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1987 APR -3 PM 4:15

CLERK OF THE STATE SECRETARY

NOTICE OF AGENCY APPROVAL

Administrative Rule: Title 36, Series 38, Rules and Regulations Governing
Personal Protective Equipment (new regulation)

The attached administrative rule constitutes the official rule approved by
the West Virginia Department of Energy
on 3rd day of April, 1987, and filed pursuant to law with the
West Virginia Secretary of State.



Mark A. Scott, Chairman

STATE OF WEST VIRGINIA
DEPARTMENT OF ENERGY
Board of Coal Mine Health & Safety
Charleston 25311

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE April 3, 1987
ADMINISTRATIVE LAW DIVISION

To: All Persons Interested in Rules and Regulations Constructed by
the Board of Coal Mine Health and Safety

From: Terry L. Farley, Health and Safety Administrator *T. J.*

Date:

Subject: Metatarsal Shoes and Eye Protection

ACTION: Final Rule

EFFECTIVE DATE:

AUTHORITY: These regulations are promulgated in accordance with
Chapter 22, Article 6, Section 4 of the West Virginia Code.

SUMMARY

The Board of Coal Mine Health and Safety has adopted a regulation to require everyone on coal mine property to wear eye protection and safety-toed boots with metatarsal guards. These requirements are being promulgated following the Board's review of 1985 and 1986 coal mining injuries in West Virginia.

The Board determined that failure to wear metatarsal shoes and eye protection may have been a factor in the number and severity of eye and foot injuries reported to the Department of Energy during 1985 and 1986.

FINDINGS OF FACT

1. A total of 131 eye injuries reported to the Department of Energy in 1985 and 1986 were reviewed. Only eight of the injury reports clearly indicated that the injured person was wearing some type of eye protection at the time of the accident.
2. There was no clear pattern to the eye injuries reviewed. They occurred in many different ways.
3. A total of 224 foot injuries reported to the Department of Energy in 1985 and 1986 were reviewed. Only two of the injury reports clearly indicated that the injured person was wearing metatarsal protection at the time of the accident.

4. The majority of foot injuries resulted from an object falling or being dropped on the foot of the injured person.

CONCLUSIONS OF LAW

1. WV Code 22A-2-55 establishes state standards in regard to requirements for eye and foot protection. 22A-2-55(a) requires that welders and helpers shall use proper shields or goggles to protect their eyes. All employees shall have approved goggles or shields and use the same where there is a hazard from flying particles, or other hazards.
2. WV Code 22A-2-55(e) requires that approved safety goggles or eyeshields shall be worn by all persons while being transported in open-type man trips.
3. The West Virginia Mining Law makes no mention of metatarsal shoes. WV Code 22A-2-55(d) requires that safety-toed shoes shall be worn by all persons while in or around a mine.
4. 30 CFR 75.1720 establishes federal standards for protective clothing. 75.1720(a) requires in part that "face shields or goggles when welding, cutting, or working with molten metal, or when other hazards to the eyes exist from flying particles, be worn." 75.1720(e) requires "suitable protective footwear."
5. Existing state requirements to ensure that miners are protected from eye and foot hazards are not specific enough in that references to the wearing of eye protection only in a couple of specific instances, and when there is a danger of flying particles. Existing state requirements in regard to protective footwear only require that hard-toed boots be worn.

ADDITIONAL INFORMATION

Questions and requests for copies of this regulation should be addressed to:

Terry L. Farley, Health and Safety Administrator
Board of Coal Mine Health and Safety
West Virginia Department of Energy
Division of Mines and Minerals
1615 Washington Street, East
Charleston, West Virginia 25311

TLF:te

Attachment

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
BOARD OF COAL MINE HEALTH AND SAFETY

TITLE 36 SERIES 38

TITLE: RULES AND REGULATIONS GOVERNING PERSONAL PROTECTIVE
EQUIPMENT

TITLE 36
LEGISLATIVE RULE
BOARD OF COAL MINE HEALTH AND SAFETY

SERIES 38
RULES AND REGULATIONS GOVERNING PROTECTIVE EQUIPMENT

§36-38-1. General.

1.1. Scope. -- This administrative rule establishes safety and requirements relating to personal equipment used in and around coal mining areas.

1.2. Authority. -- W. Va. Code §22-6-4

1.3. Filing Date. -- April 3, 1987.

1.4. Effective Date. -- April 3, 1987

§36-38-2. Definitions

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

§36-38-3. Requirements for Safety-Toed Shoes With Metatarsal Guards

3.1. Within twelve (12) months of the effective date of these regulations, safety-toed shoes equipped with metatarsal guards shall be worn by all persons while in or around a mine.

§36-38-4. Requirements for Approved Eye Protection

4.1. Within six (6) months of the effective date of these regulations, approved eye protection shall be worn by all persons while in or around a mine, and shall be provided by the operator. Suitable eyeglass cleaning materials shall be made available at each mine site.