

1 AN ACT  
2 RELATING TO MINING; CHANGING EMERGENCY NOTIFICATION  
3 REQUIREMENTS FOR MINING ACCIDENTS.  
4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 SECTION 1. Section 69-5-17 NMSA 1978 (being Laws 1933,  
7 Chapter 153, Section 23, as amended) is amended to read:

8 "69-5-17. FATAL AND SERIOUS MINE ACCIDENTS--  
9 ASSISTANCE--INVESTIGATION--NOTIFICATION--CIVIL PENALTY.--

10 A. The state mine inspector shall proceed  
11 immediately upon notification to the site of any mine  
12 accident causing the loss of life or requiring activation of  
13 a mine rescue team and shall assist in the rescue of persons  
14 within the mine. The state mine inspector shall participate  
15 in the accident investigation with any other federal, state  
16 and local agency and company representatives.

17 B. Whenever an accident occurs in or about a mine  
18 or the machinery connected to a mine, the operator of the  
19 mine shall give notice within thirty minutes of ascertaining  
20 the occurrence of the accident to the mine accident emergency  
21 operations center at the statewide telephone number  
22 established by the state mine inspector stating the  
23 particulars of the accident.

24 C. Nothing in this section shall be construed to  
25 relieve the operator of the mine from any reporting or

1 notification requirement under federal law.

2 D. As used in this section, "accident" means  
3 "accident" as provided in Section 69-8-2 NMSA 1978.

4 E. The state mine inspector shall impose a civil  
5 penalty of up to one hundred thousand dollars (\$100,000) on  
6 the operator of the mine if it is determined that the  
7 operator failed to give immediate notice as required in this  
8 section. The inspector may waive imposition of the civil  
9 penalty at any time if the inspector finds that the failure  
10 to give immediate notice was caused by circumstances outside  
11 the control of the operator.

12 F. The penalties imposed by the state mine  
13 inspector for violations of this section shall be derived  
14 from criteria-based penalty points. A penalty conversion  
15 table developed by the state mine inspector shall serve as a  
16 guide for determining penalty assessments.

17 G. A person who receives a notice of violation  
18 that includes a penalty assessment under this section may,  
19 within twenty days after receipt of the notice, submit a  
20 written petition to the state mine inspector to review the  
21 notice. Within sixty days after receipt of the petition, the  
22 state mine inspector shall issue a final order upholding,  
23 amending or rescinding the notice. Within twenty days after  
24 the date of notice of the final order by the state mine  
25 inspector, a person who is the subject of the notice may file

1 a written appeal of the order with the mining safety board.  
2 The mining safety board shall adopt rules to govern the  
3 appeal process."

4 SECTION 2. Section 69-8-2 NMSA 1978 (being Laws 1961,  
5 Chapter 136, Section 2, as amended by Laws 2007, Chapter 301,  
6 Section 8 and by Laws 2007, Chapter 302, Section 8) is  
7 amended to read:

8 "69-8-2. DEFINITIONS.--As used in the Mining Safety  
9 Act:

10 A. "accident" means:

11 (1) in the case of a surface mine:

12 (a) a death of an individual at a mine;

13 (b) an injury that has a reasonable  
14 potential to cause death to an individual at a mine;

15 (c) an entrapment of an individual that  
16 has a reasonable potential to cause death;

17 (d) an unplanned ignition or explosion  
18 of a blasting agent or an explosive;

19 (e) an unstable condition at an  
20 impoundment, refuse pile or culm bank that requires emergency  
21 action in order to prevent failure or that causes individuals  
22 to evacuate an area or failure of an impoundment, refuse pile  
23 or culm bank; or

24 (f) an event at a mine that causes  
25 death or bodily injury to an individual not at the mine at

1 the time the event occurs; or

2 (2) in the case of an underground mine or  
3 the surface areas of an underground mine:

4 (a) a death of an individual at a mine;

5 (b) an injury that has a reasonable  
6 potential to cause death to an individual at a mine;

7 (c) an entrapment of an individual that  
8 has a reasonable potential to cause death;

9 (d) an unplanned inundation of a mine  
10 by a liquid or gas;

11 (e) an unplanned ignition or explosion  
12 of gas or dust;

13 (f) an unplanned mine fire in an  
14 underground mine that is not extinguished within ten minutes  
15 of discovery or an unplanned mine fire within the surface  
16 area of an underground mine that is not extinguished within  
17 thirty minutes;

18 (g) an unplanned ignition or explosion  
19 of a blasting agent or an explosive;

20 (h) an unplanned roof fall at or above  
21 the anchorage zone in active workings where roof bolts are in  
22 use or an unplanned roof or rib fall in active workings that  
23 impairs ventilation or impedes passage;

24 (i) a coal or rock outburst that causes  
25 withdrawal of miners or that disrupts regular mining activity

1 for more than one hour;

2 (j) an unstable condition at an  
3 impoundment, refuse pile or culm bank that requires emergency  
4 action in order to prevent failure or that causes individuals  
5 to evacuate an area or failure of an impoundment, refuse pile  
6 or culm bank;

7 (k) damage to hoisting equipment in a  
8 shaft or slope that endangers an individual; or

9 (l) an event at a mine that causes  
10 death or bodily injury to an individual not at the mine at  
11 the time the event occurs;

12 B. "employee" means any person suffered or  
13 permitted to work in a mining occupation or pursuit by an  
14 employer;

15 C. "employer" includes any person acting directly  
16 or indirectly in the interest of an employer in relation to  
17 an employee to a place of employment;

18 D. "inspector" means the state mine inspector;

19 E. "mine" means:

20 (1) an area of land from which minerals are  
21 extracted in nonliquid form or, if in liquid form, are  
22 extracted with workers underground;

23 (2) private ways and roads appurtenant to an  
24 area described in Paragraph (1) of this subsection; and

25 (3) lands, excavations, underground

1 passageways, shafts, slopes, tunnels and workings,  
2 structures, facilities, equipment, machines, tools or other  
3 property, including impoundments, retention dams and tailings  
4 ponds, on the surface or underground, used in, to be used in  
5 or resulting from, the work of extracting such minerals from  
6 their natural deposits in nonliquid form, or if in liquid  
7 form, with workers underground, or used in, or to be used in,  
8 the milling of such minerals, or the work of preparing coal  
9 or other minerals, and includes custom coal preparation  
10 facilities;

11 F. "mining occupations or pursuits" includes  
12 mining, smelting and the operation of a mill, ore house or  
13 treatment plant in which ore or rock is processed;

14 G. "operator" means:

15 (1) any owner, lessee or other person that  
16 operates, controls or supervises a coal mine; or

17 (2) the person, partnership, association or  
18 corporation, or subsidiary of a corporation, operating a  
19 metal or nonmetal mine and owning the right to do so,  
20 including any agent thereof charged with responsibility for  
21 the operation of such mine;

22 H. "person" means an individual, partnership,  
23 association, corporation, business trust, receiver, trustee,  
24 legal representative or successor to any of the foregoing;  
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I. "place of employment" means any place in or about which the employee is suffered or permitted to work."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015. \_\_\_\_\_