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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.

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

1 "accident" as provided in Section 69-8-2 NMSA 1978.

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

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

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

1 Chapter 136, Section 2, as amended by Laws 2007, Chapter 301,
2 Section 8 and by Laws 2007, Chapter 302, Section 8) is
3 amended to read:

4 "69-8-2. DEFINITIONS.--As used in the Mining Safety
5 Act:

6 A. "accident" means:

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

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

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

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

13 (d) an unplanned ignition or explosion
14 of a blasting agent or an explosive;

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

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

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

25 (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;

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

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

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

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

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

14 (h) an unplanned roof fall at or above
15 the anchorage zone in active workings where roof bolts are in
16 use or an unplanned roof or rib fall in active workings that
17 impairs ventilation or impedes passage;

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

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

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

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

4 B. "employee" means any person suffered or
5 permitted to work in a mining occupation or pursuit by an
6 employer;

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

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

11 E. "mine" means:

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

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

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

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

4 G. "operator" means:

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

7 (2) the person, partnership, association or
8 corporation, or subsidiary of a corporation, operating a
9 metal or nonmetal mine and owning the right to do so,
10 including any agent thereof charged with responsibility for
11 the operation of such mine;

12 H. "person" means an individual, partnership,
13 association, corporation, business trust, receiver, trustee,
14 legal representative or successor to any of the foregoing;
15 and

16 I. "place of employment" means any place in or
17 about which the employee is suffered or permitted to work."

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