



STATE OF WEST VIRGINIA

**DIVISION OF MINE HEALTH, SAFETY AND TRAINING
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES**

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M E M O R A N D U M

STEPHEN F. WEBBER
DIRECTOR

TO: Inspectors-at-Large
FROM: Stephen F. Webber, Director *SFW.*
DATE: November 7, 1991
SUBJECT: Memorandum Clarification

On August 22, 1991 then Director Bart B. Lay, Jr., sent a memorandum to all inspectors-at-large regarding division policy when closing mines or portions thereof and when prior approval was necessary. This memorandum has created some confusion, which dictates the following clarification.

The memorandum dated August 22, 1991 concerning the closure of mines/sections in no way impedes an inspectors' authority and/or duty to issue a closure order in accordance with WV Code 22A-1A-13(a). This code section requires that a closure order be issued when an inspector determines that an "imminent danger" exists at a mine. The term "imminent danger" is defined by 22A-1A-1(6) of the code.

The memorandum of August 22, 1991 was also not intended to impede an inspectors' authority as outlined by 22A-1A-13(b) to issue a closure order when a mine operator has failed to abate a notice of violation within a reasonable time fixed by the inspector.

I regret any confusion or misunderstanding that the memorandum may have caused. However, it will be mandatory for inspectors to notify the inspector-at-large or the director's office as soon as possible after the issuance of any closure order.

The general intent of the August 22, 1991 memorandum was to require prior approval from the inspector-at-large or the director before an inspector issues a closure order resulting from an administrative type violation. Administrative violations specifically pertain to such matters as comprehensive safety programs, production reports, and permit extensions which do not pose a tangible hazard at a mine. In these situations the inspector may not be aware of extenuating circumstances or delays that may be beyond the control of the mine operator. Certainly, the inspector may issue a notice of violation if an administrative type violation is encountered.

SFW:ks
Attachment

cc: Don Crawford, Electrical Inspector