

1 SB475
2 127392-1
3 By Senator Singleton
4 RFD: Business and Labor
5 First Read: 05-MAY-11

SYNOPSIS: This bill revises extensively the state mining laws relating to safety provisions, inspections, and enforcement, to conform state law to federal mining safety laws and to update the language of the state law.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Coal Mine Safety Law of 1975, Articles 1 through 17, Chapter 9, Title 22, Code of Alabama 1975; to extensively amend Chapter 9 to modernize the state law, conform the state law to federal mine safety laws, and to enhance mining safety, inspection, and enforcement provisions; to amend Sections 25-9-7, 25-9-9, 25-9-20, 25-9-22, 25-9-24, 25-9-40, 25-9-60, 25-9-61, 25-9-67, 25-9-80, 25-9-81, 25-9-82, 25-9-83, 25-9-86, 25-9-88, 25-9-131, 25-9-132, 25-9-133, 25-9-210, 25-9-216, 25-9-273, 25-9-276, 25-9-277, 25-9-278, 25-9-279, 25-9-280, 25-9-282, 25-9-360,

1 and 25-9-361, Code of Alabama 1975; to repeal Sections 25-9-87
2 and 25-9-153, Code of Alabama 1975; to add new Sections
3 25-9-31, 25-9-32, and 25-9-217 to the Code of Alabama 1975;
4 and to add a new Article 18, Section 25-9-380 and a new
5 Article 19, Sections 25-9-400 to 25-9-407, inclusive, to the
6 Code of Alabama 1975, relating to independent contractor
7 registering, mine safety technology, and communication and
8 tracking.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 25-9-7, 25-9-9, 25-9-20,
11 25-9-22, 25-9-24, 25-9-40, 25-9-60, 25-9-61, 25-9-67, 25-9-80,
12 25-9-81, 25-9-82, 25-9-83, 25-9-86, 25-9-88, 25-9-131,
13 25-9-132, 25-9-133, 25-9-210, 25-9-216, 25-9-273, 25-9-276,
14 25-9-277, 25-9-278, 25-9-279, 25-9-280, 25-9-282, 25-9-360,
15 and 25-9-361, Code of Alabama 1975, are hereby amended to read
16 as follows:

17 "§25-9-7.

18 "The duties of mine inspectors are to make
19 examinations of mines to see that all the requirements of this
20 chapter are strictly observed and carried out. They shall
21 examine the equipment, works, and machinery connected with
22 said mines; examine into the state of coal mines as to
23 transportation, ventilation, circulation, and conditions of
24 air, electricity, explosives, timbering, drainage, practices,
25 and general security and perform such other duties as are
26 required by the director. At the commencement of any
27 inspection of a coal mine as provided herein, the authorized

1 representative of the miners at the mine at the time of such
2 inspection shall ~~be given an opportunity to~~ accompany the mine
3 inspectors on any such inspection with no loss of pay. The
4 mine inspectors shall make a record of all examinations of
5 coal mines, showing the date when made, the condition in which
6 the coal mines are found, the extent to which the laws
7 relating to coal mines and mining are observed or violated,
8 the progress made in the improvements and security of life and
9 health sought to be secured by the provisions of this chapter,
10 the number of accidents, injuries received, or deaths in or
11 about the coal mines, the number of persons employed in or by
12 each coal mine, together with all such other facts and
13 information of public interest concerning the condition of
14 coal mines, development, and progress of coal mining in this
15 state as they may think useful and proper, and so much thereof
16 as may be of public interest to be included in their reports.
17 A comprehensive report of each inspection of each coal mine
18 shall promptly be made by the chief to the operator,
19 superintendent, and mine foreman of ~~said~~ the coal mine, and
20 ~~said~~ the report shall be posted in a conspicuous place at the
21 mine. This report shall be on a form provided for that purpose
22 and compiled by the ~~said~~ chief. The form may be changed by the
23 chief from time to time, as may seem desirable.

24 "§25-9-9.

25 "There shall be appointed by the Governor a board of
26 examiners, to be known as the Board of Miner Training,
27 Education, and Certification, all of whom shall hold Alabama

1 mine foreman's certificates, consisting of the chief or the
2 head mine inspector, as the director may designate, together
3 with three active practical miners, three operators of coal
4 mines, and one practicing mining engineer. The members of this
5 board shall be appointed by the Governor and shall hold office
6 for three years and until their successors are appointed and
7 qualified, and, as nearly as possible, two members shall be
8 appointed one year and three the succeeding year. No member of
9 the board shall serve more than two consecutive terms of
10 office. The chief or the head mine inspector shall be ex
11 officio ~~chairman~~ chair of the board. The ~~chairman~~ chair shall
12 vote only in the case of a tie vote, and, in the absence of
13 one member of the board, a majority of whom shall act. In the
14 event of the failure to have a quorum, the ~~chairman~~ chair
15 shall have the authority to select a qualified person or
16 persons. There shall be paid to each member of the board,
17 except the ex officio ~~chairman~~ chair, who shall serve without
18 extra pay, ~~\$10.00~~ ten dollars (\$10) per day and pending
19 approval by the chief for such services, the highest
20 prevailing hourly wage rate in the industry. Each board member
21 shall also be entitled to the same per diem and travel
22 allowance as is provided by law for state employees for each
23 day's attendance at meetings of the board. Said board of
24 examiners shall meet every six months at the office of the
25 chief and shall remain in session not longer than eight days,
26 and special meetings may be called by the ~~chairman~~ chair or a
27 majority of the members of ~~said~~ the board. The department

1 shall preserve in its office a record of the meetings and
2 transactions of the board and all certificates issued and
3 revoked.

4 "§25-9-20.

5 "(a) Mines shall be given one complete inspection
6 every ~~45 days~~ quarter, and more often if necessary. Special or
7 partial or complete inspections shall be made when deemed
8 necessary by the chief.

9 "(b) Inspections shall include all working sections
10 and long walls, all set up and pull out of sections and long
11 walls, returns, belts, seals, construction sites, and other
12 areas as deemed by the Chief of the Division of Safety and
13 Inspections of the Department of Industrial Relations.

14 "§25-9-22.

15 "(a) The chief has the authority to administer oaths
16 and to issue subpoenas requiring the attendance of witnesses
17 to testify under oath in any proceeding and to require
18 witnesses to answer all questions propounded to them. The
19 sheriff or constable in the county in which such witnesses may
20 reside or be found shall execute subpoenas issued as above
21 provided, and they shall each receive for their services in
22 executing such subpoenas the same fees as are allowed them
23 respectively for executing subpoenas in other cases. Any
24 witnesses summoned as above mentioned shall be entitled to the
25 same mileage and per diem as is now allowed by law to such
26 witnesses attending trials in the circuit court.

1 "(b) If any witness subpoenaed as above mentioned
2 shall fail to attend without good excuse, in accordance with
3 the subpoena served on him or her, or shall fail to testify
4 when attending, the chief before whom said proceedings are
5 being had shall certify to the failure of any witness to
6 attend and testify to a judge of the circuit court in the
7 county where such proceeding is being held. The judge to whom
8 such certificate is made shall cause such witness to appear
9 before him or her at a time fixed by ~~said~~ the judge to show
10 cause why he or she should not be punished for contempt and
11 shall fine or imprison such witness as such judge may deem
12 proper in case he or she is found guilty of contempt in the
13 premises.

14 "(c) The Division of Safety and Inspection of the
15 Department of Industrial Relations shall have subpoena power
16 to investigate allegations of unsafe working conditions even
17 if no accident or injury has occurred.

18 "§25-9-24.

19 "(a) Unsafe conditions, known to any persons
20 underground, that cannot be corrected by them in the course of
21 their normal duties, shall be promptly reported to the mine
22 foreman or direct supervisor. The supervisor to whom unsafe
23 conditions are reported or who detects them in the course of
24 his or her duties shall be responsible for seeing that they
25 are corrected promptly and that exposure to danger of any
26 person is prevented except as necessary in correcting the
27 condition.

1 "(b) If any miner or any authorized representative
2 of a miner has reason to believe, at any time, that dangerous
3 conditions exist or that the law is not being complied with,
4 the person or persons may anonymously request the Chief of the
5 Division of Safety and Inspection of the Department of
6 Industrial Relations to have an immediate investigation made.
7 Within 30 days of the effective date of this act, the chief
8 shall install a toll free telephone number for such purpose.

9 "\$25-9-40.

10 "(a) Welders and helpers shall use proper shields or
11 goggles to protect their eyes.

12 "(b) Employees engaged in haulage operations and
13 other persons employed around moving equipment on the surface
14 and underground shall wear snug-fitting clothing.

15 "(c) Protective gloves shall be worn when material
16 which may injure the hands is handled, but gloves with
17 gauntleted cuffs shall not be worn around moving equipment.

18 "(d) Men exposed for short periods to gas, dust,
19 fume, and mist inhalation hazards shall wear permissible
20 respiratory equipment. When the exposure is for prolonged
21 periods, other measures to protect workmen or to reduce the
22 hazard shall be taken.

23 "(e) Any person or persons traveling or working in
24 returns, bleeders, old works, seal lines, or any area of the
25 mine that they may encounter low oxygen, shall be required to
26 have and wear an oxygen badge furnished by the employer.

27 "\$25-9-60.

1 ~~"(a) Each mine shall have an adequate supply of~~
2 ~~first aid equipment to be used only in case of injury to~~
3 ~~employees or on the job sickness. These supplies shall be~~
4 ~~located at points on the surface, at the bottom of main shafts~~
5 ~~and main slopes, if over 1,000 feet from the surface, and at~~
6 ~~other suitable locations convenient to each working section.~~
7 ~~One stretcher and one broken-back board (or a splint-stretcher~~
8 ~~combination), 24 triangular bandages (or 15, if a~~
9 ~~splint-stretcher combination is used), eight four-inch bandage~~
10 ~~compresses, 12 one-inch adhesive compresses, an adequate~~
11 ~~approved burn remedy, two cloth blankets, one rubber blanket~~
12 ~~or equivalent substitute, two tourniquets, one one-ounce~~
13 ~~bottle of aromatic spirits of ammonia or one dozen ammonia~~
14 ~~ampules and necessary complements of arm and leg splints or~~
15 ~~two each inflatable plastic arm and leg splints shall be kept~~
16 ~~at each location designated and shall be accessible to the~~
17 ~~miners.~~ Each mine shall have an adequate supply of first aid
18 emergency medical equipment approved by the chief to be used
19 in case of injury to employees or on the job sickness. These
20 supplies shall be located at points on the surface, at the
21 bottom of main shafts and main slopes if over 1,000 feet from
22 the surface, and other suitable locations convenient to each
23 working section. Each shift where coal is being mined or
24 equipment is being installed or removed must have available a
25 sufficient number of selected personnel trained in advanced
26 first aid emergency medical procedures approved by the chief.

1 "(b) No person shall tamper with or remove any first
2 aid supplies other than for use in caring for injured persons
3 and those who become sick while in the mine.

4 "~~(c) When an injury occurs, prompt first aid shall~~
5 ~~be given, and, if immediate medical attention is indicated, a~~
6 ~~doctor shall be notified and the injured person brought to the~~
7 ~~surface without delay other than the time needed for rendering~~
8 ~~first aid. Any person injured sufficiently to deprive him of~~
9 ~~complete control of his faculties or limbs will be adequately~~
10 ~~attended by designated persons until he is brought to the~~
11 ~~surface and turned over to a doctor. When an injury occurs,~~
12 prompt emergency medical care shall be given, and if immediate
13 medical attention is indicated, the Emergency Medical Services
14 System shall be activated and the injured person brought to
15 the surface without delay other than the time needed for
16 rendering first aid. Any person injured sufficiently to
17 deprive him or her of complete control of his or her
18 facilities or limbs will be adequately attended by designated
19 persons trained in advanced emergency medical treatment
20 approved by the chief until arriving at the surface and turned
21 over to an emergency medical services provider.

22 "(d) Each employee shall promptly notify his or her
23 supervisor of all injuries.

24 "(e) An updated first aid materials list approved by
25 the chief shall be posted at or near every mine for employee
26 review. The first aid supplies must be maintained with all
27 updated materials.

1 "(f) After the effective date of the amendatory act
2 adding this subsection, the term "emergency medical service
3 personnel" means any person trained in advanced first aid.

4 "(g) At least one emergency medical service
5 personnel shall be employed at each mine for every 20
6 employees or any part thereof who are engaged at any time in
7 the extraction, production, or preparation of coal.

8 "(h) Emergency medical service personnel shall be
9 employed on each shift at each mine that: (i) Employs more
10 than 10 employees and has more than eight persons present on
11 the shift employed at their regular duties at a central
12 location, or (ii) when more than one emergency medical service
13 personnel is required pursuant to subsection (g) to be present
14 at locations convenient for a quick response within 10 minutes
15 to emergencies.

16 "(i) A training course designed specifically for
17 certification of emergency medical technicians (EMTs) shall be
18 developed at the earliest practicable time as approved by the
19 State Health Officer. The training course for initial
20 certification shall not be less than 60 hours, which shall
21 include, but is not limited to, mast trouser application,
22 basic life support skills, and emergency room observation or
23 other equivalent practical exposure to emergencies as
24 prescribed by the State Health Officer. If an operator chooses
25 to use EMTs, the EMTs shall be licensed by the state.

26 "(j) Due to the inherent dangers of mining,
27 emergency medical service personnel shall be working miners.

1 "(k) (1) Each coal mine operator shall provide every
2 new employee within six months of the date of employment with
3 the opportunity for first aid training unless such employee
4 has previously received such training.

5 "(2) Each coal mine employee shall be required to
6 take refresher first aid training of not less than eight hours
7 within each 12 months of employment. The employee shall be
8 paid regular wages, or overtime pay if applicable, for all
9 periods of first aid training.

10 "\$25-9-61.

11 "(a) Each operator shall report promptly to the
12 chief of the division the occurrence at any mine of any fatal
13 accident or accident involving serious personal injury to any
14 person or persons, whether employed or not. The scene of the
15 accident shall not be disturbed pending an investigation
16 except to prevent suspension of use of a slope, entry, or
17 facility vital to the operation of a section of a mine. In
18 cases where reasonable doubt exists as to whether to leave the
19 scene unchanged, the operator shall secure prior approval from
20 the chief before any changes are made.

21 "(b) The chief shall go personally or dispatch one
22 or more mine inspectors to the scene of the accident or
23 accidents, investigate causes, and issue such orders as may be
24 needed to insure safety of other persons.

25 "(c) Representatives of the operator shall render
26 such assistance as may be needed and shall act in a consulting
27 capacity at the investigation. An employee designated by the

1 employees of the mine shall be notified and as many as three
2 employees designated as representatives of the employees may
3 be present at the investigation in a consulting capacity.

4 "(d) The division shall render a complete report of
5 circumstances and causes of each accident investigated and
6 shall make recommendations for prevention of similar
7 accidents. The division shall furnish one copy of the report
8 to the operator and one copy to the employee representative
9 when he or she has been present at the investigation. The
10 chief of the division shall maintain a complete file of all
11 accident reports and may give such further publicity as
12 ordered by the director in an effort to prevent coal mine
13 accidents.

14 "(e) The state must provide a full-time family
15 liaison who is trained in mining and grief counseling to work
16 with family members of injured or dead miners during an
17 accident investigation. A family liaison may also be a state
18 mining inspector.

19 "§25-9-67.

20 "Members of ~~said~~ the crews shall have one year
21 underground experience, ~~be less than 50 years of age~~ and pass
22 a physical examination by a licensed physician annually. A
23 record that such examination was taken shall be kept on file
24 by the operator who employs the crew members and a copy shall
25 be furnished to the chief.

26 "§25-9-80.

1 "(a) All main fans shall be installed on the
2 surface, in fireproof housings, the fan situated not less than
3 30 feet from its air shaft or air course and on one side of
4 the line of such opening so that the fan will not be in direct
5 line of the force of a blast or explosion. The air duct
6 connecting the fan with the mine opening shall be fireproof
7 and provided with self-closing explosion doors.

8 "(b) In mines ventilated with multiple fans, each
9 main fan shall be equipped with fireproof doors automatically
10 closing in the event of a fan failure to prevent air reversal
11 through the fan.

12 "(c) Every main fan installed after August 12, 1949,
13 ventilating a mine classed as gassy, must have an auxiliary
14 drive mechanism that will operate the fan at not less than 80
15 percent of its regular volume. Dual fan installations,
16 independently powered so that one is operative at 80 percent
17 of regular volume during electrical failures, meet this
18 requirement.

19 "(d) All main fans are required to be provided with
20 a pressure-recording gauge, or water gauge, and, unless
21 attended constantly, an automatic device to give alarm when
22 the fan slows down or stops. This device shall be placed so
23 that its alarm will be seen or heard by a responsible person.

24 "(e) Each main fan ventilating all or part of a mine
25 shall be on a separate power circuit, independent of the
26 underground circuit.

1 "(f) Main fan installations shall be protected from
2 wood fire, grass fire, and rubbish fire for at least 100 feet
3 in all directions from the fan installations, where physical
4 conditions permit.

5 "(g) The main fan shall be inspected daily and a
6 record kept of the inspection. This inspection may be made by
7 any competent person so designated.

8 "(h) In mines, when the main fan fails or stops,
9 immediate action shall be taken to cut off power from the mine
10 or the area of the mine ventilated by that main fan, and the
11 ~~men~~ miners shall be withdrawn from the face regions. If
12 ventilation is restored ~~in a reasonable time~~ within 15
13 minutes, the face regions and other places where methane is
14 likely to accumulate shall be reexamined by certified persons,
15 and, if found to be free from explosive gas, power may be
16 restored and work resumed. If the interruption continues for
17 an indefinite or extended period, all underground employees
18 shall be required to leave the mine or the part of the mine
19 ventilated by the main fan that is out of operation. Mines
20 ventilated by more than one main fan shall be considered as
21 having only one fan in the application of this section unless
22 all returns to the fans are entirely separated and escapeways
23 to the surface are available from the areas ventilated by
24 other fans without necessity for any person passing through
25 any area not properly ventilated.

26 "(i) Main fans ventilating mines shall be operated
27 continuously, except when the mine is shut down with all power

1 underground cut off and with all ~~men~~ miners out of the mine.
2 When the fan is started again, the mine shall be examined for
3 gas and other hazards by certified persons and declared safe
4 before underground power may be restored and ~~men~~ persons other
5 than the examiners permitted to enter the mine.

6 "§25-9-81.

7 "(a) Methane detectors used for examining in coal
8 mines shall be permissible. When not in use, they shall be in
9 the care of certified officials or other competent designated
10 persons, who shall examine, clean, and deliver them in a safe
11 condition to their users before they enter the mine.

12 "(b) Permissible methane detectors shall be
13 entrusted for use only to certified persons or to approved
14 competent persons who have been accredited as users of methane
15 detectors.

16 "(c) An individual knowing his or her methane
17 detector to be injured or defective shall immediately report
18 its condition to his or her supervisor, mine foreman or to the
19 designated attendant.

20 "(d) (1) Multi-gas detectors must be provided to all
21 outby belt workers and to any group of two or more miners
22 working in close proximity, including, but not limited to,
23 twin headed roof bolting machines; in addition, the mine
24 operator must provide one additional detector for the use of
25 any miner on the working sections.

26 "(2) Any person who willfully or intentionally
27 disables or turns off a gas detector because of excessive

1 readings or alarms, shall be deemed guilty of a felony and
2 upon conviction thereof shall be imprisoned in a state
3 correctional facility for not less than one year and one day
4 nor more than 10 years or fined not less than ten thousand
5 dollars (\$10,000) nor more than one hundred thousand dollars
6 (\$100,000), or both.

7 "§25-9-82.

8 "(a) Air in which ~~men~~ miners work or travel must
9 promptly be improved if it contains less than 19.5 percent
10 oxygen, more than one percent carbon dioxide, or is
11 contaminated with noxious or poisonous gases.

12 "(b) If the air immediately returning from a split
13 that ventilates any active workings contains more than one
14 percent methane or more, the ventilation shall be improved,
15 and, if it contains 1.5 percent or more of methane, the power
16 shall be cut off from the portion of the mine affected, and
17 the employees shall be required to withdraw until ventilation
18 is improved.

19 "~~(c) Face work must be stopped, power to face~~
20 ~~equipment cut off, and the employees ordered and required to~~
21 ~~withdraw until ventilation is improved, whenever one percent~~
22 ~~or more of methane can be detected on an approved type methane~~
23 ~~detector or whenever gas can be detected on a permissible~~
24 ~~flame safety lamp at any point not less than 12 inches from~~
25 ~~the roof, face, or rib. This does not apply to other faces in~~
26 ~~the entry or slope in which work can be safely continued. (1)~~
27 Before equipment is energized, taken in by the last open

1 crosscut, or operated in a working place, an adequate test for
2 methane shall be made and at 20-minute intervals thereafter or
3 more often if necessary to ensure that methane levels are less
4 than one percent. Methane testing shall be made at a point 12
5 inches from the face, roof, and rib.

6 "(2) Face work must be stopped, power to face
7 equipment must be cut off, and the employees must be ordered
8 and required to withdraw until ventilation is improved,
9 whenever one percent or more methane can be detected on an
10 approved type methane detector at a point 12 inches from the
11 roof, face, and rib. This subdivision (2) does not apply to
12 other faces in the entry or slope in which work can be safely
13 continued.

14 "(d) When entries or faces are stopped on account of
15 gas for ventilation to be improved, only employees designated
16 to work on improving the ventilation under competent direction
17 may be permitted in the affected area. Power shall not be
18 restored until ventilation is improved.

19 "§25-9-83.

20 "Sufficient air must be circulated and conducted
21 through all entries, slopes, travelways, working places, air
22 courses, and open abandoned areas to dilute, render harmless,
23 and carry off noxious and explosive gases emitted in the mine,
24 including smoke from blasting, and shall be not less than 150
25 cubic feet per man per minute. ~~If mules or horses are used in~~
26 ~~a mine, 500 cubic feet per animal per minute must be provided~~
27 ~~in addition to the minimum volume specified for men.~~

1 "§25-9-86.

2 "(a) Operators of mines are required to employ one
3 or more certified fire bosses and to have a preshift
4 examination made. The duties of the fire boss are to examine
5 for dangerous conditions all manways, slopes, and entries used
6 by men in traveling to and from work and to examine for gas
7 and other dangerous conditions all working places, adjoining
8 abandoned places, and accessible pillar falls for accumulation
9 of gas. The fire boss will ascertain that the air is traveling
10 in its proper course and that all ventilation appliances are
11 in good condition and working effectively. The fire boss will
12 indicate his examination of working and abandoned places,
13 pillar falls, and ventilating appliances by marking his
14 initial and the date conspicuously in or on such places. Any
15 person or persons traveling or working in returns, bleeders,
16 old works, seal lines, or any area of the mine that they may
17 encounter low oxygen, shall be required to have and wear an
18 oxygen badge furnished by the employer.

19 "(b) Whenever gas is detected or danger exists to
20 men entering any place, the fire boss shall leave at each
21 entrance to the place a conspicuous DANGER sign.

22 "(c) Examination of the first working place in mines
23 shall take place not more than three hours before the men are
24 permitted to enter the mine or to pass a designated station
25 underground.

26 "(d) The fire boss shall meet the oncoming shift at
27 the point or station designated and inform each man as to the

1 condition of his working place or the place in which his
2 machine is parked. Each face boss and direct supervisor shall
3 be informed by the fire boss as to the condition of all places
4 under his direction or control. When man trip schedules or
5 other compelling factors make it impractical for the fire boss
6 to check each man, the fire boss will furnish to responsible
7 supervisors written signed reports of his inspection and these
8 supervisors will be responsible for informing each man as to
9 the condition of his working place.

10 "(e) In multiple shift operations, certified
11 supervisors may be used to make the fire boss examination for
12 the next or succeeding shift. Responsible supervisors of the
13 next or succeeding shift may be used to inform each man as to
14 the condition of his working place and may be held
15 responsible, provided the certified supervisors who made the
16 examination furnish a written, signed report as to condition
17 of each working place.

18 "(f) The fire boss shall record the results of his
19 inspection in ink or indelible pencil in a book kept on the
20 surface for that purpose. Similar records may be kept at
21 designated stations or offices underground. This book shall be
22 countersigned daily by the mine foreman. The mine
23 superintendent or his assistant shall also read and
24 countersign the reports.

25 "(g) Idle and abandoned parts of any mine shall be
26 examined by a certified person immediately before employees
27 are permitted to enter or work in such areas.

1 "(h) Examination for gas and other dangerous
2 conditions shall be made by a certified official or approved
3 competent person before taking loading or cutting machines in
4 by the open breakthrough nearest the face or before applying
5 power to machinery that remains at or near the face at not
6 more than 20-minute intervals during cutting, drilling, or
7 mechanical loading, before drilling with electric drills,
8 before blasting, after blasting, and before other work is
9 resumed and at such other times as may be necessary or
10 designated by the operator or mine inspector for adequate
11 safety.

12 "(i) All persons underground shall use only
13 permissible electric cap lamps for portable illumination that
14 is worn on the person. This does not preclude the use of other
15 types of permissible electric lamps, permissible flashlights,
16 permissible safety lamps, or any other portable illumination
17 classed as permissible.

18 "(j) Open cap lights and smoking and smokers'
19 articles, including matches, are prohibited in underground
20 mines.

21 "§25-9-88.

22 "(a) The operator of each coal mine shall send to
23 the division a report monthly, or more often if necessary,
24 showing the amount of ventilation and methane content at the
25 inlet and outlet, the amount of ventilation and the methane
26 content of return air at or near the last crosscut in each
27 working entry, the number of splits and the number of ~~men and~~

1 ~~animals~~ miners on each split and the places gas ~~has~~ have been
2 detected in old workings. The report shall include a record of
3 the pressure gauge readings at the fan.

4 "(b) A prompt report, by the quickest available
5 means, must be made by the operator to the division upon
6 detection of any dangerous accumulation of methane in any coal
7 mine, whether accompanied by explosion or not. This report
8 shall state precautions taken to safeguard employees and
9 action taken or planned to remove the dangerous accumulation.
10 The division shall issue such supplementary orders as may be
11 indicated and dispatch one or more inspectors promptly to the
12 mine if the circumstances warrant.

13 "(c) A report shall be made by the operator to the
14 division prior to opening any new or reopening any abandoned
15 coal mine or abandoning any coal mine.

16 "(d) A report shall be made by the operator to the
17 division when the workings of any coal mine are approaching an
18 abandoned coal mine, shaft, or other underground passages that
19 are known to contain or may contain dangerous accumulations of
20 water or gas.

21 "(e) A report shall be made by the operator to the
22 division upon the accidental closing or prior to the intended
23 abandonment or closing of any passageway to an escapement
24 outlet.

25 "(f) A report shall be made by the operator to the
26 division before breaking through any opening into a coal mine

1 whether from or to the surface or through other mine shafts or
2 other passages.

3 "§25-9-131.

4 "(a) Separate surface magazines shall be provided
5 for the storage of explosives and detonators and shall be kept
6 in good repair.

7 "(b) Magazines shall be constructed of or covered
8 with fire and weather resistant material, shall be reasonably
9 bullet proof and shall have no metal or sparking material
10 exposed inside the magazine. When a magazine is used for more
11 than one type of explosive, each type shall be stored
12 separately.

13 "(c) The only openings shall be doors for entrance,
14 which shall be securely locked when unattended, and properly
15 screened vents.

16 "(d) If artificial light is needed, only an electric
17 flashlight, electric lantern, or electric cap lamp shall be
18 used. Smoking, carrying of smokers' articles, or open flame
19 are prohibited in or within 25 feet of any magazine.
20 Combustible materials, including rubbish and dry grass, shall
21 be kept clear of any magazine for a distance of 25 feet in all
22 directions.

23 "(e) Other material shall not be stored with
24 explosives or detonators and metallic tools shall not be used
25 for opening containers of explosives.

26 "(f) Distributing magazines, constructed of two inch
27 hardwood, or metal lined with nonsparking material or an

1 equivalent may be used for storage or distribution of not more
2 than 125 pounds of explosives or 5,000 detonators. No magazine
3 shall be placed in a building containing any highly flammable
4 material or waste and shall be at least 20 feet from a stove,
5 furnace, open fire, or flame.

6 "(g) All magazines shall be not less than 200 feet
7 from any mine opening, unless effectively barricaded, and
8 suitable danger signs shall be placed near all magazines.

9 "(h) All provisions in this section shall comply
10 with federal regulations prescribed by the Bureau of Alcohol,
11 Tobacco, and Firearms administered by the U.S. Department of
12 Justice and U.S. Department of the Treasury.

13 "§25-9-132.

14 "(a) Individual containers used to carry permissible
15 explosives or detonators shall be constructed of substantial,
16 nonconductive material, kept closed and maintained in good
17 condition.

18 "(b) When explosives or detonators are transported
19 underground by locomotive, rope, or shuttle car they shall be
20 in covered cars or in special containers.

21 "(1) The bodies and covers of special cars and
22 containers shall be constructed of nonconductive material.

23 "(2) If explosives and detonators are hauled in the
24 same explosives car or in the same special containers, they
25 shall be separated by at least a four-inch substantially
26 fastened hardwood partition or the equivalent.

1 "(3) Where quantities of explosives and detonators
2 are transported in special cars or in special containers in
3 cars, they shall be hauled on a special trip not connected to
4 any other trip, and shall not be hauled into or out of a mine
5 within five minutes preceding or following a man-trip or any
6 other trip.

7 "(4) Explosives or detonators shall not be
8 transported on the same trip with ~~workmen~~ workers other than
9 those required in the transportation of the explosives or
10 detonators.

11 "(c) Explosives and detonators shall be transported
12 underground by belt only under the following conditions:

13 "(1) In the original and unopened case, in special
14 closed cases constructed of nonconductive material or in
15 suitable individual containers.

16 "(2) Clearance requirements shall be the same as
17 those for transporting ~~men~~ miners on belts.

18 "(3) Suitable loading and unloading stations shall
19 be provided.

20 "(4) There shall be an attendant at loading and
21 unloading points and stop controls at these points.

22 "(d) Explosives or detonators shall not be
23 transported on flight or shaker conveyors or by scraper or
24 mechanical loading machines.

25 "(e) All provisions in this section shall comply
26 with federal regulations prescribed by the Bureau of Alcohol,

1 Tobacco, and Firearms administered by the U.S. Department of
2 Justice and U.S. Department of the Treasury.

3 "§25-9-133.

4 "(a) Underground section boxes or magazines shall be
5 constructed of substantial nonsparking material and shall be
6 placed in a crosscut or idle room neck at least 25 feet from
7 roadways, trolley wires, or power lines, at least 75 feet from
8 any working face and in a reasonably dry and well rock dusted
9 place, free of oil, grease, or other debris.

10 "(b) Explosives and detonators shall be stored
11 separately and at least five feet apart. Not more than a
12 48-hour supply of explosives and detonators, including any
13 surplus remaining from the previous day, shall be stored
14 underground in section boxes or magazines. This maximum
15 48-hour supply will include supplies in individual or face
16 boxes where used.

17 "(c) A one day's supply of explosives and detonators
18 may be kept in individual or face boxes. Those boxes shall be
19 wooden with hinged lids and shall be kept not less than 15
20 feet from roadways, trolley wires, or power lines; provided,
21 that 15 feet may be reduced to five feet when the boxes are
22 kept in a niche in the rib at least 75 feet from any working
23 face and in a location out of line of blast where they will
24 not likely be subjected to shock. Separate boxes, kept at
25 least five feet apart, shall be used for explosives and
26 detonators.

1 "(d) Explosives and detonators shall be kept in
2 their containers until removed for use at the working faces.

3 "(e) Care shall be exercised to use the oldest
4 explosives from storage before new supplies are used so that
5 explosives will not remain in underground storage long enough
6 to deteriorate.

7 "(f) All provisions in this section shall comply
8 with federal regulations prescribed by the Bureau of Alcohol,
9 Tobacco, and Firearms administered by the U.S. Department of
10 Justice and U.S. Department of the Treasury.

11 "§25-9-210.

12 "(a) Only competent engineers shall be placed in
13 charge of or permitted to operate any engine used for
14 conveying into and hoisting out of any coal mine. When ~~men~~
15 miners are being lowered or hoisted, an additional engineer
16 competent to act in emergencies shall be present at the hoist
17 controls. At all times when ~~men~~ miners are in the mine, a
18 competent hoist engineer shall be available to receive notice
19 or signals requiring his or her presence at the hoist engine
20 controls. ~~No engineer shall be required for automatically~~
21 ~~operated cages, elevators, or platforms.~~

22 "(1) Only authorized persons shall enter the hoist
23 engine room and no person shall interfere with or intimidate
24 the hoist engineer in the discharge of his or her duties. No
25 person shall speak to the hoist engineer while the engine is
26 in motion, except to give signals to him or her. This

1 subdivision shall be posted on the door of each hoist engine
2 house.

3 "(2) Assigned and relief hoist engineers shall be
4 given and required to take annual physical examinations to
5 ascertain that no disability or infirmity has arisen that
6 might expose others to hazards. No hoist engineer shall be
7 removed as a result of a physical examination unless it is
8 recommended by the examining doctor and it is established that
9 his or her physical condition renders continued employment as
10 hoist engineer potentially hazardous to lives and/or property.

11 "(b) There shall be a dependable method of
12 signaling, audible to the hoist engineer, from all landings in
13 shafts and slopes. Signal codes, approved by the division,
14 shall be used and posted prominently in the engine house and
15 at all places where signals are given.

16 "(c) Cages used for lowering and hoisting ~~men~~ miners
17 shall have the following safety features:

18 "(1) Approved safety catches, which shall at all
19 times be kept in good working condition.

20 "(2) Suitable covers of sheet iron or equivalent
21 covers, at least one fourth of an inch thick, or its
22 equivalent, and hinged to open upward.

23 "(3) Bars or rings in sufficient numbers and so
24 located that every person permitted on the cage will have a
25 secure handhold.

26 "(4) Bridle chains attached to the main hoisting
27 rope above the socket, from the top crosspiece of the carriage

1 or cage, so that no single chain may be used for lowering or
2 hoisting persons.

3 "(5) Automatic self-detaching hooks, unless the
4 hoisting engine be equipped with automatic stopping device,
5 effective to prevent overwinding.

6 "(6) Secure floor or platform that will not tip or
7 dump or effective locking device to prevent tipping or
8 dumping, kept locked whenever ~~men~~ persons or supplies are
9 being lowered or hoisted.

10 "(7) Floor adequate to carry the load and
11 constructed so that it will be impossible for a person's foot
12 or body to enter any opening in the floor.

13 "(8) Enclosed sides and gates, safety chains or bars
14 across the ends of the cage.

15 "(9) Daily inspection and a written record kept. A
16 test of safety catches and of rope attachments shall be made
17 on each inspection by the division in a manner approved by the
18 chief, and results shall be noted in the report of inspection.

19 "(d) Hoist engines shall have the following safety
20 features:

21 "(1) Adequate brakes capable of stopping and holding
22 the fully loaded unbalanced cage or trip at any point in the
23 shaft, slope, or on the incline.

24 "(2) An accurate and reliable indicator showing the
25 position of the cage or trip shall be placed in clear view of
26 the engineer.

1 "(3) When ~~men~~ persons are being lowered or hoisted,
2 the maximum speed shall not exceed 900 feet per minute.

3 "(4) One round trip shall be made not more than
4 one-half hour before hoisting or lowering ~~men~~ persons. Chainer
5 may ride this check trip in slope hoisting.

6 "(5) Inspected daily by a designated competent
7 person and a record made of inspections.

8 "(e) Hoist ropes shall have the following safety
9 features:

10 "(1) Adequate size to handle the load and a proper
11 factor of safety as defined in the American Standards
12 Association wire rope standards, and shall be replaced when
13 use becomes dangerous as determined by inspection.

14 "(2) The rope shall have at least three full turns
15 on the drum when extended to its maximum working length and
16 shall make at least one full turn on the drum shaft or around
17 the spoke of the drum (in case of a free drum) and be fastened
18 securely by means of clamps or other means approved by the
19 chief of the division.

20 "(3) The hoisting rope shall be fastened to its load
21 by a zinc-filled socket, thimbles, and clamps or other means
22 approved by the chief of the division.

23 "(4) Ropes shall be examined daily by a competent
24 person and replaced when necessary. A record shall be made of
25 all inspections showing condition of ropes and fastenings.
26 Hoist ropes in shafts shall be kept well lubricated.

27 "(f) Hoist shafts shall have the following features:

1 "(1) All landings shall be kept clear and free from
2 loose materials, and shall be securely fenced with automatic
3 or other gates to prevent ~~men~~ persons or materials from
4 falling into the shaft.

5 "(2) At the bottom of each hoisting shaft and at all
6 intermediate landings, a "run-around" shall be provided for
7 safe passage from one side of the shaft to the other so that
8 ~~men or animals~~ persons are not required to pass under or
9 across the cage. This passageway shall not be less than five
10 feet in height and three feet in width.

11 "(3) Positive stop blocks or derails shall be placed
12 near all shaft landings.

13 "(4) An attendant shall be on duty at the surface
14 when ~~men~~ persons are being hoisted or lowered at the beginning
15 and end of each operating shift and when ~~men~~ persons are
16 working in the shaft. ~~Where automatic elevators or cages are~~
17 ~~used, no attendants shall be required at the elevator or cage~~
18 ~~stations.~~

19 "(5) Persons engaged in deepening a shaft in which
20 hoisting from an upper level is going on shall be protected
21 from the danger of falling material by a suitable covering
22 extending over the whole area of the shaft, sufficient
23 openings being left in the covering for the passage of ~~men~~
24 persons or a bucket or other conveyance used in the sinking
25 operations. No hoisting shall be done in any compartment of a
26 shaft while repairs are being made in that compartment, except
27 such hoisting as is necessary in order to make such repairs.

1 "(g) No person shall ride upon a cage, elevator,
2 skip, or bucket that is loaded with tools, timber, powder,
3 coal rock, or other material except as follows:

4 "(1) When tools and supplies are required for
5 repairs to the shaft, or when a rider is required to assist in
6 passing materials through a shaft or incline. In those cases a
7 special signal must be used and extra care exercised by the
8 hoist engineer.

9 "(2) When hand tools or small amounts of supplies
10 are carried by ~~workmen~~ workers in one hand, leaving the other
11 free to hold onto the bar or ring provided.

12 "(h) When tools, timber, or other materials are
13 loaded so that their ends project above, they shall be
14 securely fastened to the hoisting rope or to the upper part of
15 the cage, skip, or bucket.

16 "(i) No coal or rock shall be hoisted in any shaft
17 while ~~men~~ persons are being lowered.

18 "(j) No person shall ride on a cage containing a
19 loaded car or on a single deck cage with an empty car.

20 "(k) When a bucket is used for hoisting, safety
21 hooks must be used and adequate means must be employed to
22 control the bucket against spinning or excessive swinging.

23 "~~(l) No driver or other person shall be permitted to~~
24 ~~descend or ascend a shaft with any horse or mule, unless the~~
25 ~~said horse or mule is secured in a suitable box or safely~~
26 ~~penned, and only the driver in charge of said horse or mule~~

1 ~~and such assistants as he may need shall accompany it in any~~
2 ~~case.~~

3 "~~(m)~~ (l) ~~Workmen~~ Workers repairing shafts or tipples
4 shall use safety belts when they are exposed to hazards of
5 falls.

6 "§25-9-216.

7 "(a) Man-trips shall be operated at safe speeds
8 consistent with the condition of roads and type of equipment
9 used, but not to exceed 12 miles an hour in mine cars or 15
10 miles an hour when special, substantially covered man-trip
11 cars are used.

12 "(b) Each man-trip shall be under the charge of a
13 responsible person and it shall be operated independently of
14 any loaded trip of coal or other material.

15 "(c) Cars on the man-trip shall not be overloaded
16 and sufficient cars in good mechanical condition shall be
17 provided.

18 "(d) No person shall ride under the trolley wire
19 unless suitably covered man-cars are used.

20 "(e) No material or tools shall be transported in
21 the same mine car with ~~men~~ persons and all persons shall ride
22 inside of man-trip cars, except the motorman and brakeman or
23 person in charge of the man-trip. Where compartmented ~~man~~
24 person-cars are used, tools or supplies, other than
25 explosives, secured so that they cannot cause injury to ~~men~~
26 persons in other compartments, may be transported in a
27 compartment designated for that purpose.

1 "(f) ~~Men~~ Persons shall not load or unload before the
2 cars in which they are to ride or are riding come to a full
3 stop and ~~men~~ persons shall proceed in an orderly manner to and
4 from ~~man~~ person-trips.

5 "(g) A waiting station shall be provided where ~~men~~
6 persons are required to wait for ~~man~~ person-trips or ~~man~~
7 person-cages. At places where ~~men~~ persons enter or leave ~~man~~
8 person-trip conveyances, ample clearance shall be provided and
9 provisions made to prevent persons from coming into contact
10 with energized electric circuits. Adequate seating facilities
11 shall be provided.

12 "(h) Where hoists are used for handling ~~men~~ persons
13 in underground slopes, in pitching beds or on slopes between
14 two or more beds, the provision as to ~~mantrips~~ person-trips
15 applies and special care shall be exercised to insure that
16 cars do not break loose while being hoisted or lowered.

17 "(i) Where belts are used for transporting ~~men~~
18 persons, a minimum clearance of 18 inches shall be maintained
19 between the belt and the roof or crossbars, projecting
20 equipment, cap pieces, overhead cables, wiring, and other
21 objects, but where the height of the coal bed permits, the
22 clearance shall not be less than 24 inches.

23 "(j) The belt speed shall not exceed 300 feet a
24 minute when vertical clearance is less than 24 inches and
25 shall not exceed 350 feet a minute where clearance is more
26 than 24 inches while ~~men~~ persons are being transported. Belt

1 conveyors shall be stopped while ~~men~~ persons are loading or
2 unloading.

3 "(k) The space between ~~men~~ persons riding on a belt
4 line shall be not less than five feet.

5 "(l) Loading and unloading stations shall be
6 illuminated properly.

7 "(m) An official or some other person designated by
8 the mine foreman shall supervise the man-trip loading and
9 unloading of belts.

10 "(n) Transportation shall be provided at all times
11 within 1,000 feet of each working section or any section or
12 area where persons are assigned to work with the seating
13 capacity sufficient to transport all persons out of the mine
14 safely.

15 "§25-9-273.

16 "(a) Inspection. Prior to each shift, an inspection
17 shall be conducted for hazardous conditions at surface mines
18 and the inspection results shall be made in writing. Shovels
19 and draglines shall be inspected at the beginning of each
20 shift, and such inspection shall include all mechanical
21 equipment. Electrical equipment shall be regularly inspected
22 by a qualified person.

23 "(b) Maintenance. Where mechanical shovels and
24 draglines are used at night, all lights shall be inspected
25 before darkness, defective globes replaced, and defective
26 wiring repaired.

1 "(c) Oiling. Mechanical equipment on shovels and
2 draglines shall not be cleaned or oiled while in motion,
3 except where so designed or modified as to make lubrication
4 while in motion safe.

5 "(d) Steps, etc. All steps, handrails, grab irons,
6 and floors shall be kept free from grease and extraneous
7 material.

8 "(e) Unauthorized person. No unauthorized person
9 shall be allowed on any power shovel or dragline.

10 "(f) Passage of persons. No person shall pass under
11 the boom or bucket of a shovel or dragline while in operation.

12 "(g) Warning. The operator of a shovel or dragline
13 shall sound a warning prior to placing the machine in
14 operation.

15 "(h) Pre-shift Examinations. Pre-shift examinations
16 shall be made for hazardous conditions at surface mines.

17 "(1) Required pre-shift examinations for hazardous
18 conditions at surface mines must be recorded in writing.

19 "(2) Pre-operational checks, recorded in writing,
20 shall be required for all surface mines.

21 "§25-9-276.

22 "(a) (1) "Blasting agent," as used in this article,
23 means any material consisting of a mixture of fuel and
24 oxidizer which:

25 "a. Is used or intended for use in blasting;

26 "b. Is not classed as an explosive by the State
27 Department of Transportation;

1 "c. Contains no ingredients classed as an explosive
2 by the State Department of Transportation; and

3 "d. Cannot be detonated by a No. 8 blasting cap when
4 tested as recommended in Bureau of Mines information circular
5 8179.

6 "(2) The term "explosives," as used in this article,
7 includes blasting agents, unless blasting agents are expressly
8 excluded.

9 "(b) Main explosive storage magazines shall be
10 located outside of the pit and shall comply with Section
11 25-9-131. Blasting agents shall be stored in the manner
12 prescribed by Part 181, Title 26, Code of Federal Regulations,
13 U.S. Department of the Treasury, and administered by the
14 Internal Revenue Service.

15 "(c) Explosives, excluding blasting agents,
16 transported in motor trucks or other conveyances shall be
17 transported in their original containers, and the motor
18 trucks, vehicles, and other conveyances shall be so
19 constructed that the explosives will be protected against
20 shock and friction and the containers against contact with any
21 exposed metal. Motor trucks, vehicles, or conveyances
22 transporting explosives shall be plainly marked or placarded
23 on both sides and the rear with the words "Explosives -
24 Dangerous" in letters not less than three inches high.

25 "(d) Motor trucks, vehicles, or other conveyances
26 transporting explosives shall ~~he~~ be handled in a safe and
27 careful manner, and no person while smoking or under the

1 influence of intoxicating liquor shall ride upon, drive, load,
2 or unload a vehicle carrying explosives.

3 "(e) No person other than those authorized to
4 transport, load, or unload motor trucks, vehicles, or other
5 conveyances carrying explosives shall ride with any load of
6 explosives.

7 "(f) No tools, other than for truck repairs,
8 detonators, matches, or other flame producing materials shall
9 be carried in any motor truck, vehicle, or other conveyance
10 transporting explosives unless adequately protected against
11 sparking.

12 "(g) Explosives, excluding blasting agents, shall
13 not be transported in any form of trailer nor shall any
14 trailer be attached to a motor truck, vehicle, or other
15 conveyance hauling explosives.

16 "(h) All detonators shall be transported into the
17 pit in the original containers or in suitable containers
18 provided for the express purpose of transporting detonators or
19 electric detonators.

20 "(i) Persons engaged in transporting explosives,
21 charging drill holes, or handling explosives for any purpose
22 shall not be permitted to smoke or to use or carry any open
23 flame.

24 "(j) Where explosives are transported by hand, the
25 explosives shall be carried in the original or a suitable
26 container and capped fuse or electric detonators shall be
27 carried separately in a separate container.

1 "(k) All provisions in this section shall comply
2 with federal regulations prescribed by the Bureau of Alcohol,
3 Tobacco, and Firearms administered by the U.S. Department of
4 Justice and U.S. Department of the Treasury.

5 "§25-9-277.

6 "(a) Only designated persons shall cut, cap, and
7 issue ~~capped fuses and explosives.~~

8 "~~(b) When cutting fuse, it shall be cut square~~
9 ~~across with a sharp clean instrument and the cap crimper used~~
10 ~~shall be of a type recommended by explosive manufacturers. A~~
11 ~~bench type crimper is recommended.~~

12 "~~(c)~~ (b) No explosives container shall be opened
13 with any metallic instrument.

14 "~~(d)~~ (c) No person shall remove any explosives from
15 a pit magazine without permission of the pit superintendent,
16 foreman, or a person designated by the operator.

17 "~~(e) Capped fuse or electric~~ (d) Electric detonators
18 shall not be stored within 50 feet of other explosives, power
19 lines, cables, or other electrical conductors.

20 "~~(f)~~ (e) Oils or other combustible substances shall
21 not be stored within 50 feet of any explosives.

22 "~~(g)~~ (f) Detonators shall not be removed from
23 containers except ~~as they are used for capping fuses or,~~ in
24 the case of electric detonators, as they are used in preparing
25 primers, except when placed in other containers as recommended
26 by manufacturers.

1 ~~"(h) Fuse shall not be cut and capped nearer than 50~~
2 ~~feet to any explosives magazine.~~

3 ~~"(i) (g) Paper, sawdust, wooden boxes, or cartons~~
4 ~~shall be placed at a safe distance from any magazine, and each~~
5 ~~day's accumulation shall be removed at the end of the shift.~~

6 ~~"(j) Fuse shall be cut long enough to extend beyond~~
7 ~~the collar of a loaded drill hole, and in no case shall it be~~
8 ~~less than four feet in length.~~

9 ~~"(k) (h) Small supplies of explosives or detonators~~
10 ~~stored in a pit shall be stored in magazines constructed in~~
11 ~~accordance with the specifications set forth in Section~~
12 ~~25-9-131. In no case shall more than 200 pounds of explosives~~
13 ~~be stored at one time in such magazine.~~

14 ~~"(l) (i) Magazines located in the pit should not be~~
15 ~~nearer than those standards set forth in the American Table of~~
16 ~~Distances for Storage of Explosives, a publication of the~~
17 ~~Institute of Makers of Explosives.~~

18 ~~"(m) No fuse shall be used that burns faster than~~
19 ~~one foot in 30 seconds or slower than one foot in 55 seconds~~
20 ~~according to the manufacturer's rating.~~

21 ~~"(n) In capping fuse, at least one inch shall be cut~~
22 ~~from the end of each coil or roll of fuse used.~~

23 "(j) All provisions in this section shall comply
24 with federal regulations prescribed by the Bureau of Alcohol,
25 Tobacco, and Firearms administered by the U.S. Department of
26 Justice and U.S. Department of the Treasury.

27 "§25-9-278.

1 "(a) All blasting shall be done in a safe manner
2 after all persons have been removed to a safe place.

3 "(b) All blasting should be done electrically ~~or~~
4 ~~with detonating fuse.~~

5 "(c) Primers shall be made up near the working place
6 by competent persons experienced in handling explosives.
7 Competent persons shall also load, assist in loading, or
8 supervise the loading or charging of drill holes.

9 "(d) Primers shall be prepared in accordance with
10 safety standards of the Institute of Makers of Explosives or
11 of the manufacturer of the explosives as approved by the
12 chief. Holes made in the primer cartridge for the purpose of
13 inserting the detonator shall be made with a wooden or other
14 nonsparking implement.

15 "(e) In tamping holes, only a wooden tamping bar or
16 other nonsparking tamping bar shall be used. Before charging
17 drill holes, except well holes, they shall be thoroughly
18 cleaned. Explosives shall not be violently tamped in the drill
19 hole but may be firmly charged; except, that undue pressure
20 shall not be used against the primer cartridge when placing it
21 in a drill hole. The primer cartridge shall not be slit.

22 "(f) When a drill hole has been charged with
23 explosives, it shall be filled to the collar with stemming
24 material, as nearly free from rock as practical. The stemming
25 material should be well tamped.

26 "(g) No loading operations shall be carried on in
27 working places where rock falling from the face or rolling

1 rock is likely to endanger the loading operations. Working
2 places shall be made safe for loading operations before
3 loading is begun.

4 ~~"(h) Fuse igniters of the "hot wire" type or punk or~~
5 ~~their equivalent shall be used for igniting safety fuse.~~

6 ~~"(i) (h)~~ The number of detonations shall be counted
7 as far as possible. Misfires shall be reported to the
8 authorized person responsible for blasting, and no person
9 shall return to the vicinity of the suspected misfire ~~until 30~~
10 ~~minutes have elapsed in the case of fuse blasting and until 15~~
11 ~~minutes have elapsed in the case of electrical blasting. No~~
12 regular pit operations shall be conducted in the area where an
13 unexpected detonation of a misfired hole shall endanger
14 employees. Misfires, except in the case of vertical holes,
15 shall be reblasted by inserting a new primer in the drill
16 hole. In such case, stemming or tamping material may be washed
17 from the drill hole with water before inserting the new
18 primer.

19 ~~"(j) (i)~~ In case of misfire in a vertical hole, if
20 it is not possible or safe to insert a new primer, a new hole
21 may be drilled under the personal supervision of the person
22 responsible for blasting, and such hole shall be started not
23 less than two feet from the original drill hole and shall be
24 drilled at such an angle as to eliminate all danger of meeting
25 or coming closer than two feet of the original drill hole. In
26 the case of sprung holes, the new drill hole shall be placed
27 and carried at such an angle that there will be no possibility

1 of its meeting any part of the misfire charge; provided, that
2 in case of a misfired vertical drilled hole, it shall not be
3 disturbed, nor any attempt made to fire it, without permission
4 of the superintendent or person responsible for blasting.

5 "~~(k)~~ (j) "Bootlegs" or "guns," if the bottom of the
6 hole cannot be seen, shall be washed out with water or cleaned
7 with a wooden stick whether or not explosives remain in them.
8 If explosives are found in such "bootleg" or "gun," the hole
9 shall be treated as a misfired shot. All persons working in an
10 area where explosives are found in the muck pile shall be
11 alerted, and caution shall be exercised in recovering such
12 explosives. Such recovered explosive shall be removed and
13 later destroyed following procedure recommended by the
14 explosive manufacturers. Any leftover explosive, ~~capped fuse,~~
15 or detonators remaining after loading the drill holes shall be
16 returned to the storage magazine after loading operations have
17 been completed.

18 "(l) Oversize rock material set aside for blasting
19 shall be examined to determine whether or not any unexploded
20 powder remained in such rock or boulder. The person
21 responsible for blasting shall determine whether or not rocks
22 or boulders set aside for blasting are safe to drill.

23 "(m) Boulders which must be broken by blasting shall
24 be block holed. "Adobe," "plaster," or "mud-capped" shots
25 shall be prohibited, except, that such shots may be permitted
26 where no means of drilling such boulders is available;

1 provided, that they shall then be fired under supervision of
2 the person responsible for blasting.

3 "(n) Where drill holes are sprung, the temperature
4 of the chamber shall be determined before placing the final
5 charge, and no hole shall be loaded with the final charge
6 until the chamber has been cooled to 80 degrees Fahrenheit. No
7 drill holes shall be sprung when adjacent to a loaded sprung
8 hole.

9 "(o) Cartridges shall not be forced into drill
10 holes. Cartridges shall be placed in drill holes in the
11 original wrapper.

12 "(p) Where detonators are used, nothing less than
13 No. 6 detonators or electric detonators shall be used to
14 explode charges. Electric detonators from different
15 manufacturers shall not be used in the same shot.

16 ~~"(q) One person shall not be allowed to light more
17 than 10 fuses at one time."~~

18 "(q) All provisions in this section shall comply
19 with federal regulations prescribed by the Bureau of Alcohol,
20 Tobacco, and Firearms administered by the U.S. Department of
21 Justice and U.S. Department of the Treasury.

22 "§25-9-279.

23 "(a) When loading or charging blast holes with
24 electric detonators, all electric power within an unsafe
25 distance of the place to be blasted shall be deenergized.

26 "(b) Electric blasting with blasting machines or
27 special circuit is permissible. With blasting machines,

1 connections shall be made in series or in a combination
2 connection recommended by the manufacturer. With power
3 currents, connections shall be made in series, parallel, or a
4 combination of the two.

5 "(c) When blasting is by means of a special blasting
6 circuit, no one shall enter the place in which the blasting
7 has been done until the permanent blasting wires have been
8 disconnected from the source of electrical energy and the
9 blasting switch has been locked in the open position.

10 "(d) The person responsible for blasting shall be in
11 charge of the blasting machine when it is in the pit. No other
12 person shall connect the blasting machine to the leading
13 wires, and such connection shall not be made until the area
14 has been made safe preparatory to the firing. An audible
15 warning shall be sounded prior to the blasting.

16 "(e) Electric current from power circuits shall not
17 be used for firing shots in a pit except when the electric
18 connections to power circuits are made within the enclosed
19 switch box described in these rules.

20 "(f) Permanent blasting lines shall be kept well in
21 the clear from all power circuits and from all pipes, rails,
22 etc., and shall be run or strung at least 20 feet away from
23 all power circuits.

24 "(g) Grounded circuits or systems shall not be used
25 for electrical blasting.

1 "(h) Permanent blasting lines, safety switches, and
2 blasting switches shall be maintained by a competent
3 electrician or other competent and experienced person.

4 "(i) Leading wires from portable generating blasting
5 devices or approved type batteries shall be not less than
6 those recommended by the Institute of Makers of Explosives.

7 "(j) Permanent blasting wires shall be so installed
8 and maintained that they provide the current capacity required
9 by the electrical firing device. All such wires shall be in
10 conduit, shall consist of type "S" cable or equivalent or
11 shall consist of two rubber covered wires strung on glass
12 insulators or porcelain knobs. If rubber covered wires are
13 used, they shall be kept at least five inches apart.

14 "(k) Connecting wires shall be not less than those
15 recommended by the Institute of Makers of Explosives.

16 "(l) At the location where the shot firing is to be
17 controlled, there shall be installed a suitable blasting
18 circuit enclosed externally operated pole switch with the
19 handle or lever arranged to be locked in the "off" position
20 only.

21 "(m) Where the blasting lines run to a single face
22 to be blasted, a "safety" switch of the same type as required
23 for the blasting switch shall be installed between the switch
24 and the face. This switch shall be installed in a safe
25 location guarded from flying rock.

26 "(n) Where a single blasting switch is used for
27 several blasting circuits, a safety switch shall be installed

1 in each circuit immediately adjacent to the blasting switch.
2 In addition, a second safety switch shall be installed in the
3 circuit adjacent to the area to be blasted.

4 "(o) A blasting galvanometer or circuit tester
5 especially designed for blasting work shall be used for
6 testing.

7 "(p) Leg wires of electric detonators shall be kept
8 short circuited by means of a short-circuiting device or by
9 twisting the ends of the leg wires together, except that the
10 short-circuiting devices may be removed temporarily for the
11 purpose of testing detonators with the galvanometer.

12 "(q) Before connecting the temporary wires to the
13 leg wires or bus wires, the ends of the temporary wires that
14 are to be connected to the safety switch shall be "shorted" by
15 being twisted together. The ~~man~~ person making or supervising
16 the connection at the face must have the "shorted" ends of the
17 temporary wires in his or her possession, and, after making
18 the connections at the face, he or she shall run the temporary
19 wires to the safety switch. He or she shall never attach the
20 temporary wires to the safety switch before attaching them to
21 the leg wires or bus wires.

22 "(r) At the safety switch, ~~said man~~ the person shall
23 untwist the temporary wires, unlock the safety switch, attach
24 the temporary wires to the safety switch and then place the
25 safety switch in the "on" position. He or she shall then
26 proceed or signal to a designated person at the blasting
27 switch, and he or she or such designated person shall unlock

1 the blasting switch, throw it in the "on" position to fire the
2 shot, then immediately return the blasting switch to the "off"
3 position and lock it in that position. After blasting, no one
4 shall go nearer the face that has been blasted than the safety
5 switch until the safety switch has been opened, the temporary
6 wires disconnected, and the safety switch locked in the "off"
7 position.

8 "(s) Loading and charging of blasting holes shall
9 cease upon the approach of an electrical storm and shall not
10 resume until conditions are safe. All persons shall be removed
11 a safe distance from the charged area until conditions are
12 safe.

13 "(t) The minimum necessary number of persons shall
14 be at the loading places when making the blasting connections.
15 All other persons shall be a safe distance away from the
16 loading place when blasting connections are made.

17 "(u) All provisions in this section shall comply
18 with federal regulations prescribed by the Bureau of Alcohol,
19 Tobacco, and Firearms administered by the U.S. Department of
20 Justice and U.S. Department of the Treasury.

21 "§25-9-280.

22 "(a) Explosives, excluding blasting agents, must be
23 unloaded in a safe manner and at a safe distance from the
24 blasting place.

25 "(b) If several boxes of explosives, except blasting
26 agents, are deposited near the blasting circuit, the boxes
27 shall be stacked in an orderly manner and protected from the

1 sun by means of canvas or similar material so placed as to
2 allow free circulation of air under the canvas and around the
3 stacked boxes.

4 "(c) Where blasting is carried on in dangerous
5 proximity to public thoroughfares, such thoroughfares shall be
6 blocked off previous to blasting or guards shall be stationed
7 at each end of the endangered portion of such thoroughfare and
8 all traffic shall be halted, with no person or vehicle allowed
9 within the danger zone. Guards shall be provided with a metal
10 sign having the words "Stop - Blasting" plainly printed
11 thereon and shall also use a red flag for warning purposes.

12 "(d) Packages containing explosives shall not be
13 handled roughly, shall not be slid across floors, rocks, or
14 other packages of explosives and shall not be thrown or
15 dropped. Frozen explosives shall not be thawed or used but
16 must be destroyed.

17 "(e) All provisions in this section shall comply
18 with federal regulations prescribed by the Bureau of Alcohol,
19 Tobacco, and Firearms administered by the U.S. Department of
20 Justice and U.S. Department of the Treasury.

21 "§25-9-282.

22 ~~"(a) At or near every pit there shall be adequate~~
23 ~~approved first aid materials as follows: One stretcher and one~~
24 ~~broken-back board, or, if a splint stretcher combination is~~
25 ~~used, it will satisfy both the stretcher and broken-back board~~
26 ~~requirement; 24 triangular bandages (15, if a splint-stretcher~~
27 ~~combination is used); eight four-inch bandage compresses; an~~

1 ~~adequate approved burn remedy; two cloth blankets; one rubber~~
2 ~~blanket or equivalent substitute; two tourniquets; one~~
3 ~~one-ounce bottle of aromatic spirits of ammonia and one dozen~~
4 ~~ammonia ampules; and necessary complements of arm and leg~~
5 ~~splints or two each inflatable plastic arm and leg splints.~~
6 ~~All such supplies shall be kept at each location designated~~
7 ~~and shall be accessible to the miners. First aid materials~~
8 ~~shall be kept in a sanitary and usable condition. The cloth~~
9 ~~and waterproof blankets shall be kept in a moisture and~~
10 ~~dustproof container. A portable first aid kit shall be kept as~~
11 ~~near the working place as feasible. At or near every pit there~~
12 ~~shall be adequate first aid materials approved by the chief.~~
13 ~~All such supplies shall be kept in a sanitary and usable~~
14 ~~condition. A portable first aid kit shall be kept as near the~~
15 ~~working place as feasible.~~

16 "(b) Adequate and suitable first aid equipment shall
17 be kept at or near every pit and placed at some convenient
18 location about the pit for use only in caring for persons
19 needing first aid attention.

20 "(c) ~~Selected personnel at each surface mining~~
21 ~~operation shall be trained in first aid methods. Selected~~
22 ~~personnel trained in advanced emergency medical training in~~
23 ~~procedures approved by the chief shall be present at each~~
24 ~~surface mining operation on all shifts. Advanced emergency~~
25 ~~medical training shall include, at a minimum, advanced first~~
26 ~~aid.~~

1 "(d) An updated first aid materials list approved by
2 the chief shall be posted at or near every pit for employee
3 review.

4 "\$25-9-360.

5 "(a) If, upon any inspection of a coal mine, an
6 authorized representative of the director finds that an
7 imminent danger exists, the representative shall determine the
8 area throughout which the danger exists, and shall immediately
9 issue an order requiring the operator of the mine or the
10 operator's agent to cause immediately all persons, except
11 those referred to in subdivisions (1), (2), (3), and (4), of
12 subsection (e), to be withdrawn from and to be prohibited from
13 entering the area until an authorized representative of the
14 director determines that the imminent danger no longer exists.

15 "(b) If, upon any inspection of a coal mine, an
16 authorized representative of the director finds that there has
17 been a violation of the law, but the violation has not created
18 an imminent danger, he or she shall issue a notice to the
19 operator or the operator's agent, fixing a reasonable time for
20 the abatement of the violation. If, upon the expiration of the
21 period of time, as originally fixed or subsequently extended,
22 an authorized representative of the director finds that the
23 violation has not been totally abated, and if the director
24 also finds that the period of time should not be further
25 extended, the director shall find the extent of the area
26 affected by the violation and shall promptly issue an order
27 requiring the operator of the mine or the operator's agent to

1 cause immediately all persons, except those referred to in
2 subsection (e), to be withdrawn from, and to be prohibited
3 from entering the area until an authorized representative of
4 the director determines that the violation has been abated.

5 "(c) If upon any inspection of a coal mine, an
6 authorized representative of the director finds that an
7 imminent danger exists in an area of the mine, in addition to
8 issuing an order pursuant to subsection (a), the director
9 shall review the compliance record of the mine.

10 "(1) A review of the compliance record conducted in
11 accordance with this subsection shall, at a minimum, include a
12 review of the following:

13 "a. Any closure order issued pursuant to subsection
14 (a).

15 "b. Any closure order issued pursuant to subsection
16 (b).

17 "c. Any enforcement measures taken pursuant to this
18 chapter, other than those authorized under subsections (a) and
19 (b).

20 "d. Any evidence of the operator's lack of good
21 faith in abating violations at the mine.

22 "e. Any accident, injury, or illness record that
23 demonstrates a serious safety or health management problem at
24 the mine.

25 "f. The number of employees at the mine, the size,
26 layout, and physical features of the mine and the length of
27 time the mine has been in operation.

1 "(2) If, after review of the mine's compliance
2 record, the director determines that the mine has a history of
3 repeated significant and substantial violations of a
4 particular standard caused by unwarrantable failure to comply
5 or a history of repeated significant and substantial
6 violations of standards related to the same hazard caused by
7 unwarrantable failure to comply and the history or histories
8 demonstrate the operator's disregard for the health and safety
9 of miners, the director shall issue a closure order for the
10 entire mine and shall immediately issue an order requiring the
11 operator of the mine or the operator's agent to cause
12 immediately all persons, except those referred to in
13 subsection (e), to be withdrawn from and to be prohibited from
14 entering the mine until a thorough inspection of the mine has
15 been conducted by the office and the director determines that
16 the operator has abated all violations related to the imminent
17 danger and any violations unearthed in the course of the
18 inspection.

19 "(d) All employees on the inside and outside of a
20 mine who are idled as a result of the posting of a withdrawal
21 order by a mine inspector shall be compensated by the operator
22 at their regular rates of pay for the period they are idled,
23 but not more than the balance of the shift. If the order is
24 not terminated prior to the next working shift, all the
25 employees on that shift who are idled by the order are
26 entitled to full compensation by the operator at their regular

1 rates of pay for the period they are idled, but for not more
2 than four hours of the shift.

3 "(e) The following persons are not required to be
4 withdrawn from or prohibited from entering any area of the
5 coal mine subject to an order issued under this section:

6 "(1) Any person whose presence in the area is
7 necessary, in the judgment of the operator or an authorized
8 representative of the director, to eliminate the condition
9 described in the order.

10 "(2) Any public official whose official duties
11 require him or her to enter the area.

12 "(3) Any representative of the miners in the mine
13 whose presence in the area is necessary for the investigation
14 of the conditions described in the order.

15 "(4) Any consultant to any of the persons set forth
16 in this subsection.

17 "(f) Notices and orders issued pursuant to this
18 section shall contain a detailed description of the conditions
19 or practices which cause and constitute an imminent danger or
20 a violation of any mandatory health or safety standard and,
21 where appropriate, a description of the area of the coal mine
22 from which persons must be withdrawn and prohibited from
23 entering.

24 "(g) Each notice or order issued under this section
25 shall be given promptly to the operator of the coal mine or
26 the operator's agent by an authorized representative of the
27 director issuing the notice or order, and all the notices and

1 orders shall be in writing and shall be signed by the
2 representative and posted on the bulletin board at the mine.

3 "(h) A notice or order issued pursuant to this
4 section may be modified or terminated by an authorized
5 representative of the director.

6 "(i) Each finding, order, and notice made under this
7 section shall promptly be given to the operator of the mine to
8 which it pertains by the person making the finding, order, or
9 notice.

10 "(j) Definitions. For the purposes of this section
11 only, the following terms have the following meanings:

12 "(1) SIGNIFICANT AND SUBSTANTIAL VIOLATION. Has the
13 same meaning as that established in 6 FMSHRC 1 (1984).

14 "(2) UNWARRANTABLE FAILURE. Aggravated conduct,
15 constituting more than ordinary negligence, by a mine operator
16 in relation to a violation of this chapter; and

17 "(k) This subsection and subsections (l) through (z)
18 shall establish the procedure whereby the Division of Safety
19 and Inspections of the Department of Industrial Relations
20 shall assesses civil monetary penalties pursuant to Alabama
21 law to those persons who violate the state's mine health and
22 safety laws.

23 "(l) Unless herein defined, all terms used in
24 subsections (k) through (z) shall have the same meaning as
25 they are defined in Alabama laws, and the following terms have
26 the following meanings:

1 "(1) ANNUAL TONNAGE. Tonnage produced in the
2 previous calendar year, or, in the case of a mine opened or
3 owned less than one full calendar year, the tonnage thus far
4 produced multiplied to an annual amount based on months of
5 operation.

6 "(2) CHIEF. The Chief of the Alabama Division of
7 Safety and Inspections of the Department of Industrial
8 Relations.

9 "(3) GOOD FAITH. In the judgment of the inspector,
10 the operator has demonstrated extraordinary effort above and
11 beyond that which would normally be expected to abate a
12 violation.

13 "(4) INDEPENDENT CONTRACTOR. The meaning as defined
14 at 36 CSR 20.

15 "(5) KNOWING VIOLATION. A violation occurring when:

16 "a. An operator, or a miner for an individual
17 violation, causes a violative condition or practice by
18 exercising reckless and willful disregard of mandatory health
19 and safety standards, or recklessly and willfully failed to
20 correct an unsafe condition or practice which was known to
21 exist.

22 "b. An operator refuses to comply with any order
23 issued under Alabama Coal Mine Safety Laws.

24 "c. An operator refuses to comply with any order
25 issued in a final decision under Alabama Coal Mine Safety
26 Laws.

1 "(6) MINE HEALTH AND SAFETY LAWS. Alabama Coal Mine
2 Safety Laws and any rule promulgated thereunder, relating to
3 health and safety standards.

4 "(m) Civil monetary penalty assessments are
5 mandatory, and the amount of the civil monetary penalty
6 assessment shall be determined based upon consideration of the
7 following five criteria:

8 "(1) Gravity of the violation.

9 "(2) History of previous violations.

10 "(3) Size of the business charged with a violation.

11 "(4) Degree of demonstrated good faith in achieving
12 compliance after notification of the violation.

13 "(5) Whether the operator was negligent.

14 "(n) The gravity of a violation shall be evaluated
15 by the inspector or representative of the director, and points
16 allocated accordingly.

17 "(o) Points shall be allocated in the following four
18 categories:

19 "(1) Likelihood of an occurrence of an event which
20 the health and safety laws are intended to prevent.

21 "(2) The severity of the injury which might be
22 expected to result from such an occurrence.

23 "(3) The number of persons potentially affected by
24 such an occurrence.

25 "(4) Whether the operator was negligent.

26 "(p) Points shall be allocated in the following
27 manner:

"(1) Likelihood of occurrence:

"Unlikely 0 points

"Reasonably likely 10 points

"Occurred 20 points

"(2) Severity of injury expected:

"None 0 points

"No lost work days 6 points

"Lost/restricted work days 11 points

"Permanently disabling 15 points

"Fatal 20 points

"(3) Number of persons potentially affected:

"0 persons 0 points

"1 person 1 point

"2 persons 2 points

"3 persons 4 points

"4 to 5 persons 6 points

"6 to 9 persons 8 points

"More than 9 persons 10 points

"(4) Negligence:

"No negligence 0 points

"Low negligence 10 points

"Moderate negligence 15 points

"High negligence 20 points

"(q) The operator's history of violations over the previous 24 months shall be evaluated by an inspector or representative of the director and points allocated accordingly.

"(1) For mine operators, points shall be calculated based upon the average number of violations per inspection day over the previous 24 months."

"(2) For independent contractors, points shall be calculated based upon the total number of violations during the previous 24 months."

"(r) Points shall be allocated in the following manner for mine operators:

"Average number violations per inspection day"

"0" 0 points

"Over 0 to 0.3" 2 points

"Over 0.3 to 0.5" 5 points

"Over 0.5 to 0.7" 8 points

| | |
|------------------|-----------|
| "Over 0.7 to 0.9 | 11 points |
|------------------|-----------|

| | |
|------------------|-----------|
| "Over 0.9 to 1.1 | 14 points |
|------------------|-----------|

| | |
|------------------|-----------|
| "Over 1.1 to 1.3 | 17 points |
|------------------|-----------|

"Over 1.3 to 1.5" 20 points

"Over 1.5 to 1.7" 22 points

| | |
|------------------|-----------|
| "Over 1.7 to 1.9 | 23 points |
|------------------|-----------|

"Over 1.9 to 2.1" 24 points

"Over 2.1" 25 points

"(s) Points shall be allocated in the following
manner for independent contractors:

"Total number of violations

"1 to 5 2 points

"6 to 10 5 points

"11 to 15 8 points

| | |
|---------------|-----------|
| "16 to 20 | 11 points |
| "21 to 25 | 14 points |
| "26 to 30 | 17 points |
| "31 to 35 | 20 points |
| "36 to 40 | 22 points |
| "41 to 45 | 23 points |
| "46 to 50 | 24 points |
| "More than 50 | 25 points |

"(t) Size of a business charged with a violation shall be evaluated by the inspector or representative of the director, and points shall be allocated accordingly. The size of the mine shall be calculated by considering the annual tonnage of the mine. Mines which have not submitted tonnage reports by the dates required by the Alabama Coal Mine Safety Laws shall be assessed the maximum amount of five points. Mines submitting tonnage shall be assessed as follows:

"Size of business (annual tonnage)

| | |
|-----------------------------|----------|
| "0 - 100,000 tons | 1 |
| "100,001 - 500,000 tons | 2 points |
| "500,001 - 1,000,000 tons | 3 points |
| "1,000,001 - 2,000,000 tons | 4 points |
| "Over 2,000,000 tons | 5 points |

"(u) The points allocated in the manner set forth in subsections (n), (o), (p), (q), (r), (s), and (t) shall be totaled, and the total number converted to a dollar amount as set out in the table in subsection (t).

1 "(v) Demonstrated good faith by the operator in
2 achieving compliance after notification of violation shall be
3 evaluated by the inspector or representative of the director,
4 and the total dollar amount of the penalty may be modified
5 accordingly as follows:

6 "(1) If the operator fails to abate a violation
7 within the time prescribed, and there are, in the opinion of
8 the inspector or representative of the director, extenuating
9 circumstances beyond the operator's control which prevent the
10 abatement of the violation within such time, the amount of the
11 assessment will not be affected.

12 "(2) If the operator fails to abate the violation
13 within the prescribed time, and an order is issued pursuant to
14 Alabama Coal Mine Safety Laws, the total dollar amount of the
15 assessment will be increased by 15 percent.

16 "(3) If the operator was already working to correct
17 the violation when discovered, or, in the judgment of the
18 inspector, the operator has demonstrated extraordinary effort
19 above and beyond that which would normally be expected to
20 abate the violation, the total dollar amount of the assessment
21 will be decreased by 15 percent, if the original assessment is
22 greater than sixty dollars (\$60).

23 "(w) In addition to any monetary assessment
24 determined under this section, any operator issued a knowing
25 violation shall be assessed one knowing point for every 20
26 civil penalty points accrued. Knowing points are converted to
27 a monetary amount, as per the following table:

1 "(1) Knowing Civil Penalty Conversion Table

2 "Civil Penalty Points Knowing Points Penalty

3 "0-20 1 \$1,000

4 "21-40 2 \$2,000

5 "41-60 3 \$3,000

6 "61-80 4 \$4,000

7 "81-100 5 \$5,000

8 "In addition to any assessment determined under this
9 section, a subsequent knowing violation, issued to the same
10 operator at the same operation during the same inspection
11 within the same quarter, shall result in the assessment of two
12 knowing points for every 20 civil penalty points accrued.
13 Subsequent knowing points are converted to a monetary amount
14 as per the following table:

15 "(2) Subsequent Knowing Civil Penalty Conversion

16 Table

17 "Civil Penalty Points Knowing Points Penalty

18 "0-20 2 \$2,000

19 "21-40 4 \$4,000

20 "41-60 6 \$6,000

21 "61-80 8 \$8,000

22 "81-100 10 \$10,000

23 "(x) Table 1

24 "Civil Penalty Point Conversion Table for Operators

25 Points Penalty (\$) Points Penalty (\$)

26 "0 - 15 60.00

27 "16 - 31 96.00

| | | |
|----|-------------|---------------|
| 1 | " <u>32</u> | <u>100.00</u> |
| 2 | " <u>33</u> | <u>104.00</u> |
| 3 | " <u>34</u> | <u>108.00</u> |
| 4 | " <u>35</u> | <u>114.00</u> |
| 5 | " <u>36</u> | <u>120.00</u> |
| 6 | " <u>37</u> | <u>126.00</u> |
| 7 | " <u>38</u> | <u>132.00</u> |
| 8 | " <u>39</u> | <u>138.00</u> |
| 9 | " <u>40</u> | <u>144.00</u> |
| 10 | " <u>41</u> | <u>152.00</u> |
| 11 | " <u>42</u> | <u>160.00</u> |
| 12 | " <u>43</u> | <u>168.00</u> |
| 13 | " <u>44</u> | <u>176.00</u> |
| 14 | " <u>45</u> | <u>184.00</u> |
| 15 | " <u>46</u> | <u>194.00</u> |
| 16 | " <u>47</u> | <u>204.00</u> |
| 17 | " <u>48</u> | <u>214.00</u> |
| 18 | " <u>49</u> | <u>224.00</u> |
| 19 | " <u>50</u> | <u>234.00</u> |
| 20 | " <u>51</u> | <u>246.00</u> |
| 21 | " <u>52</u> | <u>256.00</u> |
| 22 | " <u>53</u> | <u>266.00</u> |
| 23 | " <u>54</u> | <u>276.00</u> |
| 24 | " <u>55</u> | <u>286.00</u> |
| 25 | " <u>56</u> | <u>300.00</u> |
| 26 | " <u>57</u> | <u>318.00</u> |
| 27 | " <u>58</u> | <u>336.00</u> |

| | | |
|----|-------------|----------------|
| 1 | " <u>59</u> | <u>354.00</u> |
| 2 | " <u>60</u> | <u>372.00</u> |
| 3 | " <u>61</u> | <u>392.00</u> |
| 4 | " <u>62</u> | <u>412.00</u> |
| 5 | " <u>63</u> | <u>434.00</u> |
| 6 | " <u>64</u> | <u>456.00</u> |
| 7 | " <u>65</u> | <u>480.00</u> |
| 8 | " <u>66</u> | <u>504.00</u> |
| 9 | " <u>67</u> | <u>528.00</u> |
| 10 | " <u>68</u> | <u>556.00</u> |
| 11 | " <u>69</u> | <u>576.00</u> |
| 12 | " <u>70</u> | <u>600.00</u> |
| 13 | " <u>71</u> | <u>630.00</u> |
| 14 | " <u>72</u> | <u>660.00</u> |
| 15 | " <u>73</u> | <u>690.00</u> |
| 16 | " <u>74</u> | <u>800.00</u> |
| 17 | " <u>75</u> | <u>1000.00</u> |
| 18 | " <u>76</u> | <u>1080.00</u> |
| 19 | " <u>77</u> | <u>1160.00</u> |
| 20 | " <u>78</u> | <u>1240.00</u> |
| 21 | " <u>79</u> | <u>1320.00</u> |
| 22 | " <u>80</u> | <u>1400.00</u> |
| 23 | " <u>81</u> | <u>1480.00</u> |
| 24 | " <u>82</u> | <u>1560.00</u> |
| 25 | " <u>83</u> | <u>1640.00</u> |
| 26 | " <u>84</u> | <u>1720.00</u> |
| 27 | " <u>85</u> | <u>1800.00</u> |

| | | |
|----|--------------|----------------|
| 1 | " <u>86</u> | <u>1880.00</u> |
| 2 | " <u>87</u> | <u>1960.00</u> |
| 3 | " <u>88</u> | <u>2040.00</u> |
| 4 | " <u>89</u> | <u>2120.00</u> |
| 5 | " <u>90</u> | <u>2200.00</u> |
| 6 | " <u>91</u> | <u>2280.00</u> |
| 7 | " <u>92</u> | <u>2360.00</u> |
| 8 | " <u>93</u> | <u>2440.00</u> |
| 9 | " <u>94</u> | <u>2520.00</u> |
| 10 | " <u>95</u> | <u>2600.00</u> |
| 11 | " <u>96</u> | <u>2680.00</u> |
| 12 | " <u>97</u> | <u>2760.00</u> |
| 13 | " <u>98</u> | <u>2840.00</u> |
| 14 | " <u>99</u> | <u>2920.00</u> |
| 15 | " <u>100</u> | <u>3000.00</u> |

16 "~~(a)~~ (y) Whenever any equipment or supplies required
17 by this chapter, including rock-dusting machines, and
18 permissible electric equipment are unobtainable, compliance
19 with the requirements of this chapter with respect thereto is
20 suspended to the extent that such items remain unobtainable
21 until they are obtainable. Due allowance shall also be made
22 for planning, institution of change procedures, and
23 installation of new equipment.

24 "~~(b)~~ (z) Compliance with the requirements of this
25 chapter shall be started promptly and prosecuted diligently
26 until the provisions of the chapter have been fulfilled.

27 "§25-9-361.

1 "It shall be the duty of the superintendent, mine
2 foreman, subordinate supervisors, ~~fire bosses, or mine~~
3 ~~examiners,~~ and other officials ~~to comply with and to see that~~
4 ~~others comply with the provisions of this chapter~~ to provide a
5 safe operation, permissible equipment, and to comply with and
6 to see that others comply with the provisions of this chapter
7 or other applicable laws."

8 Section 2. The following new Sections 25-9-31 and
9 25-9-32, are added to the Code of Alabama 1975, in Article 1,
10 Chapter 9.

11 §25-9-31.

12 All ventilation and roof control plans shall be
13 submitted to the Chief of the Division of Safety and
14 Inspections Department of the Industrial Relations for
15 approval. Ten days prior to submitting the ventilation and
16 roof control plans to the chief, the plans will be given to
17 the representatives of the miners for comments. The comments
18 will be submitted to the chief for consideration before the
19 plans are approved.

20 §25-9-32.

21 (a) Mine operators must provide 48-hour notification
22 to the Chief of the Division of Safety and Inspections of the
23 Department of Industrial Relations before beginning or
24 resuming retreat mining operations. The state must then insure
25 that all miners are trained on the pillar removal plan or long
26 wall removal plan.

1 (b) The design, development, submission,
2 implementation, evaluation, and modification of the
3 comprehensive mine safety program shall be the responsibility
4 of the operator or independent contractor of each mine.

5 (c) All operators and independent contractors of new
6 mines shall submit a comprehensive mine safety program, and
7 have such program approved by the director prior to
8 commencement of work or operations by miners at the mine site.

9 (d) After the effective date of this act, all mines
10 that are temporarily inactive but which have an approved
11 comprehensive safety program shall resume operations under the
12 comprehensive safety program for that mine in effect at the
13 time such mine was temporarily closed. If the operator or
14 independent contractor elects to retain the existing
15 comprehensive safety program, the operator or independent
16 contractor shall notify the director prior to the resumption
17 of work by miners at the mine. If the operator or independent
18 contractor elects to modify the existing comprehensive safety
19 program, the operator or independent contractor shall submit
20 such modifications to the director within 90 calendar days
21 after resuming active mining operations.

22 (e) In developing the initial comprehensive safety
23 program, the operator or independent contractor shall analyze
24 the various program components, contained in subsections (h)
25 and (i), in conjunction with the evaluation criteria provided
26 in subsection (k), and shall take into consideration the
27 output of the particular mine, the number of employees of the

1 particular mine, the location of the particular mine, or any
2 other aspect of the particular mine deemed relevant by the
3 operator or independent contractors. Based upon this analysis
4 and evaluation of the type of safety program needed at a
5 particular mine, the operator or independent contractor shall
6 proceed to develop a comprehensive mine safety program
7 composed of the appropriate components contained in
8 subsections (h) and (i) and a plan and appropriate procedures
9 for implementing each of the components of the program.

10 (f) Each operator or independent contractor shall
11 submit to the director for approval a comprehensive mine
12 safety program in accordance with this act. Ten days prior to
13 submittal, miners' representatives will be given a copy of the
14 proposed plan for comments that will be submitted to the
15 director for consideration. In addition, each operator or
16 independent contractor shall submit the following:

17 (1) A statement that the analysis and evaluation
18 required by subsection (d) has been completed.

19 (2) A statement indicating which process the
20 operator or independent contractor has selected, consistent
21 with subsection (v) to ensure that all employees at the mine
22 are aware of all components of the comprehensive mine safety
23 program prior to commencement of work at the mine.

24 (3) A list of safety instructors and their
25 certifications and qualifications who will have primary
26 responsibility for planning and conducting safety training at
27 the mine.

1 (4) The name of the person or persons representing
2 the operator or independent contractor, including his or her
3 title or position and mailing address or telephone number, who
4 can be notified by the director for all matters concerning the
5 operator or independent contractor's comprehensive mine safety
6 program.

7 (g) Within 30 calendar days after submission of the
8 initial comprehensive safety program, the director shall
9 either approve the program as submitted, or shall reject and
10 return the program to the operator or independent contractor
11 for modification and resubmission, stating in detail the
12 reasons for such rejection. If the program is rejected, the
13 director shall give the operator or independent contractor a
14 reasonable length of time to modify and resubmit such program.
15 Ten days prior to resubmittal, miners' representatives will be
16 given a copy of the proposed plan for comments that will be
17 submitted to the director for consideration.

18 (h) Depending upon the safety program needs of a
19 particular mine or independent contractor, the comprehensive
20 mine safety program may include any of all of the components
21 contained in subsection (i) of these rules and regulations.
22 Comprehensive mine safety programs submitted by independent
23 contractors shall address only the specific type of work to be
24 performed by the contractor.

25 (i) A comprehensive mine safety program may include:

26 (1) The operator or independent contractor's safety
27 policy for each mine.

1 (2) The operator or independent contractor's
2 policies regarding personal safety protection of each worker
3 (hard hats, shoes, etc).

4 (3) Safety training programs and objectives,
5 including any or all of the following:

- 6 a. Classroom training.
- 7 b. Workplace training.
- 8 c. Safety meetings.
- 9 d. Informal training.

10 (4) The operator or independent contractor's
11 practices and procedures for promoting:

- 12 a. Safe working practices for personnel.
- 13 b. Safe working conditions in the mine environment.
- 14 c. Safe working practices for machinery, equipment,
15 and systems.

16 (5) The operator or independent contractor's
17 emergency provisions and procedures at the mine.

18 (6) The operator or independent contractor's
19 procedures for accident investigation and reporting, which may
20 include:

- 21 a. Investigation.
- 22 b. Filing.
- 23 c. Analysis.
- 24 d. Follow-up.

25 (7) The operator or independent contractor's
26 practices and procedures for comprehensive mine safety program
27 promotion and enforcement.

1 (8) Such other components deemed necessary by the
2 operator or independent contractor to effectuate the goals of
3 the Alabama Coal Mine Safety Law.

4 (j) Each operator or independent contractor shall
5 conduct an annual review of the comprehensive mine safety
6 program in effect at each mine. The purpose of the review
7 shall be to determine the effectiveness of the comprehensive
8 mine safety program by evaluating the components of the
9 program to determine whether modifications to the existing
10 program are necessary and desirable. The review shall be
11 conducted as follows:

12 (1) Each operator or independent contractor shall
13 submit to the director within 30 days after the anniversary
14 date of the program, a report which shall contain the findings
15 of the annual review, a statement indicating whether, as a
16 result of such review, modifications to the existing program
17 are necessary, and if applicable, proposed modifications to
18 the existing program. Ten days prior to submittal, miners'
19 representatives will be given a copy of the proposed plan for
20 comments that will be submitted to the director for
21 consideration. When modifications to the existing program are
22 submitted, the operator or independent contractor may request,
23 and the director may issue, temporary approval of requested
24 modifications pending the director's final review and
25 approval.

26 (2) The director will review the annual report
27 submitted by the operator or independent contractor and will

1 either approve the report or reject the report, stating in
2 detail the reasons for rejection. The reasons for rejection
3 may include proposed changes to the program deemed necessary
4 by the director and not included by the operator or
5 independent contractor.

6 (3) If rejected, the director shall give the
7 operator or independent contractor a reasonable period of time
8 to modify and resubmit such report and proposed modifications.
9 If resubmitted, 10 days prior to submittal, miners'
10 representatives will be given a copy of the proposed plan for
11 comments that will be submitted to the director for
12 consideration. If, within 30 calendar days subsequent to
13 receipt of the report or proposed modifications by the
14 director, no action has been taken by the director, the
15 proposed report and modifications shall be considered
16 approved.

17 (4) The anniversary date of the program shall be the
18 date the initial program was approved by the director.

19 (k) The annual evaluation conducted pursuant to
20 subsection (j) shall include a review of the following items
21 relating to a particular mine:

22 (1) Accident rate.

23 (2) Accident distributions.

24 (3) A review of violations written under Alabama
25 Coal Mine Safety Law.

26 (4) Fatal accidents and serious injuries.

1 (1) At the discretion of the mine operator or
2 independent contractor, other sources of information may be
3 used to ascertain performance of the safety program in the
4 annual evaluation. They may include, but are not limited to:

5 (1) Mine conditions or changes in mine conditions.

6 (2) Mining methods or equipment or changes in mining
7 methods or equipment at the mine.

8 (3) Number of working sections at a mine or changes
9 in the number of working sections at the mine.

10 (4) Personnel or management, or changes in personnel
11 or management.

12 (5) Instructors responsible for safety training, or
13 changes in instructors responsible for safety training.

14 (6) Findings from safety observations conducted by
15 responsible mine officials.

16 (m) The operator or independent contractor, in
17 addition to any revisions or modifications to the mine safety
18 program made in accordance with subsection (j), may submit at
19 any time, proposed modifications or revisions along with the
20 reasons thereof, to the director. Ten days prior to submittal,
21 miners' representatives will be given a copy of the proposed
22 plan for comments that will be submitted to the director for
23 consideration.

24 (n) Within 30 days after receipt by the director of
25 any proposed revisions or modifications to the program, the
26 director shall either approve the revisions or reject the
27 revisions, stating in detail the reasons for such rejection.

1 If, within 30 days of receipt of such revisions by the
2 director, no action has been taken, the proposed revisions
3 shall be taken as approved.

4 (o) When revisions to a program are submitted to the
5 director, the operator or independent contractor may request,
6 and the director may issue, temporary approval of such
7 revisions pending the director's final review and approval.

8 (p) The director may require modifications to a
9 comprehensive mine safety program at any time following the
10 investigation of a fatal accident or serious injury, if such
11 modifications are warranted by the findings of the
12 investigation.

13 (q) If a comprehensive mine safety program,
14 modifications thereto, or an annual report is rejected by the
15 director pursuant to subsections (g), (j), or (n), the
16 operator or independent contractor shall be entitled to a
17 hearing before the director to contest such rejection. Miners'
18 representatives shall be allowed to attend and participate in
19 these hearings.

20 (r) The operator or independent contractor shall
21 notify the director within 15 days of the receipt of such
22 rejection that he or she is requesting a hearing and shall
23 state specifically his or her reasons thereto. A hearing shall
24 be scheduled within 10 days of the receipt of the request for
25 hearing, and shall be held within 20 days of such request.
26 Miners' representatives shall receive all notices sent to the
27 director from the operators or independent contractors

1 requesting a hearing and the specific reason for a hearing.
2 Also, miners' representatives shall receive notification of
3 the date of the hearing.

4 (s) Employees of the mine and their representatives
5 shall be afforded an opportunity to review and submit comments
6 to the director regarding the annual review to the
7 comprehensive mine safety program, any modifications or
8 revisions to the program, and the annual report. The operator
9 or independent contractor shall meet with the miners'
10 representatives safety committee at the mine. It shall be the
11 responsibility of the operator or independent contractor to
12 provide this committee with the opportunity to review the
13 initial comprehensive safety program, any modifications or
14 revisions thereto, and the annual report, and to provide
15 written comments and suggestions to the director. It shall be
16 the responsibility of the committee to ensure that all
17 employees of the mine have the opportunity to review and
18 comment on the proposed comprehensive safety program, any
19 proposed modifications or revisions thereto, and the annual
20 report.

21 (t) The operator or independent contractor shall
22 provide a minimum of eight hours' annual instruction for each
23 member of the safety committee at each mine, which instruction
24 shall include materials and training relevant to the review
25 and evaluation of the components of the comprehensive safety
26 program.

1 (u) Each employee of the mine has the right to
2 review the proposed comprehensive mine safety program, any
3 modifications or revisions thereto, and the annual report, and
4 to provide comments to the director.

5 (v) A copy of the proposed modifications or
6 revisions of the existing comprehensive mine safety program
7 and the annual report shall be posted on the mine bulletin
8 board at least 15 days prior to the date of submittal to the
9 director.

10 (w) A copy of the current approved comprehensive
11 mine safety program shall be made available to any employee of
12 the mine or his or her representative upon request and shall
13 also be posted on the mine bulletin board.

14 Section 3. The following new Section 25-9-217 is
15 added to Article 10, Chapter 9, Title 25, Code of Alabama
16 1975, to read as follows:

17 §25-9-217.

18 Mining equipment may be transported in track haulage
19 entries with track mounted battery powered and diesel powered
20 locomotives while persons are inby such equipment being
21 transported in the same ventilating air current passing over
22 such equipment, provided the following requirements are
23 satisfied:

24 (1)a. Within one hour prior to such equipment move,
25 the entire length of the equipment travel routes shall be
26 examined by a certified fireboss.

1 b. Within one hour after such equipment has been
2 transported the entire length of the travel route, where such
3 equipment has been transported shall be examined by a
4 certified fireboss.

5 c. Such examination shall be recorded by such
6 fireboss in a book kept for that purpose.

7 (2) A readily available vehicle, capable of
8 transporting an injured person shall be provided on the outby
9 side of the equipment being moved.

10 (3) Operative means of communications shall be
11 maintained between the equipment move crew and

12 a. A dispatcher, if one is employed.

13 b. A designated qualified person on the surface.

14 c. The section or sections inby the moving equipment
15 that are in the ventilating air current passing over such
16 equipment.

17 (4) Such equipment being moved shall be cleaned of
18 accumulated combustible materials and properly secured.

19 (5) Battery locomotives used to transport such
20 equipment shall be cleaned of accumulated combustible
21 materials. Battery tops shall be cleaned prior to equipment
22 moves.

23 (6) Battery terminals shall be insulated between the
24 top of the battery and battery cover to prevent accidental
25 short-circuiting.

26 (7) Batteries shall be examined for proper voltage
27 prior to equipment moves.

1 (8) Heads and booms of all equipment being
2 transported shall have all hydraulic pressure released and
3 heads and booms shall be tightly secured.

4 (9) When necessary, equipment assemblies shall be
5 removed to provide required clearance.

6 (10) Adequate size locomotives shall be used to
7 transport mining equipment.

8 (11) A minimum of 12 inches of radius clearance
9 shall be maintained between the equipment being moved and the
10 energized high voltage cable and energized insulated D.C.
11 feeder wire paralleling the entry along the route of travel.
12 In areas where the aforementioned 12 inches of radius
13 clearance cannot be maintained, the high voltage cable and
14 D.C. feeder cable shall be adequately guarded, however, if six
15 inches of clearance cannot be maintained between the equipment
16 being moved and the high voltage cables and D.C. insulated
17 feeder wire, they shall be de-energized and suitably tagged
18 and locked out by a certified electrician. Provided, however,
19 where it becomes necessary for equipment to pass under any
20 high voltage cable or insulated D.C. feeder wire, where the
21 required clearance cannot be maintained, the aforementioned
22 high voltage cables or insulated D.C. feeder wires shall be
23 either channeled above the level of the roof line or
24 de-energized.

25 (12) No locomotive shall be operated on the boom end
26 of the equipment being moved or where there are other
27 conditions that may present a hazard to the locomotive

1 operator because of being in close proximity to the equipment
2 being moved, a flat car, mine car, or like equipment of
3 sufficient length shall be provided between the locomotive and
4 moving equipment.

5 (13) Prior to the shift such equipment is scheduled
6 to be moved the date, time, route of travel, and destination
7 of equipment moves shall be posted on the mine bulletin board
8 and a representative of the miners at that mine shall be
9 notified at the time of posting.

10 Section 4. A new Article 18 is added to Chapter 9,
11 Title 25, Code of Alabama 1975, as follows:

12 Article 18.

13 Independent Contract Register.

14 §25-9-380.

15 (a) All independent contractors shall mean any firm,
16 corporation, partnership, or individual that contracts to
17 perform services or construction at a coal mine, excluding
18 mine vendors, office equipment suppliers, service or delivery
19 personnel shall register with the Chief of the Division of
20 Safety and Inspections of the Department of Industrial
21 Relations and receive a contractor identification number
22 before performing services or construction work at coal mines
23 in this state.

24 (b) (1) To register, all independent contractors
25 shall provide the Chief of the Division of Safety and
26 Inspections of the Department of Industrial Relations the
27 following information on forms provided by the Division of

1 Safety and Inspections of the Department of Industrial
2 Relations:

3 a. The independent contractor's trade name, business
4 address, and business telephone.

5 b. A general description of the nature of the work
6 to be performed by the independent contractor.

7 c. The independent contractor's address of record
8 for service of citations or other documents involving the
9 independent contractor.

10 (2) If any of the above information changes, the
11 independent contractor shall advise the Division of Safety and
12 Inspections of the Department of Industrial Relations of such
13 change within 30 days.

14 (3) Upon receipt of the above information, the
15 Division of Safety and Inspections of the Department of
16 Industrial Relations shall issue a contractor identification
17 number. Prompt issuance of the contractor identification
18 number shall not be unreasonably withheld.

19 (c) Prior to performing work at the mine, each
20 independent contractor shall provide the production-operator
21 the information contained in subsection (b), along with his or
22 her Division of Safety and Inspections of the Department of
23 Industrial Relations contractor identification number.

24 (d) Each production-operator shall maintain in
25 writing at the mine the information required by subsection (c)
26 for each independent contractor at the mine. The
27 production-operator shall provide the above information to an

1 authorized representative of the chief upon the beginning of
2 any inspection.

3 (e) Service of notices, orders, and other documents
4 upon independent contractors shall be completed upon delivery
5 to the independent contractor at the work site and mailed to
6 the independent contractor's address of record. A copy of all
7 notices, orders, and other required documents shall be posted
8 on a conspicuous bulletin board at the work site.

9 (f) The address and telephone number required under
10 this section shall be the independent contractor's official
11 address and telephone number for purposes of this section.
12 Service of documents upon independent contractors may be
13 proved by a post office return receipt showing that the
14 documents were delivered to the address of record because the
15 independent contractor is no longer at that address and has
16 established no forwarding address, because delivery was not
17 accepted at that address, or because no such address exists.
18 Independent contractors may request service by delivery to
19 another appropriate address of record provided by the
20 independent contractor. Documents may be delivered to the
21 independent contractor at the work sites.

22 (g) This section shall not be construed to limit the
23 basic compliance responsibilities of production-operators.
24 Overall compliance responsibility of production-operators
25 under Alabama Coal Mine Safety Laws shall include assuring
26 compliance with the code provisions and regulations which

1 apply to the work being performed by independent contractors
2 at the mine.

3 (h) It is the general enforcement policy of the
4 Division of Safety and Inspections of the Department of
5 Industrial Relations that the independent contractor will be
6 held responsible for violations committed by the independent
7 contractor or its employees where the production-operator has
8 complied with Alabama Coal Mine Safety Laws and regulations.

9 (i) (1) Enforcement action against
10 production-operators for violations which involve independent
11 contractors may be taken by the Division of Safety and
12 Inspections of the Department of Industrial Relations where
13 the production-operator has contributed to the existence of a
14 violation, or the production-operator's miners are exposed to
15 the hazard, or the production-operator has control over the
16 existence of the hazard.

17 (2) A production-operator may be properly cited for
18 a violation of Alabama Coal Mine Safety Laws and regulations
19 involving an independent contractor where:

20 a. The production-operator has contributed by either
21 an act or an omission to the occurrence of violation in the
22 course of an independent contractor's work.

23 b. The production-operator has contributed by either
24 an act or omission to the continued existence of a violation
25 committed by an independent contractor.

26 c. The production-operator's miners are exposed to
27 the hazard.

1 d. The production-operator has control over the
2 condition that needs abatement.

3 (3) In addition to the provisions of subsection
4 (i)(2), the production-operator may also be required to assure
5 continued compliance with the code and regulations applicable
6 to an independent contractor at the mine until the contractor
7 is fully able to assume compliance responsibility.

8 (j) Whenever a mine inspector finds a violation or
9 imminent danger in an area where an independent contractor is
10 operating, such inspector shall make a determination whether
11 to issue the appropriate notice of violation or order to
12 either the production-operator or the independent contractor,
13 or both, based upon the criteria set out in subsections (h)
14 and (i).

15 Section 5. A new Article 19 is added to Chapter 9 of
16 Title 25, Code of Alabama 1975, as follows:

17 Article 19.

18 Mine Safety Technology and Wireless Emergency
19 Communication Tracking and Location.

20 §25-9-400. Mine Safety Technology.

21 (a) The Legislature finds and declares pursuant to
22 this article:

23 (1) The first priority and concern of all persons in
24 the coal mining industry must be the health and safety of its
25 most precious resource, the miner.

26 (2) In furtherance of this priority, the provisions
27 of this article are designed to protect the health and safety

1 of this state's coal miners by requiring certain minimum
2 standards for, among other things, certain health and safety
3 technology used by each underground miner.

4 (3) The proper implementation of this technology in
5 Alabama's underground mines would benefit from the specialized
6 oversight of persons with experience and competence in coal
7 mining, coal mine health and safety, and the expanding role of
8 technology.

9 (4) In furtherance of the provisions of this
10 article, it is the intent of the Legislature to create a
11 permanent task force which, on a continuous basis, shall
12 evaluate study issues relating to the commercial availability
13 and functional and operational capability of existing and
14 emerging technologies in coal mine health and safety, as well
15 as issues relating to the implementation, compliance, and
16 enforcement of regulatory requirements governing the
17 technologies.

18 §25-9-401.

19 (a) The Mine Safety Technology Task Force, created
20 and existing under the authority of the director is continued
21 as provided by this article.

22 (b) The task force shall consist of nine members who
23 are appointed as follows:

24 (1) The director shall appoint three members to
25 represent mine operators in this state. When these members are
26 to be appointed, the director shall request from the major
27 trade association representing operators in this state a list

1 of three nominees for each position on the task force. All
2 nominees shall be persons with special experience and
3 competence in coal mine health and safety. There shall be
4 submitted with the list a summary of the qualifications of
5 each nominee. For purposes of this subdivision, the major
6 trade association representing operators in this state is that
7 association which represents operators accounting for over one
8 half of the coal produced in mines in this state in the year
9 prior to the year in which the appointment is made.

10 (2) The director shall appoint three members who can
11 reasonably be expected to represent working miners of this
12 state. When members are to be appointed, the director shall
13 request from the major employee organization representing coal
14 miners within this state a list of three nominees for each
15 position on the task force. The highest ranking official
16 within the major employee organization representing coal
17 miners within this state shall submit a list of three nominees
18 for each position on the board. The nominees shall have a
19 background in coal mine health and safety.

20 (3) The director shall appoint one certified mine
21 safety professional from an appropriate state university.

22 (4) The director shall appoint one attorney with
23 experience in issues relating to coal mine health and safety.

24 (5) The ninth member of the task force is the
25 director, or his or her designee, who shall serve as chair of
26 the task force. The director shall furnish to the task force
27 any secretarial, clerical, technical, research, and other

1 services that are necessary to the conduct of the business of
2 the task force.

3 (c) Each appointed member of the task force shall
4 serve at the will and pleasure of the director.

5 (d) Whenever a vacancy on the task force occurs,
6 nominations and appointments shall be made in the manner
7 prescribed in this section, provided, that in the case of an
8 appointment to fill a vacancy, nominations of three persons
9 for each vacancy shall be required by and submitted to the
10 director within 30 days after the vacancy occurs by the major
11 trade association or major employee organization, if any,
12 which nominated the person whose seat on the task force is
13 vacant.

14 (e) Each organization shall be responsible for
15 expense reimbursement for its members on the task force. An
16 employer shall not prohibit a member of the task force from
17 exercising leave of absence from his or her place of
18 employment in order to attend a meeting of the task force or a
19 meeting of a subcommittee of the task force, or to prepare for
20 a meeting of the task force.

21 §25-9-402.

22 (a) The task force shall provide technical and other
23 assistance to the office related to the implementation of the
24 new technological requirements and for other mine safety
25 technologies.

26 (b) The task force, working in conjunction with the
27 director, shall continue to study issues regarding the

1 commercial availability, the functional and operational
2 capability and the implementation, compliance, and enforcement
3 of the following protective equipment:

4 (1) Self-contained self-rescue devices.

5 (2) Wireless emergency communication devices.

6 (3) Wireless emergency tracking devices.

7 (4) Refuge chambers.

8 (5) Any other protective equipment required by this
9 chapter or rules promulgated in accordance with the law that
10 the director determines would benefit from the expertise of
11 the task force.

12 (c) The task force, on a continuous basis, shall
13 study, monitor, and evaluate:

14 (1) The potential for enhancing coal mine health and
15 safety through the application of existing technologies and
16 techniques.

17 (2) Opportunities for improving the integration of
18 technologies and procedures to increase the performance and
19 survivability of coal mine health and safety systems.

20 (3) Emerging technological advances in coal mine
21 health and safety.

22 (4) Market forces impacting the development of new
23 technologies, including issues regarding the costs of research
24 and development, regulatory certification, and incentives
25 designed to stimulate the marketplace.

26 (d) On or before the first day of July of each year
27 beginning in 2012, the task force shall submit a report to the

1 Chief of the Division of Safety and Inspections of the
2 Department of Industrial Relations that shall include, but not
3 be limited to:

4 (1) A comprehensive overview of issues regarding the
5 implementation of the new technological requirements set forth
6 in the provisions of this section or rules promulgated in
7 accordance with law.

8 (2) A summary of any emerging technological advances
9 that would improve coal mine health and safety.

10 (3) Recommendations, if any, for the enactment,
11 repeal, or amendment of any statute which would enhance
12 technological advancement in coal mine health and safety.

13 (4) Any other information the task force considers
14 appropriate.

15 (e) In performing its duties, the task force shall,
16 where possible, consult with, among others, mine engineering
17 and mine safety experts, radio communication and telemetry
18 experts, and relevant state and federal regulatory personnel.

19 (f) Prior to approving any protective equipment or
20 device that has been evaluated by the task force, the chief
21 shall consult with the task force and review any applicable
22 written reports issued by the task force and the findings set
23 forth in the reports and shall consider the findings in making
24 any approval determination.

25 §25-9-403.

26 (a) The chief shall require, in each underground
27 mine, an integrated communication and tracking/locating

1 system, a component of which shall be a communication center
2 monitored at all times during which one or more miners are
3 underground. A wireless emergency communication and
4 tracking/locating device approved by the chief shall be worn
5 by each miner underground and shall be provided by the
6 operator.

7 (b) As soon as practicable, the chief shall notify
8 all operators of the wireless emergency communication and
9 tracking/locating devices approved by the director for use by
10 each miner underground.

11 (c) The chief shall acquire, no later than July 1,
12 2012, or as soon as practicable thereafter, the necessary
13 technical/engineering support to evaluate the performance of
14 individual communication/tracking devices and review the
15 effectiveness of proposed communication/tracking plans.

16 (d) The director shall, no later than July 10, 2012,
17 or as soon as practicable thereafter, issue an open
18 opportunity for emergency communication and tracking/locating
19 providers to submit products for approval.

20 (e) The director shall require providers seeking
21 approval to submit documentation certified by a licensed
22 Alabama professional engineer that the product has been tested
23 for functionality in Alabama underground mines, that the
24 product has been or is in the process of being approved as
25 intrinsically safe by MSHA and other criteria as the director
26 determines, a description of the process used in making that
27 determination and a certification in the following form:

1 "I, _____ the undersigned, hereby certify that
2 this product, to the best of my knowledge and belief, meets or
3 exceeds all requirements set forth in Alabama Coal Mine Safety
4 Laws, that the product has been tested for functionality in
5 Alabama underground mines, that the product has been or is in
6 the process of being approved as intrinsically safe by MSHA
7 and other criteria as the director determines."

8 (f) No later than July 31, 2013, all underground
9 mine operators shall submit a communication/tracking plan for
10 approval by the director in accordance with Alabama Coal Mine
11 Safety Laws. The design, development, submission, and
12 implementation of the communication/tracking plan shall be the
13 responsibility of the operator of each mine. Ten days prior to
14 submittal, miners' representatives shall be given a copy of
15 the proposed plan for comments that will be submitted to the
16 director for consideration.

17 (g) Within 30 calendar days after submission of the
18 communication/tracking plan, the director shall either approve
19 the communication/tracking plan, or shall reject and return
20 the plan to the operator for modification and resubmission,
21 stating in detail the reason for such rejection. If the plan
22 is rejected, the director shall give the operator a reasonable
23 length of time, not to exceed 25 calendar days, to modify and
24 resubmit such plan. Ten days prior to submittal, miners'
25 representatives shall be given a copy of the proposed plan for
26 comments that will be submitted to the director for
27 consideration.

1 (h) Within 15 days of approval by the director, the
2 underground mine operator shall submit as an addendum to its
3 plan, a copy of any contract, or purchase order, or other
4 proof of purchase of any equipment required to complete the
5 communication/tracking system and for installation and ongoing
6 maintenance. A copy will also be given to the miners'
7 representatives.

8 (i) The operator shall submit certified progress
9 reports no less frequently than every 60 calendar days until
10 full compliance is achieved. A copy will also be given to the
11 miners' representatives. If the director, in his or her sole
12 discretion, determines that an operator has failed to provide
13 a communication/tracking plan or progress report, has provided
14 an inadequate communication/tracking plan or progress report,
15 has failed to comply with its approved communication/tracking
16 plan or compliance schedule, or has failed to provide a copy
17 of any contract, purchase order, or other proof of purchase
18 required under this section, in an effort to delay, avoid, or
19 circumvent compliance with Alabama Coal Mine Safety Laws or
20 this act, the director shall issue a cessation order to the
21 operator for the affected mine under Alabama Coal Mine Safety
22 Laws.

23 (j) In developing the communication/tracking plan
24 and any revisions, the operator shall take into consideration
25 the needs for emergency communications and tracking/locating
26 resulting from accidents, physical features of the particular
27 mine, emergency plans, existing communication infrastructure,

1 communications required under Alabama Coal Mine Safety Laws,
2 advances in communication/tracking technologies, and any other
3 aspect of the particular mine the operator deems relevant to
4 the development of the communication/tracking plan.

5 (k) The proposed communication/tracking plan shall
6 describe the structure and operations of the separate or
7 integrated communication/tracking system or systems and its
8 role in emergency response specific to the mine shall be
9 detailed and submitted to the director and, once approved, to
10 the mine rescue teams providing coverage with an updated mine
11 rescue program pursuant to Alabama Coal Mine Safety Laws.
12 Copies of the most recent version shall be available at the
13 mine for emergency responders. As changes are made to the
14 system, updated versions shall be submitted to the above. Ten
15 days prior to submittal, miners' representatives shall be
16 given a copy of the proposed plan for comments that will be
17 submitted to the director for consideration.

18 (l) The proposed communication/tracking system shall
19 include the ability for:

20 (1) A communication center monitored at all times
21 during which one or more miners are underground which shall be
22 staffed by miners trained and knowledgeable in the installed
23 communications/tracking systems, monitoring and warning
24 devices, travelways, and mine layout.

25 (2) Identifying the location of all miners
26 immediately prior to an event by tracking/locating device in

1 the escapeways, normal work assignments, or notification of
2 the communication center.

3 (3) Identifying the location of miners in the
4 escapeways after an event providing the tracking system is
5 still functional.

6 (4) Checking in and checking out with the
7 communication center by miners prior to entrance and exit from
8 bleeders and remote or seldom used areas of the mine and all
9 times shall be logged.

10 (5) Allowing two-way communications coverage in at
11 least two separate air courses, at least one of which shall be
12 intake.

13 (6) Maintaining communication/tracking after loss of
14 outside power and maintain function both inby and outby of the
15 accident event site with suitable supply of equipment for
16 rapid reconnection.

17 (7) Maintain a surface supply of
18 communication/tracking devices for use by emergency rescue
19 personnel.

20 (8) Allow for communication to surface at all
21 required emergency shelters/chambers.

22 (9) All miners and likely emergency responders shall
23 be trained in the use, limitations, and inter-operability of
24 all components of the communication and tracking/locating
25 system. This shall be incorporated into ongoing required
26 training.

1 (m) All training shall be recorded and made
2 available upon request. The operator shall provide a schedule
3 of compliance for the communication/tracking plan, which shall
4 include:

5 (1) A narrative description of how the operator will
6 achieve compliance with above requirements.

7 (2) A schedule of measures, including an enforceable
8 sequence of actions with milestones, leading to compliance.

9 (3) A statement indicating when the implementation
10 of the proposed plan will be complete.

11 (n) The operator shall provide as attachments to its
12 communication/tracking plan:

13 (1) A statement of the analysis and evaluation
14 required in developing its plan.

15 (2) A statement indicating the initial training
16 dates for implementation of the communication/tracking system
17 and how the communication/tracking system will be incorporated
18 in other required training.

19 (3) A statement regarding how the
20 communications/tracking system will be tested and maintained.

21 (4) The name of the person or persons representing
22 the operator, including his or her title, mailing address,
23 E-mail address, and telephone number, who can be contacted by
24 the director for all matters relating to the
25 communication/tracking plan and weekly testing of the system.

26 (o) After the director has approved an operator's
27 communication/tracking plan, the operator shall submit

1 revisions to the communications plan at any time that changes
2 in operational conditions result in a substantive modification
3 in the communication/tracking system. In addition, at any time
4 after approval, the operator may submit proposed modifications
5 or revisions to its plan along with reasons therefor to the
6 director. Ten days prior to submittal, miners' representatives
7 will be given a copy of the proposed plan for comments that
8 will be submitted to the director for consideration. Within 30
9 days after receipt by the director of any proposed revisions
10 or modifications to the communication/tracking plan, the
11 director shall either approve or reject the revisions, stating
12 in detail the reasons for such rejection.

13 (p) The director may require modifications to a
14 communication/tracking plan at any time following the
15 investigation of a fatal accident or serious injury, if such
16 modifications are warranted by the findings of the
17 investigation.

18 §25-9-404.

19 (a) Each miner underground shall be provided an
20 SCSR. In addition, the operator shall provide caches of
21 additional SCSRs throughout the mine in accordance with a
22 storage cache plan approved by the director.

23 (b) Each SCSR shall be approved for at least 60
24 minutes by the Mine Safety and Health Administration (MHSA) of
25 the United States Department of Labor.

26 (c) Each operator shall provide training in the
27 proper use of SCSRs in simulated emergency situations in all

1 required SCSR training; provided, that such simulations may be
2 conducted on the surface. Training shall be in compliance with
3 all manufacturers' requirements and shall include, but not be
4 limited to, the risks of toxic gases, manufacturers' required
5 daily inspections, donning and starting the SCSR, limitations
6 of the SCSRs, communication without removing the mouthpiece,
7 importance and use of goggles, how to know if the device has
8 failed and what to do if it does.

9 (d) Operators and independent contractors shall
10 report to the director all SCSRs in service by manufacturer,
11 model, serial number, mine/contractor ID number, service
12 dates, and results of required inspections. This information
13 may be submitted electronically as defined by the director,
14 updated quarterly, and will include information on any units
15 removed from service along with the reasons.

16 (e) The director shall compile and analyze the
17 results of this information and distribute a report within 30
18 days to the operator and representatives of the mine.

19 §25-9-405.

20 (a) Within 30 calendar days of the effective date of
21 this act, all operators of all mines shall submit an SCSR
22 storage cache plan for approval by the director. The design,
23 development, submission, and implementation of the SCSR
24 storage cache plan shall be the responsibility of the operator
25 of each mine. Ten days prior to submitting the SCSR storage
26 cache plan, the plans will be given to the representatives of

1 the miners for comments. The comments will be submitted to the
2 director for consideration before the plan is approved.

3 (b) Within 30 calendar days after submission of the
4 SCSR storage cache plan, the director shall either approve the
5 plan as submitted or shall reject and return the plan to the
6 operator for modification and resubmission, stating in detail
7 the reasons for such rejection. If the plan is rejected, the
8 director shall give the operator a reasonable length of time,
9 not to exceed 30 calendar days, to modify and resubmit such
10 plan. The plan will be given to the representatives of the
11 miners for comments. The comments will be submitted to the
12 director for consideration before the plan is approved.

13 (c) In developing the SCSR storage cache plan, the
14 operator shall take into consideration the needs for SCSRs,
15 the number of employees of the particular mine, the location
16 of the particular mine, the physical features of the
17 particular mine, and any other aspect of the particular mine
18 the operator deems relevant to the development of the storage
19 cache plan.

20 (d) Each SCSR storage cache shall be housed in a
21 container constructed as to protect the SCSRs from normal
22 operational damage, be made of a material that is
23 non-combustible, shall be easy to open during an emergency
24 escape, shall be noted on the escape way map, and included in
25 the mine rescue plan.

26 (e) One SCSR storage cache shall be placed at a
27 readily available location within 500 feet of the nearest

1 working face in each working section of the mine and each
2 active construction or rehabilitation site and longwall.
3 Distances greater than 500 feet, not to exceed 1,000 feet, are
4 permitted with approval of the director.

5 (f) Each of the storage caches specified in (e)
6 shall contain two SCSRs that will provide at least 60 minutes
7 of MSHA rated duration per unit for each miner. The total
8 number of SCSRs in a stationary storage cache location will be
9 based on the total number of miners reasonably likely to be in
10 that area. During crew changes involving a mantrip at a
11 working section or an active construction or rehabilitation
12 site and longwall, a number of mantrip cached 60 minutes or
13 greater MSHA rated SCSRs equal to the total number of miners
14 reasonably likely on the mantrip shall satisfy the total
15 number of SCSRs required for such personnel.

16 (g) Operators shall ensure that storage caches
17 required in (e) contain an escape kit containing a hammer, a
18 tagline, a supply of chemical light sticks, and an escapeway
19 map.

20 (h) Additional storage caches of 60 minutes or
21 longer MSHA rated SCSRs shall also be placed in readily
22 available locations throughout the remainder of the mine as
23 follows:

24 (1) Beginning at the storage cache located at the
25 working section or active construction or rehabilitation site,
26 longwall, beltlines, pumping and bleeder area, and continuing
27 to the surface or nearest escape facility leading to the

surface. The operator shall station additional storage caches of 60 minutes or longer MSHA rated SCSRs containing a number of additional SCSRs equal to or exceeding one each for the total number of miners reasonably likely to be in that area at calculated intervals that a miner may traverse in no more than 30 minutes traveling at a normal pace, taking into consideration the height of the coal seam and utilizing the travel times as specified in subdivision (2). If an SCSR has an MSHA approved duration greater than 60 minutes, the intervals between storage caches shall be calculated at the distance traveled in one-half the approved duration.

(2) The intervals shall be calculated in accordance with the following:

| | | Travel/Minute | | Travel/Minute |
|--|-----------|---------------|-----------|---------------|
| | Height | | Height | |
| | 28 inches | 70 feet | 56 inches | 180 feet |
| | 32 inches | 90 feet | 60 inches | 220 feet |
| | 36 inches | 100 feet | 64 inches | 270 feet |
| | 40 inches | 120 feet | 68 inches | 280 feet |
| | 44 inches | 135 feet | 72 inches | 290 feet |
| | 48 inches | 150 feet | 76 inches | 295 feet |
| | 52 inches | 160 feet | 80 inches | 300 feet |

1 (i) The storage cache plan shall include the
2 following:

3 (1) The size and physical features of the mine.

4 (2) The maximum number of miners underground during
5 each working shift.

6 (3) The proposed location of the various storage
7 caches and the emergency shelter/chamber in relation to miners
8 underground.

9 (4) A schedule of compliance which shall include:

10 a. A narrative description of how the operator will
11 achieve compliance with Section 25-9-405.

12 b. A schedule of measures, including an enforceable
13 sequence of actions with milestones, leading to compliance.

14 c. A statement indicating when the implementation of
15 the proposed plan will be complete.

16 (j) Each operator shall submit as attachments to its
17 SCSR storage cache plan the following:

18 (1) A statement that the analysis and evaluation
19 required by subsection (b) of Section 25-9-405 has been
20 completed.

21 (2) A statement indicating the training dates for
22 the use of the SCSRs.

23 (3) The name of the person or persons representing
24 the operator, including his or her title, position, mailing
25 address, and telephone number, who can be contacted by the

1 director for all matters relating to the storage cache plan,
2 and the weekly inspections of each storage cache.

3 (k) Within 30 calendar days of the director's
4 approval of the plan, the operator shall submit to the
5 director and representatives of the miners a copy of any
6 contract, purchase order, or other proof of purchase of any
7 such number of additional SCSRs consistent with the operator's
8 schedule of compliance.

9 (l) After the director has approved an operator's
10 SCSR storage cache plan, the operator shall submit revisions
11 to the plan at any time that changes in the operational
12 conditions result in substantive modifications. In addition,
13 at any time after the director has approved an operator's
14 storage cache plan, the operator may submit proposed
15 modifications or revisions to its plan along with the reasons
16 therefore to the director and the representatives of miners.

17 (1) Within 30 calendar days after receipt by the
18 director of any proposed revisions or modifications to the
19 storage cache plan, the director shall either approve or
20 reject the revisions, stating in detail the reasons for such
21 rejection.

22 (2) The director may require modifications to a
23 storage cache plan at any time following the investigation of
24 a fatal accident or serious injury if such modifications are
25 warranted by the findings of the investigation.

26 (m) If the director, in his or her sole discretion,
27 determines that an operator has failed to provide an SCSR

1 storage cache plan or progress report, has provided an
2 inadequate SCSR storage cache plan or progress report, has
3 failed to comply with its approved SCSR storage cache plan or
4 compliance schedule, or has failed to provide a copy of any
5 contract, purchase order, or other proof of purchase required
6 under this section, in an effort to delay, avoid, or
7 circumvent compliance with the coal mining laws of the State
8 of Alabama or this act, the director shall issue a cessation
9 order to the operator for the affected mine.

10 §25-9-406.

11 (a) Intrinsically safe battery-powered strobe lights
12 approved by the director shall be affixed to each storage
13 cache of SCSRs and shall operate continuously or be capable of
14 automatic activation in the event of an emergency.

15 (1) All intrinsically safe battery-powered strobe
16 lights affixed to each storage cache of SCSRs shall be
17 approved by the director and MSHA and maintained in accordance
18 with applicable MSHA requirements.

19 (2) Prior to approval of any MSHA certified
20 intrinsically safe battery-powered strobe lights, the director
21 shall have prepared an independent analysis of the added risk
22 incurred from battery-powered devices throughout the mine in
23 the event of a catastrophic explosion.

24 (3) The director, if determining that intrinsically
25 safe battery-powered strobe lights present an acceptable risk,
26 shall review those rated intrinsically safe by MSHA and may
27 approve them for use in Alabama mines. A list of approved

1 intrinsically safe battery-powered strobe lights shall be
2 maintained by the director.

3 (b) A reflective sign with the words "SELF-RESCUER"
4 or "SELF-RESCUERS" shall be conspicuously posted at each cache
5 and reflective direction signs shall be posted leading to each
6 cache.

7 (c) Lifeline cords installed in primary escapeways
8 shall be attached to each storage cache container and extend
9 from the last permanent stopping to the surface or nearest
10 escape facility, excluding belt and track entries, and must:

11 (1) Be made of durable material.

12 (2) Be marked with reflective material every 25
13 feet.

14 (3) Be located in such a manner for miners to use
15 effectively to escape.

16 (4) Have directional indicators signifying the route
17 of escape placed at intervals not exceeding 100 feet.

18 §25-9-407.

19 (a) An emergency shelter/chamber shall be maintained
20 within 1,000 feet of the nearest working face in each working
21 section. Such emergency shelter/chamber shall be approved by
22 the director and shall be constructed and maintained in a
23 manner prescribed by the director.

24 (b) The director may approve, as an alternative to a
25 shelter/chamber, an additional surface opening located no more
26 than 1,000 feet from the nearest working face and accurately
27 located on escapeway maps.

1 (c) The director shall acquire the necessary
2 technical/engineering support along with the Mine Safety
3 Technology Task Force to evaluate the performance of emergency
4 shelter/chamber components/systems, and to review the
5 effectiveness of emergency shelter/chamber plans.

6 (d) The director shall, no later than 90 days, after
7 approval of these laws, issue an open opportunity for
8 emergency shelter/chamber providers to submit products for
9 approval. The director shall maintain a current list of
10 pending and approved emergency shelter/chambers.

11 (e) Providers of emergency shelter/chambers seeking
12 approval shall submit documentation prescribed by the director
13 that shall include a certification by an independent Alabama
14 licensed professional engineer that the proposed product meets
15 the requirements set forth in Section 25-9-407, a description
16 of the process used in making that determination and a
17 certification in the following form: "I, the undersigned,
18 hereby certify that this product, to the best of my knowledge
19 and belief, meets or exceeds all requirements set forth in
20 Section 25-9-407."

21 (f) Any emergency shelter/chamber approved by the
22 director shall:

23 (1) Provide a minimum of 96 hours life support (air,
24 water, emergency medical supplies, and food) for the maximum
25 number of miners reasonably expected on the working section.

26 (2) Be capable of surviving an initial event with a
27 peak overpressure of 15 psi for three seconds and a flash fire

1 as defined by National Fire Protection Association standard
2 NFPA-2113 of 300 degrees Fahrenheit for three seconds.

3 (3) Be constructed such that it will be protected
4 under normal handling and pre-event mine conditions.

5 (4) Provide for rapidly establishing and maintaining
6 an internal shelter atmosphere of oxygen above 19.5 percent,
7 carbon dioxide below .05 percent, carbon monoxide below 50 pm,
8 and an apparent-temperature of 80 degrees Fahrenheit.

9 (5) Provide the ability to monitor carbon monoxide
10 and oxygen inside and outside the shelter/chamber.

11 (6) Provide a means for entry and exit that
12 maintains the integrity of the internal atmosphere.

13 (7) Provide a means for MSHA certified intrinsically
14 safe power if power required.

15 (8) Provide a minimum 16 quarts of water per miner.

16 (9) Provide a minimum of 8,000 calories of food per
17 miner.

18 (10) Provide a means for disposal of human waste to
19 the outside of the shelter/chamber.

20 (11) Provide a first aid kit independent of the
21 section first aid kit.

22 (12) Have provisions for inspection of the
23 shelter/chamber and contents.

24 (13) Contain manufacturer recommended repair
25 materials.

1 (14) Provide a battery-powered occupant-activated
2 strobe light of a model approved by the director that is
3 visible from the outside indicating occupancy.

4 (15) Provide provisions for communications to the
5 surface.

6 (16) Provide proof of current approval for all items
7 and materials subject to MSHA approval.

8 (g) No later than October 1, 2011, all underground
9 mine operators shall submit an emergency shelter/chamber plan
10 for approval by the director. The design, development,
11 submission, and implementation of the shelter/chamber plan
12 shall be the responsibility of the operator of each mine. The
13 plan will be given to the representatives of the miners for
14 comments. The comments will be submitted to the director for
15 consideration before the plan is approved.

16 (h) Within 30 calendar days after submission of the
17 emergency shelter/chamber plan, the director shall either
18 approve the emergency shelter/chamber plan or shall reject and
19 return the plan to the operator for modification and
20 resubmission, stating in detail the reason for such rejection.
21 If the plan is rejected, the director shall give the operator
22 a reasonable length of time, not to exceed 30 calendar days,
23 to modify and resubmit such plan. The plan will be given to
24 the representatives of the miners for comments. The comments
25 will be submitted to the director for consideration before the
26 plan is approved.

1 (i) Within 15 days of approval of the emergency
2 shelter/chamber plan by the director, the underground mine
3 operator shall submit as an addendum to its emergency
4 shelter/chamber plan a copy of any contract, or purchase
5 order, including expected delivery date or other proof of
6 purchase of any equipment required to complete the emergency
7 shelter/chamber and for installation and ongoing maintenance.

8 (j) The operator shall submit certified progress
9 reports no less frequently than every 60 calendar days until
10 full compliance is achieved.

11 (k) After the director has approved an operator's
12 emergency shelter/chamber plan, the operator shall submit
13 revisions to the emergency shelter/chamber plan at any time
14 that changes in operational conditions result in substantive
15 modification. In addition, at any time after approval, the
16 operator may submit proposed modifications or revisions to its
17 plan along with reasons therefore to the director. Within 30
18 days after receipt by the director of any proposed revisions
19 or modifications to the emergency shelter/chamber plan, the
20 director shall either approve or reject the revisions, stating
21 in detail the reasons for such rejection. The plan will be
22 given to the representatives of the miners for comments. The
23 comments will be submitted to the director for consideration
24 before the plan is approved.

25 (l) In developing the emergency shelter/chamber plan
26 and any revisions, the operator shall take into consideration
27 the physical features of the particular mine, emergency plans,

1 advances in emergency shelter/chamber technologies, and any
2 other aspect of the particular mine the operator deems
3 relevant to the development of the emergency shelter/chamber
4 plan.

5 (m) A copy of the approved emergency shelter/chamber
6 plan shall be provided to the mine rescue teams providing
7 coverage for the mine and included in the mine rescue program.
8 Copies of the most recent version shall be available at the
9 mine for emergency responders. As changes are made to the
10 approved emergency shelter/chamber plan, updated versions
11 shall be submitted to the above parties.

12 (n) The proposed emergency shelter/chamber plan
13 shall:

14 (1) Describe the structure and operations of the
15 emergency shelter/chamber, the surveyed location of the
16 shelter drilling operations to the shelter/chamber, and the
17 shelter/chamber's role in emergency response.

18 (2) Ensure that proper emergency shelter/chamber use
19 is included in initial mine hazard training in such a manner
20 that it is in compliance with all manufacturer's requirements
21 and is provided yearly in addition to annual refresher
22 training. All training shall be recorded and made available
23 upon request.

24 (3) Ensure weekly inspections of emergency
25 shelters/chambers and contents shall be conducted by a
26 certified mine foreman and/or mine examiner and recorded in
27 weekly ventilation examination book.

1 (4) Ensure that weekly safety meetings review the
2 current location of applicable emergency shelters/chambers and
3 results of the latest inspection.

4 (5) Ensure that all openings to emergency
5 shelters/chambers shall be equipped with easily removable
6 tamper-proof tags such that a visual indication of
7 unauthorized access to the emergency shelter/chamber can be
8 detected.

9 (6) Ensure that the mine's communication center
10 shall monitor any communication systems associated with the
11 emergency shelter/chamber at all times that the mine is
12 occupied.

13 (o) If the director, in his or her sole discretion,
14 determines that an operator has failed to provide an emergency
15 shelter/chamber plan or progress report, has provided an
16 inadequate emergency shelter/chamber plan or progress report,
17 has failed to comply with its approved emergency
18 shelter/chamber plan or compliance schedule, or has failed to
19 provide a copy of any contract, purchase order, or other proof
20 of purchase required under this section, in an effort to
21 delay, avoid, or circumvent compliance of this section, the
22 director shall issue a cessation order to the operator for the
23 affected mine.

24 (p) If there are no emergency shelters/chambers
25 approved, operators shall install in lieu of an emergency
26 shelter/chamber, within 1,000 feet of the nearest working face
27 in each working section, storage caches of SCSRs sufficient to

1 provide each miner reasonably expected to be at the working
2 section with no less than 16 additional SCSRs rated by MSHA
3 each for a duration of 60 minutes or greater, or an equivalent
4 amount of breathable air and barricading materials.

5 (q) Any person that, without authorization of the
6 operator or the director, knowingly removes or attempts to
7 remove an emergency shelter/chamber or its contents approved
8 by the director from the mine or mine site with the intent to
9 permanently deprive the operator of the device or knowingly
10 tampers with or attempts to tamper with such a device shall be
11 deemed guilty of a felony and, upon conviction thereof, shall
12 be imprisoned in a state correctional facility for not less
13 than one year nor more than 10 years, or fined not less than
14 ten thousand dollars (\$10,000) nor more than one hundred
15 thousand dollars (\$100,000), or both.

16 Section 6. All laws or parts of laws in conflict
17 with this act are repealed, and Sections 25-9-87 and 25-9-153,
18 Code of Alabama 1975, are specifically repealed.

19 Section 7. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.