

3155

*Noted by Gov.  
+ then signed*

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



# ENROLLED

HOUSE BILL No. 3155

(By ~~Delegate~~ *Mr. Speaker, Mr. Chambers*)



Passed *April 7,* 1987

In Effect *from* Passage

★ENROLLED

# H. B. 3155

(By MR. SPEAKER, MR. CHAMBERS)

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[Passed April 7, 1987; in effect from passage.]

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AN ACT to amend and reenact sections two, three, fourteen, twenty, twenty-four, twenty-six, thirty-seven, forty-three, forty-six, fifty-five, fifty-six, fifty-eight, sixty-three and seventy-seven, article two, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article two by adding thereto a new section, designated section seventy-one-a; and to amend and reenact section twenty-two (nine) (six), article two, chapter sixty-four of said code, as amended, all relating to underground mines generally; coal mine plans of ventilation and approval of director; fans; safety inspections; removal of gases; preparation of danger signal by fire boss; control of coal dust; rock dusting; specific requirements as to roof supports; haulage roads and equipment; shelter holes; signals; inspection; electrical equipment in mines; welding and cutting; protective equipment and clothing; checking systems; fire protection; certificate of approval for coal mines; right to refuse to work in unsafe area; certain practices prohibited; monthly report by operator of mine and providing certain exceptions therefor; and authorizing the promulgation of certain legislative rules and regulations relating to the standards for certification of underground belt examiners for underground coal mines.

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★2nd Enrollment

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

That sections two, three, fourteen, twenty, twenty-four, twenty-six, thirty-seven, forty-three, forty-six, fifty-four, fifty five, fifty-six, fifty-eight, sixty-three and seventy-seven, article two, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article two be further amended by adding thereto a new section, designated section seventy-one-a; and that section twenty-two (nine) (six), article two, chapter sixty-four of said code, as amended, be amended and reenacted, all to read as follows:

## CHAPTER 22A. MINES AND MINERALS.

### ARTICLE 2. UNDERGROUND MINES.

#### §22A-2-2. Plan of ventilation; approval by director of the division of mines and minerals.

1 Every operator of a coal mine, before making any new  
2 or additional openings, shall submit to the director, for  
3 his information and approval, a general plan showing  
4 the proposed system of ventilation and ventilating  
5 equipment of the openings, with their location and  
6 relative positions to adjacent developments; no such new  
7 or additional openings shall be made until approved by  
8 the director, in consultation with the deputy directors  
9 of permitting and safety, health and training. The  
10 operator shall deliver to the miners' representative  
11 employed by the operator at the mine a copy of the  
12 operator's proposed annual ventilation plan at least ten  
13 days prior to the date of submission. The miners'  
14 representative shall be afforded the opportunity to  
15 submit written comments to the operator prior to such  
16 submission; in addition the miners' representative may  
17 submit written comments to the director. The director  
18 shall promptly approve any such plans submitted, if the  
19 proposed system of ventilation and ventilating equip-  
20 ment meet the requirements of this article.

#### §22A-2-3. Fans.

1 (a) The ventilation of mines, the systems for which  
2 extend for more than two hundred feet underground  
3 and which are opened after the effective date of this

4 article, shall be produced by a mechanically operated  
5 fan or mechanically operated fans. Ventilation by means  
6 of 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 In case of interruption to a ventilating fan or its  
10 machinery whereby the ventilation of the mine is  
11 interrupted, immediate action shall be taken by the  
12 mine operator or his management personnel, in all  
13 mines, to cut off the power and withdraw the men from  
14 the face regions or other areas of the mine affected. If  
15 ventilation is restored in fifteen minutes, the face  
16 regions and other places in the affected areas where gas  
17 (methane) is likely to accumulate, shall be reexamined  
18 by a certified person; and if found free of explosive gas,  
19 power may be restored and work resumed. If ventilation  
20 is not restored in fifteen minutes, all underground  
21 employees shall be removed from the mine, all power  
22 shall be cut off in a timely manner, and the under-  
23 ground employees shall not return until ventilation is  
24 restored and the mine examined by certified persons,  
25 mine examiners, or other persons holding a certificate  
26 to make preshift examination.

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

46 permanently record the performance of the main fans  
47 and to give warning of an interruption to a fan.

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

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

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

65 (f) The director may require that when continuous  
66 mine equipment is being used, all face ventilating  
67 systems using auxiliary fans and tubing shall be  
68 provided with machine-mounted diffuser fans, and such  
69 fans shall be continuously operated during mining  
70 operations.

71 (g) In the event of a fire or explosion in any coal mine,  
72 the ventilating fan or fans shall not intentionally be  
73 started, stopped, speed increased or decreased or the  
74 direction of the air current changed without the  
75 approval of the general mine foreman, and, if he is not  
76 immediately available, a representative of the division.  
77 A duly authorized representative of the employees  
78 should be consulted if practical under the circumstan-  
79 ces.

**§22A-2-14. Safety inspections; removal of gases.**

1 It shall be the duty of the mine foreman, assistant  
2 mine foreman or fire boss to examine all working places  
3 under his supervision for hazards at least once every two  
4 hours during each coal-producing shift, or more often if

5 necessary for safety. In all mines such examinations  
6 shall include tests with an approved detector for  
7 methane and oxygen deficiency, which tests for oxygen  
8 deficiency may be with a permissible flame safety lamp:  
9 *Provided*, That a flame safety lamp may be used for  
10 methane testing when a malfunction occurs with a  
11 methane detector. It shall also be his duty to remove as  
12 soon as possible after its discovery any accumulations of  
13 explosive or noxious gases in active workings, and where  
14 practicable, any accumulations of explosive or noxious  
15 gases in the worked out and abandoned portions of the  
16 mine. It shall be the duty of the mine foreman, assistant  
17 mine foreman or fire boss to examine each mine within  
18 three hours prior to the beginning of a shift and before  
19 any miner in such shift enters the active workings of the  
20 mine.

**§22A-2-20. 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  
2 person acting as such, to prepare a danger signal (a  
3 separate signal for each shift) with red color at the mine  
4 entrance at the beginning of his shift or prior to his  
5 entering the mine to make his examination and, except  
6 for those persons already on assigned duty, no person  
7 except the mine owner, operator, or agent, and only then  
8 in the case of necessity, shall pass beyond this danger  
9 signal until the mine has been examined by the fire boss  
10 or other certified person and the mine or certain parts  
11 thereof reported by him to be safe. When reported by  
12 him to be safe, the danger sign or color thereof shall be  
13 changed to indicate that the mine is safe in order that  
14 employees going on shift may begin work. Each person  
15 designated to make such fire boss examinations shall be  
16 assigned a definite underground area of such mine, and,  
17 in making his examination shall examine all active  
18 working places in the assigned area and make tests with  
19 an approved device for accumulations of methane and  
20 oxygen deficiency; examine seals and doors; examine  
21 and test the roof, face, and ribs in the working places

22 and on active roadways and travelways, approaches to  
23 abandoned workings and accessible falls in active  
24 sections. He shall place his initials and the date at or  
25 near the face of each place he examines. Should he find  
26 a condition which he considers dangerous to persons  
27 entering such areas, he shall place a conspicuous danger  
28 sign at all entrances to such place or places. Only  
29 persons authorized by the mine management may enter  
30 such places while the sign is posted and only for the  
31 purpose of eliminating the dangerous condition. Upon  
32 completing his examination he shall report by suitable  
33 communication system or in person the results of this  
34 examination to a certified person designated by mine  
35 management to receive and record such report, at a  
36 designated station on the surface of the premises of the  
37 mine or underground, before other persons enter the  
38 mine to work in such coal-producing shifts. He shall also  
39 record the results of his examination with ink or  
40 indelible pencil in a book prescribed by the director,  
41 kept for such purpose at a place on the surface of the  
42 mine designated by mine management. All records of  
43 daily and weekly reports, as prescribed herein, shall be  
44 open for inspection by interested persons.

**§22A-2-24. 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  
4 and conveyors and back entries shall be rock dusted or  
5 dust allayed by such other methods as may be approved  
6 by the director.

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

17 parallel entries connected thereto by open crosscuts.  
18 Back entries shall be rock dusted. Rock dust shall be so  
19 applied 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 return entries shall not be  
25 less than eighty percent.

26 (d) Rock dust shall not contain more than five percent  
27 by volume of quartz or free silica particles and shall be  
28 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.

**§22A-2-26. Roof support; specific requirements.**

1 (a) *Generally.* — The method of mining followed in  
2 any coal mine shall not expose the miner to unusual  
3 dangers from roof falls.

4 (b) *Roadways, intersections and arches.* — The width  
5 of roadways shall not exceed sixteen feet unless  
6 additional support is added cross sectional. During the  
7 development of intersections, the roof between the  
8 tangents of the arches in the entry or room shall be  
9 supported with artificial roof supports prior to the  
10 development of such intersections. All areas where the  
11 arch is broken shall be considered as having unsup-  
12 ported roof and such roof should have artificial roof  
13 supports installed prior to any other work being  
14 performed in the area.

15 (c) *Examinations and corrections.* — Where miners  
16 are exposed to danger from falls of roof, face, and ribs,  
17 the operator shall examine and test the roof, face, and  
18 ribs before any work or machine is started, and as  
19 frequently thereafter as may be necessary to ensure  
20 safety. When dangerous conditions are found, they shall  
21 be corrected immediately. A probe or probes for  
22 methane detectors shall be provided on each working  
23 section other than longwall sections and sections mined  
24 solely with continuous miners with integral roof bolters.

25 (d) *Roof bolt recovery.* — Roof bolts shall not be  
26 recovered where complete extraction of pillars is  
27 attempted, where adjacent to clay veins or at the  
28 locations of other irregularities, whether natural or  
29 otherwise, that induce abnormal hazards. Where roof  
30 bolt recovery is permitted, it shall be conducted only in  
31 accordance with methods prescribed in the approved  
32 roof control plan, and shall be conducted by experienced  
33 miners and only where adequate temporary support is  
34 provided.

**§22A-2-37. Haulage roads and equipment; shelter holes;  
prohibited practices; signals; inspection.**

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  
5 to ensure safe operation. Where transportation of  
6 personnel is exclusively by rail, track shall be main-  
7 tained to within five hundred feet of the nearest working  
8 face, except that when any section is fully developed and  
9 being prepared for retreating, then the distance of such  
10 maintenance can be extended to eight hundred feet if  
11 a rubber tired vehicle is readily available.

12 (b) Track switches, except room and entry develop-  
13 ment switches, shall be provided with properly installed  
14 throws, bridle bars and guardrails; switch throws and  
15 stands, where possible, shall be placed on the clearance  
16 side.

17 (c) Haulage roads on entries developed after the  
18 effective date of this article shall have a continuous,  
19 unobstructed clearance of at least twenty-four inches  
20 from the farthest projection of any moving equipment  
21 on the clearance side.

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

24 (e) On the trolley wire or "tight" side, after the  
25 effective date of this article, there shall be at least  
26 twelve inches of clearance from the farthest projection  
27 of any moving equipment.

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

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

35 (h) Ample clearance shall be provided at all points  
36 where supplies are loaded or unloaded along haulage  
37 roads or conveyors, which in no event shall be less than  
38 twenty-four inches.

39 (i) Shelter holes shall be provided along haulage  
40 entries driven after the effective date of this article  
41 where locomotive, rope or animal haulage is used. Such  
42 shelter holes shall be spaced not more than one hundred  
43 feet apart, except when variances are authorized by the  
44 director with unanimous agreement of the mine safety  
45 and technical review committee. Shelter holes shall be  
46 on the side of the entry opposite the trolley wire except  
47 that shelter holes may be on the trolley wire and feeder  
48 wire side if the trolley wire and feeder wire are guarded  
49 in a manner approved by the director.

50 (j) Shelter holes made after the effective date of this  
51 article, unless the director with unanimous agreement  
52 of the mine safety and technical review committee  
53 grants a waiver, shall be at least five feet in depth, not  
54 more than four feet in width, and as high as the  
55 traveling space. Room necks and crosscuts may be used  
56 as shelter holes even though their width exceeds four  
57 feet.

58 (k) Shelter holes shall be kept clear of refuse and  
59 other obstructions.

60 (l) After the effective date of this article, shelter holes  
61 shall be provided at switch throws and manually  
62 operated permanent doors.

63 (m) No steam locomotive shall be used in mines where  
64 miners are actually employed in the extraction of coal,  
65 but this shall not prevent operation of a steam locom-  
66 otive through any tunnel haulway or part of a mine that

67 is not in actual operation and producing coal.

68 (n) Underground equipment powered by internal  
69 combustion engines using petroleum products, alcohol,  
70 or any other compound shall not be used in a coal mine.

71 (o) Locomotives, personnel carriers, mine cars, supply  
72 cars, shuttle cars, and all other haulage equipment shall  
73 be maintained in a safe operating condition. Each  
74 locomotive, personnel carrier, barrier tractor and other  
75 related equipment shall be equipped with a suitable  
76 lifting jack and handle. An audible warning device and  
77 headlights shall be provided on each locomotive and  
78 each shuttle car. All other mobile equipment, using the  
79 face areas of the mine, purchased after the effective date  
80 of this article, shall be provided with a conspicuous light  
81 or other approved device so as to reduce the possibility  
82 of collision.

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

88 (q) The pushing of trips, except for switching pur-  
89 poses, is prohibited on main haulage roads: *Provided,*  
90 That nothing herein shall prohibit the use of a pusher  
91 locomotive to assist the locomotive pulling a trip.  
92 Motormen and trip riders shall use care in handling  
93 locomotives and cars. It shall be their duty to see that  
94 there is a conspicuous light on the front and rear of each  
95 trip or train of cars when in motion: *Provided, however,*  
96 That trip lights need not be used on cars being shifted  
97 to and from loading machines, on cars being handled at  
98 loading heads during gathering operations at working  
99 faces, or on trips being pulled by animals. No person  
100 except the operator or his assistant shall ride on  
101 locomotives or loaded cars. An empty car or cars shall  
102 be used to provide a safe distance between the locom-  
103 otive and the material car when rail, pipe or long  
104 timbers are being hauled. A safe clearance shall be  
105 maintained between the end car or trips placed on side  
106 tracks and moving traffic. On haulage roads the

107 clearance point shall be marked with an approved  
108 device.

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

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

123 (t) (1) A system of signals, methods or devices shall  
124 be used to provide protection for trips, locomotives and  
125 other equipment coming out onto tracks used by other  
126 equipment.

127 (2) In any coal mine where more than three hundred  
128 fifty tons of coal are produced on any shift in each  
129 twenty-four hour period, a dispatcher shall be on duty  
130 when there are movements of track equipment under-  
131 ground, including time when there is no production of  
132 coal. Such traffic shall move only at the direction of the  
133 dispatcher.

134 (3) The dispatcher's only duty shall be to direct  
135 traffic: *Provided*, That the dispatcher's duties may also  
136 include those of the responsible person required by  
137 section forty-two of this article: *Provided, however*, That  
138 the dispatcher may perform other duties which do not  
139 interfere with his dispatching responsibilities and do not  
140 require him to leave the dispatcher's station except as  
141 approved by the mine safety and technical review  
142 committee.

143 (4) Any dispatcher's station provided after the effec-  
144 tive date of this article shall be on the surface.

145 (5) All self-propelled track equipment shall be

146 equipped with two-way communications.

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

150 (v) A locomotive following another trip shall maintain  
151 a distance of at least three hundred feet from the rear  
152 end of the trip ahead, unless such locomotive is coupled  
153 to the trip ahead.

154 (w) Positive stopblocks or derails shall be installed on  
155 all tracks near the top and at landings of shafts, slopes,  
156 and surface inclines. Positive-acting stopblocks or  
157 derails shall be used where necessary to protect persons  
158 from danger of runaway haulage equipment.

159 (x) Shuttle cars shall not be altered by the addition  
160 of sideboards so as to inhibit the view of the operator.

161 (y) Mining equipment shall not be parked within  
162 fifteen feet of a check curtain or fly curtain.

163 (z) All self-propelled track haulage equipment shall  
164 be equipped with an emergency stop switch, self  
165 centering valves, or other devices designed to de-  
166 energize the traction motor circuit in the event of an  
167 emergency: *Provided*, That such equipment in operation  
168 in a mine on or before the first day of January, one  
169 thousand nine hundred eighty-seven, shall not be  
170 required to be retrofitted. On or before the first day of  
171 January, one thousand nine hundred eighty-seven, all  
172 track mounted equipment shall be equipped with trolley  
173 pole swing limiters or other means approved by the  
174 mine safety and technical review committee to restrict  
175 movement of the trolley pole when it is disengaged from  
176 the trolley wire. Battery powered mobile equipment  
177 shall have the operating controls clearly marked to  
178 distinguish the forward and reverse positions.

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

1 (a) *Methane*. — Electric equipment shall not be taken  
2 into or operated in any place where methane can be  
3 detected with a flame safety lamp or other approved  
4 methane detector at one percent or more at any point

5 not less than twelve inches from the roof, face, or rib.

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

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

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

30 (e) *Indication of gas.* — In working places a suitable  
31 approved apparatus for the detection of explosive gas,  
32 shall be provided for use with each mining machine  
33 when working, and should any indication of explosive  
34 gas in excess of one percent appear on any apparatus  
35 used for the detection of explosive gas, the person in  
36 charge shall immediately stop the machine, cut off the  
37 current at the nearest switch and report the condition  
38 to the mine foreman or supervisor. The machine shall  
39 not again be started in such place until the condition  
40 found has been corrected and been pronounced safe by  
41 a certified person.

42 (f) *Periodic gas examinations.* — No electric equip-  
43 ment shall be operated in a mine for a longer period  
44 than twenty minutes without an examination as above

45 described being made for gas; and if gas is found in  
46 excess of one percent, the current shall at once be  
47 switched off the machine, and the trailing cable shall  
48 forthwith be disconnected from the power supply until  
49 the place is pronounced safe.

50 (g) *Operation of mining machines.* — Machine runners  
51 and helpers shall use care while operating mining  
52 machines. They shall examine the roof of the working  
53 place to see that it is safe before starting to operate the  
54 machine. They shall not move the machine while the  
55 cutter chain is in motion.

**§22A-2-46. Welding and cutting.**

1 (a) A record shall be kept of oxygen and gas tanks or  
2 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 the  
5 work efficiently shall be permitted underground at one  
6 time.

7 (b) Propane torches may be used in lieu of blow-  
8 torches. Only approved apparatus such as torches,  
9 regulators, pressure reducing valves, hoses, check valves  
10 and gas cylinders shall be used.

11 (c) Welding and cutting may be done in mines:  
12 *Provided*, That all equipment and gauges are main-  
13 tained in safe condition and not abused, that suitable  
14 precautions are taken against ignition of methane, coal  
15 dust, or combustible materials, that means are provided  
16 for prompt extinguishment of fires accidentally started,  
17 and that only persons who have demonstrated compet-  
18 ency in welding and cutting are entrusted to do this  
19 work. Adequate eye protection shall be used by all  
20 persons doing welding or cutting, and precautions shall  
21 be taken to prevent other persons from exposure that  
22 might be harmful to their eyes. A suitable wrench  
23 designed for compressed tanks shall be provided to the  
24 person authorized to use the equipment.

25 (d) Transportation of oxygen and gas tanks or cylind-  
26 ers shall be permitted on self-propelled machinery or  
27 belt conveyors specially equipped for safe holding of the

28 containers in transportation. In no instance shall such  
29 transportation be permitted in conjunction with any  
30 mantrip, unless such mantrip is especially equipped  
31 with a compartment, lined with at least four inches of  
32 foam rubber or the equivalent, and capable of tightly  
33 securing the tank inside the manufactured frame of the  
34 vehicle.

35 (e) Empty oxygen and gas tanks or cylinders shall be  
36 marked "empty" and shall be removed from the mine  
37 promptly in safe containers provided for transportation  
38 of the same.

39 (f) When tanks and cylinders are not in use and when  
40 they are being transported, valve protection caps and  
41 plugs shall be placed on all tanks or cylinders for which  
42 caps and plugs are available. No oxygen tanks, gas  
43 tanks or cylinders shall be transported with the hoses  
44 and gauges attached thereto.

45 (g) In all mines a certified person, pursuant to section  
46 twelve of this article, shall examine for gas with  
47 permissible flame safety lamps or other approved  
48 detectors before and during welding or cutting. The  
49 safety of the equipment and methods used in such cases  
50 shall be subject to approval of the director. If equipment  
51 is mobile, it shall be removed outby the last open  
52 breakthrough before cutting and welding may be  
53 performed on such equipment.

**§22A-2-55. Protective equipment and 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  
8 the surface and underground shall wear snug-fitting  
9 clothing.

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

13 equipment.

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

16 (e) Approved eye protection shall be worn by all  
17 persons while being transported in open-type man trips.

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

**§22A-2-56. Checking systems.**

1 Each mine shall have a check-in and check-out system  
2 which will provide positive identification of every person  
3 underground and will provide an accurate record of the  
4 persons in the mine kept on the surface in a place that  
5 will not be affected in the event of an explosion. Said  
6 record shall bear a number or name identical to the  
7 identification check that is securely fastened to the lamp  
8 belt of all persons underground. The identification check  
9 shall be made of a rust-resistant metal of no less than  
10 sixteen guage.

**§22A-2-58. Fire protection.**

1 (a) Suitable fire protection shall be provided at  
2 surface installations of fans, shops, tipples, and prepa-  
3 ration plants, substations, hoist rooms and compressor  
4 stations.

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

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

11 (d) Each coal mine shall be provided with suitable  
12 fire-fighting equipment adapted for the size and

13 condition of the mine. Fire-fighting equipment required  
14 under this article shall meet the following requirements:

15 (1) Waterlines shall be capable of delivering fifty  
16 gallons of water at a nozzle pressure of fifty pounds per  
17 square inch.

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

24 (3) A portable chemical car shall carry enough  
25 chemicals to provide a fire extinguishing capacity  
26 equivalent to that of a portable water car.

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

31 (5) A portable fire extinguisher shall be either a  
32 multipurpose dry chemical type, containing a nominal  
33 weight of five pounds of dry powder and enough  
34 expellant to apply the powder; or a foam-producing type  
35 containing at least two and one-half gallons of foam-  
36 producing liquid and enough expellant to supply the  
37 foam. Only fire extinguishers approved by the  
38 Underwriters Laboratories, Inc. or Factor Mutual  
39 Laboratories, carrying appropriate labels as to type and  
40 purpose shall be used after the first day of July, one  
41 thousand nine hundred seventy-one, and all new porta-  
42 ble fire extinguishers acquired for use in a coal mine  
43 shall be of the multipurpose dry chemical type, having  
44 a 2A 10BC or higher rating.

45 (6) The fire hose shall be rubber-lined, mildew-proof  
46 and the cover shall be of flame-resistant qualities,  
47 meeting requirements for hose in Bureau of Mines  
48 Schedule 2G, except that the test flame shall be applied  
49 to the outer surface rather than to an open end. The  
50 bursting pressure shall be at least four times higher  
51 than the static water at the mine location; the maximum

52 water pressure in the hose nozzle shall not exceed 100  
53 p.s.i.g.

54 (e) Each working section of coal mines producing  
55 three hundred tons or more per shift shall be provided  
56 with two portable fire extinguishers and two hundred  
57 forty pounds of bagged rock dust or equivalent; water-  
58 lines shall extend to each section loading point and be  
59 equipped with enough fire hose to reach each working  
60 face unless the section loading point is provided with one  
61 of the following: (1) Two portable water cars or (2) two  
62 portable chemical cars, or (3) one portable water car or  
63 one portable chemical car and either a portable foam-  
64 generating machine or a portable high-pressure rock-  
65 dusting machine, fitted with at least two hundred fifty  
66 feet of hose and supplied with at least sixty sacks of rock  
67 dust.

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

89 (g) In mines producing three hundred tons of coal or  
90 more per shift, waterlines shall be installed parallel to  
91 all haulage tracks using mechanized equipment in the  
92 track or adjacent entry and shall extend to the loading

93 point of each working section. Waterlines shall be  
94 equipped with outlet valves at intervals of not more than  
95 five hundred feet, and five hundred feet of fire hose with  
96 fittings suitable for connection with such waterlines  
97 shall be provided at strategic locations. Two portable  
98 water cars, readily available, may be used in lieu of  
99 waterlines prescribed under this subsection.

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

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

110 (j) Two portable fire extinguishers shall be provided  
111 at each permanent electrical installation. One portable  
112 fire extinguisher and two hundred forty pounds of rock  
113 dust or equivalent shall be provided at each temporary  
114 electrical installation.

115 (k) Two portable fire extinguishers and two hundred  
116 forty pounds of rock dust or equivalent shall be provided  
117 at each permanent underground oil storage station. One  
118 portable fire extinguisher shall be provided at each  
119 working section where twenty-five gallons or more of oil  
120 are stored in addition to extinguishers required under  
121 subsection (e) of this section.

122 (l) One portable fire extinguisher or two hundred  
123 forty pounds of rock dust or equivalent and water shall  
124 be provided at locations where welding, cutting, or  
125 soldering with arc or flame is being done.

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

130 (n) At each mine producing three hundred tons of coal  
131 or more per shift, there shall be readily available the

132 following materials at locations not exceeding two miles  
133 from each working section:

- 134 (1) One thousand board feet of brattice boards
- 135 (2) Two rolls of brattice cloth
- 136 (3) Two handsaws
- 137 (4) Twenty-five pounds of 8 degree nails
- 138 (5) Twenty-five pounds of 10 degree nails
- 139 (6) Twenty-five pounds of 16 degree nails
- 140 (7) Three claw hammers
- 141 (8) Twenty-five bags of wood fiber plaster or ten bags  
142 of cement (or equivalent material for stoppings)
- 143 (9) Five tons of rock dust.
- 144 (o) At each mine producing less than three hundred  
145 tons of coal per shift, the above materials shall be  
146 available at the mine: *Provided, however,* That the  
147 emergency materials for one or more mines may be  
148 stored at a central warehouse or building supply  
149 company and such supply must be the equivalent of that  
150 required for all mines involved and within one hour's  
151 delivery time from each mine. This exception shall not  
152 apply where the active working sections are more than  
153 two miles from the surface.

**§22A-2-63. No mine to be opened or reopened without  
prior approval of commissioner of the  
department of energy; approval fee; exten-  
sion of certificate of approval; certificates  
not transferable; section to be printed on  
certificates.**

- 1 (a) *Permit request.* — After the first day of July, one  
2 thousand nine hundred seventy-one, no mine shall be  
3 opened or reopened unless prior approval has been  
4 obtained from the commissioner of the department of  
5 energy, which approval shall not be unreasonably  
6 withheld. The operator shall pay for such approval a fee  
7 of ten dollars, which payment shall be tendered with the  
8 operator's application for such approval: *Provided, That*

9 mines producing coal solely for the operator's use shall  
 10 be issued a permit without charge if coal production will  
 11 be less than fifty tons a year.

12 (b) *Extension of permit.* — Within thirty days after  
 13 the first day of January of each year, the operator of  
 14 each mine holding a certificate evidencing approval of  
 15 the commissioner to open a mine shall apply for the  
 16 extension of such certificate of approval for an addi-  
 17 tional year, excepting those approved by the director to  
 18 go on inactive status. Such approval, evidenced by a  
 19 certificate of the commissioner, shall be granted as a  
 20 matter of right and without charge if, at the time such  
 21 application is made, the operator is in compliance with  
 22 the provisions of section seventy-seven of this article and  
 23 has paid or otherwise appealed all coal mine assess-  
 24 ments imposed under article one-a, chapter twenty-two-  
 25 a of this code. Applications for extension of such  
 26 certificates of approval not submitted within the time  
 27 required shall be processed as an application to open or  
 28 reopen a mine and shall be accompanied by a fee of ten  
 29 dollars.

30 (c) *Not transferable.* — Certificates of approval issued  
 31 pursuant to this section shall not be transferable.

32 (d) *Status of certificate.* — The provisions of this  
 33 section shall be printed on the reverse side of every  
 34 certificate issued hereunder.

35 (e) *Preinspection.* — The district mine inspector shall  
 36 be contacted for a preinspection of the area proposed for  
 37 underground mining prior to the issuance of any new  
 38 opening approval.

**§22A-2-71a. Right of miner to refuse to work in an unsafe area or unsafe manner.**

1 Any miner has the right to refuse to work in an area  
 2 or under conditions which he believes to be unsafe.

**§22A-2-77. Monthly report by operator of mine; exception as to certain inactive mines.**

1 On or before the end of each calendar month, the  
 2 operator of each coal mine shall file with the director

3 a report with respect thereto covering the next preced-  
4 ing calendar month which shall reflect the number of  
5 accidents which have occurred at each such mine, the  
6 number of persons employed, the days worked and the  
7 actual tonnage mined. Such report shall be made upon  
8 forms furnished by the director. Other provisions of this  
9 section to the contrary notwithstanding, no such report  
10 shall be required with respect to any mine on approved  
11 inactive status if no employees were present at such  
12 mine at any time during the next preceding calendar  
13 month.

#### CHAPTER 64. LEGISLATIVES RULES.

##### ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PRO- MULGATE LEGISLATIVE RULES.

##### **§64-2-22(9)(6). Commissioner of the department of energy.**

1 (a) The legislative rules filed in the state register on  
2 the fourteenth day of November, one thousand nine  
3 hundred eighty-six, modified by the commissioner of the  
4 department of energy to meet the objections of the  
5 legislative rule-making review committee and refiled in  
6 the state register on the sixteenth day of December, one  
7 thousand nine hundred eighty-six, relating to the  
8 commissioner of the department of energy (standards  
9 for certification of coal mine electricians) are  
10 authorized.

11 (b) The legislative rules filed in the state register on  
12 the fifteenth day of December, one thousand nine  
13 hundred eighty-six, modified by the commissioner of the  
14 department of energy to meet the objections of the  
15 legislative rule-making review committee and refiled in  
16 the state register on the twenty-first day of January, one  
17 thousand nine hundred eighty-seven, relating to the  
18 commissioner of the department of energy (safety  
19 training program for prospective underground coal  
20 miners in West Virginia) are authorized.

21 (c) The legislative rules filed in the state register on  
22 the fifteenth day of December, one thousand nine  
23 hundred eighty-six, modified by the commissioner of the

24 department of energy to meet the objections of the  
25 legislative rule-making review committee and refiled in  
26 the state register on the twenty-first day of January, one  
27 thousand nine hundred eighty-seven, relating to the  
28 commissioner of the department of energy (safety  
29 training program for prospective surface coal miners in  
30 West Virginia) are authorized.

31 (d) The legislative rules filed in the state register on  
32 the third day of April, one thousand nine hundred  
33 eighty-seven, relating to the department of energy  
34 (standards for certification of underground belt examin-  
35 ers for underground coal mines) are authorized.

*[Handwritten signatures and notes, including "The" and "approved"]*

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

*Bruce O. Whittam*  
-----  
Chairman Senate Committee

*Bernard V. Kelly*  
-----  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Gold A. Nichols*  
-----  
Clerk of the Senate

*Donald J. Hogg*  
-----  
Clerk of the House of Delegates

*Don Tankam*  
-----  
President of the Senate

*Monty Clark*  
-----  
Speaker of the House of Delegates

The within *approved* this the *17th*  
*April*  
day of \_\_\_\_\_, 1987.

*Archa Pharr*  
-----  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/13/87

Time 2:18 p.m.

RECEIVED

APR 21 11 31 AM '19

U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D. C.