



STATE OF WEST VIRGINIA
OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
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STEPHEN F. WEBBER
DIRECTOR

M E M O R A N D U M

TO: Coal Mine Operators, U.M.W.A and All Other
Interested Persons

FROM: Stephen F. Webber, Director *Stephen F. Webber*

DATE: July 6, 1992

SUBJECT: Clarification of Traveling/Working Inby Supported
Roof and/or Adequately Supported Roof

The WV Office of Miners' Health, Safety and Training has received several questions and statements of concern, regarding the Director's notice of intent, to more stringently apply enforcement action to individuals who violate the code/regulations, and travel/perform work inby supported roof, and/or adequately supported roof, dated May 13, 1992.

Many have viewed the Director's notification as applying only to hourly workers, or non-supervisor personnel.

Please note, the letter to the Director from the West Virginia Board of Coal Mine Health and Safety and the West Virginia Mine Safety and Technical Review Committee, dated May 7, 1992 (attached to the Directors' May 13, 1992 notice to the industry) in the last paragraph states:

"Specifically and henceforth, the Mine Safety and Technical Review Committee and the Board of Coal Mine Health and Safety hereby urge the Director of the Division of Office of Miners' Health, Safety and Training to invoke the authority placed with him under Administrative Regulation Title 37, Series 2 to temporarily decertify any individual found to be in violation of WV Code 22A-2-25(d)(e)" "... and to petition and file appropriate charges with the State Board of Appeals for further action consistent with WV Code 22-1A-29(B)." (Underscoring Added)

West Virginia Code, Chapter 22, Section(s) 22A-2-25(c), (d) and (e) states as follows:

22A-2-25(c)

The operator of a mine has primary responsibility to prevent injuries and deaths resulting from working under unsupported roof. Every operator shall require that no person may proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

22A-2-25(d)

The immediate supervisor of any area in which unsupported roof is located shall not direct or knowingly permit any person to proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

22A-2-25(e)

No miner shall proceed beyond the last permanent support in violation of a direct or standing order of an operator, a foreman or an assistant foreman, unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miner.

Clearly these provisions place the responsibility of not traveling or working inby supported roof on the operator, and the immediate supervisor, as well as the miner.

Additionally, the last paragraph of the Director's notification letter to the industry, dated May 13, 1992, states:

"I request operators to notify all of your employees, hourly and salary, and to post this notice at conspicuous locations at the mine site." (Underscoring Added)

As clarification, after an investigation if the facts warrant such, corrective action including decertification will be taken by the Director as appropriate, towards the operator, a supervisor, and/or a miner.

SFW:kn