

AN ACT

RELATING TO MINES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; PROVIDING FOR EMERGENCY RESPONSE TO MINE ACCIDENTS; PROVIDING PENALTIES; DECLARING AN EMERGENCY.

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

Section 1. A new section of Chapter 69, Article 5 NMSA 1978 is enacted to read:

"MINE ACCIDENT RAPID RESPONSE SYSTEM.--

A. The state mine inspector shall:

(1) adopt rules requiring each mine operator to prepare an emergency notification plan for its operations and, upon the inspector's approval of the plan, shall retain a copy of each mine operator's emergency notification plan at the emergency operations center; and

(2) establish and maintain the mine accident emergency operations center as the primary state government communications center for dealing with mine accidents that:

(a) provides emergency assistance and response coordination for mine accidents or emergencies; and

(b) is accessible twenty-four hours a day, seven days a week, at a statewide telephone number established and designated by the inspector.

B. Upon receipt of an emergency call regarding an accident, as defined in Section 69-5-17 NMSA 1978, the mine

accident emergency operations center shall immediately notify the state mine inspector, who will ensure that the emergency notification plan for the appropriate mine is complied with.

C. In the event of an accident or recovery operation in or about a mine, the state mine inspector may coordinate the assignment of mine rescue teams to assist with needed rescues."

Section 2. 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, investigate the causes of the accident, conduct a closeout conference and make necessary recommendations for the present and future safety of the miners. So far as possible, the operator shall not change the surroundings of an accident until the state mine inspector has made an investigation; provided, however, that the investigation is made within a reasonable time.

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.

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."

Section 3. Section 69-8-1 NMSA 1978 (being Laws 1961, Chapter 136, Section 1) is amended to read:

"69-8-1. SHORT TITLE.--Chapter 69, Article 8 NMSA 1978 may be cited as the "Mining Safety Act"."

Section 4. A new section of the Mining Safety Act is enacted to read:

"UNDERGROUND MINE SAFETY REQUIREMENTS--PENALTIES.--In addition to requirements pursuant to federal law for

underground mines:

A. a self-contained self-rescue device approved by the state mine inspector shall be worn by each person while underground or kept within the person's immediate reach while underground. The device shall be provided by the employer. The self-contained self-rescue device shall be adequate to protect a miner for one hour or longer or, alternatively, sufficient to allow the employee time to reach an additional self-contained self-rescue device. Each employer shall train each miner in the use of the device, and refresher training courses for all underground employees shall be held during each calendar year;

B. the employer shall provide caches of additional self-contained self-rescue devices throughout the mine in accordance with a plan approved by the state mine inspector. Each additional self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. Battery-powered strobe lights or permanently activated strobe lights shall be affixed to each cache. A luminescent sign with the words "SELF-CONTAINED SELF-RESCUER" or "SELF-CONTAINED SELF-RESCUERS" shall be conspicuously posted at each cache, and luminescent direction signs shall be posted leading to each cache. The employer shall conduct weekly inspections of each cache and the affixed strobe lights to ensure operability;

C. a wireless emergency communication device or a

two-way radio system approved by the state mine inspector and provided by the employer shall be available to each person in the active working section of an underground mine. Each employer shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The employer shall install in or around the mine any and all equipment necessary to transmit emergency communications from the surface to each wireless emergency communication device or two-way radio system in active working sections of the underground mine;

D. a wireless tracking device approved by the state mine inspector and provided by the employer shall be worn by each person in an underground coal mine. In the event of an accident or other emergency, the tracking device shall be capable of providing the approximate physical location of each person who is underground. Each employer shall train each employee in the use of the device and provide refresher training courses for all underground employees during each calendar year. The employer shall install in or around the mine all equipment necessary to provide the approximate physical location of each person who is underground;

E. a person who, without the authorization of the employer or the state mine inspector, knowingly removes or attempts to remove any device or related equipment, required by this section and approved by the inspector, from a mine or

mine site with the intent to permanently deprive the employer of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment shall be guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

F. the state mine inspector shall, within ninety days of the effective date of this section, approve an implementation plan for each mine covered by this section that includes a schedule for meeting the requirements of this section."

Section 5. A new section of the Mining Safety Act is enacted to read:

"EMPLOYEE RIGHTS.--An employer shall not discharge or in any manner discriminate against, cause to be discharged or cause discrimination against an employee, representative of employees or applicant for employment in a mine subject to the Mining Safety Act because the employee, representative of employees or applicant for employment has filed or made a complaint under or related to that act or Chapter 69, Article 5 NMSA 1978, including a complaint notifying the operator, the operator's agent or the state mine inspector of an alleged danger or a safety or health violation in a mine, or because the employee, representative of employees or applicant for employment has instituted or caused to be instituted a proceeding under or related to the Mining Safety Act or has

testified or is about to testify in any such proceeding."

Section 6. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect
immediately.

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