

VIRGINIA ACTS OF ASSEMBLY - 2025 SESSION

CHAPTER 390

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 Virginia, relating to Mineral Mine Safety Act; definition of "surface mineral mine"; mine inspectors; certificate renewal; use of cyanide or cyanide compound.

[H 1887]

Approved March 24, 2025

Be it enacted by the General Assembly of Virginia:

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

§ 45.2-1101. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Division" means the Division of Mineral Mining.

"Experienced surface miner" means a person with more than six months of experience working at a surface mine or the surface area of an underground mine.

"Experienced underground miner" means a person with more than six months of underground mining experience.

"Federal mine safety law" means the Federal Mine Safety and Health Act of 1977 (P.L. 91-173, as amended by P.L. 95-164) and regulations adopted thereunder.

"Fuse" means an overcurrent protective device with a circuit-opening fusible member directly heated and destroyed by the passage of overcurrent through it.

"Ground" means a conducting connection between an electric circuit or electrical equipment and earth or some conducting body that serves in place of earth.

"Grounded" means connected to earth or to some connecting body that serves in place of earth.

"Hazardous condition" means a condition that is likely to cause death or serious personal injury to a person exposed to such condition.

"Imminent danger" means the existence of any condition or practice in a mine that could reasonably be expected to cause death or serious personal injury before such condition or practice can be abated.

"Inactive mine" means a mine (i) at which (a) coal or minerals have not been excavated or processed or (b) work, other than examination by a certified person or emergency work to preserve the mine, has not been performed for a period of 30 days at an underground mine or for a period of 60 days at a surface mine; (ii) for which a valid license is in effect; and (iii) at which reclamation activities have not been completed.

"Independent contractor" means any person who contracts to perform services or construction at a mine.

"Intake air" means air that has not passed through the last active working place of the split or by the unsealed entrance to an abandoned area and by analysis contains at least 19.5 percent oxygen and not more than 0.5 percent carbon dioxide and does not contain a hazardous quantity of flammable gas or a harmful quantity of poisonous gas.

"Interested persons" means members of the mine safety committee and other duly authorized representatives of the employees at a mine, MSHA employees, mine inspectors, and, to the extent required by the Act, any other person.

"Licensed operator" means the operator who has obtained the license for a particular mine under § 45.2-1124.

"Main entry" means the principal entry or set of entries driven through the coal bed or mineral deposit and from which cross entries, room entries, or rooms are turned.

"Mine" means any underground mineral mine or surface mineral mine. Mines that are adjacent to each other and under the same management and that are administered as distinct units are considered separate mines. A site is not considered a mine unless the mineral extracted or excavated from it is offered for sale or exchange or used for any other commercial purpose.

"Mine fire" means an unplanned fire not extinguished within 30 minutes of discovery.

"Mine foreman" means a person who holds a valid certificate of qualification as a foreman issued by the Department.

"Mine inspector" means a public employee assigned by the Director to make mine inspections as required by the Mineral Mine Safety Act or other applicable law.

"Miner" means any individual working in a mineral mine.

"Mineral" means clay, stone, sand, gravel, metalliferous or nonmetalliferous ore, or any other solid material or substance of commercial value excavated in solid form from a natural deposit on or in the earth, exclusive of coal and any mineral that occurs naturally in liquid or gaseous form.

"Mineral mine" means a surface mineral mine or an underground mineral mine.

"Mineral Mine Safety Act" or "the Act" means this chapter and Chapters 14 (§ 45.2-1400 et seq.) and 15 (§ 45.2-1500 et seq.) and includes any regulations adopted thereunder, where applicable.

"Mine Safety and Health Administration" or "MSHA" means the federal Mine Safety and Health Administration.

"Operator" means any person who operates, controls, or supervises a mine or any independent contractor performing services or construction at a mine.

"Panel entry" means a room entry.

"Permissible" means any device, process, equipment, or method classified at any time as permissible by MSHA, when such classification is adopted by the Director. "Permissible" includes, unless otherwise herein expressly stated, any requirement, restriction, exception, limitation, or condition attached to such classification by MSHA.

"Return air" means air that has passed through (i) the last active working place on each split or (ii) an abandoned or worked-out area. No area within a panel shall be deemed abandoned until it is inaccessible or sealed.

"Room entry" means any entry or set of entries from which a room is turned.

"Serious personal injury" means any injury that (i) has a reasonable potential to cause death or (ii) is other

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 45.2-1119. Renewal of certificates.

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

§ 45.2-1200. Definitions.

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

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

"Division" means the Division of Mineral Mining.

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

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

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

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

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

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

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

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

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

§ 45.2-1203. Exemption for restricted mining.

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