

# **Virginia Code Commission**

**Meeting Materials - July 7, 2020**

# Agenda Item 1 - Review and Approve Minutes

## VIRGINIA CODE COMMISSION

*Tuesday, June 16, 2020 - 10:00 a.m.*

*Electronic Meeting*

**DRAFT**

### Meeting Minutes

**Members Present:** John S. Edwards; Nicole S. Cheuk; Rita Davis; Leslie L. Lilley; Ryan T. McDougle; Thomas M. Moncure, Jr.; Christopher R. Nolen; Don L. Scott, Jr.; Charles S. Sharp; Marcus B. Simon; Samuel T. Towell

**Members Absent:** Malfourd W. Trumbo

**Staff Present:** Maryann Horch, Senate Technology; David Barry, Scott Meacham, Amigo Wade, Anne Bloomsburg, Nikki Clemons, Stephanie Kerns, Division of Legislative Services (DLS)

**Others Present:** Cindy Berghuis, Shannon Petersen, Mark Petty, Steve Praska, Thomson Reuters West Codes; Michael Skiffington, Director of Policy and Planning, Department of Mines, Minerals and Energy

**Call to order:** Senator Edwards, chair, called the meeting to order at 10:02 a.m. Pursuant to Item 4-0.01 of Chapter 1289 of the 2020 Acts of Assembly and due to the COVID-19 pandemic state of emergency, the meeting was held electronically over Zoom. Senator Edwards explained the procedures for voting for the meeting.

**Approval of minutes:** The minutes of the December 16, 2019, meeting of the Commission, as printed and distributed to the members, were approved without objection.

**Election of Vice-Chair:** Senator Edwards welcomed Delegates Don L. Scott, Jr, and Marcus B. Simon as the newest members of the Commission. Delegate Scott nominated Delegate Simon for the position of vice chair. Mr. Nolen seconded the motion. Delegate Simon was elected as vice chair with a unanimous vote.

**Virginia Administrative Code contract changes:** Mr. Wade informed the Commission that legal publisher Thomson Reuters West (West) had three suggestions for amendments to the Virginia Administrative Code contract. Steve Praska from West stated that the publisher was looking for ways to save on the publication of the Administrative Code while retaining quality. The first proposed contract revision was to allow for the keying of data, in addition to the current programmatic process, in order to improve efficiency while maintaining accuracy. The process would put the Virginia Administrative Code's process in line with those of other states.

The second proposed revision to the contract was to end the production of amendment notes, written by attorney editors and editors at West. The amendment notes are high-level descriptions of what changes were made to the Administrative Code. West suggested discontinuing notes, or considering the alternative of only using amendment notes for higher-trafficked titles.

The third proposed revision to the contract was a partial change to no longer include research and practice references such as law reviews, American Jurisprudence, and Annotated Law Reports. Mr. Praska stated that the references did not have particular value for the Administrative Code, and that to maintain the cross references to them was costly and time-consuming for West staff.

Senator McDougle moved the Commission approve the contract changes. Delegate Scott seconded the motion. The motion passed unanimously.

**Recodification of Title 45.1, Mines and Mining - Chapter 10, Virginia Coal Surface Mining Control and Reclamation Act of 1979 (existing §§ 45.1-226 through 45.1-270.7):** Mr. Meacham, from the Division of Legislative Services (DLS) recodification team, said most of the changes to Chapter 10 were grammatical changes, but he outlined five larger changes being proposed.

The first change was reorganization. Mr. Meacham explained the chapter needed to be rearranged to a more logical fashion, including moving definitions to the definitions section. The changes are not expected to be controversial.

The second change was to create a new section for an existing non-reverting fund, titled "Coal Surface Mining Regulatory Fund" (line 298 on page 11 of the Agenda Item 5 - Recodification of Title 45.1, meeting materials). Mr. Meacham stated that the existing fund is referenced in other Code sections, but how the fund ran was never laid out in the Code. DLS added boilerplate language about the fund based off of existing information from the Department of Mines, Minerals and Energy. Mr. Meacham stated this was the kind of change often done during recodification. Judge Lilley expressed concern regarding the substance of this amendment and asked if it should be in a separate bill from the recodification bill. Senator McDougle shared the concern. Mr. Meacham and Mr. Barry will research how other funds were handled during recodifications to assist in determining whether to place this amendment into a separate bill or to leave it in the recodification bill.

The third change was a revision to antiquated language in existing 45.1-262 (line 1494 on page 54). The revision would clarify what provisions were being referred to in the language. In response to a question from Senator Edwards, Mr. Meacham stated that the recodification workgroup had been consulted and that the work group supported the change.

The fourth change was to remove the policy statement in existing 45.1-227 (line 17 on page 1). Mr. Meacham said this was regularly done during recodifications. Because this chapter is unusual in having two policy statements, the revision would remove the first, as it is not legally binding, but keep the second policy statement, which is legally binding. Mr. Nolen asked if a federal act required that some type of language be adopted by the General Assembly in the policy statement in order for the Commonwealth to enforce the federal act. Mr. Skiffington offered to research the topic for Mr. Nolen, but stated the Department of Mines, Minerals and Energy did not believe there would be negative consequences from removing the policy statement.

The fifth change was to remove obsolete dates from the chapter. A number of sections were written under the assumption that new regulations would be adopted. Those regulations now exist, making these sections obsolete. Examples of such sections are on pages 13, 49, and 50 of the meeting materials.

Mr. Meacham said the last chapters for the recodification were nearing completion in drafting and were being discussed by the work group, with hopes to have a final report and bill by the end of the year.

Asked by Delegate Simon about who served on the work group, Mr. Meacham stated it was created from a broad invitation to numerous environmental groups, as well as industry representatives. The work group is comprised of industry representatives, individual mining companies, staff of the Department of Mines, Minerals and Energy, and is open to representatives from environmental groups.

The Commission will consider and discuss approving the amendments to Chapter 10 at the next Commission meeting.

**Work plan for 2020:** The work plan will be considered and discussed at the Commission's next meeting.

**Other business:**

- Report on 2020 Code Commission bills. Mr. Wade reviewed the nine bills from the Code Commission package: Delegate Jay Leftwich carried the bills regarding the Title 55.1 technical corrections and § 36-85.4 of the Code of Virginia. Senator McDougle carried the bills regarding §§ 46.2-1106, 46.2-1107, 46.2-1580, 46.2-1582, and 46.2-341.2 of the Code of Virginia. Senator Edwards carried the bills regarding the restructuring of Code of Virginia sections regarding polling place activities, provisional voting, and recounts and amending § 57-39.2 of the Code of Virginia. Of the nine bills introduced, all nine passed. One bill was introduced by Delegate Jerrauld C. "Jay" Jones that would have asked the Code Commission to conduct a study on the comprehensive revision of the Code for gender-neutral language, but the bill was left in the House Committee on Rules.

- Codification of certain acts and enactment clauses. Mr. Meacham reviewed the 21 enactment clauses and Section 1 bills the Code Commission codified pursuant to § 30-148 of the Code of Virginia. Mr. Meacham stated the number of changes was minimal, and that there were no amendments to text, only to the numbering of sections.

- The Commission thanked and commended DLS staff for their extraordinary work during the 2020 Session.

- Anne Bloomsburg, Assistant Registrar, informed the Commission that the August 3, 2020, meeting time was moved from 10:00 a.m. to 1:30 p.m.

**Public comment, adjournment:** Senator Edwards opened the floor for public comment. As there was no public comment and no further business to discuss, the meeting adjourned at 11:07 a.m.

**Next meeting:** Next meeting is July 7, 2020, at 10:00 a.m. by electronic means.

# Agenda Item 2 - Recodification of Title 45.1

1 SUBTITLE I.

2 ADMINISTRATION.

3 **Drafting note: Proposed Subtitle I is created to logically organize provisions**  
4 **relating to the administration of the Department of Mines, Minerals and Energy and is**  
5 **divided into proposed Chapters 1 (Administration), 2 (Division of Geology and Mineral**  
6 **Resources), 3 (Interstate Mining Compact), and 4 (Interstate Compact to Conserve Oil**  
7 **and Gas).**

8 CHAPTER ~~14.1~~ 1.

9 ADMINISTRATION.

10 **Drafting note: Existing Chapter 14.1 is retained as proposed Chapter 1,**  
11 **Administration.**

12 § ~~45.1-161.1~~ 45.2-xxx. Definitions.

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

14 "Chief" means the Chief of the Division of Mines of the Department of Mines, Minerals  
15 and Energy.

16 "Department" means the Department of Mines, Minerals and Energy.

17 "Director" means the Director of the Department of Mines, Minerals and Energy.

18 "State Geologist" means the Commissioner of Mineral Resources and State Geologist  
19 appointed pursuant to § 45.2-xxx [§ 45.1-383].

20 **Drafting note: The short reference to the term "State Geologist" in existing § 45.1-**  
21 **383 is relocated to this title-wide definitions section.**

22 § ~~45.1-161.1~~ 45.2-xxx. Certified mail; subsequent mail or notices may be sent by  
23 regular mail.

24 Whenever in this title the Chief, the Director, or the Department is required to send any  
25 mail or notice by certified mail and such mail or notice is sent by certified mail, return receipt  
26 requested, then any subsequent, identical mail or notice that is sent by the Chief, the Director, or  
27 the Department may be sent by regular mail.

28 **Drafting note: Technical change.**

29 § ~~45.1-161.2~~ 45.2-xxx. Department ~~continued~~ of Mines, Minerals and Energy;  
30 appointment of Director.

31 The Department of Mines, Minerals and Energy is ~~continued as an agency~~ established in  
32 the executive branch within the Secretariat of Commerce and Trade. The Department shall be  
33 headed by a Director who shall be appointed by the Governor, subject to confirmation by the  
34 General Assembly, to serve at ~~his~~ the pleasure of the Governor for a term coincident with ~~his~~  
35 ~~own~~ the Governor's term.

36 **Drafting note: Technical changes are made.**

37 § ~~45.1-161.3~~ 45.2-xxx. Powers of Department.

38 The Department shall have the following powers and duties, ~~all~~ any of which, with the  
39 approval of the Director, may be exercised by any division of the Department with respect to  
40 matters assigned to that division:

41 1. To employ the personnel required to carry out the purposes of this title;

42 2. To make and enter into ~~all contracts and agreements~~ any contract or agreement  
43 necessary or incidental to the performance of its duties and the execution of its powers under  
44 this title, including, ~~but not limited to~~, reciprocal agreements with responsible officers of other  
45 states and contracts with the private sector, the United States, other state agencies, and  
46 governmental subdivisions of the Commonwealth;

47 3. To accept grants from the United States government and agencies and  
48 instrumentalities thereof and any other source. To these ends, the Department shall have the  
49 power to comply with any ~~conditions~~ condition and execute any ~~agreements~~ agreement that ~~are~~  
50 is necessary, convenient, or desirable;

51 4. To ~~promulgate~~ adopt regulations necessary or incidental to the performance of its  
52 duties or execution of its powers ~~conferred~~ under this title ~~and other relevant chapters, which or~~  
53 any other provision of law. Such regulations shall be ~~promulgated~~ adopted by the Department,

54 the Chief, or the Director, as appropriate, and in accordance with the provisions of Article 2 (§  
55 2.2-4006 et seq.) of the Administrative Process Act; and

56 5. To do all acts necessary or convenient to carry out the purposes of this title.

57 **Drafting note: The phrase "but not limited to" is removed pursuant to § 1-218,**  
58 **which states that throughout the Code "'Includes' means includes, but not limited to."**  
59 **With reference to regulations, the term "promulgated" is changed to "adopted" in**  
60 **keeping with recent title revisions because "adopt" is more widely used and includes the**  
61 **promulgation process. Language is updated for modern usage and clarity.**

62 § ~~45.1-161.4~~ 45.2-xxx. Powers and duties of Director.

63 The Director, under the direction and control of the Governor, shall exercise the powers  
64 and perform the duties conferred or imposed upon him by law, and shall perform any other  
65 duties required of him by the Governor.

66 **Drafting note: Technical change.**

67 § ~~45.1-161.5~~ 45.2-xxx. Establishment of divisions; division heads.

68 The following divisions, through which the functions, powers, and duties of the  
69 Department may be discharged, are established in the Department: a Division of Mines, a  
70 Division of Mined Land Reclamation, a Division of Geology and Mineral Resources, a Division  
71 of Gas and Oil, a Division of Mineral Mining, ~~and~~ a Division of Energy, and a Division of  
72 Offshore Wind. The Director may establish other divisions as he deems necessary. Except as  
73 provided in § ~~45.1-161.15~~ 45.2-xxx with respect to the Chief of the Division of Mines, the  
74 Director shall appoint persons to direct the various functions and programs of ~~the divisions,~~ each  
75 division and may delegate to the head of any division any of the powers and duties conferred or  
76 imposed by law on the Director.

77 **Drafting note: Language is updated for clarity.**

78 § ~~45.1-161.5:1. Division of Offshore Wind; established.~~

79 ~~A. The Director shall establish the Division of Offshore Wind (the Division) in the~~  
80 ~~Department and shall appoint persons to direct, support, and execute the powers and duties of~~  
81 ~~the Division.~~

82 ~~B. The powers and duties of the Division shall include:~~

83 ~~1. Identifying specific measures that will facilitate the establishment of the Hampton~~  
84 ~~Roads region as a wind industry hub for offshore wind generation projects in state and federal~~  
85 ~~waters off the United States coast;~~

86 ~~2. Coordinating state agencies' activities related to offshore wind, including development~~  
87 ~~of programs that prepare Virginia's workforce to work in the offshore wind industry, create~~  
88 ~~employment opportunities for Virginians within such industry, create opportunities for Virginia-~~  
89 ~~based businesses to participate in the offshore wind industry supply chain, and attract out-of-~~  
90 ~~state offshore wind-related businesses to locate within the Commonwealth;~~

91 ~~3. Developing and implementing a stakeholder engagement strategy that identifies key~~  
92 ~~groups, sets forth outreach objectives, and outlines a timeline for outreach and engagement;~~

93 ~~4. Identifying regulatory and other barriers to the deployment of offshore wind and~~  
94 ~~attraction of offshore wind supply chain businesses; and~~

95 ~~5. Providing staff support for the Virginia Offshore Wind Development Authority and~~  
96 ~~facilitating fulfillment of the Authority's purpose and duties set forth in Chapter 12 (§ 67-1200~~  
97 ~~et seq.) of Title 67.~~

98 ~~C. On or before October 15 of each year, the Division shall submit an annual summary~~  
99 ~~of its activities, the ways in which those activities have furthered the functions and programs of~~  
100 ~~the Division, and the benefits of the efforts of the Division to the Commonwealth and its~~  
101 ~~economy to the Governor and the Chairs of the House Committee on Appropriations, the Senate~~  
102 ~~Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and~~  
103 ~~the Senate Committee on Commerce and Labor. The Division may include its submission with~~  
104 ~~the report of the Virginia Offshore Wind Development Authority required by § 67-1209.~~

105 **Drafting note: Section is moved to proposed Chapter 19, wind energy.**



106 § ~~45.1-161.6~~ 45.2-xxx. Department to serve as lead agency for inspections undertaken  
107 subsequent to the issuance of a permit.

108 Following the issuance of any permit under Chapter ~~16 XX~~ [currently 12] (§ ~~45.1-180~~  
109 45.2-xxx et seq.) or ~~19 XX~~ [currently 10] (§ ~~45.1-226~~ 45.2-xxx et seq.) ~~of this title~~, the  
110 Department shall serve as the lead agency for enforcement of the provisions of the permit. Any  
111 other agency ~~which~~ that has reviewed and approved, or not disapproved, a permit application  
112 prior to its approval by the Director shall contact the Director or his designee prior to making  
113 any routine inspection. The Director or his designee shall then contact the permittee, if prior  
114 contact is to be made, to schedule the inspection and shall accompany any employee of any  
115 agency other than the Department during any inspection by such other agency. However,  
116 nothing in this section shall apply in the event of a blackwater discharge, a failure of waste  
117 treatment facilities, or ~~other~~ any situation that in the judgment of the State Water Control Board  
118 requires an inspection on an emergency or expedited basis.

119 **Drafting note: Technical changes.**

120 CHAPTER ~~25~~ 2.

121 DIVISION OF GEOLOGY AND MINERAL RESOURCES.

122 **Drafting note: Existing Chapter 25 is retained as proposed Chapter 2, Division of**  
123 **Geology and Mineral Resources.**

124 § ~~45.1-383~~ 45.2-xxx. Division of Geology and Mineral Resources; State Geologist.

125 ~~In~~ There is established in the Department ~~there shall be~~ a Division of Geology and  
126 Mineral Resources (the Division). The Director shall appoint a geologist of established  
127 reputation ~~chief executive and head officer of the Division shall be called~~ as the Commissioner  
128 of Mineral Resources and State Geologist, ~~hereinafter referred to as the State Geologist. The~~  
129 ~~State Geologist shall be appointed by the Director, shall be a geologist of established reputation,~~  
130 ~~and shall receive such compensation as may be provided in accordance with law for the purpose~~  
131 to serve as chief executive and head officer of the Division.

132 **Drafting note: The short reference to the term "State Geologist" is relocated to the**  
133 **title-wide definitions section, § 45.2-xxx [existing § 45.1-161.1]. Reference to receiving**  
134 **compensation is removed as unnecessary in Code text since all such appointed officers and**  
135 **employees receive compensation unless otherwise noted. Language is updated for modern**  
136 **usage.**

137 § ~~45.1-384~~ 45.2-xxx. General powers and duties of State Geologist.

138 The State Geologist shall exercise ~~such of the~~ those powers and perform ~~such of the~~  
139 those duties, in relation to mineral resources, geology, and geophysical matters, ~~which that~~ are  
140 conferred or imposed upon the Director by the provisions of this title, including powers and  
141 duties ~~that involve the exercise of discretion, as may be~~ delegated to him by the Director. The  
142 State Geologist may also exercise and perform such other powers and duties as ~~may be~~ are  
143 lawfully delegated to him, and such powers and duties as ~~may be~~ are conferred or imposed upon  
144 him by law.

145 **Drafting note: The unnecessary phrase "that involve the exercise of discretion" is**  
146 **stricken and language is updated for modern usage and clarity.**

147 § ~~45.1-385~~ 45.2-xxx. Using or revealing proprietary information ~~gathered~~.

148 Notwithstanding any provision of law to the contrary, neither the State Geologist, nor  
149 any employee or agent of the Division, shall make use of or reveal any proprietary information  
150 or ~~statistics~~ statistic gathered from any source for any purpose ~~or purposes~~ other than ~~those that~~  
151 of this chapter, except with the express written consent of the source of such information or  
152 ~~statistics~~ statistic. ~~Neither shall the~~ The State Geologist shall not reveal such information to the  
153 Director or any other employee of the Department who is not employed within the Division.

154 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
155 **throughout the Code any word used in the singular includes the plural and vice versa.**  
156 **Language is updated for modern usage and clarity.**

157 § ~~45.1-386. Responsibilities~~ 45.2-xxx. Powers and duties of the Division.

158 The Division ~~shall have for its responsibilities~~ has the following powers and duties ~~the~~  
159 ~~following~~:

160 1. ~~An examination~~ Examination of the geological formations of the Commonwealth and  
161 the resources contained therein, with special reference to both economic products and energy  
162 resources, ~~namely, including~~ including coals, ores, clays, feldspar, lime, natural gas, oil, cement, sand and  
163 gravel, stone, materials suitable for use in building and road construction, mineral waters, other  
164 mineral substances, and geothermal energy resources.

165 2. ~~An examination~~ Examination of latent resources and waste minerals to determine the  
166 best methods of utilizing ~~the same, studies~~ them and the study of the soils and weathered  
167 residuum as related to parent rock.

168 3. ~~The maintenance~~ Maintenance of repositories for representative rock and mineral  
169 materials from various wells, mines, excavations, and naturally occurring exposures.

170 4. Maintenance of records and statistics of the mineral industry and geological  
171 conditions of the Commonwealth.

172 5. Performance of such chemical and physical tests, including test borings, to acquire  
173 subsurface information relative to mineral deposits masked by soils and rock overburden.

174 6. ~~An examination~~ Examination of the physical features of the Commonwealth with  
175 reference to their practical bearing upon the occupation and well-being of the people.

176 7. ~~The preparation~~ Preparation of special geological and economic maps and displays to  
177 illustrate the resources of the Commonwealth.

178 8. ~~The preparation~~ Preparation of regular and special reports, with necessary illustrations  
179 and maps, ~~which shall that~~ that embrace both a general and detailed description of the geology and  
180 mineral resources of the Commonwealth.

181 9. ~~The consideration~~ Consideration of such other scientific and economic questions ~~as~~  
182 that in the judgment of the Director ~~shall be~~ are deemed of value to the people of the  
183 Commonwealth.

184 10. ~~To arrange~~ Arrangement for the investigation and reporting of geology of the  
185 Commonwealth with the Director or the representative of the United States Geological Survey  
186 (USGS) in regard to cooperation between the ~~United States Geological Survey USGS~~ and the  
187 Department in topographic and geologic work in such instances as may be deemed necessary  
188 and of advantage to the Commonwealth. In all cooperative work, a sum of money shall be  
189 expended by the ~~United States Geological Survey USGS~~ at least equivalent to that expended by  
190 the Department. The Director may accept or reject the work of the ~~United States Geological~~  
191 ~~Survey USGS~~.

192 11. ~~The participation~~ Participation in matters requiring ~~geological and mineral resources,~~  
193 advice and guidance ~~as related to state lands and~~ sought by state agencies and institutions  
194 concerning geological and mineral resources as related to state lands.

195 12. ~~The provision~~ Provision of basic research and the development of methods utilized  
196 in the determination of characteristics, structure, and origin for geological formations and  
197 economic mineral deposits.

198 **Drafting note: Language is updated for modern usage, clarity, and consistency and**  
199 **the short reference "USGS" is provided to reduce redundant text. The term "namely" in**  
200 **subdivision 1 is changed to "including" to better reflect the current operation of the**  
201 **Division.**

202 § ~~45.1-387. Printing and distribution~~ 45.2-xxx. Publication of regular and special reports.

203 ~~The~~ The Director may direct the publication of the regular and special reports of the  
204 Division, with proper illustrations and maps, ~~shall be printed as the Director may direct,~~ and the  
205 reports shall be distributed as the interests of the Commonwealth and of science ~~may~~ indicate.

206 **Drafting note: Language is updated for clarity and modern usage.**

207 § ~~45.1-388~~ 45.2-xxx. Disposition of materials that have served purpose of the Division.

208 Materials collected, after having served the purpose of the Division, shall be distributed  
209 to the educational institutions of the Commonwealth, in such manner as the Director ~~may~~

210 ~~determine~~ determines to be of the greatest advantage to the educational interests of the  
211 Commonwealth.

212 **Drafting note: Language is updated for modern usage.**

213 § ~~45.1-389~~ 45.2-xxx. Immunity from prosecution for trespass.

214 No criminal action for trespass shall lie against the State Geologist, or any agent or  
215 employee of the State Geologist, ~~on account of~~ pursuant to any lawful ~~acts~~ act done in the  
216 performance of ~~their~~ his duties, including entry upon the lands of any person ~~or persons~~ for the  
217 purpose of performing such duties.

218 **Drafting note: Changes are made pursuant to § 1-227, which states that throughout**  
219 **the Code any word used in the singular includes the plural and vice versa. Technical**  
220 **changes are made and language is updated for modern usage.**

221 CHAPTER ~~20~~ 3.

222 INTERSTATE MINING COMPACT.

223 **Drafting note: Existing Chapter 20 is retained as proposed Chapter 3, Interstate**  
224 **Mining Compact.**

225 § ~~45.1-271~~ 45.2-xxx. Interstate Mining Compact.

226 ARTICLE I

227 FINDINGS AND PURPOSES

228 ~~(a)-A.~~ A. The party ~~States~~ states find that:

229 1. Mining and the contributions thereof to the economy and well-being of every ~~State~~  
230 state are of basic significance.

231 2. The effects of mining on the availability of land, water, and other resources for other  
232 uses present special problems which properly can be approached only with due consideration for  
233 the rights and interests of those engaged in mining, those using or proposing to use these  
234 resources for other purposes, and the public.

235 3. Measures for the reduction of the adverse effects of mining on land, water, and other  
236 resources may be costly and the devising of means to deal with them are of both public and  
237 private concern.

238 4. Such variables as soil structure and composition, physiography, climatic conditions,  
239 and the needs of the public make impracticable the application to all mining areas of a single  
240 standard for the conservation, adaptation, or restoration of mined land, or the development of  
241 mineral and other natural resources, but justifiable requirements of law and practice relating to  
242 the effects of mining on land, water, and other resources may be reduced in equity or  
243 effectiveness unless they pertain similarly from ~~State~~ state to ~~State~~ state for all mining ~~operation~~  
244 operations similarly situated.

245 5. The ~~States~~ states are in a position and have the responsibility to assure that mining  
246 shall be conducted in accordance with sound conservation principles, and with due regard for  
247 local conditions.

248 ~~(b)~~ B. The purposes of this compact are to:

249 1. Advance the protection and restoration of land, water, and other resources affected by  
250 mining.

251 2. Assist in the reduction or elimination or counteracting of pollution or deterioration of  
252 land, water, and air attributable to mining.

253 3. Encourage, with due recognition of relevant regional, physical, and other differences,  
254 programs in each of the party ~~States~~ states that will achieve comparable results in  
255 protecting, conserving, and improving the usefulness of natural resources, to the end that the  
256 most desirable conduct of mining and related operations may be universally facilitated.

257 4. Assist the party ~~States~~ states in their efforts to facilitate the use of land and other  
258 resources affected by mining, so that such use may be consistent with sound land use, public  
259 health, and public safety, and to this end to study and recommend, wherever desirable,  
260 techniques for the improvement, restoration, or protection of such land and other resources.

261 5. Assist in achieving and maintaining an efficient and productive mining industry and in  
262 increasing economic and other benefits attributable to mining.

263 ARTICLE II

264 DEFINITIONS

265 As used in this compact, ~~the term~~:

266 (a) "Mining" means the breaking of the surface soil in order to facilitate or accomplish  
267 the extraction or removal of minerals, ores, or other solid matter, any activity or process  
268 constituting all or part of a process for the extraction or removal of minerals, ores, and other  
269 solid matter from its original location, and the preparation, washing, cleaning, or other treatment  
270 of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or  
271 construction use; but shall not include those aspects of deep mining not having significant effect  
272 on the surface, and shall not include excavation or grading when conducted solely in aid of ~~on~~  
273 ~~site~~ onsite farming or construction.

274 (b) "State" means a ~~State~~ state of the United States, the District of Columbia, the  
275 Commonwealth of Puerto Rico, or a Territory or Possession of the United States.

276 ARTICLE III

277 STATE PROGRAMS

278 Each party ~~State~~ state agrees that within a reasonable time it will formulate and establish  
279 an effective program for the conservation and use of mined land, by the establishment of  
280 standards, enactment of laws, or the continuing of the same in force, to accomplish:

281 1. The protection of the public and the protection of adjoining and other landowners  
282 from damage to their lands and the structures and other property thereon resulting from the  
283 conduct of mining operations or the abandonment or neglect of land and property formerly used  
284 in the conduct of such operations.

285 2. The conduct of mining and the handling of refuse and other mining wastes in ways  
286 that will reduce adverse effects on the economic, residential, recreational, or aesthetic value and  
287 utility of land and water.

288 3. The institution and maintenance of suitable programs of adaptation, restoration, and  
289 rehabilitation of mined lands.

290 4. The prevention, abatement, and control of water, air, and soil pollution resulting from  
291 mining, present, past, and future.

#### 292 ARTICLE IV

#### 293 POWERS

294 In addition to any other powers conferred upon the Interstate Mining Commission (the  
295 Commission), established by Article V of this compact, such Commission shall have power to:

296 1. Study mining operations, processes, and techniques for the purpose of gaining  
297 knowledge concerning the effects of such operation, processes, and techniques on land, soil,  
298 water, air, plant and animal life, recreation, and patterns of community or regional development  
299 or change.

300 2. Study the conservation, adaptation, improvement, and restoration of land and related  
301 resources affected by mining.

302 3. Make recommendations concerning any aspect or aspects of law or practice and  
303 governmental administration dealing with matters within the purview of this compact.

304 4. Gather and disseminate information relating to any of the matters within the purview  
305 of this compact.

306 5. Cooperate with the federal government and any public or private entities having  
307 interest in any subject coming within the purview of this compact.

308 6. Consult, upon the request of a party ~~State~~ state and within resources available  
309 ~~therefore~~ therefor, with the officials of such ~~State~~ state in respect to any problem within the  
310 purview of this compact.

311 7. Study and make recommendations with respect to any practice, process, technique, or  
312 course of action that may improve the efficiency of mining or the economic yield from mining  
313 operations.



314 8. Study and make recommendations relating to the safeguarding of access to resources  
315 ~~which~~ that are or may become the subject of mining operations to the end that the needs of the  
316 economy for the products of mining may not be adversely affected by unplanned or  
317 inappropriate use of land and other resources containing minerals or otherwise connected with  
318 actual or potential mining sites.

## 319 ARTICLE V

### 320 THE COMMISSION

321 ~~(a)-~~ A. There is hereby created an agency of the party ~~States~~ states to be known as the  
322 "Interstate Mining Commission," ~~hereinafter called~~ "(the Commission)." The Commission shall  
323 be composed of one commissioner from each party ~~State~~ state who shall be the Governor  
324 thereof. Pursuant to the laws of his party ~~State~~ state, each Governor shall have the assistance of  
325 any advisory body (including membership from mining industries, conservation interests, and  
326 such other public and private interests as may be appropriate) in considering problems relating  
327 to mining and in discharging his responsibilities as the commissioner of his ~~State~~ state on the  
328 Commission. In any instance where a Governor is unable to attend a meeting of the Commission  
329 or perform any other function in connection with the ~~business-of-the-business~~ of the  
330 Commission, he shall designate an alternate, from among the members of the advisory body  
331 required by this ~~paragraph,~~ subsection who shall represent him and act in his place and stead.  
332 The designation of an alternate shall be communicated by the Governor to the Commission in  
333 such manner as its bylaws may provide.

334 ~~(b)-~~ B. The commissioners shall be entitled to one vote each on the Commission. No  
335 action of the Commission making a recommendation pursuant to ~~Article IV-3, IV-7, and IV-8~~  
336 subdivision 3, 7, or 8 of Article IV or requesting, accepting, or disposing of funds, services, or  
337 other property pursuant to this ~~paragraph subsection,~~ Article V (g), V (h) subsection G or H of  
338 this article, or Article VII shall be valid unless taken at a meeting at which a majority of the total  
339 number of votes on the Commission is cast in favor thereof. All other action shall be by a  
340 majority of those present and voting, provided that action of the Commission shall be only at a

341 meeting at which a majority of the commissioners, or their alternates, is present. The  
342 Commission may establish and maintain such facilities as may be necessary for the transacting  
343 of its business. The Commission may acquire, hold, and convey real and personal property and  
344 any interest therein.

345 ~~(c)~~ C. The Commission shall have a seal.

346 ~~(d)~~ D. The Commission shall elect annually, from among its members, a chairman, a  
347 vice-chairman, and a treasurer. The Commission shall appoint an Executive Director and fix his  
348 duties and compensation. Such Executive Director shall serve at the pleasure of the  
349 Commission. The Executive Director, the Treasurer, and such other personnel as the  
350 Commission shall designate shall be bonded. The amount or amounts of such bond or bonds  
351 shall be determined by the Commission.

352 ~~(e)~~ E. Irrespective of the civil service, personnel<sub>2</sub>, or other merit system laws of any of the  
353 party ~~States~~ states, the Executive Director with the approval of the Commission<sub>7</sub>, shall appoint,  
354 remove<sub>2</sub>, or discharge such personnel as may be necessary for the performance of the  
355 Commission's functions<sub>7</sub>, and shall fix the duties and compensation of such personnel.

356 ~~(f)~~ F. The Commission may establish and maintain independently or in conjunction with  
357 a party ~~State~~ state, a suitable retirement system for its employees. Employees of the  
358 Commission shall be eligible for social security coverage in respect of old age and survivor's  
359 insurance<sub>2</sub> provided that the Commission takes such steps as may be necessary pursuant to the  
360 laws of the United States<sub>7</sub>, to participate in such program of insurance as a governmental agency  
361 or unit. The Commission may establish and maintain or participate in such additional programs  
362 of employee benefits as it may deem appropriate.

363 ~~(g)~~ G. The Commission may borrow, accept<sub>2</sub>, or contract for the services of personnel  
364 from any ~~State~~ state, the United States, or any other governmental agency, or from any person,  
365 firm, association<sub>2</sub>, or corporation.

366 ~~(h)~~ H. The Commission may accept for any of its purposes and functions under this  
367 compact any and all donations, and grants of money, equipment, supplies, materials<sub>2</sub>, and

368 service, conditional or otherwise, from any ~~State~~ state, the United States, or any other  
369 governmental agency, or from any person, firm, association, or corporation, and may receive,  
370 utilize, and dispose of the same. Any donation or grant accepted by the Commission pursuant to  
371 this ~~paragraph~~ subsection or services borrowed pursuant to ~~paragraph (g)~~ subsection G of this  
372 ~~Article~~ article shall be reported in the annual report of the Commission. Such report shall  
373 include the nature, amount, and conditions, if any, of the donation, grant, or services borrowed  
374 and the identity of the donor or lender.

375 ~~(i)~~ I. The Commission shall adopt bylaws for the conduct of its business and shall have  
376 the power to amend and rescind these bylaws. The Commission shall publish its bylaws in  
377 convenient form and shall file a copy thereof and a copy of any amendment thereto, with the  
378 appropriate agency or officer in each of the party ~~States~~ states.

379 ~~(j)~~ J. The Commission annually shall make to the Governor, legislature, and advisory  
380 body required by ~~Article V (a)~~ subsection A of this article of each party ~~State~~ state a report  
381 covering the activities of the Commission for the preceding year, and embodying such  
382 recommendations as may have been made by the Commission. The Commission may make  
383 such additional reports as it may deem desirable.

## 384 ARTICLE VI

### 385 ADVISORY, TECHNICAL, AND REGIONAL COMMITTEES

386 The Commission shall establish such advisory, technical, and regional committees as it  
387 may deem necessary, membership on which shall include private persons and public officials,  
388 and shall cooperate with and use the services of any such committees and the organizations  
389 ~~which~~ that the members represent in furthering any of its activities. Such committees may be  
390 formed to consider problems of special interest to any party ~~States~~ states, problems dealing with  
391 particular commodities or types of mining operations, problems related to reclamation,  
392 development, or use of mined land, or any other matters of concern to the Commission.

## 393 ARTICLE VII

### 394 FINANCE

395 ~~(a)~~-A. The Commission shall submit to the Governor or designated officer or officers of  
396 each party-~~State~~ state a budget of its estimated expenditures for such period as may be required  
397 by the laws of that party-~~State~~ state for presentation to the legislature thereof.

398 ~~(b)~~-B. Each of the Commission's budgets of estimated expenditures shall contain specific  
399 recommendations of the amount or amounts to be appropriated by each of the party-~~States~~  
400 states. The total amount of appropriations requested under any such budget shall be apportioned  
401 among the party-~~States~~ states as follows: one-half in equal shares, and the remainder in  
402 proportion to the value of minerals, ores, and other solid matter mined. In determining such  
403 values, the Commission shall employ such available public source or sources of information as,  
404 in its judgment, present the most equitable and accurate comparisons among the party-~~States~~  
405 states. Each of the Commission's budgets of estimated expenditures and requests for  
406 appropriations shall indicate the source or sources used in obtaining information concerning the  
407 value of minerals, ores, and other solid matter mined.

408 ~~(c)~~-C. The Commission shall not pledge the credit of any party-~~State~~ state. The  
409 Commission may meet any of its obligations in whole or in part with funds available to it under  
410 subsection H of Article V-~~(h) of this compact,~~ provided that the Commission takes specific  
411 action setting aside such funds prior to incurring any obligation to be met in whole or in part in  
412 such manner. Except where the Commission makes use of funds available to it under subsection  
413 H of Article V-~~(h) hereof~~, the Commission shall not incur any obligation prior to the allotment  
414 of funds by the party-~~States~~ states adequate to meet the same.

415 ~~(d)~~-D. The Commission shall keep accurate accounts of all receipts and disbursements.  
416 The receipts and disbursements of the Commission shall be subject to the audit and accounting  
417 procedures established under its bylaws. All receipts and disbursements of funds handled by the  
418 Commission shall be audited yearly by a qualified public accountant and the report of the audit  
419 shall be included in and become part of the annual report of the Commission.

420 ~~(e)~~-E. The accounts of the Commission shall be open at any reasonable time for  
421 inspection by duly constituted officers of the party ~~States~~ states and by any persons authorized  
422 by the Commission.

423 ~~(f)~~-F. Nothing contained herein shall be construed to prevent Commission compliance  
424 with laws relating to audit or inspection of accounts by or on behalf of any government  
425 contributing to the support of the Commission.

#### 426 ARTICLE VIII

##### 427 ENTRY INTO FORCE AND WITHDRAWAL

428 ~~(a)~~-A. This compact shall enter into force when enacted into law by any four or more  
429 ~~States~~ states. Thereafter, this compact shall become effective as to any other ~~State~~ state upon its  
430 enactment thereof.

431 ~~(b)~~-B. Any party ~~State~~ state may withdraw from this compact by enacting a statute  
432 repealing the same, but no such withdrawal shall take effect until one year after the Governor of  
433 the withdrawing ~~State~~ state has given notice in writing of the withdrawal to the Governors of all  
434 other party ~~States~~ states. No withdrawal shall affect any liability already incurred by or  
435 chargeable to a party ~~State~~ state prior to the time of such withdrawal.

#### 436 ARTICLE IX

##### 437 EFFECT ON OTHER LAWS

438 Nothing in this compact shall be construed to limit, repeal, or supersede any other law of  
439 any party ~~State~~ state.

#### 440 ARTICLE X

##### 441 CONSTRUCTION AND SEVERABILITY

442 This compact shall be liberally construed so as to effectuate the purposes thereof. The  
443 provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of  
444 this compact is declared to be contrary to the constitution of any ~~State~~ state or of the United  
445 States or the applicability thereof to any government, agency, person, or circumstance is held  
446 invalid, the validity of the remainder of this compact and the applicability thereof to any

447 government, agency, person, or circumstance shall not be affected thereby. If this compact shall  
448 be held contrary to the constitution of any ~~State~~ state participating herein, the compact shall  
449 remain in full force and effect as to the remaining party ~~States~~ states and in full force and effect  
450 as to the ~~State~~ state affected as to all severable matters.

451 **Drafting note: Technical changes made to conform the compact text to Code style**  
452 **include the reformatting of paragraph designations to subsection designations and the**  
453 **alteration of the capitalization of the word "state." The phrase "of the business,"**  
454 **apparently an error, is deleted from subsection A of Article 5.**

455 CHAPTER ~~24~~ 4.

456 INTERSTATE COMPACT TO CONSERVE OIL AND GAS.

457 **Drafting note: Existing Chapter 24 is retained as proposed Chapter 4, Interstate**  
458 **Compact to Conserve Oil and Gas.**

459 § ~~45.1-381~~ 45.2-xxx. Governor authorized to execute ~~compact~~ Interstate Compact to  
460 Conserve Oil and Gas.

461 The Governor ~~of the Commonwealth~~ is hereby authorized and requested to execute, on  
462 behalf of the Commonwealth ~~of Virginia~~ with any other state or states legally joining therein, a  
463 compact ~~which that~~ shall be in form substantially as ~~follows:~~ in § 45.2-xxx.

464 **Drafting note: Existing § 45.1-381 is divided into two proposed sections to separate**  
465 **two distinct topics, with this section containing only provisions relating to the authority of**  
466 **the Governor and omitting any text that is part of the interstate compact. Technical**  
467 **changes are made and language is updated for modern usage.**

468 ~~An~~ § 45.2-xxx. Interstate Compact to Conserve Oil and Gas.

469 Article I.

470 This agreement may become effective within any compacting state at any time as  
471 prescribed by that state, and shall become effective within those states ratifying it whenever any  
472 three of the ~~States~~ states of Texas, Oklahoma, California, Kansas, and New Mexico have ratified

473 and Congress has given its consent. Any oil-producing state may become a party hereto as  
474 hereinafter provided.

475 Article II.

476 The purpose of this compact is to conserve oil and gas by the prevention of physical  
477 waste thereof from any cause.

478 Article III.

479 Each state bound hereby agrees that within a reasonable time it will enact laws, or if the  
480 laws have been enacted, to continue the same in force, to accomplish within reasonable limits  
481 the prevention of:

482 ~~(a)~~ 1. The operation of any oil well with an inefficient gas-oil ratio.

483 ~~(b)~~ 2. The drowning with water of any stratum capable of producing oil or gas, or both  
484 oil and gas, in paying quantities.

485 ~~(c)~~ 3. The avoidable escape into the open air or the wasteful burning of gas from a  
486 natural gas well.

487 ~~(d)~~ 4. The creation of unnecessary fire hazards.

488 ~~(e)~~ 5. The drilling, equipping, locating, spacing, or operating of a well or wells so as to  
489 bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

490 ~~(f)~~ 6. The inefficient, excessive, or improper use of the reservoir energy in producing any  
491 well.

492 The enumeration of the foregoing subjects shall not limit the scope of the authority of  
493 any state.

494 Article IV.

495 Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if  
496 such statutes have been enacted that it will continue the same in force, providing in effect that  
497 oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order,  
498 or regulation promulgated thereunder, shall be denied access to commerce; and providing for  
499 stringent penalties for the waste of either oil or gas.

## 500 Article V.

501 It is not the purpose of this compact to authorize the states joining herein to limit the  
502 production of oil or gas for the purpose of stabilizing or fixing the price thereof, or to create or  
503 perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving  
504 oil and gas and preventing the avoidable waste thereof within reasonable limitations.

## 505 Article VI.

506 Each state joining herein shall appoint one representative to a commission hereby  
507 constituted and designated as the Interstate Oil Compact Commission (the Commission), the  
508 duty of which shall be to make inquiry and ascertain from time to time such methods, practices,  
509 circumstances, and conditions as may be disclosed for bringing about conservation and the  
510 prevention of physical waste of oil and gas, and at such intervals as the Commission deems  
511 beneficial, it shall report its findings and recommendations to the several states for adoption or  
512 rejection.

513 The Commission shall have power to recommend the coordination of the exercise of the  
514 police powers of the several states within their several jurisdictions to promote the maximum  
515 ultimate recovery from the petroleum reserves of the states and to recommend measures for the  
516 maximum ultimate recovery of oil and gas. The Commission shall adopt suitable rules and  
517 regulations for the conduct of its business.

518 No action shall be taken by the Commission except: ~~(1) By~~ (i) by the affirmative vote of  
519 the majority of the whole number of the compacting states represented at any meeting; and ~~(2)~~  
520 (ii) by a concurring vote of a majority in interest of the compacting states at the meeting, such  
521 interest to be determined as follows: the vote of each state shall be in the decimal proportion  
522 fixed by the ratio of its daily average production during the preceding calendar half-year to the  
523 daily average production of the compacting states during that period.

## 524 Article VII.



525 No state by joining herein shall become financially obligated to any other state, nor shall  
526 the breach of the terms hereof by any state subject that state to financial responsibility to the  
527 other states joining herein.

528 Article VIII.

529 This compact shall continue in effect until Congress withdraws its consent. Any state  
530 joining herein may, upon ~~sixty (60)~~ 60 days' notice, withdraw herefrom.

531 The representatives of the signatory states have signed this agreement in a single original  
532 ~~which~~ that shall be deposited in the archives of the Department of State of the United States, and  
533 a duly certified copy shall be forwarded to the Governor of each of the signatory states.

534 This compact shall become effective when ratified and approved as provided in Article I.  
535 Any oil-producing state may become a party thereto by affixing its signature to a counterpart to  
536 be similarly deposited, certified, and ratified.

537 **Drafting note: Drafting note: Existing § 45.1-381 is divided into two proposed**  
538 **sections to separate two distinct topics, with this section containing only text that is part of**  
539 **the interstate compact and omitting provisions relating to the authority of the Governor.**  
540 **Technical changes made to conform the compact text to Code style include the**  
541 **reformatting of subdivision and clause designations and the alteration of the capitalization**  
542 **of the word "states."**

543 § ~~45.1-382~~ 45.2-xxx. Governor to act as representative to Interstate Oil Compact  
544 Commission.

545 A. The Governor is hereby designated as the official representative of the  
546 Commonwealth ~~of Virginia~~ on the Interstate Oil Compact Commission (the Commission)  
547 provided for in the compact ratified by this chapter. The Governor shall exercise and perform  
548 for the Commonwealth all powers and duties imposed by the compact upon representatives to  
549 the ~~Interstate Oil Compact~~ Commission.

550 B. The Director of the Department of Mines, Minerals and Energy is hereby designated  
551 to be the assistant representative and shall act as the official representative of the

552 Commonwealth on the ~~Interstate Oil Compact~~ Commission when the authority to so act is  
553 delegated to him by the Governor.

554 **Drafting note: Technical changes.**

555 #

1 SUBTITLE III.

2 MINERAL MINES.

3 Proposed Subtitle III is created to logically organize provisions relating to mineral  
4 mines and is divided into proposed Parts A (Mineral Mines Generally), B (Underground  
5 Mineral Mines), and C (Surface Mineral Mines).

6 PART A.

7 MINERAL MINES GENERALLY.

8 Drafting note: In proposed Subtitle III, proposed Part A (Mineral Mines Generally) is  
9 created to logically organize provisions relating to mineral mines and contains three chapters:  
10 proposed Chapter 11, Mineral Mine Safety Act; proposed Chapter 12, Permits for Certain  
11 Mining Operations; Reclamation of Land; and proposed Chapter 13, Mineral Mining Dams  
12 and Adjacent Owners.

13 ~~CHAPTER 14.4:1~~ 11.

14 MINERAL MINE SAFETY ACT.

15 Drafting note: Existing Chapter 14.4:1, concerning the Mineral Mine Safety Act, is  
16 retained as proposed Chapter 11.

17 Article 1.

18 General Provisions.

19 Drafting note: No change.

20 ~~§ 45.1-161.292:1. Short title.~~

21 ~~This chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et~~  
22 ~~seq.) of this title shall be known as the "Mineral Mine Safety Act."~~

23 Drafting note: This section is deleted as unnecessary pursuant to § 1-244, which states  
24 that throughout the Code the caption of a subtitle, chapter, or article serves as a short title  
25 citation.

26 ~~§ 45.1-161.292:2~~ 45.2-xxx. Definitions.

27 As used in ~~this chapter and in Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-~~  
28 ~~161.304 et seq.) and in regulations promulgated under such chapters~~ the Act, unless the  
29 context requires a different meaning:

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

32 "Accident" means (i) a death of ~~an individual~~ a person at a mine; (ii) a serious  
33 personal injury; (iii) an entrapment of ~~an individual~~ a person for more than 30 minutes; (iv) an  
34 unplanned inundation of a mine by liquid or gas; (v) an unplanned ignition or explosion of gas  
35 or dust; (vi) an unplanned mine fire not extinguished within 30 minutes of discovery; (vii) an  
36 unplanned ignition or explosion of a blasting agent or ~~an~~ explosive; (viii) an unplanned roof  
37 fall at or above the anchorage zone in active workings where roof bolts are in use; ~~;~~ or an  
38 unplanned roof or rib fall in active workings that impairs ventilation or impedes passage; (ix)  
39 a rock outburst that causes withdrawal of miners or ~~which~~ that disrupts regular mining activity  
40 for more than one hour; (x) an unstable condition at ~~an impoundment~~ a water or silt retaining  
41 dam or mine refuse pile ~~which~~ that requires emergency action in order to prevent failure; ~~or~~  
42 ~~which~~ causes ~~individuals~~ people to evacuate an area; ~~;~~ or; failure of ~~an impoundment~~; such  
43 retaining dam or refuse pile; (xi) damage to hoisting equipment in a shaft or slope ~~which~~ that  
44 endangers ~~an individual~~ a person or ~~which~~ interferes with use of the equipment for more than  
45 30 minutes; and (xii) an event at a mine ~~which~~ that causes death or bodily injury to ~~an~~  
46 ~~individual~~ any person not at a mine at the time the event occurs.

47 "Active areas" means all places in a mine that are ventilated, if underground, and  
48 examined regularly.

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

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

53 "Approved" means a device, apparatus, equipment, condition, method, course, ~~;~~ or  
54 practice approved in writing by the Director.

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

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

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

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

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

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

73 "Certified person" means a person holding a valid ~~certificate~~ certification from the  
74 Department authorizing him to perform the particular task to which he is assigned.

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

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

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

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

83 "Department" means the Department of Mines, Minerals and Energy.

84 "Division" means the Division of Mineral Mining.

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

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

89 "Federal mine safety law" means the Federal Mine Safety and Health Act of 1977  
90 (P.L. 95-164), and regulations ~~promulgated~~ adopted thereunder.

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

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

95 "Grounded" means connected to earth or to some connecting body ~~which~~ that serves in  
96 place of ~~the~~ earth.

97 "Hazardous condition" means ~~conditions~~ a condition that ~~are~~ is likely to cause death or  
98 serious personal injury to ~~persons~~ a person exposed to ~~such conditions~~ it.

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

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

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

109 "Intake air" means air that has not passed through the last active working place of the  
110 split or by the unsealed ~~entrances~~ entrance to an abandoned ~~areas~~ area and by analysis

111 contains ~~not less than~~ at least 19.5 percent oxygen ~~nor and not~~ more than 0.5 percent ~~of~~  
112 carbon dioxide, ~~nor any and contains neither a~~ hazardous ~~quantities~~ quantity of flammable gas  
113 ~~nor any nor a~~ harmful ~~amounts~~ quantity of poisonous gas.

114 "Interested persons" means members of the Mine Safety Committee and other duly  
115 authorized representatives of the employees at a mine; ~~federal Mine Safety and Health~~  
116 ~~Administration~~ MSHA employees; mine inspectors; and, to the extent required by ~~this chapter~~  
117 ~~and Chapters 14.5 (§ 45.1 161.293 et seq.) and 14.6 (§ 45.1 161.304 et seq.)~~ the Act, any  
118 other person.

119 "Licensed operator" means the operator who has obtained the license for a particular  
120 mine under § ~~45.1 161.292:30~~ 45.2-xxx.

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

123 "Mine" means any underground mineral mine or surface mineral mine. Mines that are  
124 adjacent to each other and under the same management and ~~which that~~ are administered as  
125 distinct units shall be considered ~~as~~ separate mines. A site shall not be considered a mine  
126 unless the mineral extracted or excavated therefrom is offered for sale or exchange, or used  
127 for any other commercial ~~purposes~~ purpose.

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

129 "Mine foreman" means a person holding a valid ~~certificate~~ certification of  
130 qualification as a foreman issued by the Department.

131 "Mine inspector" means a public employee assigned by the Director to make mine  
132 inspections as required by ~~this chapter and Chapters 14.5 (§ 45.1 161.293 et seq.) and 14.6 (§~~  
133 ~~45.1 161.304 et seq.), and~~ the Act or other applicable ~~laws~~ law.

134 "Miner" means any ~~individual~~ person working in a mineral mine.

135 "Mineral" means clay, stone, sand, gravel, metalliferous ~~and or~~ nonmetalliferous ~~ores~~  
136 ore, and or any other solid material or substance of commercial value excavated in solid form  
137 from a natural ~~deposits~~ deposit on or in the earth, exclusive of coal and ~~those minerals which~~  
138 ~~occur~~ any mineral that occurs naturally in liquid or gaseous form.

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

140 "Mineral Mine Safety Act" or "the Act" ~~shall mean~~ means this chapter and Chapters  
141 ~~14.5 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et seq.) and ~~14.6 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.); and  
142 ~~shall include~~ includes any ~~regulations promulgated~~ regulation adopted thereunder, where  
143 applicable.

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

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

148 "Panel entry" means a room entry.

149 "Permissible" means ~~a~~ any device, process, ~~or~~ equipment, or method ~~heretofore or~~  
150 ~~hereafter~~ classified ~~by such term at any time as permissible~~ by ~~the Mine Safety and Health~~  
151 ~~Administration~~ MSHA, when such classification is adopted by the Director, ~~and~~  
152 "Permissible" includes, unless otherwise herein expressly stated, ~~all requirements, restrictions,~~  
153 ~~exceptions, limitations, and conditions~~ any requirement, restriction, exception, limitation, or  
154 condition attached to such classification by ~~the Administration~~ MSHA.

155 "Return air" means air that has passed through (i) the last active working place on each  
156 split, or ~~air that has passed through~~ (ii) an abandoned or worked-out ~~areas~~ area. ~~Area~~ No area  
157 within a panel shall ~~not~~ be deemed abandoned until it is inaccessible or sealed.

158 "Room entry" means any entry or set of entries from which ~~rooms are~~ a room is  
159 turned.

160 "Serious personal injury" means any injury ~~which~~ that (i) has a reasonable potential to  
161 cause death or ~~any injury~~ (ii) is other than a sprain or strain ~~which~~ and requires an admission  
162 to a hospital for 24 hours or more for medical treatment.

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



166 "Surface mineral mine" means (i) the pit and any other active ~~and or~~ inactive ~~areas~~  
167 area of surface extraction of minerals; (ii) any on-site ~~mills, shops~~ mill, shop, loadout ~~facilities~~  
168 facility, and or related ~~structures~~ structure appurtenant to the excavation and processing of  
169 minerals; (iii) ~~impoundments, retention dams~~ any impoundment, water or silt retaining dam,  
170 tailing ~~ponds~~ pond, and mine refuse pile, or other ~~areas~~ area appurtenant to the extraction of  
171 minerals from the site; (iv) any on-site surface ~~areas~~ area for the transportation ~~and or~~ storage  
172 of minerals excavated at the site; (v) equipment, machinery, tools, and other property used in,  
173 or to be used in, the work of extracting minerals from the site; (vi) any private ~~ways and roads~~  
174 way or road appurtenant to such area; and (vii) ~~the areas~~ any area used for surface-disturbing  
175 exploration ~~(, other than by drilling or seismic testing), or for~~ preparation of a site for surface  
176 mineral extraction ~~activities~~ activity. A site shall commence being a surface mineral mine  
177 upon the beginning of any surface-disturbing exploration ~~activities~~ activity other than  
178 exploratory drilling or seismic testing, and shall cease to be a surface mineral mine upon  
179 completion of initial reclamation activities. The surface extraction of a mineral shall not  
180 constitute surface mineral mining unless the mineral (a) ~~the mineral~~ is extracted for its unique  
181 or intrinsic characteristics, or (b) ~~the mineral~~ requires processing prior to its intended use.

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

184 "Underground mineral mine" means (i) the working face and any other active ~~and or~~  
185 inactive ~~areas~~ area of underground excavation of minerals; (ii) any underground travel ~~ways,~~  
186 ~~shafts, slopes, drifts, inclines and tunnels~~ way, shaft, slope, drift, incline, or tunnel connected  
187 to such ~~areas~~ area; (iii) any on-site ~~mills~~ mill, loadout ~~areas, shops, and~~ area, shop, or related  
188 ~~facilities~~ facility appurtenant to the excavation and processing of minerals; (iv) any on-site  
189 surface ~~areas~~ area for the transportation ~~and or~~ storage of minerals excavated at the site; (v)  
190 ~~impoundments~~ any impoundment, retention ~~dams~~ dam, tailing ~~ponds and~~ pond, or waste ~~areas~~  
191 area appurtenant to the excavation of minerals from the site; (vi) equipment, machinery, tools,  
192 and other property, on the surface or underground, used in, or to be used in, the excavation of  
193 minerals from the site; (vii) any private ~~ways and roads~~ way or road appurtenant to such area;

194 and (viii) ~~the areas~~ any area used to prepare a site for underground mineral excavation  
195 activities. A site ~~shall commence~~ commences being an underground mineral mine upon the  
196 beginning of any site preparation activity other than exploratory drilling or other exploration  
197 activity; and ~~shall cease~~ ceases to be an underground mineral mine upon completion of initial  
198 reclamation activities.

199 "Work area," as used in Chapter ~~14.4~~ 9 (§ ~~45.1-161.253~~ 45.2-xxx et seq.), means ~~those~~  
200 areas an area of a mine in production or being prepared for production ~~and those areas~~ or an  
201 area of ~~the a~~ mine ~~which that~~ may pose a danger to miners at such ~~areas~~ area in production or  
202 being prepared for production.

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

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

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

208 **Drafting note: Definitions of the terms "Division of Mineral Mining" and "Mine**  
209 **Safety and Health Administration" are added. In the definition of the term "accident,"**  
210 **terms relating to impoundments are updated and made consistent with the rest of the**  
211 **chapter. The term "the Act" is substituted for references to the chapters that comprise**  
212 **the Mineral Mine Safety Act in accordance with the definition of that term. The term**  
213 **"promulgate regulations" is changed to "adopt regulations" in keeping with recent title**  
214 **revisions because "adopt" is more widely used and includes the promulgation process.**  
215 **Technical changes are made, including changes pursuant to § 1-227, which states that**  
216 **throughout the Code any word used in the singular includes the plural and vice versa.**  
217 **Language is updated for modern usage and clarity, including by replacing the term**  
218 **"individual" with "person."**

219 § ~~45.1-161.292:3~~ 45.2-xxx. Safety and health.

220 In safety and health, all mineral miners are to be governed by ~~this chapter and~~  
221 ~~Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.) and Chapter 18.1 (§~~

222 ~~45.1-225.1 et seq.) of this title, and~~ the Act, Article 1 (§ 45.2-xxx [§ 45.1-225.1] et seq.) of  
223 Chapter 13, any other ~~sections~~ section of the Code relating to safety and health of miners, and  
224 ~~rules and~~ regulations ~~promulgated~~ adopted by the Department.

225 **Drafting note: References to chapters constituting the Mineral Mine Safety Act**  
226 **are replaced with a reference to "the Act." Technical changes are made pursuant to § 1-**  
227 **227, which states that throughout the Code any word used in the singular includes the**  
228 **plural and vice versa, and language is updated for modern usage and clarity.**

229 § ~~45.1-161.292:4~~ 45.2-xxx. Special safety rules.

230 The operator of ~~every~~ a mine ~~shall have~~ has the right to adopt special safety rules for  
231 the safety and operation of his mine ~~or mines, covering~~ regarding the work pertaining thereto  
232 inside and outside of ~~the same, which~~ such mine. Such rules, however, shall not be in conflict  
233 with the provisions of this chapter ~~and Chapters 14.5 or Chapter 14~~ (~~§ 45.1-161.293~~ 45.2-xxx  
234 ~~et seq.) and 14.6 or 15~~ (~~§ 45.1-161.304~~ 45.2-xxx et seq.). Such rules, when established, shall  
235 be posted at some conspicuous place about the ~~mines,~~ mine where ~~the rules~~ they may be seen  
236 by all miners subject to such rules, ~~or in.~~ In lieu thereof of posting the rules, the operator ~~shall~~  
237 may furnish a printed copy of such rules to each miner subject to such rules.

238 **Drafting note: Technical changes are made, including a change pursuant to § 1-**  
239 **227, which states that throughout the Code any word used in the singular includes the**  
240 **plural and vice versa. Language is updated for modern usage and clarity.**

241 § ~~45.1-161.292:5~~ 45.2-xxx. Persons not permitted to work in mines.

242 A. No person under ~~eighteen~~ 18 years of age shall be permitted to work in any mine,  
243 and in ~~all cases~~ every case of doubt, the operator, agent, or mine foreman shall obtain a birth  
244 certificate or other documentary evidence, from the State Registrar of Vital ~~Statistics,~~ Records  
245 or other authentic sources as to the age of such person.

246 B. The Department shall conform to the federal Fair Labor Standards Act, 29 U.S.C. §  
247 212, and federal regulations adopted pursuant to that Act with respect to ~~persons~~ any person  
248 under 18 years of age working around any mine.

249 ~~B.~~C. No operator, agent, or mine foreman shall make a false statement as to the age of  
250 any person under ~~eighteen~~ 18 years of age applying for work in or around any mine.

251 **Drafting note: The name of the Registrar of Vital Statistics is updated. Technical**  
252 **changes are made, including a change pursuant to § 1-227, which states that throughout**  
253 **the Code any word used in the singular includes the plural and vice versa. Language is**  
254 **updated for modern usage and clarity.**

255 § ~~45.1-161.292:6~~ 45.2-xxx. Prohibited acts by miners or other persons; miners to  
256 comply with law.

257 A. No miner or other person shall (i) knowingly damage any shaft, lamp, instrument,  
258 air course, or brattice or obstruct ~~airways~~ any airway; (ii) carry in a mine any intoxicating  
259 liquors or controlled drugs without the prescription of a licensed physician; (iii) disturb any  
260 part of the machinery or appliances in a mine; (iv) open a door used for directing ventilation  
261 and fail to close it again; (v) enter any part of a mine against caution or a warning sign or  
262 barricade; or (vi) disobey any order issued pursuant to the provisions of this chapter ~~and~~  
263 ~~Chapters 14.5 or Chapter 14~~ (~~§ 45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (~~§ 45.1-161.304~~  
264 45.2-xxx et seq.).

265 B. Each miner at any mine shall comply fully with the provisions of this chapter ~~and~~  
266 ~~Chapters 14.5~~ 14 (~~§ 45.1-161.293~~ 45.2-xxx et seq.) and ~~14.6~~ 15 (~~§ 45.1-161.304~~ 45.2-xxx et  
267 seq.), and other mining laws of ~~this~~ the Commonwealth that pertain to his duties.

268 **Drafting note: Technical changes are made, including a change pursuant to § 1-**  
269 **227, which states that throughout the Code any word used in the singular includes the**  
270 **plural and vice versa. A reference to a warning sign or barricade is added to clause (v)**  
271 **of subsection A. Language is updated for modern usage and clarity.**

272 § ~~45.1-161.292:7~~ 45.2-xxx. Safety materials and supplies.

273 It ~~shall be~~ is the duty of every operator or agent to keep on hand at all times at each  
274 mine, at or within convenient distance of each mine, ~~at all times~~ a sufficient quantity of all  
275 materials and supplies required to preserve the safety of ~~the~~ miners working in ~~those areas~~ any  
276 area in which the operator is responsible for their health and safety, as required by this chapter

277 and Chapters ~~14.5~~ 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) and ~~14.6~~ 15 (§ ~~45.1-161.304~~ 45.2-xxx  
278 et seq.). If for any reason, the operator or agent cannot procure the necessary materials or  
279 supplies, he shall cause ~~the~~ all miners to withdraw from the mine, or from the affected portion  
280 ~~thereof~~ affected of the mine, until such ~~material~~ materials or supplies are received.

281 **Drafting note: Technical changes are made, including a change pursuant to § 1-**  
282 **227, which states that throughout the Code any word used in the singular includes the**  
283 **plural and vice versa. Language is updated for modern usage and clarity.**

284 § ~~45.1-161.292:8~~ 45.2-xxx. Notifying miners of violations; compliance with Act.

285 A. The operator and his agent shall cooperate with the mine foreman, competent  
286 person, and other officials in the discharge of their duties as required by this chapter and  
287 Chapters ~~14.5~~ 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) and ~~14.6~~ 15 (§ ~~45.1-161.304~~ 45.2-xxx et  
288 seq.), ~~and~~. Such operator and agent shall direct that all miners comply with all provisions of  
289 ~~this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.)~~ such  
290 chapters, especially when ~~his~~ the attention of such operator or agent is called by the Director  
291 or a mine inspector to any violation of ~~this any such~~ chapter ~~and Chapters 14.5 (§ 45.1-~~  
292 ~~161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.)~~ by the Director or a mine inspector.

293 B. The operator of any mine or his agent shall operate in full conformity with this  
294 chapter ~~and~~, Chapters ~~14.5~~ 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) and ~~14.6~~ 15 (§ ~~45.1-161.304~~  
295 45.2-xxx et seq.), and any other mining law of the Commonwealth at all times. This  
296 requirement shall not relieve any other person who is subject to the provisions of ~~this any~~  
297 such chapter ~~and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.)~~  
298 from his duty to comply with the requirements of ~~this chapter and Chapters 14.5 (§ 45.1-~~  
299 ~~161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.)~~ such chapter.

300 C. Nothing in this chapter ~~and Chapters 14.5~~ or Chapter 14 (§ ~~45.1-161.293~~ 45.2-xxx  
301 et seq.) ~~and 14.6~~ or 15 (§ ~~45.1-161.304~~ 45.2-xxx et seq.) shall be construed to relieve an  
302 operator or his agent from the duty imposed at common law to secure the reasonable safety of  
303 his employees.

304 D. No operator, agent, competent person, or certified person shall knowingly permit  
305 any person to work in any part of a mine in violation of written instructions issued by a mine  
306 inspector pursuant to this chapter ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx  
307 et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.).

308 Drafting note: Technical changes are made and language is updated for modern usage  
309 and clarity.

310 Article 2.

311 Director and Mining Inspectors.

312 Drafting note: No change.

313 § ~~45.1-161.292:9~~ 45.2-xxx. Affiliations of Department personnel with labor union,  
314 mining company, etc.; interest in mine; inspections of mines where inspector previously  
315 employed.

316 A. ~~In addition to compliance with the provisions of the State and Local Government~~  
317 ~~Conflict of Interests Act (§ 2.2-3100 et seq.), neither~~ Neither the Director nor any other  
318 officer or employee of the Department shall, upon taking office or being employed, or at any  
319 other time during the term of his office or employment, have any affiliation with any  
320 operating company, operators' association, or labor union ~~or fail to comply with the~~  
321 provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

322 Neither the Director nor any other officer while in office shall be directly or indirectly  
323 interested as owner, partner, proprietor, lessor, operator, superintendent, or engineer of any  
324 mine, nor shall the Director, or any other officer while in office, own any stock in a  
325 corporation owning a mine either directly or through a subsidiary.

326 B. Neither the Director nor any mine inspector shall perform an inspection at any mine  
327 ~~site~~ at which ~~that individual~~ he was ~~last~~ previously employed for a period of two years  
328 following termination of his employment at any such mine site.

329 **Drafting note: Technical changes are made, including organizational changes,**  
330 **and language is updated for modern usage. Subsection B is rephrased to clarify the**  
331 **reference to any previous employer rather than only the last employer.**

332 § ~~45.1-161.292:10~~ 45.2-xxx. Appointment of mine inspectors; qualifications.

333 ~~Mine inspectors~~ A. Each mine inspector shall be appointed by the Director.

334 § ~~45.1-161.292:11~~. ~~Qualifications of mine inspectors generally.~~

335 B. Each mine inspector shall (i) be ~~not less than~~ at least 25 years ~~of age old~~; (ii) be of  
336 good moral character and temperate habits; (iii) hold a certificate as a mine foreman; and (iv)  
337 hold a certificate as a mine inspector issued prior to July 1, 2012, by the Board of Mineral  
338 Mining Examiners or on or after July 1, 2012, by the Department.

339 **Drafting note: Existing §§ 45.1-161.292:10 and 45.1-161.292:11 are combined. A**  
340 **technical change is made pursuant to § 1-227, which states that throughout the Code any**  
341 **word used in the singular includes the plural and vice versa, and language is updated for**  
342 **modern usage.**

343 § ~~45.1-161.292:12~~ 45.2-xxx. Qualifications of mine inspectors ~~of mines~~.

344 Each mine inspector conducting inspections of mineral mines shall have a thorough  
345 knowledge of the various systems of working and ventilating underground mineral mines and  
346 working surface mineral mines; the control of mine roof and ground control; the methods of  
347 rescue and recovery in mining operations; the application of electricity and mechanical  
348 loading in mining operations; the equipment and explosives used in mining; the and mine haulage.

349 **Drafting note: The catchline is changed to reflect the terminology used in the**  
350 **section and technical changes are made.**

351 § ~~45.1-161.292:13~~ 45.2-xxx. Duties of Director.

352 A. The Director shall (i) supervise the execution and enforcement of all laws  
353 pertaining to the safety and health of persons employed within or at mineral mines within the  
354 Commonwealth; and the protection of property used in connection therewith; ~~and~~ (ii)  
355 perform all other duties required pursuant to this chapter ~~and Chapters 14.5 or Chapter 14~~ (§  
356 ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.).

357 B. The Director shall keep a record of all inspections of mineral mines made by him or  
358 his authorized representatives. He shall also keep a permanent record thereof, properly

359 indexed, which ~~record~~ shall at all times be open to inspection by any citizen of the  
360 Commonwealth.

361 **Drafting note: Technical changes are made.**

362 § ~~45.1-161.292:14~~ 45.2-xxx. Technical specialists.

363 The Director may appoint technical specialists in the areas of roof control, electricity,  
364 ventilation, and other mine specialties. ~~Technical specialists~~ Each technical specialist shall  
365 have all the qualifications of a mine inspector plus such specialized knowledge in ~~their~~ his  
366 field as ~~may be~~ required. ~~Technical specialists~~ Each technical specialist shall advise the  
367 Director and mine operators in the areas of ~~their~~ his specialty. ~~Technical specialists and~~  
368 have the power of an inspector to issue a closure order only in ~~cases~~ a case of imminent  
369 danger.

370 Drafting note: Technical changes are made, including changes pursuant to § 1-227,  
371 which states that throughout the Code any word used in the singular includes the plural and  
372 vice versa.

373 Article 3.

374 Certification of Mineral Mine Workers.

375 Drafting note: No change.

376 § ~~45.1-161.292:15~~. ~~Repealed.~~

377 **Drafting note: Repealed by Acts 2012, cc. 803, 835, cl. 49.**

378 § ~~45.1-161.292:17~~ 45.2-xxx. Records of Board of Mineral Mining Examiners.

379 The Director of the Division ~~of Mineral Mining~~ shall preserve in his office a record of  
380 the meetings and transactions of the Board of Mineral Mining Examiners and of all  
381 certificates issued by the Board.

382 **Drafting note: The name of the Division of Mineral Mining is shortened to**  
383 **correspond to the definition of that term as added to proposed § 45.2-xxx [§ 45.1-**  
384 **161.292:2].**

385 § ~~45.1-161.292:18~~. ~~Repealed.~~

386 **Drafting note: Repealed by Acts 2012, cc. 803, 835, cl. 49.**



387 § ~~45.1-161.292:19~~ 45.2-xxx. Certification of certain persons employed in mineral  
388 mines; powers of the Department.

389 A. The Department may require certification of ~~persons~~ each person who ~~work~~ works  
390 in a mineral ~~mines and persons~~ mine or whose duties and responsibilities in relation to  
391 mineral mining require competency, skill, or knowledge in order to perform the tasks required  
392 of him consistently with the health and safety of persons and property. ~~The~~ Each of the  
393 following certifications shall be issued by the Department, and a person holding such a  
394 ~~certification shall be~~ certificate is authorized to perform the tasks ~~which this chapter and~~  
395 ~~Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.) or any regulation~~  
396 ~~promulgated by the Department~~ that the Act requires be performed by such a certified person:

- 397 1. Surface foreman;
- 398 2. Surface foreman open pit;
- 399 3. Underground foreman;
- 400 4. Surface blaster;
- 401 5. Electrical repairman;
- 402 6. Underground mining blaster;
- 403 7. General mineral miner; and
- 404 8. Mine inspector.

405 B. Certification shall also be required for such additional tasks as the Department may  
406 require by regulation.

407 C. The Department ~~shall have~~ has the power to ~~promulgate~~ adopt regulations  
408 necessary or incidental to the performance of duties or the execution of powers conferred  
409 under this title, ~~which~~. Such regulations shall be ~~promulgated~~ adopted in accordance with the  
410 provisions of Article 2 (§ 2.2-4007 et seq.) of the Administrative Process Act.

411 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
412 **227, which states that throughout the Code any word used in the singular includes the**  
413 **plural and vice versa. The term "the Act" is substituted for references to the chapters**

414 and regulations that comprise the Mineral Mine Safety Act in accordance with the  
415 definition of that term. Language is updated for modern usage and clarity.

416 § ~~45.1-161.292:20~~ 45.2-xxx. Examinations required for Mineral Mining Certifications.

417 A. The Department may require the examination of ~~applicants~~ each applicant for  
418 certification; ~~however, the~~. The Department shall require the examination of ~~applicants~~ each  
419 applicant for a mine inspector certification. The Department may require such other  
420 information from ~~applicants~~ an applicant as ~~may be~~ necessary to ascertain competency and  
421 qualifications for each task.

422 B. Except as ~~provided by~~ this chapter ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-~~  
423 ~~161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.) requires for a  
424 general mineral miner ~~and or~~ surface foreman ~~certifications~~ certification, the Department shall  
425 prescribe the qualifications for ~~any~~ each type of certification. The examinations shall be  
426 conducted under such ~~rules~~, conditions and regulations as the Department ~~shall promulgate~~  
427 establishes or adopts. Such ~~rules, when promulgated,~~ established conditions and adopted  
428 regulations shall be made a part of the permanent record of the Department, ~~shall periodically~~  
429 be published periodically, and ~~shall be of uniform application~~ applied uniformly to all  
430 applicants.

431 ~~B.~~ C. Any ~~certificate~~ certification issued by the Department, except the general  
432 mineral miner certification, shall be valid from the date of issuance for a period of five years,  
433 unless renewed, or unless revoked pursuant to § ~~45.1-161.292:26~~ 45.2-xxx. The general  
434 mineral miner certification shall be valid from the date of issuance until it ~~may be~~ is revoked  
435 pursuant to § ~~45.1-161.292:26~~ 45.2-xxx.

436 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
437 **227, which states that throughout the Code any word used in the singular includes the**  
438 **plural and vice versa. Language is updated for modern usage and clarity. The term**  
439 **"promulgate regulations" is changed to "adopt regulations" in keeping with recent title**  
440 **revisions because "adopt" is more widely used and includes the promulgation process.**

441 § ~~45.1-161.292:21~~ 45.2-xxx. Performance of certain tasks by uncertified persons;  
442 penalty.

443 It is unlawful for any person to perform any task requiring Department certification ~~by~~  
444 ~~the Department until~~ unless he has been certified. It is unlawful for an operator or his agent to  
445 permit any uncertified person to perform such ~~tasks~~ task. A violation of this section ~~shall~~  
446 ~~constitute~~ constitutes a Class 1 misdemeanor. Each day of operation without a required  
447 certification ~~shall constitute~~ constitutes a separate offense. A ~~certificate~~ certification issued by  
448 the Board of Mineral Mining Examiners prior to July 1, 2012, shall be acceptable as a  
449 ~~certificate~~ certification issued by the Department until the Department shall provide otherwise  
450 by appropriate regulations.

451 **Drafting note: The final sentence is deleted as obsolete. Technical changes are**  
452 **made, including changes pursuant to § 1-227, which states that throughout the Code any**  
453 **word used in the singular includes the plural and vice versa. Language is updated for**  
454 **modern usage and clarity.**

455 § ~~45.1-161.292:22~~ 45.2-xxx. Examination fees; Mineral Mining Examiners' Fund.

456 A. A fee of \$10 shall be paid to the Director by each person examined. ~~All fees shall~~  
457 ~~be paid~~ before the commencement of the examination.

458 B. There is hereby created in the state treasury a special nonreverting fund to be  
459 known as the Mineral Mining Examiners' Fund, referred to in this section as "the Fund." The  
460 Fund shall be established on the books of the Comptroller. All ~~such~~ fees collected pursuant to  
461 subsection A, together with moneys collected pursuant to § ~~45.1-161.292:25~~ 45.2-xxx, shall  
462 be ~~retained by the Department and shall be promptly~~ paid ~~by the Director~~ into the state  
463 treasury and ~~shall constitute the Mineral Mining Examiners'~~ credited to the Fund. Interest  
464 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys  
465 remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert  
466 to the general fund but shall remain in the Fund.

467 C. The ~~fund~~ Fund shall be administered by the Director, and moneys in the Fund shall  
468 be used solely for the purposes of payment of the cost of printing certificates and other

469 necessary forms and the incidental expenses incurred by the Department in conducting  
470 examinations, reviewing examination papers, and conducting its other duties pursuant to this  
471 article. [Expenditures and disbursements from the Fund shall be made by the State Treasurer](#)  
472 [on warrants issued by the Comptroller upon written request signed by the Director.](#) The  
473 Director shall keep accounts and records concerning the receipts and expenditures of the fund  
474 as required by the Auditor of Public Accounts.

475 **Drafting note: The nonreverting fund language for the Mineral Mining**  
476 **Examiners' Fund is updated to reflect current language requested by the Department of**  
477 **the Treasury for nonreverting funds in the Code. Technical changes are made.**

478 ~~§ 45.1-161.292:23. Repealed.~~

479 **Drafting note: Repealed by Acts 2012, cc. 803 and 835, cl. 49.**

480 ~~§ 45.1-161.292:24~~ [45.2-xxx](#). Reciprocal acceptance of other certifications.

481 In lieu of [conducting](#) an examination prescribed by law or regulation, the Department  
482 may issue to any person holding a certificate issued by another state a certificate permitting  
483 him to perform similar tasks in ~~this~~ [the](#) Commonwealth, ~~provided that~~ [so long as](#) (i) the  
484 Department finds that the requirements for certification in such other state are substantially  
485 equivalent to those of Virginia and (ii) holders of certificates issued by the Department are  
486 permitted to perform similar tasks in such state, and obtain similar certification from such  
487 state if required, upon presentation of the certificate issued by the Department and without  
488 additional testing, training, or other ~~requirements~~ [requirement](#) not directly related to program  
489 administration.

490 **Drafting note: A technical change is made pursuant to § 1-227, which states that**  
491 **throughout the Code any word used in the singular includes the plural and vice versa,**  
492 **and language is updated for modern usage and clarity.**

493 ~~§ 45.1-161.292:25~~ [45.2-xxx](#). Renewal of certificates.

494 The holder of any certificate issued by the Board of Mineral Mining Examiners or the  
495 Department, other than a general mineral miner certificate, may renew the certificate by  
496 successfully completing the examination for the renewal of such certificate. The Department

497 shall establish requirements for renewal of a certificate in accordance with the procedure set  
498 forth in ~~subsection A of § 45.1-161.292:20~~ 45.2-xxx. The Department shall notify a certificate  
499 holder at least 180 days prior to the expiration of the certificate. Any certificate requiring  
500 renewal ~~which that~~ is not renewed by the fifth anniversary of its issuance, or of a previous  
501 renewal, ~~shall be~~ is invalid. As a condition to renewal, the holder shall provide the  
502 Department with ~~such~~ all administrative information ~~as is~~ reasonably required and ~~shall~~ pay  
503 the examination fee as provided in § ~~45.1-161.292:22~~ 45.2-xxx.

504 **Drafting note: Technical changes are made and language is updated for modern**  
505 **usage and clarity.**

506 § ~~45.1-161.292:26~~ 45.2-xxx. Revocation of certificates.

507 A. The Department may revoke any certificate upon finding that (i) the holder has ~~(i)~~  
508 (a) been intoxicated while ~~in on~~ duty ~~status~~; ~~(ii)~~ (b) neglected his duties; ~~(iii)~~ (c) violated any  
509 provision of this chapter ~~and Chapters 14.5, Chapter 14~~ (~~§ 45.1-161.293~~ 45.2-xxx et seq.) ~~and~~  
510 14.6 or 15 (~~§ 45.1-161.304~~ 45.2-xxx et seq.)<sub>2</sub> or any other mineral mining law of the  
511 Commonwealth; ~~(iv)~~ (d) used any controlled substance without the prescription of a  
512 licensed physician; or ~~(v)~~ (ii) other sufficient cause exists.

513 B. The Department may act to revoke any certificate upon the presentation of written  
514 charges by (i) the Director of the Division ~~of Mineral Mining~~ or any other employee of the  
515 Department; (ii) the operator of a mine at which such person is employed; (iii) an independent  
516 contractor working at such mine; or (iv) 10 persons working at the mine at which such person  
517 is employed, or, if ~~less~~ fewer than 10 persons are working at the mine, a majority of the  
518 workers at the mine.

519 C. Prior to revoking a certificate, the Department shall give due notice to the holder of  
520 the certificate and conduct a hearing. Any hearing shall be conducted in accordance with §  
521 2.2-4020 unless the parties agree to informal proceedings. The hearing shall be conducted by  
522 a hearing officer as provided in § 2.2-4024.

523 D. Any person who has been aggrieved by a decision of the Department ~~shall be~~ is  
524 entitled to judicial review of such decision. Appeals from such decisions shall be in  
525 accordance with Article 4 (§ 2.2-4025 et seq.) of the Administrative Process Act.

526 **Drafting note: Technical changes are made, including in subsection A, where the**  
527 **organization of the list of findings for which the Department may revoke a certificate is**  
528 **clarified. Language is updated for modern usage and the name of the Division of**  
529 **Mineral Mining is shortened to correspond to the definition of that term as added to**  
530 **proposed § 45.2-xxx [§ 45.1-161.292:2].**

531 § ~~45.1-161.292:27~~ 45.2-xxx. Reexamination.

532 The holder of a certificate revoked pursuant to § ~~45.1-161.292:26~~ 45.2-xxx ~~shall be~~ is  
533 entitled to examination by the Department after a period of three months has elapsed from the  
534 date of revocation of the certificate if he can prove to the satisfaction of the Department that  
535 the cause for revocation of his certificate has ceased to exist.

536 **Drafting note: Technical changes are made to modernize language.**

537 § ~~45.1-161.292:28~~ 45.2-xxx. General mineral miner certification.

538 A. Every person commencing work in a mineral mine subsequent to January 1, 1997,  
539 shall hold a general mineral miner certificate issued by the Board of Mineral Mining  
540 Examiners or the Department. Any person who has worked in a mineral mine in Virginia  
541 prior to that date may, but shall not be required to, hold a general mineral miner certificate.

542 B. Each applicant for a general mineral miner certificate shall prove to the Department  
543 that he has knowledge of first aid practices and has a general working knowledge of the  
544 provisions of this chapter ~~and~~, Chapters ~~14.5~~ 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) and ~~14.6~~ 15  
545 (§ ~~45.1-161.304~~ 45.2-xxx et seq.), and applicable regulations pertaining to mineral mining  
546 health and safety.

547 **Drafting note: Technical changes.**

548 § ~~45.1-161.292:29~~ 45.2-xxx. Foreman certification.

549 A. At any mineral mine where three or more persons work at the same time during any  
550 part of a 24-hour period, the licensed operator or independent contractor engaged in the

551 extraction or processing of minerals shall employ a mine foreman. Only ~~persons~~ a person  
552 holding a foreman certificate in accordance with § ~~45.1-161.292:19~~ 45.2-xxx shall be  
553 employed as a mine ~~foremen~~ foreman. The holder of such a certificate shall present the  
554 certificate, or a ~~photostatic~~ copy thereof, to the operator where he is employed, ~~who~~. Such  
555 operator shall file the certificate or its copy in the office at the mine, ~~and the operator shall~~  
556 make it available for inspection by interested persons.

557 B. ~~Applicants~~ Every applicant for a foreman certificate shall have ~~had~~ at least five  
558 years of experience at mineral mining, or other experience deemed appropriate by the  
559 Department, and shall demonstrate to the Department a thorough knowledge of the theory and  
560 practice of mineral mining by making a score of 85 percent or more on the written  
561 examination. In addition, each applicant shall pass an examination in first aid approved by the  
562 Department.

563 C. The certified mine foreman at each mine shall examine all active workings at the  
564 beginning of each shift. Any hazard or unsafe condition shall be corrected ~~prior to miners~~  
565 starting before any miner starts work in the affected area.

566 D. ~~Independent contractors~~ Any independent contractor working in a mineral mine  
567 who ~~are~~ is engaged in ~~activities~~ an activity other than the extraction or processing of minerals  
568 and is working in a clearly demarcated area where (i) no mining-associated ~~hazards exist~~  
569 hazard exists and (ii) no other ~~miners travel or work~~ miner travels or works while engaged in  
570 an extraction or processing ~~activities,~~ activity shall employ a competent person ~~who shall to~~  
571 examine the work area of the contractor at the beginning of each shift. Any hazard or unsafe  
572 condition shall be corrected prior to ~~personnel~~ any person starting work in the affected area.

573 Drafting note: Technical changes are made, including changes pursuant to § 1-227,  
574 which states that throughout the Code any word used in the singular includes the plural and  
575 vice versa. Language is updated for modern usage and clarity.

576 Article 4.

577 Licensing of Mineral Mines.

578 Drafting note: No change.

579 § ~~45.1-161.292:30~~ 45.2-xxx. License required for operation of mineral mines; term.

580 A. No person shall engage in the operation of any mineral mine within ~~this~~ the  
581 Commonwealth without first obtaining a license from the Department. ~~A license shall be~~  
582 ~~required prior to commencement of the operation of a mine. A separate license shall be~~  
583 ~~secured for each mine operated.~~ Licenses shall be in ~~such~~ a form ~~as~~ that the Director ~~may~~  
584 ~~prescribe~~ prescribes. The license for each mine shall be posted in a conspicuous place near the  
585 main entrance to ~~the~~ such mine.

586 B. A license is required prior to commencement of the operation of a mine, and a  
587 separate license shall be secured for each mine operated. The Director may transfer a license  
588 to a successor operator, ~~provided that~~ so long as the successor operator has complied with the  
589 requirements of this chapter and Chapters ~~14.5~~ 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) and ~~14.6~~  
590 15 (§ ~~45.1-161.304~~ 45.2-xxx et seq.). Every change in ownership of a mine shall be reported  
591 to the Department as provided in subsection D of § ~~45.1-161.292:35~~ 45.2-xxx.

592 ~~B. Licenses~~ C. Each license shall be valid for a period of one year following the date  
593 of issuance, and a mine operator shall ~~be renewed on their~~ secure the renewal of a license by  
594 its anniversary date.

595 ~~C. D.~~ Within ~~thirty~~ 30 days after the occurrence of any change in the information  
596 required by subsection ~~A~~ B, the licensed operator shall notify the Department, in writing, of  
597 such change.

598 **Drafting note: Subsection A is divided into two subsections for clarity, and the**  
599 **second and third sentences in existing subsection A, requiring a license prior to**  
600 **operation and a separate license for each mine, are relocated to the beginning of**  
601 **proposed subsection B. Technical changes are made, including changes pursuant to § 1-**  
602 **227, which states that throughout the Code any word used in the singular includes the**  
603 **plural and vice versa, and language is updated for modern usage and clarity.**

604 § ~~45.1-161.292:31~~ 45.2-xxx. Fee to accompany application for license; ~~fund~~ Mineral  
605 Mine License Fund; disposition of fees.



606 A. Each application for a mineral mine license or a renewal or transfer of a license  
607 shall be submitted to the Department, accompanied by a fee, of \$400 payable to the State  
608 Treasurer, ~~in the amount of \$180~~ except an application submitted electronically, which shall  
609 be accompanied by a fee of \$330. However, any person engaged in mining sand or gravel on  
610 an area of five acres or less shall be required to pay a fee of ~~\$48~~ \$100, except an application  
611 submitted electronically, which shall be accompanied by a fee of \$80. All such fees collected  
612 shall be retained by the Department and paid into the ~~state treasury and shall constitute a fund~~  
613 ~~under the control of the Director. Expenditures~~ Mineral Mine License Fund created pursuant  
614 to subsection B.

615 B. There is hereby created in the state treasury a special nonreverting fund to be  
616 known as the Mineral Mine License Fund, referred to in this section as "the Fund." The Fund  
617 shall be established on the books of the Comptroller. All fees collected pursuant to subsection  
618 A shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in  
619 the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,  
620 including interest thereon, at the end of each fiscal year shall not revert to the general fund but  
621 shall remain in the Fund. Expenditures from ~~this fund may the Fund shall~~ be made ~~by the~~  
622 ~~Department~~ solely for the purpose of acquiring or providing safety equipment, safety training,  
623 or safety education or ~~for any expenditure~~ to further the safety program in the mineral mining  
624 industry. All expenditures and disbursements from ~~this fund must be approved~~ the Fund shall  
625 be made by the State Treasurer on warrants issued by the Comptroller upon written request  
626 signed by the Director.

627 **Drafting note: Mineral mine license fees are updated to reflect Acts 2020, c. 1289,**  
628 **item 124. The nonreverting fund language for the Mineral Mine License Fund is**  
629 **updated to reflect current language requested by the Department of the Treasurer for**  
630 **nonreverting funds in the Code. Technical changes are made and subsection**  
631 **designations are added for clarity.**

632 § ~~45.1-161.292:32~~ 45.2-xxx. Application for license.

633 A. An application for a license shall be submitted by the person who will be the  
634 licensed operator of the mine. No application for a license or a renewal thereof ~~shall be~~ is  
635 complete unless it contains the following:

636 1. Identity regarding the applicant. ~~If the applicant is a sole proprietorship, the~~ The  
637 applicant shall state: (i) ~~his full name and address;~~ (ii) the name and address of the mine and  
638 its federal mine identification number; ~~(iii);~~ (ii) the name and address of the person with  
639 overall responsibility for operating decisions at the mine; ~~(iv);~~ (iii) the name and address of  
640 the person with overall responsibility for health and safety at the mine; ~~(v);~~ and (iv) the  
641 federal mine identification ~~numbers~~ number of ~~all every~~ other ~~mines~~ mine in which the ~~sole~~  
642 ~~proprietor~~ applicant has a ~~twenty~~ 20 percent or greater ownership interest ~~and (vi);~~

643 2. If the applicant is a sole proprietorship, in addition to the information required by  
644 subdivision 1, (i) his full name and address and (ii) the trade name, if any, and the full name,  
645 address of record, and telephone number of the proprietorship;

646 3. If the applicant is a partnership, ~~the applicant shall state:~~ in addition to the  
647 information required by subdivision 1, (i) ~~the name and address of the mine and its federal~~  
648 ~~mine identification number;~~ (ii) ~~the name and address of the person with overall responsibility~~  
649 ~~for operating decisions at the mine;~~ (iii) ~~the name and address of the person with overall~~  
650 ~~responsibility for health and safety at the mine;~~ (iv) ~~the federal mine identification numbers of~~  
651 ~~all other mines in which the partnership has a twenty percent or greater ownership interest;~~ (v)  
652 the full name and address of ~~all partners;~~ (vi) each partner; (ii) the trade name, if any, and the  
653 full name and address of record and telephone number of the partnership; and ~~(vii)~~ (iii) the  
654 federal mine identification ~~numbers~~ number of ~~all every~~ other ~~mines~~ mine in which any  
655 partner has a ~~twenty~~ 20 percent or greater ownership interest;

656 4. If the applicant is a corporation, ~~the applicant shall state:~~ in addition to the  
657 information required by subdivision 1, (i) ~~the name and address of the mine and its federal~~  
658 ~~mine identification number;~~ (ii) ~~the name and address of the person with overall responsibility~~  
659 ~~for operating decisions at the mine;~~ (iii) ~~the name and address of the person with overall~~  
660 ~~responsibility for health and safety at the mine;~~ (iv) ~~the federal mine identification numbers of~~

661 ~~all other mines in which the corporation has a twenty percent or greater ownership interest;~~  
662 ~~(v)~~ the full name, address of record, and telephone number of the corporation and the state of  
663 incorporation; ~~(vi)~~ (ii) the full name and address of each officer and director of the  
664 corporation; ~~(vii) if the corporation is a subsidiary corporation, the applicant shall state (iii)~~  
665 the full name, address, and state of incorporation of the parent corporation if the corporation is  
666 a subsidiary corporation; and ~~(viii)~~ (iv) the federal mine identification numbers of ~~all every~~  
667 other ~~mines~~ mine in which any corporate officer has a ~~twenty~~ 20 percent or greater ownership  
668 interest; and

669 5. If the applicant is any organization other than a sole proprietorship, partnership, or  
670 corporation, ~~the applicant shall state:~~ in addition to the information required by subdivision 1,  
671 (i) the nature and type, or legal identity, of the organization; (ii) ~~the name and address of the~~  
672 ~~mine and its federal mine identification number;~~ (iii) ~~the name and address of the person with~~  
673 ~~overall responsibility for operating decisions at the mine;~~ (iv) ~~the name and address of the~~  
674 ~~person with overall responsibility for health and safety at the mine;~~ (v) ~~the federal mine~~  
675 ~~identification numbers of all other mines in which the organization has a twenty percent or~~  
676 ~~greater ownership interest;~~ (vi) the full name, address of record, and telephone number of the  
677 organization; ~~(vii)~~ (iii) the name and address of each individual who has an ownership interest  
678 in the organization; ~~(viii)~~ (iv) the name and address of the principal organization officials or  
679 members; and ~~(ix)~~ (v) the federal mine identification ~~numbers~~ number of ~~all every~~  
680 ~~mines~~ mine in which any official or member has a ~~twenty~~ 20 percent or greater ownership  
681 interest;

682 2-6. The ~~names~~ name and ~~addresses~~ address of any agent of the applicant with  
683 responsibility for the business operation of the mine, and any person with an ownership or  
684 leasehold interest in the minerals to be mined;

685 3-Information 7. The following information about each independent contractor  
686 working at the mine: (i) the independent contractor's trade name, business address, and  
687 business telephone number; (ii) a description of the nature of the work to be performed by the  
688 independent contractor and where at the mine the work is to be performed; (iii) the

689 independent contractor's MSHA identification number, if any; (iv) the independent  
690 contractor's address of record for service of citations and other documents; (v) the names and  
691 addresses of persons with overall responsibility for operating decisions; and (vi) the names  
692 and addresses of persons with overall responsibility for the health and safety of employees;

693 ~~4-8.~~ 8. The names and addresses of persons to be contacted in the event of an accident or  
694 other emergency at the mine;

695 ~~5-9.~~ 9. Any information required by the Department that is relevant to an  
696 assessment of the safety and health risks likely to be associated with the operation of the  
697 mine; and

698 ~~6-10.~~ 10. For any license renewal, the annual report required pursuant to § ~~45.1-~~  
699 ~~161.292:35~~ 45.2-xxx.

700 B. The application shall be certified as being complete and accurate by the applicant,  
701 if an individual; by the agent of a corporate applicant; or by a general partner of an applicant  
702 that is a partnership. The application shall be submitted on forms furnished or approved by the  
703 Department.

704 C. Within ~~thirty~~ 30 days after the occurrence of any change in the information required  
705 by subsection A, the licensed operator shall notify the Department, in writing, of such change.

706 **Drafting note: Subdivision A 1 is divided further into subdivisions for clarity and**  
707 **duplicative elements are removed. Technical changes are made, including pursuant to §**  
708 **1-227, which states that throughout the Code any word used in the singular includes the**  
709 **plural and vice versa. Language is updated for modern usage and clarity.**

710 § ~~45.1-161.292:33~~ 45.2-xxx. Denial or revocation of license.

711 A. The Director may deny an application for, or revoke a license for, the operation of a  
712 mineral mine, upon determining that the applicant, the licensed operator, or ~~his~~ the agent of  
713 such applicant or operator has committed violations of the mine safety laws of the  
714 Commonwealth ~~which that~~ demonstrate a pattern of willful violations resulting in an  
715 imminent danger to miners.

716 B. The Director may revoke every license issued to any person for the operation of a  
717 mineral mine and may deny every application by a person for the issuance of a license for the  
718 operation of a mineral mine, ~~who~~ if such person has been convicted of knowingly permitting a  
719 miner to work in an underground coal mine where a methane monitor or other device capable  
720 of detecting the presence of explosive gases was impaired, disturbed, disconnected, bypassed,  
721 or otherwise tampered with in violation of § ~~45.1-161.233~~ 45.2-xxx.

722 C. The Director may revoke every license issued to any person for the operation of a  
723 mineral mine and may deny every application by a person for the issuance of a license for the  
724 operation of a mineral mine, ~~who~~ if such person has been convicted of violating subsection A  
725 of § ~~45.1-161.177~~ 45.2-xxx or § ~~45.1-161.178~~ 45.2-xxx.

726 D. Any person whose license is denied or revoked pursuant to subsection A, B, or C  
727 may bring a civil action in the circuit court of the city or county in which the mine is located  
728 for review of the decision. The commencement of such ~~a~~ proceeding shall not, unless  
729 specifically ordered by the court, operate as a stay of the decision. The court shall promptly  
730 hear and determine the matters raised by the aggrieved party. In any such action the court  
731 shall receive the records of the Department ~~with respect to~~ regarding the determination, and  
732 shall receive additional evidence at the request of any party. The court, basing its decision on  
733 the preponderance of the evidence, shall grant such relief as the court determines appropriate.

734 **Drafting note: Technical changes are made and language is updated for modern**  
735 **usage and clarity.**

736 § ~~45.1-161.292:34~~ 45.2-xxx. Operating without license; penalty.

737 A. In addition to any other power conferred by law, the Director, or his designated  
738 representative, ~~shall have the authority~~ is authorized to issue an order closing any mineral  
739 mine ~~which~~ that is operating without a license. The procedure for issuing a closure order shall  
740 be as provided in § ~~45.1-161.292:64~~ 45.2-xxx.

741 B. Any person operating an unlicensed mineral mine ~~shall, upon conviction, be is~~  
742 guilty of a Class 3 misdemeanor. Each day any person operates an unlicensed mineral mine  
743 ~~shall constitute~~ constitutes a separate offense.

744 **Drafting note: Technical changes.**

745 § ~~45.1-161.292:35~~ 45.2-xxx. Annual reports; condition to issuance of license  
746 following transfer of ownership.

747 A. The licensed operator of ~~every~~ each mine or his agent shall annually, by February  
748 15, mail or deliver to the Department a report for the ~~preceding twelve~~ 12 months, ending  
749 ~~with December 31~~ prior to the preceding January 1. Such report shall state: (i) the names of  
750 the licensed operator, any agent, and their officers of the mine; (ii) the ~~quantity~~ amount of  
751 minerals mined; (iii) any changes in the information required to be part of the license  
752 application by subsection A of § ~~45.1-161.292:32~~ 45.2-xxx; and (iv) such other information,  
753 not of a private nature, as may from time to time be required by the Department on blank  
754 forms furnished or approved by the Department.

755 B. Each independent contractor who is working or ~~who~~ has worked at a mine during  
756 the preceding ~~twelve~~ 12 months shall annually, by February 15, mail or deliver to the  
757 Department a report for the ~~preceding twelve~~ 12 months, ending ~~with December 31~~ prior to  
758 the preceding January 1. Such report shall state: (i) the independent contractor's name and  
759 Department identification number; (ii) the number of the independent contractor's employees  
760 who worked at each mine, listed by mine name and license number; (iii) the number of the  
761 independent contractor's employee hours worked at each mine, listed by mine name and  
762 license number; and (iv) the lump sum amount of wages paid by the independent contractor at  
763 each mine, if such amount is above \$1,000, listed by mine name and license number.

764 C. For purposes of subsection B, "independent contractor" ~~shall mean~~ means any (i)  
765 extraction ~~and or~~ processing ~~contractors~~ contractor, including, ~~but not limited to,~~ drillers a  
766 driller, ~~blasters~~ blaster, portable ~~crushers~~ crusher, ~~and or~~ stripping ~~and or~~ land clearing  
767 ~~contractors~~ contractor; (ii) maintenance ~~and or~~ repair ~~contractors~~ contractor for mobile ~~and or~~  
768 stationary extraction ~~and or~~ processing equipment, including, ~~but not limited to,~~ welders a  
769 welder, ~~mechanics~~ mechanic, ~~painters and electricians~~ painter, or electrician; and (iii)  
770 construction ~~contractors~~ contractor involved in mine site construction maintenance or repair,

771 including, ~~but not limited to,~~ a plant construction ~~contractors~~ contractor, concrete ~~fabricators~~  
772 fabricator, ~~and or~~ equipment ~~erectors~~ erector.

773 D. ~~Whenever~~ If the owner of a mine ~~shall transfer~~ transfers the ownership of such  
774 mine to another person, the person transferring such ownership shall submit a report to the  
775 Department of such change and a statement of the ~~tons~~ amount of minerals produced since the  
776 January 1 ~~previous~~ prior to the date of such ~~sale or~~ transfer of ~~such mine~~ ownership. ~~A No~~  
777 license shall ~~not~~ be issued covering such transfer of ownership until the report is furnished.

778 E. All wage information contained in any report filed with the Department pursuant to  
779 this section shall be exempt from disclosure under the Virginia Freedom of Information Act  
780 (§ 2.2-3700 et seq.) and shall not be published or made open to public inspection in any  
781 manner revealing the employing unit's identity, ~~except that~~. However, such information may  
782 be disclosed to the Director or his authorized representative concerned with carrying out any  
783 provisions of this title. Wage data aggregated ~~in such a manner that it does~~ so as to not reveal  
784 the employing unit's identity shall not be ~~considered confidential~~ exempt from such  
785 disclosure.

786 **Drafting note: Technical changes are made, including in subsections A and E**  
787 **where references to provisions of the Freedom of Information Act are updated.**  
788 **Technical changes are made in subsection C, where "but not be limited to" is removed**  
789 **following the term "include" on the basis of § 1-218, which states that throughout the**  
790 **Code, "'Includes' means includes, but not limited to," and pursuant to § 1-227, which**  
791 **states that throughout the Code any word used in the singular includes the plural and**  
792 **vice versa. Language is updated for modern usage and clarity.**

793 § ~~45.1-161.292:36~~ 45.2-xxx. Notices to Department; resumption of mining following  
794 discontinuance.

795 A. The licensed operator or his agent shall send notice of intent to abandon or  
796 discontinue the working of an underground mine for a period of ~~thirty~~ 30 days, or a surface  
797 mine for a period of ~~sixty~~ 60 days, to the Department at least ~~ten~~ 10 days prior to

798 discontinuing the working of a mine with such intent, or at any time a mine becomes an  
799 inactive mine.

800 B. The licensed operator, or his agent, shall send to the Department ~~ten~~ 10 days' prior  
801 notice of intent to resume the working of an inactive mine. Except for a surface mineral mine  
802 ~~which that~~ is inspected by ~~the Mine Safety and Health Administration~~ MSHA, the working of  
803 such mine shall not resume until a mine inspector has inspected the mine and approved it.

804 C. ~~Emergency actions~~ An emergency action necessary to preserve a mine may be  
805 undertaken without the prior notice of intent and advance inspection required by subsection B.  
806 In such event, a mine foreman shall examine ~~a~~ the mine for hazardous conditions immediately  
807 before ~~miners are~~ any miner is permitted to work. The licensed operator, or his agent, shall  
808 notify the Department as soon as possible after commencing an emergency action necessary  
809 to preserve the mine.

810 D. The licensed operator, or his agent, shall send to the Department ~~ten~~ 10 days' prior  
811 notice of any change in the name of a mine or in the name of the operation of a mine.

812 E. The licensed operator, or his agent, shall send to the Department ~~ten~~ 10 days' prior  
813 notice of the opening of a new mine.

814 F. Any notice required by this section shall be in writing and shall include the name  
815 and location of the mine, ~~the location of the mine, and~~ the name, mailing address, and email  
816 address of the licensed operator, ~~and the licensed operator's mailing address.~~

817 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
818 **227, which states that throughout the Code any word used in the singular includes the**  
819 **plural and vice versa. The name of the Mine Safety and Health Administration is**  
820 **shortened to correspond to the definition of that term as added to proposed § 45.2-xxx [§**  
821 **45.1-161.292:2]. Language is updated for modern usage and clarity.**

822 § ~~45.1-161.292:37~~ 45.2-xxx. Maps of mines required to be made; contents; extension  
823 and preservation; use by Department; release; posting of map.

824 A. Prior to commencing mining activity, the licensed operator of a mineral mine, or  
825 his agent, shall ~~make, or cause to be made~~ submit, unless already ~~made and filed~~ submitted,



826 an accurate map of such mine, ~~on a~~. The scale ~~to~~ of such map shall be stated thereon ~~of~~ and  
827 shall be between 100 ~~to~~ feet and 400 feet to the inch. Such map shall show the openings or  
828 excavations, ~~the~~ shafts, slopes, entries ~~and airways, with darts or arrows showing direction of~~  
829 ~~air currents~~, headings, rooms, pillars, permanent explosive magazines, permanent fuel storage  
830 facilities, and airways with darts or arrows showing direction of air currents. Such map shall  
831 also show such portions of such mine ~~or mines as may that~~ have been abandoned, ~~and so~~  
832 ~~much~~ any portion of the property lines and the outcrop of the mineral of the tract of land on  
833 which the mine is located, ~~as may be~~ are located within 1,000 feet of any part of the workings  
834 of such mine, ~~and for~~. For an underground ~~mines~~ mine only, such map shall show the general  
835 inclination of the mineral strata.

836 B. The licensed operator of such mine shall annually, beginning on the anniversary  
837 date of the mine permit issued pursuant to Chapter 16 (§ ~~45.1-180~~ 45.2-xxx et seq.), and  
838 continuing while the mine is in operation, cause ~~the such~~ map ~~thereof~~ to be extended so as to  
839 accurately show the progress of the workings, and the property lines and outcrop as described  
840 ~~above~~ in subsection A, and shall forward ~~the same~~ such updated map to the Department to be  
841 kept on record, subject to the conditions stated in subsection ~~C~~ D. If there are no changes in  
842 the information required by this section, ~~an updated map~~ the licensed operator shall not be  
843 required to ~~be submitted~~ submit an updated map to the Department.

844 ~~B-C.~~ B. The licensed operator of any surface mineral mine, or his agent, shall not be  
845 required to submit a map of such mine to the Department unless the mine ~~may~~ could intersect  
846 ~~(i)~~ underground workings or ~~(ii)~~ workings from an auger, thin seam, or highwall mining  
847 ~~operations~~ operation.

848 D. The map required pursuant to this section shall be filed and preserved among the  
849 records of the Department ~~and made~~. The Department shall make such map available at a  
850 reasonable cost to ~~all persons~~ any person owning, leasing, or residing on or having an  
851 equitable interest in any surface ~~areas~~ area or coal or mineral ~~interests~~ interest within 1,000  
852 feet of such mining operation upon written proof satisfactory to the Director and upon a sworn  
853 affidavit that such person requesting a map has ~~a proper~~ the required legal or equitable

854 interest; ~~however.~~ However, the Director shall provide to ~~the~~ such person ~~requesting a map~~  
855 only that portion of the map ~~which~~ that abuts or is contiguous to the property in which such  
856 requesting party has a legal or equitable interest. In no case shall any copy of ~~the same~~ such  
857 map be made for any ~~other~~ person who does not possess the required legal or equitable  
858 interest without the consent of the licensed operator or his agent. The Director shall promptly  
859 deliver notice of such request to the licensed operator of such mining operation.

860 ~~C.~~ E. The original version of a map required by this section, or a true copy thereof,  
861 shall be kept by ~~such~~ the licensed operator at the active mine, open at all reasonable times for  
862 the examination and use of the mine inspector.

863 ~~D.~~ F. Copies of such maps shall be made available at a reasonable cost to the  
864 governing body of any ~~county, city or town~~ locality in which the mine is located upon written  
865 request; however, such copies shall be provided on the condition that they not be released to  
866 any person who does not have a legal or equitable interest in any surface ~~areas~~ area or mineral  
867 ~~interests~~ interest within 1,000 feet of the mining operation without the written consent of the  
868 licensed operator or his agent. The governing body shall promptly deliver notice of any  
869 request for a copy of such a map to the licensed operator or his agent.

870 **Drafting note: Technical changes are made, including organizational changes**  
871 **that divide subsection A into two subsections and divide the first two sentences in**  
872 **subsection A into five sentences. Existing subsection B is divided into two subsections to**  
873 **clarify that the filing requirement applies to every map unless it is exempted. Technical**  
874 **changes are made pursuant to § 1-227, which states that throughout the Code any word**  
875 **used in the singular includes the plural and vice versa. Language is updated for modern**  
876 **usage and clarity.**

877 ~~§ 45.1-161.292:38~~ 45.2-xxx. When the Director may cause maps to be made; payment  
878 of expense.

879 A. If ~~the~~ a licensed mine operator, or his agent, ~~of any mine shall neglect~~ neglects or  
880 fail fails to furnish to the Director a copy of any map or extension thereof, as provided in §  
881 ~~45.1-161.292:37~~ 45.2-xxx, the Director is authorized to cause a correct survey and map of

882 ~~said such~~ mine, or extension~~thereof~~, to be made at the expense of the licensed operator of  
883 such mine,~~the cost~~. The expense of ~~which~~ making such survey and map or extension thereof  
884 shall be recovered from ~~the~~ such licensed operator as other debts are recoverable by a civil  
885 action~~at law~~.

886 B. If at any time the Director has reason to believe that ~~such a~~ map, or ~~extensions~~  
887 ~~thereof~~, extension furnished pursuant to § ~~45.1-161.292:37~~ 45.2-xxx is substantially incorrect,  
888 or will not serve the purpose for which it is intended, he may have a survey and map or  
889 extension thereof made, or corrected. The expense of making such survey and map or  
890 extension thereof shall be paid by the licensed operator. ~~The expense shall be~~ and recovered  
891 from ~~the~~ such licensed operator as other debts are recoverable by a civil action~~at law~~.  
892 However, if the map filed by the licensed operator is found to be substantially correct, the  
893 expense shall be paid by the Commonwealth.

894 **Drafting note: Technical changes are made, the section is divided into subsections**  
895 **for clarity, and language is updated for modern usage and clarity.**

896 § ~~45.1-161.292:39~~ 45.2-xxx. Making false statements; penalty.

897 ~~A. It shall be~~ is unlawful for any person ~~charged with the~~ responsible for making ~~of~~  
898 ~~maps~~ any map or other data to be furnished ~~as provided in~~ pursuant to this chapter ~~and~~  
899 ~~Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~  
900 45.2-xxx et seq.) to (i) fail to correctly show, within the limits of error, the data required-

901 ~~B. It shall be unlawful for any person charged with the making of maps or other data~~  
902 ~~to be furnished as provided in this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6~~  
903 ~~(§ 45.1-161.304 et seq.) to~~ or (ii) knowingly make any false statement or return in connection  
904 ~~therewith~~ with such map or other data.

905 ~~C.~~ A violation of this section is a misdemeanor, and a person convicted of violating  
906 this section shall be fined not less than \$50 ~~nor~~ and not more than \$200.

907 **Drafting note: Technical changes are made, including organizational changes that**  
908 **condense the section and remove duplicative text and changes pursuant to § 1-227, which**

909 states that throughout the Code any word used in the singular includes the plural and vice  
910 versa. Language is updated for modern usage and clarity.

911 Article 5.

912 ~~Rescue Crews;~~ Mine Rescue Teams.

913 Drafting note: The title is changed to better reflect the terminology used in the article.

914 § ~~45.1-161.292:40~~ 45.2-xxx. Mine rescue and first aid stations.

915 The Director is hereby authorized to purchase, equip, and operate for the use of the  
916 Department, such mine rescue and first aid stations as he ~~may determine~~ determines necessary  
917 for the adequate provision of mine rescue and recovery services at all mines in the  
918 Commonwealth.

919 **Drafting note: Technical change.**

920 § ~~45.1-161.292:41~~ 45.2-xxx. Mine rescue ~~crews~~ teams.

921 The Director is hereby authorized to have trained and employed at the mine rescue and  
922 first aid stations operated by the Department within the Commonwealth mine rescue ~~crews~~  
923 teams as he ~~may determine~~ determines necessary. Each member of a mine rescue ~~crew~~ team  
924 shall devote four hours each month for training purposes and shall be available at all times to  
925 assist in rescue work. Members shall receive compensation for services at a rate set by the  
926 Director, to be determined annually based on prevailing wage rates within the industry. For  
927 the purposes of workers' compensation coverage during training periods, such crew members  
928 shall be deemed to be within the scope of their regular employment. The Director shall certify  
929 to the Comptroller of the Commonwealth that such crew members have performed the  
930 required service. Upon such certification the Comptroller shall issue a warrant upon the state  
931 treasury for their compensation. The Director may remove any crew member at any time.

932 **Drafting note: "Mine rescue crew" is replaced with the term currently in use,**  
933 **"mine rescue team." A technical change is made.**

934 § ~~45.1-161.292:42~~ 45.2-xxx. Duty to train ~~crew~~ team.

935 It ~~shall be~~ is the duty and responsibility of the Department to see that ~~all crews be~~  
936 every mine rescue team is properly trained by a qualified instructor of the Department or ~~such~~

937 ~~other persons~~ another person who ~~have~~ has a certificate of training from the Department or ~~the~~  
938 ~~Mine Safety and Health Administration~~ MSHA.

939 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
940 **throughout the Code any word used in the singular includes the plural and vice versa.**  
941 **Language is updated for modern usage. "Mine rescue crew" is replaced with the term**  
942 **currently in use, "mine rescue team," and the name of the Mine Safety and Health**  
943 **Administration is shortened to correspond to the definition of that term as added to**  
944 **proposed § 45.2-xxx [§ 45.1-161.292:2].**

945 § ~~45.1-161.292:43~~ 45.2-xxx. Qualification for ~~crew~~ team membership; direction of  
946 ~~crews~~ teams.

947 A. To qualify for membership in a mine rescue ~~crews~~ team, an applicant shall (i) be an  
948 experienced miner, (ii) be not more than 50 years of age, and (iii) pass a physical examination  
949 by a licensed physician, licensed physician assistant, or licensed nurse practitioner at least  
950 annually. A record that such examination was taken shall be kept on file by the operator who  
951 employs the ~~crew members~~ team member and a copy shall be furnished to the Director.

952 B. All rescue or recovery work performed by ~~these crews~~ any mine rescue team shall  
953 be under the jurisdiction of the Department. The Department shall consult with company  
954 officials, representatives of ~~the Mine Safety and Health Administration~~ MSHA, and  
955 representatives of the miners, and all ~~should~~ shall be in agreement as far as possible on the  
956 proper procedure for rescue and recovery; however, the Director in his discretion may take  
957 full responsibility in directing such work. In ~~all instances~~ every instance, procedures shall be  
958 guided by the mine rescue apparatus and auxiliary equipment manuals.

959 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
960 **throughout the Code any word used in the singular includes the plural and vice versa.**  
961 **"Mine rescue crew" is replaced with the term currently in use, "mine rescue team," and**  
962 **the name of the Mine Safety and Health Administration is shortened to correspond to**  
963 **the definition of that term as added to proposed § 45.2-xxx [§ 45.1-161.292:2].**

964 § ~~45.1-161.292:44~~ 45.2-xxx. ~~Crew~~ Team members to be considered employees of the  
965 mine where emergency exists; compensation; workers' compensation.

966 When engaged in rescue or recovery work during an emergency at a mine, all crew  
967 members assigned to the work shall be considered, during the period of their work, employees  
968 of the mine where the emergency exists and shall be compensated by the licensed operator at  
969 the rate established in the area for such work. In no event shall ~~this~~ such rate be less than the  
970 prevailing wage rate in the industry for the most skilled class of inside mine labor. During the  
971 period of their emergency employment, all crew members shall be deemed to be within the  
972 employment of the licensed operator of the mine for the purpose of workers' compensation  
973 coverage.

974 **Drafting note: A technical change is made, and "mine rescue crew" is replaced**  
975 **with the term currently in use, "mine rescue team."**

976 § ~~45.1-161.292:45~~ 45.2-xxx. Requirements of recovery work.

977 A. During recovery work and prior to entering any mine, ~~all~~ each mine rescue ~~crews~~  
978 team conducting recovery work shall be properly informed of existing conditions by the  
979 operator or his agent in charge.

980 B. Each mine rescue ~~crew~~ team performing rescue or recovery work with breathing  
981 apparatus shall be provided with a backup ~~crew~~ team of equal strength, stationed at each fresh  
982 air base.

983 C. For every two ~~crews~~ teams performing work underground, one six-member ~~crew~~  
984 team shall be stationed at the mine portal.

985 D. Two-way communication, life lines, or their equivalent shall be provided by the  
986 fresh air base to ~~all crews~~ each team, and no ~~crew~~ team member shall be permitted to advance  
987 beyond such communication system.

988 E. A mine rescue ~~crew~~ team shall immediately return to the fresh air base should any  
989 ~~crew~~ team member's breathing apparatus malfunction or the atmospheric pressure of any  
990 apparatus deplete to ~~sixty~~ 60 atmospheres.

991 F. The Director may also assign rescue and recovery work to inspectors, instructors, or  
992 other qualified employees of the Department as the Director may determine desirable.

993 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
994 **throughout the Code any word used in the singular includes the plural and vice versa,**  
995 **and "mine rescue crew" is replaced with the term currently in use, "mine rescue team."**

996 § ~~45.1-161.292:46~~ [45.2-xxx](#). State-designated mine rescue teams.

997 The Director may, upon the request of a licensed operator or agent who employs a  
998 mine rescue team, designate two or more mine rescue teams as "state-designated mine rescue  
999 teams." Any team ~~which that~~ is certified as a mine rescue team by ~~the Mine Safety and Health~~  
1000 ~~Administration~~ [MSHA](#) under 30 CFR Part 49 shall be eligible to be a state-designated team.  
1001 Following the designation of any such ~~teams~~ [team](#), the Director shall, upon the payment to the  
1002 Department of an annual fee, set by the Director based on current costs for maintaining mine  
1003 rescue stations and personnel, assign two or more state-designated teams to the licensed  
1004 operator. A licensed operator who has paid the rescue fee shall be entitled to the rescue  
1005 services of a state-designated rescue team at no additional charge.

1006 **Drafting note: A change is made pursuant to § 1-227, which states that**  
1007 **throughout the Code any word used in the singular includes the plural and vice versa.**  
1008 **The name of the Mine Safety and Health Administration is shortened to correspond to**  
1009 **the definition of that term as added to proposed § 45.2-xxx [§ 45.1-161.292:2] and**  
1010 **language is updated for modern usage.**

1011 § ~~45.1-161.292:47~~ [45.2-xxx](#). Mine Rescue Fund.

1012 ~~The~~ [A. There is hereby created in the state treasury a special nonreverting fund to be](#)  
1013 [known as the](#) Mine Rescue Fund ~~is created as a special fund in the office of the State~~  
1014 ~~Treasurer,~~ [referred to in this section as "the Fund." The Fund shall be established on the](#)  
1015 [books of the Comptroller.](#) All moneys collected from licensed operators pursuant to the  
1016 provisions of § ~~45.1-161.292:46~~ [45.2-xxx](#) shall be paid into the ~~Mine Rescue~~ [state treasury](#)  
1017 [and credited to the](#) Fund. [Interest earned on moneys in the Fund shall remain in the Fund and](#)

1018 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of  
1019 each fiscal year shall not revert to the general fund but shall remain in the Fund.

1020 B. Moneys in the Fund shall be used solely for the purposes of administering the state-  
1021 designated mine rescue team program. Expenditures and disbursements from the Fund shall  
1022 be made by the State Treasurer on warrants issued by the Comptroller upon written request  
1023 signed by the Director.

1024 C. On July 1 of each year, or as soon thereafter as sufficient moneys are in the ~~Mine~~  
1025 Rescue Fund ~~as are needed for this purpose, ten~~ 10 percent of the ~~fund~~ moneys in the Fund  
1026 shall be transferred from the ~~fund~~ Fund to the Department for purposes of administering the  
1027 state-designated mine rescue team program. On an annual basis, funds in excess of the sum  
1028 which ~~that~~ is transferred for administrative purposes shall be divided equally among all state-  
1029 designated mine rescue teams. ~~No moneys in the Mine Rescue Fund shall revert to the general~~  
1030 fund.

1031 **Drafting note: The nonreverting fund language for the Mine Rescue Fund is**  
1032 **updated to reflect current language requested by the Department of the Treasury for**  
1033 **nonreverting funds in the Code. Technical changes are made, including the addition of**  
1034 **subsection designations for clarity**

1035 § ~~45.1-161.292:48~~ 45.2-xxx. Inspections; Mine Rescue Coordinator.

1036 A. The Director shall (i) inspect, or cause to be inspected, the rescue station of each  
1037 state-designated mine rescue team four times ~~a~~ each year, (ii) ensure that ~~all~~ each rescue  
1038 ~~stations are~~ station is adequately equipped, and (iii) ensure that all team members are  
1039 adequately trained.

1040 B. The Director shall designate an employee of the Department as the Mine Rescue  
1041 Coordinator, who shall perform the duties assigned ~~to him~~ by the Director.

1042 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1043 **227, which states that throughout the Code any word used in the singular includes the**  
1044 **plural and vice versa.**

1045 § ~~45.1-161.292:49~~ 45.2-xxx. Workers' compensation; liability.



1046 A. For the purpose of workers' compensation coverage during any mine disaster to  
1047 which a state-designated mine rescue team responds under the provisions of this article,  
1048 ~~members~~ each member of the state-designated team shall be deemed to be within the  
1049 employment of the licensed operator of the mine at which the disaster occurred.

1050 B. ~~Any~~ No member of a state-designated team engaging in rescue work at a mine shall  
1051 ~~not~~ be liable for civil damages for acts or omissions resulting from the rendering of such  
1052 rescue work unless the act or omission was the result of gross negligence or willful  
1053 misconduct.

1054 C. ~~Any~~ No operator providing personnel to a state-designated mine rescue team to  
1055 engage in rescue work at a mine not owned or operated by the operator shall ~~not~~ be liable for  
1056 any civil damages for acts or omissions resulting from the rendering of such rescue work.

1057 Drafting note: Technical changes are made, including a change pursuant to § 1-227,  
1058 which states that throughout the Code any word used in the singular includes the plural and  
1059 vice versa. Language is updated for clarity.

1060 Article 6.

1061 Mine Explosions; Mine Fires; Accidents.

1062 Drafting note: No change.

1063 § ~~45.1-161.292:50~~ 45.2-xxx. Reports of explosions and mine fires; procedure.

1064 A. If an explosion or mine fire occurs in a mine, the operator shall notify the  
1065 Department by the quickest available means. ~~Independent contractors~~ Any independent  
1066 contractor shall notify the licensed operator of such ~~incidents~~ incident. All facilities of the  
1067 mine shall be made available for rescue and recovery operations and ~~fire fighting~~ firefighting.

1068 B. No work other than rescue and recovery work and ~~fire fighting may~~ firefighting  
1069 shall be attempted or started until and unless it is authorized by the Department.

1070 C. If an explosion occurs in an underground mine, the fan shall not be reversed except  
1071 by authority of the officials in charge of rescue and recovery work, and then only after a study  
1072 of the effect of reversing the fan on ~~any~~ persons who ~~may~~ might have survived the explosion  
1073 and are still underground.

1074 D. The Department shall make available all the facilities at its disposal in effecting  
1075 rescue and recovery work. The Director shall act as consultant, or take personal charge, where  
1076 in his opinion the circumstances of any mine explosion, fire, or other accident warrant.

1077 E. The orders of the ~~official~~ officials in charge of rescue and recovery work shall be  
1078 respected and obeyed by all persons engaged in rescue and recovery work.

1079 F. The Director shall maintain an up-to-date rescue and recovery plan for prompt and  
1080 adequate employment at any mineral mine in the Commonwealth. All employees of the  
1081 Department shall be kept fully informed and trained in their respective duties in executing  
1082 rescue and recovery plans. The Department's plans shall be published annually and furnished  
1083 to all licensed operators of mineral mines. Changes in the plan shall be published promptly  
1084 when made and furnished to all licensed operators of mines.

1085 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1086 **227, which states that throughout the Code any word used in the singular includes the**  
1087 **plural and vice versa. Language is updated for modern usage and clarity. In subsection**  
1088 **E, the phrase "official in charge" is changed to the plural to correspond with the phrase**  
1089 **as it appears in subsection C.**

1090 § ~~45.1-161.292:51~~ 45.2-xxx. Operators' reports of accidents; investigations; reports by  
1091 Department.

1092 A. Each operator shall report promptly to the Department the occurrence at any mine  
1093 of any accident involving serious personal injury or death to any person ~~or persons~~, whether  
1094 employed in the mine or not. The scene of the accident shall not be disturbed pending an  
1095 investigation, except to prevent the suspension of use of a slope, entry, or facility vital to the  
1096 operation of a section or a mine. In ~~cases where~~ any case in which reasonable doubt exists as  
1097 to whether to leave the scene unchanged, the operator shall secure prior approval from the  
1098 Department before any ~~changes are~~ change is made.

1099 B. The Director ~~will~~ shall go personally or dispatch one or more mine inspectors to the  
1100 scene of such a mineral mine accident, investigate causes, and issue ~~such~~ any orders ~~as may~~  
1101 ~~be~~ needed to ensure the safety of other persons.

1102 C. Representatives of the operator ~~will~~ shall render ~~such~~ any assistance ~~as may be~~  
1103 needed and act in a consulting capacity in the investigation. An employee<sub>2</sub> if so designated by  
1104 the employees of the mine<sub>2</sub> ~~will~~ shall be notified, and as many as three employees if so  
1105 designated as representatives of the employees may be present at the investigation in a  
1106 consulting capacity.

1107 D. The Department ~~will~~ shall render a complete report of circumstances and causes of  
1108 each accident investigated and make recommendations for the prevention of similar accidents.  
1109 The Department ~~will~~ shall furnish one copy of the report to the licensed operator, one copy to  
1110 any other operator whose employees were exposed to hazards as a result of the accident, and  
1111 one copy to the employee representative ~~when~~ if he has been present at the investigation. The  
1112 Director ~~will~~ shall maintain a complete file of all accident reports for mineral mines. Further  
1113 publicity may be ordered by the Director in an effort to prevent mine accidents.

1114 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1115 **227, which states that throughout the Code any word used in the singular includes the**  
1116 **plural and vice versa. Language is updated for modern usage.**

1117 § ~~45.1-161.292:52~~ 45.2-xxx. Reports of other accidents and injuries.

1118 A. Each miner employed at a mine shall promptly notify his supervisor of any injury  
1119 received during the course of his employment.

1120 B. Each operator shall keep on file a report of each accident including any accident  
1121 ~~which~~ that does not result in a lost-time injury. Copies of such report shall be given to the  
1122 injured person ~~injured~~ or ~~to~~ his designated representative to enable him to review the accident  
1123 report and verify its accuracy prior to the filing of such report for the review of state or federal  
1124 mine inspectors.

1125 **Drafting note: Technical changes.**

1126 § ~~45.1-161.292:53~~ 45.2-xxx. Duties of mine inspectors.

1127 Each mine inspector shall:

1128 1. Report to his supervisor immediately, and by the quickest available means, any  
1129 mine fire, mine explosion, ~~and any or~~ accident involving serious personal injury or death ~~to~~  
1130 ~~his supervisor~~;

1131 2. Proceed immediately to the scene of any accident at any mine under his jurisdiction  
1132 that results in loss of life or serious personal injury, and to the scene of any mine fire or  
1133 explosion regardless of whether there is loss of life or personal injury. He shall make ~~such~~ any  
1134 investigation and suggestions and render ~~such~~ any assistance ~~as~~ he deems necessary for the  
1135 future safety of the employees, and he shall make a complete report to his supervisor as soon  
1136 as practicable. He shall have the power to compel the attendance of witnesses, and ~~to~~  
1137 administer oaths or affirmations; and

1138 3. Take charge of mine rescue and recovery operations whenever a mine fire, mine  
1139 explosion, or other serious accident occurs, and ~~shall~~ supervise the reopening of ~~all mines~~ any  
1140 mine or ~~sections~~ section thereof that ~~have~~ has been sealed or abandoned on account of fire or  
1141 any other cause.

1142 Drafting note: Technical changes are made, including changes pursuant to § 1-227,  
1143 which states that throughout the Code any word used in the singular includes the plural and  
1144 vice versa. Language is updated for modern usage and clarity.

1145 Article 7.

1146 Mine Inspections.

1147 Drafting note: No change.

1148 § ~~45.1-161.292:54~~ 45.2-xxx. Frequency of mine inspections.

1149 A. The Director shall conduct a complete inspection of ~~every~~ each underground  
1150 mineral mine ~~not less frequently than~~ at least every 180 days, and of ~~those~~ any surface mineral  
1151 ~~mines which are~~ mine that is not inspected by ~~the Mine Safety and Health Administration not~~  
1152 ~~less frequently than~~ MSHA at least once per year. ~~Additional inspections~~ An additional  
1153 inspection of such mineral ~~mines~~ mine shall be made when deemed appropriate by the  
1154 Director based on an evaluation of risks at ~~the mines,~~ such mine or if requested by miners  
1155 employed at a mine or the licensed operator of a mine.

1156 B. The Director shall not conduct ~~inspections~~ an inspection of a surface mineral ~~mines~~  
1157 ~~which are~~ mine that is inspected by ~~the Mine Safety and Health Administration~~ MSHA;  
1158 however, a mine ~~inspectors and~~ inspector or other ~~employees~~ employee of the Department  
1159 may enter such ~~mines~~ mine in order to (i) respond to ~~complaints~~ a complaint of ~~violations~~ a  
1160 violation of this chapter ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et seq.)  
1161 ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.), (ii) respond to and investigate any serious  
1162 personal injury or fatality, and (iii) with the consent of the licensed operator, conduct training  
1163 programs.

1164 C. The Director shall determine whether a particular surface mineral mine is inspected  
1165 by ~~the Mine Safety and Health Administration~~ MSHA. The Director shall make such  
1166 determination based on information provided by ~~the Mine Safety and Health Administration~~  
1167 MSHA and Department records. The Director shall request representatives of ~~the Mine Safety~~  
1168 ~~and Health Administration~~ MSHA to serve with Department personnel on a joint committee  
1169 of cooperation. The committee shall include the Director of the Division ~~of Mineral Mining~~  
1170 and such additional Division employees as the Director ~~shall designate~~ designates. The  
1171 committee shall meet ~~not less than~~ at least twice annually at the call of the Director for the  
1172 purpose of facilitating communication and resolving discrepancies regarding the inspection  
1173 responsibilities of ~~the~~ state and federal agencies with respect to surface mineral mines in the  
1174 Commonwealth.

1175 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1176 **227, which states that throughout the Code any word used in the singular includes the**  
1177 **plural and vice versa. Language is updated for modern usage and clarity and the name**  
1178 **of the Mine Safety and Health Administration is shortened to correspond to the**  
1179 **definition of that term as added to proposed § 45.2-xxx [§ 45.1-161.292:2].**

1180 § ~~45.1-161.292:55~~ 45.2-xxx. Evaluation of risks at mines.

1181 A. For the purpose of allocating the resources of the Department that are to be used for  
1182 conducting additional inspections, the Department shall develop a procedural policy ~~of for~~  
1183 scheduling such inspections based on an assessment, to be made ~~not less frequently than~~ at

1184 least annually, of the comparative risks at each underground mineral mine and ~~those at any~~  
1185 surface mineral ~~mines which are~~ mine that is not inspected by ~~the Mine Safety and Health~~  
1186 ~~Administration~~ MSHA. ~~The Department's procedural~~ Such policy shall be prepared with the  
1187 assistance of working groups consisting of persons knowledgeable in mine safety issues. The  
1188 issuance of ~~the procedural~~ such policy shall be exempt from Article 2 (§ 2.2-4006 et seq.) of  
1189 the Administrative Process Act. Variables to be included in the risk assessment measures shall  
1190 include, ~~but not be limited to:~~ (i) fatality and serious accident rates at the mine; (ii) the rates of  
1191 issuance of closure orders and notices of violations of the mine safety laws of the  
1192 Commonwealth at the mine; and (iii) the frequency rates for nonserious accidents or nonfatal  
1193 days lost. Risk assessments shall be developed for both independent contractors and  
1194 individual mine sites.

1195 B. The Director shall schedule additional inspections at each underground mineral  
1196 ~~mines~~ mine, and at each surface mineral ~~mines which are~~ mine that is not inspected by ~~the~~  
1197 ~~Mine Safety and Health Administration~~ MSHA, based on the rating assigned to ~~a mine it~~  
1198 reflecting the assessment of its risks compared to other such mines in the Commonwealth.

1199 **Drafting note: Technical changes are made, including in subsection A, where**  
1200 **"but not be limited to" is removed following the term "include" on the basis of § 1-218,**  
1201 **which states that throughout the Code "'Includes' means includes, but not limited to."**  
1202 **Changes are made pursuant to § 1-227, which states that throughout the Code any word**  
1203 **used in the singular includes the plural and vice versa. The name of the Mine Safety and**  
1204 **Health Administration is shortened to correspond to the definition of that term as added**  
1205 **to proposed § 45.2-xxx [§ 45.1-161.292:2]. Language is updated for modern usage.**

1206 ~~§ 45.1-161.292:56~~ 45.2-xxx. Review of inspection reports and records.

1207 Prior to completing an inspection of an underground mineral mine, a mine inspector  
1208 shall review the most recent available report of inspection by the Mine Safety and Health  
1209 Administration. Prior to completing any inspection of a mine, a mine inspector shall  
1210 comprehensively review the records of pre-shift examinations, on-shift exams, daily  
1211 inspections, weekly examinations, and other records relating to safety and health conditions in

1212 the mine ~~which~~ that are required to be maintained pursuant to this chapter and Chapters ~~14.5~~  
1213 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) and ~~14.6~~ 15 (§ ~~45.1-161.304~~ 45.2-xxx et seq.), for the  
1214 ~~thirty-day~~ 30-day period preceding the inspection. The mine inspector may, but shall not be  
1215 required to, review the records for such additional period as he may deem prudent.

1216 **Drafting note: Technical changes.**

1217 § ~~45.1-161.292:57~~ 45.2-xxx. Advance notice of inspections; confidentiality of trade  
1218 secrets.

1219 A. No person shall give advance notice of any mine inspection conducted under the  
1220 provisions of this title without authorization from the Director.

1221 B. All information that is reported to or otherwise obtained by the Director or his  
1222 authorized representative in connection with any inspection or proceeding under this title  
1223 ~~which and that~~ contains or might reveal a trade secret referred to in 18 U.S.C. § 1905 ~~of Title~~  
1224 ~~18 of the United States Code~~ shall be considered confidential for the purpose of that section,  
1225 except that such information may be disclosed to the Director or his authorized representative  
1226 concerned with carrying out any ~~provisions~~ provision of this title or any proceeding  
1227 hereunder. In any such proceeding, the court or the Director shall issue ~~such orders as may be~~  
1228 any order appropriate to protect the confidentiality of trade secrets.

1229 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
1230 **throughout the Code any word used in the singular includes the plural and vice versa.**  
1231 **Language is updated for modern usage. The form of a reference to the U.S. Code is**  
1232 **corrected.**

1233 § ~~45.1-161.292:58~~ 45.2-xxx. Scheduling of mine inspections.

1234 A. The Director shall schedule the inspections of mines under this article, to the extent  
1235 deemed reasonable and prudent, in order to reduce their chronological proximity to  
1236 inspections conducted by ~~the Mine Safety and Health Administration~~ MSHA. To this end, the  
1237 Director shall endeavor to coordinate the timing of inspections with ~~Mine Safety and Health~~  
1238 ~~Administration~~ MSHA personnel.

1239 B. The Director and mine inspectors, to the extent deemed reasonable and prudent,  
1240 shall schedule mine inspections to commence at a variety of hours of the day and days of the  
1241 week, including evening and night shifts, weekends, and holidays.

1242 **Drafting note: The name of the Mine Safety and Health Administration is**  
1243 **shortened to correspond to the definition of that term as added to proposed § 45.2-xxx [§**  
1244 **45.1-161.292:2].**

1245 § ~~45.1-161.292:59~~ 45.2-xxx. Denial of entry.

1246 No person shall deny the Director or any mine inspector entry upon or through a mine  
1247 for the purpose of conducting an inspection or into any office at the site where maps or  
1248 records relating to the mine are located, pursuant to this chapter ~~and Chapters 14.5 or Chapter~~  
1249 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.).

1250 **Drafting note: Technical changes are made.**

1251 § ~~45.1-161.292:60~~ 45.2-xxx. Duties of operator.

1252 A. ~~The~~ Each operator, ~~or his agent,~~ of ~~every a~~ mine, or his agent, shall furnish to the  
1253 Director and each mine ~~inspectors~~ inspector proper facilities for entering such mine and  
1254 making examinations or obtaining information and shall furnish any data or information not  
1255 of a confidential nature requested by such inspector.

1256 B. ~~The~~ Each operator of an underground mine, or his agent, shall provide ~~a~~ each mine  
1257 inspector adequate means for transportation to the active working areas of the mine within a  
1258 reasonable time following the mine inspector's arrival at the mine.

1259 C. ~~The~~ Such operator or ~~his~~ agent shall, when ordered to do so by a mine inspector  
1260 during the course of ~~his~~ an inspection, promptly clear the mine or section thereof of all  
1261 persons.

1262 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1263 **227, which states that throughout the Code any word used in the singular includes the**  
1264 **plural and vice versa. Language is updated for modern usage.**

1265 § ~~45.1-161.292:61~~ 45.2-xxx. Duties of inspectors.



1266 A. During a complete inspection of ~~a~~ any mine, other than an inactive mine, the mine  
1267 inspector shall inspect, where applicable, the surface plant; all active workings; all active  
1268 travel ways; entrances to abandoned areas; accessible worked-out areas; at least one entry of  
1269 each intake and return airway in its entirety; escapeways and other places where miners work  
1270 or travel or where hazardous conditions ~~may~~ might exist; electric installations and equipment;  
1271 haulage facilities; ~~first-aid~~ first aid equipment; ventilation facilities; communication  
1272 installations; roof and rib conditions; roof-support practices; blasting practices; haulage  
1273 practices and equipment; and any other condition, practice, or equipment pertaining to the  
1274 health and safety of the miners. The mine inspector shall make tests for the quantity of air  
1275 flows, and for gas and oxygen deficiency, in each place ~~which~~ that he is required to inspect in  
1276 an underground mine.

1277 B. In ~~mines operating a mine that operates~~ more than one shift in a ~~twenty-four hour~~  
1278 24-hour period, the mine inspector shall devote sufficient time on the second and third shifts  
1279 to determine conditions and practices relating to the health and safety of the miners. For an  
1280 inactive mine, the mine inspector shall inspect all areas of the mine where persons may work  
1281 or travel during the period the mine is an inactive mine.

1282 B.-C. The inspector shall make a personal examination of (i) the interior of ~~the~~ each  
1283 mine; inspected and ~~of~~ (ii) the outside of ~~the~~ such mine where any danger ~~may~~ to the miners  
1284 might exist ~~to the miners~~.

1285 **Drafting note: Technical changes are made, including a change pursuant to § 1-**  
1286 **227, which states that throughout the Code any word used in the singular includes the**  
1287 **plural and vice versa. Language is updated for modern usage and clarity.**

1288 § ~~45.1-161.292:62~~ 45.2-xxx. Certificates of inspection.

1289 A. Upon completing a mine inspection, ~~a~~ each mine inspector shall complete a  
1290 certificate ~~regarding such inspections of inspection.~~ The Such certificate of inspection shall  
1291 show the date of inspection, the condition in which the mine ~~is~~ was found, a statement  
1292 regarding any ~~violations~~ violation of this chapter ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-~~  
1293 ~~161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.) discovered during

1294 the inspection, the progress made in the improvement of the mine as such progress relates to  
1295 health and safety, the ~~number~~ numbers of accidents and injuries occurring in and about the  
1296 mine since the previous inspection, and all other facts and information of public interest  
1297 concerning the condition of the mine as ~~may be~~ are useful and proper.

1298 B. The mine inspector shall deliver one copy of ~~the~~ such certificate of inspection to the  
1299 licensed operator, agent, or mine foreman, and one copy to the employees' safety committee,  
1300 where applicable, and shall post copies at ~~a~~ one or more prominent ~~place or~~ places on the  
1301 premises where ~~it~~ they can be read conveniently by the miners.

1302 C. ~~With respect to underground mineral mines, the~~ The Department shall provide  
1303 access to certificates of inspection of underground mineral mines to ~~the Mine Safety and~~  
1304 ~~Health Administration~~ MSHA.

1305 Drafting note: Technical changes are made, including changes pursuant to § 1-227,  
1306 which states that throughout the Code any word used in the singular includes the plural and  
1307 vice versa. The name of the Mine Safety and Health Administration is shortened to  
1308 correspond to the definition of that term as added to proposed § 45.2-xxx [§ 45.1-161.292:2]  
1309 and language is updated for modern usage and clarity.

1310 Article 8.

1311 Enforcement and Penalties; Reports of Violations.

1312 Drafting note: No change.

1313 § ~~45.1-161.292:63~~ 45.2-xxx. Notices of violations.

1314 A. If the Director or a mine inspector has reasonable cause to believe that a violation  
1315 of the Act has occurred, he shall with reasonable promptness issue a notice of violation to the  
1316 person ~~who is~~ responsible for the violation. Each notice of violation shall be in writing and  
1317 shall describe with particularity the nature of the violation ~~or violations~~, including a reference  
1318 to the ~~provisions~~ provision of ~~this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6~~  
1319 ~~(§ 45.1-161.304 et seq.) or the appropriate regulations~~ the Act violated, and shall include an  
1320 order of abatement and ~~fix~~ set a reasonable time for abatement of the violation.

1321 B. A copy of ~~the~~ such notice of violation shall be delivered to the licensed operator,  
1322 his agent, or mine foreman, and any independent contractor whose employees were exposed  
1323 to ~~hazards~~ a hazard related to the violation.

1324 C. Upon a finding by the mine inspector of the completion of the action required to  
1325 abate ~~the~~ such violation, the Director or the mine inspector shall issue a notice of correction, a  
1326 copy of which shall be delivered as provided in subsection B.

1327 D. The notice of violation shall be deemed ~~to be~~ the final order of the Department and  
1328 shall not be subject to review by any court or agency unless, within ~~twenty~~ 20 days following  
1329 its issuance, the person to whom the notice of violation ~~has been~~ was issued appeals its  
1330 issuance by notifying the Department in writing that he intends to contest its issuance. The  
1331 Department shall conduct informal conference or consultation proceedings, presided over by  
1332 the Director, pursuant to § 2.2-4019, unless the person and the Department agree to waive  
1333 such a conference or proceeding to go directly to a formal hearing. If such a conference or  
1334 proceeding ~~has been~~ is waived, or if it ~~has failed~~ fails to dispose of the case by consent, the  
1335 Department shall conduct a formal hearing pursuant to § 2.2-4020. The formal hearing shall  
1336 be presided over by a hearing officer pursuant to § 2.2-4024, who shall recommend findings  
1337 and an initial decision, which shall be subject to review and approval by the Director. Any  
1338 party aggrieved by and claiming unlawfulness of ~~the~~ such decision shall be entitled to judicial  
1339 review pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

1340 E. If it ~~shall be~~ is finally determined that a notice of violation was not issued in  
1341 accordance with the provisions of this section, ~~the~~ such notice of violation shall be vacated,  
1342 and the improperly issued notice of violation shall not be used to the detriment of the person  
1343 or the operator to whom it was issued.

1344 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1345 **227, which states that throughout the Code any word used in the singular includes the**  
1346 **plural and vice versa. The term "the Act" is substituted for references to the chapters**  
1347 **and regulations that comprise the Mineral Mine Safety Act in accordance with the**  
1348 **definition of that term. Language is updated for modern usage and clarity.**

1349 § ~~45.1-161.292:64~~ 45.2-xxx. Closure orders.

1350 A. The Director or a mine inspector shall issue a closure order requiring that any mine  
1351 or section thereof be cleared of all persons, or that equipment be removed from use, and  
1352 refusing further entry into the mine of ~~all persons~~ any person except ~~those~~ a person who is  
1353 necessary to correct or eliminate a hazardous condition; when (i) a violation of this chapter  
1354 ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-~~  
1355 ~~161.304~~ 45.2-xxx et seq.) has occurred, ~~which~~ and creates an imminent danger to the life or  
1356 health of ~~persons~~ any person in the mine; (ii) a mine fire, mine explosion, or other serious  
1357 accident has occurred at the mine, ~~as may be~~ making it necessary to preserve the scene of  
1358 such accident during the investigation of the accident; (iii) a mine is operating without a  
1359 license, as provided by § ~~45.1-161.292:30~~ 45.2-xxx; or (iv) an operator to whom a notice of  
1360 violation was issued has failed to abate the violation cited therein within the time period  
1361 provided in such notice for its abatement; however, a closure order shall not be issued for  
1362 failure to abate a violation during the pendency of an administrative appeal of the issuance of  
1363 the notice of violation as provided in subsection D of § ~~45.1-161.292:63~~ 45.2-xxx. In addition,  
1364 a technical specialist may issue a closure order upon discovering a violation creating an  
1365 imminent danger.

1366 B. One copy of the closure order shall be delivered to (i) the licensed operator of the  
1367 mine, ~~or~~ his agent, or the mine foreman and (ii) any independent contractor working in the  
1368 area of the mine affected by the closure order.

1369 C. Upon a finding by the mine inspector of the abatement of the violation creating the  
1370 hazardous condition pursuant to which a closure order ~~has been~~ was issued as provided in  
1371 clause (i) of subsection A, or the cessation of the need to preserve an accident scene as  
1372 provided in clause (ii) of subsection A, or the issuance of a license for the mine if the closure  
1373 order was issued as provided in clause (iii) of subsection A, or the abatement of the violation  
1374 for which the notice of violation was issued as provided in clause (iv) of subsection A, the  
1375 Director or mine inspector shall issue a notice of correction, copies of which shall be  
1376 delivered as provided in subsection B.

1377 D. The issuance of a closure order shall constitute a final order of the Department, and  
1378 the owner, licensed operator, and independent contractor shall not be entitled to  
1379 administrative review of such decision. The owner, licensed operator, or independent  
1380 contractor to whom ~~a~~ such closure order ~~has been~~ was issued may, within ~~ten~~ 10 days  
1381 following the issuance of the order, bring a civil action in the circuit court of the city or  
1382 county in which the mine, or the greater portion thereof, is located for review of the decision.  
1383 The commencement of such ~~a~~ proceeding shall not, unless specifically ordered by the court,  
1384 operate as a stay of the closure order. The court shall promptly hear and determine the matters  
1385 raised by the owner ~~or~~ operator, or independent contractor. In any such action the court shall  
1386 receive the records of the Department ~~with respect to~~ regarding the issuance of the order, and  
1387 shall receive additional evidence at the request of any party. In any proceeding under this  
1388 section, the Attorney General or the attorney for the Commonwealth for the jurisdiction where  
1389 the mine is located, upon the request of the Director, shall represent the Department. The  
1390 court shall vacate the closure order if the preponderance of the evidence establishes that the  
1391 order was not issued in accordance with the provisions of this section.

1392 E. If it ~~shall be~~ is finally determined that a closure order was not issued in accordance  
1393 with the provisions of this section, the closure order shall be vacated, and the improperly  
1394 issued closure order shall not be used to the detriment of the owner or operator to whom it  
1395 was issued.

1396 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1397 **227, which states that throughout the Code any word used in the singular includes the**  
1398 **plural and vice versa. Language is updated for modern usage and clarity.**

1399 § ~~45.1-161.292:65~~ 45.2-xxx. Tolling of time for abating violations.

1400 The period of time specified in a notice of violation for the abatement of the violation  
1401 shall not begin to run until (i) the final decision of the Department is issued, if an  
1402 administrative appeal of its issuance is pursued, or ~~until~~ (ii) the final order of the circuit court  
1403 is rendered, if an appeal of its issuance is taken to circuit court, provided that ~~the~~ such appeal

1404 [pursuant to clause \(i\) or \(ii\)](#) was undertaken in good faith and not solely for delay or  
1405 avoidance of penalties.

1406 **Drafting note: Clause designations are added and language is updated for clarity.**

1407 § ~~45.1-161.292:66~~ [45.2-xxx](#). Injunctive relief.

1408 A. Any person violating or failing, neglecting, or refusing to obey any closure order  
1409 may be compelled in a proceeding instituted by the Director in any appropriate circuit court to  
1410 obey ~~same~~ [such order](#) and to comply therewith by injunction or other appropriate relief.

1411 B. Any person failing to abate any violation of this chapter ~~and Chapters 14.5 or~~  
1412 [Chapter 14](#) (§ ~~45.1-161.293~~ [45.2-xxx](#) et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ [45.2-xxx](#) et seq.)  
1413 ~~which that~~ has been cited in a notice of violation within the time period provided in such  
1414 notice for its abatement may be compelled in a proceeding instituted by the Director in any  
1415 appropriate circuit court to abate such violation as provided in such notice, and to cease the  
1416 operation of the mine at which such violation exists until the violation has been abated, by  
1417 injunction or other appropriate remedy.

1418 C. The Director may file a bill of complaint with any appropriate circuit court asking  
1419 the court to temporarily or permanently enjoin a person from operating a mine ~~or mines~~ in the  
1420 Commonwealth or contracting for work at a mine in the Commonwealth, to be granted upon [a](#)  
1421 finding by a preponderance of the evidence that (i) a history of noncompliance by the person  
1422 demonstrates that he is not able or willing to operate in compliance with the provisions of this  
1423 chapter and Chapters ~~14.5~~ [14](#) (§ ~~45.1-161.293~~ [45.2-xxx](#) et seq.) and ~~14.6~~ [15](#) (§ ~~45.1-161.304~~  
1424 [45.2-xxx](#) et seq.) or (ii) a history of the issuance of closure orders to the person demonstrates  
1425 that he is not able or willing to operate in compliance with the provisions of this chapter and  
1426 Chapters ~~14.5~~ [14](#) (§ ~~45.1-161.293~~ [45.2-xxx](#) et seq.) and ~~14.6~~ [15](#) (§ ~~45.1-161.304~~ [45.2-xxx](#) et  
1427 seq.).

1428 **Drafting note: Technical changes are made and language is updated for modern**  
1429 **usage.**

1430 § ~~45.1-161.292:67~~ [45.2-xxx](#). Violations; penalties.

1431 Any person convicted of willfully violating any ~~provisions~~ provision of ~~this chapter~~  
1432 ~~and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.) or any regulation~~  
1433 ~~promulgated pursuant to this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§~~  
1434 ~~45.1-161.304 et seq.)~~ the Act, unless otherwise specified in this chapter ~~and Chapters 14.5 or~~  
1435 Chapter 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et  
1436 seq.), ~~shall be~~ is guilty of a Class 1 misdemeanor.

1437 **Drafting note: Technical changes are made, including a change pursuant to § 1-**  
1438 **227, which states that throughout the Code any word used in the singular includes the**  
1439 **plural and vice versa. The term "the Act" is substituted for references to the chapters**  
1440 **and regulations that comprise the Mineral Mine Safety Act in accordance with the**  
1441 **definition of that term. Language is updated for modern usage.**

1442 § ~~45.1-161.292:68~~ 45.2-xxx. Prosecution of violations.

1443 A. It ~~shall be~~ is the duty of every attorney for the Commonwealth to whom the  
1444 Director or his authorized representative ~~has reported~~ reports any violation of this chapter ~~and~~  
1445 ~~Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~  
1446 45.2-xxx et seq.), or on his own initiative, to cause proceedings to be prosecuted in such ~~cases~~  
1447 case.

1448 B. If the attorney for the Commonwealth declines to cause proceedings to be  
1449 prosecuted in such ~~cases~~ case, the Director may request the Attorney General to institute  
1450 proceedings for any violation of the Act on behalf of the Commonwealth; however, such  
1451 action shall not preclude the Director from pursuing other applicable statutory procedures.  
1452 Upon receiving such a request from the Director, the Attorney General shall have the  
1453 authority to institute actions and proceedings for violations described in the request.

1454 **Drafting note: Language is updated for modern usage. Technical changes are**  
1455 **made, including changes pursuant to § 1-227, which states that throughout the Code any**  
1456 **word used in the singular includes the plural and vice versa.**

1457 § ~~45.1-161.292:69~~ 45.2-xxx. Fees and costs.

1458 No fees or costs shall be charged to the Commonwealth by a court or any officer for or  
1459 in connection with the filing of any pleading or other papers in any action authorized by this  
1460 article.

1461 **Drafting note: Technical change.**

1462 § ~~45.1-161.292:70~~ 45.2-xxx. Reports of violations.

1463 A. Any person aware of a violation of this chapter ~~and Chapters 14.5 or Chapter 14~~ (§  
1464 ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.) may report  
1465 the violation to a mine inspector or to any other employee of the Department, in person, in  
1466 writing, or by telephone call, at the mine, at an office of the Department, or at the mine  
1467 inspector's residence.

1468 B. Each operator, or his agent, shall deliver a copy of this chapter and Chapters ~~14.5~~  
1469 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) and ~~14.6~~ 15 (§ ~~45.1-161.304~~ 45.2-xxx et seq.) ~~to every~~  
1470 each miner in his employ upon the commencement of the miner's work at a mine, unless the  
1471 miner is already in possession of a copy.

1472 C. The licensed operator of ~~every~~ each mine, or his agent, shall display on a sign  
1473 placed at the mine office, at the bath house, and on a bulletin board at a prominent place at the  
1474 mine site where it can be read conveniently by the miners, a notice containing the office and  
1475 home telephone numbers of mine inspectors and other Department personnel, and office  
1476 addresses, ~~which that~~ may be used to report any violation of this chapter ~~and Chapters 14.5 or~~  
1477 Chapter 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et  
1478 seq.).

1479 D. The Department shall keep a record, on a form prepared for such purpose, of every  
1480 alleged violation of this chapter ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et  
1481 seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.) ~~which that~~ is reported and the results of  
1482 any investigation. The Department shall give a copy of the complaint form, with the identity  
1483 of the person making the report ~~being~~ omitted or deleted, to the licensed operator of the mine  
1484 or his agent and to any independent contractor who is alleged to have committed the violation.  
1485 The Department shall not disclose the identity of any person who reports an alleged violation



1486 to the owner or operator of the mine or his agent, or to any other person or entity. Information  
1487 regarding the identity of the person reporting ~~the a~~ violation ~~shall be~~ is excluded from ~~access~~  
1488 ~~under the~~ the mandatory disclosure provisions of the Virginia Freedom of Information Act (§  
1489 2.2-3700 et seq.).

1490 Drafting note: Technical changes are made, including changes in the reference to the  
1491 Virginia Freedom of Information Act, and language is updated for modern usage.

1492 Article 9.

1493 Miner Training.

1494 Drafting note: No change.

1495 § ~~45.1-161.292:71~~ 45.2-xxx. Training programs.

1496 A. The Department may administer training programs for the purpose of (i) assisting  
1497 with the provision of selected requirements of the federal mine safety law and (ii) preparing  
1498 miners for examinations administered by the Department. The Director shall establish the  
1499 curriculum and teaching materials for ~~the each~~ training ~~programs~~ program, which shall be  
1500 consistent with the requirements of the federal mine safety law where feasible.

1501 B. The Department is authorized to charge ~~persons~~ each person attending ~~the a~~  
1502 training ~~programs~~ program reasonable fees to cover the costs of administering such ~~programs~~  
1503 program. The Director may exempt certain persons from any required fees for refresher  
1504 training programs, based on the person's employment status or ~~such~~ any other criteria ~~as~~ the  
1505 Director deems appropriate. The Director shall not be required to allocate more of the  
1506 Department's resources to training programs than are appropriated or otherwise made  
1507 available for such purpose, or are collected from fees charged to attendees.

1508 C. No miner, operator, or other person shall be required to participate in any training  
1509 program established under this section. Nothing contained herein shall prevent an operator or  
1510 any other person from administering a state-approved training program.

1511 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1512 **227, which states that throughout the Code any word used in the singular includes the**  
1513 **plural and vice versa. Language is updated for modern usage.**

1514 § ~~45.1-161.292:72~~ 45.2-xxx. Mineral mining safety training.

1515 The Director is authorized to implement a program of voluntary safety talks for  
1516 mineral miners. Safety training may include topical training and talks conducted by inspectors  
1517 or other Department personnel either on site or in a classroom provided for such purpose.

1518 **Drafting note: No change.**

1519 § ~~45.1-161.292:73~~ 45.2-xxx. Mineral mining safety training program.

1520 A. Each operator shall have a plan containing the following programs: training for  
1521 new miners, training for ~~newly-employed~~ experienced miners who are newly employed,  
1522 training for miners for new tasks, annual refresher training, and hazard training. For the  
1523 purpose of this section, the definition of miner does not include a scientific ~~workers~~ worker;  
1524 delivery ~~workers~~ worker; ~~customers~~ customer, including a commercial over-the-road truck  
1525 ~~drivers~~ driver; ~~vendors~~ vendor; or ~~visitors~~ visitor.

1526 B. ~~The~~ Such plan shall be available to the Director for review upon request.

1527 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
1528 **throughout the Code any word used in the singular includes the plural and vice versa.**

1529

#

1 CHAPTER ~~18.1~~ 13.

2 MINERAL MINING ~~REFUSE PILES, WATER AND SILT~~ RETAINING DAMS;

3 ADJACENT OWNERS.

4 Article 1.

5 Mineral Mining Retaining Dams and Refuse Piles.

6 **Drafting note: Existing Chapter 18.1, mineral mining retaining dams and refuse**  
7 **piles, is retained as Article 1 of proposed Chapter 13. The chapter title is changed to**  
8 **reflect the inclusion as Article 2 of existing Chapter 14.7:1, concerning the rights of**  
9 **owners of land adjacent to mineral mines.**

10 § ~~45.1-225.3~~ 45.2-xxx. Definitions.

11 ~~For the purpose of~~ As used in this chapter, the term article, unless the context requires  
12 a different meaning:

13 "Impound water" means to impound water for use in carrying out any part of the  
14 process necessary in the production or preparation of minerals.

15 "Refuse" means waste material resulting from a mineral mining operation.

16 "Silt" means fine particles resulting from a mineral mining operation, suspended in or  
17 deposited by water.

18 "Water" means water used in a mining ~~operations~~ operation.

19 **Drafting note: The definitions section is relocated from the end of the article.**  
20 **Technical changes are made, including a change pursuant to § 1-227, which states that**  
21 **throughout the Code any word used in the singular includes the plural and vice versa.**

22 § ~~45.1-225.1~~ 45.2-xxx. Dams and mine refuse piles ~~to be constructed, approved, etc.,~~  
23 ~~by qualified engineer; designs and other data to be submitted to the Director;~~ construction.

24 A. ~~On and after July 1, 1974, new water~~ Any water-retaining or ~~silt retaining dams,~~  
25 silt-retaining dam or ~~a~~ mine refuse pile; or ~~the~~ modification of an existing ~~mine-water~~ water-  
26 retaining or ~~silt~~ silt-retaining dam or mine refuse ~~retaining dams~~ pile shall be designed and  
27 constructed by; or under the direction of; a qualified engineer; if such ~~retaining dam:~~ or pile

28 ~~1. Is~~ is designed to impound water or silt to a height of (i) five feet or more above the  
29 lowest natural ground level within the impounded area; and

30 ~~2. Has~~ has a storage volume of ~~fifty~~ 50 acre-feet or more; or

31 ~~3. Is designed to impound water or silt to a height of twenty~~ (ii) 20 feet or more,  
32 regardless of storage volume.

33 B. ~~Water and silt retaining dam or mine refuse piles, designs~~ Designs, construction  
34 specifications, and other related data, including final abandonment plans, for a water-retaining  
35 or silt-retaining dam or mine refuse pile shall be approved and certified by the qualified  
36 engineer as specified in subsection A ~~of this section~~, and by the licensed operator or his agent.

37 C. The designs, construction specifications, and other related data approved and  
38 certified in accordance with subsection B ~~of this section~~ shall be submitted for approval to the  
39 Director. If ~~the submittal is approved by~~ the Director approves the submittal, he shall notify  
40 the licensed operator in writing. If ~~he~~ the Director disapproves the submittal, he shall notify  
41 the licensed operator with his written objections ~~thereto~~ and ~~his~~ required amendments. ~~But in~~  
42 ~~no event shall the~~ The Director ~~fail to~~ shall approve or disapprove the submittal within ~~thirty~~  
43 30 days following ~~the~~ receipt thereof.

44 **Drafting note: An obsolete date for the application of the law to dams is removed.**  
45 **Language is updated for modern usage and clarity and technical changes are made.**

46 § ~~45.1-225.2~~ 45.2-xxx. Examination of dams and mine refuse piles; potentially  
47 hazardous conditions; plans to be submitted by licensed operators.

48 A. ~~All water and silt retaining dams~~ Every water-retaining or silt-retaining dam or  
49 mine refuse ~~piles~~ pile shall be examined daily for visible structural weakness, volume  
50 overload, and other hazards by a qualified person designated by the licensed operator. When  
51 rising water and silt reaches ~~eighty~~ 80 percent by volume of the safe design capacity of the  
52 dam or pile, such examination shall be made more often as required by the Director or his  
53 designated agent. Frequent examinations ~~must~~ shall be made during periods of rainfall that  
54 could create flooding conditions.

55 B. When a potentially hazardous condition exists, the operator shall initiate procedures  
56 to:

- 57 1. Remove all persons from the area ~~which that~~ may reasonably be expected to be  
58 affected by ~~the~~ such potentially hazardous condition;
- 59 2. Eliminate ~~the~~ such potentially hazardous condition; and
- 60 3. Notify the Director.

61 C. Records of the inspections required by subsection A ~~of this section~~ shall be kept  
62 and certified by the licensed operator or his agent. Such records shall be kept on the surface at  
63 the office or designated station of the mine.

64 D. The licensed operator of each mineral mine on which a ~~water and silt retaining~~  
65 water-retaining or silt-retaining dam is located shall adopt a plan for carrying out the  
66 requirements of subsections A and B ~~of this section~~. The plan shall be submitted for approval  
67 to the Director ~~on or before October 31, 1974. The plan and~~ shall include:

- 68 1. A schedule and procedures for the inspection of the retaining dam by a qualified  
69 person;
- 70 2. Procedures for evaluating any potentially hazardous ~~conditions~~ condition;
- 71 3. Procedures for removing all persons from the area ~~which that~~ may reasonably be  
72 expected to be affected by ~~the~~ such potentially hazardous ~~conditions~~ condition;
- 73 4. Procedures for eliminating ~~the~~ such potentially hazardous ~~conditions~~ condition;
- 74 5. Procedures for notifying the Director; and
- 75 6. Any additional information ~~which that~~ may be required by the Director.

76 E. Before making any ~~changes~~ change or ~~modifications~~ modification in the plan  
77 approved in accordance with subsection D ~~of this section~~, the licensed operator shall obtain  
78 approval of such ~~changes~~ change or ~~modifications~~ modification from the Director.

79 **Drafting note: An obsolete date for the submission of certain plans to the**  
80 **Director is removed from subsection D. Technical changes are made, including changes**  
81 **pursuant to § 1-227, which states that throughout the Code any word used in the**  
82 **singular includes the plural and vice versa. Language is updated for modern usage.**

83

~~CHAPTER 14.7:1.~~

84

~~RIGHTS OF OWNERS OF LAND ADJACENT TO MINERAL MINES.~~

85

Article 2.

86

Rights of Owners of Land Adjacent to Mineral Mines.

87

**Drafting note: Existing Chapter 14.7:1, concerning rights of owners of land**

88

**adjacent to mineral mines, is retained as Article 2 of proposed Chapter 13.**

89

§~~45.1-161.311:1~~ 45.2-xxx. Consent required before working mine near land of

90

another.

91

No owner or tenant of any land within the Commonwealth containing minerals, ~~within~~

92

~~this Commonwealth~~, shall open or sink, dig, excavate, or work in any mine on such land

93

within five feet of the line dividing such land from that of another person, ~~without the~~ written

94

consent, ~~in writing~~, of every person interested in or having title to such adjoining lands or

95

mineral rights in possession, reversion, or remainder, or of the guardian of any such person

96

that may be under a disability. ~~If any~~ Any person ~~violates~~ violating this section, ~~he~~ shall

97

forfeit \$500 to ~~any~~ each person injured by such ~~activity~~ violation and to ~~anyone~~ each person

98

whose consent ~~is~~ was required but not obtained.

99

**Drafting note: Technical changes are made and language is updated for modern**

100

**usage.**

101

§~~45.1-161.311:2~~ 45.2-xxx. Adjacent owner to be permitted to survey mine;

102

proceedings to compel entry for survey.

103

A. ~~The owner, tenant, or occupant of any land or minerals, on or in which a mine is~~

104

~~opened and worked, or his agent, shall permit any~~ If a person who is interested in or ~~having~~

105

has title to any land or mineral rights coterminal with ~~that~~ the land or mineral rights on or in

106

which ~~such a~~ a mine is located, ~~if he~~ has reason to believe his property is being trespassed upon,

107

then the owner, tenant, or occupant of the land or minerals on or in which such mine is

108

opened and worked, or his agent, shall permit such interested person to have ingress and

109

egress with surveyors and assistants to explore and survey such mine ~~at his own expense~~, for

110

the purpose of ascertaining whether a violation of §~~45.1-161.311:1~~ 45.2-xxx has occurred;

111 ~~however, such.~~ Such exploration and survey shall occur at the expense of the interested  
112 person, and such person shall not be entitled to enter the mine property more often than once-a  
113 each month. ~~Every owner, tenant, occupant or agent who shall refuse such permission,~~  
114 ~~exploration or survey shall forfeit twenty dollars for each refusal, to the person so refused.~~

115 B. ~~The~~ If such interested person is refused entry to such mine, he may file a complaint  
116 before the judge of the general district court of the county or city in which such mine is  
117 located, ~~before whom complaint of such refusal shall be made,~~ Such judge may issue a  
118 summons to such mine owner, tenant, occupant, or agent, to answer such complaint. ~~On~~ Upon  
119 the return of the executed summons ~~executed,~~ and the submission of proof that the  
120 complainant has right of entry, and that ~~it~~ such right of entry has been refused without  
121 sufficient cause, the judge shall designate ~~an early~~ a prompt and convenient time for such  
122 entry to be made, and issue ~~his~~ a warrant, commanding the sheriff of the county or city to  
123 attend and prevent obstructions ~~and or~~ impediments to such entry, exploration, and survey.

124 C. Any owner, tenant, occupant, or agent who refuses such permission, exploration, or  
125 survey shall forfeit \$20 for each refusal to the person so refused. The costs of such summons,  
126 and a fee of ~~three dollars~~ \$3 to the sheriff executing the warrant, shall be paid by the person  
127 whose refusal caused the complaint. If the court dismisses the complaint, the costs of such  
128 summons and execution shall be paid by the party making the complaint.

129 **Drafting note: The first sentence of subsection A is reorganized and divided into**  
130 **two sentences for clarity. The last sentence of subsection A, dealing with the forfeiture of**  
131 **\$20 for refusing entry to a mine, is relocated to proposed subsection C for clarity.**  
132 **Technical changes are made and language is simplified and updated for modern usage.**

133 #

# Agenda Item 3 - Work Plan Review and Approval

## 2020 Code Commission Work Plan Proposed

**Recodification of Title 45.1, Mines and Mining** (DLS Staff: Scott Meacham and David Barry) - continuation from 2019; complete in 2020 for introduction into the 2021 Session of the General Assembly.

**Approve next title for recodification** - Code Commission approved Title 32.1 (Health); begin mid-way through 2020 interim as Title 45.1 concludes and continue through 2021 for introduction into the 2022 Session of the General Assembly. However, this may need to change. In 2018, the Commission approved Title 24.2 (Elections) for recodification beginning in the 2022 interim.

**Obsolete laws and "Not Set Out" sections** (DLS Staff) - Staff will present various sections of the Code of Virginia that were codified to set out in full in the Code. These are sections that were previously codified and assigned a section number but were not set out in full in the Code of Virginia. This item is a continuation of a review that was previously approved by the Commission; approximately 22 sections are left to review.

*Background: Section 30-151 requires review of acts and statutes to identify obsolete provisions no less than every 4 years. The Code Commission conducts this study and makes recommendations to the General Assembly through legislation. In addition, the Code Commission has been reviewing Code of Virginia sections labeled "Not set out" to establish which sections should be set out, not set out, repealed, or amended. Approximately 25 "not set out" sections will be left after completion of the Title 45.1 (Mines and Minerals) recodification. The obsolete laws and not set out projects were combined in 2017.*

**Restructuring of § 54.1-3408 and related sections** - (DLS Staff: Sarah Stanton). Review started in 2019 and is targeted to complete in 2020.

**Code of Virginia; pricing and replacement volumes** - Lexis will present a recommendation.

**Administrative Law Advisory Committee** - Reappointment of ALAC members and approval of work plan or recommendations. *ALAC was established to assist the Code Commission with oversight authority over the operation and effectiveness of the regulation promulgation process pursuant to the Virginia Administrative Process Act and Virginia Register Act.*

**Rules of evidence** - monitor updates to Virginia Supreme Court Rules of Evidence and modify Code of Virginia catchlines when necessary to include in the catchline of a Code section from which a rule in the Rules of Evidence has been derived a notation specifying that rule (per enactment clause 6 of c. 688 (2012 Acts)).

*Example: § 18.2-67.7:1. Evidence of similar crimes in child sexual offense cases (Supreme Court Rule 2:413 derived from this section).*

### **Contract expiration dates:**

Code of Virginia (LexisNexis): expires August 31, 2026; renewable.

Virginia Administrative Code (West): expires April 30, 2024; renewable.

Virginia Register of Regulations (LexisNexis): expires June 2, 2022; renewable.

Code of Virginia Publishers Forum Access Agreement (West and LexisNexis): expires November 21, 2021; renewable. *Allows access to the Code Publishers Forum so noncontract publishers have access to the same information as the contract publisher. Chair approves renewals.*