

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 45.2-1101, 45.2-1109, 45.2-1119, 45.2-1200, and 45.2-1203 of the Code of*  
 3 *Virginia, relating to Mineral Mine Safety Act; definition of "surface mineral mine"; mine inspectors;*  
 4 *certificate renewal; use of cyanide or cyanide compound.*

5 [S 969]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That §§ 45.2-1101, 45.2-1109, 45.2-1119, 45.2-1200, and 45.2-1203 of the Code of Virginia are**  
 9 **amended and reenacted as follows:**

10 **§ 45.2-1101. Definitions.**

11 As used in the Mineral Mine Safety Act and in regulations adopted under the Act, unless the context  
 12 requires a different meaning:

13 "Abandoned area" means the inaccessible area of an underground mine that is sealed or ventilated and in  
 14 which further mining is not intended.

15 "Accident" means (i) a death of an individual at a mine; (ii) a serious personal injury; (iii) an entrapment  
 16 of an individual for more than 30 minutes; (iv) an unplanned inundation of a mine by liquid or gas; (v) an  
 17 unplanned ignition or explosion of gas or dust; (vi) an unplanned mine fire not extinguished within 30  
 18 minutes of discovery; (vii) an unplanned ignition or explosion of a blasting agent or an explosive; (viii) an  
 19 unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use, or an  
 20 unplanned roof or rib fall in active workings that impairs ventilation or impedes passage; (ix) a rock outburst  
 21 that causes withdrawal of miners or that disrupts regular mining activity for more than one hour; (x) an  
 22 unstable condition at a water or silt retaining dam or mine refuse pile that requires emergency action in order  
 23 to prevent failure or causes individuals to evacuate an area, or failure of such retaining dam or refuse pile; (xi)  
 24 damage to hoisting equipment in a shaft or slope that endangers an individual or interferes with use of the  
 25 equipment for more than 30 minutes; and (xii) an event at a mine that causes death or serious personal injury  
 26 to any individual not at a mine at the time the event occurs.

27 "Active area" means any place in a mine that is ventilated, if underground, and examined regularly.

28 "Active workings" means any place in a mine where miners are normally required to work or travel.

29 "Agent" means any person charged by the operator with responsibility for the operation of all or a part of  
 30 a mine or the supervision of miners in a mine.

31 "Approved" means, with reference to a device, apparatus, equipment, condition, method, course, or  
 32 practice, approved in writing by the Director.

33 "Approved competent person" means a person with more than two years of experience designated by the  
 34 Department as having the authority to function as a mine foreman even though the person has less than five  
 35 years of experience. If an approved competent person meets all the criteria for certification as a mine foreman  
 36 other than the experience criteria, he may perform the duties of a mine foreman except the pre-shift  
 37 examination.

38 "Armored cable" means a cable provided with a wrapping of metal, plastic, or other approved material.

39 "Authorized person" means a person who is assigned by the operator or agent to perform a specific type of  
 40 duty or to be at a specific location in the mine and is task-trained in accordance with requirements of the  
 41 federal mine safety law.

42 "Blower fan" means a fan with tubing used to direct part of a particular circuit of air to a working place.

43 "Booster fan" means an underground fan installed in conjunction with a main fan to increase the volume  
 44 of air in one or more circuits.

45 "Cable" means (i) a stranded conductor, known as single-conductor cable, or (ii) a combination of  
 46 conductors insulated from one another, known as multiple-conductor cable.

47 "Certified person" means a person who holds a valid certificate from the Department authorizing him to  
 48 perform the particular task to which he is assigned.

49 "Circuit" means a conducting part or a system of conducting parts through which an electric current is  
 50 intended to flow.

51 "Circuit breaker" means a device for interrupting a circuit between separable contacts under normal or  
 52 abnormal conditions.

53 "Competent person" means a person having abilities and experience that fully qualify him to perform the  
 54 particular duty to which he is assigned.

55 "Cross entry" means any entry or set of entries, turned from main entries, from which room entries are  
 56 turned.

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57 "Division" means the Division of Mineral Mining.  
58 "Experienced surface miner" means a person with more than six months of experience working at a  
59 surface mine or the surface area of an underground mine.  
60 "Experienced underground miner" means a person with more than six months of underground mining  
61 experience.  
62 "Federal mine safety law" means the Federal Mine Safety and Health Act of 1977 (P.L. 91-173, as  
63 amended by P.L. 95-164) and regulations adopted thereunder.  
64 "Fuse" means an overcurrent protective device with a circuit-opening fusible member directly heated and  
65 destroyed by the passage of overcurrent through it.  
66 "Ground" means a conducting connection between an electric circuit or electrical equipment and earth or  
67 some conducting body that serves in place of earth.  
68 "Grounded" means connected to earth or to some connecting body that serves in place of earth.  
69 "Hazardous condition" means a condition that is likely to cause death or serious personal injury to a  
70 person exposed to such condition.  
71 "Imminent danger" means the existence of any condition or practice in a mine that could reasonably be  
72 expected to cause death or serious personal injury before such condition or practice can be abated.  
73 "Inactive mine" means a mine (i) at which (a) coal or minerals have not been excavated or processed or  
74 (b) work, other than examination by a certified person or emergency work to preserve the mine, has not been  
75 performed for a period of 30 days at an underground mine or for a period of 60 days at a surface mine; (ii) for  
76 which a valid license is in effect; and (iii) at which reclamation activities have not been completed.  
77 "Independent contractor" means any person who contracts to perform services or construction at a mine.  
78 "Intake air" means air that has not passed through the last active working place of the split or by the  
79 unsealed entrance to an abandoned area and by analysis contains at least 19.5 percent oxygen and not more  
80 than 0.5 percent carbon dioxide and does not contain a hazardous quantity of flammable gas or a harmful  
81 quantity of poisonous gas.  
82 "Interested persons" means members of the mine safety committee and other duly authorized  
83 representatives of the employees at a mine, MSHA employees, mine inspectors, and, to the extent required by  
84 the Act, any other person.  
85 "Licensed operator" means the operator who has obtained the license for a particular mine under §  
86 45.2-1124.  
87 "Main entry" means the principal entry or set of entries driven through the coal bed or mineral deposit and  
88 from which cross entries, room entries, or rooms are turned.  
89 "Mine" means any underground mineral mine or surface mineral mine. Mines that are adjacent to each  
90 other and under the same management and that are administered as distinct units are considered separate  
91 mines. A site is not considered a mine unless the mineral extracted or excavated from it is offered for sale or  
92 exchange or used for any other commercial purpose.  
93 "Mine fire" means an unplanned fire not extinguished within 30 minutes of discovery.  
94 "Mine foreman" means a person who holds a valid certificate of qualification as a foreman issued by the  
95 Department.  
96 "Mine inspector" means a public employee assigned by the Director to make mine inspections as required  
97 by the Mineral Mine Safety Act or other applicable law.  
98 "Miner" means any individual working in a mineral mine.  
99 "Mineral" means clay, stone, sand, gravel, metalliferous or nonmetalliferous ore, or any other solid  
100 material or substance of commercial value excavated in solid form from a natural deposit on or in the earth,  
101 exclusive of coal and any mineral that occurs naturally in liquid or gaseous form.  
102 "Mineral mine" means a surface mineral mine or an underground mineral mine.  
103 "Mineral Mine Safety Act" or "the Act" means this chapter and Chapters 14 (§ 45.2-1400 et seq.) and 15  
104 (§ 45.2-1500 et seq.) and includes any regulations adopted thereunder, where applicable.  
105 "Mine Safety and Health Administration" or "MSHA" means the federal Mine Safety and Health  
106 Administration.  
107 "Operator" means any person who operates, controls, or supervises a mine or any independent contractor  
108 performing services or construction at a mine.  
109 "Panel entry" means a room entry.  
110 "Permissible" means any device, process, equipment, or method classified at any time as permissible by  
111 MSHA, when such classification is adopted by the Director. "Permissible" includes, unless otherwise herein  
112 expressly stated, any requirement, restriction, exception, limitation, or condition attached to such  
113 classification by MSHA.  
114 "Return air" means air that has passed through (i) the last active working place on each split or (ii) an  
115 abandoned or worked-out area. No area within a panel shall be deemed abandoned until it is inaccessible or  
116 sealed.  
117 "Room entry" means any entry or set of entries from which a room is turned.  
118 "Serious personal injury" means any injury that (i) has a reasonable potential to cause death or (ii) is other

119 than a sprain or strain and requires an admission to a hospital for 24 hours or more for medical treatment.

120 "Substation" means an electrical installation containing generating or power-conversion equipment and  
121 associated electric equipment and parts, such as switchboards, switches, wiring, fuses, circuit breakers,  
122 compensators, and transformers.

123 "Surface mineral mine" means (i) the pit and any other active or inactive area of surface extraction of  
124 minerals; (ii) any onsite mill, shop, loadout facility, or related structure appurtenant to the excavation and  
125 processing of minerals; (iii) any impoundment, water or silt retaining dam, tailing pond, mine refuse pile, or  
126 other area appurtenant to the extraction of minerals from the site; (iv) any onsite surface area for the  
127 transportation or storage of minerals excavated at the site; (v) equipment, machinery, tools, and other  
128 property used in, or to be used in, the work of extracting minerals from the site; (vi) any private way or road  
129 appurtenant to such area; and (vii) any area used for surface-disturbing exploration, other than by drilling or  
130 seismic testing, or for preparation of a site for surface mineral extraction activity. A site shall commence  
131 being a surface mineral mine upon the beginning of any surface-disturbing exploration activity other than  
132 exploratory drilling or seismic testing and shall cease to be a surface mineral mine upon completion of initial  
133 reclamation activities. The surface extraction of a mineral shall not constitute surface mineral mining unless  
134 the mineral (a) is extracted for its unique or intrinsic characteristics or (b) requires processing prior to its  
135 intended use.

136 *Excavation or grading when conducted solely in aid of onsite farming or construction shall not constitute*  
137 *a surface mineral mine. Such exemption shall not be construed to limit a landowner in a one-time*  
138 *construction or expansion of a farm pond for agricultural irrigation or provision of water for livestock to*  
139 *beneficially reuse the soil or sand, provided that such pond construction or expansion project (1) is a one-*  
140 *time activity on that parcel of land, (2) is completed within one year, (3) results in a pond that is less than*  
141 *three acres in total, and (4) has all necessary permits and local approvals in place before such activity*  
142 *begins.*

143 "Travel way" means a passage, walk, or way regularly used and designated for persons to use in going  
144 from one place to another.

145 "Underground mineral mine" means (i) the working face and any other active or inactive area of  
146 underground excavation of minerals; (ii) any underground travel way, shaft, slope, drift, incline, or tunnel  
147 connected to such area; (iii) any onsite mill, loadout area, shop, or related facility appurtenant to the  
148 excavation and processing of minerals; (iv) any onsite surface area for the transportation or storage of  
149 minerals excavated at the site; (v) any impoundment, retention dam, tailing pond, or waste area appurtenant  
150 to the excavation of minerals from the site; (vi) equipment, machinery, tools, and other property, on the  
151 surface or underground, used in, or to be used in, the excavation of minerals from the site; (vii) any private  
152 way or road appurtenant to such area; and (viii) any area used to prepare a site for underground mineral  
153 excavation activities. A site commences being an underground mineral mine upon the beginning of any site  
154 preparation activity other than exploratory drilling or other exploration activity and ceases to be an  
155 underground mineral mine upon completion of initial reclamation activities.

156 "Work area," as used in Chapter 9 (§ 45.2-900 et seq.), means an area of a mine in production or being  
157 prepared for production or an area of a mine that may pose a danger to miners at such area in production or  
158 being prepared for production.

159 "Working face" means any place in a mine in which work of extracting minerals from their natural deposit  
160 in the earth is performed during the mining cycle.

161 "Working place" means the area of an underground mine in by the last open crosscut.

162 "Working section" means the portion of a mine encompassing all areas from the loading point of a section  
163 to and including the working faces.

164 **§ 45.2-1109. Appointment and general qualifications of mine inspectors.**

165 A. Each mine inspector shall be appointed by the Director.

166 B. Each mine inspector shall (i) be at least 25 years of age; (ii) be of good moral character and temperate  
167 habits; (iii) hold a certificate as a mine foreman; and (iv) hold a certificate as a mine inspector issued prior to  
168 July 1, 2012, by the Board of Mineral Mining Examiners or on or after July 1, 2012, by the Department and  
169 possess appropriate qualifications as determined by the Director.

170 **§ 45.2-1119. Renewal of certificates.**

171 The holder of any certificate issued by the Board of Mineral Mining Examiners or the Department, other  
172 than a general mineral miner certificate or a mineral mine inspector certificate, may renew the certificate by  
173 successfully completing the examination for the renewal of such certificate. The Department shall establish  
174 requirements for renewal of a certificate in accordance with the procedure set forth in § 45.2-1115. The  
175 Department shall notify a certificate holder at least 180 days prior to the expiration of the certificate. Any  
176 certificate requiring renewal that is not renewed by the fifth anniversary of its issuance or of a previous  
177 renewal is invalid. As a condition to renewal, the holder shall provide the Department with all administrative  
178 information reasonably required and pay the examination fee as provided in § 45.2-1117.

179 **§ 45.2-1200. Definitions.**

180 As used in this chapter, unless the context requires a different meaning:

181 "Disturbed land" means the area from which overburden has been removed in any mining operation, plus  
182 the area covered by the spoil and refuse, plus any area used in such mining operation, including land used for  
183 processing, stockpiling, or settling ponds.

184 "Division" means the Division of Mineral Mining.

185 "Mineral" means ore, rock, and any other solid homogeneous crystalline chemical element or compound  
186 that results from the inorganic processes of nature other than coal.

187 "Mining" means the breaking or disturbing of the surface soil or rock in order to facilitate or accomplish  
188 the extraction or removal of minerals or any activity constituting all or part of a process for the extraction or  
189 removal of minerals so as to make them suitable for commercial, industrial, or construction use. "Mining"  
190 does not include (i) any aspect of deep mining that does not have a significant effect on the surface or (ii)  
191 excavation or grading when conducted solely in aid of onsite farming or construction. Such exemption in  
192 clause (ii) shall not be construed to limit a landowner in a one-time construction or expansion of a farm pond  
193 for agricultural irrigation or provision of water for livestock to beneficially reuse the soil or sand, provided  
194 that such pond construction or expansion project (a) is a one-time activity on that parcel of land, (b) is  
195 completed within ~~six months~~ *one year*, (c) results in a pond that is less than three acres in total, and (d) has all  
196 necessary permits and local approvals in place before such activity begins. Nothing in this section applies to  
197 the mining of coal. "Mining" does not include, and this title, chapter, or section shall not be construed to  
198 apply to, the process of searching, prospecting, exploring, or investigating for minerals by drilling.

199 "Mining operation" means any area included in an approved plan of operation.

200 "Operator" means any individual, corporation or corporation officer, firm, joint venture, partnership,  
201 business trust, association, or any other group or combination acting as a unit, or any legal entity that is  
202 engaged in mining.

203 "Orphaned lands" means lands disturbed by surface mining of minerals, other than coal operations, that  
204 were not required by law to be reclaimed or that have not been reclaimed.

205 "Overburden" means all of the earth and other materials that lie above a natural deposit of minerals, ores,  
206 rock, or other solid matter and also other materials after removal from their natural deposit in the process of  
207 mining.

208 "Reclamation" means the restoration or conversion of disturbed land to a stable condition that minimizes  
209 or prevents adverse disruption and the injurious effects of such disruption and presents an opportunity for  
210 further productive use if such use is reasonable.

211 "Refuse" means all waste soil, rock, mineral tailings, slimes, and other material directly connected with  
212 the mine or with the cleaning and preparation of substances mined, including all waste material deposited in  
213 the permit area from other sources.

214 "Spoil" means any overburden or other material removed from its natural state in the process of mining.

215 **§ 45.2-1203. Exemption for restricted mining.**

216 Any operator engaged in mining who disturbs less than one acre of land and removes less than 500 tons of  
217 minerals at any particular site is exempt from all mining permit fees, renewal fees, and bond requirements of  
218 this chapter if such person intending to engage in such restricted mining submits an application for a permit, a  
219 sketch of the mining site, and an operations plan to be adhered to in accordance with §§ 45.2-1205 and  
220 45.2-1206. *A permit shall not be issued for any operational plan that includes the use of cyanide or a cyanide*  
221 *compound in any mineral mining or processing operation.* The Director shall approve the application if he  
222 determines that the issuance of the permit will not violate any provision of this chapter.