BILL

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO MINING; CHANGING EMERGENCY NOTIFICATION REQUIREMENTS FOR MINING ACCIDENTS.

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

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

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

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



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

C. Nothing in this section shall be construed to relieve the operator of the mine from any reporting or notification requirement under federal law.

D. As used in this section, "accident" means "accident" as provided in [~~30 C.F.R. 50.2~~] Section 69-8-2 NMSA 1978 of the Mining Safety Act.

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

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



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for determining penalty assessments.

G. A person who receives a notice of violation that includes a penalty assessment under this section may, within twenty days after receipt of the notice, submit a written petition to the state mine inspector to review the notice. Within sixty days after receipt of the petition, the state mine inspector shall issue a final order upholding, amending or rescinding the notice. Within twenty days after the date of notice of the final order by the state mine inspector, a person who is the subject of the notice may file a written appeal of the order with the mining safety board. The mining safety board shall adopt rules to govern the appeal process."

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

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

A. "accident" [~~pursuant to 30 C.F.R. 50.2~~] means:

(1) in the case of a surface mine:

[~~(1)~~] (a) a death of an individual at a mine;

[~~(2)~~] (b) an injury that has a reasonable potential to cause death to an individual at a mine;

[~~(3)~~] (c) an entrapment of an individual [~~for more than thirty minutes or~~] that has a reasonable



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potential to cause death;

[~~(4) an unplanned inundation of a mine by a liquid or gas;~~

~~(5) an unplanned ignition or explosion of gas or dust;~~

~~(6) an unplanned mine fire in an underground mine that is not extinguished within ten minutes of discovery and an unplanned mine fire within a surface mine or surface area of an underground mine that is not extinguished within thirty minutes;~~

~~(7)~~] (d) an unplanned ignition or explosion of a blasting agent or an explosive;

[~~(8) an unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage;~~

~~(9) a coal or rock outburst that causes withdrawal of miners or that disrupts regular mining activity for more than one hour;~~

~~(10)~~] (e) an unstable condition at an impoundment, refuse pile or culm bank that requires emergency action in order to prevent failure or that causes individuals to evacuate an area or failure of an impoundment, refuse pile or culm bank;

[~~(11) damage to hoisting equipment in a shaft~~



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~~or slope that endangers an individual or that interferes with use of the equipment for more than thirty minutes~~]; or

[~~(12)~~] (f) an event at a mine that causes death or bodily injury to an individual not at the mine at the time the event occurs; or

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

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

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

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

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

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

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

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

(h) an unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in

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use or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage;

(i) a coal or rock outburst that causes withdrawal of miners or that disrupts regular mining activity for more than one hour;

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

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

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

[~~B. "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or to a place of employment;~~

~~C.~~] B. "employee" means any person suffered or permitted to work in a mining occupation or pursuit by an employer;

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

D. "inspector" means the state mine inspector;

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[~~D.~~] E. "mine" [~~pursuant to 30 C.F.R. 50.2~~] means:

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

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

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

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

[~~E.~~] G. "operator" [~~pursuant to 30 C.F.R. 50.2~~] means:

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

(2) the person, partnership, association or corporation, or subsidiary of a corporation, operating a metal



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or nonmetal mine and owning the right to do so, including any agent thereof charged with responsibility for the operation of such mine;

[~~F.~~] H. "person" means an individual, partnership, association, corporation, business trust, receiver, trustee, legal representative or successor to any of the foregoing; and

[~~G.~~] I. "place of employment" means any place in or about which the employee is suffered or permitted to work

[~~H. "mining occupations or pursuits" includes mining, smelting and the operation of a mill, ore house or treatment plant in which ore or rock is processed; and~~

~~I. "inspector" means the state mine inspector~~]."

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



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