

VIRGINIA ACTS OF ASSEMBLY -- 2010 RECONVENED SESSION

CHAPTER 809

An Act to amend and reenact §§ 45.1-161.39, 45.1-161.87, 45.1-161.276, and 45.1-161.284 of the Code of Virginia, relating to coal mine safety.

[S 561]

Approved April 21, 2010

Be it enacted by the General Assembly of Virginia:

1. That §§ 45.1-161.39, 45.1-161.87, 45.1-161.276, and 45.1-161.284 of the Code of Virginia are amended and reenacted as follows:

§ 45.1-161.39. Surface foreman certification.

A. Applicants for a surface foreman certificate shall be at least 23 years of age and have had at least five years of experience in a coal mine with at least three years of such experience in a surface coal mine. A graduate of an approved four-year college course in mining engineering shall be given credit for three of the five years of practical experience required. An applicant who possesses a degree in mining technology shall be given credit for two of the five years of required practical experience. Applicants shall demonstrate to the Board of Coal Mining Examiners a thorough knowledge of the theory and practice of surface coal mining by making eighty-five percent or more on the written examination. In addition, each applicant shall pass the ~~examinations~~ examination in first aid and gas detection. The holder of a surface foreman certificate issued by the Board shall be authorized to act as surface foreman at any surface coal mine.

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

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

§ 45.1-161.87. Duties of operator.

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

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

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

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

~~a~~ 1. A pre-employment, ~~11-panel~~ 10-panel urine test for the following *and any other* substances as set out in regulation adopted by the Board of Coal Mining Examiners:

- ~~1.~~ a. Amphetamines,
- ~~2.~~ b. Cannabinoids/THC,
- ~~3.~~ c. Cocaine,
- ~~4.~~ d. Opiates,
- ~~5.~~ e. Phencyclidine (PCP),
- ~~6.~~ f. Benzodiazepines,
- ~~7.~~ g. Propoxyphene,
- ~~8.~~ ~~Methaqualone~~,
- ~~9.~~ h. Methadone,
- ~~10.~~ i. Barbiturates, and
- ~~11.~~ j. Synthetic narcotics.

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

2. *Review of the substance abuse screening program with all miners at the time of employment and annually thereafter.*

E. The operator or his agent shall notify the Chief, on a form prescribed by the Chief, within seven days of any failure of a pre-employment substance abuse screening test *and provide a record of the test showing such failure or violation.* Notice shall result in the immediate temporary suspension of all certificates held by the applicant, pending hearing before the Board of Coal Mining Examiners.

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

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

§ 45.1-161.276. Loading and haulage work area requirements.

A. Ramps and dumps shall be of solid construction, ample width, ample clearance and head room and shall be kept reasonably free of spillage.

B. Berms or guards shall be provided on the outer bank of elevated haulage roads. Berms constructed on or after July 1, 2005, shall be constructed of substantial material to the mid-axle height of the largest vehicle regularly used on the haulage road. The width and height of the berm shall be constructed on a two-to-one ratio when constructed of unconsolidated material. Other no-less effective methods may be used for berms.

C. Berms, bumper blocks, safety hooks or similar means shall be provided to prevent overtravel and overturning at dump stations.

D. Dumping locations and haulage roads shall be kept reasonably free of water, debris and spillage. Water, debris or spilled material ~~which create~~ *that creates* hazards to moving equipment shall be removed.

E. Haulage roads constructed on or after July 1, 2005, shall be constructed at least one and one-half times the width of the widest equipment in use, and those haulage roads used for passing shall be constructed at least three times the width of the widest equipment in use. In areas where this may not be possible, the foreman shall establish procedures for safe travel of haulage vehicles.

F. Traffic rules, signals, and warning signs shall be standardized at each mine and posted. This shall include, but not be limited to, rules for the travel of on-road vehicles operating near off-road haulers in work areas.

G. Dumping stations *where material is dumped over an embankment* shall be designed to minimize backing and, *where conditions permit*, to provide for perpendicular travel to allow the equipment operator to observe the dumping station for changing conditions prior to backing. Reflectorized signs, strobe lights, or other available means shall be used to clearly indicate dumping locations. *This subsection shall not apply to dumping stations (i) that are moved after each dumped load as mining progresses, (ii) where spotters are being used, or (iii) where loads are dumped short and pushed over the embankment. Dump stations that may interfere with haulroads or work areas below shall be clearly marked with signs to prevent further dumping, unless other effective precautions are taken to protect haulroads or work areas below the dump station.*

§ 45.1-161.284. Surface storage of explosives and detonators.

A. Separate surface magazines shall be provided for the storage of explosives and detonators.

B. Surface magazines for storing and distributing explosives in amounts exceeding 150 pounds shall be:

1. Reasonably bulletproof and constructed of incombustible material or covered with fire-resistive material. The roofs of magazines so located that it is impossible to fire bullets directly through the roof from the ground, need not be bulletproof, but where it is possible to fire bullets directly through them, roofs shall be made bullet-resistant by material construction, or by a ceiling that forms a tray containing not less than a four-inch thickness of sand, or by other methods;;

2. Provided with doors constructed of three-eighth inch steel plate lined with a two-inch thickness of wood, or the equivalent;;

3. Provided with dry floors made of wood or other nonsparking material and have no metal exposed inside the magazine;;

4. Provided with suitable warning signs so located that a bullet passing directly through the face of a sign will not strike the magazine;;

5. Provided with properly screened ventilators;;

6. Equipped with no openings except for entrance and ventilation;;

7. Kept locked securely when unattended.; *and*

8. *Electrically bonded and grounded, if constructed of metal.*

C. Surface magazines for storing detonators need not be bulletproof, but they shall be in accordance with other provisions for storing explosives.

D. Explosives in amounts of 150 pounds or less or 5,000 detonators or less shall be stored in accordance with the preceding standards or in separate locked box-type magazines. Box-type magazines may also be used as distributing magazines when quantities do not exceed those mentioned. Box-type magazines shall be constructed strongly of two-inch hardwood or the equivalent. Metal magazines shall be lined with nonsparking material. No magazine shall be placed in a building containing oil, grease, gasoline, wastepaper or other highly flammable material; nor shall a magazine be placed within twenty feet of a stove, furnace, open fire or flame.

E. The location of magazines shall be not less than 300 feet from any mine opening, ~~occupied building or public road or any road which the Chief designates in order to promote safety.~~ However, in the event that a magazine cannot be practicably located at such a distance, ~~if sufficiently barricaded and approved by the Chief, such~~ the magazine may be located less than 300 feet from ~~any~~ a mine opening, ~~occupied building or road if it is sufficiently barricaded and approved by the Chief.~~ Unless approved by the Chief, magazines shall not be located closer to occupied buildings, public roads, or passenger railways than allowed in the "American Table of Distances for Storage of Explosive Materials" published by the Institute of Makers of Explosives.

F. The supply kept in distribution magazines shall be limited to approximately a forty-eight hour supply, and such supplies of explosives and detonators may be distributed from the same magazine, if separated by at least a four-inch substantially fastened hardwood partition or the equivalent.

G. The area surrounding magazines for not less than twenty-five feet in all directions shall be kept free of rubbish, dry grass or other materials of a combustible nature.

H. If the explosives magazine is illuminated electrically, the lamps shall be of vapor-proof type, installed and wired so as to present minimum fire and contact hazards.

I. Only nonmetallic tools shall be used for opening wooden containers. Extraneous materials shall not be stored in an explosives or detonator magazine.

J. Smoking, carrying smokers' articles or open flames shall be prohibited in or near any magazine.