

1 SUBTITLE II.

2 COAL MINING.

3 **Drafting note: Proposed Subtitle II is created to logically organize provisions**  
4 **relating to coal mining and is divided into proposed Parts A (Coal Mines Generally), B**  
5 **(Underground Coal Mines), and C (Surface Coal Mines).**

6 PART A.

7 COAL MINES GENERALLY.

8 **Drafting note: Proposed Part A is created to logically organize provisions relating**  
9 **to coal mines generally and contains two chapters: Chapter 5, Coal Mine Safety Act; and**  
10 **Chapter 6, Coal Mining Property, Interests, Adjacent Owners, and Dams.**

11 CHAPTER-14.2 5.

12 COAL MINE SAFETY ACT.

13 **Drafting note: Existing Chapter 14.2, designated as the Coal Mine Safety Act, is**  
14 **retained as proposed Chapter 5. This chapter is divided into 10 articles, as it currently**  
15 **exists in Chapter 14.2.**

16 Article 1.

17 General Provisions.

18 **Drafting note: Existing Article 1, relating to general provisions, is retained.**

19 ~~§ 45.1-161.7. Short title.~~

20 ~~This chapter and Chapters 14.3 (§ 45.1-161.105 et seq.) and 14.4 (§ 45.1-161.253 et~~  
21 ~~seq.) of this title shall be known as the "Coal Mine Safety Act."~~

22 **Drafting note: This section is deleted as unnecessary pursuant to § 1-244, which**  
23 **states that throughout the Code the caption of a subtitle, chapter, or article serves as a**  
24 **short title citation. Existing Chapters 14.3 and 14.4 continue to be incorporated into the**  
25 **Coal Mine Safety Act through the definition of "Coal Mine Safety Act" in proposed §**  
26 **45.2-xxx [existing § 45.1-161.8].**

27 ~~§ 45.1-161.8~~ 45.2-xxx. Definitions.

28 As used in this chapter and in Chapters ~~14.3~~ 10 (§ ~~45.1-161.105~~ 45.2-xxx et seq.), 11 (§  
29 45.2-xxx et seq.), and ~~14.4~~ 12 (§ ~~45.1-161.253~~ 45.2-xxx et seq.) ~~of this title~~, unless the context  
30 requires a different meaning:

31 "Accident" means (i) a death of an individual at a mine; (ii) a serious personal injury;  
32 (iii) an entrapment of an individual for more than 30 minutes; (iv) an unplanned inundation of  
33 a mine by liquid or gas; (v) an unplanned ignition or explosion of gas or dust; (vi) an unplanned  
34 fire not extinguished within 30 minutes of discovery; (vii) an unplanned ignition or explosion  
35 of a blasting agent or an explosive; (viii) an unplanned roof fall at or above the anchorage zone  
36 in active workings where roof bolts are in use; ~~2~~ or an unplanned roof or rib fall in active  
37 workings that impairs ventilation or impedes passage; (ix) a coal or rock outburst that causes  
38 withdrawal of miners or ~~which that~~ disrupts regular mining activity for more than one hour; (x)  
39 an unstable condition at an impoundment, refuse pile, or culm bank ~~which that~~ requires  
40 emergency action in order to prevent failure; ~~or which that~~ causes individuals to evacuate an  
41 area; ~~2~~ or; failure of an impoundment, refuse pile, or culm bank; (xi) damage to hoisting  
42 equipment in a shaft or slope ~~which that~~ endangers an individual or ~~which that~~ interferes with  
43 use of the equipment for more than 30 minutes; (xii) an event at a mine ~~which that~~ causes death  
44 or bodily injury to an individual not at a mine at the time the event occurs; and (xiii) the  
45 unintentional fall of highwall that entraps equipment for more than 30 minutes.

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

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

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

52 "Approved" means a device, apparatus, equipment, condition, method, course, ~~2~~ or  
53 practice approved in writing by the Chief or the Director.

54 "Authorized person" means a person assigned by the operator or agent to perform a  
55 specific type of duty ~~or duties~~ or to be at a specific location ~~or locations~~ in the mine who is  
56 trained and has demonstrated the ability to perform such duty ~~or duties~~ safely and effectively.

57 "Auxiliary fan" means a supplemental underground fan installed to increase the volume  
58 of air to a specified location for the purpose of controlling dust, methane, or air quality.

59 "Cable" means a stranded conductor (single-conductor cable) or a combination of  
60 conductors insulated from one another (multiple-conductor cable).

61 "Certified person" means a person ~~holding who holds~~ a valid certificate from the Board  
62 of Coal Mining Examiners authorizing him to perform the task to which he is assigned.

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

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

67 "Coal mine" means a surface coal mine or an underground coal mine.

68 "Coal Mine Safety Act" or "the Act" ~~shall mean~~ means this chapter and Chapters ~~14.3~~  
69 10 (§ ~~45.1-161.105~~ 45.2-xxx et seq.), 11 (§ ~~45.2-xxx~~ et seq.), and ~~14.4~~ 12 (§ ~~45.1-161.253~~ 45.2-  
70 xxx et seq.) ~~of this title, and shall include~~ includes any regulations ~~promulgated~~ adopted  
71 thereunder, where applicable.

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

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

76 "Experienced underground miner" means a person with ~~more than~~ six months or more  
77 of underground coal mining experience.

78 "Federal mine safety law" means the Federal Mine Safety and Health Act of 1977 (P.L.  
79 95-164), and regulations ~~promulgated~~ adopted thereunder.

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

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

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

86 "Hazardous condition" means ~~conditions~~ a condition that ~~are~~ is likely to cause death or  
87 serious personal injury to persons exposed to such ~~conditions~~ condition.

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

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

97 "Inexperienced underground miner" means a person with less than six months of  
98 underground coal mining experience.

99 "Intake air" means air that has not passed through the last active working place of the  
100 split of any working section or any worked-out area, whether pillared or nonpillared, and by  
101 analysis contains ~~not less than nineteen and one-half~~ at least 19.5 percent oxygen ~~nor~~ and no  
102 ~~more than one-half of one 0.5~~ percent of carbon dioxide, ~~nor~~ and does not contain any hazardous  
103 quantities of flammable gas ~~nor~~ or any harmful amounts of poisonous gas.

104 "Interested persons" means members of the ~~Mine Safety Committee~~ mine safety  
105 committee and other duly authorized representatives of the employees at a mine; federal Mine  
106 Safety and Health Administration employees; mine inspectors; and, to the extent required by  
107 ~~this~~ the Act, any other person.

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

110 "Mine" means any underground coal mine or surface coal mine. "Mines" that are  
111 adjacent to each other and under the same management and ~~which that~~ are administered as  
112 distinct units ~~shall be~~ are considered as separate mines. A site ~~shall~~ is not be a "mine" unless  
113 the coal extracted or excavated ~~therefrom~~ from it is offered for sale or exchange, or used for  
114 any other commercial purposes. The area in which coal is excavated under an exemption to the  
115 permitting requirements of § ~~45.1-234~~ shall 45.2-xxx is not be a "mine."

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

117 "Mine foreman" means a person ~~holding~~ who holds a valid certificate of qualification  
118 as a foreman duly issued by action of the Board of Coal Mining Examiners.

119 "Mine inspector" means a public employee assigned by the Chief or the Director to  
120 make mine inspections as required by ~~this the~~ the Act, and other applicable laws.

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

122 "Mineral" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and  
123 any other solid material or substance of commercial value excavated in solid form from natural  
124 deposits on or in the earth, exclusive of coal and those minerals ~~which that~~ occur naturally in  
125 liquid or gaseous form.

126 "Monthly" means, unless otherwise stated, to have occurred any time during the period  
127 of the first through the last day of a calendar month.

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

130 "Panel entry" means a room entry.

131 "Permissible" means a device, process, ~~or~~ equipment, or method ~~heretofore or hereafter~~  
132 ~~classified by such term~~ as "permissible" by the federal Mine Safety and Health Administration,  
133 when such classification is adopted by the Chief or the Director, and includes, ~~unless otherwise~~  
134 ~~herein expressly stated~~, all requirements, restrictions, exceptions, limitations, and conditions  
135 attached to such classification by the federal Mine Safety and Health Administration unless  
136 otherwise expressly stated in the Act.

137 "Return air" means air that has passed through (i) the last active working place on each  
138 split, or ~~air that has passed through~~ (ii) worked-out areas, whether pillared or nonpillared.

139 "Room entry" means any entry or set of entries from which rooms are turned.

140 "Serious personal injury" means any injury ~~which that~~ has a reasonable potential to  
141 cause death or ~~an~~ any injury other than a sprain or strain ~~which that~~ requires an admission to a  
142 hospital for 24 hours or more for medical treatment.

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

146 "Surface coal mine" means (i) the pit and other active and inactive areas of surface  
147 extraction of coal; (ii) on-site preparation plants, shops, tipples, and related facilities  
148 appurtenant to the extraction and processing of coal; (iii) surface areas for the transportation  
149 and storage of coal extracted at the site; (iv) impoundments, retention dams, tailing ponds, and  
150 refuse disposal areas appurtenant to the extraction of coal from the site; (v) equipment,  
151 machinery, tools, and other property used in, or to be used in, the extraction of coal from the  
152 site; (vi) private ways and roads appurtenant to such ~~area~~ areas; and (vii) the areas used to  
153 prepare a site for surface coal extraction activities. A site ~~shall commence~~ commences being a  
154 surface coal mine upon the beginning of any site preparation activity other than exploratory  
155 drilling or other exploration activity that does not disturb the surface, and ~~shall cease~~ ceases to  
156 be a surface coal mine upon completion of initial reclamation activities.

157 "Travel way" means a passage, walk, or way regularly used and designated for persons  
158 to go from one place to another.

159 "Underground coal mine" means (i) the working face and other active and inactive areas  
160 of underground excavation of coal; (ii) underground travel ways, shafts, slopes, drifts, inclines,  
161 and tunnels connected to such areas; (iii) on-site preparation plants, shops, tipples, and related  
162 facilities appurtenant to the excavation and processing of coal; (iv) on-site surface areas for the  
163 transportation and storage of coal excavated at the site; (v) impoundments, retention dams, and  
164 tailing ponds appurtenant to the excavation of coal from the site; (vi) equipment, machinery,

165 tools, and other property, on the surface and underground, used in, or to be used in, the  
166 excavation of coal from the site; (vii) private ways and roads appurtenant to such ~~area~~ areas;  
167 (viii) the areas used to prepare a site for underground coal excavation activities; and (ix) areas  
168 used for the drilling of vertical ventilation holes. A site ~~shall commence~~ commences being an  
169 underground coal mine upon the beginning of any site preparation activity other than  
170 exploratory drilling or other exploration activity, and ~~shall cease~~ ceases to be an underground  
171 coal mine upon completion of initial reclamation activities.

172 "Weekly" means, unless otherwise stated, to have occurred any time during the period  
173 of Sunday through Saturday of a calendar week.

174 "Work area," ~~as used in Chapter 14.4 (§ 45.1-161.253 et seq.) of this title,~~ means those  
175 areas of a surface coal mine in production or being prepared for production and those areas of  
176 the mine ~~which~~ that may pose a danger to miners at such areas.

177 "Worked-out area" means an area where underground coal mining has been completed,  
178 whether pillared or nonpillared, excluding developing entries, return air courses, and intake air  
179 courses.

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

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

184 "Working section" means all areas from the loading point of a section to and including  
185 the working faces.

186 **Drafting note: In the definition of "authorized person," the words "or duties" and**  
187 **"or locations" are stricken pursuant to § 1-227, which states that throughout the Code**  
188 **any word used in the singular includes the plural and vice versa. In the definitions of**  
189 **"Coal Mine Safety Act" and "Federal mine safety law," the term "promulgated" with**  
190 **regard to regulations is changed to "adopted" in keeping with recent title revisions**  
191 **because "adopt" is more widely used and includes the promulgation process. In the**  
192 **definitions of "experienced surface miner" and "experienced underground miner,"**

193 "more than six months" is changed to "six months or more" because the definition of  
194 "inexperienced underground miner" means a person with "less than six months" of  
195 experience. The change accounts for exactly six months. The language applying the  
196 definition of "work area" to proposed Chapter 9 is stricken as unnecessary because this  
197 definitions section already applies specifically to that chapter and there are no uses of the  
198 term in other chapters of the Act. Technical changes are made.

199 § ~~45.1-161.9~~ 45.2-xxx. Safety and health.

200 In safety and health matters, all miners are to be governed by ~~this the Act and Chapter~~  
201 ~~18, Article 4~~ (§ ~~45.1-221~~ 45.2-xxx et seq.) of ~~this title~~ Chapter 6, and any other sections of the  
202 Code relating to the safety and health of miners and rules and regulations ~~promulgated~~ adopted  
203 by the Department.

204 **Drafting note: The term "promulgate regulations" is changed to "adopt**  
205 **regulations" in keeping with recent title revisions because "adopt" is more widely used**  
206 **and includes the promulgation process. Technical changes are made.**

207 § ~~45.1-161.10~~ 45.2-xxx. Special safety rules.

208 The operator of ~~every each~~ mine ~~shall have~~ has the right to adopt special safety rules for  
209 the safety and operation of his mine ~~or mines~~, covering the work pertaining ~~thereto~~ to the mine  
210 inside and outside of ~~the same, which, however,~~ such mine. Such special safety rules shall not  
211 be in conflict with the provisions of ~~this the Act~~. ~~Such rules~~ and, when established, shall be  
212 posted at some conspicuous place about the ~~mines~~, mine where the rules may be seen by all  
213 miners at such ~~mines~~, mine or in lieu thereof ~~the operator~~ shall ~~furnish~~ be furnished by the  
214 operator as a printed copy of ~~such rules~~ to each of ~~his~~ the miners.

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

218 § ~~45.1-161.11~~. ~~Persons not permitted~~ 45.2-xxx. Age requirement to work in mines.

219 A. No person under ~~eighteen~~ 18 years of age shall be permitted to work in or around  
220 any mine, and in all cases of doubt, the operator, agent<sub>2</sub>, or mine foreman shall obtain a birth



221 certificate or other documentary evidence, from the Registrar of Vital Statistics, or other  
222 authentic ~~sources~~ source as to the age of such person.

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

225 **Drafting note: Catchline is changed to better reflect the subject of the section.**

226 **Technical changes are made.**

227 § ~~45.1-161.12~~ 45.2-xxx. Prohibited acts by miners or other persons; miners to comply  
228 with law.

229 A. No miner or other person shall (i) knowingly damage any shaft, lamp, instrument,  
230 air course, or brattice or obstruct airways; (ii) carry in a mine any intoxicating liquors or  
231 controlled drugs without the prescription of a licensed physician; (iii) disturb any part of the  
232 machinery or appliances in a mine; (iv) open a door used for directing ventilation and fail to  
233 close it again; (v) enter any part of a mine against caution; or (vi) disobey any order issued  
234 pursuant to the provisions of ~~this~~ the Act.

235 B. Each miner at any mine shall comply fully with the provisions of ~~this~~ the Act and  
236 other mining laws of the Commonwealth, including rules and regulations adopted by the  
237 Department or the Board of Coal Mining Examiners, that pertain to his duties.

238 C. Any individual shall, upon the order of the Chief, complete training that addresses  
239 the subject of any violation issued to the individual as a condition for abatement of the violation.

240 **Drafting note: Technical changes.**

241 § ~~45.1-161.13~~ 45.2-xxx. Safety materials and supplies.

242 It shall be the duty of ~~every~~ each operator or agent to keep on hand, at all times at each  
243 mine, or within convenient distance, of each mine ~~at all times~~, a sufficient quantity of all  
244 materials and supplies required to preserve the safety of the miners, as required by ~~this~~ the Act.  
245 If for any reason, the operator or agent cannot procure the necessary materials or supplies, he  
246 shall cause the miners to withdraw from the mine, or the portion thereof affected, until such  
247 material or supplies are received.

248 **Drafting note: Technical changes.**

249 § ~~45.1-161.14~~ 45.2-xxx. Notifying miners of violations; compliance with Act.

250 A. The operator and his agent shall cooperate with the mine foreman and other officials  
251 in the discharge of their duties as required by ~~this~~ the Act, and shall direct ~~that~~ the mine foreman  
252 and all other miners employed at the mine to comply with all provisions of ~~this~~ the Act,  
253 especially when ~~his~~ the operator's or his agent's attention is called to any violation of ~~this~~ the  
254 Act by the Chief, the Director, or a mine inspector.

255 B. The operator of any mine or his agent shall operate his mines at all times in full  
256 conformity with ~~this~~ the Act and any other mining law of the Commonwealth ~~at all times,~~  
257 including rules and regulations adopted by the Department or the Board of Coal Mining  
258 Examiners. This requirement shall not relieve any other person subject to the provisions of ~~this~~  
259 the Act from his duty to comply with the requirements of ~~this~~ the Act.

260 C. Nothing in ~~this~~ the Act shall be construed to relieve an operator or his agent from the  
261 duty imposed at common law to secure the reasonable safety of ~~their~~ his employees.

262 D. No operator, agent, or certified person shall knowingly permit any person to work in  
263 any part of a mine in violation of written instructions issued by a mine inspector pursuant to  
264 ~~this~~ the Act.

265 E. The operator or his agent shall fully comply with any action plan required by the  
266 Chief to address hazardous conditions or practices.

267 **Drafting note: The regulations of the Board of Coal Mining Examiners are**  
268 **included in the reference to the mining laws of the Commonwealth and technical changes**  
269 **are made.**

270 Article 2.

271 Chief, ~~Director~~ of the Division of Mines of the Department and Mine Inspectors.

272 **Drafting note: Existing Article 2, relating to the Chief of the Division of Mines of**  
273 **the Department of Mines, Minerals and Energy and mine inspectors, is retained. The**  
274 **reference to the Director is removed from the article title because it does not represent the**  
275 **content of the article. The Director is appointed and his duties are prescribed in proposed**  
276 **Chapter 1.**

277 § ~~45.1-161.15~~ 45.2-xxx. Appointment of Chief.

278 The Chief of the Division of Mines of the Department of Mines, Minerals and Energy  
279 shall be appointed by the Governor. The Chief ~~shall be~~ is the head of the Division of Mines,  
280 and ~~shall be~~ is under the direction of and ~~shall report~~ reports to the Director.

281 **Drafting note: The full name of the Chief is added because this is the appointing**  
282 **language. Technical changes are made.**

283 § ~~45.1-161.16~~ 45.2-xxx. Qualification of Chief.

284 The Chief shall have a thorough knowledge of the various systems of working and  
285 ventilating coal mines, the nature and properties of mine gases and methods for their detection  
286 and control, the control of mine roof, methods of rescue and recovery work in mine disasters,  
287 the application of electricity and mechanical loading in mining operations, equipment and  
288 explosives used in mining, methods for preventing gas and dust explosions in mines, and mine  
289 haulage. The Chief shall possess such experience or educational background in management as  
290 determined necessary by the Governor and shall be ~~not less than thirty~~ at least 30 years of age.

291 **Drafting note: Technical changes.**

292 § ~~45.1-161.17~~ 45.2-xxx. Affiliations of Department personnel with labor union, coal  
293 company, etc.; interest in coal mine; inspections of mines where inspector previously employed.

294 A. In addition to compliance with the provisions of the State and Local Government  
295 Conflict of Interests Act (§ 2.2-3100 et seq.), neither the Chief nor any other officer or employee  
296 of the Department shall, upon taking office or being employed, or at any other time during the  
297 term of his office or employment, have any affiliation with any operating coal company,  
298 operators' association, or labor union. Neither the Chief nor any other officer while in office  
299 shall be directly or indirectly interested as owner, partner, proprietor, lessor, operator,  
300 superintendent, or engineer of any coal mine, nor shall the Chief, or any other officer while in  
301 office, own any stock in a corporation ~~owning~~ that owns a coal mine either directly or through  
302 a subsidiary.

303 B. Neither the Chief nor any mine inspector shall perform an inspection at any mine site  
304 at which that individual was last employed for a period of two years following termination of  
305 his employment.

306 **Drafting note: Technical change.**

307 ~~§ 45.1-161.18~~ 45.2-xxx. Appointment and general qualifications of mine inspectors.

308 Mine inspectors shall be appointed by the Director.

309 ~~§ 45.1-161.19. Qualifications of mine inspectors generally.~~

310 Each mine inspector shall (i) ~~be not less than twenty-five~~ at least 25 years of age; (ii)  
311 be of good moral character and temperate habits; (iii) hold a certificate as a mine foreman; and  
312 (iv) hold a certificate as a mine inspector issued by the Board of Coal Mining Examiners.

313 **Drafting note: Existing §§ 45.1-161.18 and 45.1-161.19 are combined.**

314 ~~§ 45.1-161.20~~ 45.2-xxx. Qualifications of inspectors of coal mines.

315 A. Each mine inspector conducting inspections of underground coal mines shall have a  
316 thorough knowledge of the various systems of working and ventilating underground coal mines;  
317 the nature and properties of mine gases and methods for their detection and control; the control  
318 of mine roof and ground control; methods of rescue and recovery work in mine disasters; the  
319 application of electricity and mechanical loading in mining operations; equipment and  
320 explosives used in mining; methods for preventing gas and dust explosions in mines; and mine  
321 haulage.

322 B. Each mine inspector conducting inspections of surface coal mines shall have a  
323 thorough knowledge of the various systems of working surface coal mines; the nature and  
324 properties of mine gases and methods of their detection and control; ground control; methods  
325 of rescue and recovery work in surface mine disasters; the application of electricity and  
326 mechanical loading in mining operations; equipment and explosives used in mining; methods  
327 for preventing gas and dust explosions in surface facilities on mine property; and mine haulage.

328 **Drafting note: Technical changes.**

329 ~~§ 45.1-161.21~~ 45.2-xxx. Duties of the Chief; penalty.

330 A. The Chief shall (i) supervise execution and enforcement of all laws, including rules  
331 and regulations adopted by the Department or the Board of Coal Mining Examiners, pertaining  
332 to the health and safety of persons employed within or at coal mines within the Commonwealth,  
333 and the protection of property used in connection therewith, and ~~to~~ (ii) perform all other duties  
334 required pursuant to ~~this~~ the Act.

335 B. The Chief shall keep a record of all inspections of coal mines made by him and the  
336 mine inspectors. The Chief shall make a comprehensive report to the Director. The Chief shall  
337 also keep a permanent record ~~thereof~~ of such inspections properly indexed, which record shall  
338 at all times be open to inspection by any citizen of the Commonwealth.

339 C. The Chief is authorized to compel individuals to complete training that addresses the  
340 subject of a violation issued to the individual as a condition for abatement of the violation.

341 D. The Chief is authorized to require operators to submit for approval action plans to  
342 address hazardous conditions or practices.

343 E. For the purpose of investigating (i) an accident or (ii) a willful act resulting in a notice  
344 of violation or closure order, the Chief shall have the power to compel the attendance of  
345 witnesses and to administer oaths or affirmations. Any person who knowingly provides any  
346 false statement, representation, or certification during such investigations is guilty of a Class 1  
347 misdemeanor.

348 F. The Chief shall supervise execution and enforcement of all reciprocal agreements  
349 made with responsible officers of other states that implicate any part of the ~~Coal Mine Safety~~  
350 ~~Act, Chapters 14.2 (§ 45.1-161.7 et seq.), 14.3 (§ 45.1-161.105 et seq.), and 14.4 (§ 45.1-~~  
351 ~~161.253 et seq.) of Title 45.1.~~

352 **Drafting note: The citation in subsection F to the Coal Mine Safety Act is shortened**  
353 **because the Act is defined for the chapter in proposed § 45.2-xxx [existing § 45.1-161.8].**  
354 **Technical changes are made, including organizational changes in subsection A relating to**  
355 **the duties of the Chief.**

356 ~~§ 45.1-161.22. Repealed.~~

357 **Drafting note: Repealed by Acts 1997, c. 390.**

358 § ~~45.1-161.23~~ 45.2-xxx. Technical specialists.

359 The Director may appoint technical specialists in the areas of roof control, electricity,  
360 ventilation, and other mine specialties. Technical specialists shall have all the qualifications of  
361 a mine inspector plus such specialized knowledge in their field as may be required. Technical  
362 specialists shall advise the Director and mine operators in the areas of their specialty. Technical  
363 specialists shall have the power of an inspector to issue a closure order only in cases of imminent  
364 danger.

365 **Drafting note: Technical change.**

366 Article 3.

367 Certification of Coal Mine Workers.

368 **Drafting note: Existing Article 3, pertaining to the certification of coal mine**  
369 **workers, is retained.**

370 § ~~45.1-161.24~~. 45.2-xxx. The Board of Coal Mining Examiners; purpose.

371 ~~A. There is hereby created the~~ The Board of Coal Mining Examiners which shall consist  
372 (the Board) is established as a supervisory board in the executive branch of state government.  
373 The purpose of the Board is to issue certifications authorizing the performance of certain tasks.

374 **Drafting note: Part of the first sentence of existing § 45.1-161.24 is retained as**  
375 **proposed § 45.2-xxx. A statement of the purpose of the Board of Coal Mining Examiners**  
376 **is added and the board language is updated to reflect current language preferred in the**  
377 **Code. The remainder of existing § 45.1-161.24 is retained in the following section as**  
378 **proposed § 45.2-xxx.**

379 § 45.2-xxx. Board membership; terms; quorum; meetings.

380 A. The Board of Coal Mining Examiners shall have a total membership of five members-  
381 One member shall be the Chief, and that shall consist of four nonlegislative citizen members  
382 and one ex officio member. The four nonlegislative citizen members shall be appointed by the  
383 Governor. One appointed member shall be as follows: one who is a miner holding who holds a  
384 first-class first-class mine foreman's certificate with at least five years of experience in  
385 underground coal mining and who is employed at an underground coal mine in the

386 Commonwealth in a nonmanagerial, nonsupervisory capacity at the time of appointment. ~~One~~  
387 ~~appointed member shall be; one who is~~ a miner with at least five years of experience in surface  
388 coal mining ~~and~~ who is employed at a surface coal mine in the Commonwealth in a  
389 nonmanagerial, nonsupervisory capacity at the time of appointment. ~~One appointed member~~  
390 ~~shall be; one who is~~ an individual ~~holding who holds~~ a ~~first-class~~ first-class mine foreman's  
391 certificate with at least five years of experience in the operation of underground coal mines;  
392 ~~who~~ and is (i) an operator of an underground coal mine, (ii) an officer or director of a  
393 corporation operating an underground coal mine, (iii) a general partner of a partnership  
394 operating an underground coal mine, or (iv) an employee in a managerial or supervisory  
395 capacity of an operator of an underground coal mine in the Commonwealth at the time of  
396 appointment. ~~One appointed member shall be; and one who is~~ an individual with at least five  
397 years of experience in the operation of surface coal mines; who is ~~(i)~~ (a) an operator of a surface  
398 coal mine, ~~(ii)~~ (b) an officer or director of a corporation operating a surface coal mine, ~~(iii)~~ (c)  
399 a general partner of a partnership operating a surface coal mine, or ~~(iv)~~ (d) an employee in a  
400 managerial or supervisory capacity of an operator of a surface coal mine in the Commonwealth  
401 at the time of appointment. ~~All appointed~~ Nonlegislative citizen members of the Board shall be  
402 residents of the Commonwealth. The Chief or his designee shall serve ex officio with voting  
403 privileges.

404 B. ~~The terms of office of the appointed members~~ Members of the Board shall be as  
405 follows: ~~one shall be appointed for an initial term of one year; one shall be appointed for an~~  
406 ~~initial term of two years; one shall be appointed for an initial term of three years; and one shall~~  
407 ~~be appointed for an initial term of four years. Thereafter, the members shall be appointed for~~  
408 terms of four years. The Chief shall serve a term coincident with his term of office. Vacancies  
409 occurring on the Board among appointed members shall be filled by the Governor for the  
410 unexpired term. All members may be reappointed.

411 C. The Chief shall serve as chairman of the Board.

412 ~~§ 45.1-161.25. Meetings of Board of Coal Mining Examiners; compensation.~~

413 ~~D.~~ The Board of Coal Mining Examiners shall meet at least once a year and shall be  
414 called by the Chief to meet at such other times as he deems necessary. The Board shall meet at  
415 such place or places and at such times as may be designated by the Chief, and the Board shall  
416 remain in session until its work is completed, but no one session of the Board shall continue  
417 more than three days.

418 **Drafting note: All but part of the first sentence of existing § 45.1-161.24 [previous**  
419 **section] is retained and is combined with the first two sentences of existing § 45.1-161.25**  
420 **as proposed § 45.2-xxx. The board language for the Board of Coal Mining Examiners is**  
421 **updated to reflect current language preferred in the Code and obsolete language**  
422 **establishing the initial staggering of terms is proposed for deletion. Technical changes are**  
423 **made. The remaining sentence in existing § 45.1-161.25 is retained as proposed § 45.2-xxx**  
424 **[following section].**

425 § 45.2-xxx. Board compensation; expenses.

426 ~~Out of Nonlegislative citizen members of the Board of Coal Mining Examiners shall~~  
427 ~~receive such compensation for the performance of their duties as provided in § 2.2-2813. All~~  
428 ~~such nonlegislative citizen members shall be reimbursed for all reasonable and necessary~~  
429 ~~expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.~~  
430 Funding for the costs of compensation and expenses of such members shall be provided by the  
431 Coal Mining Examiners' Fund, there shall be paid to each member of the Board, except the  
432 established in § 45.2-xxx [§ 45.1-161.31]. The Chief who shall serve without extra pay,  
433 reimbursement for expenses and compensation as is provided by pursuant to § 2.2-2813.

434 **Drafting note: The third sentence in existing § 45.1-161.25 is retained as proposed**  
435 **§ 45.2-xxx. The board language for the Board of Coal Mining Examiners is updated to**  
436 **reflect current language preferred in the Code, the cross-reference to the Coal Mining**  
437 **Examiners' Fund is added, and technical changes are made. The first two sentences of**  
438 **existing § 45.1-161.25 are retained as proposed § 45.2-xxx [previous section].**

439 ~~§ 45.1-161.26~~ 45.2-xxx. Records of the Board of Coal Mining Examiners.



440 The Chief shall preserve in his office a record of the meetings and transactions of the  
441 Board of Coal Mining Examiners and of all certificates issued by the Board.

442 **Drafting note: Catchline is shortened.**

443 ~~§ 45.1-161.27~~ 45.2-xxx. Nominations for ~~the Board of Coal Mining Examiners~~.

444 Nominations for appointments to the Board of Coal Mining Examiners may be  
445 submitted to the Governor by the Director and each organization of coal miners and coal  
446 industry interests in the Commonwealth. Nominations are to be made to the Governor by June  
447 1 of the year in which the terms of appointments of members expire. In no case shall the  
448 Governor be bound to make any appointment from the nominations submitted.

449 **Drafting note: Catchline is shortened.**

450 ~~§ 45.1-161.28~~ 45.2-xxx. Certification of certain persons employed in coal mines;  
451 powers ~~and duties~~ of ~~the Board of Coal Mining Examiners~~.

452 A. The Board of Coal Mining Examiners may require certification of persons who work  
453 in coal mines and persons whose duties and responsibilities in relation to coal mining require  
454 competency, skill, or knowledge in order to perform ~~consistently~~ in a manner consistent with  
455 the preservation of the health and safety of persons and property. The following certifications  
456 shall be issued by the Board, and a person ~~holding who holds~~ such certification shall be  
457 authorized to perform the tasks ~~which this~~ that the Act or any regulation ~~promulgated~~ adopted  
458 by the Board or by the Department requires to be performed by such ~~a~~ certified person:

- 459 1. ~~First-class~~ First-class mine foreman;
- 460 2. ~~First-class~~ First-class shaft or slope foreman;
- 461 3. Surface foreman;
- 462 4. Preparation plant foreman;
- 463 5. Electrical maintenance foreman;
- 464 6. Dock foreman;
- 465 7. Top person;
- 466 8. Underground shot firer;
- 467 9. Surface blaster;

- 468 10. Hoisting engineer;  
469 11. Electrical repairman;  
470 12. Automatic elevator operator;  
471 13. Mine inspector;  
472 14. Qualified gas detector;  
473 15. Diesel engine mechanic;  
474 16. Diesel engine mechanic instructor;  
475 17. First aid instructor;  
476 18. Advanced first aid;  
477 19. Chief electrician; and  
478 20. General coal miner.

479 B. Certification shall also be required for such additional tasks as the Board may require  
480 by regulation.

481 C. The Board shall have the power to ~~promulgate~~ adopt regulations necessary or  
482 incidental to the performance of duties or execution of powers conferred under this title, which  
483 regulations shall be ~~promulgated~~ adopted in accordance with the provisions of Article 2 (§ 2.2-  
484 4006 et seq.) of the Administrative Process Act.

485 D. The Board is authorized to ~~promulgate~~ adopt regulations establishing guidelines for  
486 on-site examinations of mine foremen conducted by mine inspectors pursuant to § ~~45.1-161.35~~  
487 45.2-xxx.

488 **Drafting note: The catchline is shortened and updated to reflect the content of the**  
489 **statute. The term "promulgate regulations" is changed to "adopt regulations" in keeping**  
490 **with recent title revisions because "adopt" is more widely used and includes the**  
491 **promulgation process. Technical changes are made to modernize language.**

492 § ~~45.1-161.29~~ 45.2-xxx. Examinations required for Coal Mining Certifications.

493 A. The Board of Coal Mining Examiners may require examination of ~~applicants~~ an  
494 applicant for certification; however, the Board shall require examination of ~~applicants~~ an  
495 applicant for the mine inspector certification. The Board may require such other information

496 from ~~applicants~~ each applicant as may be necessary to ascertain competency and qualifications  
497 for each task. Except as specifically provided by ~~this~~ the Act, the Board shall prescribe the  
498 qualifications for any certification. The examinations shall be conducted under such rules,  
499 conditions, and regulations as the Board shall ~~promulgate~~ adopt. Such rules, when ~~promulgated~~  
500 adopted, shall (i) be made a part of the permanent record of the Board, ~~shall~~ (ii) be periodically  
501 be published, and ~~shall~~ (iii) be of uniform application to all applicants.

502 B. Any certificate issued by the Board shall be valid from the date of issuance unless  
503 and until it has been suspended pursuant to § ~~45.1-161.34~~, 45.2-xxx or ~~has been~~ revoked by the  
504 Board pursuant to § ~~45.1-161.35~~ 45.2-xxx.

505 **Drafting note: The term "promulgate regulations" is changed to "adopt**  
506 **regulations" in keeping with recent title revisions because "adopt" is more widely used**  
507 **and includes the promulgation process. Technical changes are made.**

508 § ~~45.1-161.30~~ 45.2-xxx. Performance of certain tasks by uncertified persons; penalty.

509 A. ~~It shall be~~ is unlawful for any person to perform any task requiring certification by  
510 the Board of Coal Mining Examiners until he has been certified. ~~It shall~~ is also ~~be~~ unlawful for  
511 an operator or his agent to permit any uncertified person to perform such tasks. A violation of  
512 ~~this subsection shall constitute~~ section constitutes a Class 1 misdemeanor. Each day of operation  
513 without a required certification ~~shall constitute~~ constitutes a separate offense.

514 B. ~~A certificate issued by the Board of Examiners prior to July 1, 1994, shall be~~  
515 ~~acceptable as a certificate issued by the Board of Coal Mining Examiners until the Board of~~  
516 ~~Coal Mining Examiners shall provide otherwise by appropriate regulations.~~

517 **Drafting note: Subsection B is proposed for deletion because it is an obsolete**  
518 **provision. Technical changes are made.**

519 § ~~45.1-161.31~~. Examination fees; 45.2-xxx. Coal Mining Examiners' Fund.

520 A. ~~A reasonable fee in an amount set by the Board of Coal Mining Examiners, not to~~  
521 ~~exceed \$50, shall be paid to the Chief by each person examined before the commencement of~~  
522 ~~examination. There is hereby created in the state treasury a special nonreverting fund to be~~  
523 known as the Coal Mining Examiners' Fund, referred to in this section as "the Fund." The Fund

524 shall be established on the books of the Comptroller. All such fees collected pursuant to § 45.2-  
525 xxx, together with moneys collected pursuant to §§ 45.1-161.32 45.2-xxx and 45.1-161.34 45.2-  
526 xxx, shall be retained by the Department and shall be promptly paid by the Chief into the state  
527 treasury and shall constitute credited to the Coal Mining Examiners' Fund. Interest earned on  
528 moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in  
529 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general  
530 fund but shall remain in the Fund. Moneys in the Fund

531 ~~The fund shall be administered by the Chief to cover~~ used solely for the purposes of  
532 covering the costs of administering the miner certification, for which purposes such moneys are  
533 hereby appropriated.;

534 ~~B. The~~ the cost of printing certificates and other necessary forms; and the incidental  
535 expenses incurred by the Board in conducting examinations, reviewing examination papers,  
536 and conducting its other duties pursuant to this article shall also be paid out of the Coal Mining  
537 Examiners' Fund. Expenditures and disbursements from the Fund shall be made by the State  
538 Treasurer on warrants issued by the Comptroller upon written request signed by the Chief. The  
539 Chief shall keep accounts and records concerning the receipts and expenditures of the fund  
540 Fund as required by the Auditor of Public Accounts.

541 § 45.2-xxx. Examination fees.

542 A reasonable fee in an amount set by the Board of Coal Mining Examiners, not to exceed  
543 \$50, shall be paid to the Chief by each person examined before the commencement of  
544 examination. Fees collected shall be deposited in the Coal Mining Examiners' Fund created by  
545 § 45.2-xxx.

546 **Drafting note: Existing § 45.1-161.31 is divided into two proposed sections to**  
547 **separate two distinct topics. The nonreverting fund language for the Coal Mining**  
548 **Examiners' Fund is updated to reflect current language requested by the Department of**  
549 **the Treasure for nonreverting funds in the Code. Technical changes are made.**

550 ~~§ 45.1-161.32~~ 45.2-xxx. Replacement of lost or destroyed certificates.

551 If any certificate issued by the Board of Coal Mining Examiners is lost or destroyed, the  
552 Chief may supply a copy thereof to the person to whom it was issued, upon the payment of a  
553 reasonable fee in an amount set by the Board not to exceed \$10, provided that it has been  
554 established to his satisfaction that the loss or destruction actually occurred and that the person  
555 seeking such copy was the holder of such certificate.

556 **Drafting note: No change.**

557 ~~§ 45.1-161.33~~ 45.2-xxx. Reciprocal acceptances of other certifications.

558 A. In lieu of an examination prescribed by law or regulation, the Board of Coal Mining  
559 Examiners may issue to any person holding a certificate issued by another state a certificate  
560 permitting him to perform similar tasks in the Commonwealth, provided that (i) the Board finds  
561 that the requirements for certification in such state are substantially equivalent to those of  
562 Virginia and (ii) holders of certificates issued by the Board are permitted to perform similar  
563 tasks in such state, and obtain similar certification from such state if required, upon presentation  
564 of the certificate issued by the Board and without additional testing, training, or other  
565 requirements not directly related to program administration.

566 B. If the issuing authority in another state has revoked or suspended a certificate of a  
567 person who holds a similar Virginia certificate issued pursuant to this section, the person shall  
568 notify the Chief of such action by the other state within 10 days of such action. The Chief shall  
569 schedule a hearing of the ~~Board of Coal Mining Examiners~~ to determine whether his Virginia  
570 certificate ~~should~~ shall be revoked or suspended.

571 **Drafting note: Technical changes.**

572 ~~§ 45.1-161.34~~ 45.2-xxx. Continuing education requirements.

573 A. The Board of Coal Mining Examiners shall ~~promulgate~~ adopt regulations  
574 establishing requirements for programs of continuing education for holders of certifications.  
575 The Board shall establish (i) the content and amount of continuing education to be required for  
576 maintaining certification; (ii) guidelines for the content of continuing education programs; (iii)  
577 procedures for approving continuing education programs and sponsors; (iv) distribution to  
578 holders of certificates of appropriate information regarding continuing education requirements;

579 (v) provisions allowing surplus hours of continuing education to be carried forward from one  
580 period to meet the requirements for the next period; (vi) procedures for determining compliance  
581 with continuing education requirements; (vii) requirements for a certificate holder to provide  
582 the Board with his current address and such further administrative information as may be  
583 reasonable; and (viii) the length of time a certificate may be suspended for failure to comply  
584 with continuing education requirements before such certificate shall be revoked. The Board  
585 may also establish by regulation a fee to recover the reasonable costs of reissuing certificates  
586 or otherwise ascertaining that the requirements of this section have been satisfied.

587 B. A certification issued by the Board of Coal Mining Examiners shall be suspended if  
588 the holder fails to comply with the continuing education requirements established by the Board.  
589 The suspension shall be vacated upon compliance with the continuing education requirements.  
590 However, if the holder of a certificate does not comply with the continuing education  
591 requirements within the period of time established by the Board, the certificate shall be revoked.

592 **Drafting note: The term "promulgate regulations" is changed to "adopt**  
593 **regulations" in keeping with recent title revisions because "adopt" is more widely used**  
594 **and includes the promulgation process.**

595 ~~§ 45.1-161.35~~ 45.2-xxx. Revocation of certificates.

596 A. The Board of Coal Mining Examiners may suspend, revoke, or take other action  
597 regarding any certificate upon finding that (i) the holder has ~~(i)~~ (a) failed to comply with the  
598 continuing education requirements within the period following the suspension of the certificate  
599 as provided in ~~§ 45.1-161.34~~ 45.2-xxx; ~~(ii)~~ (b) been intoxicated while in duty status; ~~(iii)~~ (c)  
600 neglected his duties; ~~(iv)~~ (d) violated any provision of ~~this the~~ Act or any other coal mining law  
601 of the Commonwealth; ~~(v)~~ (e) used any controlled substance without the prescription of a  
602 licensed prescriber; or ~~(vi)~~ (ii) other sufficient cause exists. The Board shall also suspend,  
603 revoke, or take other action regarding the ~~first-class~~ first-class mine foreman certificate of any  
604 mine foreman who fails to display a thorough understanding of the roof control plan and  
605 ventilation for the area of the mine for which he is responsible for implementing, when  
606 examined on-site by a mine inspector in accordance with guidelines ~~promulgated~~ adopted by

607 the Board. In such a case, the Board shall make a determination, based on evidence presented  
608 by interested parties, of whether the mine foreman had a thorough knowledge of such plans at  
609 the time of his examination by the mine inspector.

610 B. The Board may act to suspend, revoke, or take other action regarding any certificate  
611 upon the presentation of written charges alleging prohibited conduct set forth in subsection A  
612 by (i) the Chief or the Director or his designated agent; (ii) the operator of a mine at which such  
613 person is employed; or (iii) ~~ten~~ 10 persons employed at the mine at which such person is  
614 employed, or, if ~~less~~ fewer than ~~ten~~ 10 persons are employed at the mine, a majority of the  
615 employees at the mine. The Board may act on its own initiative to suspend, revoke, or take  
616 other action on any certificate for grounds set forth in ~~item~~ clause (i) (a) of subsection A.

617 C. Any person holding a certification issued by the Board shall report to the Chief;  
618 within 30 days of any criminal conviction in any court of competent jurisdiction for possession  
619 or use of any controlled substance without the prescription of a licensed prescriber. This  
620 conviction shall result in the immediate temporary suspension of all certificates held by such  
621 person pending a hearing before the Board.

622 D. Any miner present at any mine shall be deemed to have given consent to reasonable  
623 search, at the direction of the Chief by employees of the Department, of his person and his  
624 personal property located at the mine. This search shall be limited to the investigation of  
625 potential violations of the ~~Coal Mine Safety Act (§ 45.1-161.7 et seq.)~~.

626 E. All information regarding substance abuse test results of certified persons, written or  
627 otherwise, received by the Department or Board, shall be confidential. Any hearing of the Board  
628 in which this information is presented shall be conducted as a closed session in accordance with  
629 the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

630 F. An affirmative vote of a majority of members of the Board who are qualified to vote  
631 shall be required for any action to suspend, revoke, or take other action regarding a certificate.

632 G. Prior to suspending, revoking, or taking other action regarding a certificate, the Board  
633 shall give due notice to the holder of the certificate and conduct a hearing. Any hearing shall be  
634 conducted in accordance with § 2.2-4020 unless the parties agree to informal proceedings. The

635 hearing may be conducted by the Board or, in the Board's discretion, by a hearing officer as  
636 provided in Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

637 H. Any hearing conducted after the temporary suspension of a miner's certificate due to  
638 (i) a criminal conviction in any court of competent jurisdiction for possession or use of any  
639 controlled substance without the prescription of a licensed prescriber as provided for in  
640 subsection C, (ii) a failure to pass a substance abuse test required by the Chief pursuant to §  
641 ~~45.1-161.78~~ 45.2-xxx, (iii) a failure to pass a pre-employment substance abuse screening test,  
642 (iv) a discharge for violation of the company's substance or alcohol abuse policies, (v) a positive  
643 test for the use of any controlled substance without the prescription of a licensed prescriber, (vi)  
644 a positive test for intoxication while on duty status, or (vii) a failure to complete a substance  
645 abuse program pursuant to § ~~45.1-161.87~~, 45.2-xxx shall be conducted within 60 days of the  
646 temporary suspension. The Board shall make every effort to hold the hearing within 40 days of  
647 the temporary suspension.

648 I. Any person who has been aggrieved by a decision of the Board shall be entitled to  
649 judicial review of such decision. Appeals from such decisions shall be in accordance with  
650 Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

651 **Drafting note: The term "promulgate regulations" is changed to "adopt**  
652 **regulations" in keeping with recent title revisions because "adopt" is more widely used**  
653 **and includes the promulgation process. Technical changes are made, including in**  
654 **subsection A, where the organization of the list of findings is clarified.**

655 § ~~45.1-161.36~~ 45.2-xxx. Reexamination.

656 The holder of a certificate revoked pursuant to § ~~45.1-161.35~~ 45.2-xxx shall be entitled  
657 to examination by the Board of Coal Mining Examiners after three months have elapsed from  
658 the date of revocation of the certificate if he can prove to the satisfaction of the Board that the  
659 cause for revocation of his certificate has ceased to exist. However, no person convicted of  
660 violating subsection A of § ~~45.1-161.177~~ 45.2-xxx or §§ ~~45.1-161.178~~ § 45.2-xxx, ~~45.1-~~  
661 ~~161.232~~ 45.2-xxx, or § ~~45.1-161.233~~ 45.2-xxx shall be eligible for examination for a period of



662 not less than one year nor more than three years following such conviction, such period to be  
663 set by the Board in its discretion at the time of revocation of the certificate.

664 **Drafting note: Technical changes.**

665 ~~§ 45.1-161.37~~ 45.2-xxx. General coal miner certification.

666 A. Every person working in a coal mine in Virginia shall hold a general coal miner  
667 certificate issued by the Board of Coal Mining Examiners. ~~Any person who has been employed~~  
668 ~~to work in a coal mine in Virginia prior to January 1, 1996, shall submit a complete application~~  
669 ~~for certification as a general coal miner by September 30, 2007.~~ The Board of Coal Mining  
670 Examiners shall issue a general coal miner certification upon submittal of a complete  
671 application.

672 B. Each applicant for a general coal miner certificate who has not been employed to  
673 work in a Virginia coal mine prior to January 1, 1996, shall prove to the Board that he has  
674 knowledge of first aid practices and has a general working knowledge of the provisions of ~~this~~  
675 the Act, and applicable regulations, pertaining to coal mining health and safety. Each applicant  
676 shall have completed the ~~new~~ miner training requirements of 30-~~CFR~~ C.F.R. Part 48 or submit  
677 proof of at least one year of experience in a coal mine prior to issuance of the General Coal  
678 Miner certification.

679 **Drafting note: An obsolete provision is proposed for deletion and technical changes**  
680 **are made.**

681 ~~§ 45.1-161.38~~ 45.2-xxx. First-class mine foreman certification.

682 A. The operator of any coal mine where three or more persons work during any part of  
683 a 24-hour period shall employ a mine foreman. The operator shall employ as a mine foreman  
684 only persons holding a first-class mine foreman certificate. The holder of such a certificate shall  
685 present the certificate, or a ~~photostatic~~ copy thereof, to the operator where he is employed, who  
686 shall file the certificate or its copy in the office at the mine, and the operator shall make it  
687 available for inspection by interested persons.

688 B. The holder of a first-class mine foreman certificate shall be authorized to act as  
689 foreman for ~~all~~ any underground coal ~~mines~~ mine.

690 C. ~~Applicants~~ An applicant for a first-class mine foreman certificate shall be not less  
691 than 23 years of age and shall have had at least five years of experience in a coal mine ~~(, at least~~  
692 three years of which shall have been in an underground coal mine). A graduate of an approved  
693 course in mining engineering at a baccalaureate institution of higher education shall be given  
694 credit for three of the five years of practical experience required. An applicant who possesses a  
695 degree in mining technology shall be given credit for two of the five years of practical  
696 experience required. If the applicant meets the above requirements, makes 85 percent or more  
697 on each of the subjects of the written examination, and passes required map and gas  
698 examinations, he shall be entitled to a first-class mine foreman certificate. The written  
699 examination shall address, among other relevant topics, the theory and practice of coal mining;  
700 the nature and properties of noxious, poisonous, and explosive gases, and methods for their  
701 detection and control; the requirements of the coal mining laws of ~~this~~ the Commonwealth,  
702 including rules and regulations adopted by the Department or the Board of Coal Mining  
703 Examiners; and the responsibilities and duties of a mine foreman under state law.

704 D. Each candidate for certification as a first-class mine foreman shall complete the  
705 course or courses of instruction in first aid as provided in subsection A of § ~~45.1-161.101~~ 45.2-  
706 xxx and pass an examination relating thereto, approved by the Board of Coal Mining  
707 Examiners.

708 **Drafting note: Technical changes.**

709 § ~~45.1-161.39~~ 45.2-xxx. Surface foreman certification.

710 A. ~~Applicants~~ An applicant for a surface foreman certificate shall be at least 23 years of  
711 age and have had at least five years of experience in a coal mine ~~with,~~ at least three years of  
712 ~~such experience~~ which shall have been in a surface coal mine. A graduate of an approved course  
713 in mining engineering at a baccalaureate institution of higher education shall be given credit for  
714 three of the five years of practical experience required. An applicant who possesses a degree in  
715 mining technology shall be given credit for two of the five years of required practical  
716 experience. ~~Applicants~~ Each applicant shall demonstrate to the Board of Coal Mining  
717 Examiners a thorough knowledge of the theory and practice of surface coal mining by making

718 85 percent or more on the written examination. In addition, each applicant shall pass the  
719 examination in gas detection. The holder of a surface foreman certificate issued by the Board  
720 shall be authorized to act as surface foreman at any surface coal mine.

721 B. Each candidate for certification as a surface foreman shall complete, at a minimum,  
722 a 24-hour course of instruction in advanced first aid taught by a certified advanced first aid  
723 instructor in accordance with subsection A of ~~§ 45.1-161.101, 45.2-xxx~~ and pass an  
724 examination relating thereto approved by the Board of Coal Mining Examiners. No course or  
725 examination shall be required of ~~candidates~~ a candidate holding a current higher level of  
726 emergency medical certification from the Virginia Department of Health.

727 ~~C. All holders of a surface foreman certification issued prior to July 1, 2010, except~~  
728 ~~those holding a current higher level of emergency medical certification from the Virginia~~  
729 ~~Department of Health, shall complete by December 31, 2011, at a minimum, a 24-hour course~~  
730 ~~of instruction in advanced first aid taught by a certified advanced first aid instructor in~~  
731 ~~accordance with subsection A of § 45.1-161.101.~~

732 **Drafting note: An obsolete provision is proposed for deletion and technical changes**  
733 **are made.**

734 ~~§ 45.1-161.40~~ 45.2-xxx. Chief electrician certification.

735 Each applicant for a chief electrician certificate shall demonstrate to the Board of Coal  
736 Mining Examiners by written and oral examination that he has a thorough knowledge of the  
737 theory and practice of electricity that pertains to coal mining. In addition, each applicant shall  
738 pass the examinations in first aid and gas detection. The holder of a chief electrician certificate  
739 issued by the Board shall be authorized to act as chief electrician in any coal mine.

740 **Drafting note: No change.**

741 ~~§ 45.1-161.41~~ 45.2-xxx. Top person certificate.

742 Each applicant for a top person certificate shall demonstrate to the Board of Coal Mining  
743 Examiners by written and oral examination that he has a thorough knowledge of the theory and  
744 practice of shaft and slope mine construction. In addition, each applicant shall pass the

745 examinations in first aid and gas detection. The holder of a top person certificate issued by the  
746 Board shall be authorized to act as top person in any coal mine.

747 **Drafting note: No change.**

748 ~~Article 4.~~

749 ~~Certification of Mineral Mine Workers.~~

750 **Drafting note: Repealed by Acts 1997, c. 390.**

751 ~~45.1-161.42 through 45.1-161.56. [Repealed.]~~

752 **Drafting note: Repealed by Acts 1997, c. 390.**

753 ~~Article 5.4.~~

754 ~~Licensing for Operation of Coal Mines.~~

755 **Drafting note: Existing Article 5, relating to licensing for operation of coal mines,**  
756 **is retained as proposed Article 4. This article and all subsequent articles are renumbered**  
757 **to reflect the repeal of existing Article 4 in 1997. Article title is revised to better reflect the**  
758 **subject of the article.**

759 ~~§ 45.1-161.57 45.2-xxx.~~ License required for operation of ~~coal mines~~ a coal mine; term.

760 A. No person shall engage in the operation of any coal mine within ~~this the~~  
761 Commonwealth without first obtaining a license for the operation of a coal mine from the  
762 Department. A license for the operation of a coal mine shall be required prior to commencement  
763 of the operation of a mine. A separate license ~~shall be secured~~ is required for each mine  
764 operated. Licenses shall be in such form as the Director may prescribe. The license shall be  
765 posted in a conspicuous place near the main entrance to the mine. The license shall not be  
766 transferable, and every change in ownership of a mine shall be reported to the Department as  
767 provided in subsection B of § ~~45.1-161.62~~ 45.2-xxx.

768 ~~B. Licenses~~ Each license for the operation of a coal mines mine shall be valid for a  
769 period of no more than one year following the date of issuance ~~and~~. License renewal shall be  
770 ~~renewed annually obtained~~ within fifteen 15 business days following the ~~anniversary of the date~~  
771 ~~the mine began operations~~ expiration of the license.

772 ~~§ 45.1-161.58. Fee to accompany application for license; fund; disposition of fees.~~

773           C. Each application for a license for the operation of a coal mine or a renewal or transfer  
774 of a license for the operation of a coal mine shall be submitted to the Department, accompanied  
775 by a fee, payable to the State Treasurer, in the amount of \$180 \$350.

776           **Drafting note: Existing § 45.1-161.57 and the first sentence of existing § 45.1-161.58**  
777 **are combined. License renewal provisions in subsection B are reworded for consistency.**  
778 **The fee amount is updated from \$180 to \$350 to reflect the current fee. Technical changes**  
779 **are made.**

780           § 45.2-xxx. Coal Mine Operator License Fund.

781           There is hereby created in the state treasury a special nonreverting fund to be known as  
782 the Coal Mine Operator License Fund, referred to in this section as "the Fund." The Fund shall  
783 be established on the books of the Comptroller. All such fees collected pursuant to the  
784 provisions of § 45.2-xxx [45.1-161.58] shall be retained by the Department and paid into the  
785 state treasury and shall constitute a fund under the control of the Director. Expenditures from  
786 this fund may be made by the Department for credited to the Fund. Interest earned on moneys  
787 in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,  
788 including interest thereon, at the end of each fiscal year shall not revert to the general fund but  
789 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of purchasing  
790 or commissioning safety equipment, safety training, safety education, or for any expenditure to  
791 further the safety program in the mining industry. All expenditures and disbursements from this  
792 fund must be approved the Fund shall be made by the State Treasurer on warrants issued by the  
793 Comptroller upon written request signed by the Director.

794           **Drafting note: Provisions in existing § 45.1-161.58 relating to fee collection and**  
795 **fund expenditures are retained as proposed § 45.2-xxx [previous section] with the**  
796 **nonreverting fund language for the Coal Mine Operator License Fund updated to reflect**  
797 **current language requested by the Department of the Treasury for nonreverting funds in**  
798 **the Code.**

799           ~~§ 45.1-161.59~~ 45.2-xxx. Application for license for the operation of a coal mine.

800 A. An application for a license for the operation of a coal mine shall be submitted by  
801 the person who will be the operator of the mine. No application for a license or a renewal thereof  
802 shall be considered complete unless it contains the following:

803 1. ~~Identity regarding~~ The identity of the operator of the mine.

804 a. If the operator is a sole proprietorship, the operator shall state: (i) his full name and  
805 address; (ii) the name and address of the mine and its federal mine identification number; (iii)  
806 the name and address of the person with overall responsibility for operating decisions at the  
807 mine; (iv) the name and address of the person with overall responsibility for health and safety  
808 at the mine; (v) the federal mine identification numbers of all other mines in which the sole  
809 proprietor has a ~~twenty~~ 20 percent or greater ownership interest; and (vi) the trade name, if any,  
810 and the full name, address of record, and telephone number of the proprietorship.

811 b. If the operator is a partnership, the operator shall state: (i) the name and address of  
812 the mine and its federal mine identification number; (ii) the name and address of the person  
813 with overall responsibility for operating decisions at the mine; (iii) the name and address of the  
814 person with overall responsibility for health and safety at the mine; (iv) the federal mine  
815 identification numbers of all other mines in which the partnership has a ~~twenty~~ 20 percent or  
816 greater ownership interest; (v) the ~~full name~~ names and ~~address~~ addresses of all partners; (vi)  
817 the trade name, if any, and the full name and address of record and telephone number of the  
818 partnership; and (vii) the federal mine identification numbers of all other mines in which any  
819 partner has a ~~twenty~~ 20 percent or greater ownership interest.

820 c. If the operator is a corporation, the operator shall state: (i) the name and address of  
821 the mine and its federal mine identification number; (ii) the name and address of the person  
822 with overall responsibility for operating decisions at the mine; (iii) the name and address of the  
823 person with overall responsibility for health and safety at the mine; (iv) the federal mine  
824 identification numbers of all other mines in which the corporation has a ~~twenty~~ 20 percent or  
825 greater ownership interest; (v) the full name, address of record, and telephone number of the  
826 corporation and the state of incorporation; (vi) the full name and address of each officer and  
827 director of the corporation; (vii) ~~if the corporation is a subsidiary corporation, the operator shall~~

828 state the full name, address, and state of incorporation of the parent corporation if the  
829 corporation is a subsidiary corporation; and (viii) the federal mine identification numbers of all  
830 other mines in which any corporate officer has a ~~twenty~~ 20 percent or greater ownership interest.

831 d. If the operator is any organization other than a sole proprietorship, partnership, or  
832 corporation, the operator shall state: (i) the nature and type, or legal identity of the organization;  
833 (ii) the name and address of the mine and its federal mine identification number; (iii) the name  
834 and address of the person with overall responsibility for operating decisions at the mine; (iv)  
835 the name and address of the person with overall responsibility for health and safety at the mine;  
836 (v) the federal mine identification numbers of all other mines in which the organization has a  
837 ~~twenty~~ 20 percent or greater ownership interest; (vi) the full name, address of record, and  
838 telephone number of the organization; (vii) the name and address of each individual who has  
839 an ownership interest in the organization; (viii) the ~~name~~ names and ~~address~~ addresses of the  
840 principal organization officials or members; and (ix) the federal mine identification numbers of  
841 all other mines in which any official or member has a ~~twenty~~ 20 percent or greater ownership  
842 interest;

843 2. The ~~names~~ name and ~~addresses~~ address of any agent of the operator with  
844 responsibility for the business operation of the mine, and of any person with an ownership or  
845 leasehold interest in the coal to be mined;

846 3. The names and addresses of persons to be contacted in the event of an accident or  
847 other emergency at the mine;

848 4. Such information required by the Department that is relevant to an assessment of the  
849 safety and health risks likely to be associated with the operation of the mine; and

850 ~~5, 6. [Repealed.]~~

851 ~~7-5.~~ For any license renewal, the annual report required pursuant to § ~~45.1-161.62~~ 45.2-  
852 xxx. When no change has occurred to the information required by subdivision 1, 2, or 3 ~~of this~~  
853 ~~subsection~~, the operator of the mine shall only be required to certify that such information on  
854 the current license application is accurate and complete.

855 B. The application shall be certified as being ~~complete~~ accurate and ~~accurate~~ complete  
856 by the applicant, if an individual, or by the agent of a corporate applicant, or by a general partner  
857 of an applicant that is a partnership. The application shall be submitted on forms furnished or  
858 approved by the Department.

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

861 **Drafting note: Technical changes.**

862 ~~§ 45.1-161.60~~ 45.2-xxx. Denial or revocation of license for the operation of a coal mine.

863 A. The Chief may ~~deny an application for, or may~~ revoke a license for the operation of  
864 a coal mine or deny an application for the issuance of a license for the operation of a coal mine  
865 upon determining that the applicant, the operator, or ~~his~~ the operator's agent has committed  
866 violations of the mine safety laws of the Commonwealth ~~which, including rules and regulations~~  
867 adopted by the Department or the Board of Coal Mining Examiners, that demonstrate a pattern  
868 of willful violations resulting in an imminent danger to miners.

869 B. The Chief may revoke every license issued to any person for the operation of a coal  
870 mine and may deny every application by a person for the issuance of a license for the operation  
871 of a coal mine who has been convicted of knowingly permitting a miner to work in an  
872 underground coal mine where a methane monitor or other device capable of detecting the  
873 presence of explosive gases was impaired, disturbed, disconnected, bypassed, or otherwise  
874 tampered with in violation of ~~§ 45.1-161.233~~ 45.2-xxx.

875 C. The Chief may revoke every license issued to any person for the operation of a coal  
876 mine and may deny every application by a person for the issuance of a license for the operation  
877 of a coal mine who has been convicted of violating subsection A of ~~§ 45.1-161.177~~ 45.2-xxx  
878 or ~~§ 45.1-161.178~~ 45.2-xxx.

879 D. Any person whose license application is denied or whose license is revoked pursuant  
880 to subsection A, B, or C may bring a civil action in the circuit court of the city or county in  
881 which the mine is located for review of the decision. The commencement of such a proceeding  
882 shall not, unless specifically ordered by the court, operate as a stay of the decision. The court



883 shall promptly hear and determine the matters raised by the aggrieved party. In any such action,  
884 the court shall receive the records of the Department with respect to the determination, and shall  
885 receive additional evidence at the request of any party. The court, basing its decision on the  
886 preponderance of the evidence, shall grant such relief as the court determines appropriate.

887 **Drafting note: Technical changes are made, including changes that make the form**  
888 **of subsection A parallel to that of subsections B and C.**

889 ~~§ 45.1-161.61~~ 45.2-xxx. Operating without license; penalty.

890 A. In addition to any other power conferred by law, the Chief, or his designated  
891 representative, shall have the authority to issue an order closing any coal mine ~~which that~~ is  
892 operating without a license. The procedure for issuing a closure order shall be as provided in §  
893 ~~45.1-161.91~~ 45.2-xxx.

894 B. Any person operating an unlicensed mine ~~shall, upon conviction, be~~ is guilty of a  
895 Class 3 misdemeanor. Each day any person operates an unlicensed mine shall constitute a  
896 separate offense.

897 **Drafting note: Technical changes.**

898 ~~§ 45.1-161.62~~ 45.2-xxx. Annual reports; condition to issuance of license following  
899 transfer of ownership.

900 A. The operator ~~or his agent of every~~ each mine ~~or his agent~~ shall annually, by February  
901 15, mail or deliver to the Department a report for the preceding ~~twelve~~ 12 months, ending with  
902 December 31. Such report shall state: (i) the names of the operator, any agent, and ~~their~~ any  
903 officers, of the mine; (ii) the ~~quantity~~ amount of coal mined; and (iii) such other information,  
904 not of a private nature, as may from time to time be required by the Department on ~~blank~~ forms  
905 furnished or approved by the Department.

906 B. Whenever the owner of a mine ~~shall transfer~~ transfers the ownership of such mine to  
907 another person, the person transferring such ownership shall submit a report to the Department  
908 of such change and a statement of the tons of coal produced since the January 1 previous to the  
909 date of such sale or transfer of such mine. A license ~~will~~ shall not be issued covering such  
910 transfer of ownership until the report is furnished.

911 C. The operator ~~or his agent of every~~ each coal mine or his agent shall annually, by  
912 February 15, mail or deliver to the Department (i) an affidavit, certified by the ~~Commissioner~~  
913 ~~of Revenue~~ commissioner of the revenue of the locality in which the coal mining operations are  
914 conducted, stating that all local coal severance taxes enacted pursuant to §§ 58.1-3703, 58.1-  
915 3712, 58.1-3713, and 58.1-3741 due with respect to the coal mining operations have been paid;  
916 and (ii) an affidavit, certified by the Treasurer of the locality in which the coal mining operations  
917 are conducted, stating that all personal property, real estate, and mineral land taxes due with  
918 respect to coal mining operations have been paid.

919 **Drafting note: Technical changes are made, including the reconfiguration of the**  
920 **phrase "operator or his agent of every mine" to be consistent with language in existing §**  
921 **45.1-161.14.**

922 ~~§ 45.1-161.63~~ 45.2-xxx. Notices Discontinuance of the working of a mine; notices to  
923 Department; resumption of mining following discontinuance.

924 A. The operator or his agent shall send notice of his intent to discontinue the working  
925 of an underground coal mine for a period of 30 days or a surface mine for a period of 60 days  
926 to the Department at least 10 days prior to discontinuing the working of a mine with such intent,  
927 or at any time a mine becomes an inactive mine. Unless examinations of the mine are being  
928 conducted during the period of discontinued use, all surface openings to the discontinued  
929 underground coal mine shall be secured against unauthorized entrance when the activities are  
930 discontinued for 30 days or longer. Danger signs shall be posted at each secured entrance.

931 B. The operator, or his agent, shall send to the Department 10 days' prior notice of intent  
932 to resume the working of an inactive mine. The production of coal at such mine shall not resume  
933 until a mine inspector has inspected and approved it for resumption of production activities.

934 C. Emergency actions necessary to preserve a mine may be undertaken without the prior  
935 notice of intent and advance inspection required by subsection B. In such event, a mine foreman  
936 shall examine a mine for hazardous conditions immediately before miners are permitted to  
937 work. The operator, or his agent, shall notify the Department as soon as possible after  
938 commencing emergency action necessary to preserve the mine.

939 D. The operator, or his agent, shall send to the Department 10 days' prior notice of any  
940 change in the name of a mine or in the name of the operator of a mine.

941 E. The operator, or his agent, shall send to the Department 10 days' prior notice of the  
942 opening of a new mine.

943 F. Any notice required by this section shall be in writing and shall include the name of  
944 the mine, the location of the mine, the name of the operator, and the operator's mailing address  
945 and email address.

946 **Drafting note: Catchline is changed to better reflect the content of the section.**  
947 **"Email address" is added to the information included on notice required by this proposed**  
948 **section. Technical changes are made.**

949 ~~§ 45.1-161.64~~ 45.2-xxx. Maps of mines required to be made; contents; extension and  
950 preservation; use by Department; release; posting of map.

951 A. Prior to commencing mining activity, the operator of a coal mine, or his agent, shall  
952 make, or cause to be made, unless already made and filed, an accurate map of such mine. Such  
953 map shall be submitted to the Chief prior to producing coal at the mine. All maps shall be  
954 presented on the Virginia Coordinate System of 1983, South Zone, unless otherwise approved  
955 by the Chief. At intervals not to exceed 12 months and when a coal mine is abandoned, the  
956 operator shall submit to the Chief copies of an up-to-date map of the entire mine in an electronic  
957 format approved by the Chief. The operator shall also submit to the Chief revisions that show  
958 directional changes whenever mine projections deviate more than 600 feet from the approved  
959 mine map. Only maps in an electronic format ~~will~~ shall be accepted unless otherwise approved  
960 by the Chief. If there are no changes in the information required to be submitted ~~under~~ pursuant  
961 to this section at the time an updated map is due, the operator may submit a notice that there  
962 are no changes to the map in lieu of submitting an updated map to the Department.

963 B. Underground coal mine maps shall show:

964 1. The active workings;

965 2. All pillared, worked out, and abandoned areas, except as provided in this section;

- 966 3. Entries and aircourses with the quantity of airflow, direction of airflow indicated by  
967 arrows, and ventilation controls;
- 968 4. Contour lines of all elevations;
- 969 5. Dip of the coalbed;
- 970 6. Escapeways;
- 971 7. The locations that are known or should be known of (i) adjacent mine workings within  
972 1,000 feet, (ii) mines above or below, and (iii) water pools above;
- 973 8. Either producing or abandoned oil and gas wells located within 500 feet of such mine  
974 and in any underground area of such mine; and
- 975 9. Such other information as the Chief may require.

976 Such map shall identify those areas of the mine ~~which~~ that have been pillared, worked  
977 out, or abandoned, ~~which~~ that are inaccessible, or that cannot be entered safely.

978 C. Additional information required to be shown on underground coal mine maps shall  
979 include:

- 980 1. ~~Mine~~ The mine name, company name, mine index number, and name of the person  
981 responsible for information on the map;
- 982 2. The scale and orientation of the map and symbols used on the map;
- 983 3. The property or boundary lines of the mine;
- 984 4. All known drill holes that penetrate the coalbed being mined;
- 985 5. All shaft, slope, drift, and tunnel openings and auger and strip mined areas of the  
986 coalbed being mined;
- 987 6. The location of all surface mine ventilation fans; ~~the~~ The location may be designated  
988 on the mine map by symbols;
- 989 7. The location of railroad tracks and public highways leading to the mine, and mine  
990 buildings of a permanent nature with identifying names shown;
- 991 8. The location and description of a least two permanent base line points coordinated  
992 with the underground and surface mine traverses, and the location and description of at least

993 two permanent elevation bench marks used in connection with establishing or referencing mine  
994 elevation surveys;

995 9. The location and elevation of any body of water dammed or held back in any portion  
996 of the mine; ~~provided~~, however, such bodies of water may be shown on overlays or tracings  
997 attached to the mine maps used to show contour lines as provided under subdivision 12;

998 10. The elevations of tops and bottoms of shafts and slopes, and the floor at the entrance  
999 to drift and tunnel openings;

1000 11. The elevation of the floor at intervals of not more than 200 feet in (i) at least one  
1001 entry of each working section and main and cross entries; (ii) the last line of open crosscuts of  
1002 each working section, and main and cross entries before such sections and main and cross  
1003 entries that are abandoned; and (iii) rooms advancing toward or adjacent to property or  
1004 boundary lines or adjacent mines; and

1005 12. Contour lines passing through whole number elevations of the coalbed being mined.  
1006 The spacing of such lines shall not exceed 10-foot elevation levels, except that a broader spacing  
1007 of contour lines may be approved by the Chief for ~~steeply pitching~~ steeply pitching coalbeds.  
1008 Contour lines may be placed on overlays or tracings attached to mine maps.

1009 D. Underground coal mine maps submitted to the Chief shall be on a scale of not less  
1010 than 100 or more than 500 feet to the inch. Mapping of the underground mine works shall be  
1011 completed by a closed loop survey method of traversing or other equally accurate methods of  
1012 traversing. All closed loop surveys shall meet a minimum accuracy standard of one part in  
1013 5,000. Elevations shall be tied to either the United States Geological Survey or the ~~United States~~  
1014 ~~Coast and~~ National Geodetic Survey ~~benchmark~~ bench mark system. A registered engineer or  
1015 licensed land surveyor shall certify that the map of the mine workings is accurate.

1016 E. Underground coal mine maps shall be kept up-to-date by temporary notations and  
1017 revised and supplemented at intervals not to exceed six months based on a survey made and  
1018 certified by a registered engineer or licensed land surveyor who has exercised complete  
1019 direction and control over the work to which it is affixed. Temporary notations shall include:

1020 1. The location of each working face of each working place;

- 1021           2. Pillars mined or other such second mining;
- 1022           3. Permanent ventilation controls constructed or removed, such as seals, overcasts,  
1023 undercasts, regulators, and permanent stoppings, and the direction of air currents indicated; and  
1024           4. Escapeways designated by means of symbols.
- 1025           F. At underground coal mines, an accurate map of the mine showing clearly all avenues  
1026 of ingress and egress in case of fire shall be posted in a place accessible to all miners.
- 1027           G. Surface coal mine maps shall show:
- 1028           1. ~~Name~~ The name and address of the mine;
- 1029           2. The property or boundary lines of the active areas of the mine;
- 1030           3. Contour lines passing through whole number elevations of the coalbed being mined.  
1031 The spacing of such lines shall not exceed 25-foot elevation levels, except that a broader spacing  
1032 of contour lines may be approved by the Chief for steeply pitching coalbeds. The Chief may  
1033 approve alternate means of delineating seam elevations where multiple seams are being mined.  
1034 Contour lines may be placed on overlays or tracings attached to mine maps;
- 1035           4. The general elevation of the coalbed or coalbeds being mined, and the general  
1036 elevation of the surface;
- 1037           5. Either producing or abandoned oil and gas wells and gas transmission lines located  
1038 on the mine property;
- 1039           6. The location and elevation of any body of water dammed or held back in any portion  
1040 of the mine, provided, however, ~~that such bodies~~ body of water may be shown on overlays or  
1041 tracings attached to the mine maps;
- 1042           7. All prospect drill holes that penetrate the coalbed or coalbeds being mined on the  
1043 mine property;
- 1044           8. All auger and surface mined areas of the coalbed or coalbeds being mined on the mine  
1045 property together with the line of maximum depth of holes drilled during auger mining  
1046 operations;
- 1047           9. All worked out and abandoned areas;

1048 10. The location of railroad tracks and public highways leading to the mine, and mine  
1049 buildings of a permanent nature with identifying names shown;

1050 11. Underground coal mine workings underlying and within 1,000 feet of the active  
1051 areas of the mine;

1052 12. The location and description of at least two permanent baseline points, and the  
1053 location and description of at least two permanent elevation bench marks used in connection  
1054 with establishing or referencing mine elevation surveys;

1055 13. The scale of the map; and

1056 14. Such other information required by the Chief.

1057 H. Surface coal mine maps shall be kept up to date by temporary notations and revised  
1058 and supplemented at intervals not to exceed six months based on a survey made and certified  
1059 by a registered engineer or licensed land surveyor who has exercised complete direction and  
1060 control over the work to which it is affixed. Temporary notations shall include:

1061 1. The location of each working pit ~~or pits~~;

1062 2. Auger or highwall miner workings; and

1063 3. Other information that may affect the safety of miners, including, ~~but not limited to,~~  
1064 updates of gas well or gas line locations.

1065 I. Surface surveys shall originate from at least two permanent survey monuments on the  
1066 mine property located with a minimum accuracy standard of one part in 10,000. The monuments  
1067 shall be clearly referenced on the mine map. Elevations shall be tied to either the United States  
1068 Geological Survey or the ~~United States Coast and~~ National Geodetic benchmark Survey bench  
1069 mark system.

1070 J. The original map, or a true copy thereof, shall be left by the operator at the active  
1071 mine, open at all reasonable times for the examinations and use of the mine inspector.

1072 K. Such maps may be used by the Department for the evaluation of the coal resources  
1073 of the Commonwealth.

1074 L. The map shall be filed and preserved among the records of the Department and copies  
1075 of such maps shall be made available at a reasonable cost.

1076 M. Any person who has conducted mining operations or prepared mine maps and who  
1077 has a map or surveying data of any worked out or abandoned underground coal mine shall on  
1078 request make such map or data available to the Department to copy or reproduce such material.

1079 **Drafting note: In subsections D and I, the name of the United States Coast and**  
1080 **Geodetic Survey is updated to its current name: the National Geodetic Survey. In**  
1081 **subdivision H 1, language is removed pursuant to § 1-227, which states that throughout**  
1082 **the Code any word used in the singular includes the plural and vice versa. In subdivision**  
1083 **H 3, the phrase "but not limited to" is removed pursuant to § 1-218, which states that**  
1084 **throughout the Code "'Includes' means includes, but not limited to." Technical changes**  
1085 **are made.**

1086 ~~§ 45.1-161.65~~ 45.2-xxx. When the Chief may cause maps to be made; payment of  
1087 expense by operator.

1088 If the operator, ~~or his agent,~~ of any mine ~~shall neglect or his agent neglects or fail fails~~  
1089 to furnish to the Chief a copy of any map or extension thereof, as provided in ~~§ 45.1-161.64~~  
1090 45.2-xxx, the Chief is authorized to cause a correct survey and map of ~~said~~ such mine, or  
1091 ~~extension thereof of the map,~~ to be made at the expense of the operator of ~~such~~ the mine, the  
1092 cost of which shall be recovered from the operator as other debts are recoverable by a civil  
1093 action at law. If at any time the Chief has reason to believe that such map, or ~~extensions~~  
1094 extension thereof, furnished pursuant to ~~§ 45.1-161.64~~ 45.2-xxx is substantially incorrect, or  
1095 will not serve the purpose for which it is intended, he may have a survey and map or extension  
1096 thereof made, or corrected. The expense of making such survey and map or extension thereof  
1097 shall be paid by the operator. The expense shall be recovered from the operator as other debts  
1098 are recoverable by a civil action at law. However, if the map filed by the operator is found to  
1099 be substantially correct, the expense shall be paid by the Commonwealth.

1100 **Drafting note: Technical changes are made, including the reconfiguration of the**  
1101 **phrase "operator or his agent of any mine" to be consistent with language in existing §**  
1102 **45.1-161.14.**

1103 ~~§ 45.1-161.66~~ 45.2-xxx. Making false statements; penalty.



1104 A. It ~~shall be~~ is unlawful for any person charged with the making of maps or other data  
1105 to be furnished as provided in ~~this~~ the Act to fail to correctly show, within the limits of error,  
1106 the data required.

1107 B. Any person who knowingly makes any false statement, representation, or  
1108 certification in any application, record, report, plan, or other document filed or required to be  
1109 maintained under ~~this~~ the Act ~~shall, upon conviction, be~~ is guilty of a Class 1 misdemeanor.

1110 **Drafting note: Technical changes.**

1111 Article ~~6~~ 5.

1112 ~~Rescue Crews; Mine~~ Rescue Teams.

1113 **Drafting note: Existing Article 6, relating to mine rescue teams, is retained as**  
1114 **Article 5. The title is changed to better reflect the terminology used in the article.**

1115 § ~~45.1-161.67~~ 45.2-xxx. Mine rescue and first aid stations.

1116 The Director is hereby authorized to purchase, equip, and operate for the use of the  
1117 Department, such mine rescue and first aid stations as he may determine necessary for the  
1118 adequate provision of mine rescue and recovery services at all mines in the Commonwealth.

1119 **Drafting note: Technical changes.**

1120 § ~~45.1-161.68~~ 45.2-xxx. Mine rescue ~~crews~~ teams.

1121 The Director is ~~hereby~~ authorized to have trained and employed at the mine rescue and  
1122 first aid stations operated by the Department ~~within the Commonwealth~~ mine rescue ~~crews~~  
1123 teams as he may determine necessary. Each member of a mine rescue ~~crew~~ team shall devote  
1124 four hours each month for training purposes and shall be available at all times to assist in rescue  
1125 work. Members shall receive compensation for services at a rate set by the Director, to be  
1126 determined annually based on prevailing wage rates within the industry. For the purposes of  
1127 workers' compensation coverage during training periods, such ~~crew~~ team members shall be  
1128 deemed to be within the scope of their regular employment. The Director shall certify to the  
1129 Comptroller of the Commonwealth that such ~~crew~~ team members have performed the required  
1130 service. Upon such certification, the Comptroller shall issue a warrant upon the state treasury  
1131 for their compensation. The Director may remove any ~~crew~~ team member at any time.

1132           **Drafting note: "Mine rescue crew" is replaced with the term currently in use,**  
1133           **"mine rescue team." Technical changes are made.**

1134           § ~~45.1-161.69~~ 45.2-xxx. Duty to train ~~crew~~ team.

1135           It ~~shall be~~ is the duty and responsibility of the Department to see that all ~~crews~~ be teams  
1136           are properly trained by a qualified instructor of the Department or such other ~~persons~~ person  
1137           who ~~have~~ has a certificate of training from the Department or the federal Mine Safety and  
1138           Health Administration.

1139           **Drafting note: "Mine rescue crew" is replaced with the term currently in use,**  
1140           **"mine rescue team." Technical changes are made.**

1141           § ~~45.1-161.70~~ 45.2-xxx. Qualification for ~~crew~~ team membership; direction of ~~crews~~  
1142           teams.

1143           A. To qualify for membership in a mine rescue ~~crews~~ team, an applicant shall be an  
1144           experienced miner and shall pass a physical examination by a licensed physician, physician  
1145           assistant, or licensed nurse practitioner at least annually. A record that such examination was  
1146           taken shall be kept on file by the operator who employs the ~~crew members~~ team member and a  
1147           copy shall be furnished to the Director.

1148           B. All rescue or recovery work performed by these ~~crews~~ teams shall be under the  
1149           jurisdiction of the Department. The Department shall consult with company officials,  
1150           representatives of the federal Mine Safety and Health Administration, and representatives of  
1151           the miners, and all ~~should~~ shall be in agreement as far as possible on the proper procedure for  
1152           rescue and recovery; however, the Chief in his discretion may take full responsibility in  
1153           directing such work. Procedures for use of apparatus or equipment shall be guided by the mine  
1154           rescue apparatus and auxiliary equipment manuals.

1155           **Drafting note: "Mine rescue crew" is replaced with the term currently in use,**  
1156           **"mine rescue team." Technical changes are made pursuant to § 1-227, which states that**  
1157           **throughout the Code any word used in the singular includes the plural and vice versa.**

1158           § ~~45.1-161.71~~ 45.2-xxx. Team members to be considered employees of the mine  
1159           where emergency exists; compensation; workers' compensation.

1160           When engaged in rescue or recovery work during an emergency at a mine, all ~~crew team~~  
1161 members assigned to the work shall be considered, during the period of their work, employees  
1162 of the mine where the emergency exists and shall be compensated by the operator at the rate  
1163 established in the area for such work. In no event shall this rate be less than the prevailing wage  
1164 rate in the industry for the most skilled class of inside mine labor. During the period of their  
1165 emergency employment, all ~~crew team~~ members shall be deemed to be within the employment  
1166 of the operator of the mine for the purpose of workers' compensation coverage.

1167           **Drafting note: "Mine rescue crew" is replaced with the term currently in use,**  
1168 **"mine rescue team."**

1169           ~~§ 45.1-161.72~~ 45.2-xxx. Requirements of recovery work.

1170           A. During recovery work and prior to entering any mine, all mine rescue ~~crews~~ teams  
1171 conducting recovery work shall be properly informed of existing conditions by the operator or  
1172 his agent in charge.

1173           B. Each mine rescue ~~crew team~~ performing rescue or recovery work with breathing  
1174 apparatus shall be provided with a backup ~~crew team~~ of equal strength, stationed at each fresh  
1175 air base.

1176           C. For every two ~~crews~~ teams performing work underground, one six-member ~~crew~~  
1177 team shall be stationed at the mine portal.

1178           D. Two-way communication, life lines, or their equivalent, shall be provided by the  
1179 fresh air base to all ~~crews~~ teams, and no ~~crew team~~ member shall be permitted to advance  
1180 beyond such communication system.

1181           E. A mine rescue ~~crew team~~ shall immediately return to the fresh air base ~~should if any~~  
1182 ~~crew team~~ member's breathing apparatus ~~malfunction~~ malfunctions or the ~~atmospheric pressure~~  
1183 ~~of any apparatus deplete to sixty 60 atmospheres~~ low-oxygen alarm activates.

1184           F. The Director may also assign rescue and recovery work to inspectors, instructors, or  
1185 other qualified employees of the Department as the Director may determine desirable.

1186           **Drafting note: "Mine rescue crew" is replaced with the term currently in use,**  
1187 **"mine rescue team," and a reference to the depletion of the atmospheric pressure of a**

1188 **breathing apparatus is replaced with a reference to the safety standard currently in use,**  
1189 **a low-oxygen alarm. Language is updated for modern usage.**

1190 ~~§ 45.1-161.73~~ 45.2-xxx. State-designated mine rescue teams.

1191 The Director may, upon the request of an operator or agent who employs a mine rescue  
1192 team, designate two or more mine rescue teams as "state-designated mine rescue teams." Any  
1193 team ~~which~~ that is certified as a mine rescue team by the federal Mine Safety and Health  
1194 Administration under ~~30-CFR~~ C.F.R. Part 49 shall be eligible to be a state-designated mine  
1195 rescue team. Following the designation of any such teams, the Director shall, upon the payment  
1196 to the Department of an annual fee, set by the Director based on current costs for maintaining  
1197 mine rescue stations and personnel, assign two or more state-designated mine rescue teams to  
1198 the operator. An operator who has paid the rescue fee ~~shall be~~ is entitled to the rescue services  
1199 of a state-designated mine rescue team at no additional charge.

1200 **Drafting note: Technical changes.**

1201 ~~§ 45.1-161.74~~ 45.2-xxx. Mine Rescue Fund.

1202 The Mine Rescue Fund, referred to in this section as "the Fund," is hereby created as a  
1203 special nonreverting fund in the ~~office of the State Treasurer~~ state treasury. The Fund shall be  
1204 established on the books of the Comptroller. All moneys collected from operators pursuant to  
1205 agreements entered into by the Director shall be paid into the ~~Mine Rescue~~ state treasury and  
1206 credited to the Fund. Moneys in the ~~Mine Rescue~~ Fund shall be used only for mine rescue  
1207 services under such agreements. ~~No~~ Interest earned on moneys in the Fund shall remain in the  
1208 Fund and be credited to it. Any moneys remaining in the Mine Rescue Fund, including interest  
1209 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the  
1210 Fund.

1211 **Drafting note: The Mine Rescue Fund statute is updated to reflect current**  
1212 **language requested by the Department of the Treasury for nonreverting funds in the**  
1213 **Code.**

1214 ~~§ 45.1-161.75~~ 45.2-xxx. Inspections; Mine Rescue Coordinator.

1215 A. The Director shall (i) inspect, or cause to be inspected, the rescue station of each  
1216 state-designated mine rescue team four times a year;<sup>2</sup> (ii) ensure that all rescue stations are  
1217 adequately equipped;<sup>2</sup> and (iii) ensure that all team members are adequately trained.

1218 B. The Director shall designate an employee of the Department as the Mine Rescue  
1219 Coordinator, who shall perform the duties assigned to him by the Director.

1220 **Drafting note: Technical changes.**

1221 ~~§ 45.1-161.76~~ 45.2-xxx. Workers' compensation; liability.

1222 A. For the purpose of workers' compensation coverage, during any mine disaster to  
1223 which a state-designated mine rescue team responds under the provisions of this article or  
1224 during any training exercise for a state-designated mine rescue team, members of the state-  
1225 designated team shall be deemed to be within the employment of the operator of the mine at  
1226 which the disaster occurred or the training exercise is conducted. Additionally, for purposes of  
1227 workers' compensation coverage, travel by members of a state-designated mine rescue team to  
1228 and from the mine disaster or training exercise shall be deemed to be within the employment of  
1229 the operator of the mine at which the disaster occurred or the training exercise is ~~to be or was~~  
1230 conducted.

1231 B. Any member of a state-designated mine rescue team engaging in rescue work at a  
1232 mine shall not be liable for civil damages for acts or omissions resulting from the rendering of  
1233 such rescue work unless the act or omission was the result of gross negligence or willful  
1234 misconduct.

1235 C. Any operator providing personnel to a state-designated mine rescue team to engage  
1236 in rescue work at a mine not owned or operated by the operator shall not be liable for any civil  
1237 damages for acts or omissions resulting from the rendering of such rescue work.

1238 **Drafting note: Technical changes.**

1239 ~~Article 7~~ 6.

1240 Mine Explosions; Mine Fires; Accidents.

1241 **Drafting note: Existing Article 7, relating to mine explosions, mine fires, and**  
1242 **accidents, is retained as proposed Article 6.**

1243 § ~~45.1-161.77~~ 45.2-xxx. Reports of explosions and mine fires; procedure.

1244 A. If an explosion or mine fire occurs in a mine, the operator shall notify the Department  
1245 by the quickest available means. All facilities of the mine shall be made available for rescue  
1246 and recovery operations and firefighting.

1247 B. No work other than rescue and recovery work and firefighting ~~may~~ shall be attempted  
1248 ~~or started until and unless it is~~ authorized by the Department.

1249 C. If an explosion occurs in an underground coal mine, the fan shall not be reversed  
1250 except by authority of the officials in charge of rescue and recovery work, and then only after  
1251 a study of the effect of reversing the fan on any ~~persons~~ person who may have survived the  
1252 explosion and ~~are~~ is still underground.

1253 D. The Department shall make available all the facilities at its disposal in effecting  
1254 rescue and recovery work. The Chief shall act as consultant, or take personal charge, where in  
1255 his opinion the circumstances of any mine explosion, fire, or other accident warrant.

1256 E. The orders of the official in charge of rescue and recovery work shall be respected  
1257 and obeyed by all persons engaged in rescue and recovery work.

1258 F. The Chief shall maintain an up-to-date rescue and recovery plan for prompt and  
1259 adequate employment at any coal mine in the Commonwealth. All employees of the Department  
1260 shall be kept fully informed and trained in their respective duties in executing rescue and  
1261 recovery plans. The Department's plan shall be reviewed annually. Any changes in the plan  
1262 shall be published promptly and made available to all operators of mines.

1263 **Drafting note: Technical changes are made, including the replacement of "may"**  
1264 **with "shall" in a directive provision in subsection B, the deletion of redundant elements**  
1265 **from the phrases "attempted or started" and "until and unless" in subsection B, and the**  
1266 **change of plural construction to singular in subsection C pursuant to § 1-227, which states**  
1267 **that throughout the Code any word used in the singular includes the plural and vice versa.**

1268 § ~~45.1-161.78~~ 45.2-xxx. Operators' reports of accidents; investigations; reports by  
1269 Department.

1270 A. Each operator ~~will~~ shall report promptly to the Department the occurrence at any  
1271 mine of any accident. The scene of the accident shall not be disturbed pending an investigation,  
1272 except to the extent necessary to rescue or recover a person, prevent or eliminate an imminent  
1273 danger, prevent destruction of mining equipment, or prevent suspension of use of a slope, entry,  
1274 or facility vital to the operation of a section or a mine. In cases where reasonable doubt exists  
1275 as to whether to leave the scene unchanged, the operator ~~will~~ shall secure prior approval from  
1276 the Department before any changes are made.

1277 B. The Chief ~~will~~ shall go personally or dispatch one or more mine inspectors to the  
1278 scene of such a coal mine accident, investigate causes, and issue such orders as may be needed  
1279 to ensure safety of other persons.

1280 C. Representatives of the operator ~~will~~ shall render such assistance as may be needed  
1281 and act in a consulting capacity in the investigation. An employee<sub>2</sub> if so designated by the  
1282 employees of the mine ~~will~~, shall be notified, and as many as three employees<sub>2</sub> if so designated  
1283 as representatives of the employees<sub>2</sub> may be present at the investigation in a consulting capacity.

1284 D. The Chief shall require substance abuse testing as part of an inspection or complaint  
1285 investigation if there is reasonable cause to suspect a miner's impairment, due to the presence  
1286 of intoxicants or any controlled substance not used in accordance with the prescription of a  
1287 licensed prescriber, ~~or~~ has been a contributing factor to any accident in which a serious personal  
1288 injury or death ~~occurs~~ has occurred at a mine. The Chief shall require substance abuse testing  
1289 of any miner killed or seriously injured and of any other person who may have contributed to  
1290 the accident. Any substance abuse testing required by the Chief ~~will~~ shall be paid for by the  
1291 Department. Refusal by any miner to submit to substance abuse testing, or the failure to pass  
1292 such a test, shall result in the immediate temporary suspension of all certificates, pending a  
1293 hearing before the Board of Coal Mining Examiners.

1294 E. The Department ~~will~~ shall render a complete report of circumstances and causes of  
1295 each accident investigated, and make recommendations for the prevention of similar accidents.  
1296 The Department ~~will~~ shall furnish one copy of the report to the operator, and one copy to ~~the~~  
1297 an employee representative ~~when he has been~~ if one was present at the investigation. The Chief

1298 shall maintain a complete file of all accident reports for coal mines, and ~~shall give such~~ provide  
1299 ~~further publicity dissemination~~ as may be ordered by the Director in an effort to prevent mine  
1300 accidents.

1301 **Drafting note: Technical changes are made, including the replacement of "will"**  
1302 **with "shall" in directive provisions throughout the section.**

1303 § ~~45.1-161.79~~ 45.2-xxx. Reports of other accidents and injuries.

1304 A. Each miner employed at a mine shall promptly notify his supervisor of any injury  
1305 received during the course of his employment.

1306 B. Each operator shall keep on file a report of each accident, including any accident  
1307 ~~which that~~ does not result in a lost-time injury. Copies of ~~such an accident~~ report shall be given  
1308 to the person injured or to his designated representative to review ~~the accident~~ such report and  
1309 verify its accuracy prior to filing ~~such report~~ it for ~~the review of~~ by state or federal mine  
1310 inspectors.

1311 **Drafting note: Technical changes.**

1312 § ~~45.1-161.80~~ 45.2-xxx. Duties of mine inspectors.

1313 Each mine inspector shall:

1314 1. Report to his supervisor immediately, ~~and~~ by the quickest available means; any mine  
1315 ~~fire, mine or explosion, and or~~ any accident involving that results in loss of life or serious  
1316 ~~personal injury or death to his supervisor;~~

1317 2. Proceed immediately to the scene of any accident at any mine under his jurisdiction  
1318 that results in loss of life or serious personal injury, and to the scene of any mine fire or  
1319 explosion regardless of whether there is loss of life or serious personal injury. ~~He shall make;~~

1320 3. Make such investigation and suggestions and render such assistance as he deems  
1321 necessary for the future safety of the employees, and make a complete report to his supervisor  
1322 as soon as practicable; ~~and~~

1323 ~~3-4.~~ 4. Provide assistance to mine rescue and recovery operations whenever a mine fire,  
1324 ~~mine or explosion, or other serious~~ any accident that results in loss of life or serious personal  
1325 injury occurs; ~~and shall monitor~~





1354 Coal Mining Examiners, at the mine; and (iii) the frequency rates for nonserious accidents or  
1355 nonfatal days lost.

1356 B. The Chief shall schedule additional inspections at underground coal mines and  
1357 surface coal mines based on the rating assigned to a mine reflecting the assessment of its risks  
1358 compared to other such mines pursuant to the assessment described in subsection A.

1359 **Drafting note: Language is updated for clarity. In subsection A, the phrase "but**  
1360 **not be limited to" is removed pursuant to § 1-218, which states that throughout the Code**  
1361 **"'Includes' means includes, but not limited to." Technical changes are made.**

1362 ~~§ 45.1-161.83~~ 45.2-xxx. Review of inspection reports and records.

1363 Prior to commencing an inspection of a coal mine, a mine inspector shall review the  
1364 most recent available report of inspection by the federal Mine Safety and Health  
1365 Administration. During the course of a complete inspection of a coal mine, the mine inspector  
1366 shall comprehensively review the records for the 30-day period preceding the inspection of pre-  
1367 shift examinations, on-shift exams, daily inspections, and weekly examinations ~~which that~~ are  
1368 required to be maintained pursuant to ~~this the~~ the Act, ~~for the 30-day period preceding the~~  
1369 ~~inspection.~~ The mine inspector may, ~~but shall not be required to,~~ review the records for such  
1370 additional period as he ~~may deem~~ deems prudent. ~~The~~ During the course of the inspection, the  
1371 inspector shall review other records relating to safety and health conditions in the mine ~~which~~  
1372 that are required to be maintained pursuant to ~~this the~~ the Act ~~during the course of the inspection.~~

1373 **Drafting note: Language is updated for clarity, including deletion of the redundant**  
1374 **phrase "but shall not be required to" as it follows "may." Technical changes are made.**

1375 ~~§ 45.1-161.84~~ 45.2-xxx. Advance notice of inspections; confidentiality of trade secrets.

1376 A. No person shall give advance notice of any mine inspection conducted under the  
1377 provisions of this title without authorization from the Chief or the Director.

1378 B. All information reported to or otherwise obtained by the Chief or the Director or his  
1379 authorized representative in connection with any inspection or proceeding under this title ~~which~~  
1380 that contains or might reveal a trade secret referred to in ~~§ 1905 of Title 18 of the United States~~  
1381 Code U.S.C. § 1905 shall be considered confidential for the purpose of that section, except that

1382 such information may be disclosed to the Chief or the Director or his authorized representative  
1383 concerned with carrying out any provisions of this title or any proceeding hereunder. In any  
1384 such proceeding, the court, the Chief, or the Director shall issue such orders as may be  
1385 appropriate to protect the confidentiality of trade secrets.

1386 **Drafting note: The authority of the Chief to allow advance notice of an inspection**  
1387 **is specified in subsection A. Technical changes are made.**

1388 ~~§ 45.1-161.85~~ 45.2-xxx. Scheduling of mine inspections.

1389 A. The Chief and the Director shall schedule the inspections of mines under this article,  
1390 to the extent deemed reasonable and prudent, in order to reduce their chronological proximity  
1391 to inspections conducted by the federal Mine Safety and Health Administration.

1392 B. The Chief, ~~the~~ Director, and each mine ~~inspectors~~ inspector, to the extent deemed  
1393 reasonable and prudent, shall schedule mine inspections to commence at a variety of hours of  
1394 the day and days of the week, including evening and night shifts, weekends, and holidays.

1395 **Drafting note: Technical changes.**

1396 ~~§ 45.1-161.86~~ 45.2-xxx. Denial of entry.

1397 No person shall deny the Chief ~~or~~, the Director, ~~as applicable~~, or any mine inspector  
1398 entry upon or through (i) a mine for the purpose of conducting an inspection or (ii) any office  
1399 at the site where maps or records relating to the mine are located, ~~pursuant to this~~ in accordance  
1400 with the Act.

1401 **Drafting note: Language is updated for clarity. Technical changes are made.**

1402 ~~§ 45.1-161.87~~ 45.2-xxx. Duties of operator.

1403 A. The operator, or his agent, of ~~every~~ each mine shall furnish the Chief and any mine  
1404 ~~inspectors~~ inspector proper facilities for entering such mine and making examinations or  
1405 obtaining information and shall furnish any data or information not of a confidential nature  
1406 requested by such inspector or the Chief.

1407 B. The operator of an underground coal mine, or his agent, shall provide a mine  
1408 inspector or the Chief adequate means for transportation to the active working areas of the mine  
1409 within a reasonable period of time following the mine inspector's arrival at the mine.

1410 C. The operator or his agent shall, when ordered to do so by a mine inspector or the  
1411 Chief during the course of his inspection, promptly clear the mine or a section thereof of all  
1412 persons.

1413 D. The mine operator shall implement a substance abuse screening policy and program  
1414 for all miners that shall, at a minimum, include:

1415 1. A pre-employment, 10-panel urine test for the following and any other substances as  
1416 set out in regulation adopted by the Board of Coal Mining Examiners:

1417 a. Amphetamines;<sub>2</sub>

1418 b. Cannabinoids/THC;<sub>2</sub>

1419 c. Cocaine;<sub>2</sub>

1420 d. Opiates;<sub>2</sub>

1421 e. Phencyclidine (PCP);<sub>2</sub>

1422 f. Benzodiazepines;<sub>2</sub>

1423 g. Propoxyphene;<sub>2</sub>

1424 h. Methadone;<sub>2</sub>

1425 i. Barbiturates;<sub>2</sub> and

1426 j. Synthetic narcotics.

1427 Samples shall be collected by providers who are certified as complying with standards  
1428 and procedures set out in the ~~United States~~ U.S. Department of Transportation's rule, 49 ~~CFR~~  
1429 C.F.R. Part 40. Collected samples shall be tested by laboratories certified by the ~~United States~~  
1430 ~~Department of Health and Human Services~~, Substance Abuse and Mental Health Services  
1431 Administration (SAMHSA) of the U.S. Department of Health and Human Services for  
1432 collection and testing. The mine operator may implement a more stringent substance abuse  
1433 screening policy and program; and

1434 2. ~~Review~~ The review of the substance abuse screening program with ~~all miners~~ each  
1435 miner at the time of employment and annually thereafter.

1436 E. The operator or his agent shall notify the Chief, on a form prescribed by the Chief,  
1437 within seven days of any failure of a pre-employment substance abuse screening test and shall

1438 provide a record of the test showing such failure or violation. Notice shall result in the  
1439 immediate temporary suspension of all certificates held by the applicant, pending a hearing  
1440 before the Board of Coal Mining Examiners.

1441 F. The operator or his agent shall notify the Chief, on a form prescribed by the Chief,  
1442 within seven days of (i) discharging a miner due to violation of the company's substance or  
1443 alcohol abuse policies, (ii) a miner testing positive for intoxication while on duty status, or (iii)  
1444 a miner testing positive as using any controlled substance without the prescription of a licensed  
1445 prescriber. An operator ~~having~~ that has a substance abuse program shall not be required to notify  
1446 the Chief under ~~subdivision~~ clause (iii) unless the miner having tested positive fails to complete  
1447 the operator's substance abuse program. The notification shall be accompanied by a record of  
1448 the test showing such positive results or violation. Notice shall result in the immediate  
1449 temporary suspension of all certificates held by the applicant, pending a hearing before the  
1450 Board of Coal Mining Examiners.

1451 G. The provisions of this chapter shall not be construed to preclude an employer from  
1452 developing or maintaining a ~~drug~~ substance and alcohol abuse policy, testing program, or  
1453 substance abuse program that exceeds the minimum requirements set forth in this section.

1454 **Drafting note: Authority of the Chief spelled out in subsections B and C to make**  
1455 **those subsections parallel to subsection A. Technical changes are made.**

1456 ~~§ 45.1-161.88~~ 45.2-xxx. Duties of inspectors.

1457 A. During a complete inspection of a mine, other than an inactive mine, the mine  
1458 inspector shall inspect, where applicable, the surface plant; all active workings; all active travel  
1459 ways; entrances to inaccessible worked-out areas; accessible worked-out areas; at least one  
1460 entry of each intake and return airway in its entirety; escapeways and other places where miners  
1461 work or travel or where hazardous conditions may exist; electric installations and equipment;  
1462 haulage facilities; ~~first-aid~~ first aid equipment; ventilation facilities; communication  
1463 installations; roof and rib conditions; roof-support practices; blasting practices; haulage  
1464 practices and equipment; and any other condition, practice<sub>2</sub>, or equipment pertaining to the  
1465 health and safety of the miners. The mine inspector shall make tests for the quantity of air flows,

1466 and for gas and oxygen deficiency, in each place ~~which~~ that he is required to inspect in an  
1467 underground coal mine. In mines operating more than one shift in a ~~twenty-four-hour~~ 24-hour  
1468 period, the mine inspector shall devote sufficient time on the second and third shifts to  
1469 determine conditions and practices relating to the health and safety of the miners. For an  
1470 inactive mine, the mine inspector shall inspect all areas of the mine where persons may work  
1471 or travel during the period the mine is an inactive mine.

1472 B. The inspector shall make a personal examination of the interior of the mine, and of  
1473 the outside of the mine where any danger may exist to the miners.

1474 **Drafting note: Technical changes.**

1475 ~~§ 45.1-161.89. Certificates of inspection~~ 45.2-xxx. Inspection reports.

1476 A. Upon completing a mine inspection, a mine inspector shall complete a ~~certificate~~  
1477 report regarding such ~~inspections~~ inspection. The ~~certificate of inspection report~~ shall show the  
1478 date of inspection, the condition in which the mine is found, a statement regarding any  
1479 violations of ~~this~~ the Act discovered during the inspection, the progress made in the  
1480 improvement of the mine as such progress relates to health and safety, the number of accidents  
1481 and injuries occurring in and about the mine since the previous inspection, and all other facts  
1482 and information of public interest concerning the condition of the mine as may be useful and  
1483 proper.

1484 B. The mine inspector shall (i) deliver one copy of the ~~certificate of inspection report~~ to  
1485 the operator, agent, or mine foreman, and one copy to the employees' safety committee, where  
1486 applicable, and shall (ii) post one copy at a prominent place on the premises of the mine where  
1487 it can be read conveniently by the miners.

1488 C. With respect to coal mines, the Department shall provide access to ~~certificates of~~  
1489 inspection reports to the federal Mine Safety and Health Administration.

1490 **Drafting note: "Certificate of inspection" is replaced by the term currently in use,**  
1491 **"inspection report." Technical changes are made.**

1492 Article ~~9~~ 8.

1493 Enforcement and Penalties; Reports of Violations.

1494           **Drafting note: Existing Article 9, relating to enforcement and penalties and reports**  
1495 **of violations, is retained as proposed Article 8.**

1496           § ~~45.1-161.90~~ 45.2-xxx. Notices of violations.

1497           A. If the Director, the Chief, or a mine inspector has reasonable cause to believe that a  
1498 violation of the Act has occurred, he shall with reasonable promptness issue a notice of violation  
1499 to the person who is responsible for the violation. Each notice of violation shall be in writing  
1500 ~~and shall;~~ describe with particularity the nature of the violation ~~or violations~~, including a  
1501 reference to the provision of ~~this the~~ the Act or the appropriate ~~regulations~~ regulation violated, ~~and~~  
1502 ~~shall;~~ include an order of abatement; and fix a reasonable time for abatement of the violation.

1503           B. A copy of the notice of violation shall be delivered to the operator; or his agent; or  
1504 the mine foreman.

1505           C. Upon a finding by the mine inspector of completion of the action required to abate  
1506 the violation, the Director, the Chief, or the mine inspector shall issue a notice of correction, a  
1507 copy of which shall be delivered as provided in subsection B.

1508           D. The notice of violation shall be deemed to be the final order of the Department and  
1509 not subject to review by any court or agency unless, ~~within twenty~~ 20 days following its  
1510 issuance, the person to whom the notice of violation has been issued appeals its issuance by  
1511 notifying the Department in writing that he intends to contest its issuance. The Department shall  
1512 conduct informal conference or consultation proceedings, presided over by the Chief, pursuant  
1513 to § 2.2-4019, unless the person and the Department agree to waive such a conference or  
1514 proceeding to go directly to a formal hearing. If such a conference or proceeding has been  
1515 waived, or if it has failed to dispose of the case by consent, the Department shall conduct a  
1516 formal hearing pursuant to § 2.2-4020. The formal hearing shall be presided over by a hearing  
1517 officer pursuant to § 2.2-4024, who shall recommend findings and an initial decision, which  
1518 shall be subject to review and approval by the Director. Any party aggrieved by and claiming  
1519 unlawfulness of the decision shall be entitled to judicial review pursuant to Article 5 (§ 2.2-  
1520 4025 et seq.) of the Administrative Process Act.

1521 E. If it ~~shall be~~ is finally determined that a notice of violation was not issued in  
1522 accordance with the provisions of this section, the notice of violation shall be vacated, and the  
1523 improperly issued notice of violation shall not be used to the detriment of the person or the  
1524 operator to whom it was issued.

1525 **Drafting note: Language is updated for modern usage. Technical changes are**  
1526 **made, including changes pursuant to § 1-227, which states that throughout the Code any**  
1527 **word used in the singular includes the plural and vice versa.**

1528 § ~~45.1-161.91~~ 45.2-xxx. Closure orders.

1529 A. The Director, the Chief, or a mine inspector shall issue a closure order requiring any  
1530 mine or section thereof cleared of all persons, or equipment removed from use, and refusing  
1531 further entry into the mine ~~of~~ by all persons except those necessary to correct or eliminate a  
1532 hazardous condition, when (i) a violation of ~~this~~ the Act has occurred, ~~which~~ that creates an  
1533 imminent danger to the life or health of persons in the mine; (ii) a mine fire, a mine explosion,  
1534 or other serious accident has occurred at the mine, as may be necessary to preserve the scene of  
1535 such accident during the investigation of the accident; (iii) a mine is operating without a license,  
1536 ~~as provided by~~ in violation of § ~~45.1-161.57~~ 45.2-xxx; or (iv) an operator to whom a notice of  
1537 violation was issued has failed to abate the violation cited therein within the time period  
1538 provided in such notice for its abatement; however, a closure order shall not be issued for failure  
1539 to abate a violation during the pendency of an administrative appeal of the issuance of the notice  
1540 of violation as provided in subsection D of § ~~45.1-161.90~~ 45.1-xxx. ~~In addition, a~~

1541 B. A technical specialist may issue a closure order upon discovering a violation creating  
1542 an imminent danger.

1543 ~~B.~~ C. One copy of ~~the~~ a closure order shall be delivered to the operator of the mine or  
1544 his agent or the mine foreman.

1545 ~~C.~~ D. Upon a finding by the mine inspector of abatement of the violation creating the  
1546 hazardous condition pursuant to which a closure order has been issued as provided in clause (i)  
1547 of subsection A, or cessation of the need to preserve an accident scene as provided in clause (ii)  
1548 of subsection A, or the issuance of a license for the mine if the closure order was issued as



1549 provided in clause (iii) of subsection A, or abatement of the violation for which the notice of  
1550 violation was issued as provided in clause (iv) of subsection A, the Director, the Chief, or a  
1551 mine inspector shall issue a notice of correction, ~~copies~~ a copy of which shall be delivered as  
1552 provided in subsection ~~B~~ C.

1553 ~~D~~ E. The issuance of a closure order shall constitute a final order of the Department,  
1554 and the owner or operator of the mine shall not be entitled to administrative review of such  
1555 decision. The owner or operator of any mine or part thereof for which a closure order has been  
1556 issued may, within ~~ten~~ 10 days following the issuance of the order, bring a civil action in the  
1557 circuit court of the ~~city or county~~ county or city in which the mine, or the greater portion thereof,  
1558 is located for review of the decision. The commencement of such a proceeding shall not, unless  
1559 specifically ordered by the court, operate as a stay of the closure order. The court shall promptly  
1560 hear and determine the matters raised by the owner or operator. In any such action, the court  
1561 shall receive the records of the Department with respect to the issuance of the order, and ~~shall~~  
1562 ~~receive~~ any additional evidence at the request of any party. In any proceeding under this section,  
1563 the Attorney General or the attorney for the Commonwealth for the jurisdiction where the mine  
1564 is located, upon the request of the Director, shall represent the Department.

1565 F. The court shall vacate the closure order if the preponderance of the evidence  
1566 establishes that the order was not issued in accordance with the provisions of this section.

1567 ~~E~~ G. If it ~~shall be~~ is finally determined that a closure order was ~~not~~ issued not in  
1568 accordance with the provisions of this section, the closure order shall be vacated, and the  
1569 improperly issued closure order shall not be used to the detriment of the owner or operator of  
1570 the mine for which it was issued.

1571 **Drafting note: Language is updated and subsection designations are added for**  
1572 **clarity. Technical changes are made.**

1573 ~~§ 45.1-161.92~~ 45.2-xxx. Tolling of time for abating violations.

1574 The period of time specified in a notice of violation for the abatement of the violation  
1575 shall not begin to run until (i) the final decision of the Department is issued, if an administrative  
1576 appeal of its issuance is pursued, or ~~until~~ (ii) the final order of the circuit court is rendered, if

1577 an appeal of its issuance is taken to circuit court, ~~provided that the~~ and if such appeal pursuant  
1578 to clause (i) or (ii) was undertaken in good faith and not solely for delay or avoidance of  
1579 penalties.

1580 **Drafting note: Language is updated for clarity. Clause designations are added for**  
1581 **clarity. Technical changes are made.**

1582 § ~~45.1-161.93~~ 45.2-xxx. Injunctive relief.

1583 A. Any person violating or failing, neglecting, or refusing to obey any closure order  
1584 may be compelled in a proceeding instituted by the Director in any appropriate circuit court to  
1585 obey ~~same such order~~ and to comply therewith with such order by injunction or other  
1586 appropriate relief.

1587 B. Any person failing to abate any violation of ~~this the~~ the Act ~~which that~~ that has been cited in  
1588 a notice of violation within the time period provided in such notice for its abatement may be  
1589 compelled in a proceeding instituted by the Director in any appropriate circuit court to abate  
1590 such violation as provided in such notice, and to cease the operation of the mine at which such  
1591 violation exists until the violation has been abated, by injunction or other appropriate remedy.

1592 C. The Director may file a bill of complaint with any appropriate circuit court asking  
1593 the court to temporarily or permanently enjoin a person from operating a mine ~~or mines~~ in the  
1594 Commonwealth, to be granted upon finding by a preponderance of the evidence that (i) a history  
1595 of noncompliance at the mine ~~or mines~~ operated by the person demonstrates that he is not able  
1596 or willing to operate a mine in compliance with the provisions of ~~this the~~ the Act or (ii) a history  
1597 of the issuance of closure orders for the mine ~~or mines~~ operated by the person demonstrates that  
1598 he is not able or willing to operate a mine in compliance with the provisions of ~~this the~~ the Act.

1599 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
1600 **throughout the Code any word used in the singular includes the plural and vice versa.**  
1601 **Language is updated for modern usage. Technical changes are made.**

1602 § ~~45.1-161.94~~ 45.2-xxx. Violations; penalties.

1603 Any person ~~convicted of who~~ willfully ~~violating~~ violates any ~~provisions~~ provision of  
1604 ~~this the~~ Act or any regulation ~~promulgated~~ adopted pursuant to ~~this the~~ Act, unless otherwise  
1605 specified in ~~this the~~ Act, ~~shall be~~ is guilty of a Class 1 misdemeanor.

1606 **Drafting note: Technical changes.**

1607 § ~~45.1-161.95~~ 45.2-xxx. Prosecution of violations.

1608 A. ~~It shall be~~ is the duty of every attorney for the Commonwealth to whom the Director  
1609 or his authorized representative has reported any violation of ~~this the~~ Act or on his own initiative  
1610 to cause proceedings to be prosecuted in such ~~eases~~ case.

1611 B. If the attorney for the Commonwealth declines to cause proceedings to be prosecuted  
1612 in such ~~eases~~ case, the Director or the Chief may request the Attorney General to institute  
1613 proceedings for any violation of the Act on behalf of the Commonwealth; however, such action  
1614 shall not preclude the Director or the Chief from pursuing any other applicable statutory  
1615 ~~procedures~~ procedure. Upon receiving such a request from the Director or the Chief, the  
1616 Attorney General shall have the authority to institute actions and proceedings for violations  
1617 described in the request.

1618 **Drafting note: Language is updated for clarity. Technical changes are made**  
1619 **pursuant to § 1-227, which states that throughout the Code any word used in the singular**  
1620 **includes the plural and vice versa.**

1621 § ~~45.1-161.96~~ 45.2-xxx. Fees and costs.

1622 No fees or costs shall be charged to the Commonwealth by a court or any officer for or  
1623 in connection with the filing of any pleading or other papers in any action authorized by this  
1624 article.

1625 **Drafting note: Language is updated for clarity.**

1626 § ~~45.1-161.97~~ 45.2-xxx. Reports of violations.

1627 A. ~~Any person aware of a violation of this Act may report the violation to a mine~~  
1628 ~~inspector or to any other employee of the Department, in person, in writing, or by telephone~~  
1629 ~~call, at the mine, at an office of the Department, or at the mine inspector's residence.~~

1630 ~~B.~~ The operator of ~~every~~ each mine, or his agent, shall deliver a copy of ~~this~~ the Act to  
1631 ~~every~~ each miner upon the commencement of his employment at the mine, unless the miner is  
1632 already in possession of a copy.

1633 B. Any person aware of a violation of the Act may report the violation to a mine  
1634 inspector or to any other employee of the Department, in person, in writing, or by telephone  
1635 call, at the mine, at an office of the Department, or at the mine inspector's residence.

1636 C. The operator of ~~every~~ each mine, or his agent, shall display on a sign placed at the  
1637 mine office, at the bath house, and on a bulletin board at the mine site, a notice containing the  
1638 office addresses and office and home telephone numbers of mine inspectors and other  
1639 Department personnel, ~~and office addresses, which may be used to report~~ for the purpose of  
1640 reporting any violation of ~~this~~ the Act.

1641 D. The Department shall keep a record, on a form prepared for such purpose, of every  
1642 alleged violation of ~~this~~ the Act ~~which~~ that is reported and the results of any investigation. The  
1643 Department shall give a copy of the complaint form, with the identity of the person making the  
1644 report, and that of any individual ~~individuals~~ individual identified in the alleged violation being omitted  
1645 or deleted, to the operator of the mine or his agent. The Department shall not disclose the  
1646 identity of any person who reports an alleged violation to the owner or operator of the mine or  
1647 his agent, or to any other person or entity. Information regarding the identity of the person  
1648 reporting the violation shall be excluded from access under the provisions of the Virginia  
1649 Freedom of Information Act (§ 2.2-3700 et seq.).

1650 **Drafting note: Language is updated and section designations are reordered for**  
1651 **clarity. Technical changes are made.**

1652 Article ~~10~~ 9.

1653 Virginia Coal Mine Safety Board.

1654 **Drafting note: Existing Article 10, relating to the Virginia Coal Mine Safety Board,**  
1655 **is retained as proposed Article 9.**

1656 ~~§ 45.1-161.98. 45.2-xxx. The Virginia Coal Mine Safety Board continued; membership;~~  
1657 ~~appointments; expenses; purpose.~~

1658 ~~A. The Virginia Mine Safety Board is continued as the~~ Virginia Coal Mine Safety Board  
1659 (the Board) is established as an advisory board in the executive branch of state government.  
1660 The purpose of the Board is to advise the Chief on matters relating to the health and safety of  
1661 persons working in the Virginia coal industry.

1662 **Drafting note: A statement of the purpose of the Virginia Coal Mine Safety Board**  
1663 **is added to reflect current board language preferred in the Code and obsolete language is**  
1664 **removed. The remainder of existing § 45.1-161.98 is retained as proposed § 45.2-xxx**  
1665 **[following section].**

1666 § 45.2-xxx. Membership; terms; compensation; quorum; meetings.

1667 ~~A. The Virginia Coal Mine Safety Board shall be composed~~ have a total membership of  
1668 10 members that shall consist of nine nonlegislative citizen members appointed by the  
1669 Governor, subject to the confirmation of by the General Assembly, and one ex officio member.  
1670 Nonlegislative citizen members shall be appointed as follows: three ~~shall~~ to be appointed from  
1671 a list of individuals nominated by the Virginia Coal and Energy Alliance; ~~three shall~~ to be  
1672 appointed from a list of individuals nominated by the United Mine Workers of America; ~~and~~  
1673 ~~three shall~~ to be appointed from the Commonwealth at large. ~~All Nonlegislative citizen~~  
1674 ~~members of the Board shall serve at the pleasure of the Governor and shall be residents of the~~  
1675 Commonwealth.

1676 B. The members of the Board shall elect its chairman. Members shall serve for terms of  
1677 four years and their successors shall be appointed for terms of the same length, but vacancies  
1678 occurring other than by expiration of a term shall be filled for the unexpired term. Any member  
1679 may be reappointed for successive terms. Members shall receive no compensation for their  
1680 services but ~~shall receive reimbursement~~ be reimbursed for actual all reasonable and necessary  
1681 expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.  
1682 Funding for the costs of compensation and expenses of the members shall be provided by the  
1683 Department.

1684 ~~§ 45.1-161.99. Meetings of the Virginia Coal Mine Safety Board; notices; quorum.~~



1713 conduct of such training programs and may require the cooperation of operators in making such  
1714 programs available to their employees.

1715 B. Each operator of a coal mine, upon request, shall make available to every miner  
1716 employed in such mine the course of first aid training, including refresher training, as is required  
1717 by pursuant to subsection A.

1718 **Drafting note: Technical changes.**

1719 ~~§ 45.1-161.102~~ 45.2-xxx. Training programs.

1720 A. The Department may administer training programs for the purpose of (i) assisting  
1721 with the provision of selected requirements of the federal mine safety law and (ii) preparing  
1722 miners for examinations administered by the Board of Coal Mining Examiners. The Director  
1723 shall establish the curriculum and teaching materials for the training programs, which shall be  
1724 consistent with the requirements of the federal mine safety law where feasible.

1725 B. The Department is authorized to charge persons attending the training programs  
1726 reasonable fees to cover the costs of administering such programs. The Director may exempt  
1727 certain persons from any required fees for refresher training programs, based on the person's  
1728 employment status or such other criteria as the Director deems appropriate. The Director shall  
1729 not be required to allocate more of the Department's resources to training programs than are  
1730 appropriated or otherwise made available for such purpose, or are collected from fees charged  
1731 to attendees.

1732 C. No miner, operator, or other person shall be required to participate in any training  
1733 program established under this article. Nothing contained herein shall prevent an operator or  
1734 any other person from administering a state-approved training program.

1735 **Drafting note: Technical change.**

1736 ~~§ 45.1-161.103~~ 45.2-xxx. Additional coal mining training programs.

1737 The Chief is authorized to implement a voluntary on-site safety awareness training  
1738 program for coal ~~mines~~ miners. Such training may be conducted by a mine inspector in  
1739 conjunction with his inspection of a coal mine or by other Department personnel. Safety

1740 awareness training for coal miners may include such methods as job safety analysis and topical  
1741 talks on safety issues intended to reduce accidents.

1742 **Drafting note: Language is updated for modern usage. Technical changes are**  
1743 **made.**

1744 ~~§ 45.1-161.104. Repealed.~~

1745 **Drafting note: Repealed by Acts 1997, c. 390.**

1746 #