



STATE OF WEST VIRGINIA
BUREAU OF COMMERCE
OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING

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Gaston Caperton
Governor

James B. Lawrence
Commissioner

Stephen F. Webber
Director

MEMORANDUM

TO: All WV Mine Operators, Underground, Surface and
Construction Contractors

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

DATE: May 19, 1995

RE: Fire Protection Exits from Surface Facilities

Recently an operator was cited for not having two (2) separate and distinct exits from a newly constructed load out facility.

The pertinent part of §22A-2-53(c)(3) reads: "...At least two exits shall be provided for every floor of tipples and cleaning plants constructed after the effective date of this section." ... This language became effective in 1986.

The purpose of the referenced language obviously is to insure safe egress from the area of the facility if a fire should occur, by required two (2) exits, a worker could still escape, even if one were blocked by a fire.

The cited operator in this matter challenged the agency's findings in our citation claiming; 1) neither they nor the contractor was aware of the language of §22A-2-53(c)(3); 2) the language is ambiguous and could be read to exclude load out facilities; and 3) even if their challenge was denied, it would be economically unfeasible to go back now and construct a second exit from the facility.

The Director's findings in this matter is, the language of §22A-2-53(c)(3) is titled: "Ramps; tipples; cleaning plants; other surface areas". This language clearly requires "at least two exits", and clearly covers load out facilities as part of the intended "other surface areas". Further, it is the Director's findings, that to require this operation to now construct a second exit, would create an economic hardship for the operation.

Since the overriding concern in this matter would be the safety of the workers, and since the referenced provisions relate to fire protection, MHS&T allowed the operator to seek an interpretation from the West Virginia Fire Marshal's Office, and yields to their findings in this particular problem.

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The decision of the Fire Marshal's Office is that on all levels above the operator's station, a single means of egress is acceptable to that office.

It should be noted that the state fire marshal's decision in this matter was directed at this particular operator's problem only. It is the Director's understanding that any future fire marshal's decisions as to whether two exits will be required or not, will be decided on the merits of each question raised.

Accordingly, any new surface facility where construction begins after May 10, 1995, will be required to have at least two separate and distinct exits from each floor of the facility. All existing facilities and those already under construction will not be required to have two separate exits, if they do not already have them in place or under construction.

Again, I want to be absolutely clear, this interpretation is not intended in lieu of or to supplement any decision of the West Virginia Fire Marshal's Office relating to this matter.

If you have any questions regarding this interpretation, please contact me or Doug Conaway at the Charleston office.

SFW:ks

cc: Robert H. Beatty, Jr.
Doug Conaway
Ron Hams, Board of CMHS
William "Bolts" Willis, Board of MTEC
WV Coal Association
WV Mining and Reclamation Association