

1 SUBTITLE III.

2 MINERAL MINES.

3 **Drafting note: Proposed Subtitle III is created to logically organize provisions**  
4 **relating to mineral mines and is divided into proposed Parts A (Mineral Mines**  
5 **Generally), B (Underground 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**  
9 **Generally) is created to logically organize provisions relating to mineral mines and**  
10 **contains three chapters: proposed Chapter 11, Mineral Mine Safety Act; proposed**  
11 **Chapter 12, Permits for Certain Mining Operations; Reclamation of Land; and**  
12 **proposed Chapter 13, Mineral Mining Dams 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,**  
16 **is 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**  
24 **states that throughout the Code the caption of a subtitle, chapter, or article serves as a**  
25 **short title 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~~ 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**  
309 **usage 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.

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 within a two-year period rather than only the last  
332 employer.

333 § ~~45.1-161.292:10~~ 45.2-xxx. Appointment of mine inspectors; qualifications.

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

335 § ~~45.1-161.292:11. Qualifications of mine inspectors generally.~~

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

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

344 § ~~45.1-161.292:12~~ 45.2-xxx. Qualifications of mine inspectors ~~of mines~~.

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

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

352 § ~~45.1-161.292:13~~ 45.2-xxx. Duties of Director.

353 A. The Director shall (i) supervise the execution and enforcement of all laws  
354 pertaining to the safety and health of persons employed within or at mineral mines within the  
355 Commonwealth, and the protection of property used in connection therewith, and ~~to~~ (ii)  
356 perform all other duties required pursuant to this chapter ~~and Chapters 14.5 or Chapter 14~~ (§  
357 ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.).

358 B. The Director shall keep a record of all inspections of mineral mines made by him or  
359 his authorized representatives. He shall also keep a permanent record thereof, properly  
360 indexed, which ~~record~~ shall at all times be open to inspection by any citizen of the  
361 Commonwealth.

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

363 § ~~45.1-161.292:14~~ [45.2-xxx](#). Technical specialists.

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

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

374 Article 3.

375 Certification of Mineral Mine Workers.

376 **Drafting note: No change.**

377 § ~~45.1-161.292:15~~. ~~Repealed.~~

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

379 § ~~45.1-161.292:17~~ [45.2-xxx](#). Records of Board of Mineral Mining Examiners.

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

383 **Drafting note: The name of the Division of Mineral Mining is shortened to**  
384 **correspond to the definition of that term as added to proposed § 45.2-xxx [§ 45.1-**  
385 **161.292:2].**

386 ~~§ 45.1-161.292:18. Repealed.~~

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

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

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

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

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

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

412 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
413 **227, which states that throughout the Code any word used in the singular includes the**

414 plural and vice versa. The term "the Act" is substituted for references to the chapters  
415 and regulations that comprise the Mineral Mine Safety Act in accordance with the  
416 definition of that term. Language is updated for modern usage and clarity.

417 § ~~45.1-161.292:20~~ 45.2-xxx. Examinations required for Mineral Mining Certifications.

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

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

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

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

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

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

452 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
453 **227, which states that throughout the Code any word used in the singular includes the**  
454 **plural and vice versa. Language is updated for 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~~ in 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-**  
574 **227, which states that throughout the Code any word used in the singular includes the**  
575 **plural and 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](#) other  
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.~~ The names and addresses of persons to be contacted in the event of an accident or  
694 other emergency at the mine;

695 ~~5-Such~~ 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.~~ 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 XX~~ (§ ~~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. 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 intersect (i)~~  
846 ~~underground workings or (ii) workings from auger, thin seam, or highwall mining operations.~~  
847 ~~The~~ C. Each map required pursuant to this section shall be filed and preserved among the  
848 records of the Department ~~and made.~~ The Department shall make such map available at a  
849 reasonable cost to ~~all persons~~ any person owning, leasing, or residing on or having an  
850 equitable interest in any surface ~~areas~~ area or coal or mineral ~~interests~~ interest within 1,000  
851 feet of such mining operation upon written proof satisfactory to the Director and upon a sworn  
852 affidavit that such person requesting a map has ~~a proper~~ the required legal or equitable  
853 interest; ~~however.~~ However, the Director shall provide to ~~the such~~ person ~~requesting a map~~  
854 only that portion of the map ~~which~~ that abuts or is contiguous to the property in which such  
855 requesting party has a legal or equitable interest. In no case shall any copy of ~~the same~~ such  
856 map be made for any ~~other~~ person who does not possess the required legal or equitable

857 [interest](#) without the consent of the licensed operator or his agent. The Director shall promptly  
858 deliver notice of such request to the licensed operator of such mining operation.

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

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

869 **Drafting note: Technical changes are made, including organizational changes**  
870 **that divide subsection A into two subsections and divide the first two sentences in**  
871 **subsection A into five sentences. The first sentence of existing subsection B, which**  
872 **exempts certain maps from the filing requirement, is deleted to reflect current**  
873 **Department practice and to remove the conflict with § 45.2-xxx [existing § 45.1-181],**  
874 **which requires that every mining permit application be accompanied by an accurate**  
875 **map of the area to be mined. Technical changes are made pursuant to § 1-227, which**  
876 **states that throughout the Code any word used in the singular includes the plural and**  
877 **vice versa. Language is updated for modern usage and clarity.**

878 ~~§ 45.1-161.292:38~~ [45.2-xxx](#). When the Director may cause maps to be made; payment  
879 of expense.

880 A. If ~~the~~ [a](#) licensed [mine](#) operator, or his agent, ~~of any mine shall neglect~~ [neglects](#) or  
881 ~~fail~~ [fails](#) to furnish to the Director a copy of any map or extension thereof, as provided in §  
882 ~~45.1-161.292:37~~ [45.2-xxx](#), the Director is authorized to cause a correct survey and map of  
883 ~~said~~ [such](#) mine, or extension ~~thereof~~, to be made at the expense of the licensed operator of  
884 such mine, ~~the cost~~. [The expense](#) of ~~which~~ [making such survey and map or extension thereof](#)

885 shall be recovered from ~~the~~ such licensed operator as other debts are recoverable by a civil  
886 action ~~at law~~.

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

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

897 § ~~45.1-161.292:39~~ 45.2-xxx. Making false statements; penalty.

898 ~~A. It shall be~~ is unlawful for any person ~~charged with the~~ responsible for making ~~of~~  
899 ~~maps~~ any map or other data to be furnished ~~as provided in~~ pursuant to this chapter ~~and~~  
900 ~~Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~  
901 45.2-xxx et seq.) to (i) fail to correctly show, within the limits of error, the data required-

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

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

908 **Drafting note: Technical changes are made, including organizational changes**  
909 **that condense the section and remove duplicative text and changes pursuant to § 1-227,**  
910 **which states that throughout the Code any word used in the singular includes the plural**  
911 **and vice versa. Language is updated for modern usage and clarity.**

912

913 ~~Rescue Crews;~~ Mine Rescue Teams.

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

916 § ~~45.1-161.292:40~~ 45.2-xxx. Mine rescue and first aid stations.

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

921 **Drafting note: Technical change.**

922 § ~~45.1-161.292:41~~ 45.2-xxx. Mine rescue ~~crews~~ teams.

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

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

936 § ~~45.1-161.292:42~~ 45.2-xxx. Duty to train ~~crew~~ team.

937 It ~~shall be~~ is the duty and responsibility of the Department to see that ~~all crews be~~  
938 every mine rescue team is properly trained by a qualified instructor of the Department or ~~such~~  
939 ~~other persons~~ another person who ~~have~~ has a certificate of training from the Department or ~~the~~  
940 ~~Mine Safety and Health Administration~~ MSHA.

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

947           § ~~45.1-161.292:43~~ 45.2-xxx. Qualification for ~~crew~~ team membership; direction of  
948 ~~crews~~ teams.

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

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

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

966           § ~~45.1-161.292:44~~ 45.2-xxx. ~~Crew~~ Team members to be considered employees of the  
967 mine where emergency exists; compensation; workers' compensation.

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

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

978           § ~~45.1-161.292:45~~ 45.2-xxx. Requirements of recovery work.

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

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

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

987           D. Two-way communication, life lines<sub>2</sub> or their equivalent shall be provided by the  
988 fresh air base to ~~all crews~~ each team, and no ~~crew~~ team member shall be permitted to advance  
989 beyond such communication system.

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

993           F. The Director may also assign rescue and recovery work to inspectors, instructors<sub>2</sub> or  
994 other qualified employees of the Department as the Director may determine desirable.

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

998           § ~~45.1-161.292:46~~ 45.2-xxx. State-designated mine rescue teams.

999           The Director may, upon the request of a licensed operator or agent who employs a  
1000 mine rescue team, designate two or more mine rescue teams as "state-designated mine rescue  
1001 teams." Any team ~~which that~~ is certified as a mine rescue team by ~~the Mine Safety and Health~~  
1002 ~~Administration~~ MSHA under 30 CFR Part 49 shall be eligible to be a state-designated team.  
1003 Following the designation of any such ~~teams~~ team, the Director shall, upon the payment to the  
1004 Department of an annual fee, set by the Director based on current costs for maintaining mine  
1005 rescue stations and personnel, assign two or more state-designated teams to the licensed  
1006 operator. A licensed operator who has paid the rescue fee shall be entitled to the rescue  
1007 services of a state-designated rescue team at no additional charge.

1008           **Drafting note: A change is made pursuant to § 1-227, which states that**  
1009 **throughout the Code any word used in the singular includes the plural and vice versa.**  
1010 **The name of the Mine Safety and Health Administration is shortened to correspond to**  
1011 **the definition of that term as added to proposed § 45.2-xxx [§ 45.1-161.292:2] and**  
1012 **language is updated for modern usage.**

1013           § ~~45.1-161.292:47~~ 45.2-xxx. Mine Rescue Fund.

1014           ~~The~~ A. There is hereby created in the state treasury a special nonreverting fund to be  
1015 known as the Mine Rescue Fund ~~is created as a special fund in the office of the State~~  
1016 ~~Treasurer.~~ , referred to in this section as "the Fund." The Fund shall be established on the  
1017 books of the Comptroller. All moneys collected from licensed operators pursuant to the  
1018 provisions of § ~~45.1-161.292:46~~ 45.2-xxx shall be paid into the ~~Mine Rescue~~ state treasury  
1019 and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and  
1020 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of  
1021 each fiscal year shall not revert to the general fund but shall remain in the Fund.

1022 B. Moneys in the Fund shall be used solely for the purposes of administering the state-  
1023 designated mine rescue team program. Expenditures and disbursements from the Fund shall  
1024 be made by the State Treasurer on warrants issued by the Comptroller upon written request  
1025 signed by the Director.

1026 C. On July 1 of each year, or as soon thereafter as sufficient moneys are in the ~~Mine~~  
1027 ~~Rescue~~ Fund ~~as are needed for this purpose, ten~~ 10 percent of the ~~fund~~ moneys in the Fund  
1028 shall be transferred from the ~~fund~~ Fund to the Department for purposes of administering the  
1029 state-designated mine rescue team program. On an annual basis, funds in excess of the sum  
1030 ~~which~~ that is transferred for administrative purposes shall be divided equally among all state-  
1031 designated mine rescue teams. ~~No moneys in the Mine Rescue Fund shall revert to the general~~  
1032 ~~fund.~~

1033 **Drafting note: The nonreverting fund language for the Mine Rescue Fund is**  
1034 **updated to reflect current language requested by the Department of the Treasury for**  
1035 **nonreverting funds in the Code. Technical changes are made, including the addition of**  
1036 **subsection designations for clarity.**

1037 § ~~45.1-161.292:48~~ 45.2-xxx. Inspections; Mine Rescue Coordinator.

1038 A. The Director shall (i) inspect, or cause to be inspected, the rescue station of each  
1039 state-designated mine rescue team four times ~~a~~ each year, (ii) ensure that ~~all~~ each rescue  
1040 ~~stations~~ station is adequately equipped, and (iii) ensure that all team members are  
1041 adequately trained.

1042 B. The Director shall designate an employee of the Department as the Mine Rescue  
1043 Coordinator, who shall perform the duties assigned ~~to him~~ by the Director.

1044 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1045 **227, which states that throughout the Code any word used in the singular includes the**  
1046 **plural and vice versa.**

1047 § ~~45.1-161.292:49~~ 45.2-xxx. Workers' compensation; liability.

1048 A. For the purpose of workers' compensation coverage during any mine disaster to  
1049 which a state-designated mine rescue team responds under the provisions of this article,

1050 ~~members~~ each member of the state-designated team shall be deemed to be within the  
1051 employment of the licensed operator of the mine at which the disaster occurred.

1052 B. ~~Any~~ No member of a state-designated team engaging in rescue work at a mine shall  
1053 ~~not~~ be liable for civil damages for acts or omissions resulting from the rendering of such  
1054 rescue work unless the act or omission was the result of gross negligence or willful  
1055 misconduct.

1056 C. ~~Any~~ No operator providing personnel to a state-designated mine rescue team to  
1057 engage in rescue work at a mine not owned or operated by the operator shall ~~not~~ be liable for  
1058 any civil damages for acts or omissions resulting from the rendering of such rescue work.

1059 **Drafting note: Technical changes are made, including a change pursuant to § 1-**  
1060 **227, which states that throughout the Code any word used in the singular includes the**  
1061 **plural and vice versa. Language is updated for clarity.**

1062 Article 6.

1063 Mine Explosions; Mine Fires; Accidents.

1064 **Drafting note: No change.**

1065 § ~~45.1-161.292:50~~ 45.2-xxx. Reports of explosions and mine fires; procedure.

1066 A. If an explosion or mine fire occurs in a mine, the operator shall notify the  
1067 Department by the quickest available means. ~~Independent contractors~~ Any independent  
1068 contractor shall notify the licensed operator of such ~~incidents~~ incident. All facilities of the  
1069 mine shall be made available for rescue and recovery operations and ~~fire fighting~~ firefighting.

1070 B. No work other than rescue and recovery work and ~~fire fighting may~~ firefighting  
1071 shall be attempted or started until and unless it is authorized by the Department.

1072 C. If an explosion occurs in an underground mine, the fan shall not be reversed except  
1073 by authority of the officials in charge of rescue and recovery work, and then only after a study  
1074 of the effect of reversing the fan on ~~any~~ persons who ~~may~~ might have survived the explosion  
1075 and are still underground.

1076 D. The Department shall make available all the facilities at its disposal in effecting  
1077 rescue and recovery work. The Director shall act as consultant, or take personal charge, where  
1078 in his opinion the circumstances of any mine explosion, fire, or other accident warrant.

1079 E. The orders of the ~~official~~ officials in charge of rescue and recovery work shall be  
1080 respected and obeyed by all persons engaged in rescue and recovery work.

1081 F. The Director shall maintain an up-to-date rescue and recovery plan for prompt and  
1082 adequate employment at any mineral mine in the Commonwealth. All employees of the  
1083 Department shall be kept fully informed and trained in their respective duties in executing  
1084 rescue and recovery plans. The Department's plans shall be published annually and furnished  
1085 to all licensed operators of mineral mines. Changes in the plan shall be published promptly  
1086 when made and furnished to all licensed operators of mines.

1087 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1088 **227, which states that throughout the Code any word used in the singular includes the**  
1089 **plural and vice versa. Language is updated for modern usage and clarity. In subsection**  
1090 **E, the phrase "official in charge" is changed to the plural to correspond with the phrase**  
1091 **as it appears in subsection C.**

1092 § ~~45.1-161.292:51~~ 45.2-xxx. Operators' reports of accidents; investigations; reports by  
1093 Department.

1094 A. Each operator shall report promptly to the Department the occurrence at any mine  
1095 of any accident involving serious personal injury or death to any person ~~or persons~~, whether  
1096 employed in the mine or not. The scene of the accident shall not be disturbed pending an  
1097 investigation, except to prevent the suspension of use of a slope, entry, or facility vital to the  
1098 operation of a section or a mine. In ~~cases where~~ any case in which reasonable doubt exists as  
1099 to whether to leave the scene unchanged, the operator shall secure prior approval from the  
1100 Department before any ~~changes are~~ change is made.

1101 B. The Director ~~will~~ shall go personally or dispatch one or more mine inspectors to the  
1102 scene of such a mineral mine accident, investigate causes, and issue ~~such~~ any orders ~~as may~~  
1103 ~~be~~ needed to ensure the safety of other persons.

1104 C. Representatives of the operator ~~will~~ shall render ~~such~~ any assistance ~~as may be~~  
1105 needed and act in a consulting capacity in the investigation. An employee<sub>2</sub> if so designated by  
1106 the employees of the mine<sub>2</sub> ~~will~~ shall be notified, and as many as three employees if so  
1107 designated as representatives of the employees may be present at the investigation in a  
1108 consulting capacity.

1109 D. The Department ~~will~~ shall render a complete report of circumstances and causes of  
1110 each accident investigated and make recommendations for the prevention of similar accidents.  
1111 The Department ~~will~~ shall furnish one copy of the report to the licensed operator, one copy to  
1112 any other operator whose employees were exposed to hazards as a result of the accident, and  
1113 one copy to the employee representative ~~when~~ if he has been present at the investigation. The  
1114 Director ~~will~~ shall maintain a complete file of all accident reports for mineral mines. Further  
1115 publicity may be ordered by the Director in an effort to prevent mine accidents.

1116 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1117 **227, which states that throughout the Code any word used in the singular includes the**  
1118 **plural and vice versa. Language is updated for modern usage.**

1119 § ~~45.1-161.292:52~~ 45.2-xxx. Reports of other accidents and injuries.

1120 A. Each miner employed at a mine shall promptly notify his supervisor of any injury  
1121 received during the course of his employment.

1122 B. Each operator shall keep on file a report of each accident including any accident  
1123 ~~which~~ that does not result in a lost-time injury. Copies of such report shall be given to the  
1124 injured person ~~injured~~ or ~~to~~ his designated representative to enable him to review the accident  
1125 report and verify its accuracy prior to the filing of such report for the review of state or federal  
1126 mine inspectors.

1127 **Drafting note: Technical changes.**

1128 § ~~45.1-161.292:53~~ 45.2-xxx. Duties of mine inspectors.

1129 Each mine inspector shall:

1130 1. Report to his supervisor immediately, and by the quickest available means, any  
1131 mine fire, mine explosion, ~~and any or~~ accident involving serious personal injury or death ~~to~~  
1132 ~~his supervisor~~;

1133 2. Proceed immediately to the scene of any accident at any mine under his jurisdiction  
1134 that results in loss of life or serious personal injury, and to the scene of any mine fire or  
1135 explosion regardless of whether there is loss of life or personal injury. He shall make ~~such~~ any  
1136 investigation and suggestions and render ~~such~~ any assistance ~~as~~ he deems necessary for the  
1137 future safety of the employees, and he shall make a complete report to his supervisor as soon  
1138 as practicable. He shall have the power to compel the attendance of witnesses, and ~~to~~  
1139 administer oaths or affirmations; and

1140 3. Take charge of mine rescue and recovery operations whenever a mine fire, mine  
1141 explosion, or other serious accident occurs, and ~~shall~~ supervise the reopening of ~~all mines~~ any  
1142 mine or ~~sections~~ section thereof that ~~have~~ has been sealed or abandoned on account of fire or  
1143 any other cause.

1144 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1145 **227, which states that throughout the Code any word used in the singular includes the**  
1146 **plural and vice versa. Language is updated for modern usage and clarity.**

1147 Article 7.

1148 Mine Inspections.

1149 **Drafting note: No change.**

1150 § ~~45.1-161.292:54~~ 45.2-xxx. Frequency of mine inspections.

1151 A. The Director shall conduct a complete inspection of ~~every~~ each underground  
1152 mineral mine ~~not less frequently than~~ at least every 180 days, and of ~~those~~ any surface mineral  
1153 ~~mines which are~~ mine that is not inspected by ~~the Mine Safety and Health Administration not~~  
1154 ~~less frequently than~~ MSHA at least once per year. ~~Additional inspections~~ An additional  
1155 inspection of such mineral ~~mines~~ mine shall be made when deemed appropriate by the  
1156 Director based on an evaluation of risks at ~~the mines,~~ such mine or if requested by miners  
1157 employed at a mine or the licensed operator of a mine.

1158 B. The Director shall not conduct ~~inspections~~ an inspection of a surface mineral ~~mines~~  
1159 ~~which are~~ mine that is inspected by ~~the Mine Safety and Health Administration~~ MSHA;  
1160 however, a mine ~~inspectors and~~ inspector or other ~~employees~~ employee of the Department  
1161 may enter such ~~mines~~ mine in order to (i) respond to ~~complaints~~ a complaint of ~~violations~~ a  
1162 violation of this chapter ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et seq.)  
1163 ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.), (ii) respond to and investigate any serious  
1164 personal injury or fatality, and (iii) with the consent of the licensed operator, conduct training  
1165 programs.

1166 C. The Director shall determine whether a particular surface mineral mine is inspected  
1167 by ~~the Mine Safety and Health Administration~~ MSHA. The Director shall make such  
1168 determination based on information provided by ~~the Mine Safety and Health Administration~~  
1169 MSHA and Department records. The Director shall request representatives of ~~the Mine Safety~~  
1170 ~~and Health Administration~~ MSHA to serve with Department personnel on a joint committee  
1171 of cooperation. The committee shall include the Director of the Division ~~of Mineral Mining~~  
1172 and such additional Division employees as the Director ~~shall designate~~ designates. The  
1173 committee shall meet ~~not less than~~ at least twice annually at the call of the Director for the  
1174 purpose of facilitating communication and resolving discrepancies regarding the inspection  
1175 responsibilities of ~~the~~ state and federal agencies with respect to surface mineral mines in the  
1176 Commonwealth.

1177 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1178 **227, which states that throughout the Code any word used in the singular includes the**  
1179 **plural and vice versa. Language is updated for modern usage and clarity and the name**  
1180 **of the Mine Safety and Health Administration is shortened to correspond to the**  
1181 **definition of that term as added to proposed § 45.2-xxx [§ 45.1-161.292:2].**

1182 § ~~45.1-161.292:55~~ 45.2-xxx. Evaluation of risks at mines.

1183 A. For the purpose of allocating the resources of the Department that are to be used for  
1184 conducting additional inspections, the Department shall develop a procedural policy ~~of~~ for  
1185 scheduling such inspections based on an assessment, to be made ~~not less frequently than~~ at

1186 least annually, of the comparative risks at each underground mineral mine and ~~those at any~~  
1187 surface mineral ~~mines which are~~ mine that is not inspected by ~~the Mine Safety and Health~~  
1188 ~~Administration~~ MSHA. ~~The Department's procedural~~ Such policy shall be prepared with the  
1189 assistance of working groups consisting of persons knowledgeable in mine safety issues. The  
1190 issuance of ~~the procedural~~ such policy shall be exempt from Article 2 (§ 2.2-4006 et seq.) of  
1191 the Administrative Process Act. Variables to be included in the risk assessment measures shall  
1192 include, ~~but not be limited to:~~ (i) fatality and serious accident rates at the mine; (ii) the rates of  
1193 issuance of closure orders and notices of violations of the mine safety laws of the  
1194 Commonwealth at the mine; and (iii) the frequency rates for nonserious accidents or nonfatal  
1195 days lost. Risk assessments shall be developed for both independent contractors and  
1196 individual mine sites.

1197 B. The Director shall schedule additional inspections at each underground mineral  
1198 ~~mines~~ mine, and at each surface mineral ~~mines which are~~ mine that is not inspected by ~~the~~  
1199 ~~Mine Safety and Health Administration~~ MSHA, based on the rating assigned to ~~a mine it~~  
1200 reflecting the assessment of its risks compared to other such mines in the Commonwealth.

1201 **Drafting note: Technical changes are made, including in subsection A, where**  
1202 **"but not be limited to" is removed following the term "include" on the basis of § 1-218,**  
1203 **which states that throughout the Code "'Includes' means includes, but not limited to."**  
1204 **Changes are made pursuant to § 1-227, which states that throughout the Code any word**  
1205 **used in the singular includes the plural and vice versa. The name of the Mine Safety and**  
1206 **Health Administration is shortened to correspond to the definition of that term as added**  
1207 **to proposed § 45.2-xxx [§ 45.1-161.292:2]. Language is updated for modern usage.**

1208 § ~~45.1-161.292:56~~ 45.2-xxx. Review of inspection reports and records.

1209 Prior to completing an inspection of an underground mineral mine, a mine inspector  
1210 shall review the most recent available report of inspection by the Mine Safety and Health  
1211 Administration. Prior to completing any inspection of a mine, a mine inspector shall  
1212 comprehensively review the records of pre-shift examinations, on-shift exams, daily  
1213 inspections, weekly examinations, and other records relating to safety and health conditions in

1214 the mine ~~which~~ that are required to be maintained pursuant to this chapter and Chapters ~~14.5~~  
1215 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  
1216 ~~thirty-day~~ 30-day period preceding the inspection. The mine inspector may, but shall not be  
1217 required to, review the records for such additional period as he may deem prudent.

1218 **Drafting note: Technical changes.**

1219 § ~~45.1-161.292:57~~ 45.2-xxx. Advance notice of inspections; confidentiality of trade  
1220 secrets.

1221 A. No person shall give advance notice of any mine inspection conducted under the  
1222 provisions of this title without authorization from the Director.

1223 B. All information that is reported to or otherwise obtained by the Director or his  
1224 authorized representative in connection with any inspection or proceeding under this title  
1225 ~~which and that~~ contains or might reveal a trade secret referred to in 18 U.S.C. § 1905 ~~of Title~~  
1226 ~~18 of the United States Code~~ shall be considered confidential for the purpose of that section,  
1227 except that such information may be disclosed to the Director or his authorized representative  
1228 concerned with carrying out any ~~provisions~~ provision of this title or any proceeding  
1229 hereunder. In any such proceeding, the court or the Director shall issue ~~such orders as may be~~  
1230 any order appropriate to protect the confidentiality of trade secrets.

1231 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
1232 **throughout the Code any word used in the singular includes the plural and vice versa.**  
1233 **Language is updated for modern usage. The form of a reference to the U.S. Code is**  
1234 **corrected.**

1235 § ~~45.1-161.292:58~~ 45.2-xxx. Scheduling of mine inspections.

1236 A. The Director shall schedule the inspections of mines under this article, to the extent  
1237 deemed reasonable and prudent, in order to reduce their chronological proximity to  
1238 inspections conducted by ~~the Mine Safety and Health Administration~~ MSHA. To this end, the  
1239 Director shall endeavor to coordinate the timing of inspections with ~~Mine Safety and Health~~  
1240 ~~Administration~~ MSHA personnel.

1241 B. The Director and mine inspectors, to the extent deemed reasonable and prudent,  
1242 shall schedule mine inspections to commence at a variety of hours of the day and days of the  
1243 week, including evening and night shifts, weekends, and holidays.

1244 **Drafting note: The name of the Mine Safety and Health Administration is**  
1245 **shortened to correspond to the definition of that term as added to proposed § 45.2-xxx [§**  
1246 **45.1-161.292:2].**

1247 § ~~45.1-161.292:59~~ 45.2-xxx. Denial of entry.

1248 No person shall deny the Director or any mine inspector entry upon or through a mine  
1249 for the purpose of conducting an inspection or into any office at the site where maps or  
1250 records relating to the mine are located, pursuant to this chapter ~~and Chapters 14.5 or Chapter~~  
1251 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.).

1252 **Drafting note: Technical changes are made.**

1253 § ~~45.1-161.292:60~~ 45.2-xxx. Duties of operator.

1254 A. ~~The~~ Each operator, ~~or his agent,~~ of ~~every a~~ mine, or his agent, shall furnish to the  
1255 Director and each mine ~~inspectors~~ inspector proper facilities for entering such mine and  
1256 making examinations or obtaining information and shall furnish any data or information not  
1257 of a confidential nature requested by such inspector.

1258 B. ~~The~~ Each operator of an underground mine, or his agent, shall provide ~~a~~ each mine  
1259 inspector adequate means for transportation to the active working areas of the mine within a  
1260 reasonable time following the mine inspector's arrival at the mine.

1261 C. ~~The~~ Such operator or ~~his~~ agent shall, when ordered to do so by a mine inspector  
1262 during the course of ~~his~~ an inspection, promptly clear the mine or section thereof of all  
1263 persons.

1264 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1265 **227, which states that throughout the Code any word used in the singular includes the**  
1266 **plural and vice versa. Language is updated for modern usage.**

1267 § ~~45.1-161.292:61~~ 45.2-xxx. Duties of inspectors.

1268 A. During a complete inspection of ~~a~~ any mine, other than an inactive mine, the mine  
1269 inspector shall inspect, where applicable, the surface plant; all active workings; all active  
1270 travel ways; entrances to abandoned areas; accessible worked-out areas; at least one entry of  
1271 each intake and return airway in its entirety; escapeways and other places where miners work  
1272 or travel or where hazardous conditions ~~may~~ might exist; electric installations and equipment;  
1273 haulage facilities; ~~first-aid~~ first aid equipment; ventilation facilities; communication  
1274 installations; roof and rib conditions; roof-support practices; blasting practices; haulage  
1275 practices and equipment; and any other condition, practice, or equipment pertaining to the  
1276 health and safety of the miners. The mine inspector shall make tests for the quantity of air  
1277 flows, and for gas and oxygen deficiency, in each place ~~which~~ that he is required to inspect in  
1278 an underground mine.

1279 B. In ~~mines operating a mine that operates~~ more than one shift in a ~~twenty-four hour~~  
1280 24-hour period, the mine inspector shall devote sufficient time on the second and third shifts  
1281 to determine conditions and practices relating to the health and safety of the miners. For an  
1282 inactive mine, the mine inspector shall inspect all areas of the mine where persons may work  
1283 or travel during the period the mine is an inactive mine.

1284 B.-C. The inspector shall make a personal examination of (i) the interior of ~~the~~ each  
1285 mine; inspected and ~~of~~ (ii) the outside of ~~the~~ such mine where any danger ~~may~~ to the miners  
1286 might exist ~~to the miners~~.

1287 **Drafting note: Technical changes are made, including a change pursuant to § 1-**  
1288 **227, which states that throughout the Code any word used in the singular includes the**  
1289 **plural and vice versa. Language is updated for modern usage and clarity.**

1290 § ~~45.1-161.292:62~~ 45.2-xxx. Certificates of inspection.

1291 A. Upon completing a mine inspection, ~~a~~ each mine inspector shall complete a  
1292 certificate ~~regarding such inspections of inspection.~~ The Such certificate of inspection shall  
1293 show the date of inspection, the condition in which the mine ~~is~~ was found, a statement  
1294 regarding any ~~violations~~ violation of this chapter ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-~~  
1295 ~~161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.) discovered during

1296 the inspection, the progress made in the improvement of the mine as such progress relates to  
1297 health and safety, the ~~number~~ numbers of accidents and injuries occurring in and about the  
1298 mine since the previous inspection, and all other facts and information of public interest  
1299 concerning the condition of the mine as ~~may be~~ are useful and proper.

1300 B. The mine inspector shall deliver one copy of ~~the~~ such certificate of inspection to the  
1301 licensed operator, agent, or mine foreman, and one copy to the employees' safety committee,  
1302 where applicable, and shall post copies at ~~a~~ one or more prominent ~~place or~~ places on the  
1303 premises where ~~it~~ they can be read conveniently by the miners.

1304 C. ~~With respect to underground mineral mines, the~~ The Department shall provide  
1305 access to certificates of inspection of underground mineral mines to ~~the Mine Safety and~~  
1306 ~~Health Administration~~ MSHA.

1307 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1308 **227, which states that throughout the Code any word used in the singular includes the**  
1309 **plural and vice versa. The name of the Mine Safety and Health Administration is**  
1310 **shortened to correspond to the definition of that term as added to proposed § 45.2-xxx [§**  
1311 **45.1-161.292:2] and language is updated for modern usage and clarity.**

1312 Article 8.

1313 Enforcement and Penalties; Reports of Violations.

1314 **Drafting note: No change.**

1315 § ~~45.1-161.292:63~~ 45.2-xxx. Notices of violations.

1316 A. If the Director or a mine inspector has reasonable cause to believe that a violation  
1317 of the Act has occurred, he shall with reasonable promptness issue a notice of violation to the  
1318 person ~~who is~~ responsible for the violation. Each notice of violation shall be in writing and  
1319 shall describe with particularity the nature of the violation ~~or violations~~, including a reference  
1320 to the ~~provisions~~ provision of ~~this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6~~  
1321 ~~(§ 45.1-161.304 et seq.) or the appropriate regulations~~ the Act violated, and shall include an  
1322 order of abatement and ~~fix~~ set a reasonable time for abatement of the violation.

1323 B. A copy of ~~the~~ such notice of violation shall be delivered to the licensed operator,  
1324 his agent, or mine foreman, and any independent contractor whose employees were exposed  
1325 to ~~hazards~~ a hazard related to the violation.

1326 C. Upon a finding by the mine inspector of the completion of the action required to  
1327 abate ~~the~~ such violation, the Director or the mine inspector shall issue a notice of correction, a  
1328 copy of which shall be delivered as provided in subsection B.

1329 D. The notice of violation shall be deemed ~~to be~~ the final order of the Department and  
1330 shall not be subject to review by any court or agency unless, within ~~twenty~~ 20 days following  
1331 its issuance, the person to whom the notice of violation ~~has been~~ was issued appeals its  
1332 issuance by notifying the Department in writing that he intends to contest its issuance. The  
1333 Department shall conduct informal conference or consultation proceedings, presided over by  
1334 the Director, pursuant to § 2.2-4019, unless the person and the Department agree to waive  
1335 such a conference or proceeding to go directly to a formal hearing. If such a conference or  
1336 proceeding ~~has been~~ is waived, or if it ~~has failed~~ fails to dispose of the case by consent, the  
1337 Department shall conduct a formal hearing pursuant to § 2.2-4020. The formal hearing shall  
1338 be presided over by a hearing officer pursuant to § 2.2-4024, who shall recommend findings  
1339 and an initial decision, which shall be subject to review and approval by the Director. Any  
1340 party aggrieved by and claiming unlawfulness of ~~the~~ such decision shall be entitled to judicial  
1341 review pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

1342 E. If it ~~shall be~~ is finally determined that a notice of violation was not issued in  
1343 accordance with the provisions of this section, ~~the~~ such notice of violation shall be vacated,  
1344 and the improperly issued notice of violation shall not be used to the detriment of the person  
1345 or the operator to whom it was issued.

1346 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1347 **227, which states that throughout the Code any word used in the singular includes the**  
1348 **plural and vice versa. The term "the Act" is substituted for references to the chapters**  
1349 **and regulations that comprise the Mineral Mine Safety Act in accordance with the**  
1350 **definition of that term. Language is updated for modern usage and clarity.**

1351 § ~~45.1-161.292:64~~ 45.2-xxx. Closure orders.

1352 A. The Director or a mine inspector shall issue a closure order requiring that any mine  
1353 or section thereof be cleared of all persons, or that equipment be removed from use, and  
1354 refusing further entry into the mine of ~~all persons~~ any person except ~~those~~ a person who is  
1355 necessary to correct or eliminate a hazardous condition, when (i) a violation of this chapter  
1356 ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-~~  
1357 ~~161.304~~ 45.2-xxx et seq.) has occurred, ~~which~~ and creates an imminent danger to the life or  
1358 health of ~~persons~~ any person in the mine; (ii) a mine fire, mine explosion, or other serious  
1359 accident has occurred at the mine, ~~as may be~~ making it necessary to preserve the scene of  
1360 such accident during the investigation of the accident; (iii) a mine is operating without a  
1361 license, as provided by § ~~45.1-161.292:30~~ 45.2-xxx; or (iv) an operator to whom a notice of  
1362 violation was issued has failed to abate the violation cited therein within the time period  
1363 provided in such notice for its abatement; however, a closure order shall not be issued for  
1364 failure to abate a violation during the pendency of an administrative appeal of the issuance of  
1365 the notice of violation as provided in subsection D of § ~~45.1-161.292:63~~ 45.2-xxx. In addition,  
1366 a technical specialist may issue a closure order upon discovering a violation creating an  
1367 imminent danger.

1368 B. One copy of the closure order shall be delivered to (i) the licensed operator of the  
1369 mine, ~~or~~ his agent, or the mine foreman and (ii) any independent contractor working in the  
1370 area of the mine affected by the closure order.

1371 C. Upon a finding by the mine inspector of the abatement of the violation creating the  
1372 hazardous condition pursuant to which a closure order ~~has been~~ was issued as provided in  
1373 clause (i) of subsection A, or the cessation of the need to preserve an accident scene as  
1374 provided in clause (ii) of subsection A, or the issuance of a license for the mine if the closure  
1375 order was issued as provided in clause (iii) of subsection A, or the abatement of the violation  
1376 for which the notice of violation was issued as provided in clause (iv) of subsection A, the  
1377 Director or mine inspector shall issue a notice of correction, copies of which shall be  
1378 delivered as provided in subsection B.

1379 D. The issuance of a closure order shall constitute a final order of the Department, and  
1380 the owner, licensed operator, and independent contractor shall not be entitled to  
1381 administrative review of such decision. The owner, licensed operator, or independent  
1382 contractor to whom ~~a~~ such closure order ~~has been~~ was issued may, within ~~ten~~ 10 days  
1383 following the issuance of the order, bring a civil action in the circuit court of the city or  
1384 county in which the mine, or the greater portion thereof, is located for review of the decision.  
1385 The commencement of such ~~a~~ proceeding shall not, unless specifically ordered by the court,  
1386 operate as a stay of the closure order. The court shall promptly hear and determine the matters  
1387 raised by the owner ~~or~~ operator, or independent contractor. In any such action the court shall  
1388 receive the records of the Department ~~with respect to~~ regarding the issuance of the order, and  
1389 shall receive additional evidence at the request of any party. In any proceeding under this  
1390 section, the Attorney General or the attorney for the Commonwealth for the jurisdiction where  
1391 the mine is located, upon the request of the Director, shall represent the Department. The  
1392 court shall vacate the closure order if the preponderance of the evidence establishes that the  
1393 order was not issued in accordance with the provisions of this section.

1394 E. If it ~~shall be~~ is finally determined that a closure order was not issued in accordance  
1395 with the provisions of this section, the closure order shall be vacated, and the improperly  
1396 issued closure order shall not be used to the detriment of the owner or operator to whom it  
1397 was issued.

1398 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1399 **227, which states that throughout the Code any word used in the singular includes the**  
1400 **plural and vice versa. Language is updated for modern usage and clarity.**

1401 § ~~45.1-161.292:65~~ 45.2-xxx. Tolling of time for abating violations.

1402 The period of time specified in a notice of violation for the abatement of the violation  
1403 shall not begin to run until (i) the final decision of the Department is issued, if an  
1404 administrative appeal of its issuance is pursued, or ~~until~~ (ii) the final order of the circuit court  
1405 is rendered, if an appeal of its issuance is taken to circuit court, provided that ~~the~~ such appeal

1406 [pursuant to clause \(i\) or \(ii\)](#) was undertaken in good faith and not solely for delay or  
1407 avoidance of penalties.

1408 **Drafting note: Clause designations are added and language is updated for clarity.**

1409 § ~~45.1-161.292:66~~ [45.2-xxx](#). Injunctive relief.

1410 A. Any person violating or failing, neglecting, or refusing to obey any closure order  
1411 may be compelled in a proceeding instituted by the Director in any appropriate circuit court to  
1412 obey ~~same~~ [such order](#) and to comply therewith by injunction or other appropriate relief.

1413 B. Any person failing to abate any violation of this chapter ~~and Chapters 14.5 or~~  
1414 [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.)  
1415 ~~which that~~ has been cited in a notice of violation within the time period provided in such  
1416 notice for its abatement may be compelled in a proceeding instituted by the Director in any  
1417 appropriate circuit court to abate such violation as provided in such notice, and to cease the  
1418 operation of the mine at which such violation exists until the violation has been abated, by  
1419 injunction or other appropriate remedy.

1420 C. The Director may file a bill of complaint with any appropriate circuit court asking  
1421 the court to temporarily or permanently enjoin a person from operating a mine ~~or mines~~ in the  
1422 Commonwealth or contracting for work at a mine in the Commonwealth, to be granted upon [a](#)  
1423 finding by a preponderance of the evidence that (i) a history of noncompliance by the person  
1424 demonstrates that he is not able or willing to operate in compliance with the provisions of this  
1425 chapter and Chapters ~~14.5~~ [14](#) (§ ~~45.1-161.293~~ [45.2-xxx](#) et seq.) and ~~14.6~~ [15](#) (§ ~~45.1-161.304~~  
1426 [45.2-xxx](#) et seq.) or (ii) a history of the issuance of closure orders to the person demonstrates  
1427 that he is not able or willing to operate in compliance with the provisions of this chapter and  
1428 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  
1429 seq.).

1430 **Drafting note: Technical changes are made and language is updated for modern**  
1431 **usage.**

1432 § ~~45.1-161.292:67~~ [45.2-xxx](#). Violations; penalties.

1433 Any person convicted of willfully violating any ~~provisions~~ provision of ~~this chapter~~  
1434 ~~and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§ 45.1-161.304 et seq.) or any regulation~~  
1435 ~~promulgated pursuant to this chapter and Chapters 14.5 (§ 45.1-161.293 et seq.) and 14.6 (§~~  
1436 ~~45.1-161.304 et seq.)~~ the Act, unless otherwise specified in this chapter ~~and Chapters 14.5 or~~  
1437 Chapter 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et  
1438 seq.), ~~shall be~~ is guilty of a Class 1 misdemeanor.

1439 **Drafting note: Technical changes are made, including a change pursuant to § 1-**  
1440 **227, which states that throughout the Code any word used in the singular includes the**  
1441 **plural and vice versa. The term "the Act" is substituted for references to the chapters**  
1442 **and regulations that comprise the Mineral Mine Safety Act in accordance with the**  
1443 **definition of that term. Language is updated for modern usage.**

1444 § ~~45.1-161.292:68~~ 45.2-xxx. Prosecution of violations.

1445 A. It ~~shall be~~ is the duty of every attorney for the Commonwealth to whom the  
1446 Director or his authorized representative ~~has reported~~ reports any violation of this chapter ~~and~~  
1447 ~~Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~  
1448 45.2-xxx et seq.), or on his own initiative, to cause proceedings to be prosecuted in such ~~cases~~  
1449 case.

1450 B. If the attorney for the Commonwealth declines to cause proceedings to be  
1451 prosecuted in such ~~cases~~ case, the Director may request the Attorney General to institute  
1452 proceedings for any violation of the Act on behalf of the Commonwealth; however, such  
1453 action shall not preclude the Director from pursuing other applicable statutory procedures.  
1454 Upon receiving such a request from the Director, the Attorney General shall have the  
1455 authority to institute actions and proceedings for violations described in the request.

1456 **Drafting note: Language is updated for modern usage. Technical changes are**  
1457 **made, including changes pursuant to § 1-227, which states that throughout the Code any**  
1458 **word used in the singular includes the plural and vice versa.**

1459 § ~~45.1-161.292:69~~ 45.2-xxx. Fees and costs.

1460 No fees or costs shall be charged to the Commonwealth by a court or any officer for or  
1461 in connection with the filing of any pleading or other papers in any action authorized by this  
1462 article.

1463 **Drafting note: Technical change.**

1464 § ~~45.1-161.292:70~~ 45.2-xxx. Reports of violations.

1465 A. Any person aware of a violation of this chapter ~~and Chapters 14.5 or Chapter 14~~ (§  
1466 ~~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  
1467 the violation to a mine inspector or to any other employee of the Department, in person, in  
1468 writing, or by telephone call, at the mine, at an office of the Department, or at the mine  
1469 inspector's residence.

1470 B. Each operator, or his agent, shall deliver a copy of this chapter and Chapters ~~14.5~~  
1471 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~~  
1472 each miner in his employ upon the commencement of the miner's work at a mine, unless the  
1473 miner is already in possession of a copy.

1474 C. The licensed operator of ~~every~~ each mine, or his agent, shall display on a sign  
1475 placed at the mine office, at the bath house, and on a bulletin board at a prominent place at the  
1476 mine site where it can be read conveniently by the miners, a notice containing the office and  
1477 home telephone numbers of mine inspectors and other Department personnel, and office  
1478 addresses, ~~which that~~ may be used to report any violation of this chapter ~~and Chapters 14.5 or~~  
1479 Chapter 14 (§ ~~45.1-161.293~~ 45.2-xxx et seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et  
1480 seq.).

1481 D. The Department shall keep a record, on a form prepared for such purpose, of every  
1482 alleged violation of this chapter ~~and Chapters 14.5 or Chapter 14~~ (§ ~~45.1-161.293~~ 45.2-xxx et  
1483 seq.) ~~and 14.6 or 15~~ (§ ~~45.1-161.304~~ 45.2-xxx et seq.) ~~which that~~ is reported and the results of  
1484 any investigation. The Department shall give a copy of the complaint form, with the identity  
1485 of the person making the report ~~being~~ omitted or deleted, to the licensed operator of the mine  
1486 or his agent and to any independent contractor who is alleged to have committed the violation.  
1487 The Department shall not disclose the identity of any person who reports an alleged violation

1488 to the owner or operator of the mine or his agent, or to any other person or entity. Information  
1489 regarding the identity of the person reporting ~~the a~~ violation ~~shall be~~ is excluded from ~~access~~  
1490 ~~under the~~ the mandatory disclosure provisions of the Virginia Freedom of Information Act (§  
1491 2.2-3700 et seq.).

1492 **Drafting note: Technical changes are made, including changes in the reference to**  
1493 **the Virginia Freedom of Information Act, and language is updated for modern usage.**

1494 Article 9.

1495 Miner Training.

1496 **Drafting note: No change.**

1497 § ~~45.1-161.292:71~~ 45.2-xxx. Training programs.

1498 A. The Department may administer training programs for the purpose of (i) assisting  
1499 with the provision of selected requirements of the federal mine safety law and (ii) preparing  
1500 miners for examinations administered by the Department. The Director shall establish the  
1501 curriculum and teaching materials for ~~the each~~ training ~~programs~~ program, which shall be  
1502 consistent with the requirements of the federal mine safety law where feasible.

1503 B. The Department is authorized to charge ~~persons~~ each person attending ~~the a~~  
1504 training ~~programs~~ program reasonable fees to cover the costs of administering such ~~programs~~  
1505 program. The Director may exempt certain persons from any required fees for refresher  
1506 training programs, based on the person's employment status or ~~such~~ any other criteria ~~as~~ the  
1507 Director deems appropriate. The Director shall not be required to allocate more of the  
1508 Department's resources to training programs than are appropriated or otherwise made  
1509 available for such purpose, or are collected from fees charged to attendees.

1510 C. No miner, operator, or other person shall be required to participate in any training  
1511 program established under this section. Nothing contained herein shall prevent an operator or  
1512 any other person from administering a state-approved training program.

1513 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
1514 **227, which states that throughout the Code any word used in the singular includes the**  
1515 **plural and vice versa. Language is updated for modern usage.**

1516 § ~~45.1-161.292:72~~ 45.2-xxx. Mineral mining safety training.

1517 The Director is authorized to implement a program of voluntary safety talks for  
1518 mineral miners. Safety training may include topical training and talks conducted by inspectors  
1519 or other Department personnel either on site or in a classroom provided for such purpose.

1520 **Drafting note: No change.**

1521 § ~~45.1-161.292:73~~ 45.2-xxx. Mineral mining safety training program.

1522 A. Each operator shall have a plan containing the following programs: training for  
1523 new miners, training for ~~newly employed~~ experienced miners who are newly employed,  
1524 training for miners for new tasks, annual refresher training, and hazard training. For the  
1525 purpose of this section, the definition of miner does not include a scientific ~~workers~~ worker;  
1526 delivery ~~workers~~ worker; ~~customers~~ customer, including a commercial over-the-road truck  
1527 ~~drivers~~ driver; ~~vendors~~ vendor; or ~~visitors~~ visitor.

1528 B. ~~The~~ Such plan shall be available to the Director for review upon request.

1529 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
1530 **throughout the Code any word used in the singular includes the plural and vice versa.**

1531 CHAPTER ~~16~~ 12.

1532 PERMITS FOR CERTAIN MINING OPERATIONS; RECLAMATION OF LAND.

1533 **Drafting note: Existing Chapter 16, concerning permits for certain mining**  
1534 **operations and reclamation of land, is retained as proposed Chapter 12.**

1535 Article 1.

1536 General Provisions.

1537 **Drafting note: Existing Article 1 of Chapter 16, concerning general provisions, is**  
1538 **retained as proposed Article 1.**

1539 § ~~45.1-180~~ 45.2-xxx. Definitions.

1540 ~~The following words and phrases when~~ As used in this chapter ~~shall have the~~  
1541 ~~meanings respectively ascribed to them in this section except where~~ unless the context ~~clearly~~  
1542 requires a different meaning:

1543 ~~(b) Disturbed land.~~ The areas "Disturbed land" means the area from which  
1544 overburden has been removed in any mining operation, plus the area covered by the spoil and  
1545 refuse, plus any ~~areas~~ area used in such mining operation, including land used for processing,  
1546 stockpiling, ~~and~~ or settling ponds.

1547 ~~(m) Division.~~ The "Division" means the Division of ~~Mined Land Reclamation~~  
1548 Mineral Mining.

1549 ~~(l) Mineral.~~ Ore, "Mineral" means ore, rock, and any other solid homogeneous  
1550 crystalline chemical element or compound that results from the inorganic processes of nature  
1551 other than coal.

1552 ~~(a) Mining.~~ Means "Mining" means the breaking or disturbing of the surface soil or  
1553 rock in order to facilitate or accomplish the extraction or removal of minerals; or any activity  
1554 constituting all or part of a process for the extraction or removal of minerals so as to make  
1555 them suitable for commercial, industrial, or construction use; ~~but shall.~~ "Mining" does not  
1556 include ~~those aspects~~ (i) any aspect of deep mining that does not ~~having~~ have a significant  
1557 effect on the surface, ~~and shall not include~~ or (ii) excavation or grading when conducted  
1558 solely in aid of ~~on-site~~ onsite farming or construction. Nothing ~~herein shall apply in this~~  
1559 chapter applies to the mining of coal. ~~This definition shall~~ "Mining" does not include, ~~nor~~  
1560 ~~shall~~ and this title, chapter, or section shall not be construed to apply to, the process of  
1561 searching, prospecting, exploring, or investigating for minerals by drilling.

1562 ~~(j) Mining operation.~~ Any "Mining operation" means any area included in an  
1563 approved plan of operation.

1564 ~~(e) Operator.~~ Any "Operator" means any individual, corporation or corporation  
1565 officer, firm, joint venture, partnership, business trust, association, or any other group or  
1566 combination acting as a unit, or any legal entity ~~which~~ that is engaged in mining.

1567 ~~(f) through (i) [Repealed.]~~

1568 "Orphaned lands" means lands disturbed by surface mining of minerals, other than  
1569 coal operations, that were not required by law to be reclaimed or that have not been  
1570 reclaimed.

1571 ~~(c) Overburden.—All "Overburden" means all~~ of the earth and other material ~~which~~  
1572 ~~that~~ lie above a natural deposit of minerals, ores, rock<sub>2</sub>, or other solid matter and also other  
1573 materials after removal from their natural deposit in the process of mining.

1574 ~~(k) Reclamation.—The "Reclamation" means the~~ restoration or conversion of  
1575 disturbed land to a stable condition ~~which that~~ minimizes or prevents adverse disruption and  
1576 the injurious effects ~~thereof~~ of such disruption and presents an opportunity for further  
1577 productive use if such use is reasonable.

1578 ~~(n) Refuse.—All "Refuse" means all~~ waste soil, rock, mineral tailings, slimes<sub>2</sub> and  
1579 other material directly connected with the mine, or with the cleaning and preparation of  
1580 substances mined<sub>2</sub> including all waste material deposited in the permit area from other  
1581 sources.

1582 ~~(d) Spoil.—Any "Spoil" means any~~ overburden or other material removed from its  
1583 natural state in the process of mining.

1584 **Drafting note: Terms are moved into alphabetical order and language is updated**  
1585 **for modern usage and clarity. The definition of "orphaned lands" is relocated from**  
1586 **existing § 45.1-197.3.**

1587 ~~§ 45.1-180.1. Repealed.~~

1588 **Drafting note: Repealed by Acts 1974, c. 96.**

1589 ~~§ 45.1-180.2. Legislative findings; declaration 45.2-xxx. Construction of policy~~  
1590 chapter.

1591 ~~A. The General Assembly finds that the mining of minerals within the Commonwealth~~  
1592 ~~is an activity that makes a contribution to the standard of living of the citizens of the~~  
1593 ~~Commonwealth; and that it is in the public interest to insure the availability and orderly~~  
1594 ~~development of mineral resources now and in the future. Uncontrolled mining of such~~  
1595 ~~minerals and unreclaimed land can adversely affect the environment through the destruction~~  
1596 ~~of vegetative cover, the disruption of drainage patterns, the increased siltation and~~  
1597 ~~sedimentation of streams as well as other forms of pollution, and the temporary and, in some~~  
1598 ~~circumstances, permanent destruction of scenic beauty and wildlife habitats. The General~~

1599 ~~Assembly further finds that it is often not practicable to extract minerals without disturbing~~  
1600 ~~the surface of the earth and producing waste materials, and that the very character of certain~~  
1601 ~~surface mining operations precludes complete restoration of the land to its original contour;~~  
1602 ~~but that it is essential to conduct mining in such a way as to minimize its effects on the~~  
1603 ~~environment.~~

1604 ~~B. The General Assembly recognizes that there are wide variations in the~~  
1605 ~~circumstances and conditions surrounding and arising out of the mining of minerals and that~~  
1606 ~~rehabilitation and conservation of land affected by mining of minerals will be assured only~~  
1607 ~~through proper planning, proper use of appropriate methods of mining, consideration of the~~  
1608 ~~impact of mining upon the environment as well as the land use of surrounding areas, and~~  
1609 ~~through the incorporation and use of control techniques and reclamation actions as an integral~~  
1610 ~~and simultaneous part of the mining of minerals.~~

1611 ~~C. The General Assembly declares that it is in the public interest and shall be the~~  
1612 ~~policy of the Commonwealth to require and encourage the proper control of mining of~~  
1613 ~~minerals so as to protect the public health, safety and welfare consistent with the protection of~~  
1614 ~~physical property and with maximum employment and the economic well being of the~~  
1615 ~~Commonwealth through good industry and sound conservation practices, and to require and~~  
1616 ~~encourage thorough operations and reclamation planning, consideration of the surrounding~~  
1617 ~~environment, and incorporation of control techniques and reclamation actions in mining~~  
1618 ~~operations insofar as economically and physically practicable to assure such proper control of~~  
1619 ~~mining. To these ends, the Director is mandated to enforce this chapter and to adopt whatever~~  
1620 ~~regulations are found necessary to accomplish the provisions of this chapter.~~

1621 ~~D. The General Assembly by this chapter intends to exercise the police power of this~~  
1622 ~~Commonwealth in a coordinated statewide program to aid in the protection of wildlife, in~~  
1623 ~~restoring these lands to productive purposes and to control present and future problems~~  
1624 ~~associated with mining resources and the reclamation of disturbed lands to the end that~~  
1625 ~~mining activities shall be regulated in a manner that will effectuate the purpose of this~~  
1626 ~~chapter.~~

1627 ~~E.~~ Nothing in this chapter is intended, nor shall anything in this chapter be construed,  
1628 to limit, impair, abridge, create, enlarge, or otherwise affect, substantively or procedurally, the  
1629 right ~~or rights~~ of any person who is a party to any dispute involving property rights, or the  
1630 right of any person to seek damages or other relief on account of injury to persons or property  
1631 due to mining activities regulated by this chapter ~~and~~ or to maintain any action or other  
1632 appropriate procedure therefor; ~~nor~~. Nothing in this chapter is intended, nor shall anything in  
1633 this chapter be construed, to affect the powers of the Commonwealth to initiate, prosecute,  
1634 and maintain actions to abate public nuisances.

1635 **Drafting note: Subsections A through D, containing a statement of legislative**  
1636 **findings and a declaration of policy, have been stricken in accordance with the Code**  
1637 **Commission's policy that purpose statements do not have general and permanent**  
1638 **application and thus are not to be included in the Code. Technical changes are made,**  
1639 **including changes pursuant to § 1-227, which states that throughout the Code any word**  
1640 **used in the singular includes the plural and vice versa. Language is updated for modern**  
1641 **usage and clarity.**

1642 § ~~45.1-180.3~~ 45.2-xxx. Authority of Director; enforcement of chapter by injunction.

1643 A. The ~~authority~~ Director is authorized to ~~promulgate rules and~~ adopt regulations to  
1644 effectuate the provisions and the policy of this chapter and ~~the authority~~ to adopt definitions  
1645 for use in interpreting this chapter ~~are hereby vested in the Director~~.

1646 B. The ~~authority~~ Director is authorized to administer and enforce the provisions of this  
1647 chapter ~~is hereby vested in the Director~~. In administering and enforcing the provisions of this  
1648 chapter pursuant to the findings and legislative policy adopted by the General Assembly, the  
1649 Director shall exercise the following powers in addition to any other powers conferred upon  
1650 him by law:

1651 1. ~~To supervise~~ Supervise the administration and enforcement of this chapter and all  
1652 ~~rules and~~ regulations and orders ~~promulgated~~ adopted thereunder;

1653 2. ~~To issue~~ Issue orders to enforce the provisions of this chapter, all ~~rules and~~  
1654 regulations ~~promulgated~~ adopted thereunder, and the terms and conditions of any permit;

1655 3. ~~To make~~ Make investigations and inspections to ~~insure~~ ensure compliance with any  
1656 provision of this chapter or any ~~rules, regulations, regulation~~ or ~~orders promulgated~~ order  
1657 adopted thereunder;

1658 4. ~~To encourage~~ Encourage and conduct investigations, research, experiments, and  
1659 demonstrations, and ~~to~~ collect and disseminate information relating to surface mining and  
1660 reclamation of lands and waters affected by surface mining; and

1661 5. ~~To receive~~ Receive any federal funds, state funds, or any other funds and ~~to~~ enter  
1662 into any contracts, for which funds are available, to carry out the purposes of this chapter.

1663 C. In addition to any administrative remedy granted herein, the Director may petition  
1664 any court of competent jurisdiction for an injunction against ~~any a~~ violation of ~~the provisions~~  
1665 any provision of this chapter, ~~and the rules, regulations and orders promulgated or any~~  
1666 regulation or order adopted hereunder or to compel the performance of ~~acts~~ any act required  
1667 ~~thereby by such provision, regulation, or order~~ without regard to any adequate remedy ~~which~~  
1668 that may exist at law, and such injunction ~~to~~ shall be issued without bond. However, with  
1669 regard to the suspension of mining operations, § ~~45.1-193.1~~ 45.2-xxx shall control.

1670 **Drafting note: Language is updated for modern usage. The term "promulgate**  
1671 **regulations" is changed to "adopt regulations" in keeping with recent title revisions**  
1672 **because "adopt" is more widely used and includes the promulgation process.**

1673 § ~~45.1-180.4~~ 45.2-xxx. Exemption for restricted mining.

1674 Any operator ~~engaging~~ engaged in mining ~~and disturbing~~ who disturbs less than one  
1675 acre of land and ~~removing~~ removes less than 500 tons of minerals at any particular site, is  
1676 exempt from all mining permit fees ~~and~~, renewal fees, and bond requirements of this chapter;  
1677 ~~provided, however, each~~ if such person intending to engage in such restricted mining ~~shall~~  
1678 submit submits an application for a permit, a sketch of the mining site, and an operations plan,  
1679 ~~which shall to~~ be adhered to in accordance with §§ ~~45.1-181~~ 45.2-xxx and ~~45.1-182.1~~ 45.2-  
1680 xxx. The Director shall approve the application if he determines that the issuance of the  
1681 permit ~~shall~~ will not violate ~~the provisions~~ any provision of this chapter.



1710 ~~administration of this chapter~~ Permit Fee Fund pursuant to § 45.2-xxx. A permit shall be  
1711 obtained prior to the start of any mining operation.

1712 B. A separate permit shall be secured for each mining operation conducted.  
1713 ~~Application~~ An application for a mining permit shall be made in writing on forms prescribed  
1714 by the Director and shall be signed and sworn to by the applicant or his duly authorized  
1715 representative. The application, in addition to ~~such~~ other information ~~as may be~~ reasonably  
1716 required by the Director, shall contain the following information: (i) the common name and  
1717 geologic title, where applicable, of the mineral to be extracted; (ii) a description of the land  
1718 upon which the applicant proposes to conduct mining operations, ~~which description shall set~~  
1719 setting forth: the name of the county or city in which such land is located; the location of its  
1720 boundaries, and any other description of the land to be disturbed ~~in order that~~ necessary to  
1721 allow it ~~may to~~ be located and distinguished from other lands and easily ascertainable as  
1722 shown by a map attached thereto showing the amount of land to be disturbed; (iii) the name  
1723 and address of the owner or owners of the surface of the land; (iv) the name and address of the  
1724 owner or owners of the mineral, ore, or other solid matter; (v) the source of the operator's  
1725 legal right to enter and conduct operations on the land to be covered by the permit; (vi) the  
1726 total number of acres of land to be covered by the permit; (vii) a reasonable estimate of the  
1727 number of acres of land that will be disturbed by mining operations on the area to be covered  
1728 by the permit during the ensuing year; (viii) whether any mining ~~permits~~ permit of any type  
1729 ~~are~~ is now held by the applicant, and the number ~~thereof~~ of such permits; (ix) the name and  
1730 address of the applicant, if an individual; the names and addresses of all partners, if a  
1731 partnership; the state of incorporation and the name and address of its registered agent, if a  
1732 corporation; or the name and address of the trustee, if a trust; and (x) if known, whether the  
1733 applicant, ~~or~~ any subsidiary or affiliate ~~or~~ of the applicant, any partnership, association, trust,  
1734 or corporation controlled by or under common control with the applicant, or any person  
1735 required to be identified by clause (ix); has ever had a mining permit of any type issued under  
1736 the laws of ~~this~~ the Commonwealth or any other state revoked or has ever had a mining or

1737 other bond, or security deposited in lieu of bond, forfeited. Clause (iv) shall not apply to the  
1738 shell, container chamber, passage, or open space set forth in § ~~45.1-161.311-10~~ 45.2-xxx.

1739 C. The application for a permit shall be accompanied by two copies of an accurate  
1740 map or aerial photograph or plan ~~and meeting that meets~~ that meets the following requirements:

1741 1. ~~Be Is~~ prepared by a licensed engineer or licensed land surveyor or issued by a  
1742 standard mapping service or in ~~such~~ a manner ~~as to be~~ acceptable to the Director;

1743 2. ~~Identify~~ Identifies the area ~~to correspond~~ corresponding with the land described in  
1744 the application;

1745 3. ~~Show~~ Shows adjacent deep mining, if any, and the boundaries of surface properties,  
1746 with the names of owners of the affected area ~~which~~ that lie within 100 feet of any part of the  
1747 affected area;

1748 4. ~~Be Is~~ drawn to a scale of 400 feet to the inch or better;

1749 5. ~~Show~~ Shows the names and ~~location~~ locations of all streams, creeks, or other bodies  
1750 of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area  
1751 affected and within 500 feet of such area;

1752 6. ~~Show~~ Shows by appropriate markings the boundaries of the area of land affected,  
1753 the outcrop of the seam at the surface or the deposit to be mined, and the total number of acres  
1754 involved in the area of land affected;

1755 7. ~~Show~~ Shows the date on which the map was prepared, the north arrow, and the  
1756 quadrangle name; and

1757 8. ~~Show~~ Shows the drainage plan on and away from the area of land affected,  
1758 including the directional flow of water, constructed drainways, natural waterways used for  
1759 drainage, and the streams or tributaries receiving the discharge.

1760 D. No permit shall be issued by the Department until the Director has approved the  
1761 plan of operation required in this section and § ~~45.1-182.1~~ 45.2-xxx and the bond from the  
1762 applicant as required in § ~~45.1-183~~ 45.2-xxx.

1763 E. If the operator believes that changes in his original plan are necessary or if  
1764 additional land not shown as a part of the approved plan of operation is to be disturbed, he

1765 shall submit an amended plan of operation ~~which~~ that shall be approved by the Director in the  
1766 same manner as an original plan and shall be subject to the provisions of this section and §§  
1767 ~~45.1-182.1~~ 45.2-xxx and ~~45.1-183~~ 45.2-xxx.

1768 F. If within 10 days of the anniversary date of the permit, the Director, after  
1769 inspection, is satisfied that the operation is proceeding according to the plan submitted to and  
1770 approved by him, then the Director shall renew the permit upon payment of a renewal fee by  
1771 the operator for land to be affected by the total operation in the next ensuing year according to  
1772 the following schedule:

1773 Anniversary Date: Renewal Fee:

1774 Beginning July 1, 2019 \$18 per disturbed acre

1775 Beginning July 1, 2020 \$20 per disturbed acre

1776 Beginning July 1, 2021 \$22 per disturbed acre

1777 Beginning July 1, 2022 \$24 per disturbed acre

1778 The renewal fees shall be deposited in the ~~state treasury in the special fund set out~~  
1779 ~~above~~ Permit Fee Fund pursuant to § 45.2-xxx.

1780 G. Upon receipt of a written request by any landowner on whose property a sand and  
1781 gravel operation is permitted pursuant to this section, the operator of the sand and gravel  
1782 operation shall provide a copy of the map, photograph, or plan to the landowner.

1783 **Drafting note: This section is divided into paragraphs that are reordered**  
1784 **logically and given subsection designations. A reference to the Permit Fee Fund is**  
1785 **added. Technical changes are made, including changes pursuant to § 1-227, which states**  
1786 **that throughout the Code any word used in the singular includes the plural and vice**  
1787 **versa. Language is updated for modern usage.**

1788 ~~§ 45.1-182. Repealed.~~

1789 **Drafting note: Repealed by Acts 1977, c. 312.**

1790 ~~§ 45.1-182.1~~ 45.2-xxx. Operations plan; reclamation; policy of Director.

1791 A. ~~The~~ Each application for a permit shall be accompanied by an operations plan ~~in~~  
1792 ~~such~~ that follows the form and ~~with such~~ contains the accompanying material ~~as~~ that the

1793 Director ~~shall require~~ requires. The operations plan shall describe the specifications for  
1794 surface grading and restoration, including sketches delineating placement of spoil, stockpiles,  
1795 and tailing ponds, to a surface that is suitable for the proposed subsequent use of the land after  
1796 reclamation is completed.

1797 B. The operations plan shall include a provision for reclamation of all land estimated  
1798 to be affected by the mining operation for which the permit is sought. The reclamation  
1799 provision shall ~~be in such~~ follow the form and ~~contain such~~ contain the accompanying  
1800 material ~~as that~~ the Director ~~shall require~~ requires and shall state:

1801 1. The planned use to which the affected land is to be returned through reclamation;  
1802 2. ~~Proposed~~ The proposed actions to assure suitable reclamation of the affected land  
1803 for the planned use to be carried out by the applicant as an integral part of the proposed  
1804 mining operation and to be conducted simultaneously insofar as practicable. The Director  
1805 shall set schedules for the integration of reclamation with the mining operation according to  
1806 the various individual mineral types.

1807 C. It shall be the policy of the Director to encourage adoption of productive land use,  
1808 such as use for pasture, agricultural ~~use~~ purposes, recreational areas, sanitary landfills,  
1809 forestry and timberland operations, and industrial and building sites, and to consider the  
1810 general original contour in determining the particular reclamation program for the acreage.  
1811 The Director may require an amendment to the operations plan to meet the exigencies of any  
1812 unanticipated circumstance or event.

1813 **Drafting note: Language is updated for modern usage.**

1814 § 45.2-xxx. Special Reclamation Fund.

1815 There is hereby created in the state treasury a special nonreverting fund to be known  
1816 as the Special Reclamation Fund, referred to in this section as "the Fund." The Fund shall be  
1817 established on the books of the Comptroller. All forfeited bonds collected pursuant to this  
1818 chapter shall be paid into the state treasury and credited to the Fund. Interest earned on  
1819 moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in  
1820 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the

1821 general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the  
1822 purpose of performing reclamation pursuant to the provisions of this chapter. Expenditures  
1823 and disbursements from the Fund shall be made by the State Treasurer on warrants issued by  
1824 the Comptroller upon written request signed by the Director.

1825 **Drafting note: This Special Reclamation Fund section is added to accommodate**  
1826 **the fund referenced in existing § 45.1-186.2 and to reflect current language requested by**  
1827 **the Department of the Treasury for nonreverting funds in the Code.**

1828 § ~~45.1-183~~ 45.2-xxx. Bond of operator.

1829 Each operator at the time of filing his application shall furnish bond on a form ~~to be~~  
1830 that is prescribed by the Director. Such bond shall be payable to the Department and  
1831 conditioned ~~that~~ on the faithful performance by the operator ~~shall faithfully perform all~~ of ~~the~~  
1832 all requirements of this chapter and ~~of~~ the operations plan as approved and directed by the  
1833 Department. The amount of bond shall be \$3,000 per acre, based upon the number of acres of  
1834 land ~~which~~ that the operator estimates will be affected by mining operations during the next  
1835 ensuing year. Such bond shall be executed by the operator and by a corporate surety licensed  
1836 to do business in ~~this~~ the Commonwealth; ~~provided, however, that~~. However, in lieu of such  
1837 bond the operator may deposit cash or collateral security acceptable to the Director.

1838 **Drafting note: Language is updated for modern usage.**

1839 § ~~45.1-184~~ 45.2-xxx. Review of operations plan and reclamation provision by  
1840 Director; issuance of permit.

1841 A. Upon receipt of ~~a reasonable~~ an operations plan acceptable to the Director and bond  
1842 ~~prescribed above~~ as required by this article, the Director shall review the plan ~~and if it meets~~  
1843 ~~with his approval~~. If the Director approves the plan, he shall issue a permit. If the Director  
1844 disapproves the plan, he shall furnish the applicant with his written objections thereto and his  
1845 required amendments. Until the applicant ~~shall amend~~ amends his operations plan to meet the  
1846 Director's reasonable objections and ~~file~~ files a satisfactory amended plan with the Director,  
1847 no permit shall be issued.

1848 B. In reviewing ~~such~~ the operations plan, if the Director finds that the operation will  
1849 constitute a hazard to the public safety or welfare, or that a reasonable degree of reclamation  
1850 or proper drainage control is not feasible, he may disapprove the permit application. ~~Provided,~~  
1851 ~~however, that~~ However, the Director may approve the permit after deleting the areas from the  
1852 permit application ~~held that he holds in his findings~~ to be objectionable ~~in the Director's~~  
1853 ~~findings~~.

1854 C. The Director shall issue the permit unless he finds that the applicant has had control  
1855 or has had common control with a person, partnership, association, trust, or corporation ~~which~~  
1856 that has had a mining permit revoked or bond or other security forfeited for failure to reclaim  
1857 lands as required by ~~the laws of this State~~ law, in which event no permit shall be issued.  
1858 ~~Except, however~~ However, if an operator who ~~has heretofore~~ forfeited a bond pays, within  
1859 ~~thirty~~ 30 days of notice and demand by the Director ~~pays~~, the cost of reclamation in excess of  
1860 the amount of the forfeited bond, or if any bond is forfeited and the amount forfeited is equal  
1861 to or greater than the cost of reclamation, such operator shall then become eligible for another  
1862 permit.

1863 **Drafting note: Technical changes are made and language is updated for modern**  
1864 **usage and clarity.**

1865 § ~~45.1-184.1~~ 45.2-xxx. Application for permit; adjoining landowners; local official.

1866 A. ~~The~~ Each application for a permit shall be accompanied by a statement showing the  
1867 names and addresses of the owners of each property within ~~one thousand~~ 1,000 feet of the  
1868 property line of any land proposed to be permitted ~~and, as well as~~ certification that such  
1869 landowners have been notified by certified mail of the application for a permit unless notified  
1870 previously. Such residents may file written objections with the Director, and may request a  
1871 hearing.

1872 B. ~~The~~ Each application for ~~the~~ a permit shall also be accompanied by a statement  
1873 certifying that the chief administrative official of the local political subdivision has been  
1874 notified of the proposed operation by certified mail.

1875           C. This section shall apply to an initial ~~applications~~ application for ~~permits~~ a permit  
1876 only, and no new notice shall be required for a renewal ~~applications~~ application or for ~~permits~~  
1877 a permit for acreage in addition to that originally permitted.

1878           **Drafting note: Technical changes are made and language is updated for modern**  
1879 **usage and clarity. The final sentence in existing subsection A is moved to the end of this**  
1880 **section and designated as subsection C.**

1881           § ~~45.1-184.2~~ 45.2-xxx. Succession of one operator by another at uncompleted project.

1882           ~~Where~~ If one operator succeeds another at any uncompleted operation, whether by  
1883 sale, assignment, lease, merger, or otherwise, the Director may release the first operator from  
1884 all liability under this chapter as to that particular operation and transfer the permit to the  
1885 successor operator, ~~provided, however, that~~ However, the successor operator ~~has~~ shall have  
1886 complied with the requirements of this chapter, and ~~the successor operator assumes~~ shall  
1887 assume as part of his obligation under this chapter, all liability for the reclamation of the area  
1888 of land affected by the first operator. No fee, or any portion thereof, paid by the first operator  
1889 shall be returned to either operator. The permit fee for the successor operator for the area of  
1890 land permitted by the first operator shall be calculated according to the following schedule,  
1891 except as provided by § ~~45.1-180.4~~ 45.2-xxx:

1892           Date of Succession: Permit Fee:

1893           Beginning July 1, 2019 \$18 per disturbed acre

1894           Beginning July 1, 2020 \$20 per disturbed acre

1895           Beginning July 1, 2021 \$22 per disturbed acre

1896           Beginning July 1, 2022 \$24 per disturbed acre

1897           The mining permit for the successor operator shall be valid for one year from the date  
1898 of issuance and shall be renewed thereafter in accordance with the provisions of this chapter.

1899           **Drafting note: Language is updated for modern usage and clarity.**

1900           § ~~45.1-185~~ 45.2-xxx. Additional bond to be posted annually; release of previous bond;  
1901 report of reclamation work.

1902           A. Within 10 days following the anniversary date of any permit, the operator shall post  
1903 additional bond in the amount of \$3,000 per acre for each acre of land estimated by him to be  
1904 disturbed during the next year following the anniversary date of the permit. Bond or other  
1905 security previously posted shall be released for ~~the areas~~ each area disturbed in the last 12  
1906 months if reclamation work has been completed or transferred to additional acres to be  
1907 disturbed.

1908           ~~The~~ B. To obtain the approval of the Director to release the bond ~~shall be obtained in~~  
1909 ~~accordance with the following: The,~~ the operator shall file with the Department a written  
1910 report on a form ~~to be~~ prescribed by the Department stating under oath that reclamation has  
1911 been completed on certain lands and shall submit ~~the following:~~ (i) ~~Identification~~ the identity  
1912 of the operation; (ii) the county or city in which ~~it~~ the operation is located and its location  
1913 with reference to the nearest public highway; (iii) a description of the area of land affected by  
1914 the operation within the period of time covered by such report with sufficient certainty to  
1915 enable ~~it~~ the operation to be located and distinguished from other lands; and (iv) an accurate  
1916 map or plan prepared by a licensed land surveyor or licensed engineer or issued by a standard  
1917 mapping service or in ~~such a~~ manner ~~as to be~~ acceptable to the Director showing the boundary  
1918 lines of the area of land affected by the operation, the number of acres comprising such area,  
1919 and the methods of access to the area from the nearest public highway.

1920           **Drafting note: The final sentence of the existing first paragraph is set off as the**  
1921 **beginning of a new paragraph and subsection designations are added. Language is**  
1922 **updated for modern usage.**

1923           ~~§ 45.1-186. Repealed.~~

1924           **Drafting note: Repealed by Acts 1977, c. 312.**

1925           ~~§ 45.1-186.1~~ 45.2-xxx. Notice of noncompliance served on operator.

1926           A. The Director may cause a notice of noncompliance to be served on ~~the~~ an operator  
1927 whenever the operator fails to obey any order by the Director to:

1928           1. Apply ~~the~~ a control ~~techniques and~~ technique or institute ~~the actions~~ an action  
1929 approved in his operations ~~and~~ or reclamation plan;

1930 2. Comply with any required ~~amendments~~ amendment to the operations or reclamation  
1931 plan; or

1932 3. Comply with any other requirement of this chapter or any ~~rules or regulations~~  
1933 ~~promulgated pursuant thereto which affect~~ regulation adopted pursuant to this chapter that  
1934 affects the health, safety, and welfare of the Commonwealth.

1935 B. A copy of the notice shall be delivered to the operator or served by certified mail  
1936 addressed to the operator at the permanent address shown on the application for a permit. The  
1937 notice shall specify in writing ~~in what respects~~ how the operator has failed to obey the order  
1938 of the Director and shall require the operator to comply with the order within a reasonable  
1939 period of time as fixed by the Director, following service of the notice.

1940 C. If the operator has not complied with the requirements set forth in the notice of  
1941 noncompliance within the time limits fixed therein, the Director shall revoke the permit and  
1942 declare the forfeiture of the entire bond, ~~which, when~~ When the bond is collected, it shall be  
1943 deposited in the ~~state treasury in a special reclamation fund to be used by the Director in~~  
1944 ~~performing reclamation under the provisions of this chapter~~ Special Reclamation Fund created  
1945 pursuant to § 45.2-xxx. After completion of the reclamation and payment of all fees as  
1946 required by this chapter, any additional funds from the forfeiture: ~~(i)~~ of the bond shall be  
1947 returned to the corporate surety; ~~or (ii)~~ and any additional funds from the forfeiture of the  
1948 collateral security, certified check, or cash that ~~has been~~ was deposited in lieu of bond, shall  
1949 be returned to the person who provided it originally or to the operator. Within 30 days of the  
1950 issuance of any permit revocation or bond forfeiture made under this section, the operator  
1951 may request a review pursuant to the provisions of Article 3 (§ 2.2-4018 et seq.) of the  
1952 Administrative Process Act.

1953 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
1954 **throughout the Code any word used in the singular includes the plural and vice versa.**  
1955 **The term "promulgate regulations" is changed to "adopt regulations" in keeping with**  
1956 **recent title revisions because "adopt" is more widely used and includes the**  
1957 **promulgation process. Language is updated for modern usage. A cross reference to the**

1958 **Special Reclamation Fund created pursuant to § 45.2-xxx [following existing § 45.1-**  
1959 **182.1] is added.**

1960 § ~~45.1-186.2~~ 45.2-xxx. Collection of debts.

1961 The amount by which the cost of reclamation exceeds the amount of the operator's  
1962 forfeited bond shall constitute a debt of the operator to the Commonwealth ~~of Virginia~~. The  
1963 Director is authorized to collect such debts, together with the cost of collection, through  
1964 appropriate legal action or by declaring the forfeiture of other payments. Moneys collected  
1965 through legal action, less the cost of collections, shall be deposited in the ~~special reclamation~~  
1966 ~~fund~~ Special Reclamation Fund created under § ~~45.1-186.1~~ 45.2-xxx.

1967 **Drafting note: The name of the reclamation fund is updated and technical**  
1968 **changes are made.**

1969 § ~~45.1-186.3~~ 45.2-xxx. Commonwealth to have lien for reclamation work.

1970 The Commonwealth shall have a lien, if perfected as provided in subsection A of §  
1971 ~~45.1-186.4~~ 45.2-xxx, on land owned by the operator and reclaimed by the Director pursuant to  
1972 this chapter for the amount of the increase in the appraised market value of the land resulting  
1973 from the reclamation, except that no lien shall attach to or be filed against the property of any  
1974 person if the Director waives the lien as provided in subsection B of § ~~45.1-186.4~~ 45.2-xxx.

1975 **Drafting note: Technical changes.**

1976 § ~~45.1-186.4~~ 45.2-xxx. Perfection of lien; waiver of lien.

1977 A. Except as provided in subsection B, the Director shall perfect the lien given under  
1978 the provisions of § ~~45.1-186.3~~ 45.2-xxx by filing, within six months after completion of the  
1979 reclamation, in the clerk's office of the court of the county or city in which the land or any  
1980 part thereof is located, a statement consisting of the names of all owners of record of the  
1981 property sought to be charged; an itemized account of moneys expended for the reclamation  
1982 work; notarized copies of appraisals, made by an independent appraiser, of the fair market  
1983 value of the land both before and upon completion of the reclamation work; and a brief  
1984 description of the property to which the lien attaches.

1985 B. The Director shall waive a lien if he determines that (i) the direct and indirect costs  
1986 of filing such lien exceed the increase in fair market value resulting from reclamation or (ii) if  
1987 reclamation is necessitated by an unforeseen occurrence, the reclamation will not result in a  
1988 significant increase in the fair market value of the land.

1989 **Drafting note: Technical change.**

1990 § ~~45.1-186.5~~ [45.2-xxx](#). Recordation and indexing of lien; notice.

1991 It ~~shall be~~ is the duty of the clerk in whose office the statement described in § ~~45.1-~~  
1992 ~~186.4~~ [45.2-xxx](#) is filed to record the statement in the deed books of such office, and index the  
1993 statement in the general index of deeds, in the name of the Commonwealth as well as the  
1994 owner of the property, showing the type of such lien. From the time of such recording and  
1995 indexing, all persons shall be deemed to have notice thereof.

1996 **Drafting note: Technical changes.**

1997 § ~~45.1-186.6~~ [45.2-xxx](#). Priority of lien.

1998 ~~Liens-~~ Any lien acquired under this article shall have priority as a lien second only to  
1999 the lien of real estate taxes imposed upon the land.

2000 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
2001 **throughout the Code any word used in the singular includes the plural and vice versa.**

2002 § ~~45.1-186.7~~ [45.2-xxx](#). Hearing to determine amount of lien.

2003 Any party having an interest in the real property against which a lien has been filed  
2004 may, within 60 days of such filing, petition the court of equity having jurisdiction wherein the  
2005 property or some portion thereof is located to hold a hearing to determine the increase in the  
2006 fair market value of the land as a result of reclamation. After reasonable notice to the  
2007 Director, the court shall hold a hearing to determine the amount of such increase. If the court  
2008 determines such increase to be erroneously excessive, it shall determine the proper amount  
2009 and order that the lien and the record be amended to show ~~this~~ such amount.

2010 **Drafting note: Technical changes.**

2011 § ~~45.1-186.8~~ [45.2-xxx](#). Satisfaction of lien.

2012 ~~Liens~~ Any lien acquired under this article shall be satisfied to the extent of the value of  
2013 the consideration received at the time of transfer of ownership. Any unsatisfied portion shall  
2014 remain as a lien on the property and ~~shall~~ may be satisfied in accordance with this section. If  
2015 an owner fails to satisfy a lien as provided herein, the Director may proceed to enforce the  
2016 lien by a bill filed in a court of equity having jurisdiction wherein the property or some  
2017 portion thereof is located.

2018 **Drafting note: Technical changes are made, including changes pursuant to § 1-**  
2019 **227, which states that throughout the Code any word used in the singular includes the**  
2020 **plural and vice versa.**

2021 § ~~45.1-187~~ 45.2-xxx. Additional bond to cover amended estimate of land to be  
2022 disturbed.

2023 If, during any operation, it is found that the operator's estimate of the amount of  
2024 disturbed land for which bond or other security has been posted for reclamation is less than  
2025 the actual area disturbed, the Director shall order the operator to file additional bond or  
2026 security sufficient to cover an amended estimate of land to be disturbed by such operation.

2027 **Drafting note: No change.**

2028 § ~~45.1-188~~ 45.2-xxx. Interference with reclamation unlawful; other mining operations  
2029 on land.

2030 It ~~shall be~~ is unlawful for any owner ~~or owners~~ of surface rights or ~~the owner or~~  
2031 ~~owners of~~ mineral rights to interfere with the operator in the discharge of his obligations to  
2032 the Commonwealth for the reclamation of lands disturbed by him. If ~~the~~ an owner ~~or owners~~  
2033 of surface rights or ~~the owner or owners of~~ mineral rights ~~desire~~ desires to conduct other  
2034 mining operations on lands disturbed by the operator furnishing bond ~~hereunder~~ pursuant to  
2035 this chapter, such owner or other person shall be in all respects subject to the provisions of  
2036 this chapter and the Director shall then release an equivalent amount of bonds to the operator  
2037 originally furnishing bond on the disturbed area.

2038 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
2039 **throughout the Code any word used in the singular includes the plural and vice versa.**  
2040 **Language is updated for modern usage.**

2041 ~~§ 45.1-189. Repealed.~~

2042 **Drafting note: Repealed by Acts 1977, c. 312.**

2043 ~~§ 45.1-190. Repealed.~~

2044 **Drafting note: Repealed by Acts 1974, c. 312.**

2045 § ~~45.1-191~~ 45.2-xxx. Penalty for violation of chapter, etc.

2046 Any violation of any provision of this chapter or of any order of the Director ~~shall be~~  
2047 is a misdemeanor punishable by a maximum fine of \$1,000 or a maximum of ~~1~~ one year in  
2048 jail, or both.

2049 **Drafting note: Technical changes.**

2050 § ~~45.1-192~~ 45.2-xxx. Assistance of federal, state, and local agencies.

2051 In approving plans of operation and in issuing rules and regulations for reclamation,  
2052 the Director may avail himself and ~~his~~ the Department of the advice, assistance, and facilities  
2053 of local soil and water conservation district supervisors or any other federal, state, or local  
2054 agency.

2055 **Drafting note: Technical changes are made and language is updated for modern**  
2056 **usage.**

2057 ~~§ 45.1-193. Repealed.~~

2058 **Drafting note: Repealed by Acts 1977, c. 312.**

2059 § ~~45.1-193.1~~ 45.2-xxx. Injunction prohibiting mining operation.

2060 Whenever adverse ecological disruptions or the injurious effects thereof seriously  
2061 threaten or endanger the health, safety, welfare ~~and, or~~ or property rights of citizens of Virginia,  
2062 and abatement ~~is not feasible~~ by the application of control techniques is not feasible, the  
2063 Director shall petition the appropriate circuit court for an injunction to prohibit further  
2064 operations. Such injunction shall not relieve the operator ~~from his~~ of the duty to reclaim lands  
2065 previously affected according to the terms and conditions of ~~this~~ the applicable permit.

2066 **Drafting note: Technical changes are made and language is updated for modern**  
2067 **usage.**

2068 § ~~45.1-194~~ 45.2-xxx. Appeals from decisions of the Department.

2069 An appeal from any order of the Department shall be conducted in accordance with  
2070 Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act. The appeal shall be taken  
2071 within 30 days following the issuance of the order by forwarding to the Director by certified  
2072 mail a notice of appeal designating the order from which the appeal is taken.

2073 **Drafting note: No change.**

2074 ~~§ 45.1-195. Repealed.~~

2075 **Drafting note: Repealed by Acts 2012, cc. 803 and 835, cl. 47.**

2076 § ~~45.1-197~~ 45.2-xxx. Local standards and regulations; waiver of application of  
2077 chapter; review for strict compliance with chapter.

2078 ~~Counties, cities and towns~~ A. Any locality may establish standards and adopt  
2079 regulations dealing with the same ~~subject, provided, however,~~ subjects dealt with in this  
2080 chapter so long as such standards and regulations ~~shall not be below~~ are no less stringent than  
2081 those adopted by the Director.

2082 B. This chapter shall not be construed to repeal any local ordinance or regulation or  
2083 charter provision ~~now in effect~~ in any ~~county, city or town~~ locality where the provisions are  
2084 ~~not~~ no less stringent than the standards adopted by the Director. The Director may waive the  
2085 application of this chapter if, in his opinion, a ~~county, city or town~~ locality in which mining  
2086 operations are being conducted has enacted and is enforcing zoning ordinances dealing with  
2087 the subject matter, and prescribing standards and regulations not ~~below~~ less stringent than  
2088 those set forth in this chapter. If the Director waives ~~the provisions hereof~~ any provision of  
2089 this chapter, the operator shall comply strictly with all the provisions of the ordinances of  
2090 ~~such counties, cities and towns~~ the locality in which ~~his operations are~~ the operation is  
2091 located.

2092 C. The Director may also waive the application of this chapter as to any mining or  
2093 borrow pit operation ~~which that~~ is conducted solely and exclusively for a state project and

2094 ~~which that~~ is subject by contract to the control and supervision of a state agency, ~~provided so~~  
2095 ~~long as~~ regulations satisfactory to the Director have been ~~promulgated~~ adopted and are  
2096 incorporated ~~in~~ into any contract for such removal.

2097 ~~The county, city, town~~ D. A locality or state agency shall assure strict compliance with  
2098 all ~~the~~ provisions of ~~the~~ such ordinances, regulations, or contracts and the Director shall from  
2099 time to time review ~~the~~ such ordinances, regulations, or contracts and ~~the~~ their enforcement  
2100 programs to assure compliance with this chapter. If the Director determines that ~~there is not~~  
2101 such strict compliance ~~with this chapter is not present~~, then he may rescind his waiver of the  
2102 application of this chapter.

2103 **Drafting note: The first sentence is expanded for clarity. Technical changes are**  
2104 **made, including the addition of subsection designations and changes pursuant to § 1-**  
2105 **227, which states that throughout the Code any word used in the singular includes the**  
2106 **plural and vice versa. The term "promulgate regulations" is changed to "adopt**  
2107 **regulations" in keeping with recent title revisions because "adopt" is more widely used**  
2108 **and includes the promulgation process. Language is updated for modern usage.**

2109 ~~§ 45.1-197.1. Repealed.~~

2110 **Drafting note: Repealed by Acts 1974, c. 96.**

2111 ~~§ 45.1-197.2. Repealed.~~

2112 **Drafting note: Repealed by Acts 1984, c. 590.**

2113 Article 3.

2114 Orphaned Lands.

2115 **Drafting note: Existing Article 3 of Chapter 16, concerning orphaned lands, is**  
2116 **retained as proposed Article 3.**

2117 ~~§ 45.1-197.3. Definition.~~

2118 ~~For the purpose of this article, the term "orphaned lands" shall mean lands disturbed~~  
2119 ~~by surface mining of minerals other than coal operations which were not required by law to be~~  
2120 ~~reclaimed or which have not been reclaimed.~~

2121 **Drafting note: The definition of the term "orphaned lands" is relocated to the**  
2122 **chapter-wide definitions section.**

2123 § ~~45.1-197.18~~ 45.2-xxx. Orphaned Lands Reclamation ~~funding~~ Fund.

2124 There is hereby created in the state treasury a special nonreverting fund to be known  
2125 as the Orphaned Lands Reclamation Fund, referred to in this section as "the Fund." The Fund  
2126 shall be established on the books of the Comptroller. An amount equal to the average interest  
2127 rate earned for all funds in the state treasury as applied to the Minerals Reclamation Fund  
2128 created pursuant to § 45.2-xxx [existing § 45.1-197.8] shall be paid annually ~~to~~ into the  
2129 ~~Department to~~ state treasury and credited to the Fund. Moneys in the Fund shall be used ~~only~~  
2130 solely for the purpose of the reclamation of orphaned lands pursuant to ~~Article 3 (§ 45.1-197.3~~  
2131 ~~et seq.) and is hereby allocated for such purposes. Funds paid to the Department pursuant to~~  
2132 ~~this section~~ this article. Interest earned on moneys in the Fund shall remain in the Fund and be  
2133 credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of  
2134 each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures  
2135 and disbursements from the Fund shall be made by the State Treasurer on warrants issued by  
2136 the Comptroller upon written request signed by the Director.

2137 **Drafting note: The text of existing § 45.1-197.18, which deals with the funding of**  
2138 **the orphaned lands reclamation program, is relocated from the end of existing Article 4.**  
2139 **The nonreverting fund language for reclamation funding is updated to reflect current**  
2140 **language requested by the Department of the Treasury for nonreverting funds in the**  
2141 **Code.**

2142 § ~~45.1-197.4~~ 45.2-xxx. Survey; priorities for reclamation.

2143 The Director shall ~~cause~~ conduct a survey ~~to be conducted~~ to determine the extent of  
2144 the orphaned lands in ~~this~~ the Commonwealth and shall establish priorities for the reclamation  
2145 ~~thereof~~ of such lands.

2146 **Drafting note: Technical changes are made and language is updated for modern**  
2147 **usage**

2148 § ~~45.1-197.5~~ 45.2-xxx. Agreements with owners or lessees; reclamation by Director.

2149 The Director is authorized to enter into agreements with owners or lessees of orphaned  
2150 ~~lands~~ land when the owners agree to the reclamation of such ~~lands~~ land by the Division to the  
2151 extent and in the manner deemed appropriate or reasonable by the Director. ~~In no event shall~~  
2152 ~~the~~ The Director shall not return orphaned land to any use other than the minimum potential  
2153 use ~~thereof which obtained~~ of the land that existed prior to the initiation of mining operations  
2154 unless the landowner or owners, or lessee or lessees, agree to bind ~~himself or~~ themselves to  
2155 the payment of the additional cost upon ~~such~~ terms ~~as~~ that the Director deems reasonable. In  
2156 entering into such agreements, the Director shall be guided by the priorities for reclamation  
2157 established by him, ~~but in no event~~ and shall ~~the Director~~ not enter into any such agreement  
2158 unless funds are immediately available for the performance of the agreement by the Director  
2159 as ~~hereinafter~~ provided in this article.

2160 **Drafting note: Changes are made pursuant to § 1-227, which states that**  
2161 **throughout the Code any word used in the singular includes the plural and vice versa.**  
2162 **Language is updated for modern usage and clarity.**

2163 § ~~45.1-197.6~~ 45.2-xxx. Contracts for reclamation.

2164 The Director is authorized to contract with any state agency, federal agency, or private  
2165 contractor through the Division for the purpose of reclaiming orphaned lands pursuant to the  
2166 agreements ~~herein~~ specified in this article.

2167 **Drafting note: Language is updated for modern usage and clarity.**

2168 § ~~45.1-197.7~~ 45.2-xxx. Acceptance of federal funds, gifts, etc.

2169 The Director is authorized (i) to accept federal funds or gifts or grants from any source  
2170 for the purposes of this article ~~and is further authorized;~~ (ii) to acquire by gift or purchase, but  
2171 not by the exercise of the power of eminent domain, ~~such~~ any orphaned lands ~~as in his~~  
2172 ~~judgment is~~ whose acquisition he judges to be in the public interest; and (iii) to utilize any  
2173 such funds, gifts, or grants for the purposes of this article.

2174 **Drafting note: Technical changes are made and language is updated for modern**  
2175 **usage.**

2176 Article 4.

2177 Minerals Reclamation Fund.

2178 **Drafting note: Existing Article 4 of Chapter 16, concerning the Minerals**  
2179 **Reclamation Fund, is retained as proposed Article 4.**

2180 [§ 45.2-xxx. Definition.](#)

2181 [For purposes of this article, "Fund" means the Minerals Reclamation Fund created](#)  
2182 [pursuant to § 45.2-xxx \[existing § 45.1-197.8\].](#)

2183 **Drafting note: This definition section is added to define "Fund" for the article.**

2184 ~~§ 45.1-197.8~~ [45.2-xxx](#). Creation of Fund.

2185 There is hereby created in the state treasury a special nonreverting fund to be known  
2186 as the Minerals Reclamation Fund, ~~referred to in this section as "the Fund."~~ The Fund shall  
2187 be established on the books of the Comptroller. All payments made by operators in  
2188 accordance with the provisions of this article shall be paid into the state treasury and credited  
2189 to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to  
2190 it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal  
2191 year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund  
2192 shall be used solely for the reclamation of mining operations pursuant to ~~§ 45.1-197.12~~ [45.2-](#)  
2193 [xxx](#). Expenditures and disbursements from the Fund shall be made by the State Treasurer on  
2194 warrants issued by the Comptroller upon written request signed by the Director.

2195 **Drafting note: Technical changes.**

2196 ~~§ 45.1-197.9~~ [45.2-xxx](#). Membership in Fund; payments required.

2197 Each operator who has had five years of satisfactory operation in the Commonwealth  
2198 under Chapter ~~16~~ [xx](#) (~~§ 45.1-180~~ [45.2-xxx](#) et seq.) of this title shall become a member of the  
2199 Fund by making an initial payment to the Fund of ~~fifty dollars~~ [\\$50](#) for each acre estimated to  
2200 be affected by mining operations during the next ~~ensuing~~ year. Thereafter, the member shall,  
2201 within ~~ten~~ [10](#) days following the anniversary date of each permit issued to the member, make  
2202 a payment to the [Minerals Reclamation](#) Fund of ~~twelve dollars and fifty cents~~ [\\$12.50](#) for each  
2203 acre estimated to be affected by mining operations during the next ~~ensuing~~ year. Such

2204 payments shall continue to be made until the member has paid into the Fund a total of \$500  
2205 for each acre, estimated to be affected under the permits issued to the member.

2206 **Drafting note: Technical changes are made and language is updated for modern**  
2207 **usage.**

2208 § ~~45.1-197.10~~ 45.2-xxx. Release of bonds and other securities.

2209 All bonds and other securities issued by an operator pursuant to § ~~45.1-183~~ 45.2-xxx  
2210 or ~~45.1-185~~ 45.2-xxx shall be released upon the acceptance ~~in~~ into the Fund of such bonds or  
2211 securities and the payment of required fees.

2212 **Drafting note: Technical changes are made and language is updated for modern**  
2213 **usage and clarity.**

2214 § ~~45.1-197.11~~ 45.2-xxx. Return of member payments.

2215 Subject to the provisions of § ~~45.1-197.14~~ 45.2-xxx, the Director shall return from the  
2216 Fund to the member, ~~the payments which~~ any payment that the member has ~~paid~~ previously  
2217 paid to the Fund, ~~when once~~ the Director ~~has determined~~ determines that the member has  
2218 completed satisfactory reclamation, in accordance with § ~~45.1-185~~ 45.2-xxx. The payments  
2219 returned shall be only those payments ~~which~~ that the member ~~has~~ made for the acres ~~which~~  
2220 that have been satisfactorily reclaimed. In lieu of ~~a~~ such return, the member may request that  
2221 the Director ~~to~~ retain the payments in the Fund as payments for additional acres to be  
2222 disturbed by the member's operations.

2223 **Drafting note: Technical changes are made and language is updated for modern**  
2224 **usage.**

2225 § ~~45.1-197.12~~ 45.2-xxx. Revocation of permits; reclamation work.

2226 If a permit ~~which has been~~ issued to a member is revoked pursuant to § ~~45.1-186.1~~  
2227 45.2-xxx, then the payments ~~which~~ that the member has made to the Fund, in connection with  
2228 ~~respect to the~~ such permit ~~so revoked~~, shall be forfeited to the Fund. The Director shall use ~~the~~  
2229 such forfeited payments ~~so forfeited~~, or as much ~~thereof~~ of such payments as ~~shall be~~  
2230 necessary, for the reclamation of the mining operation to which the permit ~~had~~ applied. ~~In the~~  
2231 ~~event that~~ If the cost of reclamation exceeds the amount of the forfeited payments, the

2232 Director shall also use the proceeds from the member's bond or other security also forfeited in  
2233 conjunction with the revocation of the permit, in accordance with § ~~45.1-186.1~~ 45.2-xxx,  
2234 except that if all ~~members'~~ of the member's bonds and other securities have been released  
2235 pursuant to § ~~45.1-197.10~~ 45.2-xxx, then the Director shall draw upon the Fund for the entire  
2236 cost of reclamation.

2237 **Drafting note: Technical changes are made and language is updated for modern**  
2238 **usage and clarity. An apparent error is corrected by replacing "members' bonds" with**  
2239 **"member's bonds" in the last sentence in the section.**

2240 § ~~45.1-197.13~~ 45.2-xxx. Collection of debt where cost of reclamation exceeds  
2241 member's forfeited payments, etc.

2242 The amount by which the cost of reclamation exceeds the amount of a member's  
2243 forfeited payments and, ~~if any~~, the member's forfeited bond or other security ~~also forfeited, if~~  
2244 any, shall constitute a debt of the member to the Commonwealth ~~of Virginia~~. The Director is  
2245 authorized to collect such debts together with the cost of collection, through appropriate legal  
2246 action, or by declaring the forfeiture of other payments made by the member to the Fund.  
2247 Moneys collected through legal action, less the costs of collection, shall be deposited in the  
2248 Fund.

2249 **Drafting note: Technical changes are made and language is updated for modern**  
2250 **usage and clarity.**

2251 § ~~45.1-197.14~~ 45.2-xxx. Decreases in size of Fund.

2252 Whenever the size of the Fund decreases to less than \$2 million, the Director shall  
2253 suspend the return of payments pursuant to § ~~45.1-197.11~~ 45.2-xxx and shall assess all  
2254 members an equal amount for each affected acre, for a total amount sufficient to raise the  
2255 Fund to \$2 million. In lieu of such ~~an~~ assessment, all members shall at the request of the  
2256 Director post bonds or other securities, within six months after the Director so notifies the  
2257 members. Failure of a member to post bond or other surety or to pay the required assessment  
2258 shall result in the revocation of the permit of the member and the forfeiture of the member's  
2259 payments in accordance with § ~~45.1-197.12~~ 45.2-xxx.

2260 **Drafting note: Technical changes are made and language is updated for modern**  
2261 **usage and clarity.**

2262 § ~~45.1-197.15~~ [45.2-xxx](#). Order of return of payments.

2263 The return of payments to members shall be in the order in which the Director  
2264 approves the completion of reclamation pursuant to § ~~45.1-185~~ [45.2-xxx](#).

2265 **Drafting note: Technical change.**

2266 § ~~45.1-197.16~~ [45.2-xxx](#). Discontinuance of Fund.

2267 ~~In the event of the discontinuance of~~ If the Fund [is discontinued](#), any amounts  
2268 remaining in the Fund shall be returned to the members in proportion to the amount that each  
2269 member has paid.

2270 **Drafting note: Language is updated for modern usage.**

2271 § ~~45.1-197.17~~ [45.2-xxx](#). Construction of article; Fund used solely for reclamation.

2272 Nothing in this article shall be construed as vesting in any member any right, title, or  
2273 interest in the Fund, or the disposition ~~thereof~~ [of the Fund](#). The Fund shall be used solely for  
2274 reclamation of land pursuant to this chapter.

2275 **Drafting note: Language is updated for modern usage.**

2276 CHAPTER ~~18.1~~ [13](#).

2277 MINERAL MINING ~~REFUSE PILES, WATER AND SILT~~ RETAINING DAMS;

2278 [ADJACENT OWNERS](#).

2279 [Article 1.](#)

2280 [Mineral Mining Retaining Dams and Refuse Piles.](#)

2281 **Drafting note: Existing Chapter 18.1, mineral mining retaining dams and refuse**  
2282 **piles, is retained as Article 1 of proposed Chapter 13. The chapter title is changed to**  
2283 **reflect the inclusion as Article 2 of existing Chapter 14.7:1, concerning the rights of**  
2284 **owners of land adjacent to mineral mines.**

2285 § ~~45.1-225.3~~ [45.2-xxx](#). Definitions.

2286 ~~For the purpose of~~ [As used in](#) this ~~chapter, the term~~ [article, unless the context requires](#)  
2287 [a different meaning:](#)

2288 "Impound water" means to impound water for use in carrying out any part of the  
2289 process necessary in the production or preparation of minerals.

2290 "Refuse" means waste material resulting from a mineral mining operation.

2291 "Silt" means fine particles resulting from a mineral mining operation, suspended in or  
2292 deposited by water.

2293 "Water" means water used in a mining-operations operation.

2294 **Drafting note: The definitions section is relocated from the end of the article.**

2295 **Technical changes are made, including a change pursuant to § 1-227, which states that**  
2296 **throughout the Code any word used in the singular includes the plural and vice versa.**

2297 § ~~45.1-225.1~~ 45.2-xxx. Dams and mine refuse piles ~~to be constructed, approved, etc.,~~  
2298 ~~by qualified engineer; designs and other data to be submitted to the Director;~~ construction.

2299 A. ~~On and after July 1, 1974, new water~~ Any water-retaining or ~~silt retaining dams,~~  
2300 silt-retaining dam or ~~a~~ mine refuse pile; or ~~the~~ modification of an existing ~~mine-water~~ water-  
2301 retaining or ~~silt~~ silt-retaining dam or mine refuse ~~retaining dams~~ pile shall be designed and  
2302 constructed by; or under the direction of; a qualified engineer; if such ~~retaining dam;~~ or pile

2303 1. Is ~~is~~ designed to impound water or silt to a height of (i) five feet or more above the  
2304 lowest natural ground level within the impounded area; and

2305 2. Has ~~has~~ a storage volume of ~~fifty~~ 50 acre-feet or more; or

2306 3. Is ~~designed to impound water or silt to a height of twenty~~ (ii) 20 feet or more,  
2307 regardless of storage volume.

2308 B. ~~Water and silt retaining dam or mine refuse piles, designs~~ Designs, construction  
2309 specifications, and other related data, including final abandonment plans, ~~for a water-retaining~~  
2310 or silt-retaining dam or mine refuse pile shall be approved and certified by the qualified  
2311 engineer as specified in subsection A ~~of this section~~, and by the licensed operator or his agent.

2312 C. The designs, construction specifications, and other related data approved and  
2313 certified in accordance with subsection B ~~of this section~~ shall be submitted for approval to the  
2314 Director. If ~~the submittal is approved by~~ the Director approves the submittal, he shall notify  
2315 the licensed operator in writing. If ~~he~~ the Director disapproves the submittal, he shall notify

2316 the licensed operator with his written objections ~~thereto~~ and ~~his~~ required amendments. ~~But in~~  
2317 ~~no event shall the~~ The Director ~~fail to~~ shall approve or disapprove the submittal within ~~thirty~~  
2318 30 days following ~~the~~ receipt thereof.

2319 **Drafting note: An obsolete date for the application of the law to dams is removed.**  
2320 **Language is updated for modern usage and clarity and technical changes are made.**

2321 § ~~45.1-225.2~~ 45.2-xxx. Examination of dams and mine refuse piles; potentially  
2322 hazardous conditions; plans to be submitted by licensed operators.

2323 A. ~~All water and silt retaining dams~~ Every water-retaining or silt-retaining dam or  
2324 mine refuse ~~piles~~ pile shall be examined daily for visible structural weakness, volume  
2325 overload, and other hazards by a qualified person designated by the licensed operator. When  
2326 rising water and silt reaches ~~eighty~~ 80 percent by volume of the safe design capacity of the  
2327 dam or pile, such examination shall be made more often as required by the Director or his  
2328 designated agent. Frequent examinations ~~must~~ shall be made during periods of rainfall that  
2329 could create flooding conditions.

2330 B. When a potentially hazardous condition exists, the operator shall initiate procedures  
2331 to:

2332 1. Remove all persons from the area ~~which~~ that may reasonably be expected to be  
2333 affected by ~~the~~ such potentially hazardous condition;

2334 2. Eliminate ~~the~~ such potentially hazardous condition; and

2335 3. Notify the Director.

2336 C. Records of the inspections required by subsection A ~~of this section~~ shall be kept  
2337 and certified by the licensed operator or his agent. Such records shall be kept on the surface at  
2338 the office or designated station of the mine.

2339 D. The licensed operator of each mineral mine on which a ~~water and silt retaining~~  
2340 water-retaining or silt-retaining dam is located shall adopt a plan for carrying out the  
2341 requirements of subsections A and B ~~of this section~~. The plan shall be submitted for approval  
2342 to the Director ~~on or before October 31, 1974~~. The ~~plan~~ and shall include:

- 2343 1. A schedule and procedures for the inspection of the retaining dam by a qualified  
2344 person;
- 2345 2. Procedures for evaluating any potentially hazardous ~~conditions~~ condition;
- 2346 3. Procedures for removing all persons from the area ~~which~~ that may reasonably be  
2347 expected to be affected by ~~the~~ such potentially hazardous ~~conditions~~ condition;
- 2348 4. Procedures for eliminating ~~the~~ such potentially hazardous ~~conditions~~ condition;
- 2349 5. Procedures for notifying the Director; and
- 2350 6. Any additional information ~~which~~ that may be required by the Director.

2351 E. Before making any ~~changes~~ change or ~~modifications~~ modification in the plan  
2352 approved in accordance with subsection D ~~of this section~~, the licensed operator shall obtain  
2353 approval of such ~~changes~~ change or ~~modifications~~ modification from the Director.

2354 **Drafting note: An obsolete date for the submission of certain plans to the**  
2355 **Director is removed from subsection D. Technical changes are made, including changes**  
2356 **pursuant to § 1-227, which states that throughout the Code any word used in the**  
2357 **singular includes the plural and vice versa. Language is updated for modern usage.**

2358 **CHAPTER 14.7:1.**

2359 **RIGHTS OF OWNERS OF LAND ADJACENT TO MINERAL MINES.**

2360 Article 2.

2361 Rights of Owners of Land Adjacent to Mineral Mines.

2362 **Drafting note: Existing Chapter 14.7:1, concerning rights of owners of land**  
2363 **adjacent to mineral mines, is retained as Article 2 of proposed Chapter 13.**

2364 § ~~45.1-161.311:1~~ 45.2-xxx. Consent required before working mine near land of  
2365 another.

2366 No owner or tenant of any land within the Commonwealth containing minerals, ~~within~~  
2367 ~~this Commonwealth~~, shall open or sink, dig, excavate, or work in any mine on such land  
2368 within five feet of the line dividing such land from that of another person, without the written  
2369 consent, ~~in writing~~, of every person interested in or having title to such adjoining lands or  
2370 mineral rights in possession, reversion, or remainder, or of the guardian of any such person

2371 that may be under a disability. ~~If any~~ Any person ~~violates~~ violating this section, ~~he~~ shall  
2372 forfeit \$500 to ~~any~~ each person injured by such ~~activity~~ violation and to ~~anyone~~ each person  
2373 whose consent ~~is~~ was required but not obtained.

2374 **Drafting note: Technical changes are made and language is updated for modern**  
2375 **usage.**

2376 § ~~45.1-161.311:2~~ 45.2-xxx. Adjacent owner to be permitted to survey mine;  
2377 proceedings to compel entry for survey.

2378 A. ~~The owner, tenant, or occupant of any land or minerals, on or in which a mine is~~  
2379 ~~opened and worked, or his agent, shall permit any~~ If a person who is interested in or ~~having~~  
2380 has title to any land or mineral rights coterminal with ~~that~~ the land or mineral rights on or in  
2381 which ~~such a~~ mine is located, ~~if he~~ has reason to believe his property is being trespassed upon,  
2382 then the owner, tenant, or occupant of the land or minerals on or in which such mine is  
2383 opened and worked, or his agent, shall permit such interested person to have ingress and  
2384 egress with surveyors and assistants to explore and survey such mine ~~at his own expense~~, for  
2385 the purpose of ascertaining whether a violation of § ~~45.1-161.311:1~~ 45.2-xxx has occurred;  
2386 ~~however, such~~. Such exploration and survey shall occur at the expense of the interested  
2387 person, and such person shall not be entitled to enter the mine property more often than once ~~a~~  
2388 each month. ~~Every owner, tenant, occupant or agent who shall refuse such permission,~~  
2389 ~~exploration or survey shall forfeit twenty dollars for each refusal, to the person so refused.~~

2390 B. ~~The~~ If such interested person is refused entry to such mine, he may file a complaint  
2391 before the judge of the general district court of the county or city in which such mine is  
2392 located, ~~before whom complaint of such refusal shall be made,~~. Such judge may issue a  
2393 summons to such mine owner, tenant, occupant, or agent, to answer such complaint. ~~On~~ Upon  
2394 the return of the executed summons ~~executed~~, and the submission of proof that the  
2395 complainant has right of entry, and that ~~it~~ such right of entry has been refused without  
2396 sufficient cause, the judge shall designate ~~an early~~ a prompt and convenient time for such  
2397 entry to be made, and issue ~~his a~~ warrant, commanding the sheriff of the county or city to  
2398 attend and prevent obstructions ~~and or~~ or impediments to such entry, exploration, and survey.

2399 C. Any owner, tenant, occupant, or agent who refuses such permission, exploration, or  
2400 survey shall forfeit \$20 for each refusal to the person so refused. The costs of such summons,  
2401 and a fee of ~~three dollars~~ \$3 to the sheriff executing the warrant, shall be paid by the person  
2402 whose refusal caused the complaint. If the court dismisses the complaint, the costs of such  
2403 summons and execution shall be paid by the party making the complaint.

2404 **Drafting note: The first sentence of subsection A is reorganized and divided into**  
2405 **two sentences for clarity. The last sentence of subsection A, dealing with the forfeiture of**  
2406 **\$20 for refusing entry to a mine, is relocated to proposed subsection C for clarity.**  
2407 **Technical changes are made and language is simplified and updated for modern usage.**

2408 PART B.

2409 UNDERGROUND MINERAL MINES.

2410 **Drafting note: Proposed Part B is created to logically organize provisions relating**  
2411 **to underground mineral mines and contains one chapter: proposed Chapter 14,**  
2412 **Requirements Applicable to Underground Mineral Mines.**

2413 CHAPTER ~~14.5~~ 14.

2414 REQUIREMENTS APPLICABLE TO UNDERGROUND MINERAL MINES.

2415 **Drafting note: Existing Chapter 14.5, concerning requirements applicable to**  
2416 **underground mineral mines, is retained as proposed Chapter 14.**

2417 § ~~45.1-161.293~~ 45.2-xxx. Scope of chapter.

2418 This chapter ~~shall be~~ is applicable to the operation of any underground mineral mine  
2419 in the Commonwealth, and shall supplement the provisions of Chapter ~~14.4:1~~ 11 (§ ~~45.1-~~  
2420 ~~161.292:1~~ 45.2-xxx et seq.).

2421 **Drafting note: A technical change is made to modernize language.**

2422 § ~~45.1-161.294~~ 45.2-xxx. Regulations governing conditions and practices at  
2423 underground mineral mines.

2424 A. The Director shall ~~promulgate rules and regulations~~ adopt, in accordance with the  
2425 provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, regulations  
2426 necessary to ensure the safety and health of miners and other persons and property at

2427 underground mineral mines in the Commonwealth. Nothing in this section shall restrict the  
2428 Director from ~~promulgating~~ adopting regulations more stringent than regulations ~~promulgated~~  
2429 adopted pursuant to the federal mine safety law. Such ~~rules and~~ regulations applicable to  
2430 underground mineral mines shall establish requirements for the:

- 2431 1. ~~For protecting~~ Protection of miners from general risks found at underground  
2432 mineral mines and in mining;
- 2433 2. ~~For the provision~~ Provision and use of personal protection equipment and devices  
2434 for the head, feet, hands, and body;
- 2435 3. ~~For the maintenance~~ Maintenance, operation, storage, and transportation of  
2436 mechanical or electrical equipment, devices, and machinery used in the underground mining  
2437 of minerals;
- 2438 4. ~~For controlling~~ Control of unstable roof, face, rib, ~~wall~~ floor, and other ground  
2439 conditions;
- 2440 5. ~~For the handling~~ Handling and storage of combustible materials, including  
2441 requirements for emergency plans, ~~fire fighting~~ firefighting and emergency rescue, fire  
2442 prevention and safety features on mine equipment, fire safety in mine structures and other  
2443 areas, and other flame and spark hazards;
- 2444 6. ~~For the control~~ Control of exposure to airborne contaminants and excessive noise  
2445 levels;
- 2446 7. ~~For~~ Provision of adequate air quality and quantity through ventilation and other  
2447 appropriate measures;
- 2448 8. ~~For the safe~~ Safe storage, transportation, and use of ~~explosive~~ explosives and  
2449 blasting devices;
- 2450 9. ~~For the safe~~ Safe design, operation, maintenance, and inspection of drilling  
2451 equipment;
- 2452 10. ~~For the construction~~ Construction, installation, maintenance, use, and inspection of  
2453 boilers, air compressors, and compressed gas systems;

2454 11. ~~For the safe~~ Safe design, use, maintenance, and inspection of passageways,  
2455 walkways, ladders, and other travel ways;

2456 12. ~~For the safe~~ Safe design, operation, maintenance, and inspection of electrical  
2457 equipment and systems;

2458 13. ~~For the storage~~ Safe storage, transportation, and handling of materials, including  
2459 corrosive and hazardous substances;

2460 14. ~~For the safe~~ Safe design, use, maintenance, and inspection of guards on moving  
2461 parts of equipment and machinery;

2462 15. ~~For the safe~~ Safe design and operation of chutes;

2463 16. ~~For the inspection~~ Inspection, maintenance, safe design, and operation of hoisting  
2464 equipment and cables;

2465 17. ~~For the inspection~~ Inspection, maintenance, and construction of mine shafts;

2466 18. ~~For the actions of~~ Actions to be taken by certified and competent persons; and

2467 19. ~~For the safe~~ Safe design, operation, maintenance, and inspection of, and the  
2468 conduct of mining activities at, surface areas of underground mineral mines.

2469 B. The Director shall ~~not promulgate any regulations~~ adopt no regulation relating to  
2470 underground mineral mines ~~which are~~ that is inconsistent with ~~requirements~~ any requirement  
2471 established by the Act; or ~~which that, when if~~ an operator ~~takes~~ were to take action to comply  
2472 with the provisions of such regulation, would place the operator in violation of the federal  
2473 mine safety law.

2474 **Drafting note: Language is updated for modern usage and clarity and the term**  
2475 **"promulgate regulations" is changed to "adopt regulations" in keeping with recent title**  
2476 **revisions because "adopt" is more widely used and includes the promulgation process.**  
2477 **The first sentence of subsection A is revised to conform it to its counterpart in proposed**  
2478 **Chapter 15. In subdivision A 4, the reference to roof, rib, and other conditions is revised**  
2479 **to conform it to conventional phrasing in proposed Chapter 7 and "floor" conditions are**  
2480 **added. In subdivision A 7, a requirement of adequate air "quantity" is added.**

2481 § ~~45.1-161.298~~ 45.2-xxx. ~~Transportation of miners~~ Adoption of regulations.

2482 ~~A. The Director shall promulgate~~ adopt regulations ~~regarding~~:

2483 1. Regarding transportation of miners, including regulations regarding (i) the carrying  
2484 of tools by miners on ~~man-trips~~ mantrips; (ii) the riding of ~~miners~~ any miner, except the  
2485 motorman and trip rider, inside ~~the cars~~ a car; and (iii) the boarding and ~~unboarding~~  
2486 disembarking of miners to and from ~~man-trips~~ mantrips;

2487 ~~B. Until final regulations promulgated by the Director pursuant to subsection A~~  
2488 ~~become effective, the following standards shall apply to the matters to be addressed by such~~  
2489 ~~regulations:~~

2490 ~~1. Each man-trip shall be operated independently of any loaded trip of minerals or~~  
2491 ~~other material;~~

2492 ~~2. All miners, except the motorman and trip rider, shall ride inside the cars; and~~

2493 ~~3. Miners shall remain seated while in moving man-trip cars, shall not board or leave~~  
2494 ~~moving man-trip cars, and shall proceed to and from man-trips in an orderly manner.~~

2495 ~~§ 45.1-161.299. Bare wires and cables.~~

2496 ~~A. The Director shall promulgate regulations requiring~~ 2. Requiring any bare wires,  
2497 wire and cables any cable other than a ground ~~wires~~ wire, grounded power ~~wires~~ conductor,  
2498 ~~and~~ or trailing ~~cables~~ cable to be supported by insulators and away from combustible  
2499 materials, roof, and ribs;

2500 ~~B. Until final regulations promulgated by the Director pursuant to subsection A~~  
2501 ~~become effective, wires and cables not encased in armor shall be supported by well installed~~  
2502 ~~insulators and shall not touch combustible materials, roof, or ribs; however, this requirement~~  
2503 ~~shall not apply to ground wires, grounded power conductors, and trailing cables.~~

2504 ~~§ 45.1-161.300. Use of track as electrical power conductor.~~

2505 ~~A. The Director shall promulgate regulations regarding~~ 3. Regarding the bonding,  
2506 welding, or securing of rails and track switches where track is used to conduct electrical  
2507 power;

2508 ~~B. Until final regulations promulgated by the Director pursuant to subsection A~~  
2509 ~~become effective, the following standards shall apply where track is used as a power~~  
2510 ~~conductor:~~

2511 ~~1. Both rails of main line tracks shall be welded or bonded at every joint, and cross~~  
2512 ~~bonds shall be installed at intervals of not more than 200 feet. If the rails are paralleled with a~~  
2513 ~~feeder circuit of like polarity, such paralleled feeder shall be bonded to the track rails at~~  
2514 ~~intervals of not more than 1,000 feet.~~

2515 ~~2. At least one rail on secondary track-haulage roads shall be welded or bonded at~~  
2516 ~~every joint, and cross bonds shall be installed at intervals of not more than 200 feet.~~

2517 ~~3. Track switches on entries shall be well bonded.~~

2518 ~~4. Rails shall not be used as power conductors in rooms.~~

2519 ~~§ 45.1-161.301. Disconnecting switches.~~

2520 ~~A. The Director shall promulgate regulations requiring~~ [4. Requiring](#) ~~the installation of~~  
2521 ~~disconnecting switches underground in all main power circuits at appropriate locations.;~~

2522 ~~B. Until the final regulations promulgated by the Director pursuant to subsection A~~  
2523 ~~become effective, disconnecting switches shall be installed underground (i) in all main power~~  
2524 ~~circuits within approximately 500 feet of the bottoms of shafts and boreholes, and (ii) at other~~  
2525 ~~places where main power circuits enter the mine.~~

2526 ~~§ 45.1-161.302. Respiratory equipment and ear protectors.~~

2527 ~~A. The Director shall promulgate regulations requiring~~ [5. Requiring respiratory](#)  
2528 [equipment and hearing protection, including by requiring that](#) ~~(i) miners~~ [each miner](#) ~~exposed~~  
2529 ~~for short periods to hazards~~ [a hazard](#) ~~from inhalation of gas, dust, or fumes to wear approved~~  
2530 ~~respiratory equipment and (ii) operators to~~ [each operator](#) ~~supply ear protectors~~ [hearing](#)  
2531 [protection](#) ~~to miners upon request.;~~ [and](#)

2532 ~~B. Until the final regulations promulgated by the Director pursuant to subsection A~~  
2533 ~~become effective, (i) miners exposed for short periods to hazards from inhaling gas, dust, or~~  
2534 ~~fumes shall wear approved respiratory equipment and (ii) ear protectors shall be supplied by~~  
2535 ~~the operator to all miners upon request.~~

2536 ~~§ 45.1-161.303. Fire precautions in transportation of mining equipment.~~

2537 ~~A. The Director shall promulgate regulations requiring~~ 6. Requiring that fire  
2538 precautions be taken when mining equipment is transported underground in proximity to  
2539 energized trolley wires or trolley feeder wires.

2540 ~~B. Until the final regulations promulgated by the Director pursuant to subsection A~~  
2541 ~~become effective, the following standards shall apply to the transportation of mining~~  
2542 ~~equipment underground:~~

2543 ~~1. Prior to moving or transporting any unit of off-track mining equipment in areas of~~  
2544 ~~the active workings where energized trolley wires or trolley feeder wires are present: (i) the~~  
2545 ~~unit of equipment shall be examined by a certified person to ensure that accumulations of oil,~~  
2546 ~~grease, and other combustible materials have been removed from such unit of equipment; and~~  
2547 ~~(ii) a qualified person shall examine the trolley wires, trolley feeder wires, and the associated~~  
2548 ~~automatic circuit interrupting devices to ensure that proper short circuit protection exists.~~

2549 ~~2. A record shall be kept of the examinations and shall be made available, upon~~  
2550 ~~request, to the Director or his authorized representative.~~

2551 ~~3. Off-track mining equipment shall be moved or transported in areas of the active~~  
2552 ~~workings where energized trolley wires or trolley feeder wires are present only under the~~  
2553 ~~direct supervision of a certified person who shall be physically present at all times during~~  
2554 ~~moving or transporting such equipment.~~

2555 ~~4. The frames of off-track mining equipment being moved or transported, in~~  
2556 ~~accordance with this subsection, shall be covered on the top and on the trolley wire side with~~  
2557 ~~fire-resistant material, where appropriate as determined by the Director.~~

2558 ~~5. Electrical contact shall be maintained between the mine track and the frames of off-~~  
2559 ~~track mining equipment being moved in-track and trolley entries, except that rubber-tired~~  
2560 ~~equipment need not be grounded to a transporting vehicle if no metal part of such rubber-tired~~  
2561 ~~equipment can come into contact with the transporting vehicle.~~

2562 ~~6. To avoid accidental contact with power lines, the equipment being transported or~~  
2563 ~~trammed shall be insulated or assemblage removed, if necessary, if the clearance to the power~~  
2564 ~~lines is six inches or less.~~

2565 ~~7. Sufficient prior notice shall be given the Department so that a mine inspector may~~  
2566 ~~travel the route of the move before the actual move is made, if he deems it necessary.~~

2567 ~~8. A minimum vertical clearance of twelve inches shall be maintained between the~~  
2568 ~~farthest projection of the unit of equipment which is being moved and the energized trolley~~  
2569 ~~wires or trolley feeder wires at all times during the movement or transportation of such~~  
2570 ~~equipment. If the height of the seam of minerals does not permit twelve inches of vertical~~  
2571 ~~clearance to be so maintained, the following additional precautions shall be taken:~~

2572 ~~a. Electric power shall be supplied to the trolley wires or trolley feeder wires only~~  
2573 ~~from outby the unit of equipment being moved or transported. Where direct current electric~~  
2574 ~~power is used and such electric power can be supplied only from inby the equipment being~~  
2575 ~~moved or transported, power may be supplied from inby such equipment if a miner with the~~  
2576 ~~means to cut off the power, and in direct communication with persons actually engaged in the~~  
2577 ~~moving or transporting operation, is stationed outby the equipment being moved;~~

2578 ~~b. The settings of automatic circuit interrupting devices used to provide short circuit~~  
2579 ~~protection for the trolley circuit shall be reduced to not more than one-half of the maximum~~  
2580 ~~current that could flow if the equipment being moved or transported were to come into contact~~  
2581 ~~with the trolley wire or trolley feeder wire;~~

2582 ~~c. At all times the unit of equipment is being moved or transported, a miner shall be~~  
2583 ~~stationed at the first automatic circuit breaker outby the equipment being moved. Such miner~~  
2584 ~~shall be in direct communication with persons actually engaged in the moving or transporting~~  
2585 ~~operation, and capable of communicating with the authorized person on the surface required~~  
2586 ~~to be on duty;~~

2587 ~~d. Where trolley phones are utilized to satisfy the requirements of paragraph c of this~~  
2588 ~~subdivision, telephones or other equivalent two-way communication devices that can readily~~  
2589 ~~be connected with the mine communication system shall be carried by the miner stationed at~~

2590 ~~the first automatic circuit breaker out by the equipment being moved and by a miner actually~~  
2591 ~~engaged in the moving or transporting operation; and~~

2592 ~~e. No person shall be permitted to be in by the unit of equipment being moved or~~  
2593 ~~transported, in the ventilating current of air that is passing over such equipment, except those~~  
2594 ~~persons directly engaged in moving such equipment.~~

2595 ~~The provisions of subdivisions 1 through 8 shall not apply to units of mining~~  
2596 ~~equipment that are transported in mine cars, provided that no part of the equipment extends~~  
2597 ~~above or over the sides of the mine car.~~

2598 **Drafting note: Six sections, existing §§ 45.1-161.298 through 45.1-161.303, are**  
2599 **relocated here from the end of the chapter because they relate to the adoption of**  
2600 **regulations by the Director. Part of the first sentence of existing § 45.1-161.298 is**  
2601 **retained as part of this section, a general section created to logically organize the**  
2602 **provisions relating to the adoption of regulations. Each of the five sections that follow is**  
2603 **retained as a numbered subdivision of this section. Obsolete provisions for certain**  
2604 **temporary regulations relating to the transportation of miners, the support of certain**  
2605 **bare wires by insulators, the use of track as a power conductor, the wearing of**  
2606 **respiratory equipment and the provision of ear protectors, and the transportation of**  
2607 **mining equipment underground are removed. The term "grounded power wire" in**  
2608 **subdivision A 2 is changed to "grounded power conductor" for consistency. The**  
2609 **outdated term "ear protectors" in subdivision A 5 is replaced by the current term**  
2610 **"hearing protection." The term "promulgate regulations" is changed to "adopt**  
2611 **regulations" in keeping with recent title revisions because "adopt" is more widely used**  
2612 **and includes the promulgation process. Technical changes are made pursuant to § 1-227,**  
2613 **which states that throughout the Code any word used in the singular includes the plural**  
2614 **and vice versa.**

2615 § ~~45.1-161.295~~ [45.2-xxx](#). Standards for regulations.

2616 In ~~promulgating rules and~~ [adopting](#) regulations pursuant to § ~~45.1-161.294~~ [45.2-xxx](#) or  
2617 [45.2-xxx \[existing §§ 45.1-161.298 through 45.1-161.303\]](#), the Director shall consider:

- 2618 1. Standards utilized and generally recognized by the underground mineral mining  
2619 industry;
- 2620 2. Standards established by recognized professional mineral mining organizations and  
2621 groups;
- 2622 3. The federal mine safety law;
- 2623 4. Research, demonstrations, experiments, and ~~such~~ any other information ~~that is~~  
2624 available regarding the maintenance of a reasonable degree of safety protection, including the  
2625 latest available scientific data in the field, the technical and economic feasibility of ~~the~~ such  
2626 standards, and ~~the~~ experience gained under ~~this~~ the Act and other mine safety laws; and
- 2627 5. ~~Such~~ Any other criteria ~~as shall be~~ necessary ~~for the protection of~~ to ensure the  
2628 safety and health of miners and other persons or property likely to be affected by any  
2629 underground mineral ~~mines~~ mine or related ~~operations~~ operation.

2630 **Drafting note: A reference to proposed regulatory section § 45.2-xxx [combining**  
2631 **existing §§ 45.1-161.298 through 45.1-161.303] is added to the first sentence. Language is**  
2632 **updated for modern usage and technical changes are made pursuant to § 1-227, which**  
2633 **states that throughout the Code any word used in the singular includes the plural and**  
2634 **vice versa. The term "promulgate regulations" is changed to "adopt regulations" in**  
2635 **keeping with recent title revisions because "adopt" is more widely used and includes the**  
2636 **promulgation process.**

2637 § ~~45.1-161.296~~ 45.2-xxx. Mining in proximity to gas and oil wells.

2638 A. The Director shall ~~promulgate~~ adopt regulations requiring each licensed ~~operators~~  
2639 operator to notify, and in appropriate circumstances obtain the consent of, the Director prior  
2640 to removing minerals in the proximity of any gas or oil well already drilled or in the process  
2641 of being drilled.

2642 B. Any licensed operator who plans to remove any mineral, drive any passage or  
2643 entry, or extend any workings in any mine ~~closer than~~ within 500 feet ~~to~~ of any gas or oil well  
2644 already drilled or in the process of being drilled shall file with the Director a notice that  
2645 mining is taking place or will take place, together with ~~a copy of parts~~ copies of the maps and

2646 plans required under § ~~45.1-161.292:37, which show~~ 45.2-xxx showing the mine workings  
2647 and projected mine workings ~~which that~~ are within 500 feet of the well. The licensed operator  
2648 shall simultaneously mail copies of such notice, maps, and plans by certified mail, return  
2649 receipt requested, to the well operator and the Gas and Oil Inspector appointed pursuant to the  
2650 provisions of § 45.2-xxx [§ 45.1-361.4]. Each such notice shall contain a certification made  
2651 by the sender that ~~he~~ the sender has complied with these requirements.

2652 C. ~~Subsequent to the~~ After filing ~~of the~~ such notice, ~~the~~ a licensed operator may  
2653 proceed with mining operations in accordance with the maps and plans submitted; however,  
2654 without the prior approval of the Director, ~~he~~ the operator shall not remove any material, drive  
2655 any entry, or extend any workings in any mine ~~closer than~~ within 200 feet ~~to~~ of any gas or oil  
2656 well already drilled or in the process of being drilled. Each licensed operator who files such a  
2657 petition shall mail copies of the petition, maps, and plans by certified mail, return receipt  
2658 requested, to the well operator and the Gas and Oil Inspector no later than the day of filing.  
2659 The Gas and Oil Inspector and the well operator shall have standing to object to any petition  
2660 filed under this section. ~~Such objections~~ Any such objection shall be filed within ~~ten~~ 10 days  
2661 following the date such petition is filed.

2662 **Drafting note: Language is updated for modern usage and technical changes are**  
2663 **made pursuant to § 1-227, which states that throughout the Code any word used in the**  
2664 **singular includes the plural and vice versa. A requirement in subsection B for copies of**  
2665 **"parts of" certain maps is clarified to require only copies of such maps. A cross-**  
2666 **reference to the appointment of the Gas and Oil Inspector is added, and the term**  
2667 **"promulgate regulations" is changed to "adopt regulations" in keeping with recent title**  
2668 **revisions because "adopt" is more widely used and includes the promulgation process.**

2669 § ~~45.1-161.297~~ 45.2-xxx. Flame safety lamps.

2670 ~~Flame~~ No flame safety ~~lamps~~ lamp shall ~~not~~ be used for detecting methane. The  
2671 Director shall determine whether flame safety lamps shall constitute approved devices for  
2672 detecting oxygen deficiency. If flame safety lamps are approved for such purpose, the  
2673 Director shall establish standards for their use and maintenance.

2674 **Drafting note: Language is updated for modern usage and a technical change is**  
2675 **made pursuant to § 1-227, which states that throughout the Code any word used in the**  
2676 **singular includes the plural and vice versa.**

2677 PART C.

2678 SURFACE MINERAL MINES.

2679 **Drafting note: Proposed Part C is created to logically organize provisions relating**  
2680 **to surface mineral mines and contains one chapter: Chapter 15, Requirements**  
2681 **Applicable to Surface Mineral Mines.**

2682 ~~CHAPTER 14.6~~ 15.

2683 ~~REQUIREMENTS APPLICABLE TO SURFACE MINERAL MINING~~ MINES.

2684 **Drafting note: Existing Chapter 14.6, concerning requirements applicable to**  
2685 **surface mineral mining, is retained as proposed Chapter 15. The chapter title is revised**  
2686 **for consistency with the contents of the chapter and the title of proposed Chapter 14.**

2687 § ~~45.1-161.304~~ 45.2-xxx. Scope of chapter.

2688 This chapter ~~shall be~~ is applicable to the operation of any surface mineral mine in the  
2689 Commonwealth; and shall supplement the provisions of Chapter ~~14.4:1~~ 11 (§ ~~45.1-161.292:1~~  
2690 45.2-xxx et seq.).

2691 **Drafting note: A technical change is made to modernize language.**

2692 § ~~45.1-161.305~~ 45.2-xxx. Regulations governing conditions and practices at surface  
2693 mineral mines.

2694 A. The Director shall ~~promulgate rules and regulations~~ adopt, in accordance with  
2695 Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, regulations necessary to  
2696 ensure safe working conditions and practices at surface mineral mines in the Commonwealth.

2697 Nothing in this section shall restrict the Director from ~~promulgating~~ adopting regulations  
2698 more stringent than regulations ~~promulgated~~ adopted pursuant to the federal mine safety law.

2699 Such ~~rules and~~ regulations applicable to surface mineral mines shall establish requirements  
2700 for the:

- 2701 1. ~~For protecting~~ [Protection of](#) miners from general risks found at surface mineral  
2702 mines;
- 2703 2. ~~For the provision~~ [Provision](#) and use of personal protection equipment;
- 2704 3. ~~For controlling~~ [Control of](#) unstable ground conditions;
- 2705 4. ~~For the handling~~ [Handling](#) and storage of combustible materials, including  
2706 requirements for emergency plans, ~~fire-fighting~~ [firefighting](#) and emergency rescue, fire  
2707 prevention and safety features on mine equipment, and fire prevention and safety in mine  
2708 structures and buildings;
- 2709 5. ~~For controlling~~ [Control of](#) exposure to airborne toxic contaminants;
- 2710 6. ~~For safe~~ [Safe](#) storage, transportation, and use of explosives and blasting devices;
- 2711 7. ~~For the safe~~ [Safe](#) design, operation, maintenance, and inspection of drilling  
2712 equipment;
- 2713 8. ~~For the construction~~ [Construction](#), use, maintenance, and inspection of boilers, air  
2714 compressors, and compressed gas systems;
- 2715 9. ~~For the safe~~ [Safe](#) design, operation, maintenance, and inspection of mobile  
2716 equipment;
- 2717 10. ~~For the safe~~ [Safe](#) design, use, maintenance, and inspection of ladders, walkways,  
2718 and travel ways;
- 2719 11. ~~For the safe~~ [Safe](#) design, operation, maintenance, and inspection of electrical  
2720 equipment and systems;
- 2721 12. ~~For the safe~~ [Safe](#) design, use, maintenance, and inspection of guards on moving  
2722 parts of equipment and machinery;
- 2723 13. ~~For the storage~~ [Safe storage](#), transportation, and handling of materials, including  
2724 corrosive and hazardous substances;
- 2725 14. ~~For the safe~~ [Safe](#) design, operation, maintenance, and inspection of hoisting  
2726 equipment and cables;
- 2727 15. ~~For the actions of~~ [Actions to be taken by](#) certified and competent persons; and

2728 16. ~~For the design~~ Design, construction, maintenance, and inspection of refuse piles,  
2729 and water and silt retaining dams, including emergency response plans.

2730 B. The Director shall ~~not promulgate any~~ adopt no regulation relating to surface  
2731 mineral mines ~~which that~~ is inconsistent with ~~requirements~~ any requirement established by the  
2732 Act; or ~~which that, when if~~ an operator ~~takes~~ were to take action to comply with the  
2733 provisions of such regulation, would place the operator in violation of the federal mine safety  
2734 law.

2735 **Drafting note: Language is updated for modern usage and clarity and the term**  
2736 **"promulgate regulations" is changed to "adopt regulations" in keeping with recent title**  
2737 **revisions because "adopt" is more widely used and includes the promulgation process.**

2738 § ~~45.1-161.306~~ 45.2-xxx. Standards for regulations.

2739 In ~~promulgating rules and~~ adopting regulations pursuant to § ~~45.1-161.305~~ 45.2-xxx,  
2740 the Director shall consider:

- 2741 1. Standards utilized and generally recognized by the surface mineral mining industry;
- 2742 2. Standards established by recognized professional mineral mining organizations and  
2743 groups;
- 2744 3. The federal mine safety law;
- 2745 4. Research, demonstrations, experiments, and ~~such any~~ other information ~~that is~~  
2746 available regarding the maintenance of a reasonable degree of safety protection, including the  
2747 latest available scientific data in the field, the technical and ~~economical~~ economic feasibility  
2748 of ~~the such~~ standards, and the experience gained under ~~this the~~ Act and other mine safety  
2749 laws; and

2750 5. ~~Such Any~~ other criteria ~~as shall be~~ necessary ~~for the protection of~~ to ensure the  
2751 safety and health of miners and other persons or property likely to be endangered by surface  
2752 mineral mines or related operations.

2753 **Drafting note: Language is updated for modern usage and the term "promulgate**  
2754 **regulations" is changed to "adopt regulations" in keeping with recent title revisions**  
2755 **because "adopt" is more widely used and includes the promulgation process.**

2756 § ~~45.1-161.307~~ 45.2-xxx. Mining in proximity to gas and oil wells.

2757 A. The Director shall ~~promulgate~~ adopt regulations requiring each licensed ~~operators~~  
2758 operator to notify, and in appropriate circumstances obtain the consent of, the Director prior  
2759 to removing minerals in the proximity of any gas or oil well already drilled or in the process  
2760 of being drilled.

2761 B. Any licensed operator who plans to remove any mineral, drive any passage or  
2762 entry, or extend any workings in any mine ~~closer than~~ within 500 feet ~~to of~~ any gas or oil well  
2763 already drilled or in the process of being drilled shall file with the Director a notice that  
2764 mining is taking place or will take place, together with ~~a copy of parts~~ copies of the maps and  
2765 plans required under § ~~45.1-161.292:37, which show~~ 45.2-xxx showing the mine workings  
2766 and projected mine workings ~~which that~~ are within 500 feet of the well. The licensed operator  
2767 shall simultaneously mail copies of such notice, maps, and plans by certified mail, return  
2768 receipt requested, to the well operator and the Gas and Oil Inspector appointed pursuant to §  
2769 45.2-xxx [§ 45.1-361.4]. Each such notice shall contain a certification made by the sender that  
2770 ~~he~~ the sender has complied with these requirements.

2771 C. ~~Subsequent to the~~ After filing ~~of the~~ such notice, ~~the a~~ licensed operator may  
2772 proceed with mining operations in accordance with the maps and plans; however, without the  
2773 prior approval of the Director, ~~he~~ the operator shall not remove any material, drive any entry,  
2774 or extend any workings in any mine ~~closer than~~ within 200 feet ~~to of~~ any gas or oil well  
2775 already drilled or in the process of being drilled. Each licensed operator who files such a  
2776 petition shall mail copies of the petition, maps, and plans by certified mail, return receipt  
2777 requested, to the well operator and the Gas and Oil Inspector no later than the day of filing.  
2778 The Gas and Oil Inspector and the well operator shall have standing to object to any petition  
2779 filed under this section. ~~Such objections~~ Any such objection shall be filed within ~~ten~~ 10 days  
2780 following the date such petition is filed.

2781 **Drafting note: Language is updated for modern usage. A requirement in**  
2782 **subsection B for copies of "parts of" certain maps is clarified to require only copies of**  
2783 **such maps. A cross-reference to the appointment of the Gas and Oil Inspector is added.**

2784 The term "promulgate regulations" is changed to "adopt regulations" in keeping with  
2785 recent title revisions because "adopt" is more widely used and includes the  
2786 promulgation process.

2787 § ~~45.1-161.308~~ 45.2-xxx. Respiratory equipment.

2788 A. The Director shall ~~promulgate~~ adopt regulations requiring ~~miners~~ any miner  
2789 exposed for short periods to hazards from inhalation of gas, dust, or fumes to wear approved  
2790 respiratory equipment.

2791 ~~B. Until the final regulations promulgated by the Director pursuant to subsection A~~  
2792 ~~become effective, miners exposed for short periods to hazards from inhaling dust or fumes~~  
2793 ~~shall wear approved respiratory equipment.~~

2794 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
2795 **throughout the Code any word used in the singular includes the plural and vice versa.**  
2796 **The term "promulgate regulations" is changed to "adopt regulations" in keeping with**  
2797 **recent title revisions because "adopt" is more widely used and includes the**  
2798 **promulgation process. An obsolete reference to a temporary respiratory equipment**  
2799 **requirement is removed.**

2800 § ~~45.1-161.309~~ 45.2-xxx. Health regulations.

2801 A. The Director ~~shall have the authority to promulgate~~ may adopt regulations  
2802 requiring that sources of dust at surface mineral mines be wetted down unless controlled by  
2803 dry collection measures, or other means approved by the Director.

2804 B. The Director ~~shall have the authority to promulgate~~ may adopt regulations  
2805 providing that ~~miners~~ no miner at a surface mineral ~~mines which are~~ mine that is subject to  
2806 inspection by the Department pursuant to § ~~45.1-161.292:54~~ 45.2-xxx shall ~~not~~ be exposed to  
2807 noise levels that exceed the federal limit adopted by the federal Mine Safety and Health  
2808 Administration for non-coal miners. ~~The~~ Such regulations shall provide that if such exposure  
2809 exceeds the federal limit, the Director may require the operator to employ feasible  
2810 engineering and administrative control measures.

