

§56-4-8. Emergency Shelters/Chambers.

8.1. An emergency shelter/chamber shall be maintained within one thousand (1,000) feet of the nearest working face in each working section. Such emergency shelter/chamber shall be approved by the Director and shall be constructed and maintained in a manner prescribed by the Director.

8.1.1. The Director may approve, as an alternative to a shelter/chamber, an additional surface opening located no more than 1,000 feet from the nearest working face and accurately located on escape-way maps as required in W. Va. Code Chapter 22A Article 2-1.

8.2. The Director shall acquire, no later than July 1, 2006, the necessary technical/engineering support needed to evaluate the performance of emergency shelter/chamber components/systems, and to review the effectiveness of emergency shelter/chamber plans.

8.3. The Director shall, no later than July 10, 2006, issue an open opportunity for emergency shelter/chamber providers to submit products for approval. The Director shall maintain a current list of pending and approved emergency shelter/chambers on the West Virginia MHS&T web site <http://www.wvminesafety.org>

8.3.1. Providers of emergency shelter/chamber seeking approval shall submit documentation prescribed by the Director that shall include a certification by an independent West Virginia licensed professional engineer that the proposed product meets the requirements set forth in Section 8, a description of the process used in making that determination and a certification in the following form: "I, the undersigned, hereby certify that this product, to the best of my knowledge and belief, meets or exceeds all requirements set forth in W. Va. CSR Title 56 Series 4-8."

8.4. Any emergency shelter/chamber approved by the Director shall:

8.4.1. Provide a minimum of 48 hours life support (air, water, emergency medical supplies, and food) for the maximum number of miners reasonably expected on the working section;

8.4.2. Be capable of surviving an initial event with a peak overpressure of 15 psi for 3 seconds and a flash fire as

defined by National Fire Protection Association standard NFPA-2113 of 300 degrees Fahrenheit for 3 seconds;

8.4.3. Be constructed such that it will be protected under normal handling and pre-event mine conditions;

8.4.4. Provide for rapidly establishing and maintaining an internal shelter atmosphere of oxygen above 19.5%, carbon dioxide below 0.5%, carbon monoxide below 50 ppm, and an apparent-temperature of 95 degrees Fahrenheit;

8.4.5. Provide the ability to monitor carbon monoxide and oxygen inside and outside the shelter/chamber;

8.4.6. Provide a means for entry and exit that maintains the integrity of the internal atmosphere;

8.4.7. Provide a means for MSHA certified intrinsically safe power if power required;

8.4.8. Provide a minimum eight quarts of water per miner;

8.4.9. Provide a minimum of 4,000 calories of food per miner;

8.4.10. Provide a means for disposal of human waste to the outside of the shelter/chamber;

8.4.11. Provide a first aid kit as defined at W. Va. Code Chapter 22A Article 2-59(3)(b) independent of the section first aid kit required by W. Va. Code Chapter 22A Article 2-59(3) and 2-60(f);

8.4.12. Have provisions for inspection of the shelter/chamber and contents;

8.4.13. Contain manufacturer recommended repair materials;

8.4.14. Provide a battery-powered occupant-activated strobe light of a model approved by the Director that is visible from the outside indicating occupancy;

8.4.15. Provide provisions for communications to the surface; and

8.4.16. Provide proof of current approval for all items and materials subject to MSHA approval.

8.5. No later than April 15, 2007 all underground mine operators shall submit an emergency shelter/chamber plan for approval by the Director in accordance with W. Va. Code Chapter 22A Article 1-36. The design, development, submission, and implementation of the shelter/chamber plan shall be the responsibility of the operator of each mine.

8.6. Within thirty (30) calendar days after submission of the emergency shelter/chamber plan, the Director shall either approve the emergency shelter/chamber plan or shall reject and return the plan to the operator for modification and resubmission, stating in detail the reason for such rejection. If the plan is rejected, the Director shall give the operator a reasonable length of time, not to exceed fifteen (15) calendar days, to modify and resubmit such plan.

8.7. Within 15 days of approval of the emergency shelter/chamber plan by the Director, the underground mine operator shall submit as an addendum to its emergency shelter/chamber plan a copy of any contract, or purchase order, or other proof of purchase of any equipment required to complete the emergency shelter/chamber and for installation and ongoing maintenance

8.8. The operator shall submit certified progress reports no less frequently than every sixty (60) calendar days until full compliance is achieved.

8.9. After the Director has approved an operator's emergency shelter/chamber plan, the operator shall submit revisions to the emergency shelter/chamber plan at any time that changes in operational conditions result in substantive modification. In addition, at any time after approval, the operator may submit proposed modifications or revisions to its plan along with reasons therefore to the Director. Within thirty (30) days after receipt by the Director of any proposed revisions or modifications to the emergency shelter/chamber plan, the Director shall either approve or reject the revisions, stating in detail the reasons for such rejection.

8.10. In developing the emergency shelter/chamber plan and any revisions, the operator shall take into consideration the physical features of the particular mine, emergency plans, advances in emergency shelter/chamber technologies and any other

aspect of the particular mine the operator deems relevant to the development of the emergency shelter/chamber plan.

8.11. A copy of the approved emergency shelter/chamber plan shall be provided to the mine rescue teams providing coverage for the mine and included in the mine rescue program required by W. Va. Code Chapter 22A Article 1-35(q). Copies of the most recent version shall be available at the mine for emergency responders. As changes are made to the approved emergency shelter/chamber plan, updated versions shall be submitted to the above parties.

8.12. The proposed emergency shelter/chamber plan shall:

8.12.1. Describe the structure and operations of the emergency shelter/chamber, the surveyed location of the shelter and any necessary survey monuments for locating emergency drilling operations to the shelter/chamber and the shelter/chamber's role in emergency response;

8.12.2. Ensure that proper emergency shelter/chamber use is included in initial mine hazard training in such a manner that it is in compliance with all manufacturer's requirements and is provided yearly in addition to annual refresher training. All training shall be recorded and made available upon request;

8.12.3. Ensure weekly inspections of emergency shelters/chambers and contents shall be conducted by a certified mine foreman and/or mine examiner and recorded in weekly ventilation examination book;

8.12.4. Ensure that weekly safety meetings review the current location of applicable emergency shelters/chambers and results of the latest inspection;

8.12.5. Ensure that all opening to emergency shelters/chambers shall be equipped with easily removable tamper-proof tags such that a visual indication of unauthorized access to the emergency shelter/chamber can be detected; and

8.12.6. Ensure that the mine's communication center shall monitor any communication systems associated with the emergency shelter/chamber at all times that the mine is occupied.

8.13. If the Director, in his sole discretion, determines that an operator has failed to provide an emergency shelter/chamber plan or progress report, has provided an

inadequate emergency shelter/chamber plan or progress report, has failed to comply with its approved emergency shelter/chamber plan or compliance schedule, or has failed to provide a copy of any contract, purchase order or other proof of purchase required under this section, in an effort to delay, avoid or circumvent compliance with W. Va. Code Chapter 22A Article 2-55 or these rules, the Director shall issue a cessation order to the operator for the affected mine.

8.14. If there are no emergency shelters/chambers approved by May 29, 2007, operators shall install in lieu of an emergency shelter/chamber, within one thousand (1,000) feet of the nearest working face in each working section, storage caches of SCSRs sufficient to provide each miner reasonably expected to be at the working section with no less than sixteen (16) additional SCSRs rated by MSHA each for a duration of sixty (60) minutes or greater, or an equivalent amount of breathable air and barricading materials described at W. Va. Code Chapter 22A Article 2-58(n).

8.15. The Director may require modifications to an emergency shelter/chamber approval or an emergency shelter/chamber plan at any time following the investigation of a fatal accident or serious injury, as defined by W. Va. CSR Title 36 Series 19-3.2, if such modifications are warranted by the findings of the investigation.

8.16. As provided in W. Va. Code Title 22A Articles 2-55(f)(3), 2-55(g)(2), and 2-55(h)(2) any person that, without the authorization of the operator or the Director, knowingly removes or attempts to remove emergency shelter/chamber or its contents approved by the Director from the mine or mine site with the intent to permanently deprive the operator of the device or knowingly tampers with or attempts to tamper with such a device shall be deemed guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than ten years or fined not less than ten thousand dollars nor more than one hundred thousand dollars, or both.