



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

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.

PROMULGATED
REGULATION

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

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.

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.

TYPE OF RULE: LEGISLATIVE

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.

SUBJECT: Rules and Regulations Governing the Authority, Accountability, and Responsibility of Underground Mine Foremen; Responsibility of Operator in Relation to Mine Foreman; and Regulatory Review Procedures

General	Section 1
Authority	Section 1.01
Effective Date	Section 1.02
Effect of Regulations	Section 2
Definitions	Section 3
Authority, Accountability, and Responsibility of Underground Mine Foremen; Responsibility of Operator in Relation to Mine Foreman; and Regulatory Review Procedures	Section 4

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

DEPARTMENT OF MINES

CHAPTER 22-4

SERIES 24

(Revised 1984)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE Feb. 21, 1984
Administrative Law Division

SUBJECT: RULES AND REGULATIONS GOVERNING THE AUTHORITY, ACCOUNTABILITY, AND RESPONSIBILITY OF UNDERGROUND MINE FOREMEN; RESPONSIBILITY OF OPERATOR IN RELATION TO MINE FOREMAN; AND REGULATORY REVIEW PROCEDURES

Section 1. General

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

1.02 Effective Date - These rules and regulations were promulgated on the 10th day of February, 1984, and became effective on the 6th day of April, 19 84.

Section 2. Effect 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.

Section 3. Definitions

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

Section 4. Authority, Accountability, and Responsibility of Underground Mine Foremen; Responsibility of Operator in Relation to Mine Foreman; and Regulatory Review Procedures

4.01 The mine foreman shall notify, in writing, the operator or superintendent of the mine, and the Director of the Department of Mines, of his inability to comply with any of the requirements of this law, and it shall then become the duty of such operator or superintendent promptly to attend to the matter complained of by the mine foreman so as to enable him to comply with the provisions hereof. Every operator of a mine shall furnish all supplies necessary for the mine foreman to comply with the requirements of this law after being requested to do so in writing by the mine foreman.

4.02 In the performance of the statutory duties delegated to mine foremen, or certified persons acting as such, they shall have no superior officers, and all employees working inside of such mine or mines shall be subordinate to them in their particular work.

Mine foremen and assistant mine foremen are statutory officers and in the performance of their statutory duties are representatives of the State. No one shall obstruct the mine foreman or assistant mine foreman in the fulfillment of any of the duties assigned to him by Chapter 22.

4.03 The Director of the Department of Mines shall provide each operator and the mine foreman at each mine site with a copy of newly promulgated regulations and changes to regulations, as soon as practicable but no later than fourteen (14) days after the date on which the regulations become effective. The Director shall also provide each operator and the mine foreman at each mine site with a copy of all relevant State court decisions, and interpretations of regulations by the Director, as soon as practicable but no later than thirty (30)

days after the date such material is issued. The Director will identify those persons with whom the material is to be reviewed at the mine site.

The operator shall immediately post all such material for thirty (30) days, and shall review the material with all persons acting in the capacity of mine foreman and assistant mine foreman during the period that the material is posted. The operator shall also hold a safety meeting the week following the review with the mine foremen and assistant mine foremen, to review this material with all persons at the mine site designated by the Director of the Department of Mines. The operator shall keep on file a list of the mine foremen and assistant mine foremen, with their signatures, stating that they have read the material and are aware of its contents, and shall also keep a record of the total number of persons that attended the safety meeting. The file shall be maintained for inspection by interested persons for a period of one (1) year.