



STATE OF WEST VIRGINIA

DEPARTMENT OF ENERGY

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M E M O R A N D U M

TO: Bart B. Lay, Jr., Deputy Director

FROM: Rudolph P. Duranti

DATE: March 4, 1987

SUBJECT: Opinion of Administrative Regulation 22-4, Series 3, Section 25.01

In response to your inquiry regarding the certification of a surface mine foreman and the provisions of Administrative Regulations 22-4, Series 3, Section 25.01 in part that at the time of certification each applicant "...shall have had at least three years experience (emphasis supplied) in surface mining, which shall include at least eighteen months experience (emphasis supplied) on or at a working section of a surface mine...".

It is noted that the term experience would not require that the individual actually have worked on the section. If it was the intent of the framers of the regulations to require an individual to have worked for eighteen months at a surface mine working section, they would have substituted work for experience.

The intent here suggests that what was required was somebody who had familiarity with a surface mine working section. One way to obtain this familiarity would be to have worked on the section, however, it is just as reasonable that someone who inspected working sections would have acquired a familiarity with the hazards and problems inherent with the working section.

It is my opinion that a surface mine inspector with 20 years plus experience as a surface mine inspector would have the familiarity of the surface mine working section as contemplated by the regulations and would satisfy the requirements of the regulations with regard to the experience required therein.

RPD/kjs