior to the next working shift, all such  
18 employees on that shift who are idled by such order shall  
19 be entitled to full compensation by the operator at their  
20 regular rates of pay for the period they are idled, but for  
21 not more than four hours of such shift.

22 (b) If, upon any inspection of a coal mine, an au-  
23 thorized representative of the director finds that there  
24 has been a violation of the law, but the violation has  
25 not created an imminent danger, he shall issue a notice  
26 to the operator or his agent, fixing a reasonable time  
27 for the abatement of the violation. If, upon the expira-  
28 tion of the period of time, as originally fixed or subse-  
29 quently extended, an authorized representative of the  
30 director of the department of mines finds that the vio-  
31 lation has not been totally abated, and if he also finds  
32 that the period of time should not be further extended,  
33 he shall find the extent of the area affected by the vio-  
34 lation and shall promptly issue an order requiring the  
35 operator of such mine or his agent to cause immediately  
36 all persons, except those referred to in subsection (c)  
37 (1), (2), (3), (4) of this section, to be withdrawn from,

38 and to be prohibited from entering such area until an  
39 authorized representative of the director determines  
40 that the violation has been abated.

41 (c) The following persons shall not be required to  
42 be withdrawn from or prohibited from entering any area  
43 of the coal mine subject to an order issued under this  
44 section:

45 (1) Any person whose presence in such area is  
46 necessary, in the judgment of the operator or an autho-  
47 rized representative of the director, to eliminate the con-  
48 dition described in the order;

49 (2) any public official whose official duties require  
50 him to enter such area;

51 (3) any representative of the miners in such mine who  
52 is, in the judgment of the operator or an authorized  
53 representative of the director, qualified to make coal  
54 mine examinations or who is accompanied by such a  
55 person and whose presence in such area is necessary  
56 for the investigation of the conditions described in the  
57 order; and

58 (4) any consultant to any of the foregoing.

59 (d) Notices and orders issued pursuant to this section  
60 shall contain a detailed description of the conditions or  
61 practices which cause and constitute an imminent danger  
62 or a violation of any mandatory health or safety standard  
63 and, where appropriate, a description of the area of the  
64 coal mine from which persons must be withdrawn and  
65 prohibited from entering.

66 (e) Each notice or order issued under this section  
67 shall be given promptly to the operator of the coal mine  
68 or his agent by an authorized representative of the di-  
69 rector issuing such notice or order, and all such notices  
70 and orders shall be in writing and shall be signed by  
71 such representative and posted on the bulletin board at  
72 the mine.

73 (f) A notice or order issued pursuant to this section  
74 may be modified or terminated by an authorized represen-  
75 tative of the director.

76 (g) Each finding, order, and notice made under this  
77 section shall promptly be given to the operator of the



78 mine to which it pertains by the person making such  
 79 finding, order, or notice.

**§22-1-15. Duties, findings, and orders of mine electrical inspectors; special inspections; notice.**

1 In order that the electrical inspector may properly per-  
 2 form the duties required of him, he shall devote his whole  
 3 time and attention to the duties of his office, and he shall  
 4 have the right to enter any coal mine for the purpose of  
 5 inspecting electrical equipment, and if he finds during his  
 6 inspection any defects in the electrical equipment which  
 7 are covered by law and may be detrimental to the lives  
 8 or health of the workmen, he shall have the authority  
 9 to order the operator, in writing, to remedy such defects  
 10 within a prescribed time, and to prohibit the continued  
 11 operation of such electrical equipment after such time,  
 12 unless such defects have been corrected.

13 The electrical inspector shall examine each mine in his  
 14 division at least once each year or as often as the director  
 15 may deem necessary.

16 It shall be the duty of the electrical inspector, after  
 17 completing his examination of a mine, to prepare a report  
 18 describing his findings in said mine in a manner and form  
 19 designated by the director. The original report shall be  
 20 forwarded to the operator or his representative whose  
 21 duty it shall be to post it in some conspicuous place open  
 22 to examination by any interested person or persons. The  
 23 report shall show the date of inspection, a list of equip-  
 24 ment, and any other information that the director may  
 25 deem necessary.

**§22-1-16. Review by the director.**

1 (a) (1) An operator, issued an order pursuant to the  
 2 provisions of section eleven of this article, or any rep-  
 3 resentative of miners in any mine affected by such order  
 4 or by any modification or termination of such order, may  
 5 apply to the director for review of the order within thirty  
 6 days of receipt thereof or within thirty days of its modi-  
 7 fication or termination. An operator, issued a notice pur-  
 8 suant to section eleven-b of this article, or any representa-  
 9 tive of miners in any mine affected by such notice, may,

10 if he believes that the period of time fixed in such notice  
11 for the abatement of the violation is unreasonable, apply  
12 to the director for review of the notice within thirty days  
13 of the receipt thereof. The applicant shall send a copy of  
14 such application to the representative of miners in the  
15 affected mine, or the operator, as appropriate. Upon re-  
16 ceipt of such application, the director shall cause such  
17 investigation to be made as he deems appropriate. Such  
18 investigation shall provide an opportunity for a public  
19 hearing, at the request of the operator or the representa-  
20 tive of miners in such mine, to enable the operator and  
21 the representative of miners in such mine to present in-  
22 formation relating to the issuance and continuance of  
23 such order or the modification or termination thereof or  
24 to the time fixed in such notice. The filing of an applica-  
25 tion for review under this law shall not operate as a stay  
26 of any order or notice.

27 (2) The operator and the representative of the miners  
28 shall be given written notice of the time and place of the  
29 hearing at least five days prior to the hearing.

30 (b) Upon receiving the report of such investigation,  
31 the director shall make findings of fact, and he shall issue  
32 a written decision, incorporating therein an order vacat-  
33 ing, affirming, modifying, or terminating the order, or the  
34 modification or termination of such order, or the notice,  
35 complained of and incorporate his findings therein.

36 (c) In view of the urgent need for prompt decision of  
37 matters submitted to the director under this law, all ac-  
38 tions which the director takes under this section shall be  
39 taken as promptly as practicable, consistent with adequate  
40 consideration of the issues involved.

41 (d) Pending completion of the investigation required  
42 by this section, the applicant may file with the director a  
43 written request that the director grant temporary relief  
44 (1) from any modification or termination of any order,  
45 or (2) from any order issued under section eleven of this  
46 article, except an order issued under section eleven-a of  
47 this article, together with a detailed statement giving  
48 reasons for granting such relief. The director may grant  
49 such relief, under such conditions as he may prescribe, if

50 (1) A hearing has been held in which all parties were  
51 given an opportunity to be heard;

52 (2) the applicant shows that there is substantial like-  
53 lihood that the findings of the director will be favorable  
54 to the applicant; and

55 (3) such relief will not adversely affect the health and  
56 safety of miners in the coal mine.

57 No temporary relief shall be granted in the case of a  
58 notice issued under section eleven of this article.

**§22-1-17. Posting of notices, orders, and decisions.**

1 (a) At each coal mine there shall be maintained an  
2 office with a conspicuous sign designating it as the office  
3 of the mine, and a bulletin board at such office or at  
4 some conspicuous place near an entrance of the mine, in  
5 such manner that notices, orders, and decisions required  
6 by this law or regulation to be posted on the mine bulletin  
7 board may be posted thereon, be easily visible to all  
8 persons desiring to read them, and be protected against  
9 damage by weather and against unauthorized removal.  
10 A copy of any notice, order, or decision required by this  
11 law to be given to an operator shall be delivered to the  
12 office of the affected mine, and a copy shall be immedi-  
13 ately posted on the bulletin board of such mine by the  
14 operator or his agent.

15 (b) The director shall cause a copy of any notice,  
16 order, or decision required by this law to be given to an  
17 operator to be mailed immediately to a representative of  
18 the miners. Such notice, order, or decision shall be avail-  
19 able for public inspection.

20 (c) In order to insure prompt compliance with any  
21 notice, order, or decision issued under this law, the au-  
22 thorized representative of the director may deliver such  
23 notice, order, or decision to an agent of the operator and  
24 such agent shall immediately take appropriate measures  
25 to insure compliance with such notice, order, or decision.

26 (d) Each operator of a coal mine shall file with the  
27 director the name and address of such mine and the name  
28 and address of the person who controls or operates the  
29 mine. Any revisions in such names or addresses shall  
30 be promptly filed with the director. Each operator of a  
31 coal mine shall designate a responsible official at such  
32 mine as the principal officer in charge of health and

33 safety at such mine, and such official shall receive a copy  
34 of any notice, order, or decision issued under this law  
35 affecting such mine. In any case, where the coal mine  
36 is subject to the control of any person not directly in-  
37 volved in the daily operations of the coal mine, there  
38 shall be filed with the director the name and address of  
39 such person and the name and address of a principal  
40 official of such person who shall have overall responsi-  
41 bility for the conduct of an effective health and safety  
42 program at any coal mine subject to the control of such  
43 person and such official shall receive a copy of any notice,  
44 order, or decision issued affecting any such mine. The  
45 mere designation of a health and safety official under  
46 this subsection shall not be construed as making such  
47 official subject to any penalty under this law.

**§22-1-18. Judicial review.**

1 (a) Any order or decision issued by the director under  
2 this law, except an order or decision under section eleven  
3 of this article shall be subject to judicial review by the  
4 circuit court of the county in which the mine affected  
5 is located or the circuit court of Kanawha county upon  
6 the filing in such court or with the judge thereof in vaca-  
7 tion of a petition by any person aggrieved by the order  
8 or decision praying that the order or decision be modified  
9 or set aside in whole or in part, except that the court  
10 shall not consider such petition unless such person has  
11 exhausted the administrative remedies available under  
12 this law and files within thirty days from date of such  
13 order or decision.

14 (b) The party making such appeal shall forthwith  
15 send a copy of such petition for appeal, by registered  
16 mail to the other party. Upon receipt of such petition  
17 for appeal, the director of the department of mines shall  
18 promptly certify and file in such court a complete tran-  
19 script of the record upon which the order or decision  
20 complained of was issued. The court shall hear such  
21 petition on the record made before the director. The  
22 findings of the director, if supported by substantial evi-  
23 dence on the record considered as a whole, shall be con-  
24 clusive. The court may affirm, vacate, or modify any

25 order or decision or may remand the proceedings to the  
26 director for such further action as it may direct.

27 (c) In the case of a proceeding to review any order  
28 or decision issued by the director under this law, except  
29 an order or decision pertaining to an order issued under  
30 section eleven-a of this article or an order or decision  
31 pertaining to a notice issued under section eleven-b of  
32 this article, the court may, under such conditions as it  
33 may prescribe, grant such temporary relief as it deems  
34 appropriate pending final determination of the proceed-  
35 ing if

36 (A) All parties to the proceeding have been notified  
37 and given an opportunity to be heard on a request for  
38 temporary relief;

39 (B) the person requesting such relief shows that  
40 there is a substantial likelihood that he will prevail on  
41 the merits of the final determination of the proceeding;  
42 and

43 (C) such relief will not adversely affect the health  
44 and safety of miners in the coal mine.

45 (d) The judgment of the court shall be subject to  
46 review only by the supreme court of appeals of West  
47 Virginia upon a writ of certiorari filed in such court  
48 within sixty days from the entry of the order and decision  
49 of the circuit court upon such appeal from the director.

50 (e) The commencement of a proceeding under this  
51 section shall not, unless specifically ordered by the court,  
52 operate as a stay of the order or decision of the director.

53 (f) Subject to the direction and control of the attor-  
54 ney general, attorneys appointed for the director may  
55 appear for and represent him in any proceeding instituted  
56 under this section.

#### **§22-1-19. Injunctions.**

1 The director may institute a civil action for relief,  
2 including a permanent or temporary injunction, restrain-  
3 ing order, or any other appropriate order in the circuit  
4 court of the county in which the mine is located or the  
5 circuit court of Kanawha county, whenever the operator  
6 or his agent (a) violates or fails or refuses to comply with

7 any order or decision issued under this law, or (b) inter-  
 8 feres with, hinders, or delays the director or his authoriz-  
 9 ed representative in carrying out the provisions of this  
 10 law, or (c) refuses to admit such representatives to  
 11 the mine, or (d) refuses to permit the inspection of  
 12 the mine, or the investigation of an accident or occupa-  
 13 tional disease occurring in, or connected with, such  
 14 mine, or (e) refuses to furnish any information or re-  
 15 port requested by the director in furtherance of the  
 16 provisions of this law, or (f) refuses to permit access  
 17 to, and copying of, such records as the director deter-  
 18 mines necessary in carrying out the provisions of this  
 19 law. Each court shall have jurisdiction to provide such  
 20 relief as may be appropriate. Except as otherwise pro-  
 21 vided herein, any relief granted by the court to enforce  
 22 an order under clause (a) of this section shall continue  
 23 in effect until the completion or final termination of all  
 24 proceedings for review of such order under this law,  
 25 unless, prior thereto, the circuit court granting such re-  
 26 lief sets it aside or modifies it. In any action instituted  
 27 under this section to enforce an order or decision issued  
 28 by the director after a public hearing, the findings of  
 29 the director, if supported by substantial evidence on the  
 30 record considered as a whole, shall be conclusive.

#### §22-1-20. Penalties.

1 (a)(1) Any operator of a coal mine in which a viola-  
 2 tion occurs of a health or safety standard or who violates  
 3 any other provision of this law, shall be assessed a civil  
 4 penalty by the director under paragraph (3) of this  
 5 subsection, which penalty shall be not more than three  
 6 thousand dollars for each such violation. Each occur-  
 7 rence of a violation of a health or safety standard  
 8 may constitute a separate offense. In determining the  
 9 amount of the penalty, the director shall consider the  
 10 operator's history of previous violations, the appropriate-  
 11 ness of such penalty to the size of the business of the  
 12 operator charged, the gravity of the violation, and the  
 13 demonstrated good faith of the operator charged in at-  
 14 tempting to achieve rapid compliance after notification  
 15 of a violation.

16 (2) Any miner who wilfully violates any health  
17 and safety standards shall be subject to a civil  
18 penalty assessed by the director under paragraph (3)  
19 of this subsection which penalty shall not be more  
20 than two hundred fifty dollars for each occurrence of  
21 such violation.

22 (3) A civil penalty shall be assessed by the di-  
23 rector only after the person charged with a violation  
24 under this law has been given an opportunity for a  
25 public hearing and the director has determined, by  
26 decision incorporating his findings of fact therein,  
27 that a violation did occur, and the amount of the  
28 penalty which is warranted, and incorporating, when  
29 appropriate, an order therein requiring that the penalty  
30 be paid. Any hearing under this section shall be of  
31 record.

32 (4) If the person against whom a civil penalty is  
33 assessed fails to pay the penalty within the time pre-  
34 scribed in such order, the director shall file a petition  
35 for enforcement of such order in any appropriate circuit  
36 court. The petition shall designate the person against  
37 whom the order is sought to be enforced as the re-  
38 spondent. A copy of the petition shall forthwith be sent  
39 by registered or certified mail to the respondent and to  
40 the representative of the miners at the affected mine  
41 or the operator, as the case may be, and thereupon the  
42 director shall certify and file in such court the record  
43 upon which such order sought to be enforced was issued.  
44 The court shall have jurisdiction to enter a judgment  
45 enforcing, modifying, and enforcing as so modified, or  
46 setting aside in whole or in part the order and decision  
47 of the director or it may remand the proceedings to  
48 the director for such further action as it may direct.  
49 The court shall consider and determine de novo all rele-  
50 vant issues, except issues of fact which were or could  
51 have been litigated in review proceedings before a cir-  
52 cuit court under section fourteen of this article, and upon  
53 the request of the respondent, such issues of fact which  
54 are in dispute shall be submitted to a jury. On the  
55 basis of the jury's findings, the court shall determine  
56 the amount of the penalty to be imposed. Subject to

57 the direction and control of the attorney general, at-  
58 torneys appointed for the director may appear for and  
59 represent him in any action to enforce an order assessing  
60 civil penalties under this paragraph.

61 (b) Any operator who wilfully violates a health or  
62 safety standard, or knowingly violates or fails or re-  
63 fuses to comply with any order issued under section  
64 eleven of this article, or any order incorporated in a  
65 final decision issued under this article, except an order  
66 incorporated in a decision under subsection (a) of this  
67 section or section seventeen-two of this article, shall  
68 be guilty of a misdemeanor, and, upon conviction there-  
69 of, shall be fined not more than five thousand dollars  
70 or imprisoned in the county jail not more than one year,  
71 or both fined and imprisoned, except that if the con-  
72 viction is for a violation committed after the first convic-  
73 tion of such operator under this law, he shall be fined  
74 not more than ten thousand dollars or imprisoned in  
75 the penitentiary not more than three years, or both  
76 fined and imprisoned.

77 (c) Whenever a corporate operator wilfully violates a  
78 health or safety standard, or knowingly violates or fails or  
79 refuses to comply with any order issued under this law or  
80 any order incorporated in a final decision issued under  
81 this law, except an order incorporated in a decision issued  
82 under subsection (a) of this section or section seventeen-  
83 two of this article, any director, officer, or agent of such  
84 corporation who knowingly authorized, ordered, or carried  
85 out such violation, failure, or refusal shall be subject to  
86 the same civil penalties, fines, and imprisonment that  
87 may be imposed upon a person under subsections (a) and  
88 (b) of this section.

89 (d) Whoever knowingly makes any false statement, rep-  
90 resentation, or certification in any application, records, re-  
91 port, plan, or other document filed or required to be main-  
92 tained pursuant to this law or any order or decision issued  
93 under this law shall be guilty of a misdemeanor, and, upon  
94 conviction thereof, shall be fined not more than five thou-  
95 sand dollars or imprisoned in the county jail not more  
96 than six months, or both fined and imprisoned.



97 (e) Whoever knowingly distributes, sells, offers for  
98 sale, introduces or delivers in commerce any equipment  
99 for use in a coal mine, including but not limited to,  
100 components and accessories of such equipment, which  
101 is represented as complying with the provisions of this  
102 law, or with any specification or regulation of the direc-  
103 tor applicable to such equipment, and which does not so  
104 comply, shall be guilty of a misdemeanor, and, upon con-  
105 viction thereof, shall be subject to the same fine and  
106 imprisonment that may be imposed upon a person under  
107 subsection (d) of this section.

**§22-1-21. Discrimination.**

1 (a) No person shall discharge or in any other way dis-  
2 criminate against or cause to be discharged or discrimi-  
3 nated against any miner or any authorized representative  
4 of miners by reason of the fact that such miner or repre-  
5 sentative (1) has notified the director or his authorized  
6 representative of any alleged violation or danger, (2)  
7 has filed, instituted or caused to be filed or instituted  
8 any proceeding under this law, or (3) has testified or is  
9 about to testify in any proceeding resulting from the  
10 administration or enforcement of the provisions of this  
11 law.

12 (b) Any miner or a representative of miners who be-  
13 lieves that he has been discharged or otherwise discrimi-  
14 nated against, or any miner who has not been compen-  
15 sated by an operator for lost time due to the posting of a  
16 withdrawal order, may, within thirty days after such vio-  
17 lation occurs, apply to the appeals board for a review of  
18 such alleged discharge, discrimination, or failure to com-  
19 pensate. A copy of the application shall be sent to such  
20 person who shall be the respondent. Upon receipt of such  
21 application, the appeals board shall cause such investi-  
22 gation to be made as it deems appropriate. Such investi-  
23 gation shall provide an opportunity for a public hearing  
24 at the request of any party to enable the parties to pre-  
25 sent information relating to such violation. The parties  
26 shall be given written notice of the time and place of the  
27 hearing at least five days prior to the hearing. Any such  
28 hearing shall be of record. Upon receiving the report of

29 such investigation, the board shall make findings of fact.  
 30 If it finds that such violation did occur, it shall issue a  
 31 decision, incorporating an order therein, requiring the  
 32 person committing such violation to take such affirmative  
 33 action to abate the violation as the board deems appropri-  
 34 ate, including, but not limited to, the rehiring or rein-  
 35 statement of the miner or representative of miners to his  
 36 former position with back pay, and also pay compensa-  
 37 tion for idle time as a result of a withdrawal order. If it  
 38 finds that there was no such violation, it shall issue an  
 39 order denying the application. Such order shall incorpo-  
 40 rate the board's findings therein.

41 (c) Whenever an order is issued under this subsection,  
 42 at the request of the applicant, a sum equal to the aggre-  
 43 gate amount of all costs and expenses including the at-  
 44 torney's fees as determined by the board to have been  
 45 reasonably incurred by the applicant for, or in connection  
 46 with, the institution and prosecution of such proceedings,  
 47 shall be assessed against the person committing such vio-  
 48 lation.

**§22-1-22. Reports.**

1 In addition to such records as are specifically required  
 2 by this law, every operator of a coal mine shall establish  
 3 and maintain such records, make such reports, and pro-  
 4 vide such information, as the director may reasonably  
 5 require from time to time to enable him to perform his  
 6 functions under this law. The director is authorized to  
 7 compile, analyze, and publish, either in summary or de-  
 8 tailed form, such reports or information so obtained.  
 9 Except to the extent otherwise specifically provided by  
 10 this law, all records, information, reports, findings, no-  
 11 tices, orders, or decisions required or issued pursuant to  
 12 or under this law may be published from time to time,  
 13 may be released to any interested person, and shall be  
 14 made available for public inspection.

**§22-1-23.—Mine foreman examiner for mine foremen, assist-  
 ant mine foremen and fire bosses; salary.**

1 The director of the department of mines shall appoint  
 2 a mine foreman examiner to examine and certify mine  
 3 foremen, assistant mine foremen and mine examiners

4 or firebosses. Such mine foremen examiners shall be  
5 paid a minimum salary of twelve thousand dollars per  
6 year.

**§22-1-24. Duties of the mine foreman examiner.**

1 The duties of the mine foreman examiner shall be to:  
2 (a) Prepare and conduct examinations of mine fore-  
3 men, assistant mine foremen, and firebosses;  
4 (b) Prepare and certify to the director of the de-  
5 partment of mines a register of all persons who success-  
6 fully completed the examination with a passing grade  
7 of eighty per cent.

**§22-1-25. Place and time for examinations.**

1 The director of the department of mines shall deter-  
2 mine the location where the mine foremen examiner  
3 shall meet for the purpose of holding examinations,  
4 and at least two weeks' notice of the time and place  
5 where the examinations are to be held shall be given.

**§22-1-26. Preparation of examinations.**

1 The mine foreman examiner shall, with the approval  
2 of the director, prepare, and from time to time, modify  
3 examinations to be administered applicants for certifica-  
4 tion as mine foremen and firebosses.  
5 All persons who desire to appear for examination  
6 shall notify the mine foreman examiner of their inten-  
7 tions to appear, if possible, not less than ten days prior  
8 to the date set for the examination. The mine foreman  
9 examiner shall inquire into the character and qualifica-  
10 tions of the applicants who present themselves for  
11 examination.

**§22-1-27. Certificate of qualification.**

1 Certificates of qualification of service heretofore  
2 granted shall have equal value with certificates of quali-  
3 fications granted under this law.

**§22-1-28. Certify to director.**

1 The mine foreman examiner shall certify to the direc-  
2 tor, on a form furnished by him, every person whose

3 examination shall disclose his fitness for the duties of  
4 mine foreman, assistant mine foreman, and fire boss,  
5 as above classified, and the director shall prepare cer-  
6 tificates of qualification for the successful applicants and  
7 send them to the mine foreman examiner for distribu-  
8 tion.

**§22-1-29. Record of examinations.**

1 The mine foreman examiner shall send to the direc-  
2 tor the answers and all other papers of the applicants,  
3 together with the tally sheets and a list of the ques-  
4 tions and answers as prepared by the mine foreman  
5 examiner which shall be filed in the department as  
6 public documents.

**§22-1-30. Withdrawal of certification.**

1 If a mine foreman, assistant mine foreman or fire  
2 boss is charged by a mine inspector that he has neglected  
3 or failed to perform his prescribed duties in accordance  
4 with the mining laws of the state, then such charge  
5 of neglect of prescribed duties shall be filed with the  
6 director of the department of mines.

7 Upon receipt of the charge, it shall be the duty of the  
8 director to make a thorough investigation of the alle-  
9 gations; and if he finds substantial evidence to sustain  
10 the charge, he shall promptly notify the individual  
11 and shall file a petition with the board of appeals re-  
12 questing the withdrawal or suspension of his certificate.

13 On receipt of a petition from the director of the depart-  
14 ment of mines seeking the withdrawal or suspension of a  
15 certificate, the board shall promptly notify the person  
16 so affected to appear before it at a time and place desig-  
17 nated in said notice, which time shall be not less than  
18 fifteen days thereafter. There shall be attached to such  
19 notice a copy of the petition filed with the board.

20 The board shall hear all evidence offered in support of  
21 the petition and on behalf of the person so charged at  
22 the time and place designated in said notice. Each wit-  
23 ness shall be sworn and a transcript shall be made of all  
24 evidence presented at any such hearing. No continuance  
25 shall be granted except for good cause shown.

26 The chairman of the board shall have the power to  
 27 administer oaths and subpoena witnesses and require pro-  
 28 duction of any books, papers, records or other docu-  
 29 ments relevant or material to the inquiry.

30 Any person so charged who shall refuse or fail to  
 31 appear before the board shall forfeit his certificate for  
 32 three years and such certificate cannot be renewed ex-  
 33 cept upon the successful completion of the examination  
 34 prescribed by law for mine foreman, assistant mine  
 35 foreman and fire boss.

36 If after the hearing the board finds by a preponder-  
 37 ance of the evidence that the certificate of the charged  
 38 person should be suspended (time shall be fixed by the  
 39 board not to exceed three years) or revoked for a period  
 40 of three years, it shall enter an order to that effect.  
 41 No renewal of the certificate shall be granted except  
 42 as herein provided.

**§22-1-31. Board of appeals.**

1 There is hereby created a board of appeals, consisting  
 2 of three members. Two members of the board shall be  
 3 appointed by the governor, one person who by reason of  
 4 previous training and experience may reasonably be said  
 5 to represent the viewpoint of miners, and one person  
 6 who by reason of previous training and experience may  
 7 reasonably be said to represent the viewpoint of the  
 8 operators. The third person, who shall be chairman of  
 9 the board and who must not have had any connection at  
 10 any time with the coal industry or an organization repre-  
 11 senting miners, shall be selected by the two members  
 12 appointed by the governor. The term of office of members  
 13 of the board shall be five years.

14 The function and duties of the board shall be to hear  
 15 appeals, make determinations on questions of miners'  
 16 entitlements due to withdrawal orders and appeals from  
 17 discharge or discrimination, and suspension of certification  
 18 certificates.

19 The chairman of the board shall have the power to  
 20 administer oaths and subpoena witnesses and require  
 21 production of any books, papers, records or other docu-  
 22 ments relevant or material to the appeal inquiry.

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

31 Board members, before performing any duty, shall take  
32 and subscribe to the oath required by article four, section  
33 five of the constitution of West Virginia.

**§22-1-32. Mine rescue stations, equipment.**

1 The director of the state department of mines is hereby  
2 authorized to purchase, equip and operate for the use  
3 of said department such mine rescue stations and equip-  
4 ment as he may deem necessary.

**§22-1-33. Mine rescue crews.**

1 The director of the state department of mines is hereby  
2 authorized to have trained and employed at the rescue  
3 stations, operated by the department within the state,  
4 such rescue crews as he may deem necessary. Each  
5 member of a rescue crew shall devote four hours each  
6 month for training purposes and shall be available at  
7 all times to assist in rescue work at explosions and mine  
8 fires. Regular members shall receive for such services  
9 the sum of thirty-two dollars per month, and captains  
10 shall receive thirty-five dollars per month, payable on  
11 requisition approved by the director of the department  
12 of mines. The director of the department of mines may  
13 remove any member of a rescue crew at any time.

14 After the effective date of this article, it shall be the  
15 duty and responsibility of the department of mines to  
16 see that all rescue teams be properly trained by a  
17 qualified instructor of the department of mines or such  
18 persons who have a certificate of training from the  
19 United States bureau of mines.

20 To qualify for membership of a mine rescue crew, an  
21 applicant shall (a) be not more than fifty years of age;

22 (b) pass a physical examination by a licensed physician  
23 at least annually; a record that such examination was  
24 taken together with pertinent data relating thereto shall  
25 be kept on file by the operator, and a copy shall be fur-  
26 nished to the director of the department of mines. All  
27 rescue or recovery teams performing recovery work shall  
28 be under the jurisdiction of the department of mines  
29 guided by the mine rescue apparatus and auxiliary  
30 equipment manual.

31 When engaged in rescue work required by an explo-  
32 sion, fire or other emergency at a mine, all members of  
33 mine rescue teams assigned to rescue operations shall,  
34 during the period of their rescue work, be employees  
35 of the operator of the mine where the emergency exists,  
36 and shall be compensated by the operator at the rate  
37 established in the area for such work. In no case shall  
38 this rate be less than the prevailing wage rate in the  
39 industry for the most skilled class of inside mine labor.  
40 During the period of their emergency employment, mem-  
41 bers of mine rescue teams shall be protected by the  
42 workmen's compensation subscription of such emergency  
43 employer.

44 During recovery work and prior to entering any mine  
45 at the start of each shift, all rescue or recovery teams  
46 shall be properly informed of existing conditions and  
47 work to be performed by the designated company official  
48 in charge.

49 For every two teams performing rescue or recovery  
50 work underground, one six-member team shall be sta-  
51 tioned at the mine portal.

52 Two-way communication and lifeline or its equivalent  
53 shall be provided inby the fresh air base to all rescue or  
54 recovery teams, and no team member shall be permitted  
55 to advance beyond such communication system.

56 Each rescue or recovery team performing work with  
57 breathing apparatus shall be provided with a back-up  
58 team of equal strength, stationed at each fresh air base.

59 A rescue or recovery team shall immediately return  
60 to the fresh air base when any team member's atmos-  
61 pheric pressure depletes to sixty atmospheres.

**§22-1-34. Mine rescue teams.**

1 . It shall be the duty of any mine operator employing  
 2 fifty or more employees to have available for mine rescue  
 3 work a trained mine rescue team, the members of which  
 4 shall work in the general area of the mine. In the event  
 5 of any fire, explosion or recovery operations in or about  
 6 any mine, the director of the department of mines is  
 7 hereby authorized to call and assign any rescue team for  
 8 the protection of employees and the preservation of prop-  
 9 erty. The director also may assign mine rescue and re-  
 10 covery work to inspectors, instructors, or other qualified  
 11 employees of the department of mines as he may deem  
 12 desirable.

**§22-1-35. Provisions of article severable.**

1 The various provisions of this article shall be construed  
 2 as separable and severable, and should any of the provi-  
 3 sions, sentences, clauses, or parts thereof be construed or  
 4 held unconstitutional or for any reason be invalid, the re-  
 5 maining provisions of this article shall not be thereby  
 6 affected.

**ARTICLE 2. COAL MINES.****MINE MAPS****§22-2-1. Supervision by professional engineer or licensed land surveyor; seal and certification; contents; extensions; repository; availability; traversing; copies; archive; final survey and map; penalties.**

1 The mapping of all coal mines shall be supervised by  
 2 a competent engineer or land surveyor. The work of such  
 3 engineer or land surveyor shall be supervised by either  
 4 a civil engineer or a mining engineer certified by the  
 5 board of engineers, which exists by authority of section  
 6 three, article thirteen, chapter thirty of this code, or a  
 7 licensed land surveyor approved by the board of exam-  
 8 iners of land surveyors as provided by section three,  
 9 article thirteen-a of said chapter thirty. To each map  
 10 supervised by the engineer or land surveyor there shall  
 11 be affixed thereto the seal of a certified or professional  
 12 engineer or licensed land surveyor, which shall be identi-  
 13 cal to the design authorized by the board of engineers,



14 as provided in section nine, article thirteen of said chapter  
 15 thirty or board of examiners of land surveyors as pro-  
 16 vided by section eleven, article thirteen-a of said chapter  
 17 thirty. Every map certified shall have the professional  
 18 engineer's or land surveyor's signature and certificate, in  
 19 addition to his seal, in the following form:

20 "I, the undersigned, hereby certify that this map is  
 21 correct and shows all the information, to the best of my  
 22 knowledge and belief, required by the laws of this State,  
 23 and covers the period ending \_\_\_\_\_

24 \_\_\_\_\_ P. E.  
 25 (Either Civil or Mining Engineer  
 26 or Land Surveyor)."

27 The operator of every underground coal mine shall  
 28 make, or cause to be made, an accurate map of such  
 29 mine, on a scale of not less than one hundred, and not  
 30 more than five hundred feet to the inch. The map of such  
 31 mine shall show:

- 32 (1) Name and address of the mine;
- 33 (2) The scale and orientation of the map;
- 34 (3) The property or boundary lines of the mine;
- 35 (4) The shafts, slopes, drifts, tunnels, entries, rooms,  
 36 crosscuts and all other excavations and auger and strip  
 37 mined areas of the coalbed being mined;
- 38 (5) All drill holes that penetrate the coalbed being  
 39 mined;
- 40 (6) Dip of the coalbed;
- 41 (7) The outcrop of the coalbed within the bounds of  
 42 the property assigned to the mine;
- 43 (8) The elevations of tops and bottoms of shafts and  
 44 slopes, and the floor at the entrance to drift and tunnel  
 45 openings;
- 46 (9) The elevation of the floor at intervals of not more  
 47 than two hundred feet in:
- 48 (a) At least one entry of each working section, and  
 49 main and cross entries;
- 50 (b) The last line of open crosscuts of each working  
 51 section, and main and cross entries before such sections  
 52 and main and cross entries are abandoned; and
- 53 (c) Rooms advancing toward or adjacent to property  
 54 or boundary lines or adjacent mines;

- 55 (10) Contour lines passing through whole number  
56 elevations of the coalbed being mined, the spacing of  
57 such lines not to exceed ten-foot elevation levels, except  
58 that a broader spacing of contour lines may be approved  
59 for steeply-pitching coalbeds by the person authorized  
60 so to do under the federal act; and contour lines may be  
61 placed on overlays or tracings attached to mine maps;
- 62 (11) As far as practicable the outline of existing and  
63 extracted pillars;
- 64 (12) Entries and air courses with the direction of air-  
65 flow indicated by arrows;
- 66 (13) The location of all surface mine ventilation fans,  
67 which location may be designated on the mine map by  
68 symbols;
- 69 (14) Escapeways;
- 70 (15) The known underground workings in the same  
71 coalbed on the adjoining properties within one thousand  
72 feet of such mine workings and projections;
- 73 (16) The location of any body of water dammed in  
74 the mine or held back in any portion of the mine, but  
75 such bodies of water may be shown on overlays or trac-  
76 ings attached to the mine maps used to show contour  
77 lines, as provided under subdivision ten of this section;
- 78 (17) The elevation of any body of water dammed in  
79 the mine or held back in any portion of the mine;
- 80 (18) The abandoned portion or portions of the mine;
- 81 (19) The location and description of at least two  
82 permanent base line points coordinated with the under-  
83 ground and surface mine traverses, and the location and  
84 description of at least two permanent elevation bench  
85 marks used in connection with establishing or referencing  
86 mine elevation surveys;
- 87 (20) Mines above or below;
- 88 (21) Water pools above;
- 89 (22) The location of the principal streams and bodies  
90 of water on the surface;
- 91 (23) Either producing or abandoned oil and gas wells  
92 located within five hundred feet of such mine and any  
93 underground area of such mine;
- 94 (24) The location of all high pressure pipelines, high  
95 voltage power lines and principal roads;

96 (25) The location of railroad tracks and public high-  
97 ways leading to the mine, and mine buildings of a perma-  
98 nent nature with identifying names shown:

99 (26) Where the overburden is less than one hundred  
100 feet, occupied dwellings; and

101 (27) Such other information as may be required under  
102 the federal act or by the department of mines.

103 The operator of every underground coal mine shall  
104 extend, or cause to be extended, on or before the first  
105 day of March and on or before the first day of September  
106 of each year, such mine map thereof to accurately show  
107 the progress of the workings as of the first day of July  
108 and the first day of January of each year. Such map shall  
109 be kept up to date by temporary notations, which shall  
110 include:

111 (1) The location of each working face of each working  
112 place;

113 (2) Pillars mined or other such second mining;

114 (3) Permanent ventilation controls constructed or re-  
115 moved, such as seals, overcasts, undercasts, regulators  
116 and permanent stoppings, and the direction of air cur-  
117 rents indicated; and

118 (4) Escapeways designated by means of symbols.

119 Such map shall be revised and supplemented at inter-  
120 vals prescribed under the federal act on the basis of a  
121 survey made or certified by such engineer or surveyor,  
122 and shall be kept by the operator in a fireproof repository  
123 located in an area on the surface chosen by the operator  
124 to minimize the danger of destruction by fire or other  
125 hazard.

126 Such map and any revision and supplement thereof  
127 shall be available for inspection by a federal mine in-  
128 spector, by mine health and safety instructors, by miners  
129 in the mine and their representatives and by operators  
130 of adjacent coal mines and by persons owning, leasing or  
131 residing on surface areas of such mines or areas adjacent  
132 to such mines, and a copy of such map and any revision  
133 and supplement thereof shall be promptly filed with the  
134 department of mines. The operator shall also furnish to  
135 persons expressly entitled thereto under the federal act,  
136 upon request, one or more copies of such maps and any

137 revision and supplement thereof. Such map or revision  
138 and supplement thereto shall be kept confidential and its  
139 contents shall not be divulged to any other person,  
140 except to the extent necessary to carry out the provisions  
141 of the federal act and this chapter and in connection with  
142 the functions and responsibilities of the secretary of  
143 housing and urban development.

144 Surveying calculations and mapping of underground  
145 coal mines which were or are opened or reopened after  
146 July one, one thousand nine hundred sixty-nine, shall be  
147 done by the rectangular coordinate traversing method  
148 and meridians carried through and tied between at least  
149 two parallel entries of each development panel and panels  
150 or workings adjacent to mine boundaries or abandoned  
151 workings. These surveys shall originate from at least  
152 three permanent survey monuments on the surface of  
153 the mine property. The monuments shall be clearly  
154 referenced and described in the operator's records. Eleva-  
155 tions shall be tied to either the United States geological  
156 survey or the United States coast and geodetic survey  
157 bench mark system, be clearly referenced and described  
158 on such map.

159 Underground coal mines operating on July one, one  
160 thousand nine hundred sixty-nine, and not using the  
161 rectangular coordinate traversing method shall, within  
162 two years of such date, convert to this procedure for sur-  
163 veying calculations and mapping. Meridians shall be  
164 carried through and tied between at least two parallel  
165 entries of each development panel and panels or workings  
166 adjacent to mine boundaries or abandoned workings.  
167 These surveys shall originate from at least three perma-  
168 nent survey monuments on the surface of the mine prop-  
169 erty. The monuments shall be clearly referenced and  
170 described in the coal mine operator's records. Elevations  
171 shall be tied to either the United States geological survey  
172 or the United States coast and geodetic survey bench  
173 mark system, be clearly referenced and described on such  
174 map.

175 The operator of such underground coal mine shall, by  
176 reasonable proof, demonstrate to the director of the de-  
177 partment of mines or to any federal mine inspector con-

cerned, at any time, that a diligent search was made for all existing and available maps and survey data for the workings on the adjoining properties. The operator shall further be able to show proof to the director of the department of mines or to any federal mine inspector concerned, that a suitable method was used to insure accuracy in the methods used in transposing other workings to the map of such mine.

There shall be an archive of underground coal mine maps maintained at the office of the director of the department of mines. The archive shall:

- (1) Be secured in a fireproof and burglarproof vault;
- (2) Have an appropriate map identification system;
- and
- (3) Have adequate map microfilming facilities.

Whenever an operator permanently closes or abandons an underground coal mine, or temporarily closes an underground coal mine for a period of more than ninety days, he shall promptly notify the department of mines and the federal mine inspector of the district in which such mine is located of such closure. Within sixty days of the permanent closure or abandonment of an underground coal mine, or, when an underground coal mine is temporarily closed, upon the expiration of a period of ninety days from the date of closure, the operator shall file with the department of mines and such federal mine inspector a copy of the mine map revised and supplemented to the date of the closure. Such copy of the mine map shall be certified by a certified or professional engineer or licensed surveyor as aforesaid and shall be available for public inspection.

Any person having a map or surveying data of any worked out or abandoned underground coal mine shall make such map or data available to the department of mines to copy or reproduce such material.

Any person who fails or refuses to discharge any duty imposed upon him by this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred dollars nor more than one thousand dollars.

## VENTILATION

**§22-2-2. Plan of ventilation; approval by director of department of mines.**

1 Every operator of a coal mine, before making any new  
2 or additional openings, shall submit to the director of the  
3 department of mines, for his information and approval, a  
4 general plan showing the proposed system of ventilation  
5 and ventilating equipment of the openings, with their  
6 location and relative positions to adjacent developments;  
7 no such new or additional openings shall be made until  
8 approved by the director of the department of mines.  
9 The director of the department of mines shall promptly  
10 approve any such plans submitted, if the proposed system  
11 of ventilation and ventilating equipment meet the require-  
12 ments of this article.

**§22-2-3. Fans.**

1 (a) The ventilation of mines, the systems for which  
2 extend for more than two hundred feet underground and  
3 which are opened after the effective date of this article,  
4 shall be produced by a mechanically operated fan or  
5 mechanically operated fans. Ventilation by means of  
6 a furnace is prohibited in any mine. The fan or fans  
7 shall be kept in continuous operation, unless written  
8 permission to do otherwise be granted by the director  
9 of the department of mines. In case of interruption  
10 to a ventilating fan or its machinery whereby the  
11 ventilation of the mine is interrupted, immediate  
12 action shall be taken by the mine operator or his  
13 management personnel, in all mines, to cut off the  
14 power and withdraw the men from the face regions  
15 or other areas of the mine affected. If ventilation  
16 is restored in fifteen minutes, the face regions and  
17 other places in the affected areas where gas (methane)  
18 is likely to accumulate, shall be reexamined by a cer-  
19 tified person; and if found free of explosive gas,  
20 power may be restored and work resumed. If ven-  
21 tilation is not restored in fifteen minutes, all under-  
22 ground employees shall be removed from the mine,  
23 all power shall be cut off in a timely manner, and  
24 the underground employees shall not return until

25 ventilation is restored and the mine examined by cer-  
 26 tified persons, mine examiners, or other persons hold-  
 27 ing a certificate to make preshift examination.

28 (b) All main fans installed after the effective date of  
 29 this article shall be located on the surface in fireproof  
 30 housings offset not less than fifteen feet from the nearest  
 31 side of the mine opening, equipped with fireproof air  
 32 ducts, provided with explosion doors or a weak wall, and  
 33 operated from an independent power circuit. In lieu of  
 34 the requirements for the location of fans and pressure-  
 35 relief facilities, a fan may be directly in front of, or over  
 36 a mine opening; *Provided*: That such opening is not in  
 37 direct line with possible forces coming out of the mine if  
 38 an explosion occurs: *Provided, however*, That there is  
 39 another opening having a weak-wall stopping or ex-  
 40 plosion doors that would be in direct line with forces  
 41 coming out of the mine. All <sup>main</sup> fans shall be provided  
 42 with pressure-recording gauges or water gauges. A daily  
 43 inspection shall be made of all main fans and machinery  
 44 connected therewith by a certified electrician and a rec-  
 45 ord kept of the same in a book prescribed for this pur-  
 46 pose or by adequate facilities provided to permanently  
 47 record the performance of the main fan and to give warn-  
 48 ing of an interruption to a fan.

49 (c) Auxiliary fans and tubing shall be permitted to be  
 50 used in lieu of or in conjunction with line brattice to  
 51 provide adequate ventilation to the working faces:  
 52 *Provided*, That auxiliary fans to be so located and oper-  
 53 ated to avoid recirculation of air at any time. Auxiliary  
 54 fans shall be approved and maintained as permissible.

55 (d) If the auxiliary fan is stopped or fails, the elec-  
 56 trical equipment in the place shall be stopped and the  
 57 power disconnected at the power source until ventilation  
 58 in the working place is restored. During such stoppage,  
 59 the ventilation shall be by means of the primary air  
 60 current conducted into the place in a manner to pre-  
 61 vent accumulation of methane.

62 (e) If places where auxiliary fans and tubing are used,  
 63 the ventilation between shifts, weekends, and idle shifts  
 64 shall be provided to face areas with line brattice or the  
 65 equivalent to prevent accumulation of methane.

*Continued*  
*24*  
*25*

66 (f) If the air passing through the auxiliary fan or  
67 tubing contains gas in excess of one percent, the current  
68 shall at once be switched off and the trailing cable shall  
69 forthwith be disconnected from the power supply until  
70 the place is pronounced safe.

71 (g) The director may require that when continuous  
72 mine equipment is being used, all face ventilating sys-  
73 tems using auxiliary fans and tubing shall be provided  
74 with machine-mounted diffuser fans, and such fans shall  
75 be continuously operated during mining operations.

76 (h) In the event of a fire or explosion in any coal mine,  
77 the ventilating fan or fans shall not intentionally be  
78 started, stopped, speed increased or decreased or the di-  
79 rection of the air current changed without the approval  
80 of the general mine foreman, and, if he is not immediately  
81 available, a representative of the state department of  
82 mines. A duly authorized representative of the employees  
83 should be consulted if practical under the circumstances.

#### §22-2-4. Ventilation of mines in general.

1 (a) The operator or mine foreman of every coal mine,  
2 whether worked by shaft, slope, or drift, shall provide  
3 and hereafter maintain for every such mine adequate  
4 ventilation. In all mines the quantity of air passing  
5 through the last open crosscut between the intake and  
6 return in any pair or set of entries shall be not less than  
7 nine thousand cubic feet of air per minute and as much  
8 more as is necessary to dilute and render harmless and  
9 carry away flammable and harmful gases. All working  
10 faces in a working section between the intake and return  
11 airway entries shall be ventilated with a minimum  
12 quantity of three thousand cubic feet of air per minute  
13 and as much more as is necessary to dilute and render  
14 harmless and carry away flammable and harmful gases.  
15 The quantity of air reaching the last crosscut in pillar  
16 sections may be less than nine thousand cubic feet of air  
17 per minute if at least nine thousand cubic feet of air  
18 per minute is being delivered to the intake of the pillar  
19 line. 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



22 gases. All active underground working places in a mine  
23 shall be ventilated by a current of air containing not less  
24 than nineteen and five-tenths percent of oxygen, not more  
25 than five-tenths percent of carbon dioxide, and no harm-  
26 ful quantities of other noxious or poisonous gases.

27 (b) Airflow shall be maintained in all intake and  
28 return air courses of a mine, and where multiple fans  
29 are used, neutral areas created by pressure equilization  
30 between main fans shall not be permitted. Production  
31 activities in working faces shall cease while tubing, line  
32 brattice, or other ventilation devices are being installed  
33 inby the machine operator.

34 (c) Properly installed and adequately maintained line  
35 brattice or other approved devices shall be continuously  
36 used from the last open crosscut of an entry or room  
37 of each working section to provide adequate ventilation  
38 to the working faces for the miners and to remove flam-  
39 mable, explosive, and noxious gases, dust, and explo-  
40 sive fumes. When damaged by falls or otherwise, such  
41 line brattice or other devices shall be repaired imme-  
42 diately.

43 (d) Brattice cloth used underground shall be of flame-  
44 resistant material. The space between the line brattice  
45 or other approved device and the rib shall be large  
46 enough to permit the flow of a sufficient volume and  
47 velocity of air to keep the working face clear of flam-  
48 mable, explosive, and noxious gases, dust and explosive  
49 fumes.

50 (e) Each working unit newly developed in virgin  
51 coal hereafter, shall be ventilated by a separate split  
52 of air: *Provided*, That areas already under development  
53 and in areas where physical conditions prevent com-  
54 pliance with this provision, the director of the depart-  
55 ment of mines may grant temporary relief from com-  
56 pliance until such time as physical conditions make com-  
57 pliance possible. The quantity of air reaching the last  
58 crosscut shall not be less than nine thousand cubic feet  
59 of air per minute and shall under any condition have  
60 sufficient volume and velocity to reduce and carry away  
61 smoke and flammable or harmful gases from each work-  
62 ing face in the section.

63 (f) As working places advance, crosscuts for air  
64 shall be made not more than eighty feet apart. Where  
65 necessary to render harmless and carry away noxious  
66 or flammable gases, line brattice or other approved  
67 methods of ventilation shall be used so as to properly  
68 ventilate the face. All crosscuts between the main in-  
69 take and return airways not required for passage of air  
70 and equipment shall be closed with stoppings substan-  
71 tially built with incombustible or fire-resistive material  
72 so as to keep working places well ventilated. In mines  
73 where it becomes necessary to provide larger pillars for  
74 adequate roof support, working places shall not be driven  
75 more than two hundred feet without providing a con-  
76 nection that will allow the free flow of air currents. In  
77 such cases, a minimum of twelve thousand cubic feet  
78 of air a minute shall be delivered to the last open  
79 crosscut and as much more as is necessary to dilute and  
80 render harmless and carry away flammable and noxious  
81 gases.

82 (g) In special instances for the construction of side-  
83 tracks, haulageways, airways, or openings in shaft bot-  
84 tom or slope bottom layouts where the size and strength  
85 of pillars is important, the director of the department  
86 of mines may issue a permit approving greater distances.  
87 The permit shall specify the conditions under which such  
88 places may be driven.

89 (h) In all mines a system of bleeder openings or air  
90 courses designed to provide positive movement of air  
91 through and/or around abandoned or caved areas, suf-  
92 ficient to prevent dangerous accumulation of gas in  
93 such areas and to minimize the effect of variations in  
94 atmospheric pressure shall be made a part of pillar  
95 recovery plans projected after the effective date of this  
96 article.

97 (i) If a bleeder return is closed as a result of roof  
98 falls or water during pillar recovery operations, pillar  
99 operations may continue without reopening the bleeder  
100 return if at least twenty thousand cubic feet of air per  
101 minute is delivered to the intake of the pillar line.

102 (j) No operator or mine foreman shall permit any  
103 person to work where he is unable to maintain the quan-

104 tity and quality of the air current as heretofore required,  
105 provided, that, such provisions shall not prohibit the  
106 employment of men to make place of employment safe.

107 (k) The ventilation of any mine shall be so arranged  
108 by means of airlocks, overcasts, or undercasts, that the  
109 use of doors on passageways where men or equipment  
110 travel may be kept to a minimum. Where doors are used  
111 in a mine they shall be erected in pairs so as to pro-  
112 vide a ventilated airlock unless the doors are operated  
113 mechanically.

114 (l) A crosscut shall be provided at or near the face  
115 of each entry or room before such places are abandoned.

116 (m) Overcasts or undercasts shall be constructed of  
117 incombustible material and maintained in good condition.

**§22-2-5. Unused and abandoned parts of mine.**

1 (a) In any mine, all workings which are abandoned  
2 after the effective date of this article shall be sealed or  
3 ventilated. If such workings are sealed, the sealing shall  
4 be done with incombustible material in a manner pre-  
5 scribed by the director of the department of mines, and  
6 one or more of the seals of every sealed area shall be  
7 fitted with a pipe and cap or valve to permit the sampling  
8 of gases and measuring of hydrostatic pressure behind  
9 the seals. For the purpose of this section, working within  
10 a panel shall not be deemed to be abandoned until such  
11 panel is abandoned.

12 (b) Air that has passed through an abandoned area  
13 or an area which is inaccessible or unsafe for inspection  
14 or air that has been used to ventilate seals shall not  
15 be used to ventilate any working place in any mine.  
16 No air which has been used to ventilate an area from  
17 which the pillars have been removed shall be used to  
18 ventilate any working place in a mine, except that such  
19 air, if it does not contain 0.25 volume percent or more  
20 of methane, may be used to ventilate enough advancing  
21 working places immediately adjacent to the line of  
22 retreat to maintain an orderly sequence of pillar re-  
23 covery on a set of entries. Before sealed areas, temporary  
24 or permanent are reopened, the director of the department  
25 of mines shall be notified.

## MOVEMENT OF EQUIPMENT

**§22-2-6a. Movement of equipment; movement of mining equipment.**

1 Mining equipment being transported or trammed un-  
2 derground, other than ordinary sectional movements,  
3 shall be transported or trammed by qualified personnel  
4 under the supervision of a certified foreman. When equip-  
5 ment is being transported or trammed, no person shall  
6 be permitted to be inby the equipment in the ventilating  
7 split that is passing over such equipment. To avoid acci-  
8 dental contact with power lines, face equipment shall  
9 be insulated and assemblies removed, if necessary, so as  
10 to provide clearance.

## MINE FOREMAN

**§22-2-7. When mine foreman to be employed; qualifications; assistants.**

1 In every coal mine where five or more persons are em-  
2 ployed in a period of twenty-four hours, the operators  
3 shall employ a mine foreman who shall be a competent  
4 and practical person, holding a certificate of competency  
5 for such position issued to him by the department of  
6 mines after an examination by such department. In order  
7 to receive a certificate of competency to qualify as mine  
8 foreman, he shall at the time he takes the examination,  
9 be a citizen, resident or employed in a mine in this State,  
10 of good moral character and temperate habits, having had  
11 at least three years' experience in the underground work-  
12 ing, ventilation and drainage of coal mines, or be a grad-  
13 uate of the school of mines of West Virginia University  
14 or of another accredited mining engineering school and  
15 have had one year's practical experience in coal mines:  
16 *Provided, however,* That in order to serve as a mine fore-  
17 man he shall have had at least five years' practical ex-  
18 perience, and if such service be at a gassy mine then at  
19 least two years of such experience shall have been in a  
20 gassy mine: *Provided further,* That any person holding a  
21 mine foreman's certificate issued by any other state may  
22 act in the capacity of mine foreman in any mine in this  
23 State until the next regular mine foreman's examination

24 held by the department, but not to exceed a maximum of  
25 ninety days.

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

**§22-2-8. Same—Duties; ventilation; loose coal, slate or rocks;  
props; drainage of water; man doors.**

1 (a) The duties of mine foreman shall be to keep a  
2 careful watch over the ventilating apparatus, the airways,  
3 traveling ways, pumps and drainage. He shall see that, as  
4 the miners advance their excavations, proper break-  
5 throughs are made so as to ventilate properly the mine;  
6 that all loose coal, slate and rock overhead in the working  
7 places and along the haulways are removed or carefully  
8 secured so as to prevent danger to persons employed in  
9 such mines, and that sufficient suitable props, caps, tim-  
10 bers, roof bolts, or other approved methods of roof sup-  
11 ports are furnished for the places where they are to be  
12 used and delivered at suitable points. The mine foreman  
13 shall have all water drained or hauled out of the working  
14 places where practicable, before the miners enter, and  
15 such working places shall be kept dry as far as practicable  
16 while the miners are at work. It shall be the duty of the  
17 mine foreman to see that proper crosscuts are made, and  
18 that the ventilation is conducted by means of such cross-  
19 cuts through the rooms by means of checks or doors placed  
20 on the entries or other suitable places, and he shall not  
21 permit any room to be opened in advance of the ventila-  
22 tion current. The mine foreman or other certified persons  
23 designated by him, shall measure the air current with an  
24 anemometer or other approved device at least weekly at  
25 the inlet and outlet at or near the faces of the advanced  
26 headings, and shall keep a record of such measurements  
27 in a book or upon a form prescribed by the director of the  
28 department of mines. Signs directing the way to outlets

29 or escapeways shall be conspicuously placed throughout  
30 the mine.

31 (b) After the effective date of this article, hinged man  
32 doors, at least thirty inches square or the height of the  
33 coal seam, shall be installed between the intake and the  
34 return at intervals of three hundred feet when the height  
35 of the coal is below forty-eight inches and at intervals  
36 of five hundred feet when the height of the coal is above  
37 forty-eight inches.

**§22-2-9. Same—Haulage roads.**

1 The mine foreman shall require that all slopes, incline  
2 planes and haulage roads used by any person in the mine  
3 shall conform to the provisions of this article.

**§22-2-10. Signals on haulways; lights at mouth and bottom of shaft; operation of cages.**

1 On all haulways, where hauling is done by machinery  
2 of any kind, the mine foreman shall provide for a proper  
3 system of signals, and a conspicuous light or approved trip  
4 reflector on the rear of every trip or train of cars when  
5 in motion in a mine. When hoisting or lowering of men  
6 occurs in the morning before daylight, or in the evening  
7 after darkness, at any mine operated by shaft, the mine  
8 foreman shall provide and maintain at the shaft mouth a  
9 light of stationary character, sufficient to show the land-  
10 ing and all surrounding objects distinctly, and sufficient  
11 light of a stationary character shall be located at the  
12 bottom of the shaft so that persons coming to the bottom  
13 may clearly discern the cages and other objects contigu-  
14 ous thereto. The mine foreman shall require that no cages  
15 on which men are riding shall be lifted or lowered at a  
16 rate of speed greater than one thousand feet per minute  
17 and that no mine cars, either empty or loaded, shall be  
18 hoisted while men are being lowered, and no cage having  
19 an unstable self-dump platform shall be used for the  
20 carrying of workmen unless the same is provided with  
21 some device by which it may be securely locked when  
22 men are being hoisted or lowered into the mine. *Provided,*  
23 *however,* That during the initial development of a mine,  
24 and only until the shafts are joined, men shall be per-

mitted to ride cages with one empty car which has been bolted or strapped to the cage.

**§22-2-11. Same—Bore holes.**

It shall further be the duty of the mine foreman to have bore-holes kept not less than twenty feet in advance of the face, one each twenty feet on sides of the working places that are being driven toward and in dangerous proximity to an abandoned mine or part of a mine which may contain inflammable gases or which is filled with water. These holes shall be drilled whenever any working place in an underground mine approaches within fifty feet of abandoned workings in such mine, as shown by surveys made and certified by a competent engineer or surveyor, or within two hundred feet of any abandoned workings of such mine which cannot be inspected.

**§22-2-12. Instruction of employees; annual examination of persons using flame safety lamps; records of examination.**

The department of mines shall prescribe and establish a course of instruction in mine safety and particularly in dangers incident to such employment in mines and in mining laws and rules, which course of instruction shall be successfully completed within twelve weeks after any person shall be first employed as a miner. It shall further be the duty and responsibility of the department of mines to see that such course shall be given to all persons as above provided after their first being employed in any mine in this state.

It shall be the duty of the mine foreman or the assistant mine foreman of every coal mine in this state to see that every person employed to work in such mine shall, before beginning work therein, be instructed in the particular danger incident to his work in such mine, and be furnished a copy of the mining laws and rules of such mine. Every inexperienced person so employed shall work under the direction of the mine foreman, his assistant, or such other experienced worker as may be designated by the mine foreman or assistant, until he is familiar with the danger incident to his work.

22 Persons whose duties require them to use a flame safety  
 23 lamp or other approved methane detectors shall be  
 24 examined at least annually as to their competence by a  
 25 qualified official from the West Virginia department of  
 26 mines and a record of such examination shall be kept  
 27 by the operator and the department of mines.

**§22-2-13. Same—Daily inspection of working places; records.**

1 The mine foreman or his assistants shall visit and care-  
 2 fully examine each working place in the mine at least  
 3 once every two hours each shift while the miners of  
 4 such places are at work, and shall direct that each work-  
 5 ing place shall be secured by props, timbers, roof bolts,  
 6 or other approved methods of roof support or both where  
 7 necessary to the end that the working places shall be  
 8 made safe. Should the mine foreman or his assistants  
 9 find a place to be in a dangerous condition, they shall not  
 10 leave the place until it is made safe, or shall remove the  
 11 persons working therein until the place is made safe by  
 12 some competent person designated for that purpose.

13 He shall place his initials, time and the date at or near  
 14 each place he examines. He shall also record any danger-  
 15 ous conditions and practices found during his examination  
 16 in a book provided for that purpose.

**§22-2-14. Same—Safety inspection; gas.**

1 It shall be the duty of the mine foreman, or other  
 2 certified person designated by him, to examine all work-  
 3 ing places under his supervision for hazards at least once  
 4 every two hours during each coal-producing shift, or  
 5 oftener if necessary for safety. In all mines such examina-  
 6 tions shall include tests with a permissible flame safety  
 7 lamp or other approved detector for methane and oxygen  
 8 deficiency. It shall also be his duty to remove as soon as  
 9 possible after its discovery any accumulations of explo-  
 10 sive or noxious gases in active workings, and where prac-  
 11 ticable, any accumulations of explosive or noxious gases  
 12 in the worked out and abandoned portions of the mine.

**§22-2-15. Same—Dangerous places.**

1 The mine foreman shall direct and see that all danger-  
 2 ous places and the entrance or entrances to worked out



3 and abandoned places in all mines are properly dangered  
4 off across the openings.

**§22-2-16. Same—Examinations of reports of fire bosses.**

1 The mine foreman shall also, each day, read carefully  
2 and countersign with ink or indelible pencil all reports  
3 entered in the record book of the fire bosses, and he  
4 shall supervise the fire boss or fire bosses, except as  
5 hereinafter provided in section twenty-two of this article.

**§22-2-17. Same—Ascertainment; record and removal of all dangers.**

1 The mine foreman shall give prompt attention to the  
2 removal of all dangers reported to him by his assistants,  
3 the fire boss, or any other person working in the  
4 mine, and in case it is impracticable to remove the danger  
5 at once, he shall notify all persons whose safety is men-  
6 aced thereby to remain away from the area where the  
7 dangerous condition exists. He or his assistants or certi-  
8 fied persons designated by him, shall at least once each  
9 week travel and examine the air courses, roads and open-  
10 ings that give access to old workings or falls, and make  
11 a record of the condition of all places where danger has  
12 been found, with ink or indelible pencil in a book pro-  
13 vided for that purpose.

**§22-2-18. Same—Duty to notify operator when unable to comply with law; duty of operator.**

1 The mine foreman shall notify, in writing, the oper-  
2 ator or superintendent of the mine, and the director of  
3 the department of mines, of his inability to comply with  
4 any of the requirements of this law, and it shall then  
5 become the duty of such operator or superintendent  
6 promptly to attend to the matter complained of by the  
7 mine foreman so as to enable him to comply with the  
8 provisions hereof. Every operator of a mine shall furnish  
9 all supplies necessary for the mine foreman to comply  
10 with the requirements of this law after being requested  
11 to do so in writing by the mine foreman.

**§22-2-19. Death or resignation of mine foreman; successor.**

- 1 In case of the death or resignation of a mine foreman,
- 2 the superintendent or manager shall appoint a certified
- 3 man to act as mine foreman.

**FIRE BOSS****§22-2-20. When fire boss to be employed; qualifications.**

- 1 Every operator shall employ a mine examiner known as
- 2 a fire boss, who shall hold a certificate of competency for
- 3 such position issued to him by the department of mines
- 4 after taking an examination held by the department of
- 5 mines. In order to receive a certificate of competency to
- 6 qualify as a fire boss, he shall at the time he takes the
- 7 examination, be a citizen, resident or employed in a mine
- 8 in this State, having had at least three years' experience
- 9 in the underground working, ventilation and drainage of
- 10 coal mines; he shall have such knowledge of methane and
- 11 other dangerous gas or gases as to be able to detect the
- 12 same with a permissible flame safety lamp; he shall have
- 13 a practical knowledge of the subject of ventilation of
- 14 mines and the machinery and appliances used for that
- 15 purpose; and he shall also be a person of good moral char-
- 16 acter and temperate habits.

**§22-2-21. Preparation of danger signal by fire boss or certified person acting as such prior to examination; report; records open for inspection.**

- 1 It shall be the duty of the fire boss, or a certified person
- 2 acting as such, to prepare a danger signal (a separate sig-
- 3 nal for each shift) with red color at the mine entrance at
- 4 the beginning of his shift or prior to his entering the mine
- 5 to make his examination and, except for those persons
- 6 already on assigned duty, no person except the mine
- 7 owner, operator, or agent, and only then in the case of
- 8 necessity, shall pass beyond this danger signal until the
- 9 mine has been examined by the fire boss or other certified
- 10 person and the mine or certain parts thereof reported by
- 11 him to be safe. When reported by him to be safe, the dan-
- 12 ger sign or color thereof shall be changed to indicate that
- 13 the mine is safe in order that employees going on shift
- 14 may begin work. Each person designated to make such

15 fire boss examinations shall be assigned a definite under-  
 16 ground area of such mine, and, in making his examination  
 17 shall examine all active working places in the assigned  
 18 area and make tests with a permissible flame safety lamp  
 19 for accumulations of methane and oxygen deficiency;  
 20 examine seals and doors; examine and test the roof, face,  
 21 and ribs in the working places and on active roadways  
 22 and travelways, approaches to abandoned workings and  
 23 accessible falls in active sections. He shall place his  
 24 initials and the date at or near the face of each place he  
 25 examines. Should he find a condition which he considers  
 26 dangerous to persons entering such areas, he shall place a  
 27 conspicuous danger sign at all entrances to such place or  
 28 places. Only persons authorized by the mine management  
 29 to enter such places for the purpose of eliminating the  
 30 dangerous condition shall enter such place or places while  
 31 the sign is posted. Upon completing his examination he  
 32 shall report by suitable communication system or in per-  
 33 son the results of this examination to a certified person  
 34 designated by mine management to receive and record  
 35 such report, at a designated station on the surface of the  
 36 premises of the mine or underground, before other per-  
 37 sons enter the mine to work in such coal-producing shifts.  
 38 He shall also record the results of his examination with  
 39 ink or indelible pencil in a book prescribed by the di-  
 40 rector of the department of mines kept for such purpose  
 41 at a place on the surface of the mine designated by mine  
 42 management. All records of daily and weekly reports, as  
 43 prescribed herein, shall be open for inspection by interest-  
 44 ed persons.

**§22-2-22. Fire bosses to have no superior officers.**

1 In the performance of the duties devolving upon fire  
 2 bosses, or certified persons acting as such, they shall have  
 3 no superior officers, but all the employees working inside  
 4 of such mine or mines shall be subordinate to them in  
 5 their particular work.

**§22-2-23. Unlawful to enter mine until fire boss reports it safe; exceptions.**

1 No person shall enter such mine or mines for any pur-  
 2 pose at the beginning of work upon each shift therein

3 until such signal or warning has been given<sup>en</sup> by the fire  
 4 boss or bosses as to the safety thereof, as by statute pro-  
 5 vided, except under the direction of the fire boss or bosses,  
 6 and then for the purpose of assisting in making the mine  
 7 safe: *Provided, however,* That men regularly employed  
 8 on a shift during which the mine is being pre-shift exam-  
 9 ined by a fire boss or certified person shall be permitted to  
 10 leave or enter the mine in the performance of their duties.

**§22-2-24. Authority of fire boss to perform other duties.**

1 Notwithstanding any other provision in this article con-  
 2 tained, any person who holds a certificate issued by the  
 3 state department of mines certifying his competency to  
 4 act as fire boss may perform the duties of a fire boss and  
 5 any other duties, statutory or otherwise, for which he is  
 6 qualified, in the same mine or section and on the same  
 7 day or shift.

**COAL DUST AND ROCK DUST**

**§22-2-25. Coal dust and rock dust; control of coal dust; rock dusting.**

1 (a) In all mines, dangerous accumulations of fine, dry  
 2 coal and coal dust shall be removed from the mine, and  
 3 all dry and dusty operating sections and haulageways and  
 4 conveyors and back entries shall be rock dusted or dust  
 5 allayed by such other methods as may be approved by the  
 6 director of the department of mines.

7 (b) All mines or locations in mines that are too wet  
 8 or too high in incombustible content for a coal dust ex-  
 9 plosion to initiate or propagate are not required to be  
 10 rock dusted during the time any of these conditions pre-  
 11 vail. Coal dust and other dust in suspension in unusual  
 12 quantities shall be allayed by sprinkling or other dust  
 13 allaying devices.

14 (c) In all dry and dusty mines or sections thereof, rock  
 15 dust shall be applied and maintained upon the roof, floor  
 16 and sides of all operating sections, haulageways and paral-  
 17 lel entries connected thereto by open crosscuts. Back  
 18 entries shall be rock dusted. Rock dust shall be so ap-  
 19 plied to include the last open crosscut of rooms and

20 entries, and to within forty feet of faces. Rock dust shall  
21 be maintained in such quantity that the incombustible  
22 content of the mine dust that could initiate or propagate  
23 an explosion shall not be less than sixty-five percent, but  
24 the incombustible content in back entries shall not be  
25 less than eighty percent.

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

#### ROOF—FACE—RIB

##### §22-2-26. Roof control programs and plans.

1 (a) Each operator shall undertake to carry out on a  
2 continuing basis a program to improve the roof control  
3 system of each coal mine and the means and measures to  
4 accomplish such system. The roof and ribs of all active  
5 underground roadways, travelways, and working places  
6 shall be supported or otherwise controlled adequately to  
7 protect persons from falls of the roof or ribs. A roof control  
8 plan and revisions thereof suitable to the roof conditions  
9 and mining system of each coal mine and approved by the  
10 director of the department of mines shall be adopted and  
11 set out in printed form on or before the first day of July,  
12 one thousand nine hundred seventy-one. The plan shall  
13 show the type of support and spacing approved by the  
14 director. Such plan shall be reviewed periodically, at  
15 least every six months by the director, taking into con-  
16 sideration any falls of roof or rib or inadequacy of sup-  
17 port of roof or ribs. No person shall proceed beyond the  
18 last permanent support unless adequate temporary support  
19 is provided or unless such temporary support is not re-  
20 quired under approved roof control plan and the absence  
21 of such support will not pose a hazard to the miners. A  
22 copy of the plan shall be furnished to the director of the  
23 department of mines or his authorized representative and  
24 shall be available to the miners and their representatives.

25 (b) The operator, in accordance with the approved  
26 plan, shall provide at or near each working face and at

27 such other locations in the coal mines as the director may  
28 prescribe, an ample supply of suitable materials of proper  
29 size with which to secure the roof of all working places  
30 in a safe manner. Safety posts, jacks, or other approved  
31 devices shall be used to protect the workmen when roof  
32 material is being taken down, crossbars are being in-  
33 stalled, roof bolt holes are being drilled, roof bolts are  
34 being installed, and in such other circumstances as may  
35 be appropriate. Loose roof and overhanging or loose  
36 faces and ribs shall be taken down or supported. Except  
37 in the case of recovery work, supports knocked out shall  
38 be replaced promptly.

**§22-2-27. Roof support; roof bolt recovery; mining methods.**

1 (a) The method of mining followed in any coal mine  
2 shall not expose the miner to unusual dangers from roof  
3 falls. The width of roadways shall not exceed fourteen  
4 feet unless additional support is added cross sectional.  
5 During the development of intersections, the roof between  
6 the tangents of the arches in the entry or room shall be  
7 supported with artificial roof supports prior to the de-  
8 velopment of such intersections. All areas where the arch  
9 is broken shall be considered as having unsupported roof  
10 and such roof should have artificial roof supports in-  
11 stalled prior to any other work being performed in the  
12 area.

13 (b) Where miners are exposed to danger from falls  
14 or roof, face, and ribs, the operator shall examine and  
15 test the roof, face, and ribs before any work or machine is  
16 started, and as frequently thereafter as may be necessary  
17 to insure safety. When dangerous conditions are found,  
18 they shall be corrected immediately.

19 (c) Roof bolts shall not be recovered where complete  
20 extraction of pillars is attempted, where adjacent to clay  
21 veins or at the locations of other irregularities, whether  
22 natural or otherwise, that induce abnormal hazards.  
23 Where roof bolt recovery is permitted, it shall be con-  
24 ducted only in accordance with methods prescribed in the  
25 approved roof control plan, and shall be conducted by  
26 experienced miners and only where adequate temporary  
27 support is provided.

**§22-2-28. Canopies or cabs; electric face equipment.**

- 1 An authorized representative of the director may re-
- 2 quire in any coal mine where the height of the coal bed
- 3 permits that electric face equipment, including shuttle
- 4 cars, be provided with substantially constructed canopies
- 5 or cabs to protect the miners operating such equipment
- 6 from roof falls and from rib and face rolls.

**EXPLOSIVES AND BLASTING****§22-2-29. Authorized explosives; storage or use of unauthorized explosives.**

- 1 Permissible explosives or permissible blasting devices
- 2 only shall be used in blasting coal or other material in
- 3 underground coal mines. It shall be unlawful to have,
- 4 use or store any nonpermissible explosives or nonper-
- 5 missible blasting devices in any coal mine or on the
- 6 premises of the mine, without a permit from the director.

**§22-2-30. Surface magazines for explosives.**

- 1 Separate surface magazines shall be provided for stor-
- 2 age of explosives, detonators and blasting heater ele-
- 3 ments. Surface magazines shall be constructed of incom-
- 4 bustible materials, be reasonably bullet proof and with
- 5 no metal or sparkling material exposed inside the maga-
- 6 zine. Surface magazines shall be provided with doors
- 7 constructed of at least one-fourth inch steel plate lined
- 8 with a two-inch thickness of wood or the equivalent,
- 9 properly screened ventilators, and with no openings ex-
- 10 cept for entrances and ventilation, and shall be kept
- 11 locked securely when unattended. The area for a distance
- 12 of at least twenty-five feet in all directions shall be kept
- 13 free of materials of a combustible nature; suitable warn-
- 14 ing signs shall be erected, so located that a bullet passing
- 15 directly through the face of the sign will not strike the
- 16 magazine. The location of magazines shall be not less
- 17 than two hundred feet from any mine openings, occupied
- 18 buildings or public roads unless barricaded. If magazines
- 19 are illuminated electrically, the lamps shall be of vapor-
- 20 proof type, properly installed and wired, and smoking

21 and open lights shall be prohibited in or near any  
22 magazine.

**§22-2-31. Transportation of explosives.**

1 Individual containers used to carry permissible explo-  
2 sives or detonators shall be constructed of substantial,  
3 non-conductive materials, kept closed and maintained in  
4 good condition. When explosives or detonators are trans-  
5 ported underground in cars moved by means of locomo-  
6 tives, ropes, or other motive power, they shall be in sub-  
7 stantially covered cars or in special substantially-built  
8 covered containers used specifically for transporting  
9 detonators or explosives. Any container used for trans-  
10 portation or storage of explosives shall be properly identi-  
11 fied or marked. Explosives or detonators shall not be  
12 hauled into or out of a mine within five minutes pre-  
13 ceding or following a mantrip. Where explosives and  
14 detonators are transported underground by belts, they  
15 shall be handled in the following manner: In the original  
16 and unopened cases, in special closed cases constructed  
17 of nonconductive material, or in suitable, individual  
18 containers. Clearance requirements shall be a minimum  
19 of eighteen inches; stop controls shall be provided at load-  
20 ing and unloading points, and an attendant shall super-  
21 vise the loading and unloading. Neither explosives nor  
22 detonators shall be transported on flight or shaking con-  
23 veyors, mechanical loading machines, locomotives,  
24 scrapers, cutting machines, drill trucks, or any self-  
25 propelled mobile equipment. If explosives and detonators  
26 are transported in the same explosives car or in the same  
27 special container, they shall be separated by at least four  
28 inches of hardwood partition or the equivalent; the bodies  
29 of such cars or containers shall be constructed or lined  
30 with nonconductive material. No hand loader shall take  
31 into any mine any larger quantity of explosives or deto-  
32 nators than he may reasonably expect to use in any one  
33 shift.

**§22-2-32. Underground storage of explosives.**

1 Explosives and detonators stored underground shall  
2 be kept in section boxes or magazines of substantial con-



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

**§22-2-33. Preparation of shots; blasting practices.**

1 (a) Only a certified "shot firer" designated by mine  
2 management shall be permitted to handle explosives  
3 and do blasting. Only electric detonators of proper  
4 strength fired with permissible shot firing units shall  
5 be used except under special permits as hereinafter  
6 provided, and drillholes shall be stemmed with at least  
7 twenty-four inches of incombustible material, or at least  
8 one-half of the length of the hole shall be stemmed if  
9 the hole is less than four feet in depth, unless other per-  
10 missible stemming devices or methods are used. Drill-  
11 holes shall not be drilled beyond the limits of the cut,  
12 and as far as practicable, cuttings and dust shall be  
13 cleaned from the holes before the charge is inserted.  
14 Charges of explosives exceeding one and one-half pounds,  
15 but not exceeding three pounds, shall be used only if  
16 drillholes are six feet or more in depth. Ample warn-  
17 ing shall be given before shots are fired, and care shall  
18 be taken to determine that all persons are in the clear  
19 before firing. Men shall be removed from adjoining  
20 places and other places when there is danger of shots  
21 blowing through. No shots shall be fired in any place  
22 known to liberate explosive gas, until such place has  
23 been properly examined by a competent person who is  
24 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  
27 been removed by means of ventilation. After firing any

28 shot, or shots, the person firing the same shall not return  
29 to the working face until the smoke has been cleared  
30 away and then he shall make a careful examination of  
31 working face before leaving the place or before per-  
32 forming any other work in the place.

33 (b) Multiple shooting in coal or rock or both is au-  
34 thorized only under permit issued by the director of  
35 the department of mines. Permission to shoot more than  
36 ten shots simultaneously may be granted by the director  
37 only after consultation with interested persons, and such  
38 shooting will be performed by special methods and under  
39 precautions prescribed by the director. All multiple  
40 shooting in bottom or roof rock shall be performed in  
41 intake air, except by special permit from the director  
42 of the department of mines, after consultation with in-  
43 terested persons as heretofore provided. Multiple blast-  
44 ing of more than ten shots performed under any permit  
45 granted by the director under this section shall be done  
46 only on non-coal-producing shifts or idle days, except as  
47 may be provided as a condition of the permit granted.

48 (c) Regular or short interval delay detonators may  
49 be used for blasting purposes with written permission  
50 from the director of the department of mines. Regular  
51 delay detonators shall not be used for blasting coal; but  
52 may be used for grading above or below coal seams and  
53 during shaft, slope, tunnel work and in faults or wants.  
54 Where short-interval delay detonators are permitted by  
55 said director to be used, the shot firing circuit must be  
56 tested with a blasting galvanometer before firing, and  
57 the leg wires connected in series. No instantaneous,  
58 regular, or zero-delay detonators are to be fired in con-  
59 junction with short interval delay detonators. The delay  
60 interval between dependent rows must not be less than  
61 twenty-five milliseconds or more than one hundred milli-  
62 seconds, and the entire series of any one round shall  
63 not provide a delay of more than five hundred milli-  
64 seconds between the first and last shot. The total number  
65 of charged holes to be fired during any one round must  
66 not exceed the limit permitted by the director. Misfires  
67 must be tested with a blasting galvanometer before  
68 removing.

69 (d) Electrical equipment shall not be operated in the  
70 face areas, and only work in connection with timbering  
71 and general safety shall be performed while bore holes  
72 are being charged. Shots shall be fired promptly after  
73 charging. Mudcaps (adobes) or any other unconfined  
74 shots shall not be permitted in any coal mine. No solid  
75 shooting shall be permitted without written permission  
76 of the department of mines.

77 (e) Blasting cables shall be well insulated and shall  
78 be as long as may be necessary to permit persons au-  
79 thorized to fire shots to get in a safe place out of the  
80 line of fire. The cable, when new, shall be at least one  
81 hundred twenty-five feet in length and never less than  
82 one hundred feet. Shooting cables shall be kept away  
83 from power wires and all other sources of electric cur-  
84 rent, connected to the leg wires by the person who fires  
85 the shot, staggered as to length or well separated at the  
86 detonator leg wires, and shunted at the battery until  
87 ready to connect to the blasting unit.

**§22-2-34. Misfires of explosives.**

1 (a) Where misfires occur with electric detonators, a  
2 waiting period of at least five minutes shall elapse before  
3 anyone returns to the shot. After such failure, the blast-  
4 ing cable shall be disconnected from the source of power  
5 and the battery ends short-circuited before electric con-  
6 nections are examined.

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

13 (c) A careful search of the working place, and, if  
14 necessary, of the coal after it reaches the tippie shall be  
15 made after blasting a misfired hole, to recover any un-  
16 detonated explosive.

17 (d) The handling of a misfired shot shall be under the  
18 direct supervision of the mine foreman or a certified per-  
19 son designated by him.

**§22-2-35. Other blasting devices.**

1 (a) The provisions governing the handling, storage,  
2 transportation and use of permissible explosives shall  
3 apply to all other blasting devices employing a heater  
4 element when used underground.

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

19 (c) When misfires occur with any other blasting de-  
20 vices, they shall be handled in a safe manner and under  
21 the supervision of the mine foreman or a certified person  
22 designated by him.

**HOISTING****§22-2-36. Hoisting; machinery; telephones; safety devices;  
hoisting engineers, and drum runners.**

1 (a) The operator of every coal mine worked by shaft,  
2 shall provide and maintain a metal tube, telephone or  
3 other approved means of communication from the top to  
4 the bottom and intermediate landings of such shafts,  
5 suitably adapted to the free passage of sound, through  
6 which conversation may be held between persons at the  
7 top and at the bottom of the shaft; a standard means of  
8 signaling; an approved safety catch, bridle chains, auto-  
9 matic stopping device, or automatic overwind; a sufficient  
10 cover overhead on every cage used for lowering or hoist-  
11 ing persons; an approved safety gate at the top of the  
12 shaft; and an adequate brake on the drum of every ma-  
13 chine used to lower or hoist persons in such shaft. Such

14 operator shall have the machinery used for lowering and  
15 hoisting persons into or out of the mine kept in safe con-  
16 dition, equipped with a reliable indicator, and inspected  
17 once in each twenty-four hours by a qualified electrician.  
18 Where a hoisting engineer is required, he shall be readily  
19 available at all times when men are in the mine. He  
20 shall operate the empty cage up and down the shaft at  
21 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; there shall be cut out around  
24 the side of the hoisting shaft or driven through the solid  
25 strata at the bottom thereof, a traveling way, not less  
26 than five feet high and three feet wide to enable a per-  
27 son to pass the shaft in going from one side of it to the  
28 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  
31 of slopes and surface inclines and at approaches to all  
32 shaft landings. A waiting station with sufficient room,  
33 ample clearance from moving equipment, and adequate  
34 seating facilities shall be provided where men are re-  
35 quired to wait for man-trips or man cages, and the men  
36 shall remain in such station until the man-trip or man  
37 cage is available.

38 (b) No operator of any coal mine worked by shaft,  
39 slope, or incline, shall place in charge of any engine or  
40 drum used for lowering or hoisting persons employed in  
41 such mine any but competent and sober engineers or drum  
42 runners; and no engineer or drum runner in charge of  
43 such machinery shall allow any person, except such as  
44 may be designated for this purpose by the operator, to  
45 interfere with any part of the machinery; and no person  
46 shall interfere with any part of the machinery; and no  
47 person shall interfere with or intimidate the engineer or  
48 drum runner in the discharge of his duties. Where the  
49 mine is operated or worked by shaft or slope, a minimum  
50 space of two and one-half square feet per person shall be  
51 available for each person on any cage or car where men  
52 are transported. In no instance shall more than twenty  
53 men be transported on a cage or car without the ap-  
54 proval of the director of the department of mines. No

55 person shall ride on a loaded cage or car in any shaft,  
 56 slope, or incline: *Provided*, That this shall not prevent  
 57 any trip rider from riding in the performance of his au-  
 58 thorized duties. No engineer shall be required for auto-  
 59 matically operated cages, elevators, or platforms. Cages  
 60 and elevators shall have an emergency power source un-  
 61 less provided with other escapeway facilities.

62 (c) Each automatic elevator shall be provided with a  
 63 telephone or other effective communication system by  
 64 which aid or assistance can be obtained promptly.

65 (d) A "stop" switch shall be provided in the automatic  
 66 elevator compartment that will permit the elevator to be  
 67 stopped at any location in the shaft.

### TRANSPORTATION

#### §22-2-37. Transportation; haulage roads and equipment; shelter holes; prohibited practices; signals; inspec- tion.

1 (a) The roadbed, rails, joints, switches, frogs, and  
 2 other elements of all haulage roads shall be constructed,  
 3 installed and maintained in a manner consistent with  
 4 speed and type of haulage operations being conducted to  
 5 insure safe operation.

6 (b) Track switches, except room and entry develop-  
 7 ment switches, shall be provided with properly installed  
 8 throws, bridle bars, and guard rails; switch throws and  
 9 stands, where possible, shall be placed on the clearance  
 10 side.

11 (c) Haulage roads on entries developed after the effec-  
 12 tive date of this article shall have a continuous, un-  
 13 obstructed clearance of at least twenty-four inches from  
 14 the farthest projection of any moving equipment on the  
 15 clearance side.

16 (d) On haulage roads where trolley lines are used, the  
 17 clearance shall be on the side opposite the trolley lines.

18 (e) On the trolley wire or "tight" side, after the effec-  
 19 tive date of this article, there shall be at least twelve  
 20 inches of clearance from the farthest projection of any  
 21 moving equipment.

22 (f) Warning lights or reflective signs or tapes shall be  
23 installed along haulage roads at locations of abrupt or  
24 sudden changes in the overhead clearance.

25 (g) The clearance space on all haulage roads shall be  
26 kept free of loose rock, coal, supplies or other material:  
27 *Provided*, That not more than twenty-four inches need  
28 be kept free of such obstructions.

29 (h) Ample clearance shall be provided at all points  
30 where supplies are loaded or unloaded along haulage  
31 roads or conveyors.

32 (i) Shelter holes shall be provided along haulage  
33 entries driven after the effective date of this article where  
34 locomotive, rope or animal haulage is used. Such shelter  
35 holes shall be spaced not more than one hundred feet  
36 apart; they shall be on the side of the entry opposite the  
37 trolley wire.

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

43 (k) Shelter holes shall be kept clear of refuse and  
44 other obstructions.

45 (l) After the effective date of this article, shelter holes  
46 shall be provided at switch throws and manually oper-  
47 ated permanent doors.

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

53 (n) Underground equipment powered by internal  
54 combustion engines using petroleum products, alcohol, or  
55 other compound shall not be used in a coal mine.

56 (o) Locomotives, personnel carriers, mine cars, supply  
57 cars, shuttle cars, and all other haulage equipment shall  
58 be maintained in a safe operation condition. Each locomo-  
59 motive shall be equipped with a suitable lifting jack and  
60 handle. An audible warning device and headlights shall  
61 be provided on each locomotive and each shuttle car.  
62 All other mobile equipment, using the face areas of the

mine, purchased after the effective date of this article, shall be provided with a conspicuous light or other approved device so as to reduce the possibility of collision.

(p) No persons other than those necessary to operate a trip or car shall ride on any loaded car or on the outside of any car. Where pusher locomotives are not used, the locomotive operator shall have an assistant to assist him in his duties.

(q) The pushing of trips, except for switching purposes, is prohibited on main haulage roads: *Provided*, That this does not prohibit the use of a pusher locomotive to assist the locomotive pulling a trip. Motormen and trip riders shall use care in handling locomotives and cars. It shall be their duty to see that there is a conspicuous light on the front and rear of each trip or train of cars when in motion: *Provided*, That trip lights need not be used on cars being shifted to and from loading machines, on cars being handled at loading heads during gathering operations at working faces, or on trips being pulled by animals. No person except the operator or his assistant shall ride on locomotives or loaded cars.

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

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

(t) (1) A system of signals, methods, or devices shall be used to provide protection for trips, locomotives and



100 other equipment coming out onto tracks used by other  
101 equipment.

102 (2) In a mine where more than one thousand tons of  
103 coal are produced daily and where coal is transported  
104 by track haulage, a dispatcher shall be on duty when  
105 there is movement of traffic underground, including times  
106 when there is no coal in transit.

107 (3) Traffic shall move only at the direction of the  
108 dispatcher.

109 (4) The dispatcher's only duties shall be to direct  
110 traffic.

111 (5) Any dispatcher's station provided after the effec-  
112 tive date of this article shall be on the surface.

113 (6) All self-propelled equipment shall be equipped  
114 with two-way communications.

115 (u) Motormen shall inspect locomotives, and report  
116 any mechanical defects found to the proper supervisor  
117 before a locomotive is put in operation.

118 (v) A locomotive following another trip shall main-  
119 tain a distance of at least three hundred feet from the  
120 rear end of the trip ahead, unless such locomotive is  
121 coupled to the trip ahead.

122 (w) Positive stopblocks or derails shall be installed  
123 on all tracks near the top and at landings of shafts, slopes,  
124 and surface inclines. Positive-acting stopblocks or derails  
125 shall be used where necessary to protect persons from  
126 danger of runaway haulage equipment.

**§22-2-38. Transportation of men by cars; self-propelled equip-  
ment; belts.**

1 (a) Man trips shall be pulled, unless self-propelled,  
2 at safe speeds consistent with the condition of roads  
3 and type of equipment used, but not to exceed twelve  
4 miles an hour, except where special substantially covered  
5 man trip cars are used. Each man trip shall be under  
6 the charge of a certified person or other competent  
7 person designated by a mine foreman or assistant mine  
8 foreman. It shall be operated independently of any  
9 loaded trip of coal or other heavy material, but may  
10 transport tools, small machine parts and supplies. When

11 mine cars are used for man trips on steep grades, a loco-  
12 motive shall be used on each end of the trip.

13 (b) Cars on the man trip shall not be overloaded, and  
14 sufficient cars in good mechanical condition shall be  
15 provided.

16 (c) No person shall ride under the trolley wire unless  
17 suitably covered man cars are used.

18 (d) Men shall not load or unload before the cars in  
19 which they are to ride, or are riding, come to a full stop.  
20 Men shall proceed in an orderly manner to and from  
21 mantrips.

22 (e) When belts are used for transporting men, a  
23 minimum clearance of eighteen inches shall be main-  
24 tained between the belt and the roof or crossbars, pro-  
25 jecting equipment, cap pieces, overhead cables, wiring  
26 and other objects. Where the height of the coal seam  
27 permits, the clearance shall not be less than twenty-four  
28 inches.

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

37 (g) An assistant mine foreman or some other person  
38 designated by the mine foreman shall supervise the load-  
39 ing and unloading of belts and mantrips. Where men  
40 are required to regularly cross over belts, adequate and  
41 safe facilities shall be provided.

42 (h) Positive-acting stop controls shall be installed  
43 along all belt conveyors used to transport men, and such  
44 controls shall be readily accessible, and maintained so  
45 that the belt can be stopped or started at any location.

46 (i) Belt conveyors used for regularly scheduled man  
47 trips shall be stopped while men are loading or unload-  
48 ing.

49 (j) There shall be at least thirty-six inches of side  
50 clearance where men board or leave such belt conveyors.

51 (k) Adequate illumination including colored lights  
52 or reflective signs shall be installed at all loading and  
53 unloading stations. Such colored lights and reflective  
54 signs shall be so located as to be observable to all per-  
55 sons riding the belt conveyor.

56 (l) Telephone or other suitable communications shall  
57 be provided at points where men are regularly loaded  
58 on or unloaded from belt conveyors.

59 (m) After supplies have been transported on man  
60 trip cars, such cars shall be examined for unsafe condi-  
61 tions prior to the transportation of men.

**§22-2-39. Belt conveyor; installation; maintenance.**

1 (a) On or after July 1, 1971, all conveyor belts ac-  
2 quired for use underground shall be flame-resistant con-  
3 veyor belts.

4 (b) A clear travelway at least twenty-four inches  
5 wide shall be provided on both sides of all belt conveyors  
6 installed after July 1, 1971. Where roof supports are  
7 installed within twenty-four inches of a belt conveyor, a  
8 clear travelway at least twenty-four inches wide shall  
9 be provided on the side of such support farthest from  
10 the conveyor.

11 (c) On belt conveyors that do not transport men,  
12 stop and start controls shall be installed at intervals not  
13 to exceed one thousand feet. Such controls shall be  
14 properly installed and positioned so as to be readily  
15 accessible.

16 (d) Persons shall not cross moving belt conveyors,  
17 except where suitable crossing facilities are provided.

18 (e) All belt conveyors shall be inspected for frozen  
19 rollers, rock falls, and fires, following the last produc-  
20 tion shift each week, also before holidays, vacation peri-  
21 ods, and each production shift, with records kept of daily  
22 inspection.

23 (f) Deluge-type water sprays, water sprinklers, dry  
24 chemical sprinkler system or foam generators (designed  
25 to be automatically activated in the event of a fire or rise  
26 in the temperature at or near the belt drive) shall be in-  
27 stalled at each main and secondary conveyor drive.

28 (g) All underground belt conveyors shall be equipped  
29 with slippage and sequence switches.

30 (h) Telephones or other suitable communications  
31 shall be provided at points where supplies are regularly  
32 loaded or unloaded from the belt conveyors.

33 (i) After supplies have been transported on belt con-  
34 veyors, such belts shall be examined for unsafe condi-  
35 tions prior to the transportation of men.

## ELECTRICITY

### §22-2-40. Electricity; general provisions.

1 (a) Operators of coal mines in which electricity is  
2 used as a means of power shall comply with the following  
3 provisions:

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

11 (2) Underground transformers shall be air cooled or  
12 cooled with noninflammable liquid or inert gas.

13 (3) Underground stations containing transformers or  
14 circuit breakers filled with inflammable oil shall be pro-  
15 vided with doorsills or their equivalent, which will  
16 confine the oil if leakage or explosion occurs, and shall  
17 be of fireproof construction.

18 (4) Transformers shall be provided with adequate  
19 overload protection.

20 (5) "Danger—High Voltage" signs shall be posted con-  
21 spicuously on all transformer enclosures, high-potential  
22 switch-boards and other high-potential installations.

23 (6) Insulating platforms of rubber or other suitable  
24 nonconductive material shall be kept in place at each  
25 switchboard and at stationary machinery where shock  
26 hazards exist.

27 (7) Capacitors used for power factor <sup>correc</sup>tion shall  
28 be noninflammable liquid filled. Suitable drain-off resis-

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29 tors or other means to protect workmen against electric  
30 shock following removal of power shall be provided.

31 (8) All unattended underground loading points where  
32 electric driven hydraulic systems are used shall utilize  
33 a fireproof oil or emulsion.

34 (9) Before electrical changes are made to permissible  
35 equipment for use in a mine, they shall be approved by  
36 the director of the department of mines.

37 (10) Reverse current protection shall be provided at  
38 storage battery charging stations to prevent the storage  
39 batteries from energizing the power circuits in the event  
40 of power failure.

41 (11) On and after July 1, 1971:

42 (A) All junction or distribution boxes used for  
43 making multiple power connections inby the last open  
44 crosscut shall be permissible.

45 (B) All hand-held electric drills, blower and ex-  
46 haust fans, electric pumps, and such other low horse-  
47 power electric face equipment which are taken into or  
48 used inby the last open crosscut of any coal mine shall  
49 be permissible.

50 (C) All electric face equipment which is taken  
51 into or used inby the last open crosscut of any coal mine  
52 classified gassy prior to July 1, 1972, shall be permissible.

53 (D) All other electric face equipment which is taken  
54 into or used inby the last crosscut of any coal mine,  
55 after March 30, 1974, which has not been classified under  
56 any provision of law as a gassy mine prior to July 1, 1970,  
57 shall be permissible.

58 (12) Permissible electric face equipment; coal seams  
59 above water table. On and after March 30, 1974, all electric  
60 face equipment, which is taken into and used inby the  
61 last open crosscut of any coal mine which is operated  
62 entirely in coal seams located above the water table and  
63 which has not been classified under any provision of law  
64 as a gassy mine prior to March 30, 1970, and in which  
65 one or more openings were made prior to December 30,  
66 1970, shall be permissible.

67 (13) The phrase "coal seams above the water table"  
68 means coal seams in a mine which are located at an ele-

69 vation above a river or the tributary of a river into which  
70 a local surface water system naturally drains.

71 (14) On and after July 1, 1971, in mines operated in  
72 coal seams which are located at elevations above the  
73 water table:

74 (A) All junction or distribution boxes used for  
75 making multiple power connections inby the last open  
76 crosscut shall be permissible; and

77 (B) All hand-held electric drills, blower and ex-  
78 haust fans, electric pumps, and all other electric-driven  
79 mine equipment, except low horse-power rock dusting  
80 equipment, that employs an electric current supplied by  
81 either a power conductor or battery and consumes not  
82 more than two thousand two hundred fifty watts of  
83 electricity, which is taken into or used inby the last open  
84 crosscut, shall be permissible. On and after March 30,  
85 1974, in mines operated entirely in coal seams which are  
86 located at elevations above the water table, all electric  
87 face equipment which is taken into or used inby the last  
88 crosscut shall be permissible.

89 (15) The operator of each coal mine shall maintain  
90 in permissible condition all electric face equipment, which  
91 is taken into or used inby the last open crosscut of any  
92 mine after March 30, 1974.

93 (16) Except where permissible power connection units  
94 are used, all power-connection points outby the last open  
95 crosscut shall be in intake air.

96 (17) All power circuits and electric equipment shall  
97 be de-energized before work is done on such circuits  
98 and equipment, except when necessary for trouble shoot-  
99 ing or testing.

100 (18) Energized trolley wires may be repaired only by  
101 a person trained to perform electrical work and to main-  
102 tain electrical equipment and the operator of a mine shall  
103 require that such persons wear approved and tested in-  
104 sulated shoes and wireman's gloves.

105 (19) No electrical work shall be performed on low-,  
106 medium-, or high-voltage distribution circuits or equip-  
107 ment, except by a qualified person or by a person trained  
108 to perform electrical work and to maintain electrical

109 equipment under the direct supervision of a qualified  
110 person. Disconnecting devices shall be locked out and  
111 suitably tagged by the persons who perform such work,  
112 except that in cases where locking out is not possible,  
113 such devices shall be opened and suitably tagged by such  
114 persons. Locks or tags shall be removed only by the  
115 persons who installed them, or, if such persons are un-  
116 available, by persons authorized by the operator or his  
117 agent.

118 (20) All electric equipment shall be frequently ex-  
119 amined, tested, and properly maintained by a qualified  
120 person to assure safe operating conditions. When a poten-  
121 tially dangerous condition is found on electric equip-  
122 ment, such equipment shall be removed from service until  
123 such condition is corrected. A record of such examinations  
124 shall be kept and made available to an authorized repre-  
125 sentative of the director of the department of mines and  
126 to the miners in such mine.

127 (21) All electric conductors shall be sufficient in size  
128 and have adequate current-carrying capacity and be of  
129 such construction that a rise in temperature resulting  
130 from normal operation will not damage the insulating  
131 material.

132 (22) All electrical connections or splices in conductors  
133 shall be mechanically and electrically efficient, and suit-  
134 able connectors shall be used. All electrical connections  
135 or splices in insulated wire shall be reinsulated at least  
136 to the same degree of protection as the remainder of the  
137 wire.

138 (23) Cables shall enter metal frames of motors, splice  
139 boxes, and electric compartment only through proper  
140 fittings. When insulated wire, other than cables pass  
141 through metal frames, the holes shall be substantially  
142 bushed with insulated bushings.

143 (24) All power wire (except trailing cables on mobile  
144 equipment, specially designed cables conducting high-  
145 voltage power to underground rectifying equipment or  
146 transformers, or bare or insulated ground and return  
147 wires) shall be supported on well-installed insulators and  
148 shall not contact combustible material, roof or ribs.



149 (25) Power wires and cables, except trolley wires,  
150 trolley feeder wires and bare signal wires, shall be in-  
151 sulated adequately and fully protected.

152 (26) Automatic circuit-breaking devices or fuses of the  
153 correct type and capacity shall be installed so as to  
154 protect all electric equipment and circuits against short  
155 circuit and overloads. Three-phase motors on all electric  
156 equipment shall be provided with overload protection  
157 that will de-energize all three phases in the event that  
158 any phase is overloaded.

159 (27) Incandescent lamps installed along haulageways  
160 and at other locations, shall not contact combustible  
161 material, and if powered from trolley or direct current  
162 feeder circuits, need not be provided with separate short  
163 circuits or overload protection, if the lamp is not more  
164 than eight feet in distance from such circuits.

165 (28) In all main power circuits, disconnecting switches  
166 shall be installed underground within five hundred feet  
167 of the bottoms of shafts and boreholes through which  
168 main power circuits enter the underground area of the  
169 mine and within five hundred feet of all other places  
170 where main power circuits enter the underground area  
171 of the mine.

172 (29) All electric equipment shall be provided with  
173 switches or other controls that are safely designed, con-  
174 structed and installed.

175 (30) Each underground, exposed power conductor that  
176 leads underground shall be equipped with suitable light-  
177 ning arrestors of approved type within one hundred  
178 feet of the point where the circuit enters the mine.  
179 Lightning arrestors shall be connected to a low-resistance  
180 grounding medium on the surface which shall be sep-  
181 arated from neutral ground by a distance of not less  
182 than twenty-five feet.

183 (31) Except for areas of a coal mine inby the last open  
184 crosscut, incandescent lamps may be used to illuminate  
185 underground areas. When incandescent lamps are used in  
186 a track entry or belt entry or near track entries to illumi-  
187 nate special areas other than structures, the lamps shall be  
188 installed in weather-proof sockets located in positions such  
189 that the lamps will not come in contact with any combus-



190 tible material. Lamps used in all other places must be of  
191 substantial construction and be fitted with a glass enclos-  
192 ure.

193 (32) An authorized representative may require in any  
194 mine that electric face equipment be provided with de-  
195 vices that will permit the equipment to be de-energized  
196 quickly in the event of an emergency.

197 (33) On and after July 1, 1971, an authorized repre-  
198 sentative of the director shall require manually operated  
199 emergency stop switches, designed to de-energize the trac-  
200 tion motor circuit when the contactors or controller fail to  
201 open, to be installed on all battery powered tractors, taken  
202 into or used in by the last open crosscut of any entry or  
203 room.

204 (34) Trailing cables used in coal mines shall meet  
205 the requirements for flame-resistant cables.

206 (35) Short circuit protection for trailing cables shall  
207 be provided by an automatic circuit breaker or other no  
208 less effective device approved by the director of the de-  
209 partment of mines of adequate current-interrupting capac-  
210 ity in each ungrounded conductor. Disconnecting devices  
211 used to disconnect power from trailing cables shall be  
212 plainly marked and identified and such devices shall be  
213 equipped or designed in such a manner that it can be de-  
214 termined by visual observation that the power is dis-  
215 connected.

216 (36) When two or more trailing cables junction to  
217 the same distribution center, means shall be provided to  
218 assure against connecting a trailing cable to the wrong  
219 size circuit breaker.

220 (37) One temporary splice may be made in any trail-  
221 ing cable. Such trailing cable may only be used for the  
222 next twenty-four hour period. No temporary splice shall  
223 be made in a trailing cable within twenty-five feet of the  
224 machine, except cable reel equipment. Temporary splices  
225 in trailing cables shall be made in a workmanlike manner  
226 and shall be mechanically strong and well insulated. Trail-  
227 ing cables or hand cables which have exposed wires or  
228 which have splices that heat or spark under load shall not  
229 be used. As used in this section, the term "splice" means a

230 mechanical joining of one or more conductors that have  
231 been severed.

232 (38) When permanent splices in trailing cables are  
233 made, they shall be:

234 (A) Mechanically strong with adequate electrical  
235 conductivity and flexibility,

236 (B) Effectively insulated and sealed so as to ex-  
237 clude moisture, and

238 (C) Vulcanized or otherwise treated with suitable  
239 materials to provide flame-resistant qualities and good  
240 bonding to the outer jacket.

241 (39) Trailing cables shall be clamped to machines in  
242 a manner to protect the cables from damage and to pre-  
243 vent strain on the electrical connections.

244 (40) Trailing cables shall be adequately protected to  
245 prevent damage by mobile equipment.

246 (41) Trailing cable and power cable connections to  
247 junction boxes shall not be made or broken under load.

248 (42) All metallic sheaths, armours, and conduits en-  
249 closing power conductors shall be electrically continuous  
250 throughout and shall be grounded by methods approved  
251 by an authorized representative of the director of the  
252 department of mines.

253 (43) Metallic frames, casings and other enclosures of  
254 electric equipment that can become alive through failure  
255 of insulation or by contact with energized parts shall be  
256 grounded.

257 (44) In instances where single-phase 110-220-volt cir-  
258 cuits are used to feed electrical equipment, the only  
259 method of grounding that will be approved is the con-  
260 nection of all metallic frames, casings and other en-  
261 closures of such equipment to a separate grounding con-  
262 ductor which establishes a continuous connection to a  
262 grounded center tap of the transformer.

263 (45) The attachment of grounding wires to a mine  
264 track or other grounded power conductor will be ap-  
266 proved if separate clamps, suitable for such purpose, are  
267 used and installed to provide a solid connection.

268 (46) The frames of all offtrack direct-current machines  
269 and the enclosures of related detached components shall

270 be effectively grounded or otherwise maintained at no  
271 less safe voltages.

272 (47) Installation of silicon diodes shall be restricted to  
273 electric equipment receiving power from a direct-current  
274 system with one polarity grounded. Where such diodes  
275 are used on circuits having a nominal voltage rating of  
276 two hundred fifty, they must have a forward current  
277 rating of four hundred amperes or more, and have a  
278 peak inverse voltage rating of four hundred or more.  
279 Where such diodes are used on circuits having nominal  
280 voltage rating of five hundred fifty, they must have a for-  
281 ward current rating of two hundred fifty amperes or more,  
282 and have a peak inverse voltage rating of eight hundred  
283 or more.

284 (48) In addition to the grounding diode, a polarizing  
285 diode must be installed in the machine control circuit to  
286 prevent operation of the machine when the polarity of a  
287 trailing cable is reversed.

288 (49) When installed on permissible equipment, all  
289 grounding diodes, over-current devices, and polarizing  
290 diodes must be placed in explosion-proof compartments.

291 (50) High-voltage lines, both on the surface and under-  
292 ground, shall be de-energized and grounded before work  
293 is performed on them, except that repairs may be per-  
294 mitted, in the case of energized surface high-voltage lines,  
295 if such repairs are made by a qualified person in accor-  
296 dance with procedures and safeguards, including, but not  
297 limited to, a requirement that the operator of such mine  
298 provide, test, and maintain protective devices in making  
299 such repairs.

300 (51) When two or more persons are working on an  
301 energized high-voltage surface line simultaneously, and  
302 any one of them is within reach of another, such persons  
303 shall not be allowed to work on different phases or on  
304 equipment with different potentials.

305 (52) All persons performing work on energized high-  
306 voltage surface lines shall wear protective rubber gloves,  
307 sleeves, and climber guards if climbers are worn. Pro-  
308 tective rubber gloves shall not be worn wrong side out  
309 or without protective leather gloves. Protective devices

310 worn by a person assigned to perform repairs on high-  
311 voltage surface lines shall be worn continuously from the  
312 time he leaves the ground until he returns to the ground,  
313 and, if such devices are employed for extended periods,  
314 such person shall visually inspect the equipment assigned  
315 him for defects before each use, and, in no case, less than  
316 twice each day.

317 (53) Disconnecting or cutout switches on energized  
318 high-voltage surface lines shall be operated only with in-  
319 sulated sticks, fuse tongs, or pullers which are adequately  
320 insulated and maintained to protect the operator from the  
321 voltage to which he is exposed. When such switches are  
322 operated from the ground, the person operating such de-  
323 vices shall wear protective rubber gloves.

324 (54) Solely for purposes of grounding ungrounded  
325 high-voltage power systems, grounded messenger wires  
326 used to suspend the cables of such systems may be used  
327 as a grounding medium.

328 (55) When not in use, power circuits underground  
329 shall be de-energized on idle days and idle shifts, except  
330 that rectifiers and transformers may remain energized.

331 (56) High-voltage circuits entering the underground  
332 area of any coal mine shall be protected by suitable cir-  
333 cuit breakers of adequate interrupting capacity. Such  
334 breakers shall be equipped with devices to provide pro-  
335 tection against under-voltage, grounded phase, short  
336 circuit, and overcurrent.

337 (57) Circuit breakers protecting high-voltage circuits  
338 entering an underground area of any coal mine shall be lo-  
339 cated on the surface and in no case installed either under-  
340 ground or within a drift.

341 (58) One circuit breaker may be used to protect two or  
342 more branch circuits, if the circuit breaker is adjusted to  
343 afford overcurrent protection for the smallest conductor.

344 (59) The grounding resistor, where required, shall be  
345 of the proper ohmic value to limit the voltage drop in the  
346 grounding circuit external to the resistor to not more than  
347 one hundred volts under fault conditions. The grounding  
348 resistor shall be rated for maximum fault current contin-

349 uously and insulated from ground for a voltage equal to  
350 the phase-to-phase voltage of the system.

351 (60) High-voltage circuits extending underground and  
352 supplying portable mobile or stationary high-voltage  
353 equipment shall contain either a direct or derived neutral  
354 which shall be grounded through a suitable resistor at the  
355 source transformers, and a grounding circuit, originating  
356 at the grounded side of the grounding resistor, shall extend  
357 along with the power conductors and serve as a grounding  
358 conductor for the frames of all high-voltage equipment  
359 supplied power from that circuit, except that the director  
360 or his authorized representative may permit ungrounded  
361 high-voltage circuits to be extended underground to feed  
362 stationary electrical equipment if such circuits are either  
363 steel armored or installed in grounded, rigid steel conduit  
364 throughout their entire length, and upon his finding that  
365 such exception does not pose a hazard to the miners. With-  
366 in one hundred feet of the point on the surface where high-  
367 voltage circuits enter the underground portion of the  
368 mine, disconnecting devices shall be installed and so  
369 equipped or designed in such a manner that it can be de-  
370 termined by visual observation that the power is discon-  
371 nected, except that the director or his authorized repre-  
372 sentative may permit such devices to be installed at a  
373 greater distance from such area of the mine if he deter-  
374 mines, based on existing physical conditions, that such in-  
375 stallation will be more accessible at a greater distance and  
376 will not pose any hazard to the miners.

377 (61) On and after July 1, 1971, high-voltage, resistance  
378 grounded systems serving portable or mobile equipment  
379 shall include a fail-safe ground check circuit to monitor  
380 continuously the grounding circuit to assure continuity,  
381 and the fail-safe ground check circuit shall cause the cir-  
382 cuit breaker to open when either the ground or pilot check  
383 wire is broken, or other no less effective device approved  
384 by the director or his authorized representative to assure  
385 such continuity.

386 (62) Underground high-voltage cables used in resis-  
387 tance grounded systems shall be equipped with metallic  
388 shields around each power conductor with one or more  
389 ground conductors having a total cross-sectional area of



390 not less than one-half the power conductor, and with an in-  
391 sulated internal or external conductor not smaller than  
392 No. 10 (A.W.G.) for the ground continuity check circuit.

393 (63) All such cables shall be adequate for the intended  
394 current and voltage. Splices made in such cables shall pro-  
395 vide continuity of all components.

396 (64) Single-phase loads, such as transformer primar-  
397 ies, shall be connected phase-to-phase.

398 (65) All underground high-voltage transmission cables  
399 shall be installed only in regularly inspected air courses  
400 and haulageways, and shall be covered, buried, or placed  
401 so as to afford protection against damage, guarded where  
402 men regularly work or pass under them unless they are  
403 six and one-half feet or more above the floor or rail, se-  
404 curely anchored, properly insulated, and guarded at ends,  
405 and covered, insulated, or placed to prevent contact with  
406 trolley wires and other low-voltage circuits.

407 (66) Disconnecting devices shall be installed at the be-  
408 ginning of branch lines in underground high-voltage cir-  
409 cuits and equipped or designed in such a manner that it  
410 can be determined by visual observation that the circuit is  
411 deenergized when the switches are open.

412 (67) Circuit breakers and disconnecting switches un-  
413 derground shall be marked for identification.

414 (68) In the case of high-voltage cables used as trailing  
415 cables, temporary splices shall not be used and all perm-  
416 anent splices shall be made in accordance with the manu-  
417 facturers' specifications.

418 (69) Frames, supporting structures and enclosures of  
419 stationary, portable, or mobile underground high-voltage  
420 equipment and all high-voltage equipment supplying  
421 power to such equipment receiving power from resistance  
422 grounded systems shall be effectively grounded to the  
423 high-voltage ground.

424 (70) Low- and medium-voltage power circuits serving  
425 three-phase alternating current equipment serving por-  
426 table or mobile equipment shall be protected by suitable  
427 circuit breakers of adequate interrupting capacity which  
428 are properly tested and maintained as prescribed by the  
429 director. Such breakers shall be equipped with devices to

430 provide protection against undervoltage, grounded phase,  
431 short circuit, and overcurrent.

432 (71) Power centers and portable transformers shall be  
433 de-energized before they are moved from one location to  
434 another, except that, when equipment powered by sources  
435 other than such centers or transformers is not available,  
436 the director may permit such centers and transformers to  
437 be moved while energized, if he determines that another  
438 equivalent or greater hazard may otherwise be created,  
439 and if they are moved under the supervision of a qualified  
440 person, and if such centers and transformers are examined  
441 prior to such movement by such person and found to be  
442 grounded by methods approved by an authorized repre-  
443 sentative of the director and otherwise protected from  
444 hazards to the miner. A record shall be kept of such exam-  
445 inations. High-voltage cables, other than trailing cables,  
446 shall not be moved or handled at any time while energiz-  
447 ed, except that such centers and transformers are moved  
448 while energized as permitted under this section, energized  
449 high-voltage cables attached to such centers and trans-  
450 formers may be moved only by a qualified person and the  
451 operator of such mine shall require that such person wear  
452 approved and tested insulated wireman's gloves.

453 (72) Low- and medium-voltage three-phase alternat-  
454 ing-current circuits used underground shall contain either  
455 a director or derived neutral which shall be grounded  
456 through a suitable resistor at the power center, and a  
457 grounding circuit, originating at the grounded side of  
458 the grounding resistor, shall extend along with the  
459 power conductors and serve as a grounding conductor  
460 for the frames of all the electrical equipment supplied  
461 power from the circuit, except that the director or his  
462 authorized representative may permit ungrounded low-  
463 and medium-voltage circuits to be used underground to  
464 feed such stationary electrical equipment if such cir-  
465 cuits are either steel armored or installed in grounded  
466 rigid steel conduit throughout their entire length. The  
467 grounding resistor, where required, shall be of the proper  
468 ohmic value to limit the ground fault current to twenty-  
469 five amperes. The grounding resistor shall be rated for  
470 maximum fault current continuously and insulated from

471 ground for a voltage equal to the phase-to-phase voltage  
472 of the system.

473 (73) On or before July 1, 1972, low- and medium-voltage  
474 resistance grounded systems serving portable or mobile  
475 equipment shall include a fail-safe ground check circuit to  
476 monitor continuously the grounding circuit to assure con-  
477 tinuity which ground check circuit shall cause the circuit  
478 breaker to open when either the ground or pilot check  
479 wire is broken, or other not less effective device approved  
480 by the director or his authorized representative to assure  
481 such continuity, except that an extension of time, not in  
482 excess of twelve months, may be permitted by the direc-  
483 tor on a mine-to-mine basis if he determines that such  
484 equipment is not available. Cable couplers shall be con-  
485 structed so that the ground check continuity conductor  
486 shall be broken first and the ground conductors shall be  
487 broken last when the coupler is being uncoupled.

488 (74) Disconnecting devices shall be installed in con-  
489 junction with circuit breakers serving portable or mobile  
490 equipment to provide visual evidence that the power is  
491 connected.

492 (75) Circuit breakers shall be marked for identification.

493 (76) Single-phase loads shall be connected phase-to-  
494 phase.

495 (77) Trailing cables for medium-voltage circuits shall  
496 include grounding conductors, a ground check conductor,  
497 and grounded metallic shields around each power con-  
498 ductor or a ground metallic shield over the assembly, ex-  
499 cept that on equipment employing cable reels, cables with-  
500 out shield may be used if the insulation is rated two  
501 thousand volts or more.

502 (78) Trolley wires and trolley feeder wires shall be  
503 provided with cutout switches at intervals of not more  
504 than two thousand feet and near the beginning of all  
505 branch lines.

506 (79) Trolley wires and trolley feeder wires shall be  
507 provided with overcurrent protection.

508 (80) Trolley wires and trolley feeder wires, high-volt-  
509 age cables, and transformers shall not be located within



510 fifteen feet of the last open crosscut and shall be kept at  
511 least one hundred fifty feet from pillar workings.

512 (81) Trolley wires, trolley feeder wires, and bare sig-  
513 nal wires shall be insulated adequately where they pass  
514 through doors and stoppings and where they cross other  
515 power wires and cables. Trolley wires and trolley feeder  
516 wires shall be guarded adequately.

517 (A) At all points where men are required to work  
518 or pass regularly under the wires.

519 (B) On both sides of all doors and stoppings.

520 (C) At man-trip stations.

521 (82) Temporary guards shall be provided where track-  
522 men and other persons work in proximity to trolley  
523 wires and trolley feeder wires.

524 (83) Adequate precaution shall be taken to insure that  
525 equipment being moved along haulageways will not come  
526 in contact with trolley wires or trolley feeder wires.

527 (84) Trolley and feeder wires shall be installed as fol-  
528 lows: Where installed on permanent haulage, they shall  
529 be:

530 (A) At least six inches outside the track gauge line.

531 (B) Kept taut and not permitted to touch the roof,  
532 rib, or crossbars. Particular care shall be taken where  
533 they pass through door openings to preclude bare wires  
534 from coming in contact with combustible material.

535 (C) Installations of trolley wire hangers shall be  
536 provided within three feet of each splice in a trolley wire.

**§22-2-41. Same—Bonding track used as power conductor.**

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

**§22-2-42. Same—Telephone service or communication facilities.**

1 Telephone service or equivalent two-way communication facilities shall be provided in all mines between the  
2 surface and each working section that is more than one  
3 thousand five hundred feet from the main portal.

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

8 Lightning arresters shall be provided at the points  
9 where telephone circuits enter the mine.

**§22-2-43. Electric equipment in mines.**

1 (a) Electric equipment shall not be taken into or  
2 operated in any place where methane can be detected  
3 with a flame safety lamp or other approved methane de-  
4 tector at any point not less than eight inches from the  
5 roof, face, or rib.

6 (b) In all mines, electric haulage locomotives operated  
7 from trolley wire and other electrical equipment or de-  
8 vices which may ignite gas shall not be used in return  
9 air, unless permission is granted by the director of the  
10 department of mines for a specified area. For the purpose  
11 of this provision, air used to ventilate a section of a mine  
12 shall not be considered return air until such time as the  
13 air has ventilated all of the workings in the section.

14 (c) No person shall be placed in charge of a coal  
15 cutting machine in any mine who is not a qualified  
16 person, capable of determining the safety of the roof and  
17 sides of the working places and of detecting the pres-  
18 ence of explosive gas, unless they are accompanied by a  
19 certified or qualified person who has passed such an  
20 examination.

21 (d) In any mine no machine shall be brought in by the  
22 last breakthrough next to the working face until the  
23 machine man shall have made an inspection for gas in  
24 the place where the machine is to work. If explosive  
25 gas in excess of one percent is found in the place, the  
26 machine shall not be taken in until the danger is removed.

27 (e) In working places a safety lamp, or other suit-  
 28 able approved apparatus for the detection of explosive  
 29 gas, shall be provided for use with each mining machine  
 30 when working, and should any indication of explosive  
 31 gas in excess of one percent appear on the flame of the  
 32 safety lamp, or on other apparatus used for the detection  
 33 of explosive gas, the person in charge shall immediately  
 34 stop the machine, cut off the current at the nearest switch  
 35 and report the condition to the mine foreman or super-  
 36 visor. The machine shall not again be started in such  
 37 place until the condition found has been corrected and  
 38 been pronounced safe by a certified person.

39 (f) No electric equipment shall be operated in a mine  
 40 for a longer period than twenty minutes without an ex-  
 41 amination as above described being made for gas; and  
 42 if gas is found in excess of one percent, the current shall  
 43 at once be switched off the machine, and the trailing  
 44 cable shall forthwith be disconnected from the power  
 45 supply until the place is pronounced safe.

46 (g) Machine runners and helpers shall use care while  
 47 operating mining machines. They shall not permit any  
 48 person to remain near the machine while it is in opera-  
 49 tion. They shall examine the roof of the working place to  
 50 see that it is safe before starting to operate the machine.  
 51 They shall not move the machine while the cutter chain  
 52 is in motion.

**§22-2-44. Electricity; hand-held drills; trailing cables.**

1 Electric drills and other electrically operated rotating  
 2 tools intended to be held in the hand shall have the  
 3 electric switch constructed so as to break the circuit when  
 4 the hand releases the switch and shall be equipped with  
 5 friction or safety clutches.

**§22-2-45. Illumination.**

1 Electric lights or other approved methods of lighting  
 2 shall be installed so that they do not come in contact  
 3 with combustible materials, and the wires shall be sup-  
 4 ported by suitable insulators and fastened securely to the  
 5 power conductors.

**§22-2-46. Welding and cutting.**

1 (a) A record shall be kept of oxygen and gas tanks  
2 or cylinders taken into a mine and the date shall be  
3 recorded when they are removed from the mine. No  
4 more tanks or cylinders than necessary to perform effi-  
5 ciently the work shall be permitted underground at one  
6 time.

7 (b) Propane torches may be used in lieu of blow-  
8 torches.

9 (c) Welding and cutting may be done in mines: *Pro-*  
10 *vided*, That all equipment and gauges are maintained in  
11 safe condition and not abused, that suitable precautions  
12 are taken against ignition of methane, coal dust, or com-  
13 bustible materials, that means are provided for prompt  
14 extinguishment of fires accidentally started, and that  
15 only persons who have demonstrated competency in  
16 welding and cutting are entrusted to do this work. Ade-  
17 quate eye protection shall be used by all persons doing  
18 welding or cutting, and precautions shall be taken to  
19 prevent other persons from exposure that might be harm-  
20 ful to their eyes.

21 (d) Transportation of oxygen and gas tanks or cylinders  
22 shall be permitted on self-propelled machinery or belt con-  
23 veyors specially equipped for safe holding of the contain-  
24 ers in transportation. In no instance, shall such transporta-  
25 tion be permitted in conjunction with any man trip.

26 (e) Empty oxygen and gas tanks or cylinders shall be  
27 marked "empty" and shall be removed from the mine  
28 promptly in safe containers provided for transportation  
29 of the same.

30 (f) When tanks and cylinders are not in use and when  
31 they are being transported, valve protection caps and  
32 plugs shall be placed on all tanks or cylinders for which  
33 caps and plugs are available. No oxygen tanks, gas tanks  
34 or cylinders shall be transported with the hoses and  
35 gauges attached thereto.

36 (g) In all mines a certified person shall examine for  
37 gas with permissible flame safety lamps or other ap-  
38 proved detectors before and during welding or cutting  
39 in, at or near working faces. The safety of the equipment

40 and methods used in such cases shall be subject to ap-  
 41 proval of the director of the department of mines. If  
 42 equipment is mobile, it shall be removed outby the last  
 43 open break-through before cutting and welding may be  
 44 performed on such equipment.

**§22-2-47. Responsibility for care and maintenance of face equipment.**

1 Mine operators shall maintain face equipment in safe  
 2 operating condition. Equipment operators shall exercise  
 3 reasonable care in the operation of the equipment en-  
 4 trusted to them and shall promptly report defects known  
 5 to them.

**§22-2-48. Control of dust and other inhalation hazards.**

1 Men exposed for short periods to gas-, dust-, fume-,  
 2 and mist-inhalation hazards shall wear permissible res-  
 3 piratory equipment. Dust shall be controlled by the use  
 4 of permissible dust collectors or other approved methods.

**SAFEGUARDS FOR MECHANICAL EQUIPMENT**

**§22-2-49. Safeguards for mechanical equipment.**

1 (a) The cutter chains of mining machines shall be  
 2 locked securely by mechanical means or electrical inter-  
 3 locks while such machines are parked or being trammed.  
 4 Loading machines shall not be trammed with loading arms  
 5 in motion, except when loading materials.

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

- 18 (c) Mechanically operated grinding wheels shall be  
19 equipped with safety washers, substantial retaining hoods,  
20 and, unless goggles are used, eye shields.

## SURFACE STRUCTURES AND PRACTICES

### §22-2-50. Procurement of dust-tight electrical equipment; dust control; repairs; welding; handrails and toeboards.

- 1 (a) In unusually dusty locations, electric motors,  
2 switches and controls shall be of dust-tight construction,  
3 or enclosed with reasonably dust-tight housings or en-  
4 closures.
- 5 (b) After July 1, 1971, all structures erected on the  
6 surface within one hundred feet of any mine opening shall  
7 be of fireproof construction.
- 8 (c) Means and methods shall be provided to assure that  
9 structures and the immediate area surrounding the same  
10 shall be reasonably free of coal dust accumulations.
- 11 (d) Where coal is dumped at or near air intake open-  
12 ings, reasonable provisions shall be made to prevent dust  
13 from entering the mine.
- 14 (e) Where repairs are being made to the plant, proper  
15 scaffolding and proper overhead protection shall be pro-  
16 vided for workmen wherever necessary.
- 17 (f) Welding shall not be done in dusty atmospheres  
18 and dusty locations shall be well cleaned, and fire-  
19 fighting apparatus shall be readily available during  
20 welding.
- 21 (g) Stairways, elevated platforms and runways shall  
22 be equipped with handrails. Railroad car trimmer plat-  
23 forms are excepted from such requirement.
- 24 (h) Elevated platforms and stairways shall be pro-  
25 vided with toeboards where necessary, and they shall be  
26 kept clear of refuse and ice and maintained in good repair.
- 27 (i) Personnel who are required frequently and regu-  
28 larly to travel on belts or chain conveyors extended to  
29 heights of more than ten feet shall be provided with  
30 adequate space and protection in order that they may  
31 work safely. Permanent ladders extending more than ten  
32 feet shall be provided with back guards. Walkways  
33 around thickeners that are less than four feet above the

34 walkway shall be adequately guarded. Employees re-  
35 quired to work over thickeners shall wear a safety har-  
36 ness adequately secured, unless walkways or other suit-  
37 able safety devices are provided.

**§22-2-51. Housekeeping.**

1 Good housekeeping shall be practiced in and around  
2 mine buildings and yards. Such practices include cleanli-  
3 ness, orderly storage of materials, and the removal of  
4 possible sources of injury, such as stumbling hazards, pro-  
5 truding nails and broken glass.

**§22-2-52. Lamp house.**

1 Naphtha or other flammable liquids in lamp houses shall  
2 be kept in approved containers or other safe dispensers.

**§22-2-53. Smoking in and around surface structures.**

1 Smoking in or about surface structures shall be re-  
2 stricted to places where it will not cause fire or an ex-  
3 plosion.

**MISCELLANEOUS SAFETY PROVISIONS AND  
REQUIREMENTS**

**§22-2-54. Duties of persons subject to article; rules and regula-  
tions of operators.**

1 (a) It shall be the duty of the operator, mine foreman,  
2 supervisors, mine examiners, and other officials to comply  
3 with and to see that others comply with the provisions  
4 of this article.

5 (b) It shall be the duty of all employees and check-  
6 weighmen to comply with this article and to cooperate  
7 with management and the department of mines in  
8 carrying out the provisions hereof.

9 (c) Reasonable rules and regulations of an operator  
10 for the protection of employees and preservation of  
11 property that are in harmony with the provisions of this  
12 article and other applicable laws shall be complied with.  
13 They shall be printed on cardboard or in book form in  
14 the English language and posted at some conspicuous

15 place about the mine or mines, and given to each employee  
16 upon request.

**§22-2-55. Protective clothing.**

1 (a) Welders and helpers shall use proper shields or  
2 goggles to protect their eyes. All employees shall have  
3 approved goggles or shields and use the same where  
4 there is a hazard from flying particles, or other eye  
5 hazards.

6 (b) Employees engaged in haulage operations and all  
7 other persons employed around moving equipment on the  
8 surface and underground shall wear snug-fitting clothing.

9 (c) Protective gloves shall be worn when material  
10 which may injure hands is handled, but gloves with  
11 gauntleted cuffs shall not be worn around moving  
12 equipment.

13 (d) Safety hats and safety-toed shoes shall be worn  
14 by all men while in or around a mine.

15 (e) Approved safety goggles or eyeshields shall be  
16 worn by all persons while being transported in open-type  
17 man trips.

18 (f) A self-rescue device approved by the director of  
19 the department of mines shall be worn by each person  
20 underground or kept within his immediate reach, and  
21 such device shall be provided by the operator. The self-  
22 rescue device shall be adequate to protect such miner for  
23 one hour or longer. Each operator shall train each miner  
24 in the use of such device, and refresher training courses  
25 for all underground employees shall be held during each  
26 calendar year.

**§22-2-57. Checking systems.**

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



**§22-2-58. No act permitted endangering security of mine; search for intoxicants, matches, etc.**

1 (a) No miner, workman or other person shall know-  
2 ingly injure any shaft, lamp, instrument, air course, or  
3 brattice, or obstruct or throw open airways, or carry  
4 matches or open lights in the places worked by safety  
5 lights, or disturb any part of the machinery or ap-  
6 pliances, open a door closed for directing ventilation and  
7 not close it again, or enter any part of a mine against  
8 caution, or disobey any order of any mine foreman or  
9 assistant mine foreman given in carrying out any of the  
10 provisions of this section.

11 (b) Open lights, smoking, and smokers' articles, in-  
12 cluding matches, are prohibited in all mines. No person  
13 shall at any time enter mines with or carry therein any  
14 matches, pipes, cigars, cigarettes, or any device for mak-  
15 ing lights or fire not authorized or approved. The operator  
16 shall at frequent intervals search, or cause to be search-  
17 ed, any person, including his clothing and material be-  
18 longings, entering or about to enter the mine, or inside  
19 the mine, to prevent such person from taking or carrying  
20 therein any of the above-mentioned articles.

21 (c) No person shall at any time carry into any mine  
22 any intoxicants or enter any mine while under the in-  
23 fluence of intoxicants.

**§22-2-59. Fire protection.**

1 (a) Suitable fire protection shall be provided at sur-  
2 face installations of fans, shops, tipples, and preparation  
3 plants, sub-stations, hoist rooms and compressor stations.

4 (b) Fire drills and demonstration of various types of  
5 available fire fighting equipment shall be held for em-  
6 ployees at least every six months.

7 (c) The location of pipe lines, locations of valves, and  
8 fire taps shall be shown on a map of the mine and kept  
9 available at the mine office at all times.

10 (d) Each coal mine shall be provided with suitable  
11 fire fighting equipment adapted for the size and condition  
12 of the mine. Fire fighting equipment required under this  
13 article shall meet the following requirements:

14 (1) Waterlines shall be capable of delivering fifty gal-  
15 lons of water at a nozzle pressure of fifty pounds per  
16 square inch.

17 (2) A portable water car shall be of at least one thou-  
18 sand gallons capacity, and shall have at least three hun-  
19 dred feet of fire hose with nozzles. A portable water car  
20 shall be capable of providing a flow through the hose of  
21 fifty gallons of water per minute at a nozzle pressure of  
22 fifty pounds per square inch.

23 (3) A portable chemical car shall carry enough chemi-  
24 cals to provide a fire extinguishing capacity equivalent to  
25 that of a portable water car.

26 (4) A portable foam-generating machine shall have fa-  
27 cilities and equipment for supplying the machine with  
28 thirty gallons of water per minute at thirty pounds per  
29 square inch for a period of thirty-five minutes.

30 (5) A portable fire extinguisher shall be either a  
31 multipurpose dry chemical type, containing a nominal  
32 weight of five pounds of dry powder and enough expel-  
33 lant to apply the powder; or a foam-producing type con-  
34 taining at least two and one-half gallons of foam-produc-  
35 ing liquid and enough expellant to supply the foam. Only  
36 fire extinguishers approved by the Underwriters Labora-  
37 tories, Inc. or Factor Mutual Laboratories, carrying ap-  
38 propriate labels as to type and purpose shall be used after  
39 July 1, 1971, and all new portable fire extinguishers ac-  
40 quired for use in a coal mine shall be of the multipurpose  
41 dry chemical type, having a 2A 10BC or higher rating.

42 (6) The fire hose shall be rubber-lined, mildew-proof  
43 and the cover shall be of flame-resistant qualities, meeting  
44 requirements for hose in Bureau of Mines Schedule 2G,  
45 except that the test flame shall be applied to the outer  
46 surface rather than to an open end. The bursting pres-  
47 sure shall be at least four times higher than the static  
48 water at the mine location; the maximum water pres-  
49 sure in the hose nozzle shall not exceed 100 p.s.i.g.

50 (e) Each working section of coal mines producing  
51 three hundred tons or more per shift shall be provided  
52 with two portable fire extinguishers and two hundred  
53 forty pounds of bagged rock dust; waterlines shall ex-

54 tend to each section loading point and be equipped with  
55 enough fire hose to reach each working face unless the  
56 section loading point is provided with one of the fol-  
57 lowing: (1) two portable water cars or (2) two portable  
58 chemical cars, or (3) one portable water car or one  
59 portable chemical car and either a portable foam-gener-  
60 ating machine or a portable high-pressure rock-dusting  
61 machine, fitted with at least two hundred fifty feet of  
62 hose and supplied with at least sixty sacks of rock dust.

63 (f) In all coal mines, waterlines shall be installed  
64 parallel to the entire length of belt conveyors and shall  
65 be equipped with fire hose outlets with valves at three-  
66 hundred-foot intervals along each belt conveyor and at  
67 tailpieces. At least five hundred feet of fire hose with  
68 fittings suitable for connection with each belt conveyor  
69 waterline system shall be stored at strategic locations  
70 along the belt conveyor. Waterlines may be installed in  
71 entries adjacent to the conveyor entry belt as long as  
72 the outlets project into the belt conveyor entry. Each  
73 working section of coal mines producing less than three  
74 hundred tons of coal per shift shall be provided with  
75 two portable fire extinguishers, two hundred forty pounds  
76 of bagged rock dust and at least five hundred gallons  
77 of water and at least three pails of ten-quart capacity.  
78 In lieu of the five hundred gallon water supply, a water-  
79 line with sufficient hose to reach the working places, a  
80 portable water car of five hundred fifty gallons capac-  
81 ity, or a portable all-purpose dry powder chemical car  
82 of at least one hundred twenty-five pounds capacity may  
83 be provided.

84 (g) In mines producing three hundred tons of coal  
85 or more per shift, waterlines shall be installed parallel  
86 to all haulage tracks using mechanized equipment in the  
87 track or adjacent entry and shall extend to the loading  
88 point of each working section. Waterlines shall be  
89 equipped with outlet valves at intervals of not more  
90 than five hundred feet, and five hundred feet of fire hose  
91 with fittings suitable for connection with such water-  
92 lines shall be provided at strategic locations. Two porta-  
93 ble water cars, readily available, may be used in lieu  
94 of waterlines prescribed under this paragraph.

95 (h) In mines producing less than three hundred tons  
96 of coal per shift, there shall be provided at five hundred  
97 foot intervals in all main and secondary haulage roads:  
98 (1) a tank of water of at least fifty-five gallon capacity  
99 with at least three pails of not less than ten-quart ca-  
100 pacity, or (2) not less than two hundred forty pounds  
101 of bagged rock dust.

102 (i) Each track or off-track locomotive, self-propelled  
103 man-trip car, or personnel carrier shall be equipped with  
104 one portable fire extinguisher.

105 (j) Two portable fire extinguishers shall be provided  
106 at each permanent electrical installation. One portable  
107 fire extinguisher and two hundred forty pounds of rock  
108 dust shall be provided at each temporary electrical in-  
109 stallation.

110 (k) Two portable fire extinguishers and two hundred  
111 forty pounds of rock dust shall be provided at each per-  
112 manent underground oil storage station. One portable  
113 fire extinguisher shall be provided at each working sec-  
114 tion where twenty-five gallons or more of oil are stored  
115 in addition to extinguishers required under paragraph  
116 (e) of this section.

117 (l) One portable fire extinguisher or two hundred  
118 forty pounds of rock dust and water shall be provided  
119 at locations where welding, cutting, or soldering with  
120 arc or flame is being done.

121 (m) At each wooden door through which power lines  
122 pass there shall be one portable fire extinguisher or two  
123 hundred forty pounds of rock dust within twenty-five  
124 feet of the door on the intake air side.

125 (n) At each mine producing three hundred tons of  
126 coal or more per shift, there shall be readily available  
127 the following materials at locations not exceeding two  
128 miles from each working section:

129 (1) One thousand board feet of brattice boards

130 (2) Two rolls of brattice cloth

131 (3) Two hand saws

132 (4) Twenty-five pounds of 8° nails

133 (5) Twenty-five pounds of 10° nails

134 (6) Twenty-five pounds of 16° nails

135 (7) Three claw hammers

- 136 (8) Twenty-five bags of wood fiber plaster or ten  
 137 bags of cement (or equivalent material for stoppings)  
 138 (9) Five tons of rock dust.  
 139 (c) At each mine producing less than three hundred  
 140 tons of coal per shift, the above materials shall be avail-  
 141 able at the mine; *Provided, however,* That the emergency  
 142 materials for one or more mines may be stored at a  
 143 central warehouse or building supply company and such  
 144 supply must be the equivalent of that required for all  
 145 mines involved and within one hour's delivery time  
 146 from each mine. This exception shall not apply where  
 147 the active working sections are more than two miles from  
 148 the surface.

**§22-2-60. First-aid equipment.**

- 1 (a) Each operator of an underground coal mine shall  
 2 maintain a supply of first-aid equipment at each of the  
 3 following locations:  
 4 (1) At the mine dispatcher's office and on the surface  
 5 in close proximity to the mine entry.  
 6 (2) At the bottom of each regularly traveled slope  
 7 or shaft; however, where the bottom of such slope or  
 8 shaft is not more than one thousand feet from the sur-  
 9 face, such first-aid supplies may be maintained on the  
 10 surface at the entrance of the mine.  
 11 (3) At a point in each working section not more than  
 12 five hundred feet outby the active working face or faces.  
 13 (b) The first-aid equipment required to be maintained  
 14 shall include at least the following:  
 15 (1) One stretcher  
 16 (2) One broken-back board  
 17 (3) Twenty-four triangular bandages  
 18 (4) Eight four-inch bandage compresses  
 19 (5) Sixteen two-inch bandage compresses  
 20 (6) Twelve one-inch adhesive compresses  
 21 (7) One foille  
 22 (8) Two cloth blankets  
 23 (9) One rubber blanket  
 24 (10) Two tourniquets  
 25 (11) One one-ounce bottle of aromatic spirits of am-  
 26 monia

- 27 (12) Two inflatable plastic arm splints
- 28 (13) Two inflatable plastic leg splints
- 29 (14) Six small splints, metal or wooden
- 30 (15) Two cold packs

31 (c) All first-aid supplies required to be maintained  
32 under the article shall be stored in suitable sanitary,  
33 dust-tight, moisture-proof containers and such supplies  
34 shall be accessible to the miners.

35 (d) No first-aid material shall be removed or diverted  
36 without authorization, except in case of accident in or  
37 about the mine.

38 (e) On all occasions when a person becomes sick or  
39 injured underground to the extent that he must go to  
40 the surface, he shall be accompanied by one or more  
41 persons.

**§22-2-61. Accessible outlets; safe roadways for emergencies.**

1 (a) No operator or mine foreman of any coal mine  
2 shall employ any person to work in such mine, or per-  
3 mit any persons to be in the mine for the purpose of  
4 working therein unless they are provided with two  
5 openings or outlets to each seam, separated by natural  
6 strata, such openings to be not less than three hundred  
7 feet apart, if the mine be worked by shaft; if the mine  
8 be worked by shaft and slope, such openings shall be  
9 separated by one hundred feet of natural strata; and  
10 not less than fifty feet apart at the outlets, if worked  
11 by slope or drift; but this requirement of a distance  
12 of three hundred feet between openings or outlets to  
13 shaft mines shall not apply where such openings or  
14 outlets have been made prior to the effective date of  
15 this article.

16 (b) At least two separate and distinct travelable pas-  
17 sageways shall be maintained to insure passage at all  
18 times to any person, including disabled persons, and  
19 which shall be designated as escapeways; at least one  
20 which is ventilated with intake air shall be provided  
21 from each working section continuous to the nearest  
22 available opening on the surface, and shall be main-  
23 tained in safe condition and properly marked. Mine

24 openings shall be adequately protected to prevent the  
25 entrance into the underground area of the mine of sur-  
26 face fires, fumes, smoke and floodwater. Escape facilities  
27 approved by the director of the department of mines,  
28 properly maintained and frequently tested, shall be  
29 present at or in each escape shaft or slope to allow all  
30 persons, including disabled persons to escape quickly  
31 to the surface in event of an emergency. Return airways  
32 entries designated as escapeways shall be provided with  
33 permissible two-way communication systems to the sur-  
34 face, and such systems shall be located at points not to  
35 exceed every four thousand feet.

36 (c) Escapeways shall be inspected and traveled at least  
37 once each week by a certified mine examiner who shall  
38 place his initials and the date in a conspicuous place or  
39 places and who shall file a written report thereon which  
40 shall be kept on the surface.

41 (d) When new coal mines are opened, not more than  
42 twenty men shall be allowed at any one time in any mine  
43 until a connection has been made between the two mine  
44 openings, and such connections shall be made as soon as  
45 possible.

46 (e) When only one opening is available because of  
47 final mining of pillars, not more than twenty miners  
48 shall be allowed in such mine at any one time, and the  
49 distance between the mine opening and working face  
50 shall not exceed five hundred feet.

**§22-2-62. Coal storage bins; recovery tunnels; coal storage  
piles.**

1 (a) Coal storage bins hereafter constructed with verti-  
2 cal sides fifty feet or over in height shall be pro-  
3 vided with ventilators or louvers or both to provide  
4 adequate ventilation. Where roofs are constructed over  
5 coal storage bins, adequate ventilation shall be provided  
6 by stacks, ventilators, louvers or mechanical means.

7 (b) Where cutting or welding is performed at any  
8 location where coal is stored, means of prompt ex-  
9 tinguishment of any fire accidentally started shall be  
10 provided, and the area where cutting or welding is per-

11 formed shall be adequately watered down and rock-  
12 dusted.

13 (c) A qualified person shall test for methane with a  
14 methane detector prior to and during cutter and welding  
15 operations inside or underneath a coal storage bin.

16 (d) Electric motors, switches and controls for coal  
17 storage bins hereafter acquired shall be of dust-tight  
18 construction.

19 (e) Repairs to electric equipment shall not be made  
20 when the surrounding atmosphere contains dangerous  
21 amounts of gas or dust.

22 (f) Where electric lights are used in recovery tunnels  
23 of over one hundred feet in length, the wiring shall be in  
24 rigid conduit and shall be enclosed in waterproof  
25 receptacles.

26 (g) An escapeway shall be provided from any recovery  
27 tunnel hereafter constructed to a safe place on the surface;  
28 such escapeway shall be at least thirty inches in diameter  
29 and where inclined, a ladder shall be provided to extend  
30 full length of the escapeway to facilitate emergency exit.

31 (h) Extreme caution shall be exercised by all em-  
32 ployees required to work at or near coal storage piles  
33 during coal recovery operations to avoid injury by coal  
34 slides or by being in or drawn into a chute.

#### **§22-2-63. Thermal coal dryers and plants.**

1 (a) Thermal coal dryer plants shall be hereafter con-  
2 structed, maintained and operated in compliance with  
3 the following provisions:

4 (1) Good housekeeping shall be practiced in and  
5 around thermal dryer plants.

6 (2) Adequate fire fighting facilities shall be provided  
7 on all floors.

8 (3) When welding and cutting operations are to be  
9 performed in a dryer structure, the area shall be wetted  
10 down thoroughly and adequate fire-fighting apparatus  
11 shall be readily available during the operation.

12 (4) Only qualified persons shall be permitted to oper-  
13 ate dryers; however, this provision shall not prohibit



14 qualified persons from training other persons to become  
15 qualified operators.

16 (5) Dryer control panels shall be provided with  
17 audible and visible alarm devices; such devices should be  
18 adjusted to function at somewhat less than maximum  
19 dryer temperature.

20 (6) A by-pass or relief stack equipped with an auto-  
21 matically operated damper shall be provided for by-  
22 passing gases from the heating units to the outside atmos-  
23 phere during emergency or normal shutdown operations.

24 (7) Thermal coal dryers hereafter installed shall  
25 not be enclosed except that roofs may be used. When-  
26 ever it is deemed necessary to enclose thermal dryers,  
27 such equipment shall be in a fire-proof structure.

28 (8) Dryer installations and discharge stacks shall be  
29 protected with adequate explosion release vents that open  
30 to the outside atmosphere.

31 (9) Thermal coal dryers shall be located at a safe  
32 distance from tipples, cleaning plants, mine openings and  
33 surface buildings, such as oil storage areas, explosive  
34 magazines, and other buildings where coal dust, sparks  
35 and flames are likely to enter and become ignited or other-  
36 wise cause danger of fires.

37 (10) Dryers shall be equipped with quick-response  
38 heat control devices which, in the event of superelevated  
39 temperatures, will automatically divert the hot inlet gases  
40 into a by-pass stack, thereby by-passing the drying  
41 chamber and at the same time stopping the fuel from  
42 being supplied to the air heater.

43 (11) All dryers, conveyors and other fine coal trans-  
44 porting machines shall be constructed as dust-tight as  
45 practicable. Where necessary, such equipment shall be  
46 provided with removable covers for inspection and  
47 cleaning and shall be provided with vent pipes to the  
48 outside atmosphere to permit the escape of distilled  
49 gases.

50 (12) Dryers shall be examined thoroughly after  
51 normal and emergency shutdown for fires and coal dust  
52 accumulations.

53 (13) Dryer controls, valves, and mechanical equip-  
 54 ment shall be frequently inspected, and no dryer shall be  
 55 operated with defective mechanical equipment.

56 (14) The gauges of temperature control instruments  
 57 shall be of the recording type.

58 (15) Operating rules suitable for the characteristics  
 59 of each dryer system and the materials processed shall  
 60 be developed and shall be available at the control panel.

61 (16) Electrical equipment, electrical wiring and light-  
 62 ing fixtures shall be of dust-tight construction.

63 (17) Adequate illumination shall be provided.

64 (18) Dryers shall not be operated beyond their rated  
 65 evaporation capacity.

66 (19) Fluid bed dryers shall be provided with water  
 67 sprays of sufficient capacity for use in event of fire.

68 (20) After shutdowns, thermal dryers shall be  
 69 cleared of hot coals so as to minimize ignitions on succeed-  
 70 startups.

71 (21) Thermal coal dryers previously installed in a  
 72 tippie or cleaning plant shall be separated where practic-  
 73 able from other working areas by substantial partitions  
 74 capable of providing greater resistance to explosion pres-  
 75 sures than an exterior wall or walls.

76 (22) When it is necessary to use extension cables  
 77 for emergency illumination, such lighting devices shall  
 78 be dust-tight and adequately guarded. When it becomes  
 79 necessary to perform work in dryer system bins or any  
 80 other dusty areas, permissible cap lamps shall be used  
 81 for illumination.

**§22-2-64. No mine to be opened or reopened without prior approval of director of department of mines; approval fee; extension of certificate of approval; certificates not transferable; section to be printed on certificates.**

1 (a) After the effective date of this section, no mine  
 2 shall be opened or reopened unless prior approval has  
 3 been obtained from the director of the department of  
 4 mines, which approval shall not be unreasonably with-

5 held. The operator shall pay for such approval a fee of  
6 ten dollars, which payment shall be tendered with the  
7 operator's application for such approval: *Provided, That*  
8 mines producing coal solely for the operator's use shall  
9 be issued a permit without charge if coal production will  
10 be less than fifty tons a year.

11 (b) Within thirty days after January first of each  
12 year, the operator of each mine holding a certificate  
13 evidencing approval of the director to open a mine, shall  
14 apply for the extension of such certificate of approval for  
15 an additional year. Such approval, evidenced by a certifi-  
16 cate of the director, shall be granted as a matter of right  
17 and without charge if, at the time such application is  
18 made, the operator is in compliance with the provisions  
19 of section seventy-one of this article. Applications for  
20 extension of such certificates of approval not submitted  
21 within the time required shall be processed as an applica-  
22 tion to open or reopen a mine and shall be accompanied  
23 by a fee of ten dollars.

24 (c) Certificates of approval issued pursuant to this sec-  
25 tion shall not be transferable.

26 (d) The provisions of this section shall be printed on  
27 the reverse side of every certificate issued hereunder.

28 (e) On or after July 1, 1971, no mine shall be opened or  
29 reopened unless a surface disturbed reclamation bond in  
30 the amount of five hundred dollars per acre is submitted  
31 to the department of mines for the removal of unused  
32 surface structures and the sealing of abandoned mine  
33 openings. The district mine inspector shall be contracted  
34 for a pre-inspection of the area proposed for underground  
35 mining prior to the issuance of any new opening ap-  
36 proval. The above mentioned bond shall go into a sep-  
37 arate fund and must be submitted separate, when appli-  
38 cation is made for the issuance of a deep mine permit.

**§22-2-65. Sealing; permanently closed or abandoned mines.**

1 (a) After July 1, 1971, when any coal mine is worked  
2 out or indefinitely closed, such mine openings shall be  
3 properly sealed within ninety days after the mine is  
4 abandoned.

5 (b) Mines temporarily inactive for less than ninety  
6 days shall be adequately fenced with conspicuous signs  
7 prohibiting the possible entrance of unauthorized persons.

8 (c) Shaft openings shall be effectively capped or filled.  
9 Filling shall be for the entire depth of the shaft. Caps  
10 shall consist of a six inch thick concrete cap or other  
11 equivalent means approved by the director of the depart-  
12 ment of mines.

13 (d) Caps shall be equipped with a vent pipe at least  
14 two inches in diameter extending for a distance of at  
15 least fifteen feet above the surface shaft.

**§22-2-66. Mining close to abandoned workings.**

1 Any operator working up to an abandoned coal mine  
2 may be permitted to work to his property line, if ap-  
3 proved by the director of the department of mines, but  
4 in such cases precaution must be taken as provided in  
5 this article.

**§22-2-67. Explosion or accident; investigation by department of mines.**

1 Whenever, by reason of any explosion or other accident  
2 in or about any coal mine or the machinery connected  
3 therewith, loss of life, or serious personal injury shall  
4 occur, it shall be the duty of the superintendent of the  
5 mine, and in his absence, the mine foreman in charge of  
6 the mine, to give immediate notice to the director of the  
7 department of mines and the inspector of the district,  
8 stating the particulars of such accident. If anyone is  
9 killed, the inspector shall immediately go to the scene  
10 of such accident and make such recommendations and  
11 render such assistance as he may deem necessary for the  
12 future safety of the men, and investigate the cause of  
13 such explosion or accident and make a record thereof  
14 which he shall preserve with the other records in his  
15 office, the cost of such records to be paid by the depart-  
16 ment of mines, and a copy shall be furnished to the oper-  
17 ator and other interested parties. To enable him to make  
18 such investigation, he shall have the power to compel the  
19 attendance of witnesses and to administer oaths or affir-  
20 mations. The director of the department of mines shall

21 have the right to appear and testify and to offer any  
22 testimony that may be relevant to the question and to  
23 cross-examine witnesses.

**22-2-68. Written report of accident.**

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

**§22-2-69. Scene of accident; preservation of evidence.**

1 Following a mine accident resulting in the death of  
2 one or more persons and following any mine disaster,  
3 the evidence surrounding such occurrence shall not be  
4 disturbed after recovery of bodies or injured persons  
5 until an investigation by the department of mines has  
6 been completed.

**§22-2-70. Fire in and about mine; notification of director and district mine inspector.**

1 The operator or mine foreman, upon the discovery of  
2 fire in or about a mine, shall immediately notify the di-  
3 rector of the department of mines and the district mine  
4 inspector in whose district the mine is located.

**§22-2-71. Shafts and slopes.**

1 (a) When mine examiner to be employed; qualifica-  
2 tions.  
3 During the sinking of a shaft or the driving of a slope  
4 to a coal bed or while engaged in underground construc-  
5 tion work, or relating thereto, the operator shall assign  
6 a mine examiner to such project areas. Such mine exam-  
7 iner shall have a certificate of competency valid only for  
8 the type of work stipulated thereon and issued to him by  
9 the department of mines after he has passed an examina-  
10 tion given by the department of mines. He shall, at the  
11 time he takes the examination, have a minimum of five

12 years' experience in shaft sinking, slope driving and  
13 underground construction; moreover, he shall be able to  
14 detect methane with a flame safety lamp and have a  
15 thorough knowledge of the ventilation of shafts, slopes,  
16 and mines, and the machinery connected therewith, and  
17 finally, he shall be a person of good moral character with  
18 temperate habits.

19 (b) Mine examiner or certified person acting as such;  
20 duties generally; records open for inspection.

21 In all shafts and slopes within three hours immediately  
22 preceding the beginning of a work shift and before any  
23 workmen in such shift, other than those who may be  
24 designated to make the examinations, enter the under-  
25 ground areas of such shafts or slopes, a certified foreman  
26 or mine examiner, designated by the operator of such  
27 shaft or slope to do so, shall make an examination of such  
28 areas. Each person designated to make such examinations  
29 shall make tests with a permissible flame safety lamp for  
30 accumulations of methane and oxygen deficiency, and  
31 examine sides of shafts and ribs and roof of all slopes.  
32 Should he find a condition which he considers dangerous  
33 to persons, he shall place a conspicuous danger sign at  
34 all entrances to such places. He shall record the results  
35 of his examination with ink or indelible pencil in a book  
36 prescribed by the director of the department of mines,  
37 kept at a place on the surface designated by mine man-  
38 agement. All records as prescribed herein shall be open  
39 for inspection by interested persons.

40 (c) Approvals and permits.

41 An approval shall be obtained from the department of  
42 mines before work is started. A permit shall be obtained  
43 from the department of mines (1) to stop fan when men  
44 are in shafts or slopes; (2) to use electrical machinery in  
45 shafts or slopes; (3) to use electric lights in shafts or  
46 slopes; (4) to use welders, torches and like equipment in  
47 shafts or slopes; (5) to hoist more than four men at one  
48 time in buckets or cars; (6) to shoot more than fifteen  
49 shots in one series.

50 (d) Records.

51 The foreman in charge on each shift shall keep a daily  
52 report of conditions and practices. The foreman in charge



53 on each shift shall read and countersign the reports of  
54 the previous shift. Unsatisfactory conditions and prac-  
55 tices reported shall be repeated on daily reports until  
56 <sup>✓</sup>corrected. Hoists, buckets, cars, ropes and appliances  
57 thereto shall be examined by a qualified person before  
58 the start of each shift and a written record kept. Deaths  
59 from accidents or previous injuries shall be reported  
60 immediately by wire to the office of the director of the  
61 department of mines and to the district mine inspector  
62 or the inspector-at-large. A written report of all injuries  
63 and deaths shall be mailed to the department of mines  
64 and district mine inspector promptly. Immediate notice  
65 shall be given the office of the director of the department  
66 of mines, the district mine inspector and the inspector-  
67 at-large in the event of an ignition of gas, or serious acci-  
68 dent to men or equipment. All permits and approvals  
69 must be available for inspection by all interested per-  
70 sons.

71 (e) General.

72 The foreman on shift shall have at least five years' ex-  
73 perience in shafts or slopes. New employees shall be  
74 instructed in the dangers and rules incident to their  
75 work. Conspicuous bulletin boards and warning signs  
76 shall be maintained. Unauthorized persons shall not be  
77 permitted around shafts or slopes. First-aid material shall  
78 be maintained at the operation as required by section  
79 fifty-eight of this article. The scene of a fatal  
80 accident shall be left unchanged until an investigation is  
81 made by all interested persons. All employees and others  
82 around the operation shall wear hard toe shoes and hard  
83 top hats. Goggles or other eye protection shall be worn  
84 when cutting, welding, or striking where particles may  
85 fly. Gears, belts, and revolving parts of machinery shall  
86 be properly guarded. Hand tools shall be in good con-  
87 dition. Sides of shafts, ribs and roof of all slopes shall be  
88 closely observed for loose and dangerous conditions.  
89 Loose brows, ribs and top in slopes shall be taken down  
90 or supported; loose ribs in shafts shall be scaled. Men  
91 shall be hoisted and lowered under power in shafts and  
92 slopes. All hoists must have two positive breaking de-  
93 vices. At least three wraps of rope shall remain on the

94 hoist drum at all times. Wire ropes shall not be less than  
 95 three-fourths inches in diameter, and of a design to pre-  
 96 vent excessive spinning or turning when hoisting.

97 When heavy materials are hoisted, a large rope shall  
 98 be used if necessary. A hoisting engineer shall be in  
 99 constant attendance while men are in shaft. Head frames  
 100 shall be constructed substantially. Noise from machinery  
 101 shall not interfere with signals. The standard signal code,  
 102 whistle or bell shall be used for hoisting:

103 One signal ..... Hoist

104 One signal ..... Stop

105 Two signals ..... Lower

106 Three signals ..... Man cage

107 One signal from hoisting engineer ..... Men board cage

108 Hoist signals shall be posted in front of the hoisting  
 109 engineer. The shaft opening shall be enclosed by a fence  
 110 five feet high. Buckets shall not be loaded within six  
 111 inches of the top rim. Buckets shall have a positive lock  
 112 on the handle or bale to prevent bucket from crumpling  
 113 while being hoisted. Positive coupling devices shall be  
 114 used on buckets or cars (hooks with safety catches or  
 115 threaded clevis). Emergency devices for escape shall  
 116 be provided while shafts are under construction. Men  
 117 shall not ride on or work from rims of buckets. Buckets  
 118 or cars shall not be lowered without a signal from work-  
 119 ing area. Only sober and competent engineers shall be  
 120 permitted to operate hoists. No intoxicating liquors or  
 121 intoxicated persons shall be permitted in or around any  
 122 shaft, slope or machinery. Lattice type platforms shall  
 123 be used.

124 (f) Explosives.

125 Explosives and blasting caps being taken into or re-  
 126 moved from the operation shall be transported and kept  
 127 in approved nonconducting receptacles (unopened car-  
 128 tons or cases are permissible). Explosives shall not be  
 129 primed until ready to be inserted into holes. Handling of  
 130 explosives and loading of holes shall be under the strict  
 131 supervision of a qualified person or shotfirer. No more  
 132 explosives or caps than are required to shoot one round  
 133 shall be taken into shafts. Adobe, mudcapped or uncon-



134 fired shots shall not be fired. Holes shall be stemmed  
135 tightly and full to the mouth. Blasting caps shall be  
136 inserted in line with the explosive. Leg wires of blasting  
137 caps and buss wires shall be kept shunted until connected.  
138 Shooting cables shall be shunted at firing devices and  
139 before connecting to leg wires. Only approved shooting  
140 devices shall be used. Shots shall be fired promptly after  
141 the round of holes are charged. Warnings shall be given  
142 before shots are fired by shouting "Fire" three times  
143 slowly after those notified have withdrawn. The blasting  
144 circuit shall be wired in series or parallel series. All  
145 shooting circuits shall be tested with a galvanometer by  
146 a qualified person before shooting. A careful examination  
147 for misfires shall be made after each shot. Persons shall  
148 not return to the face until smoke and dust have cleared  
149 away. The shooting cable shall be adequately insulated  
150 and have a substantial covering; be connected by the  
151 person firing the shot; and be kept away from power  
152 circuits. Misfires shall be removed by firing separate  
153 holes or by washing; shall not be drilled out; and shall  
154 be removed under supervision of a foreman or qualified  
155 person. Separate magazines for the storage of explosives  
156 and detonators shall be located not less than three hun-  
157 dred feet from openings or other structures. Magazines  
158 for the storage of explosives and detonators shall be  
159 separated at least fifty feet. Magazines shall be located  
160 behind barricades. The outside of magazines shall be con-  
161 structed of incombustible material. Rubbish and com-  
162 bustible material shall not be permitted to accumulate  
163 around or in magazine. Warning signs, to be seen in all  
164 directions, shall be posted near magazines.

165 (g) Electrical.

166 Power cables installed in slopes shall be placed in con-  
167 duit away from the belt as far as possible. Surface trans-  
168 formers shall be elevated at least eight feet from the  
169 ground or enclosed by a fence six feet high, grounded if  
170 metal; shall be properly grounded; shall be installed so  
171 that they will not present a fire hazard; and shall be  
172 guarded by sufficient danger signs.

173 Electric equipment shall be in good condition, clean  
174 and orderly; shall be equipped with guards around mov-

175 ing parts; and shall be grounded with effective frame  
176 grounds on motors and control boxes.

177 All electric wires shall be installed and supported on  
178 insulators. All electric equipment shall be protected by  
179 dual element fuse or circuit breakers.

180 (h) Ventilation.

181 Ventilating fans shall be offset from portal at least  
182 fifteen feet; shall be installed so that the ventilating cur-  
183 rent is not contaminated by dust, smoke or gases; shall  
184 be effectively frame grounded; and shall be provided with  
185 fire extinguishers.

186 All shafts and slopes shall be ventilated adequately  
187 and continuously with fresh air. Air tubing shall deliver  
188 not less than nine thousand feet per minute at the work-  
189 ing area or as much more as the inspector may require.

190 (i) Gases.

191 A foreman shall be in attendance at all times in shafts  
192 and slopes who has passed an examination given by the  
193 department of mines as to his competency in the use of  
194 flame safety lamp.

195 An examination shall be made before and after shooting  
196 by the foreman on shift. The foreman shall have no  
197 superior in the performance of his duties. A lighted  
198 flame safety lamp or other approved detector shall be  
199 carried at all times by the foreman when in the working  
200 area and weekly gas analysis made. In all shafts and  
201 slopes within three hours immediately preceding the be-  
202 ginning of a work shift and before any workman in such  
203 shift, other than those who may be designated to make  
204 the examinations, enter the underground areas of such  
205 shafts or slopes, a certified mine foreman or mine exam-  
206 iner designated by the operator of such shaft or slope to  
207 do so, shall make an examination of such area. Evidence  
208 of official examination shall be left at the face by marking  
209 date and initials.

210 Gases shall be removed under the supervision of the  
211 foreman in charge. Smoking shall not be permitted in-  
212 side of shafts or slopes.

213 (j) Drilling.

214 Dust allaying or dust collecting devices shall be used  
215 while drilling .

216 (k) Lights to be used in shafts.

217 Only approved electric cap lights shall be used in  
218 shafts. Other lights shall be of explosive-proof type.  
219 Lights shall be suspended in shafts by cable or chain  
220 other than the power conductor. In slopes lights must be  
221 substantially installed. Power cables shall be of an ap-  
222 proved type. Power cables shall not be taut from shaft  
223 collar to light. Power cables shall be in good condition  
224 and free of improper splices. Lights shall be suspended  
225 not less than twenty feet above where men are working.  
226 Lights shall be removed from shaft and power cut off  
227 when shooting. In slopes lights must be removed a safe  
228 distance when shots are fired. Lights shall not be replaced  
229 in shafts or slopes until examination has been made for  
230 gas by the mine examiner and found clear. Front of light  
231 shall be protected by a substantial metal-type guard.  
232 Lights shall be protected from falling objects from above  
233 by a metal hood. The lighting circuit shall be properly  
234 fused. Electric lights shall not be used in gaseous atmos-  
235 pheres. A lighted flame safety lamp or approved detector  
236 shall be kept for use at the face while men are at work.

#### GENERAL PROVISIONS

##### **§22-2-72. General provisions; reopening old or abandoned mines.**

1 No person, without first giving to the director of the  
2 department of natural resources ten days' written notice  
3 thereof, shall reopen for any purposes any old or aban-  
4 doned mine wherein water or mine seepage has collected  
5 or become impounded or exists in such manner or quan-  
6 tity that upon the opening of such mine, such water or  
7 seepage may drain into any stream or watercourse. Such  
8 notice shall state clearly the name or names of the owner  
9 or owners of the mine proposed to be opened, its exact  
10 location, and the time of the proposed opening thereof.  
11 Upon receipt of such notice, the director of the de-  
12 partment of natural resources shall have his representa-  
13 tive present at the mine at the time designated in the

14 notice for such opening, who shall have full supervision  
15 of the work of opening such mine with full authority to  
16 direct the work in such manner as to him seems proper  
17 and necessary to prevent the flow of mine water or seep-  
18 age from such mine in such manner or quantity as will  
19 kill or be harmful to the fish in any stream or water-  
20 course into which such mine water seepage may flow  
21 directly or indirectly.

**§22-2-73. Monthly report by operator of mine.**

1 The operator of every coal mine shall, on or before  
2 the end of each calendar month, file with the director a  
3 report covering the preceding calendar month on forms  
4 furnished by the director. Such reports shall state the  
5 number of accidents which have occurred, the number  
6 of persons employed, the days worked and the actual  
7 tonnage of coal mined.

**§22-2-74. Examinations to determine compliance with permits.**

1 Whenever permits are issued by the department of  
2 mines, frequent examinations shall be made by the mine  
3 inspector during the tenure of the permit to determine  
4 that the requirements and limitations of the permit are  
5 complied with.

**§22-2-75. Provisions of article severable.**

1 The various provisions of this article shall be con-  
2 strued as separable and severable, and should any of  
3 the provisions, sentences, clauses, or parts thereof be  
4 construed or held unconstitutional or for any reason be  
5 invalid, the remaining provisions of this article shall not  
6 be thereby affected.

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

Russell G. Beall  
Chairman Senate Committee

Thylis J. Rutledge  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1971.

Barbara Keyser  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

E. Hans McManus  
President of the Senate

Lewis N. McManus  
Speaker House of Delegates

The within approved this the 1<sup>st</sup>  
day of April, 1971.

Archa. Shaver Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/24/71

Time 1:47 p.m.

RECEIVED

APR 2 11 55 PM '71

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA