



STATE OF WEST VIRGINIA  
 OFFICE OF THE SECRETARY OF STATE  
 CHARLESTON 25305

A. JAMES MANCHIN  
 SECRETARY OF STATE

STATE REGISTER FILING

I, Walter N. Miller, Director,  
 Title or Position

Department of Mines, hereby submit to record in  
 Department or Division

the State Register on 8 1/2 x 11" paper two (2) copies of

- ( ) proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- ( ) proposed rules and regulations superseding rules and regulations already on file;
- ( ) notice of hearing;
- ( ) findings and determinations;
- () rules and regulations; or
- ( ) other - specify (

This filing pertains to

Chapter 22  
 Article 2  
 Series 35  
 Section 4  
 Page No. \_\_\_\_\_

FILED IN THE OFFICE OF  
 A. JAMES MANCHIN  
 SECRETARY OF STATE  
 THIS DATE 6/16/82  
 Administrative Law

- ( ) proposed rules and regulations are required to go to Legislative Rule Making Committee;
- () proposed rules and regulations are excluded from Legislative Rule Making Committee;

June 16, 1982  
 Date Submitted

[Signature]  
 Signature of Person Authorizing  
 this Filing



State of West Virginia

Department of Mines

Charleston 25305

JOHN D. ROCKEFELLER, IV.  
Governor

WALTER N. MILLER  
Director

June 16, 1982

The Honorable A. James Manchin  
Secretary of the State of West  
Virginia  
State of West Virginia  
State Capitol Building  
Charleston, WV 25305

Dear Secretary Manchin:

Pursuant to Chapter 22, Article 2, Section 4, of the West Virginia Code, please file the enclosed Rules and Regulations promulgated by the Board of Coal Mine Health and Safety in the appropriate State Register.

Please be advised that these Rules and Regulations Governing No Act Permitted Endangering Security of Mine; Search for Intoxicants, Matches, Etc., Series 35, become effective July 16, 1982.

Please be advised that these Rules and Regulations promulgated by the Board of Coal Mine Health and Safety are excluded from the Legislative Rule Making Committee (22-2-4c).

If I can be of further service on this matter, please advise.

Yours for Mine Safety,

Walter N. Miller, Director  
West Virginia Department of Mines

WNM:te

Enclosure

FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE 6/16/82  
Administrative Law Division

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS

DEPARTMENT OF MINES

CHAPTER 22-4

SERIES 35

(1982)

SUBJECT: RULES AND REGULATIONS GOVERNING NO ACT PERMITTED ENDANGERING SECURITY  
OF MINE; SEARCH FOR INTOXICANTS, MATCHES, ETC.

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PROMULGATED  
REGULATION

FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE 6/16/82  
Administrative Law Division

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

DEPARTMENT OF MINES

CHAPTER 22-4

SERIES 35

(1982)

SUBJECT: Rules and Regulations Governing No Act Permitted Endangering Security of Mine; Search for Intoxicants, Matches, Etc.

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General	Section 1
Authority	Section 1.01
Effective Date	Section 1.02
Effect and Purpose of Regulations	Section 2
Definitions	Section 3
No Act Permitted Endangering Security of Mine; Search for Intoxicants, Matches, Etc.	Section 4

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

DEPARTMENT OF MINES

CHAPTER 22-4

SERIES 35

(1982)

SUBJECT: Rules and Regulations Governing No Act Permitted Endangering Security of Mine; Search for Intoxicants, Matches, Etc.

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Section 1. General

1.01 Authority - These rules and regulations are issued under authority of Chapter 22, Article 2A, Section 4 of the West Virginia Code.

1.02 Effective Date - These rules and regulations were promulgated on the 11th day of June, 1982, and become effective on the 16th day of July, 1982.

Section 2. Effect and Purpose of Regulations

2.01 These rules and regulations shall have the effect of law and violations shall be deemed a violation of law and so cited with the same effect as law. All provisions of Article 1, Chapter 22 of the Code relative to enforcement are applicable to the enforcement of these rules and regulations.

2.02 The purpose of this section is to prevent persons from acting in such a manner as to endanger persons working in or at a mine and to establish guidelines to prevent hazardous articles and intoxicants from being carried into and utilized by persons working in or at a mine.

Section 3. Definitions

All terms used in these rules and regulations, not defined herein, shall have the meanings set forth in Chapter 22, Article 1, Section 1 of the Code.

Section 4. No Act Permitted Endangering Security of Mine; Search for Intoxicants, Matches, Etc.

(a) No miner, workman or other person shall knowingly damage any shaft, lamp, instrument, or machinery. No person shall alter or obstruct any air course or ventilating devices unless instructed by a certified person, or enter any part of a mine against caution, or disobey any order of any mine foreman or assistant mine foreman given in carrying out any of the provisions of this section.

(b) Open lights, smoking, and smokers' articles, including matches, are prohibited in all mines. No person shall at any time enter mines with or carry therein any matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved. The operator shall at frequent intervals, search, or cause to be searched, any person, including his clothing and material belongings, entering or about to enter the mine, or inside the mine, to prevent such person from taking or carrying therein any of the above mentioned articles or intoxicants.

Any search of a person for purposes of enforcement of this paragraph, may be required of persons entering a mine or work area of a mine. If any person refuses to submit to a search, that person shall not be permitted to enter the mine or work area of a mine until such time as a personal search is conducted. Searches of persons may be conducted in a mine or work area of a mine. If any person refuses to submit to a search, that person shall be required to leave such mine or work area of a mine until such time as a personal search is conducted.

(c) No person shall at any time carry into any mine or work area of any mine any intoxicant or enter any mine while under the influence of intoxicants. For the purposes of enforcement of this paragraph the word "intoxicant" shall mean alcoholic liquor as defined in West Virginia Code Chapter 60, Article 1, Section 5 and a controlled substance as defined in West Virginia Code Chapter 60A, Article 1, Section 101(d) not specifically prescribed by a physician who is fully aware of and has taken into account the job duties the person is expected to perform.

(d) No person shall enter any mine or work area of any mine while under the influence of any intoxicant where such person's mental or physical capabilities may be impaired to the point of not being able to perform his duties properly and safely.

With respect to the enforcement of this paragraph, there is recognized the right on the part of the operator to require appropriate medical examinations including administration by a physician of tests prescribed and approved by the Department of Health of the State of West Virginia for the determination of a base of a controlled substance or alcohol. If the results of any such tests demonstrates a blood alcohol level of one tenth (.10) of one percent (1%) or more by weight, or the presence of controlled substances to a degree which renders such person incapable of performing safely, such tests shall be determinative that a person is "under the influence" for purposes of this section.



## State of West Virginia

Department of Mines

Charleston 25305

JOHN D. ROCKEFELLER, IV.  
Governor

WALTER N. MILLER  
Director

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Virginia  
State of West Virginia  
State Capitol Building  
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Please be advised that these Rules and Regulations promulgated by the Board of Coal Mine Health and Safety are excluded from the Legislative Rule Making Committee (22-2-4c).

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