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PART C.

SURFACE MINERAL MINES.

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

CHAPTER ~~14.6~~ 15.

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

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

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

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

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

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

A. The Director shall ~~promulgate rules and regulations~~ adopt, in accordance with Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, regulations necessary to ensure safe working conditions and practices at surface mineral mines in the Commonwealth. Nothing in this section shall restrict the Director from ~~promulgating~~ adopting regulations more stringent than regulations ~~promulgated~~ adopted pursuant to the federal mine safety law. Such ~~rules and~~ regulations applicable to surface mineral mines shall establish requirements for the:

1. ~~For protecting~~ Protection of miners from general risks found at surface mineral mines;
2. ~~For the provision~~ Provision and use of personal protection equipment;
3. ~~For controlling~~ Control of unstable ground conditions;
4. ~~For the handling~~ Handling and storage of combustible materials, including requirements for emergency plans, ~~fire-fighting~~ firefighting and emergency rescue, fire

29 prevention and safety features on mine equipment, and fire prevention and safety in mine
30 structures and buildings;

31 5. ~~For controlling~~ Control of exposure to airborne toxic contaminants;

32 6. ~~For safe~~ Safe storage, transportation, and use of explosives and blasting devices;

33 7. ~~For the safe~~ Safe design, operation, maintenance, and inspection of drilling
34 equipment;

35 8. ~~For the construction~~ Construction, use, maintenance, and inspection of boilers, air
36 compressors, and compressed gas systems;

37 9. ~~For the safe~~ Safe design, operation, maintenance, and inspection of mobile
38 equipment;

39 10. ~~For the safe~~ Safe design, use, maintenance, and inspection of ladders, walkways,
40 and travel ways;

41 11. ~~For the safe~~ Safe design, operation, maintenance, and inspection of electrical
42 equipment and systems;

43 12. ~~For the safe~~ Safe design, use, maintenance, and inspection of guards on moving parts
44 of equipment and machinery;

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

47 14. ~~For the safe~~ Safe design, operation, maintenance, and inspection of hoisting
48 equipment and cables;

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

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

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

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

59 § ~~45.1-161.306~~ 45.2-xxx. Standards for regulations.

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

- 62 1. Standards utilized and generally recognized by the surface mineral mining industry;
- 63 2. Standards established by recognized professional mineral mining organizations and
64 groups;
- 65 3. The federal mine safety law;
- 66 4. Research, demonstrations, experiments, and ~~such~~ any other information ~~that is~~
67 available regarding the maintenance of a reasonable degree of safety protection, including the
68 latest available scientific data in the field, the technical and ~~economical~~ economic feasibility of
69 ~~the~~ such standards, and the experience gained under ~~this~~ the Act and other mine safety laws;
70 and
- 71 5. ~~Such~~ Any other criteria ~~as shall be~~ necessary ~~for the protection of~~ to ensure the safety
72 and health of miners and other persons or property likely to be endangered by surface mineral
73 mines or related operations.

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

77 § ~~45.1-161.307~~ 45.2-xxx. Mining in proximity to gas and oil wells.

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

82 B. Any licensed operator who plans to remove any mineral, drive any passage or entry,
83 or extend any workings in any mine ~~closer than~~ within 500 feet ~~to~~ of any gas or oil well already

84 drilled or in the process of being drilled shall file with the Director a notice that mining is taking
85 place or will take place, together with ~~a copy of parts~~ copies of the maps and plans required
86 under § ~~45.1-161.292:37, which show~~ 45.2-xxx showing the mine workings and projected mine
87 workings ~~which~~ that are within 500 feet of the well. The licensed operator shall simultaneously
88 mail copies of such notice, maps, and plans by certified mail, return receipt requested, to the
89 well operator and the Gas and Oil Inspector appointed pursuant to § 45.2-xxx [§ 45.1-361.4].
90 Each such notice shall contain a certification made by the sender that ~~he~~ the sender has complied
91 with these requirements.

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

102 **Drafting note: Language is updated for modern usage. A requirement in**
103 **subsection B for copies of "parts of" certain maps is clarified to require only copies of**
104 **such maps. A cross-reference to the appointment of the Gas and Oil Inspector is added.**
105 **The term "promulgate regulations" is changed to "adopt regulations" in keeping with**
106 **recent title revisions because "adopt" is more widely used and includes the promulgation**
107 **process.**

108 § ~~45.1-161.308~~ 45.2-xxx. Respiratory equipment.

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

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

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

121 § ~~45.1-161.309~~ 45.2-xxx. Health regulations.

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

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

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

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