



DATE: January 24, 1992

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Office of Miners' Health, Safety and Training *SW*

LEGISLATIVE RULE TITLE: Rules and Regulations Governing the Standards for Mine Rescue Stations, Rescue Programs, and Mandatory Coverage for All Underground Mines

1. Authorizing statute(s) citation §22A-7-8

2. a. Date filed in State Register with Notice of Hearing:

N/A

b. What other notice, including advertising, did you give of the hearing?

N/A

c. Date of hearing(s): N/A

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached x No comments received                     

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:  
(be exact)

f. Name and phone number(s) of agency person(s) to contact for additional information:

Stephen F. Webber, Director (348-3500)



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations Governing the Standards for Mine Rescue Stations, Rescue Programs, and Mandatory Coverage for All Underground Mines

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Office of Miners' Health, Safety and Training

Address: 1615 Washington Street, East, Charleston, West Virginia 25311

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost IF RULE IS NOT APPROVED	\$ 100,000	\$	\$ 100,000	\$ 100,000	\$ 100,000
Personal Services					
Current Expense					
Repairs & Alterations	90,000		90,000	90,000	90,000
Equipment	10,000		10,000	10,000	10,000
Other					

2. Explanation of above estimates:

The Miners' Health, Safety and Training Section has used Federal funding for the purchase and maintenance of mine rescue equipment, with MSHA's approval. MSHA has now directed this Federal money to training. Therefore, equipment purchases and maintenance will require State General Revenue funds if this rule is not approved.

3. Objectives of these rules:

This regulation will establish standards for mine rescue stations, rescue programs, and mandatory coverage for all mines. It will also provide a means for each station to generate the funds necessary to maintain the equipment as prescribed by the manufacturer. Without mandatory coverage most mines will not voluntarily pay for coverage. Since this service is directly provided to their mine, they should be responsible for any expenditures incurred for the operation and maintenance of the station.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Should this regulation not be approved, the cost to the Miners Health, Safety, and Training Section will be approximately 100,000 per year to properly maintain the mine rescue stations.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

This regulation will have little or no economic impact of the mining industry. Coverage fees should run approxiamtely \$1,000 dollars per year, a small amount considering complete mine rescue station cost approximately \$200,000 dollars each.

C. Economic Impact on Citizens/Public at Large.

NONE

Date: October 31, 1991

Signature of Agency Head or Authorized Representative

Stephen F. Webber

Please find attached copies of correspondence and the approved contract that will allow mine rescue associations to take possession of State owned equipment. This contract will allow each association a means to generate the funds necessary to maintain their station.



STATE OF WEST VIRGINIA  
DIVISION OF ENERGY  
DEPARTMENT OF COMMERCE, LABOR AND  
ENVIRONMENTAL RESOURCES  
1815 WASHINGTON STREET, EAST  
CHARLESTON, WEST VIRGINIA 25311  
TELEPHONE, 348-3500

GASTON CAPERTON  
GOVERNOR

October 29, 1991

E. W. "WOODY" WAYLAND  
COMMISSIONER

The Honorable Ken Hechler  
Secretary of State  
Capitol Complex  
Charleston, West Virginia 25305

Dear Secretary Hechler:

I have reviewed the attached regulations, Title 38, Series 22 - "Mine Rescue Programs and Mandatory Coverage for all Underground Mines" and request they be filed with the Secretary of State's Office.

If you have any further questions, please let me know.

Sincerely,

*John M. Ranson*  
John M. Ranson  
Cabinet Secretary

JMR:cc

Attachment



STATE OF WEST VIRGINIA

DIVISION OF MINE HEALTH, SAFETY AND TRAINING

DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES

1615 WASHINGTON STREET, EAST • CHARLESTON, WEST VIRGINIA 25311 • TELEPHONE: (304) 348-3500 • FAX: (304) 348-2452

GASTON CAPERTON  
GOVERNOR

STEPHEN F. WEBBER  
DIRECTOR

M E M O R A N D U M

TO: Legislative Rulemaking Review Committee  
FROM: Stephen F. Webber, Director *SFW*  
DATE: January 17, 1992  
SUBJECT: Written Comments and Agency Response

Attached please find the written comments that were received by this agency on Title 56, Series 2, (originally filed as Title 38, Series 22) and the agency response to the comments.

SFW:ks  
Attachments

TITLE 56, SERIES 2  
(ORIGINALLY SUBMITTED AS TITLE 38, SERIES 22)

COMMENTS RECEIVED BY:  
JACK RUN COAL CORPORATION, INC.

1. Comments received from Jack Run Coal Corporation, Inc. were in complete objection of the entire rule, stating that small mines should be exempt from the rule. Under federal code this mine is required to have mine rescue coverage. This rule in no way discriminates against small mines and the cost in obtaining mine rescue coverage is not regulated by this agency. Therefore, the comments were taken, but no exceptions or changes were made from the comments.

**JACK RUN COAL CORPORATION, INC.**

P.O. BOX 841

COWEN, WEST VIRGINIA 26206

(304) 226-3563

December 8, 1991

Stephen L. Wesbey  
Miners' Health, Safety and Training  
1615 Washington Street, East  
Charleston, WV 25311

RE: EMERGENCY RULE #22

**RULES AND REGULATIONS GOVERNING THE STANDARDS FOR MINE RESCUE STATION, RESCUE PROGRAMS, AND MANDATORY COVERAGE FOR ALL UNDERGROUND MINES.**

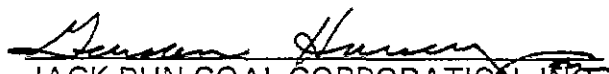
**COMMENTS**

We are writing to voice our opinion *in objection to* the Emergency Rule #22 which is being proposed before the West Virginia Legislature for the reasons stated below:

- We are the owners/operators of a small underground mine located in the vicinity of Cowen, West Virginia. We have no employees but operate the mine ourselves.
- We are currently operating only about three to five days a month and therefore our income is very small. Our coal is high sulphur and therefore we have very few sales. Production for the month of October was only fifteen (15) tons. We currently pay high insurance and water testing bills each month. We are unable to pay for mandatory mine rescue coverage assessment.
- If this proposed Emergency Bill is passed by the Legislature, it could cause small mines like ours to shut down, thus cutting off any source of income that we have.

We are, therefore, requesting that *small mines of this nature be exempt from Emergency Rule #22.*

DEC 11 1991

  
JACK RUN COAL CORPORATION, INC.  
Gordon Hardway  
Alden Short  
Nancy Roberts

TITLE 56, SERIES 2  
(ORIGINALLY SUBMITTED AS TITLE 38, SERIES 22)

COMMENTS RECEIVED BY:  
RANDOLPH B. RICHARDSON

1. Comment was considered and the recommendations were incorporated in the language under 56-2-5, section 5.5.

Pocahontas Mine Rescue Association

Box 567

Gary, W. Va. 24836

December 5, 1991

To: Division of Health Safety & Training  
Attn: Anthony M. Grbac  
1615 Washington Street East  
Charleston WV 25311

From: Randolph B. Richardson-Director  
Box 567  
Gary, WV 24836

Subject: Title 38 Series 22

Request change in Para. 38-22-3 Availability of Mine Rescue Teams. Sub. Para. 3.5 Change wording of station to team to let Paragraph read as Follows.

To ensure adequate coverage for all underground mines, no mine rescue (team) may provide coverage to more than thirty-five ( 35) mines within the two (2) hour ground travel limit as defined in 4.2 of this regulation.

Reason for request (2) teams from one station would be limited to area smaller than the allowed travel time grant in 4.2 of this regulation. Our ground travel time would permit a greater area of coverage. This also limits (2) teams the advantage of reaching their full potential as a complete station.

Cordially Yours

*Randolph B. Richardson*

Randolph B. Richardson  
Director

DEC 06 91  
HEALTH AND SAFETY  
CHARLESTON OFFICE

TITLE 56, SERIES 2  
(ORIGINALLY SUBMITTED AS TITLE 38, SERIES 22)

COMMENTS RECEIVED BY:  
WILLIAM H. WOLFORD

1. Comment was considered and the recommendations were incorporated in the language under 56-2-5, section 5.7.

RECEIVED

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HEALTH AND SAFETY  
CHARLESTON OFFICE

November 22, 1991

Stephen Webber  
Miners' Health, Safety and Training  
1615 Washington Street, E.  
Charleston, West Virginia 25311

Dear Mr. Webber:

Please accept the following comments concerning proposed rules governing mine rescue personnel, Title 38, Series 22, Section 4.2 "Qualifying members must be employed at an underground mine with a minimum of one year of active underground mining experience."

If enforced as stated this provision will eliminate many present and future team members due to the work that they presently perform.

Company employees, such as, safety directors, inspectors, industrial engineers, transit men and others with vast mine experience and training would be ineligible.

Others, such as, contract service and state agency employees would also be eliminated. All members of the three (3) West Virginia State teams trained by William "Bolts" Willis will fall into this same category.

Please modify this section of the proposed rule to allow participation by these various employees.

Sincerely,



William H. Wolford  
District Inspector  
Region 5, M.H.S. & T  
Logan, WV 25601

1 1 33

TITLE 56, SERIES 2  
(ORIGINALLY SUBMITTED AS TITLE 38, SERIES 22)

COMMENTS RECEIVED BY:  
WALTER N. MILLER

1. Comment was considered and the recommendations were incorporated in the language under 56-2-2.
2. Comment was considered, the recommended language proposed was not incorporated, but was addressed, and language reflecting the change is under 56-2-5, section 5.2(b).
3. Comment was considered, under the restructuring of the agency, all language giving the authority to the "Commissioner" has been changed to "Director".
4. Comment was considered, currently under state law there is no limit to the number of mines that a mine rescue team can cover. Language has been incorporated under 56-2-5, section 5.5.
5. Comment was considered and language was incorporated under 56-2-5, section 5.6.
6. Comment was considered and language has been incorporated under 56-2-5, section 5.12.
7. Comment was considered and language has been incorporated under 56-2-5, sections 5.12 and 5.13.
8. Comment was considered and the proposed change was incorporated as different language under 56-2-5, section 5.16(e).
9. Comment was considered, no changes were made.
10. Comment was considered and the recommendations were incorporated in the language under 56-3-5, section 5.21.

NOV 20

to: MINERS' HEALTH SAFETY AND TRAINING.

SUBJECT: COMMENTS ON PROPOSED RULES AND REGULATIONS COVERING THE STANDARDS FOR MINE RESCUE STATIONS, RESCUE PROGRAMS AND MANDATORY COVERAGE FOR ALL UNDERGROUND MINES (SERIES 22).

FROM: WALTER N. MILLER  
305 CHRIS STREET  
FAIRMONT, WV 26534

38-22-3 (3.2) (PAR. A) READS "ESTABLISHING AND MAINTAINING A CERTIFIED MINE RESCUE STATION WITH AT LEAST TWO (2) TEAMS FOR RESCUE AND RECOVERY WORK, OR

PROPOSAL FOR 38-22-3 (3.2) (PAR. A) ESTABLISHING AND MAINTAINING A RESCUE STATION WITH AT LEAST TWO (2) TEAMS AS DEFINED IN 38-22-5 OF THESE RULES AND REGULATIONS

38-22-3 (3.2) (PAR. B) READS "ENTERING INTO AN ARRANGEMENT FOR MINE RESCUE COVERAGE WITH A CERTIFIED COMPANY, INDEPENDENT OR STATE OPERATED MINE RESCUE STATION WITH AT LEAST TWO (2) TEAMS FOR RESCUE AND RECOVERY WORK.

38-22-3 (3.2) (PAR. B) PROPOSAL - ENTERING INTO AN AGREEMENT WITH THE STATE, A INDEPENDENT OR A COMPANY FOR MINE RESCUE COVERAGE.

COMMENT: IN 3.4, 8.2 AND 8.3 THE REGULATIONS INDICATE THE DIRECTOR HAS THE AUTHORITY.  
IN 6.2 AND 6.3 THE REGULATIONS INDICATE THE COMMISSIONER HAS THE AUTHORITY.

PROPOSAL: IF THE MENTIONED TWO PERSONS WILL BE ASSUMING AUTHORITY IN THE REGULATIONS THEN DEFINITIONS SHOULD BE ADDED TO THE REGULATIONS DEFINING EACH OF THE TWO PERSONS POSITIONS, AS POSITIONS ARE DEFINED IN 22A-1A-1 OF THE NY CODE.

38-22-3 (3.5) READS "TO ENSURE ADEQUATE COVERAGE FOR ALL UNDERGROUND TUNNELS, ONE RESCUE STATION SHALL PROVIDE COVERAGE TO MORE THAN THIRTY FIVE (35) TUNNELS WITHIN THE TWO (2) HOUR GROUND TRAVEL AS DEFINED IN 4.2 OF THIS REGULATION.

PROPOSAL FOR 38-22-3 (3.5) NO TWO (2) RESCUE TEAMS FROM ONE RESCUE STATION SHALL BE PERMITTED TO PROVIDE COVERAGE TO MORE THAN THIRTY FIVE (35) TUNNELS WITHIN THE ESTABLISHED GUIDE LINES IN 4.2 OF THESE REGULATIONS.

38-22-4 (PAR. 4.1) SECOND SENTENCE IN THIS PARAGRAPH  
READS "ONE TEAM MEMBER MUST BE  
CERTIFIED BY THE STATE AS A Mine  
RESCUE INSTRUCTOR.

COMMENT: WITH THE REQUIREMENT OF THESE PROPOSED  
REGULATIONS REQUIRING ALL MINES TO HAVE  
COVERAGE BY Mine RESCUE TEAMS, IT WOULD  
BE IMPOSSIBLE FOR EACH TEAM TO HAVE  
A CERTIFIED INSTRUCTOR AS A TEAM MEMBER.

PROPOSAL FOR 38-22-4 (PAR. 4.1) SECOND SENTENCE: EACH  
MEMBER ON A RESCUE TEAM SHALL BE  
TRAINED BY A CERTIFIED STATE OR FEDERAL  
Mine RESCUE TEAM INSTRUCTOR.

38-22-4 (PAR. 4.5) READS "ONE SIX MEMBER TEAM  
SHALL BE STATIONED AT THE Mine Portal OR  
FRESH AIR BASE AS BACK UP FOR EACH  
TEAM PERFORMING RESCUE AND/OR RECOVERY  
WORK IN A HAZARDOUS ATMOSPHERE OR  
NEAR THE FRESH AIR BASE.

COMMENT: THIS PARAGRAPH, AS WRITTEN, IS CONTRARY TO WHAT  
HAS BEEN REQUIRED FOR TWENTY (20) YEARS  
UNDER CHAPTER 22A ARTICLE 17 SECTION 32  
(PAR. 6 AND PAR. 8) OF THE WV CODE.  
22A-17-32 (PAR. 6) REQUIRES "FOR EVERY  
TWO TEAMS PERFORMING RESCUE OR RECOVERY WORK  
UNDERGROUND, ONE SIX MEMBER TEAM SHALL  
BE STATIONED AT THE Mine Portal.  
22A-17-32 (PAR. 8) REQUIRES "EACH RESCUE  
OR RECOVERY TEAM PERFORMING WORK WITH (cont)

BREATHING APPARATUS SHALL BE PROVIDED WITH A BACK UP TEAM OF EQUAL STRENGTH, STATIONED AT EACH FRESH AIR BASE.

COMMENT: ANY TIMES RESCUE OR RECOVERY WORK DURING A DISASTER IS PERFORMED BY RESCUE TEAMS SEVERAL MILES UNDERGROUND AWAY FROM A PORTAL - THE PROPOSED REGULATION 38-22-4 (PAR. 4.5) WOULD PERMIT A BACK UP TEAM TO BE STATIONED EITHER AT A SINGLE PORTAL OR FRESH AIR BASE.

PROPOSAL FOR 38-22-4 (PAR 4.5) - DELETE PAR. 4.5 AND REPLACE WITH THE FOLLOWING:  
FOR EVERY TWO TEAMS PERFORMING RESCUE OR RECOVERY WORK UNDERGROUND, ONE SIX MEMBER TEAM SHALL BE STATIONED AT THE SINGLE PORTAL WHERE RESCUE TEAMS ARE ENTERING SUCH MINE TO PERFORM RESCUE OR RECOVERY WORK. DURING THE TIME A SINGLE RESCUE TEAM IS PERFORMING WORK WITH A BREATHING APPARATUS INSIDE A FRESH AIR BASE A BACK UP TEAM OF EQUAL STRENGTH SHALL BE CONTINUOUSLY STATIONED AT EACH FRESH AIR BASE.

38-22-5 (PAR E) READS "TWELVE (12) PERMISSIBLE CAP LAMPS AND CHARGES FOR SAME;"

PROPOSAL: THE WORD IN PARAGRAPH E - CITARACS - SHOULD BE CHANGED TO CHARGERS.

38-22-6 (PAR. 6.2) READS "AUTHORIZED REPRESENTATIVES OF THE COMMISSIONER SHALL HAVE THE RIGHT OF ENTRY TO INSPECT ANY DESIGNATED MINE RESCUE STATION.

PROPOSAL FOR 38-22-6 (PAR. 6.2) FREQUENT INSPECTIONS SHALL BE MADE BY A REPRESENTATIVE OF THE COMMISSIONER DURING THE TENURE OF THE PROGRAM TO DETERMINE THAT THE REQUIREMENT AND LIMITATIONS OF THE PROGRAM ARE COMPLIED WITH.

38-22-7 (PAR. 7.1) READS "EVERY OPERATOR OF AN UNDERGROUND MINE SHALL DEVELOP AND ADOPT A MINE RESCUE PROGRAM THAT MUST BE SUBMITTED WITHIN THIRTY (30) DAYS OF THE EFFECTIVE DATE OF THIS REGULATION. A NEW PROGRAM NEED ONLY BE SUBMITTED WHEN CONDITIONS EXIST AS DEFINED IN 6.5 OF THIS REGULATION, OR WHEN INFORMATION CONTAINED WITHIN THE PROGRAM HAS CHANGED DUE TO CIRCUMSTANCES.

COMMENT: PARAGRAPH 7.1 SHOULD INDICATE TO WHO THE PROGRAM SHOULD BE SUBMITTED FOR APPROVAL

PROPOSAL FOR 38-22-7 (PAR. 7.1) EVERY OPERATOR OF AN UNDERGROUND MINE SHALL DEVELOP AND ADOPT A MINE RESCUE PROGRAM THAT SHALL BE SUBMITTED TO THE COMMISSIONER FOR APPROVAL WITHIN THIRTY (30) DAYS OF THE EFFECTIVE DATE OF THESE REGULATIONS. A NEW PROGRAM NEED ONLY BE SUBMITTED WHEN CONDITIONS EXIST AS DEFINED IN 6.5 OF THESE REGULATIONS, OR WHEN INFORMATION CONTAINED WITHIN THE PROGRAM HAS CHANGED

DUE TO CIRCUMSTANCES.

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS

OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING

TITLE 56    SERIES 2

**TITLE:    RULES AND REGULATIONS GOVERNING THE STANDARDS FOR MINE RESCUE  
          STATIONS, RESCUE PROGRAMS, AND MANDATORY COVERAGE FOR ALL  
          UNDERGROUND MINES**

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STATE OF WEST VIRGINIA

DIVISION OF MINE HEALTH, SAFETY AND TRAINING

DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES

1615 WASHINGTON STREET, EAST • CHARLESTON, WEST VIRGINIA 25311 • TELEPHONE: (304) 348-3600 • FAX: (304) 348-2452

GASTON CAPERTON  
GOVERNOR

STEPHEN F. WEBBER  
DIRECTOR

S U M M A R Y

The legislative rule which was submitted on October 31, 1991, is now being resubmitted after receiving comments and consultation with the coal industry and the West Virginia Coal Mine Health and Safety Board.

The changes incorporated make this rule consistent with federal law and incorporate existing state code language.

The changes do not substantially change the first proposal of October 31, 1991, and have been unanimously agreed upon by the West Virginia Board of Coal Mine Health, Safety and Training after many hours of consultation with the Office of Miners' Health, Safety and Training, the West Virginia Coal Association and labor.

The other notable change is that the rules submitted on October 31, 1991, were filed as Title 38, Series 22 and these rules are submitted as Title 56, Series 2. The title transfer for the Office of Miners' Health, Safety and Training was reassigned by the Secretary of State's Office.

LEGISLATIVE RULES  
MINERS' HEALTH, SAFETY AND TRAINING  
TITLE 56, SERIES 2

56-2-1 General.

1.1 Scope. This legislative rule establishes standards for mine rescue stations, rescue programs, and mandatory coverage for all underground mines.

1.2 Filing Authority. 22A-7-8

1.3 Filing Date. October 31, 1991

1.4 Effective Date. October 31, 1991

56-2-2 Definitions.

2.1 All terms used in this regulation, not defined herein, shall have the meanings set forth in Chapter 22A, Article 1A, Section 1 of the West Virginia Code.

56-2-3 Mine Rescue Stations; Equipment.

3.1 The director is hereby authorized to purchase, equip and operate for the use of said division such mine rescue stations and equipment as he may deem necessary.

56-2-4 State Mine Rescue Crews.

4.1 The director is hereby authorized to have trained and employed at the rescue stations, operated by the division within the state, such rescue crews as he may deem necessary. Each member of a rescue crew shall devote four hours each month for training purposes and shall be available at all times to assist in rescue work at explosions and mine fires. For such services regular members shall receive the sum of thirty-two dollars per month, and captains shall receive thirty-five dollars per month, payable on requisition approved by the director. The director may remove any member of a rescue crew at any time.

56-2-5 Mine Rescue Teams.

5.1 It shall be the responsibility of the operator to provide mine rescue coverage at each active underground mine.

5.2 Mine rescue coverage may be provided by:

(A) Establishing at least two mine rescue teams which are available at all times when miners are underground or;

(B) Enter into an arrangement for mine rescue services which assures that at least two mine rescue teams are available at all times when miners are underground.

5.3 As used in this part, mine rescue teams shall be considered available where teams are capable of presenting themselves at the mine site(s) within a reasonable time after notification of an occurrence which might require their services. Rescue team members will be considered available even though performing regular work duties or in a off-duty capacity. The requirement that mine rescue teams be available shall not apply when teams are participating in mine rescue contests or providing services to another mine.

5.4 In the event of a fire, explosion or recovery operations in or about any mine, the director is hereby authorized to call and assign any rescue team for the protection of and the preservation of property.

The director also may assign mine rescue and recovery work to inspectors, instructors, or other qualified employees of the division as he may deem desirable.

5.5 To ensure adequate coverage for all underground mines, no mine rescue station may provide coverage to more than thirty-five (35) mines within the two (2) hour ground travel limit as defined in Section 5.7 of this regulation.

5.6 Each mine rescue team shall consist of five (5) members and one (1) alternate, who are fully qualified, trained, and equipped for providing emergency mine rescue service. Each mine rescue team shall be trained by a state certified mine rescue instructor.

5.7 To be considered for membership on a mine rescue team, each person must have been employed in an underground mine for a minimum of one year. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground shall meet the experience requirement. The underground experience requirement is waived for those miners on a mine rescue team on the effective date of this rule.

The ground travel time between any mine rescue station and any mines served by that station shall not exceed two (2) hours.

5.8 An applicant for initial mine rescue training shall not have reached their fiftieth (50th) birthday, and shall pass on at least an annual basis, a physical examination by a licensed physician. A record that such examination was taken, together with pertinent data relating

thereto, shall be kept on file by the operator, and a copy shall be furnished to the director.

All rescue teams shall be guided by the mine rescue apparatus and auxiliary equipment manual.

5.9 Upon completion of the initial training, all team members shall receive at least 40 hours of refresher training annually. This training shall be given at least four (4) hours each month, or for a period of eight (8) hours every two months. This training shall include:

(A) Sessions underground at least once each six (6) months.

(B) The wearing and use of the breathing apparatus by team members for a period of at least two (2) hours while under oxygen every two (2) months.

(C) Where applicable, the use, care, capabilities, and limitations of auxiliary mine rescue equipment, or a different breathing apparatus.

(D) Mine map training and ventilation procedures.

5.10 (A) When engaged in rescue and recovery operations at a mine, all rescue team members shall remain employees of their existing employer and shall be compensated at the prevailing wage rate in the industry for the most skilled class of inside mine labor. Such compensation shall be paid by the employer of the mine rescue team member.

(B) The employer of the mine rescue team members shall provide appropriate workers' compensation coverage for each team member.

(C) The operator of the mine where the emergency exists shall reimburse the employer of the mine rescue team members for all services performed.

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

5.12 For every two (2) teams performing rescue or recovery work underground, one (1) six-member team shall be stationed at the mine portal.

5.13 Each rescue or recovery team performing work with breathing apparatus shall be provided with a backup team of equal strength, stationed at each fresh air base.

5.14 Two-way communication and lifeline or its equivalent shall be provided at each fresh air base for all mine rescue or recovery teams, and no mine rescue team member shall advance more than one thousand feet in by the fresh air base: Provided, that if a life may possibly be saved and existing conditions do not create an unreasonable hazard to mine rescue team members, such rescue team may advance a distance agreed upon by those persons directing the mine rescue or recovery operations: Provided, however, that lifeline or its equivalent shall be provided in by each fresh air base for all mine rescue or recovery teams.

5.15 A rescue or recover team shall immediately return to the fresh air base when any team member's atmospheric pressure depletes to sixty atmospheres, or equivalent.

5.16 Each mine rescue station shall be provided with at least the following equipment:

(A) Twelve (12) self-contained oxygen breathing apparatus, each with a minimum of two (2) hours capacity, and any necessary equipment for testing such breathing apparatus.

(B) A portable supply of liquid air, liquid oxygen, pressurized oxygen, oxygen generating or carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatus and sufficient to sustain each team for six (6) hours while using the breathing apparatus during rescue operations.

(C) One (1) extra oxygen bottle (fully charged) for each self-contained compressed oxygen breathing apparatus, as required under 5.16(A) of this regulation.

(D) One (1) oxygen pump or a cascading system, compatible with the supplied breathing apparatus.

(E) Twelve (12) permissible cap lamps and a charging rack.

(F) Two (2) gas detectors appropriate for each type of gas which may be encountered at the mines served.

(G) Two (2) oxygen indicators or two (2) flame safety lamps.

(H) One (1) portable mine rescue communication system or a sound-powered communicating system. The wires or cable to the communication system shall be of sufficient tensile strength to be used as a manual communication system. These communication systems shall be at least 1,000 feet in length.

(I) Necessary spare parts and tools for repairing the breathing apparatus and communication system, as presently prescribed by the manufacturer.

(J) Mine rescue stations are to provide a centralized storage location for rescue equipment. This centralized storage location may be either at the mine site, affiliated mines, or a separate mine rescue structure.

5.17 Mine rescue apparatus and equipment shall be maintained in a manner that will ensure readiness for immediate use. A person trained in the use and care of breathing apparatus shall inspect and test the apparatus at intervals not exceeding thirty (30) days and shall certify by signature and date that the inspections and tests were done. When the inspection indicates that a corrective action is necessary, the corrective action shall be made and the person shall record the corrective action taken. The certification and the record of corrective action shall be maintained at the mine rescue station for a period of one (1) year and made available on request to an authorized representative of the director.

5.18 Authorized representatives of the director shall have the right of entry to inspect any designated mine rescue station.

5.19 When an authorized representative finds a violation(s) of any of the mine rescue requirements, he shall take appropriate corrective action in accordance with WV Code 22A-1A-13.

5.20 Companies affiliated with a station issued an order will be notified of that order and that their mine rescue program is invalid. Companies affiliated with that station will have twenty-four (24) hours to submit a revised mine rescue program.

5.21 Every operator of an underground mine shall develop and adopt a mine rescue program that must be submitted to the director within thirty (30) days of the effective date of this regulation. Provided, however, a new program need only be submitted when conditions exist as defined in Section 5.20 of this regulation, or when information contained within the program has changed due to circumstances.

5.22 A copy of the mine rescue program must be posted at the mine and kept on file at the company's mine rescue station or rescue station affiliate and with the state regional office where the mine is located.

A copy of the mine emergency notification plan pursuant to 30 CFR 49.9(A) will satisfy the requirements of Section 5.21 of this regulation if submitted to the director.

5.23 The operator shall immediately notify the director of any changed conditions materially affecting the information submitted in the mine rescue program.