

OKLAHOMA STATUTES
TITLE 45. MINES AND MINING

§45-1. Oklahoma Mining Commission - Status - Appointment - Term - Membership - Meetings - Removal - Vacancies - Officers.....	7
§45-1.2. Violation of Board order - Notice - Hearing - Misdemeanor - Injunction - Action.....	8
§45-1.3. Hearings - Hearing officer - Judicial review.....	9
§45-1.4. Inspection of mines - Mining records.....	9
§45-1.5. Rules and regulations.....	9
§45-1a. Powers and duties of Commission.....	10
§45-1b. Chief Mine Inspector - Director.....	10
§45-1c. Powers and duties of Director.....	10
§45-1d. Additional powers and duties of Director.....	11
§45-1e. Oklahoma Miner Training Institute - Establishment - Faculty and services - Director - Advisor.....	11
§45-1f. Oklahoma Miner Training Institute - Duties.....	12
§45-1g. Department of Environmental Quality - Regulation of certain mining activities.....	12
§45-2. Certificates of competency - Violations - Examinations - Qualification.....	12
§45-3. Chief Mine Inspector - Assistant Mine Inspectors.....	14
§45-3.1. Director of Department of Mines.....	14
§45-5. Certificates - Contents - Fees.....	14
§45-6. Secretary - Record of issue of certificates - Effect of certificates - Notice and list of names.....	15
§45-8. Temporary permits.....	15
§45-9.1. Quarrying or mining with use of explosives near schools or churches prohibited - Exceptions.....	15
§45-21.1. Mining districts.....	16
§45-31. Chief Mine Inspector - Annual report to Governor.....	16
§45-32. Examinations of mines.....	16
§45-33. Journal of inspections - Official communications - Equipment and material.....	16
§45-34. Office - Property of state.....	17
§45-37. Withdrawal of person's from dangerous mine - Violations - Penalties.....	17
§45-40. Obstruction of inspectors - Penalty.....	17
§45-41. Disputes between operators and miners.....	17
§45-43. Legal assistance.....	18
§45-44. Special counsel in certain proceedings involving Attorney General.....	18
§45-45. Study of mining laws - Recommendations and proposed legislation.....	19
§45-46. Market study and sulfur emissions standards study - Recommendations.....	19
§45-46.1. Acid mine drainage.....	19
§45-47. Funding of activities.....	20
§45-48. Borrow pits - Jurisdiction.....	20
§45-221. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	20
§45-361. Terms defined.....	20
§45-395. Repealed by Laws 1998, c. 364, § 38, emerg. eff. June 8, 1998.....	20
§45-406. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	20
§45-411. Definitions.....	21
§45-412. Mine inspectors - Duties.....	21
§45-413. Mine inspector to require compliance with act.....	21
§45-414. Examination and inspection of mines - Time and manner.....	21
§45-415. Dangerous conditions - Additional shafts.....	22
§45-416. Health of employees - Underground excavations - Ventilation.....	22
§45-417. Dust - Water lines - Sprinkling attachments.....	23
§45-418. Loss of life or injury - Duty of operator and inspector.....	24
§45-419. Shaft hoisting engineers - Age and experience - Duties - Loading and unloading.....	24
§45-420. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	25
§45-421. Shaft collars - Cribbing and timbering - Pipes and air lines.....	25

§45-422. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	25
§45-423. Hoisting equipment.	25
§45-424. Explosives - Storage, transportation, handling and use.....	26
§45-425. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	27
§45-426. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	27
§45-427. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	27
§45-428. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	27
§45-429. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	27
§45-430. Map or plan of mine.	27
§45-431. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	27
§45-433. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	27
§45-434. Orders of Mining Inspector - Review.	27
§45-435. Neglect or failure to perform requirements - Penalty.....	28
§45-436. Open mine shafts - Covering - Approval - Penalties.	29
§45-437. Interference with protective covering devices - Penalties.	29
§45-441. Use of engines equipped for detoxification permitted - Approval of use - Inspections - Suspension or discontinuance of use.....	29
§45-442. Use of engines not meeting standards prohibited.	30
§45-461. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	30
§45-462. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	30
§45-463. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	30
§45-464. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	30
§45-465. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	30
§45-466. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	30
§45-467. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	30
§45-468. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	30
§45-476. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	30
§45-477. May stop mining, when.	30
§45-478. Penalty for obstruction.	31
§45-501. Maps of mines.	31
§45-502. Maps to be corrected every six months.	31
§45-503. Mine inspectors to be furnished copies of maps.....	32
§45-504. Penalty for failure to furnish map copies.	32
§45-505. Conduct of developments.....	33
§45-506. Ventilation - Construction of air and hoisting shafts.	33
§45-507. Openings to be separated by natural strata.	34
§45-508. Shaft not more than seventy-five feet deep.....	34
§45-509. Hoisting machinery in shaft over seventy-five feet deep.	34
§45-510. Angle of traveled slope.	35
§45-511. Inspection of hoisting equipment and stairs.	35
§45-512. Safety equipment for shafts.	35
§45-513. Quality and testing of chains.	35
§45-514. Number of persons lowered or hoisted at one time.	36
§45-515. Inspection - Guard railings.	36
§45-516. Ventilation.	36
§45-517. Number working in same air current - Fans and furnaces - Stoppings between intake and return airways.....	36
§45-518. Ventilating fans and doors.....	37
§45-519. Mines to be kept free from gas.....	38
§45-520. Inspection for gas.....	38
§45-521. Danger signals.....	39
§45-522. Electric wires to be insulated.....	39
§45-523. Machines to be shielded - Electric pumps.....	40

§45-524. Use of oil and grease.....	40
§45-525. Precautions in dangerous workings.....	40
§45-527. Precautions against dust or explosive matter.....	41
§45-528.1. Water on cutter bars and rock drills - Use required.....	41
§45-528.2. Violations by mine owners, operators, etc.....	41
§45-528.3. Violations by miners and persons operating drills or machines.....	42
§45-529. Workers' compensation coverage - Penalties - Exceptions.....	42
§45-561. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-562. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-563. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-564. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-565. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-566. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-567. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-568. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-569. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-570. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-571. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	42
§45-572. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-573. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-574. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-575. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-576. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-577. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-578. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-579. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-580. Punishment for offense.....	43
§45-601. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-602. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	43
§45-603. Cheating by molesting check numbers on cars.....	43
§45-604. Punishment for offense.....	43
§45-611. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	44
§45-612. Rules to be posted.....	44
§45-613. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.....	44
§45-614. Definition of special terms.....	44
§45-615. Violations of statute as misdemeanors - Civil liability.....	44
§45-616. Construction of sewage or drainage facilities into operating or abandoned mine - Penalty.....	45
§45-721. Short title.....	45
§45-722. Declaration of policy.....	45
§45-723. Definitions.....	45
§45-724. Permits - Limited Use Permits - Applications - Bond - Permit or bond release applications.....	47
§45-725. Procedure for reclaiming land.....	53
§45-726. Refuse disposal areas.....	54
§45-727. Inspection.....	54
§45-728. Bond - Cash deposit.....	54
§45-729. Violations - Notice - Hearing - Enforcement - Informing of surface owners.....	56
§45-730. Lateral support.....	57
§45-731. Maps - Release.....	57
§45-732. Powers and duties of Department.....	58
§45-733. Legal assistance.....	58
§45-734. Chief Mine Inspector.....	59
§45-735. Sand and gravel - Inspections - Penalties.....	59
§45-736. Revoked permits.....	59

§45-737. Governmental agencies to conform.	59
§45-738. Judicial review.	59
§45-740.1. Short title.	59
§45-740.2. Legislative findings - Purpose.	59
§45-740.3. Powers and duties of Commission.	60
§45-740.4. Participation in Abandoned Mine Reclamation Fund.	60
§45-740.5. Property adversely affected by past coal mining practices - Entry - Acquisition - Title - Disposition.	61
§45-740.6. Liens.	62
§45-740.7. Emergencies.	63
§45-742.1. Short title - Intent of Legislature - Application of act - Public policy - Purpose of act.	63
§45-742.2. Definitions.	64
§45-744. Application of act.	71
§45-745. Exemptions.	72
§45-745.1. Permits for separate mining operations - Application - Forms - Plan of reclamation - Fees - Exemptions.	72
§45-745.2. Term of permit - Fee - Transferability.	73
§45-745.3. Termination of permit - Extension.	73
§45-745.4. Renewal of permit - Application - Burden of proof - Term.	74
§45-745.5. Reclamation plan.	74
§45-745.6. Performance bond.	76
§45-745.7. Grant, modification or denial of application for permit - Notice to applicant - Burden of proof - Notice to political subdivisions.	78
§45-745.8. Criteria for approval of permit or revision application.	78
§45-745.9. Schedule of notices of violations of air or water environmental protection laws to be submitted - Effect of prior violations on application.	79
§45-745.10. Revision of permit.	80
§45-745.11. Exploration regulations - Contents - Confidential or privileged information - Tonnage limitations - Violations.	81
§45-745.12. Advertisement of ownership, location and boundaries of affected land - Notice to political subdivisions, etc. - Comments on proposed operation.	81
§45-745.13. Objections to application for permit - Informal conference - Hearings.	82
§45-745.14. Findings - Notice to applicant - Hearing on findings.	82
§45-745.15. Temporary relief pending final determination of proceedings - Conduct of hearings - Appeals.	83
§45-745.16.1. Small operator assistance program.	84
§45-745.17. Copy of application to be filed with county recorder or appropriate public office - Liability insurance - Blasting plans.	84
§45-745.18. Impoundments of water on mining sites.	85
§45-745.19. Augering operations.	85
§45-745.20. Disposal of wastes.	85
§45-745.21. Surface mining near active and abandoned underground mines.	86
§45-745.22. Reclamation efforts - Variances.	86
§45-746. Restoration of land.	87
§45-747. Backfilling, compacting, and grading.	87
§45-748. Conditions where backfilling, compacting, and grading are necessary.	87
§45-749. Restoring excess overburden, spoils and waste materials.	88
§45-750. Removal and restoration of topsoil.	88
§45-751. Disturbances to hydrologic balance.	89
§45-752. Waste piles.	89
§45-753. Explosives - Rules and regulations.	90
§45-754. Reestablishment of native flora - Length of liability.	94
§45-754.1. Spoil material - Placement.	95

§45-754.2. Performance standards.....	95
§45-755. Steep slope surface mining - Performance standards - Exemptions.	96
§45-756. Performance standards for removal of entire coal seam - Postmining land use as condition for granting permit.....	97
§45-757. Prime farmland - Soil restoration - Exemptions.....	98
§45-760. Mine operators - Duties.....	99
§45-760.1. Suspension of underground mining in certain areas.	101
§45-760.2. Application of act to surface operations - Modifications.	101
§45-761. Licenses and permits - Display - Inspection.	101
§45-763. Renumbered as § 791 of this title by Laws 1979, c. 249, § 59, emerg. eff. June 1, 1979.	102
§45-764. Renumbered as § 792 of this title by Laws 1979, c. 249, § 59, emerg. eff. June 1, 1979.	102
§45-765. Data collection and analysis.....	102
§45-766. Right of entry - Inspections - Signs - Violations - Public inspection of records, etc.	102
§45-767. Conflicts of interest - Violations.....	103
§45-768. Reports of violations of act - Informal review - Inspection procedure.	104
§45-769. Civil penalties.	104
§45-770. Release of performance bond or deposit - Application.....	106
§45-771. Release of performance bond or deposit - Inspection and evaluation of reclamation work.	107
§45-772. Release of performance bond or deposit - Schedule of release - Disapproval of application - Protection of affected area.	107
§45-773. Release of performance bond or deposit - Notice to municipalities - Objections - Hearings - Informal conference - Authority of department.....	108
§45-774. Civil actions to compel compliance with act - Exceptions.	109
§45-775. Inspection of violations.....	111
§45-776. Conditions or practices in violation of act - Cessation order - Additional obligations on operator.	111
§45-777. Abatement of violation - Notice - Hearing - Cessation orders.....	111
§45-778. Suspension or revocation of permit.	112
§45-779. Notices and orders - Requirements.	112
§45-780. Action for damages and expenses - Injunctions, restraining orders or other orders - Jurisdiction - Relief.....	113
§45-781. Land unsuitable for certain types of surface coal mining operations - Designation - Criteria....	113
§45-782. Petition to designate area as unsuitable for surface coal mining operations - Hearing - Decision - Impact statement.	114
§45-783. Limitations on surface coal mining operations.	115
§45-784. Cooperative agreements with federal government.	115
§45-785. Compliance with act.	116
§45-786. Review of notices or order or modification, vacation or termination of notices or orders - Application - Investigation - Hearing - Temporary relief - Suspension or revocation of permit - Costs.....	116
§45-787. Appeal of order or other action.....	118
§45-788. Enforcement or protection of interest in water resources - Replacement of water supply.	118
§45-789. Rules and regulations.....	118
§45-790. Unconstitutionality of Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87).	118
§45-791. Federal rules and regulations - Compliance - Reimbursement for costs.....	118
§45-791.1. Alternative reclamation practices.....	119
§45-792. Assistance of state agencies.	119
§45-793. Federally inspected reclamation activities.	119
§45-801. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-802. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-803. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-804. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-805. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120

§45-806. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-807. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-808. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-809. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-810. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-811. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-812. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-813. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-814. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	120
§45-815. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.....	121
§45-851. Text of Compact.....	121
§45-852. Governor as ex officio member.	127
§45-853. Supplementary agreements - Legislative appropriation.....	127
§45-901. Definitions.....	127
§45-902. Certificate of competency - Violations - Examinations - First-aid certificates.	131
§45-903. Certification of applicants - Fees.	131
§45-904. Records - Rights and duties of certificate holders.	132
§45-905. Revocation of certificates - Notice.....	132
§45-906. Temporary permits.	132
§45-907. Inspection and examination of active strip and surface mines - Reports - Recommendations.	132
§45-908. Employment of certified strip pit mine foreman.	133
§45-909. Foreman - Duties and responsibilities.	133
§45-910. Proper ground control - Rules and procedures.	133
§45-911. Explosives - Rules and procedures for storage.	136
§45-912. Drilling for blasting - Rules and procedures.	141
§45-913. Loading, hauling or dumping - Rules and procedures.	142
§45-914. Travelways - Rules and procedures.	145
§45-915. Electricity - Rules and procedures.	146
§45-916. Equipment - Rules and procedures.....	149
§45-917. Personal protection - Rules and procedures.....	150
§45-918. Augering - Rules and procedures.....	151
§45-919. General rules and procedures.....	152
§45-931. Operator's fee - Disposition - Production report and forms.....	152
§45-932. Delinquent reports and fees - Penalty - Time extension.	153
§45-933. Failure to report - Ascertainment of coal mined - Determination of fees - Penalty.....	153
§45-934. Lien for fees - Perfecting - Notice - Indexing - Release	154
§45-935. Collection of delinquent fees.....	154
§45-936. Payment of fee as condition precedent to coal mining - Default in payment as ground for injunctive relief.	154
§45-937. Violations; penalty.	154
§45-938. Department of Mines Revolving Fund.	155
§45-938.1. Oklahoma Miner Training Institute Revolving Fund.	155
§45-939. Coal-fired electric generating plants - Burning Oklahoma coal.	155
§45-939.1. Cost increases to consumers and impairment of certain contracts prohibited.	155
§45-940. Fly ash or other material from coal combustion, power-generating facilities and kiln dust generated by cement-producing entities - Solid waste permit exemption.	156
§45-950. Moratorium on issuing permits or amending permits for locations overlying sensitive sole source groundwater basins or subbasins.....	156

§45-1. Oklahoma Mining Commission - Status - Appointment - Term - Membership - Meetings - Removal - Vacancies - Officers.

A. 1. There is hereby created the Oklahoma Mining Commission. The Commission shall be composed of nine (9) members to be appointed by the Governor with the advice and consent of the Senate.

2. The Commission shall constitute a body corporate of the State of Oklahoma, and exercise by the Commission of the powers conferred by this act shall be deemed and shall be held to be an essential governmental function of the State of Oklahoma.

3. Beginning January 1, 1986, one member shall be appointed for a term of one (1) year (Position One); one member shall be appointed for a term of two (2) years (Position Two); one member shall be appointed for a term of three (3) years (Position Three); one member shall be appointed for a term of four (4) years (Position Four); one member shall be appointed for a term of five (5) years (Position Five); two members shall be appointed for a term of six (6) years (Positions Six and Seven); and two members shall be appointed for a term of seven (7) years (Positions Eight and Nine).

4. After the initial terms, appointments shall be made for seven (7) years. All appointments made for seven-year terms commencing prior to June 1, 1995, are hereby ratified. Each member shall be a qualified elector of this state.

5. The membership shall consist of at least one person with a background in engineering or geology; one person with a background in labor or workers' safety; one person with a background in agriculture or soil conservation; one person with a background in transportation; one person with a background in economic development or banking; one person with a background in public utilities; one person with a background in natural resources; and two persons selected at large. All persons appointed to the Commission must be able to meet, at the time they take the constitutional and statutory oath of office, the provisions in Section 767 of this title, 30 U.S.C. Section 1267(g) and 30 C.F.R. Section 705.

B. The Commission shall meet at least six times annually. A majority of the Commission shall constitute a quorum. Commission members may be removed only for cause.

Whenever a vacancy shall occur, the Governor shall appoint a person to fill the unexpired term of the vacant office. Each member of the Commission shall take and subscribe to the constitutional and statutory oath of office prior to the performance of any duties as a Commission member.

C. The Commission shall reorganize annually by electing a chair, vice-chair and secretary from the membership of the Commission who shall perform, for one (1) year from the date of their election, such duties as shall be prescribed by the Commission.

D. The chair of the Commission or the Director may call a meeting of the Commission at any time and at any place within the state. Only in case of a tie vote shall the Director have the right to vote. Prior to all meetings of the Commission, notice of such meetings shall be in accordance with the applicable state meeting laws.

E. The term "State Mining Board" appearing in the Oklahoma Statutes shall mean the "Oklahoma Mining Commission". The term "Chief Mine Inspector" appearing in the Oklahoma Statutes shall mean "Director of the Department of Mines" in the absence of an appointed Chief Mine Inspector.

Added by Laws 1929, c. 251, p. 322, art. 1, § 1. Amended by Laws 1949, p. 291, § 1, emerg. eff. June 9, 1949; Laws 1965, c. 262, § 1, emerg. eff. June 23, 1965; Laws 1978, c. 123, § 1; Laws 1981, c. 121, § 1, emerg. eff. April 28, 1981; Laws 1981, c. 272, § 8, eff. July 1, 1981; Laws 1982, c. 296, § 1, eff. Sept. 1, 1982; Laws 1983, c. 333, § 15, emerg. eff. June 29, 1983; Laws 1985, c. 239, § 1, eff. Jan. 1, 1986; Laws 1995, c. 326, § 1, emerg. eff. June 8, 1995; Laws 1996, c. 85, § 1, emerg. eff. April 15, 1996.

§45-1.2. Violation of Board order - Notice - Hearing - Misdemeanor - Injunction - Action.

A. Whenever the Board determines there are reasonable grounds to believe there has been a violation of any order of the Board adopted pursuant to Title 45 of the Oklahoma Statutes, it shall give written notice to the alleged violator specifying the cause of the complaint. Such notice shall require that the matters complained of be corrected within a specified time or that the alleged violator appear before the Board at a time and place specified in the notice to answer the charges. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection C of this section not less than twenty (20) days before the time set for the hearing.

B. The Board shall afford the alleged violator an opportunity for a hearing in conformity with the Administrative Procedures Act. On the basis of the evidence produced at the hearing, the Board shall make findings of fact and conclusions of law and enter an order thereon. The Board shall give written notice of such order to the alleged violator. The order of the Board shall become final and binding on all parties unless appealed to the district court within thirty (30) days after notice of such order has been sent to the parties.

C. Any notice, order or other instrument issued by the Board pursuant to this section may be served either personally, by publication, or by mailing a copy by registered mail directed to the alleged violator at his last-known address as shown by the files or

records of the Board. Proof of such service shall be filed in the office of the Board.

D. Unless otherwise specified by law, any person who violates any of the provisions of Title 45 of the Oklahoma Statutes or who violates any order or determination of the Board promulgated pursuant to this section shall be guilty of a misdemeanor and in addition thereto may be enjoined from continuing such violation. Each day upon which such violation occurs shall constitute a separate violation.

The Attorney General, on the request of the Board, shall bring an action against any person violating any order or determination of the Board adopted pursuant to Title 45 of the Oklahoma Statutes. Added by Laws 1982, c. 296, § 3.

§45-1.3. Hearings - Hearing officer - Judicial review.

A. All hearings required by the Board may be conducted by the Board itself at a regular or special meeting of the Board or the Board may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Board at any time and place.

B. Any person aggrieved by a final order or other final determination of the Board may, or the Attorney General on behalf of the state may, petition for a judicial review for rehearing, reopening or reconsideration of the matter, as provided for in Section 317 of Title 75 of the Oklahoma Statutes.

Added by Laws 1982, c. 296, § 4.

§45-1.4. Inspection of mines - Mining records.

The Chief Mine Inspector or his duly authorized representative shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the health and safety of anyone employed in a mine in this state or to carry out its duties as required by this title.

The Board may require the maintenance of records relating to mining. Copies of such records shall be submitted to the Board on request.

Added by Laws 1982, c. 296, § 5.

§45-1.5. Rules and regulations.

The Board shall adopt within one hundred and eighty (180) days of the effective date of this act, rules and regulations governing ventilation, underground haulage, hoisting operations, explosives, and such other regulations it may deem necessary to protect the health and safety of persons employed in the mines of this state.

Added by Laws 1982, c. 296, § 6.

§45-1a. Powers and duties of Commission.

A. The Oklahoma Mining Commission shall be the policy-determining agency for the Department of Mines and shall determine the broad plans and programs for the accomplishment of duties and responsibilities vested by law in said Commission, the Chief Mine Inspector and the Department of Mines, and may in the absence of an appointed Chief Mine Inspector, fix the duties and responsibilities of personnel employed by the Department including, in the absence of an appointed Chief Mine Inspector, the Director of the Department of Mines. It shall have the authority to delegate to its chairman, to one or more agents or employees, such powers and duties as it may deem proper. Each member of the Commission shall be reimbursed for actual and necessary travel expenses necessarily incurred in the discharge of official duties as provided in the State Travel Reimbursement Act.

B. In addition to other powers and duties specified by law, the Oklahoma Mining Commission shall have the power and duty to:

1. acquire by gift, devise, purchase or otherwise, absolutely or in trust, and to hold and, unless otherwise restricted by the terms of the gift or devise, any real property or real estate or other interest therein as may be necessary in carrying into effect the purpose of this act.

2. enter into contracts and to execute all instruments necessary to fulfill its duties, respecting the protection, preservation, maintenance and operation of such buildings and sites as it may select.

Added by Laws 1985, c. 239, § 2, eff. Jan. 1, 1986. Amended by Laws 1990, c. 266, § 74, operative July 1, 1990.

§45-1b. Chief Mine Inspector - Director.

The chief executive officer of the Department of Mines shall be the Chief Mine Inspector. In the absence of an appointed Chief Mine Inspector the chief executive officer shall be the Director who shall be appointed by the Oklahoma Mining Commission and who shall serve at the pleasure of said Commission and fix his or her duties and compensation. The Director shall be chosen with regard to his or her knowledge, training, experience and ability in administering the functions of the Department. No person shall be appointed Director who has not been a resident and a qualified elector of this state for a period of at least three (3) years preceding appointment.

Added by Laws 1985, c. 239, § 3, eff. Jan. 1, 1986.

§45-1c. Powers and duties of Director.

Subject to the policies, rules and regulations of the Oklahoma Mining Commission, the Director shall:

1. Be responsible for organizing the Department of Mines in a manner efficiently to achieve the objectives of the Commission;
2. Prepare and submit plans for administering the programs of the Commission;
3. Prepare a personnel schedule, employ personnel, define duties, appoint technicians and consultants, and fix salaries or compensation, upon approval by the Commission; and
4. Administer all policies formulated and adopted by the Commission.

Added by Laws 1985, c. 239, § 4, eff. Jan. 1, 1986.

§45-1d. Additional powers and duties of Director.

A. The Director of the Department of Mines with the approval of the Commission shall have and is authorized to exercise the following duties:

1. To appoint a miner certification advisory council or other such advisory council as may be required to accomplish government functions; and

2. To provide assistance, advice and counsel to the Commission when requested.

B. Any advisory councils shall meet at such times and places as the members may deem most convenient for the transaction of business. A majority of such councils shall constitute a quorum. Each member of such councils shall be reimbursed for actual and necessary expenses incurred in the discharge of official duties with approval of the Director and the Commission as provided in the State Travel Reimbursement Act.

Added by Laws 1985, c. 239, § 5, eff. Jan. 1, 1986. Amended by Laws 1986, c. 308, § 5, operative July 1, 1986; Laws 1998, c. 364, § 12, emerg. eff. June 8, 1998.

§45-1e. Oklahoma Miner Training Institute - Establishment - Faculty and services - Director - Advisor.

A. There is hereby established the Oklahoma Miner Training Institute. The Oklahoma Miner Training Institute shall administer miner safety training programs and economic development programs to assist the mining industry in this state.

B. The Oklahoma Mining Commission shall contract with the Board of Regents of Eastern Oklahoma State College in Wilburton for facilities, faculty and services necessary for the operation of the Institute including, but not limited to, the services of a Director of the Institute and for the development of appropriate curriculum and other services to be offered by the Institute. The Regents of Eastern Oklahoma State College shall appoint a Director for the Oklahoma Miner Training Institute.

C. The Director of the Oklahoma Miner Training Institute shall have knowledge, training, experience and ability consistent with the

functions of the Oklahoma Miner Training Institute. Further, the Director shall have been a resident and a qualified elector of this state for a period of at least three (3) years prior to his selection as Director.

D. The Oklahoma Mining Commission shall act in an advisory capacity concerning the operations of the Oklahoma Miner Training Institute.

Added by Laws 1986, c. 308, § 9, operative July 1, 1986. Amended by Laws 1988, c. 235, § 3, operative Oct. 1, 1988.

§45-1f. Oklahoma Miner Training Institute - Duties.

The Oklahoma Miner Training Institute shall:

1. Conduct miner safety training programs consistent with the needs of the mining industry within this state and the training requirements of the Oklahoma Mining Commission;

2. Assist and cooperate with the Oklahoma Mining Commission by conducting examinations of students of the Oklahoma Miner Training Institute applying for certificates of competency issued by the Oklahoma Mining Commission; and

3. Assist the Oklahoma Mining Commission in developing ways to expand existing markets and create new markets for coal and noncoal mining operations and to further the economic development of the mining industry.

Added by Laws 1986, c. 308, § 10, operative July 1, 1986. Amended by Laws 1988, c. 235, § 4, operative Oct. 1, 1988.

§45-1g. Department of Environmental Quality - Regulation of certain mining activities.

Any point source discharge, the disposal of any hazardous waste, as regulated by the Oklahoma Hazardous Waste Management Act, or solid waste, sewage or other wastewater, and any air emission subject to the Oklahoma Clean Air Act, from any mine or mining activity shall be regulated by the Department of Environmental Quality.

Added by Laws 1993, c. 145, § 271, eff. July 1, 1993.

§45-2. Certificates of competency - Violations - Examinations - Qualification.

A. No person shall act as a mine superintendent, mine foreman, fire boss, shot-firer, certified surface blaster, hoisting engineer or miner without first having obtained a certificate of competency from the Oklahoma Mining Commission. No person shall employ such mine superintendent, mine foreman, fire boss, shot-firer, certified surface blaster, hoisting engineer or miner who does not hold such certificate. Any person who violates the provisions of this subsection, upon conviction, shall be fined not more than One

Thousand FiveHundred Dollars (\$1,500.00) or be imprisoned in the county jail for a term not more than six (6) months, or both.

B. The examination for a certificate of competency as mine superintendent, mine foreman, fire boss, shot-firer, certified surface blaster or hoisting engineer shall be administered by only employees or advisors of the Department of Mines who also hold equal or higher certificates of competency. The examination shall be sufficient to determine that such applicant fully understands the requirements of the coal mining laws of this state.

Each applicant for mine superintendent, mine foreman, fire boss, certified surface blaster, hoisting engineer or shot-firer shall hold a first-aid certificate issued within one (1) year prior to the date of the examination of the Department by an organization recognized by the Oklahoma Mining Commission.

C. The Department shall hold monthly examinations for certificates of competency as underground miners. Applicants for such certificate may be granted a temporary permit by the Commission until an examination is held by the Department in the region in which the applicant resides. Applicants must successfully answer a written or oral examination pertaining to such requirements and qualifications of underground miners as are determined necessary by the Commission.

D. Certificates of competency shall be granted by the Oklahoma Mining Commission to persons who have given the Department satisfactory evidence of their ability to perform the duties and skills as are required for the Council. Previous experience and record of service of the applicant shall have equal weight with the examination.

E. The minimum experience necessary for certificates of competency are as follows:

1. Shot-firer - 1 year's practical underground experience.
2. Certified surface blaster - 1 year's practical experience.
3. Hoisting engineer - 1 year's practical hoisting experience.
4. Fire boss - 2 years' practical underground experience.
5. Mine foreman - 3 years' practical underground experience.
6. Superintendent - 5 years' practical underground experience.
7. Practical miner - 1 year's practical experience as a miner or the equivalent experience as defined by the Commission.

Provided that the underground experience requirement for mine foreman and the superintendent shall not apply to those positions in surface mining.

F. A student who has completed an accredited two-year or four-year mining program shall be credited one (1) year of experience toward a fire boss, mine foreman or superintendent certification. Amended by Laws 1982, c. 296, § 7; Laws 1985, c. 239, § 6, eff. Jan. 1, 1986; Laws 1986, c. 308, § 6, operative July 1, 1986.

§45-3. Chief Mine Inspector - Assistant Mine Inspectors.

The Chief Mine Inspector shall be a citizen of the United States and shall have been a resident of the State of Oklahoma for the three (3) years prior to his appointment to office. In addition, the Chief Mine Inspector shall have had eight (8) years' actual experience as a practical miner. For the purposes of this section employment as an inspector for the Department of Mines shall be considered practical mining experience. The Chief Mine Inspector shall be appointed by the Governor by and with the consent of the Senate for a term of four (4) years to run concurrently with the term of the Governor. At any time that such office becomes vacant, the Governor shall appoint with the consent of the Senate a successor to complete the unfinished term of office.

The Deputy Chief Mine Inspector shall possess the same residency requirements necessary for the Chief Mine Inspector. The Deputy Chief Mine Inspector shall be appointed by and shall serve at the pleasure of the Governor and shall be under the direction of the Chief Mine Inspector. The Deputy Chief Mine Inspector shall assume all of the duties and responsibilities of the Chief Mine Inspector in the absence of the Chief Mine Inspector.

The assistant mine inspectors shall be appointed by and at all times be under the direction of the Chief Mine Inspector. The assistant mine inspectors appointed to inspect underground mining operations shall have a minimum of three (3) years' practical mining experience, and shall have obtained as a minimum a certificate of competency as a mine foreman.

Amended by Laws 1982, c. 296, § 8.

§45-3.1. Director of Department of Mines.

In the absence of an appointed Chief Mine Inspector, the Governor shall appoint a Director of the Department of Mines with the advice and consent of the Senate.

The Director of the Department of Mines shall assume the duties and responsibilities of the Chief Mine Inspector until said Chief Mine Inspector is so appointed.

Added by Laws 1985, c. 324, § 8, emerg. eff. July 29, 1985.

§45-5. Certificates - Contents - Fees.

Certifications required by this title shall be issued under the signature and seal of the Oklahoma Mining Commission. Such certificates shall bear the date of issuance, full name and age of the recipient and shall designate the position for which the recipient is certified by the Commission. Applications for certificates of competency shall be accompanied with the following fees:

1. Superintendent \$20.00
2. Mine foreman 15.00
3. Fire boss 10.00
4. Shot-firer 10.00
5. Certified surface blaster 10.00
6. Hoisting engineer 10.00
7. Practical miner 5.00

Amended by Laws 1982, c. 296, § 9; Laws 1985, c. 239, § 7, eff. Jan. 1, 1986.

§45-6. Secretary - Record of issue of certificates - Effect of certificates - Notice and list of names.

The Secretary of the Oklahoma Mining Commission shall make a record of the names and addresses of all persons to whom certificates are issued. Certificates of competency when issued as provided for herein, shall entitle the holders thereof to accept and discharge the duties for which said certificates declare them qualified.

The Director shall advise the Oklahoma Mining Commission as far in advance as possible the date and place of an examination to be held by the Department, and shall, as soon as examination is completed, furnish the Commission a list of the names of all persons who took the examination and persons successfully completing said examination shall be duly notified.

Amended by Laws 1985, c. 239, § 8, eff. Jan. 1, 1986.

§45-8. Temporary permits.

The Secretary of the Board may, upon the recommendation of at least two other members of the Board, issue a temporary permit to an applicant for a certificate for mine foreman, fire boss, shot firer or hoisting engineer. Said temporary permit shall be valid only until next meeting of the Board or not to exceed thirty-one (31) days.

Laws 1929, c. 251, p. 324, art. 1, § 8; Laws 1949, p. 294, § 7.

§45-9.1. Quarrying or mining with use of explosives near schools or churches prohibited - Exceptions.

It shall be unlawful for any person, firm or corporation, individually or in association with others, to establish, open up, commence or carry on any quarrying operation for stone or stone

products wherein blasting is required, or to conduct any other quarrying operations for commercial or industrial purposes requiring the use of powder, dynamite, nitroglycerin or other explosives within a minimum distance established by rule or regulation adopted by the Chief Mine Inspector from any established school, church or other house of worship. This section shall not apply to underground mines or to any quarrying or mining plants already constructed or in actual operation before June 19, 1961.

Added by Laws 1961, p. 292, § 1. Amended by Laws 1982, c. 181, § 1, emerg. eff. April 20, 1982. Renumbered from § 1370 of Title 21 by Laws 1995, c. 344, § 35, eff. Nov. 1, 1995.

NOTE: Laws 1982, c. 127, § 1 repealed by Laws 1983, c. 31, § 1, emerg. eff. April 20, 1983.

§45-21.1. Mining districts.

It shall be the duty of the Chief Mine Inspector to create mining districts for the assistant mine inspectors to carry out their duties under the law. The boundaries of such districts shall be drawn so that the inspection of the mines insures the full compliance with laws related to the health and safety of miners and the reclamation of lands affected by surface mining.

Laws 1981, c. 121, § 2, emerg. eff. April 28, 1981.

§45-31. Chief Mine Inspector - Annual report to Governor.

On or before the first day of August of each year, the Chief Mine Inspector shall submit to the Governor a report on the various systems of mining practiced in the state, methods of mine ventilation, type of machinery employed, and such other matters as may pertain to the general welfare of the public, miners and others connected with mining.

Amended by Laws 1982, c. 296, § 10.

§45-32. Examinations of mines.

The Chief Mine Inspector shall, from time to time, make such examinations of any mine or mines in the state necessary for the proper enforcement of the mining laws.

Laws 1929, c. 251, p. 325, art. 3, § 2.

§45-33. Journal of inspections - Official communications - Equipment and material.

The Chief Mine Inspector shall keep in his office a journal or record of all inspections, examinations and work done under his administration, and a copy of all official communications and he is hereby authorized to procure, at the expense of the state, such apparatus, instruments and chemicals as may be found necessary for the proper discharge of his duties under this Act. The Legislature shall, from time to time, when necessary, appropriate such funds as

may be necessary for the purchase of such equipment and material. All books, records, apparatus, instruments and chemicals pertaining to his office shall be the property of the state and shall be delivered by him to his successor in office and the same shall be exhibited to any and all interested persons at all reasonable times. Laws 1929, c. 251, p. 325, art. 3, § 3.

§45-34. Office - Property of state.

The Chief Mine Inspector shall have an office at the seat of government in which he shall keep the maps and plans of all mines in the state and all records, correspondence, papers, apparatus and other property belonging to the state pertaining to his office. All such property shall be kept in accessible and convenient form, in a fire proof vault convenient to his office and furnished by the state, for reference by persons entitled to examine them. The Chief Mine Inspector shall not permit such maps, plans, records and papers to be removed from his office.

Laws 1929, c. 251, p. 326, art. 3, § 4.

§45-37. Withdrawal of person's from dangerous mine - Violations - Penalties.

The Chief Mine Inspector or assistant mine inspector is authorized to temporarily withdraw all persons from a dangerous mine or portion thereof. Any owner, operator, lessee or agent who impedes, hinders, or obstructs, either directly or indirectly, the Chief Mine Inspector or assistant mine inspector from carrying out duties required by this section, upon conviction, shall be guilty of a misdemeanor and shall be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00) or imprisoned in the county jail for not more than thirty (30) days, or both.

Any mine employee who neglects to comply with an order of the Chief Mine Inspector or assistant mine inspector temporarily withdrawing persons from the mine, upon conviction, shall be guilty of a misdemeanor and shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail not more than thirty (30) days, or both.

Amended by Laws 1982, c. 296, § 11.

§45-40. Obstruction of inspectors - Penalty.

Every person who willfully obstructs the Chief Mine Inspector or district mine inspector, in the execution of his duties under this Act shall be guilty of a misdemeanor and upon conviction he shall be punished as hereinafter provided.

Laws 1929, c. 251, p. 328, art. 3, § 10.

§45-41. Disputes between operators and miners.

In case of dispute between operators and miners on the proper interpretation of rules, regulations, and laws in relation to mines and subjects relating thereto and providing for the health and safety of persons employed therein, and the dispute is filed in formal written form with the Department of Mines, the Chief Mine Inspector shall call a meeting of the Mining Board to review the dispute. An opinion of the proper interpretation of the disputed rule, regulation, or law, concurred in by a majority of the Mining Board, shall be binding upon the mining department to enforce, and the operators and miners must abide by the opinion unless the opinion of the Mining Board is at variance with an opinion of interpretation by the Attorney General of the intent of the rule, regulation, or law. In case the opinion of the Attorney General is at variance with the opinion of the Mining Board, then all parties must abide by the opinion of the Attorney General, except that all parties shall have recourse to courts of this state.

In case operators or miners shall file formal written charges with the Department of Mines that any law or laws in relation to mining and subjects relating thereto and providing for the health and safety of persons employed therein have been violated, the Chief Mine Inspector shall call the parties involved before the Mining Board to hear the evidence for and the defense against said charges. By majority vote the charges are valid and true.
Laws 1965, c. 262, § 4, emerg. eff. June 23, 1965.

§45-43. Legal assistance.

The Chief Mine Inspector is hereby authorized to employ two (2) attorneys as needed, within the total employee limit authorized, on a full- or part-time basis, to advise the Chief Mine Inspector and other agency personnel on legal matters and to appear for and represent the Chief Mine Inspector in administrative hearings and other legal actions and procedures. Provided it shall continue to be the duty of the Attorney General to give his official opinion to the Chief Mine Inspector and to prosecute and defend actions therefore, if so requested.

Added by Laws 1982, c. 266, § 4, emerg. eff. May 14, 1982; Amended by Laws 1985, c. 324, § 5, emerg. eff. July 29, 1985.

§45-44. Special counsel in certain proceedings involving Attorney General.

If the Attorney General shall seek redress on behalf of the state as provided for in the Administrative Procedures Act, the Oklahoma Mining Commission is empowered to appoint a special counsel for such proceedings.

Added by Laws 1985, c. 239, § 10, eff. Jan. 1, 1986.

§45-45. Study of mining laws - Recommendations and proposed legislation.

In addition to its other powers, the Oklahoma Mining Commission is authorized and directed, within the limits of funds available to it, to engage in a continuing study of the mining laws of this state, and of changes therein required in order to carry out to the greatest practicable extent the policies, goals, objectives and recommendations of the Commission, and to make recommendations and prepare proposed legislation for such purposes. Such recommendations and proposed legislation shall, as they are completed, be filed with the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

Added by Laws 1985, c. 239, § 11, eff. Jan. 1, 1986.

§45-46. Market study and sulfur emissions standards study - Recommendations.

The Oklahoma Mining Commission is authorized and directed, within the limits of funds available to it, to study ways to expand existing markets and create new markets for Oklahoma coal and other minerals, to study the impact of sulfur emission standards on burning of Oklahoma mined coal, and to make recommendations to the Governor and Legislature for such purposes in a current and updated report by February 1, 1988.

Added by Laws 1985, c. 239, § 12, eff. Jan. 1, 1986. Amended by Laws 1986, c. 119, § 1; Laws 1987, c. 208, § 88, operative July 1, 1987; Laws 1987, c. 236, § 93, emerg. eff. July 20, 1987.

§45-46.1. Acid mine drainage.

The Department of Environmental Quality, in cooperation with the Department of Mines is authorized and directed, within the limits of federal funds available to the Department of Environmental Quality or any funds available to the Department of Mines, to study ways to remediate acid mine drainage produced from abandoned coal mines within this state, which the Legislature hereby finds to be a significant water pollution and water quality problem. The Department of Environmental Quality and the Department of Mines shall evaluate existing projects among local, state and federal government agencies, and educational institutions, which address acid mine drainage.

Any local, state, and educational institution within this state implementing water quality projects which pertain to acid mine drainage shall coordinate and cooperate with the Department of Environmental Quality and the Department of Mines to implement the provisions of this section. The Department of Environmental Quality and the Department of Mines shall make every effort to obtain full cooperation and coordination from any federal agency which implements any project pertaining to acid mine drainage.

Added by Laws 1998, c. 351, § 1, emerg. eff. June 5, 1998.

§45-47. Funding of activities.

Funding for the Oklahoma Mining Commission's activities shall be derived from funds appropriated to the Department of Mines for operating expenses. Funds required for any third party studies called for by a majority vote of the Commission members shall come from contributions by the mining and related industries, public and foundations, as well as those funds made available by the Department of Mines.

Added by Laws 1985, c. 239, § 13, eff. Jan. 1, 1986.

§45-48. Borrow pits - Jurisdiction.

The Oklahoma Department of Mines shall have jurisdiction over only those borrow pits which are located on property permitted as commercial mining operations pursuant to Title 45 of the Oklahoma Statutes.

Added by Laws 1993, c. 232, § 2, eff. July 1, 1993.

§45-221. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-361. Terms defined.

When used in this title the following terms, unless otherwise defined, shall be construed to have the following meaning:

1. "Coal" means lignite, subbituminous, cannel, bituminous, semibituminous, semianthracite, anthracite and asphaltic minerals or other hydrocarbons recovered by mining.

2. "Mine" means a quarry, an underground or surface excavation and development with or without shafts, slopes, drifts or tunnels, for the extraction of coal or minerals, with hoisting or haulage equipment and appliances for the extraction of coal or minerals, and shall embrace any and all of the land or property of the mining plant, and the surface and underground, that contribute directly or indirectly to the mining properties, concentration or handling of coal or minerals.

3. "Minerals" means asphalt, clay, copper, granite, gravel, gypsum, lead, marble, salt, sand, shale, stone, tripoli, volcanic ash and zinc, or any other substance commonly recognized as a mineral and includes ores or rock containing any such substances but excludes oil, gas and any other mineral found naturally in a liquid or gaseous state.

Amended by Laws 1982, c. 296, § 12.

§45-395. Repealed by Laws 1998, c. 364, § 38, emerg. eff. June 8, 1998.

§45-406. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-411. Definitions.

The words defined in this section shall have the following meaning when found in this act, towit "mines" mean mines in the State of Oklahoma wherein lead, zinc or other metals are sought or produced. "Operator" means the person, individual or corporation charged with the responsibility of management and control of mining. "Mine Inspector" means the Chief Mining Inspector of this state and the deputy or assistant mining inspector provided by law for the district in which the mining operation is located, except where the context specifies the deputy or assistant mining inspector. Laws 1929, c. 42, p. 45, § 1.

§45-412. Mine inspectors - Duties.

The Mine Inspector of said mines in addition to other duties and powers herein conferred, shall be and he is hereby authorized, empowered and directed to examine carefully all places and conditions where employees work in said mines. Where said Mine Inspector finds a condition existing in any of said mines either on the surface or underground, which makes the said mine a dangerous, unsafe or unusually unhealthful place for employees to work he shall, subject to the right of review hereinafter provided, serve notice in writing on the operator of said mine so affected, specifying in detail the things to be done to correct such condition making said mine a dangerous, unsafe or unusually unhealthful place for employees to work. This notice shall specify the time in which such required acts shall be done by the operator of said mine. A failure or refusal of said operator to correct the condition existing in said mine as set forth in the written notice of said Mine Inspector or as modified on review in accordance with the further provisions of this act shall be a misdemeanor and punished as hereinafter provided. Laws 1929, c. 42, p. 46, § 2.

§45-413. Mine inspector to require compliance with act.

It shall be the duty of the Mine Inspector of said mines to see that the provisions of this act are complied with and to require the operators of said mines to meet the requirements of this act. His demands shall at all times be in writing delivered to the operator and specifying therein the things or acts to be done. Laws 1929, c. 42, p. 46, § 3.

§45-414. Examination and inspection of mines - Time and manner.

It shall be the duty of the Mine Inspector from time to time to enter and examine any and all said mines in the State of Oklahoma and to inspect any and all machinery and equipment used in connection therewith, either underground or on the surface and

including any mill, concentrating plant or tailing mill used in preparation of the product for market. And the operator shall at all reasonable times, while in operation, upon request furnish necessary facilities for such entry and examination. Such inspection shall be done at a time and in a manner so as not to obstruct or hinder the operation of said mine or mines except that in case of emergency where the life or safety of employees is in imminent peril, the Inspector shall make immediate examination and it shall in such case of emergency be the duty of the operator upon request of the Inspector to furnish the use of any installed equipment for his assistance in making said examination. A failure of said operator to perform any duty imposed in this section shall be a misdemeanor and be punished as such as hereinafter provided. Laws 1929, c. 42, p. 46, § 4.

§45-415. Dangerous conditions - Additional shafts.

The Mine Inspector is hereby authorized, empowered and directed to thoroughly inspect all underground excavations in all said mines as often as the Inspector may deem proper, to ascertain the condition of said underground excavations with respect to the safety of all employees working in such underground excavation; and, if after such examination the Inspector shall find that the safety of the employees engaged in working in such excavations is imperiled by reason of there being only one shaft or outlet by which a distinct means of ingress and egress is always available to such employees, it shall be the right and duty of such Inspector to immediately notify the operator of such mine, in writing, specifying the particular underground excavations so found to be dangerous, and direct the operator to, within thirty (30) days after receiving such notice, commence to sink another shaft or provide another outlet for such underground excavation and prosecute the sinking of such shaft or the securing of another outlet with all due diligence until the same is completed. And the Mine Inspector aforesaid shall have the power if he deems it for the safety of the employees, to order the operator of said mine to withdraw all employees engaged in working in such underground excavations so found to be unsafe or dangerous, until such other shaft or outlet shall have been completed, or until further notified by such Inspector. Laws 1929, c. 42, p. 46, § 5.

§45-416. Health of employees - Underground excavations - Ventilation.

The Mine Inspector is hereby authorized, empowered, and directed to thoroughly inspect all underground excavations in all said mines as often as he may deem proper, from and after the passage and approval of this act, and ascertain the condition of such underground excavations, and, if after such examination, the

Inspector shall find in any such mine or mines that the health of the employees is impaired by reason of there not being sufficient circulation of air or ventilation for such employees, it shall be the duty of such Inspector to immediately notify the operator of such mine or mines, in writing, specifying the underground excavations so found to be unhealthful, and direct such operator of such mine to, within fifteen (15) days after receiving such written notice, commence to drill a sufficient number of holes to such underground excavation, or to sink a shaft to connect with such underground excavation, or to make drift connection with a contiguous mine, as may furnish a sufficient ventilation for such mine or mines and to prosecute the work of correcting such defect in ventilation, with all due diligence until completed. And the Inspector shall have the power where and when the condition as aforesaid is such as to be injurious to the health of said employees, if he deems it for the best interest of the employees engaged in working in such underground excavations, so affected by such notice, to require all work and operations in such mine or mines to cease until such defect in ventilation shall have been corrected, or until further notified by such Inspector. During the process of shaft sinking fresh air shall be supplied from the surface. During the process of drifting or development for ventilation, forced ventilation shall be provided and sufficient ventilation shall be supplied in all dead ends. Where operations are carried on at a shaft not connected with any mine or shaft, ventilation shall be supplied from the surface by means of a fan through a conductor down the shaft or down one or more drill holes connected with the underground workings.

Laws 1929, c. 42, p. 47, § 6.

§45-417. Dust - Water lines - Sprinkling attachments.

The Mine Inspector is hereby authorized, empowered and directed to thoroughly inspect all underground excavations in all such mines as often as such Inspector may deem proper, for the purpose of ascertaining or discovering in the air in any such mine or mines the presence of dust in such quantities as shall be injurious to the health of the employees engaged in working in such underground excavations; and upon finding dust in the air of any such mine or mines in quantities exceeding three hundred particles per cubic centimeter, as shall tend to injure the health of the employees of such mine, such Inspector shall immediately notify the operator of such mine or mines, in writing, specifying the underground excavation so found to contain dust particles in excessive amounts, as aforesaid in the air thereof, and such operator of such mine or mines shall within fifteen (15) days after receiving such written notice, provide, install, and equip, and thereafter at all times maintain in such mine, a water line fully equipped, and in good

serviceable working order and repair, leading up to the face of any and all drifts where dust is produced, or so close to the face of said drifts so that by the use of a suitable hose extension or sprinkling attachments to be supplied by the owner or owners of said mine, the mineral or earth in and adjoining the face of the drift or drifts of such mine can be sprinkled or wet by water from said pipeline; thereupon and thereafter, every person drilling, squibbing or blasting in said mine shall keep the face, surface, and drill holes in said drifts or drift wet or moist by the use of water from said water line to such an extent in such a way as shall prevent, as far as possible, any dust raising from the working of any such face, or from the drilling, blowing, or shooting of any hole or holes; and the ground foreman in charge of the underground workings in any such mine or mines, so equipped with a water line, shall require all ground or dirt after being shot or blasted to be thoroughly wet or sprinkled to such an extent as shall prevent, as far as is practicable any dust from arising therefrom, while the employees are at work therein.

Laws 1929, c. 42, p. 48, § 7.

§45-418. Loss of life or injury - Duty of operator and inspector.

Whenever loss of life or serious personal injury shall occur in or about any said mines, it shall be the duty of the operator having charge of such mine to report said loss of life or injury without delay to the deputy mine inspector in whose district such mine is situated; and the said inspector shall if he deem it necessary immediately go to the scene of said accident and render such assistance as he may deem necessary for the safety of the men; and the said inspector shall investigate and ascertain the cause of such loss of life or injury and make a report thereof to the Chief Mine Inspector of the State of Oklahoma, a copy of which he shall preserve with the other records of his office.

Laws 1929, c. 42, p. 48, § 8.

§45-419. Shaft hoisting engineers - Age and experience - Duties - Loading and unloading.

All shaft hoisting engineers handling men or material must be over twenty-one (21) years of age, familiar and experienced with hoisting engines of the design which he is to operate and must have been examined by a reputable physician and be able to show certificate of health from said physician, showing no physical or mental conditions or symptoms that might cause a loss of faculties so as to interfere with the safe and efficient performance of his duty at all times. It shall be the duty of the hoisting engineer to watch over all machinery, including hoisting rope or cable, in his charge and ascertain that all the equipment and conditions are in conformity with the law. In the event of any defect in such

equipment, or violation of the law concerning same, he shall immediately report same to the mine superintendent or other person in charge of the mine operation. The hoisting engineer shall, at the beginning of his shift and at the middle of his shift, inspect his hoist equipment, particularly as to the brakes and clutch and test same by at least one complete hoisting trip before men are allowed to enter the tub or shaft conveyance. Where a station man or tub hooker is used in any shaft, it shall be his duty to supervise the loading and unloading of men or material at the bottom of the shaft, and he shall supervise the signaling to the hoisting engineer. The loading and unloading of men at the top of the shaft at the beginning and end of each shift shall be supervised by an employee of the operator.

Laws 1929, c. 42, p. 48, § 9.

§45-420. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-421. Shaft collars - Cribbing and timbering - Pipes and air lines.

All shaft collars shall extend at least eight (8) inches above the immediate surrounding surface and be provided with a clear and stable footing and hand rail on two sides of the shaft. A sufficiently tight fence with a gate to permit access shall inclose the shaft to prevent persons or animals from reaching the shaft collar, and such gate shall be kept closed when access to the shaft is not necessary. The collar of the shaft shall be sufficiently lighted at all times when in use. All shafts sunk after the adoption of this act shall be cribbed or timbered continuously from the top of the shaft to the bottom of the cribbing or timbers. All pipes, air line, and conduits running down the shaft shall be securely fastened. All shaft pumps shall be securely covered. When the ends of tools or material project above the top of the shaft conveyance, the ends shall be securely fastened to the cable, or placed in a receptacle. When electric or compressed air operated hoisting engines are used in sinking shaft, shooting or blasting shall be done by means of an electric battery or current. All abandoned shafts, air shafts, drill holes, and shafts not used for an extended period of time, shall be securely plugged, cased, covered or fenced.

Laws 1929, c. 42, p. 49, § 11.

§45-422. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-423. Hoisting equipment.

The hoisting equipment shall be of such kind and in such condition as to as nearly assure certainty of operation and ease of control at all times, as is practicable. If electric power be used

for hoisting, the hoist shall be equipped with an auxiliary safety brake. All hoisting derricks where swinging dump is used, constructed after the date of the passage and approval of this law, shall be so constructed that at no time during the hoisting operations shall the fastening of the cable to the hook approach nearer than thirty-six (36) inches to the sheive. All hoisting sheives installed after the date of the passage and approval of this law, shall be equipped with a shaft the diameter of which shall be to the conveyance load hoisted not less than one (1) inch to each six hundred (600) pounds per conveyance load. Nonspin wire rope shall be used for hoisting men and material, with a safety factor of six required on new rope based on manufacturer's tables and maximum dead load. Said hoisting rope to be discarded for hoisting purposes when there are six broken wires in one rope lay, or when the wires on the crown are worn sixty-five percent (65%) of the original diameter. All hoisting hooks shall be of some safety type, and if standard snap hook is used it shall be made of not less than one and one-half (1 1/2) inch High-grade iron, and the hook shall be attached to the hoisting cable with thimble and three or more standard clamps, such clamps to be at least eight (8) inches apart. Laws 1929, c. 42, p. 50, § 13.

§45-424. Explosives - Storage, transportation, handling and use.

At all said mines in this state, all explosives shall be stored in a magazine placed far enough away from hoisting derricks to insure their remaining intact to case of explosion. All explosives in excess of the amount required for the work of one shift shall be kept in such magazine. Powder other than the shifts requirements shall not be stored in underground workings; provided, however, where such mines are located in densely populated areas, and then only with the permission of the deputy mine inspector, explosives may be stored underground in a suitable place selected by the said inspector, but in no event shall more than three (3) days normal requirements at the particular mine be so stored underground. No explosives shall be transported on or in any electric or gasoline locomotive, or in the car next to these locomotives. Detonators or caps shall not be stored or transported with other explosives. Mechanical loading devices, first found to be safe for the miners who work in said mine by the assistant mine inspector, and such finding is approved by the Chief Mine Inspector, or wood-loading sticks or tamping bars protected with copper ferrules and copper spike must be used when loading holes. All blasting caps shall be crimped onto fuse by regulation crimper. Powder delivered to top of shaft shall be lowered into ground immediately. Explosives must not be taken from any mine without the consent of the foreman in charge. Open lights must not be used in powder magazines or detonator magazines. Explosives stored in ground must be so stored as not to

cut off passage of men to shaft in case of explosion occurring. No employee shall return to a drift, heading, shaft, or tunnel, or other place where a shot has failed to explode until a period of at least thirty (30) minutes has elapsed after firing; all failed shots to be promptly reported to foreman by employees. No employees other than those employed in shaft sinking shall ride any can, bucket or hoisting apparatus carrying explosives. No shooting or blasting shall be done from the time the man shift goes on until the man shift goes off, except in extreme case for the protection of life. Laws 1929, c. 42, p. 50, § 14; Laws 1957, p. 424, § 1.

§45-425. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-426. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-427. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-428. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-429. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-430. Map or plan of mine.

The operator of said mines in this state shall make or cause to be made, at the discretion of the Mine Inspector of the District in which said mine is located, an accurate map or plan of the workings of such mine and deposit a true copy of said map or plan with the Mine Inspector of the District wherein may be located the said mine; which said map or plan shall be so filed or deposited within three (3) months after the time when this act shall take effect, and a copy of such map or plan shall be also kept for inspection at the office of said mine; and during the month of January of each year, or as soon thereafter as practicable, the said operator shall furnish the District Mine Inspector with a further map or plan of the progress of the workings of such mine, continued from the last report to the end of the month of December next preceding; and when any mine is worked out or abandoned that fact shall be reported to the Inspector and the map or plan of such mine shall be furnished the Mine Inspector.

Laws 1929, c. 42, p. 52, § 20; Laws 1975, c. 90, § 1.

§45-431. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-433. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-434. Orders of Mining Inspector - Review.

Any order made by the Mining Inspector under the provisions of this or any other act pertaining to or affecting any mine or mines

or the operation thereof, wherein the issuance thereof is within the discretion of the Mining Inspector and the doing or omitting of the specific act required in said order is not by the provisions of law made mandatory upon the operator of said mine or mines, may, upon application by the operator of said mine or mines so affected, or any other interested person, to the district court in the judicial district in which the mine or mines affected may be located, be reviewed, modified, affirmed, or canceled by said court or the judge thereof in vacation upon a hearing being had thereon.

Said applicant for a review of said order shall file with the clerk of said court a petition against said Inspector issuing said order setting forth in concise language the order complained of and the objections thereto. Upon the filing of said petition the clerk of said court shall issue summons against said Mining Inspector as in other civil actions except that same may be lawfully served and jurisdiction obtained by service in any county of this state where said mining inspector may be found. Jurisdiction of the person when so served and subject matter is hereby conferred on said court.

Upon the district court acquiring jurisdiction, as aforesaid, said court or the judge thereof in vacation shall proceed as in other civil cases to hear and determine the controversy presented by the order complained of, the objections set forth in the petition and any answer filed thereto by said Mining Inspector. The burden shall be on the applicant to show the order unreasonable or unnecessary. Upon a hearing thereof, the said court or the judge thereof from the evidence introduced shall enter a judgment affirming, modifying or canceling said order as the reasonableness of or necessity therefor may appear. Said district court or the judge thereof, in vacation, may at the time of filing said petition or subsequent thereto suspend the operation of said order complained of pending final determination upon a showing of reasonable necessity therefor and on such terms as said court or judge may impose. Either party may appeal from the final judgment of said court or judge to the Supreme Court of this state as in other civil cases.

Laws 1929, c. 42, p. 53, § 24.

§45-435. Neglect or failure to perform requirements - Penalty.

The neglect, failure or refusal to perform or comply with the authorized requirement of said Mining Inspector, acting under the provisions of this act, by any firm, association, corporation, person or parties required to perform them, shall be a misdemeanor, and where the duty so neglected, failed or refused to be performed is required of a corporation, then its officer or agent in charge of the mine, shall be guilty, as hereinbefore provided for in this section, and shall upon conviction thereof be punished by a fine of not exceeding Five Hundred Dollars (\$500.00) provided, that as to

duties imposed by the Mining Inspector taken before the said district court for review, this section shall not apply except as to, from and after the order finally promulgated by order of said district court and provided further this section shall not apply to an operator who has ceased mining operations and the working of men except such as are necessary to dewater and preserve the mine involved.

Laws 1929, c. 42, p. 54, § 25.

§45-436. Open mine shafts - Covering - Approval - Penalties.

Any person, firm or corporation, who knowingly maintains, uses or abandons an open vertical mine shaft wherein lead, zinc or other metals have been sought or produced, without covering suitably, or surrounding such installations with protective fencing, or plugging and filling, the particular method used to be approved by the Chief Mine Inspector's Department, shall be deemed negligent as a matter of law and shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than one (1) year, or both such fine and imprisonment.

Laws 1955, p. 188, § 1.

§45-437. Interference with protective covering devices - Penalties.

Any person, firm or corporation found guilty of destroying, removing, or damaging or otherwise interfering with the fencing, or other protective devices approved by the Chief Mine Inspector, as provided in Section 1 hereof, shall be fined not less than Twenty-five Dollars (\$25.00) or more than Five Hundred Dollars (\$500.00).

Laws 1955, p. 188, § 2.

§45-441. Use of engines equipped for detoxification permitted - Approval of use - Inspections - Suspension or discontinuance of use.

The use of diesel engines equipped for detoxification in accordance with rules and regulations promulgated by the U.S. Bureau of mines may be used in lead, zinc, and other metal mines in this state. Provided, the use of such engine or engines in any such mine is first found to be safe for the miners who work in said mine, by the assistant mine inspector, and such finding is approved by the Chief Mine Inspector and provided further, that the diesel engine or engines and the safety equipment thereon to be used in any such mine shall also have been approved for use in such mine, by the assistant mine inspector, and such finding is approved by the Chief Mine Inspector. The assistant mine inspector and the Chief Mine Inspector, in issuing any such approval, shall follow the rules and regulations and recommendations of the U.S. Bureau of mines. The assistant mine inspector shall make periodical inspections to determine whether such engines in such mines are emitting fumes

which make it unsafe for such engines to be used. The assistant mine inspector or the Chief Mine Inspector shall have the authority to order that conditions be remedied, and to suspend the use of such engines in any mine, or to order the discontinuance altogether of such engines in any such mine. Such orders shall be enforced as other orders of such officers are enforced.

Laws 1947, p. 302, § 1.

§45-442. Use of engines not meeting standards prohibited.

It shall be unlawful to use or to order or permit the use of any diesel engine in any lead, zinc or other metal mine in this state at any time which is not equipped with detoxification equipment and other safety devices meeting the standards set forth in the rules and recommendations promulgated by the U.S. Bureau of Mines, or when such detoxification equipment and other safety devices on the engine is defective, or not in perfect working order.

Laws 1947, p. 303, § 2.

§45-461. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-462. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-463. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-464. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-465. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

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§45-467. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-468. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-476. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-477. May stop mining, when.

Such inspector, and each of his assistants, shall also have power to immediately stop the operation of any mine or part thereof where any dangerous or unlawful conditions are found: Provided, however, that where conditions exist justifying him to do so, he may grant a reasonable length of time for making repairs: And provided, further, that where any stops are enforced, such inspector and each of his assistants shall have the power subsequently to allow such mine or part of mine to be reopened when the dangerous or unlawful conditions have been remedied, or removed, so that they no longer exist.

R.L.1910, § 3953.

§45-478. Penalty for obstruction.

Every person who willfully obstructs the Chief Inspector or his assistant inspectors in the execution of his or their duties, and every owner, agent, lessee or manager of a mine who refuses or neglects to furnish to the Chief Mine Inspector or his assistants, the means necessary for making entry, inspection, examination or inquiry, as herein provided in relation to such mine shall be guilty of a misdemeanor, and upon conviction, he shall be punished as hereinafter provided.

R.L.1910, § 3954.

§45-501. Maps of mines.

The owner, agent, lessee or operator of every coal or other mine, shall make, or cause to be made by a competent mining engineer or surveyor, an accurate map or plan, of such mine, no smaller than on a scale of two hundred (200) feet to an inch, which map shall show as follows:

(a) All measurements of said mines in feet or decimal parts thereof.

(b) All openings, excavations, shafts, tunnels, slopes, planes, main entries, rooms, and other parts, in proper numerical order in each opening or stratum of coal in said mine.

(c) The directions of the air currents, when practicable, by darts, or arrows, marked thereon.

(d) An accurate delineation of the boundary lines between said mine and all adjoining mines or coal lands where owned or operated by the same operator or other operators, and the relation and proximity of the workings of said mine to any other adjoining mine or coal land.

(e) The bearings and lengths of each tunnel, or entry, or the boundary of property lines.

The said map or plans, or a true copy thereof, shall be kept in the general mine office by the said operator or superintendent for the use only of the mine officials and mine inspectors, and for the inspection of all persons working in said mines whenever said person or persons shall have cause to fear that any working place is becoming dangerous by reason of its proximity to other workings that may contain water or dangerous gas.

R.L.1910, § 3955.

§45-502. Maps to be corrected every six months.

At least every six (6) months, or oftener if necessary, the operator, owner, lessee, or agent of each mine shall cause to be shown accurately on the map or plan of said mine, all the excavations made therein during the time elapsing since such

excavations were last shown upon said map or plan, and all parts of said mine, which were worked out or abandoned during said elapsed period of time, shall be clearly indicated by colorings on said map or plan, and whenever any of the workings or excavations of said mine have been driven to their boundary, a correct measurement of all such workings or excavation shall be made promptly and recorded in a survey book, prior to the removal of the pillars or any part of the same from such workings or excavations.

R.L.1910, § 3956.

§45-503. Mine inspectors to be furnished copies of maps.

The operator or superintendent of every mine shall furnish the mine inspectors of the district in which said mine is located with a correct copy, on tracing muslin or sunprint, of the map or plan of said mine hereinbefore provided for, and the inspector of the district shall at the end of each year, or twice a year, if he requires it, return said map or plan to the proper person at any particular mine, whose duty it shall be to place or cause to be placed, on said map or plan all extensions and worked out or abandoned parts of the mine during the preceding six (6) or twelve (12) months, as the case may be, and forward the same to the district mine inspector within thirty (30) days from the time of receiving it. When any mine is worked out or abandoned, the operator or superintendent shall furnish the mine inspector, within thirty (30) days, with a correct plan of said mine on tracing muslin or cloth, which plan shall clearly show all the worked out or abandoned territory, together with all property and boundary lines, elevations, and other things required by this article. The copies of the maps or plans of the several coal and other mines in each district, as hereinbefore required to be furnished to the mine inspector, shall remain in the care of the inspector of the district in which the said mines are situated, as strictly official records, to be transferred by him to his successor in office.

R.L.1910, § 3957.

§45-504. Penalty for failure to furnish map copies.

If any superintendent or operator of mines shall neglect or fail to furnish to the mine inspector any copy of maps or plans as hereinbefore required by this Act, or, if the mine inspector shall believe that any map or plan of any coal or other mine made or furnished in pursuance of the provisions of this act, is materially inaccurate or imperfect, then in either case, the mine inspector is hereby authorized to cause a correct survey and map or plan of said mine to be made at the expense of the operator thereof, the cost of which shall be recoverable from said operator as other debts are recoverable by law: Provided, that when the inspector shall cause a new survey and map or plan of any such mine, and it is found that

the map or plan furnished by the operator was substantially correct, then the cost of the survey, map or plan, caused to be made by the inspector, shall be paid by the state.

R.L.1910, § 3958.

§45-505. Conduct of developments.

In the preparation of maps of the territory being, or to be, developed in mining operations, it shall be the duty of the operator, where practicable, to furnish the district inspector prospective plans suitable to the coal seam and adjacent strata, for the safe economic extraction of coal or other mineral. It shall be the duty of the operator to see that the developments are systematically conducted to preserve the health, safety and welfare of the employees and to prevent the unnecessary leaving of coal or other mineral in the ground.

R.L.1910, § 3959.

§45-506. Ventilation - Construction of air and hoisting shafts.

It shall be unlawful for the operator or superintendent, mine foreman or other person, to employ more than ten persons in any coal or other mine, or permit more than ten persons to be employed therein at any one time unless they are in communication with at least two available openings to the surface from each seam or stratum of coal or other mineral worked in such mine: Provided, that in any mine operated by shaft or slope and ventilated by a fan placed at the second opening, and said second opening is a slope or shaft, it may be used as an airway and for a traveling way into and from the mine, and if the said second opening is a shaft through which the employees travel into and from the mine, by reason of a stairway, or are regularly lowered into and hoisted from the mine by the use of machinery and such shaft is divided by suitable material into two compartments while developing or opening the mine up, to the ten men as hereinbefore, one of them may be used for an airway and the other for the purpose of ingress and egress into and from said mine; and further provided, that any fan shaft hereafter divided into compartments for the purpose of ventilation, and ingress and egress into and from the mines or any divided partition now in use that may hereafter be replaced, wholly or in part, shall be constructed of noncombustible material. And there shall be cut around the bottom of all hoisting shafts, or driven through the solid strata a traveling way not less than five (5) feet high and three (3) feet wide, to enable persons to pass from one side of the shaft to the other without passing over or under the cage or other apparatus, and there shall be cut around all other shafts a traveling way to save the necessity of passing under the shaft.

R.L.1910, § 3961.

§45-507. Openings to be separated by natural strata.

In all shaft mines the openings to the surface hereinbefore provided for shall be separated from each other by natural strata at all points by a distance of not less than one hundred fifty (150) feet, and at all mines worked by slope openings, the distance separating openings shall not be less than fifty (50) feet of natural strata: Provided, that in any mine opened heretofore the distance between said openings may be less, if the mine inspector of the district shall deem it impracticable to comply with the foregoing requirements. Where the two openings shall not have been provided as hereinbefore required, the mine inspector shall cause the second opening to be made in every mine without delay and in no case shall furnace ventilation be used where there is only one opening into the mine.

R.L.1910, § 3962.

§45-508. Shaft not more than seventy-five feet deep.

When the opening or outlet other than the main opening is a shaft and does not exceed seventy-five (75) feet in vertical depth, and is used by the employees for the purpose of ingress and egress from the mine, it shall be kept in a safe and available condition and free from steam and dangerous gases and all other obstructions, and shall be fitted with safe and convenient stairs, with steps of an average tread of ten (10) inches, and ten (10) inches raise, not less than two (2) feet wide and not to exceed an angle of forty-five (45) degrees descent, with landings of not less than eighteen (18) inches wide and four (4) feet long, at easy and convenient distances, and water coming from the surface or out of the strata in the shaft shall be conducted away by rings, cases or otherwise, and be prevented from falling upon persons who are ascending or descending the stairway of the shaft.

R.L.1910, § 3963.

§45-509. Hoisting machinery in shaft over seventy-five feet deep.

When any mine is operated by a shaft which exceeds seventy-five (75) feet in vertical depth, the persons employed in said mine shall be lowered into and raised from said mine by means of machinery, and where the employees are lowered into and hoisted from the mines at the main shaft opening, the other shaft shall be supplied with safe and suitable machinery for hoisting and lowering persons, or with safe and convenient stairs for use in cases of emergency by persons employed in said mine: Provided, that any mine operated by two shafts, and where safe and suitable machinery is provided at both shafts for hoisting coal or other mineral, or persons, as herein provided for, shall have sufficiently complied with the requirements of this section.

R.L.1910, § 3964.

§45-510. Angle of traveled slope.

At any mine where one of the two openings as required herein, is a slope and is used as a traveling way, it shall not have a greater angle of descent than twenty degrees (20o) and may be of any depth. R.L.1910, § 3965.

§45-511. Inspection of hoisting equipment and stairs.

The ropes, chains, machinery and all of its connections used for lowering or raising the employees into or out of the mines, and the stairs used for ingress and egress shall be kept in a safe condition, and inspected once every twenty-four (24) hours by a competent person provided by the mine operator for that purpose, who shall make a daily record of such inspection in a book provided for that purpose, and such machinery and the method of its inspection shall be approved by the mine inspector of the district in which the mine is situated.

R.L. 1910 Sec. 3966.

§45-512. Safety equipment for shafts.

The operator or superintendent shall provide and maintain from the top to bottom of every shaft, where persons are raised or lowered, a metal tube suitably adapted to the free passage of sound through which conversation may be held between persons at the top and bottom of said shaft, and also a means of signaling from the top to the bottom thereof, and shall provide every cage or gear carriage used for the hoisting or lowering of persons with a sufficient overhead covering to protect those persons when using the same and shall provide also for each said cage or carriage a safety catch approved by the mine inspector, and the said operator or superintendent shall see that flanges with clearance of not less than four (4) inches when the whole of the rope is wound around the drum, are attached to the sides of the drum of every machine that is used for lowering persons into or hoisting them out of the mines, and also, that adjacent brakes are attached to the drums: Provided, that the rope shall be left around the drum at least two and one-half (2 1/2) times when the cage is at the bottom. At all shafts, safety gates to be approved by the mine inspector of the district, shall be so placed as to prevent persons from falling into the shaft.

R.L.1910, § 3967.

§45-513. Quality and testing of chains.

The main coupling chain, attached to the socket of the wire rope, shall be made of the best quality of iron and shall be tested by weights, or otherwise, to the satisfaction of the mine inspector of the district where the mine is located, and the bridle chains

shall be attached to the main hoisting rope above the socket from the top cross piece of the carriage or cage so that no single chain shall be used for lowering persons into or hoisting them out of the mine.

R.L.1910, § 3968.

§45-514. Number of persons lowered or hoisted at one time.

No greater number of persons shall be lowered or hoisted at any one time than may be permitted by the mine inspector of the district, and notice of the number so allowed to be lowered or hoisted at any one time shall be kept posted up by the operator or superintendent in conspicuous places at the top and bottom of the shaft, and the aforesaid notice shall be signed by the mine inspector of the district.

R.L.1910, § 3969.

§45-515. Inspection - Guard railings.

The ropes, chains, machinery and all of its connections used at the operating shaft and slope mines, where the employees are lowered into or hoisted from the mine, and the same used on all gravity and inclined planes, shall be inspected and a record made of said inspection in the same manner as provided for in Section 3966. At all mines all machinery from which any accident might occur shall be properly fenced off by suitable guard railings.

R.L.1910, § 3970.

§45-516. Ventilation.

The operator of every coal or other mine, whether shaft, slope or drift shall provide and hereafter maintain ample means of ventilation affording not less than one hundred fifty (150) cubic feet of air per minute, for each and every person employed therein, and seven hundred fifty (750) cubic feet of air per minute for every animal employed therein; but, in a mine where fire damp has been detected, the minimum shall be two hundred (200) cubic feet per minute for each person employed therein, and as much more in either case as one or more of the mine inspectors may deem requisite, and the ventilation shall be conducted through the main cross entries and all other working places, so as to dilute and render harmless and expel therefrom the noxious and poisonous gases, and all working places shall be kept clear of standing gases.

R.L.1910, § 3971.

§45-517. Number working in same air current - Fans and furnaces - Stoppings between intake and return airways.

Not more than forty-five persons shall be permitted to work in the same air current and mines where ten or more persons are employed shall be provided with a fan or other artificial means to

produce the ventilation, but no furnace shall be used where mines generate gases in dangerous quantities, and all stoppings between main intake and return airways hereafter built or replaced shall be substantially built of suitable masonry, or concrete which shall be approved by the inspector of the district.

R.L.1910, § 3972.

§45-518. Ventilating fans and doors.

All ventilating fans shall be kept in operation night and day unless operations are indefinitely suspended, except written permission is given by the mine inspector of the district to stop the same, and the said written permission shall state the particular hours the said fan may not be in operation, and the mine inspector shall have the power to withdraw or modify such permission as he may deem best, but in all cases the fan shall be started three (3) hours before the time for work to begin, and such written permission to stop the fan shall not apply to fans in use at mines wherein explosive gas is generated. When the fans may be stopped by the permission of the mine inspector, a notice printed in the various languages used by persons employed in the mine, stating at what hours the fan will be stopped and the time it will again be set in motion, shall be posted by the mine foreman in a conspicuous place at the entrance or entrances to the mine: Provided, that should it at any time become necessary to stop the fan on account of accident or needed repairs to any part of the machinery connected therewith, or by reason of any other unavoidable cause, it shall then be the duty of the mine foreman, or any other official in charge, after first having provided for the safety of the persons employed in the mine, to order said fan to be stopped so as to make the necessary repairs or to remove any other difficulty that may have been the cause of its stoppage, and all ventilating furnaces in mines shall be started three (3) hours before the appointed time to begin work and during working hours be properly attended by a person employed for that purpose; in mines generating fire damp in sufficient quantities to be detected by the ordinary safety lamps, all main breakthroughs between slopes and aircourses, airbridges or overcasts shall be built of masonry or other noncombustible material of ample strength, or be driven through the solid strata. In all mines the doors used for guiding and directing the ventilation of the mine shall be so hung and adjusted that they will close themselves, or be supplied with springs or pulleys so that they cannot be left standing open, and an attendant shall be employed at all doors, through which cars are hauled, for the purpose of opening and closing said doors when trips of cars are passing to and from the workings, unless approved selfacting doors are used which doors shall be determined by the mine inspector and mine foreman. A hole for shelter shall be provided at each door, so as to protect said

attendant from being run over by the cars while attending to his duties; and persons employed for this purpose shall at all times remain at their post of duty during working hours: Provided, that the same person may attend two doors where the distance between them is not more than one hundred (100) feet. At all principal doors and every inclined plane or roadway in any mine where haulage is done by machinery, and where a door is used, an extra door shall be provided to be used in case of necessity.

R.L.1910, § 3973.

§45-519. Mines to be kept free from gas.

All mines generating fire damp shall be kept free of standing gas in all working places and roadways. No accumulation of explosive gas shall be allowed to exist in the worked-out or abandoned parts of any mine. It shall be removed as soon as possible after its discovery, and no miners or other persons who are not employed in the removal of the dangerous accumulation, shall be allowed to remain in any mine, or part of mine, during the time that a dangerous accumulation of explosive gas is being removed from any part of the mine, and the entrance or entrances to be worked out and abandoned places shall be properly fenced off and cautionary notices shall be posted upon said fencing to warn persons of danger.

R.L.1910, § 3974.

§45-520. Inspection for gas.

In all mines wherein explosive gas is generated, and also in all mines where the fire damp has generated, in sufficient quantities to be detected by the ordinary safety lamp, every working place without exception, and all roadways shall be carefully examined immediately before each shift by a competent person, who shall be known as the fireboss, appointed by the superintendent and mine foreman for that purpose. The person or persons making such examination shall use no light other than that enclosed in a safety lamp while making such examination. In all cases, said examination shall be begun within the shortest possible period of time necessary to complete such inspection before the regular time appointed to commence work, but in no case shall said examination be begun more than three (3) hours prior to the appointed time of each shift in commencing work, and it shall be the duty of the said fire boss to examine for all dangers likely to be found, and after each examination to leave at the face and sides of every place so examined, evidence of his presence, and he shall at each examination, inspect the entrance, or entrances, to the worked out or abandoned parts, which are adjacent to the roadways and working places of the mines where fire damp is likely to accumulate, and in every working place and all other places where explosive gas is discovered, also where immediate danger is found to exist from other causes he shall place a danger signal across the

entrance to such places, which shall be a sufficient warning for all persons not to enter said place.

R.L.1910, § 3975.

§45-521. Danger signals.

The fire boss shall at each entrance to the mine, or to the main intake airway, near to the mine entrance, prepare a permanent station with the proper danger signals designated as follows:

X-(DATE OF MONTH)-X

and it shall not be lawful for any person or persons, except the mine officials in cases of necessity, and such other persons as may be designated by them, to pass beyond said danger station, until the mine has been examined by the fire boss as aforesaid, and the same, or certain parts thereof, reported by him to be safe; and in all mines where operations are temporarily or indefinitely suspended, the superintendent and mine foreman shall see that a danger signal be placed at the mine entrance, or entrances, which shall be a sufficient warning to persons not to enter the mine, and if ordinary circulation of air through the mine be stopped, each entrance to said mine shall be securely fenced off and a danger signal shall be displayed upon said fence, and any workman or other person (except those persons hereinbefore provided for) passing beyond any danger signal into the mine before it has been examined and reported to be safe as aforesaid, also any person passing beyond any danger signal placed at the entrance to a working place, or any other place, in the mine without permission of the mine foreman, his assistant or his fire boss, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), or imprisonment in the county jail not to exceed thirty (30) days, or both such fine and imprisonment; and it shall be the duty of the fire boss, mine foreman, or superintendent to forthwith prosecute such person, or persons, before the proper legal authority, or to notify the mine inspector, who shall enter proceedings against such person.

R.L.1910, § 3976.

§45-522. Electric wires to be insulated.

In all mines where electricity is, used as a part of the system, power or means of mining and procuring the coal or other mineral therefrom, the owners, or operators thereof shall cause all wires conducting electricity in and about said mines, to be carefully and thoroughly insulated or protected in a safe manner, so that the persons or animals coming in contact therewith, shall not be injured; all wires as aforesaid shall either be thoroughly insulated or placed where persons employed in or about the mines cannot come in contact therewith, or shall be covered, protected or shielded in

a safe manner so as to prevent any injuries or accidents therefrom to those in or about the mines.

R.L.1910, § 3977.

§45-523. Machines to be shielded - Electric pumps.

In mines where mining machines are used, each machine shall be equipped and provided with a sufficient shield for the protection of those employed in or about said machines or in the use and operation thereof, and said shield shall be kept in use constantly while said machine is being operated. All electric pumps inside of the mine shall receive careful attention. While in use at a permanent pumping station, such pumps shall be placed in a fireproof shed, constructed of masonry walls.

R.L.1910, § 3978.

§45-524. Use of oil and grease.

The oiling or greasing of cars inside of the mines is strictly forbidden, unless the place where said oil or grease is used is thoroughly cleansed once every day to prevent the accumulation of waste oil or grease on the roads or in the drains at that point. Not more than one (1) barrel of lubricating oil shall be permitted in the mine at any one time. No explosive oil shall be used or taken into the mines for lighting purposes except when used in approved safety lamps, and oil shall not be stored or taken into the mines in quantities exceeding five (5) gallons. Only pure oils, as free from smoke as pure animal oil shall be sold or used for illuminating purposes in any mine. Any person selling for use in mines, or any person using, explosive or impure oils in any mine contrary to this section, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), or imprisonment in the county jail not to exceed thirty (30) days, or both such fine and imprisonment. For special convenience, the operator shall keep on hand a supply of pure oil for illuminating purposes, to comply with the requirements of this section, when requested to do so by a majority of the miners working therein.

R.L.1910, § 3979.

§45-525. Precautions in dangerous workings.

In any place that is being driven towards, or in dangerous proximity to, an abandoned mine or part of mine, suspected of containing inflammable, noxious or poisonous gases, or which may be inundated with water, boreholes shall be kept not less than twelve (12) feet in advance of the face and on the sides of such working places, said side holes of the same depth shall be drilled diagonally, not more than eight (8) feet apart, and at any place driven to tap water or gas, shall not be more than ten (10) feet wide, and no water or gas, from an abandoned mine, or part of a

mine, and no boreholes from the surface shall be tapped until the employees, except those engaged at such work, are out of the mines, and such work is to be done under the immediate supervision of the mine foreman.

R.L.1910, § 3980.

§45-527. Precautions against dust or explosive matter.

In case any entry, or room in any coal mine in this state is so dry that the air becomes clogged with dust, the operator, owner, lessee or agent, or whoever is operating said mine in any capacity, shall have such entry, airway or room, regularly and thoroughly sprinkled, sprayed and dampened with water, so that the air will not be charged with dust, or if that be impracticable, then the dust shall be removed from the mine and shall not be deposited in any place in the mine where it would be again distributed in the atmosphere by the ventilating currents. It shall be the duty of the district inspector to enforce all possible preventative measures necessary to maintain the safety of all persons employed in any mine against the gathering or accumulation of any combustible matter that is explosive in its nature, and shall cause the operator, or whosoever is operating such mine as owner, lessee, agent, or in any capacity, to immediately remove any such accumulated matter.

R.L.1910, § 3982.

§45-528.1. Water on cutter bars and rock drills - Use required.

In order to promote the safety in coal mines by eliminating the hazards of rock dust in coal mines, it is hereby made the duty of every person or persons, partnership, association, corporation, owner, operator and/or lessee of any coal mine in this state to employ and use water on the cutter bars on all mining machines while cutting rock in said mines, and on all rock drills while drilling in said mines in rock. Rotary roof or rock drills must use water or an approved type dust collector.

Laws 1947, p. 303, § 1; Laws 1965, c. 262, § 8, emerg. eff. June 23, 1965.

§45-528.2. Violations by mine owners, operators, etc.

Any person or persons, partnership, association, corporation, owner, operator and/or lessee of any coal mine in this state, who shall violate the provisions of Sections 528.1, 528.2, and 528.3 of this title, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00), and each separate instance of the violation of this act, either by the cutting machines or rock drills, shall be deemed a separate offense.

Laws 1947, p. 303, § 2; Laws 1965, c. 262, § 9, emerg. eff. June 23, 1965.

§45-528.3. Violations by miners and persons operating drills or machines.

It is hereby also unlawful for any person, miner, operator of a rock drill or machine runner to operate either a mining machine when cutting or drilling in rock without water on cutter bar or rock drill contrary to the provisions of Sections 528.1-528.3, and any such person so doing shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not less than Twenty-five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00), and each separate operation shall constitute a separate offense. Laws 1947, p. 303, § 3; Laws 1965, c. 262, § 10, emerg. eff. June 23, 1965.

§45-529. Workers' compensation coverage - Penalties - Exceptions.

(A) Any person or persons, partnership, association, corporation, owner, operator and/or lessee of any mine in this state must comply with the workers' compensation laws of the State of Oklahoma.

(B) Any violation of this section shall constitute a misdemeanor and shall be punishable by a fine of not exceeding One Thousand Dollars (\$1,000.00).

Provided the provisions of this act shall not apply to production of limestone and sand or gravel from open pits. Laws 1965, c. 262, § 11, emerg. eff. June 23, 1965.

§45-561. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-562. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-563. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

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§45-567. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-568. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-569. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-570. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-571. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-572. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-573. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

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§45-575. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-576. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-577. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-578. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-579. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-580. Punishment for offense.

A violation of Section 16 hereof, or of any part thereof, shall be a misdemeanor, and any one convicted of such violation shall be fined not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), or imprisoned in the county jail not less than thirty (30) days, and not more than twelve (12) months, or by both such fine and imprisonment.

Laws 1913, c. 125, p. 243, § 17.

§45-601. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-602. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-603. Cheating by molesting check numbers on cars.

It shall be unlawful for any person to change, exchange, substitute, alter or remove any number or check number placed upon any car or pit car in or about any mine in the State of Oklahoma, with intent to cheat or defraud any other person out of the value of his services in mining or unloading the coal or mineral contained in such car or pit car; and it shall be unlawful for any person, with the intent to cheat or defraud another, to place any number or check number upon any car or pit car unloaded by any other person in or about any mine.

Laws 1913, c. 125, p. 241, § 12.

§45-604. Punishment for offense.

Every person who shall violate any of the provisions of Section twelve of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not more than One Hundred Dollars (\$100.00) or imprisonment not to exceed one (1)

month in the county jail or both such fine and imprisonment in the discretion of the court.

Laws 1913, c. 125, p. 241, § 13.

§45-611. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-612. Rules to be posted.

All operators of coal or other mines shall keep posted in a conspicuous place the special and general rules embodied in, and made a part of this chapter, defining the duties of all persons employed in and about said mine, which said rules shall be printed in the English language at the expense of the state, and in such other languages as are used by any ten persons working therein, at the expense of the operator. It shall be the duty of the mine inspector to furnish to the operator printed copies of such rules in the English language as are required by this section, and to certify their correctness over his signature; said rules shall be furnished the Chief Mine Inspector by the state.

R.L.1910, § 4009.

§45-613. Repealed by Laws 2017, c. 160, § 1, eff. Nov. 1, 2017.

§45-614. Definition of special terms.

The term "mine committee" as used in this chapter, shall be construed to mean the committee selected by the miners of each mine. The terms "assistant inspector," "district inspector," and "district mine inspector" as used in this chapter, shall be construed to mean "assistant mine inspector." The term "operator" as used in this act means any firm, corporation, association or individual operating any coal or other mine in this state.

R.L.1910, § 4013.

§45-615. Violations of statute as misdemeanors - Civil liability.

The neglect, failure or refusal to perform any of the duties required by any section of this chapter, by any firm, association, corporation, person or parties required to perform them, shall be a misdemeanor, and where the duty so neglected, failed or refused to be performed is by the terms of this chapter, required of a corporation, then its officer or agent in charge of the mine, shall be guilty, as hereinbefore provided for in this section, and, except as herein otherwise provided, shall upon conviction thereof, be punished by a fine of not exceeding Five Hundred Dollars (\$500.00), or imprisonment in the county jail, for a period not exceeding six (6) months, or both such fines and imprisonment; and in addition thereto, such corporation or other mine operator violating any of the provisions of this chapter shall be civilly liable to any person injured thereby to the extent of such injury.

R.L.1910, § 4014.

§45-616. Construction of sewage or drainage facilities into operating or abandoned mine - Penalty.

If any person shall construct or cause to be constructed for use, after the effective date of this act, any sewer or other method of drainage from any building or dwelling house for the carrying of sewage, offal, refuse or other offensive matter into any portion of any operating or abandoned mine, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to a fine not exceeding One Thousand Dollars (\$1,000.00) and shall be imprisoned in the county jail, not exceeding one (1) year, or by both such fine and imprisonment, at the discretion of the court. Laws 1965, c. 125, § 2, emerg. eff. May 24, 1965.

§45-721. Short title.

This act may be known and cited as "The Mining Lands Reclamation Act".
Laws 1971, c. 332, § 1, emerg. eff. June 12, 1971.

§45-722. Declaration of policy.

It is hereby declared to be the policy of this state to provide for the reclamation and conservation of land subjected to surface disturbance by mining and thereby to preserve natural resources, to encourage the productive use of such lands after mining, to aid in the protection of wildlife and aquatic resources, to encourage the planting of trees, grasses and other vegetation, to establish recreational, home and industrial sites, to protect and perpetuate the taxable value of property, to aid in the prevention of erosion, landslides, floods and the pollution of waters and air, to protect the natural beauty and aesthetic values in the affected areas of this state, and to protect and promote the health, safety and general welfare of the people of this state.
Laws 1971, c. 332, § 2, emerg. eff. June 12, 1971.

§45-723. Definitions.

Whenever used or referred to in Sections 722 through 738 of this title, unless a different meaning clearly appears from the context:

1. "Overburden" means all of the earth and other materials which lie above natural deposits of minerals, and also means such earth and other materials disturbed from their natural state in the process of surface mining;
2. "Mine" means an underground or surface excavation and development with or without shafts, slopes, drifts or tunnels for the extraction of minerals, with hoisting or haulage equipment and appliances for the extraction thereof, and shall embrace any and all of the land or property of the plant, and the surface and

underground, that contribute directly or indirectly to the mining properties, concentration or handling of minerals;

3. "Mining" means the extraction of minerals from natural deposits by any method or process;

4. "Minerals" means asphalt, clay, copper, granite, gravel, gypsum, lead, marble, salt, sand, shale, stone, tripoli, volcanic ash and zinc, or any other substance commonly recognized as a mineral, and includes ores or rock containing any such substances, but excludes oil, gas and any other mineral found naturally in a liquid or gaseous state;

5. "Underground mining" means those mining operations carried out beneath the surface by means of shafts, slopes, tunnels or other openings leading to the mineral being mined and the extraction of the mineral through such shafts, slopes, tunnels or their openings;

6. "Surface mining" means those mining operations carried out on the surface, including strip mining, auger mining, quarrying, dredging, pumping, or the use of hydraulic methods.

Surface mining shall not include excavation or removal of shale, sand, gravel, clay, rock or other materials in remote areas by an owner or holder of a possessory interest in land for the primary purpose of construction or maintenance of access roads to or on such landowner's property. Surface mining shall not include excavations or grading conducted for forming, on-site road construction or other on-site construction, or the extraction of minerals other than anthracite and bituminous coal by a landowner for noncommercial use from land owned or leased by the landowner; nor mining for commercial purposes conducted under a Limited Use Permit issued by the Department; nor the extraction of sand, gravel, rock, stone, earth or fill from borrow pits for highway construction purposes, so long as such work is performed under a bond, contract and specifications which substantially provide for and require reclamation of the area affected; nor to the handling, processing or storage of slag on the premises of a manufacturer as a part of the manufacturing process. Surface mining shall not include the surface mining of coal or the surface effects of underground coal mining;

7. "Strip mining" means those mining operations carried out by removing the overburden lying above natural deposits of minerals, and mining directly from such natural deposits thereby exposed, but excludes auger mining, quarrying, dredging, pumping or the use of hydraulic methods;

8. "Reclamation" means conditioning affected land to make it suitable for any uses or purposes consistent with those enumerated in Section 722 of this title, and to avoid, minimize or correct adverse environmental effects of mining operations;

9. "Box cut" means the first open cut in strip mining which results in the placing of overburden on unmined land adjacent to the initial pit and outside the area to be mined;

10. "Consolidated material" means material of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing;

11. "Operator" means any person, partnership, firm or corporation engaged in and controlling a mining operation;

12. "Pit" means a tract of land from which overburden or minerals have been or are being removed in the process of surface mining;

13. "Affected land" means the area of land from which overburden shall have been removed, or upon which overburden or refuse has been deposited, or both;

14. "Refuse" means all waste material directly connected with the production, cleaning or preparation of minerals which have been mined by either underground or surface mining method;

15. "Ridge" means a lengthened elevation of overburden created in the surface mining process;

16. "Peak" means a projecting point of overburden created in the surface mining process;

17. "Department" means the office of the Chief Mine Inspector, herein called the Department of Mines and Mining, or such department, bureau or commission as may lawfully succeed to the powers and duties of such department;

18. "Director" means the Chief Mine Inspector of the State of Oklahoma or such officer, bureau or commission as may lawfully succeed to the powers and duties of such Chief Mine Inspector;

19. "Borrow pit" means the one-time or intermittent extraction of sand, gravel, rock, stone, earth or fill in its natural state, not being mechanically altered to affect its size for government-financed construction purposes. Such work shall be performed under a bond, contract and specifications which substantially provide for and require reclamation of the affected area; and

20. "Dimension stone quarry" means a site where natural stone used as building material is excavated and the stones are selected, trimmed, or cut to specified shapes or sizes.

Added by Laws 1971, c. 332, § 3, emerg. eff. June 12, 1971. Amended by Laws 1972, c. 231, § 1, emerg. eff. April 7, 1972; Laws 1979, c. 249, § 1, emerg. eff. June 1, 1979; Laws 1993, c. 232, § 1, eff. July 1, 1993; Laws 2004, c. 194, § 1, eff. Nov. 1, 2004; Laws 2008, c. 188, § 1, emerg. eff. May 16, 2008.

§45-724. Permits - Limited Use Permits - Applications - Bond - Permit or bond release applications.

A. It shall be unlawful for any operator to engage in any mining operations in this state without first obtaining a permit or a Limited Use Permit from the Department of Mines for each separate mining operation. The Department shall determine what constitutes a

separate mining operation by rules promulgated under the Mining Lands Reclamation Act.

B. Any operator desiring to engage in limited mining activity may apply for a Limited Use Permit for those mining operations not eligible for a surface mining permit. Application for such permit shall be made upon forms furnished by the Department. The form shall contain a description of the tract or tracts of land and shall include the section, township, range and county in which the land is located. A map shall be attached to the application which accurately outlines and locates the tract of land. A statement that the applicant has the right and power by legal estate owned to mine the land so described shall be included with the application. In addition, the following conditions and requirements shall apply to Limited Use Permits:

1. The maximum acreage shall be restricted to two (2) acres;
2. The term of a Limited Use Permit shall not exceed twelve (12) months from the date of issuance;
3. A Limited Use Permit shall not carry a right of successive renewal;
4. A Limited Use Permit site must be reclaimed as required by Section 725 of this title within six (6) months following the expiration of the permit term;
5. A three-thousand-five-hundred-dollar reclamation bond must be filed with the Department prior to issuance of the permit;
6. Failure to reclaim the site disturbance within the permitted time frame or revocation of the Limited Use Permit will be cause for bond forfeiture or other action as may be ordered by the Department;
7. The use of processing equipment shall not be approved for a Limited Use Permit;
8. The use of explosives shall not be approved under a Limited Use Permit;
9. A processing fee of One Hundred Dollars (\$100.00) shall accompany the application for a Limited Use Permit; and
10. Mining production shall be reported and paid as required by Section 931 of this title.

If the above listed conditions and requirements are met, the Department may issue a Limited Use Permit which shall not be subject to the notice and publication requirements as otherwise required by this section.

C. 1. Any operator desiring to engage in surface mining shall make written application to the Department for a permit. Application for such permit shall be made upon a form furnished by the Department. The form shall contain a description of the tract or tracts of land and the estimated number of acres to be affected by surface mining by the operator. The description shall include the section, township, range and county in which the land is located

and shall otherwise describe the land with sufficient certainty so that it may be located and distinguished from other lands.

2. Transmission lines shall be plotted on a location map submitted with the application. A statement that the operator has the right and power by legal estate owned to mine by surface mining the land so described shall be included with the application.

D. 1. Any operator desiring to engage in underground mining shall make written application to the Department for a permit. Application for such permit shall be made upon a form furnished by the Department. The form shall contain a description of the tract or tracts of land to be used as refuse disposal areas. The description shall include the section, township, range and county in which the land is located and shall otherwise describe the land with sufficient certainty so that it may be located and distinguished from other lands.

2. A statement that the applicant has the right and power by legal estate owned to use the land so described as a refuse disposal area shall be included with the application.

E. Each application for a permit under subsections C and D of this section shall be accompanied by a plan of reclamation of the affected land that meets the requirements of the Mining Lands Reclamation Act. The application shall set forth the proposed use to be made of the affected land, the grading to be accomplished, the type of revegetation, and shall include the approximate time of grading and initial revegetation effort.

F. Each application for a permit under subsections C and D of this section shall be accompanied by the bond or security meeting the requirements of Section 728 of this title, or proof that such bond or security is still in effect, and a fee of One Hundred Seventy-five Dollars (\$175.00) for each permit year, payable at the rate of One Hundred Seventy-five Dollars (\$175.00) per year on the anniversary date of the year in which the permit or permit renewal was issued. All application fees shall be submitted to the State Treasurer, who shall deposit them in the Department of Mines Revolving Fund.

G. 1. Upon the receipt of such application, bond or security and fee due from the operator, the Department may issue a permit to the applicant which shall entitle the applicant to engage in mining on the land therein described in accordance with the rules promulgated by the Department, for the life expectancy of the operation unless the operator is in violation of any state statute or rule of the Department in which case the Department shall take appropriate action against the operator.

2. All applications for renewal of existing permits shall be filed prior to the expiration of the existing permit in accordance with the rules promulgated by the Department.

3. No permit shall be issued except upon proper application and public hearing, if requested.

H. 1. a. Upon filing the application with the Department, the applicant shall place an advertisement in a newspaper of general circulation in the vicinity of the mining operation, containing such information as is required by the Department, at least once a week for four (4) consecutive weeks.

b. The advertisement shall contain, at a minimum, the following:

- (1) the name and business address of the applicant,
- (2) a description which clearly shows or describes the precise location and boundaries of the proposed permit area and is sufficient to enable local residents to readily identify the proposed permit area. It may include towns, bodies of water, local landmarks, and any other information which would identify the location,
- (3) the location where a copy of the application is available for public inspection,
- (4) the name and address of the Department where written comments, objections, or requests for informal conferences on the application may be submitted pursuant to subsection P of this section,
- (5) if an applicant seeks a permit to mine which includes relocation or closing of a public road, a copy of the county resolution pertaining to the affected county road, and
- (6) such other information as is required by the Department.

2. Any property owner or resident of an occupied dwelling who may be adversely affected located within one (1) mile of the mining operation shall have the right to protest the issuance of a permit and request a public hearing.

3. The Department shall notify the surface owners of any hearings in connection with applications or permits in the same manner as the operator is notified.

4. Such protests must be received by the Department within fourteen (14) days after the date of publication of the newspaper advertisement. If a public hearing is requested, the Department shall then hold an informal hearing in the vicinity of the proposed mining.

5. Upon completion of findings after the hearing, the Department shall determine whether to issue or deny the permit, and shall notify all parties of its decision.

6. Any decision regarding the issuance of a permit under this section shall be appealable when entered, as provided in the Administrative Procedures Act.

I. Each application for a new operation shall contain, where applicable, a list of all other licenses and permits needed by the applicant to conduct the proposed mining operation. This list shall identify each license and permit by:

1. Type of permit or license;
2. Name and address of issuing authority;
3. Identification number or a copy of the application for permits or licenses or, if issued, a copy of the permit or license; and
4. If a decision has been made, the date of approval or disapproval by each issuing authority.

An existing operation which does not have on file a list of the applicable licenses or permits with the Department on the date of enactment of this act shall not be out of compliance with the provisions of this section. Any renewal of an existing permit or expansion or amendment to an existing operation upon time of application shall submit a copy of all approved licenses and permits issued by other agencies or jurisdictions.

Identifications of all permits and licenses shall include local government agencies with jurisdiction over or an interest in the area of the proposed mining operation including, but not limited to, planning agencies, water and sewer authorities; and all state and federal government agencies with authority to issue permits and licenses applicable to the proposed mining operation, including all state environmental agencies, U.S. Army Corps of Engineers, U.S. Department of Agriculture Natural Resources Conservation Service district office, and federal fish and wildlife agencies.

J. An operator desiring to have such operator's permit amended to cover additional land may file an amended application with the Department. Upon receipt of the amended application, and such additional bond as may be required under the provisions of the Mining Lands Reclamation Act, the Department shall issue an amendment to the original permit covering the additional land described in the amended application, without the payment of any additional fee.

K. An operator may withdraw any land covered by a permit, deleting affected land therefrom, by notifying the Department, in which case the penalty of the bond or security filed by such operator pursuant to the provisions of the Mining Lands Reclamation Act shall be reduced proportionately.

L. Permits issued to an operator may be transferable to another operator, provided the new operator can demonstrate to the Department, prior to the transfer of ownership, that conditions and obligations required for the permit will be met and the new operator

has submitted a performance bond or other guarantee, or has obtained the bond coverage of the original permittee.

M. The perimeter of the permit area shall be clearly marked by durable and recognizable markers or by other means approved by the Department.

N. The Department shall determine the blasting distance to transmission lines by rule.

O. 1. If any mining operations where blasting is required occur within the limits of a municipality with a population in excess of three hundred thousand (300,000) according to the latest Federal Decennial Census or within the limits of a municipality within a county with a population in excess of three hundred thousand (300,000) according to the latest Federal Decennial Census, the application for a permit pursuant to subsections C and D of this section shall be accompanied by proof that the operator is in full compliance with all applicable regulations of the municipality. Certified copies of any required municipal permits and any other required written municipal approvals shall be attached to the application when submitted to the Department. No mining permit shall be issued by the Department unless the applicant first complies with the requirements of this subsection. A municipality is not required to reconsider requests denied by the municipality related to the same site unless the municipality determines there has been a material change in the application.

2. The provisions of paragraph 1 of this subsection shall not apply to existing permitted operations, revisions or amendments thereto, or any application on file with the Department prior to May 25, 2005. In addition, the provisions of paragraph 1 of this subsection shall not apply to any future operation on property directly adjacent to property on which a permitted operation is located, provided that the operation is permitted and the adjacent property is owned or leased by the operator on the effective date of this act. For purposes of this subsection, properties separated by a public road shall be considered to be adjacent.

P. Within a reasonable time, as established by the Department, written comments or objections on permit or bond release applications may be submitted to the Department by public entities including but not limited to the local soil conservation district, with respect to the effects of the proposed mining operations on the environment.

Q. Any person having an interest in or who is or may be adversely affected by the decision on a permit or bond release application, or any federal, state or local agency, shall have the right to request in writing that the Department hold an informal conference on the application. The Department shall hold the informal conference within a reasonable time following the receipt

of the written request at a location in the vicinity of the proposed or active surface mining or reclamation operation.

Added by Laws 1971, c. 332, § 4, emerg. eff. June 12, 1971. Amended by Laws 1981, c. 221, § 7, emerg. eff. June 22, 1981; Laws 1982, c. 181, § 4, emerg. eff. April 20, 1982; Laws 1983, c. 139, § 1, emerg. eff. May 23, 1983; Laws 1989, c. 282, § 1, eff. Nov. 1, 1989; Laws 1992, c. 113, § 1, eff. Sept. 1, 1992; Laws 1993, c. 278, § 55, operative Sept. 1, 1993; Laws 1994, c. 2, § 12, emerg. eff. March 2, 1994; Laws 1997, c. 161, § 1, emerg. eff. April 25, 1997; Laws 1998, c. 61, § 1, eff. Nov. 1, 1998; Laws 1998, c. 351, § 2, emerg. eff. June 5, 1998; Laws 2003, c. 20, § 1, emerg. eff. March 31, 2003; Laws 2005, c. 221, § 1, emerg. eff. May 25, 2005; Laws 2008, c. 6, § 1, emerg. eff. April 4, 2008; Laws 2008, c. 188, § 2, emerg. eff. May 16, 2008.

NOTE: Laws 1993, c. 232, § 3 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§45-725. Procedure for reclaiming land.

A. All affected land other than lands affected by coal mining operations shall be reclaimed as provided in this section.

B. The operator shall determine which parts of the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational, industrial or other use including food, shelter and ground cover for wildlife.

C. All ridges and peaks of overburden created by surface mining shall be graded to a rolling topography traversable by machines or equipment customarily used in connection with the use to be made of the land after reclamation, but such slopes need not be reduced to less than the original grade of the area prior to mining, and the slope of the ridge of overburden resulting from a box cut need not be reduced to less than twenty-five degrees (25°) from horizontal. Surface mining operations conducted in the flood plains of streams and rivers and subject to periodic flooding shall be exempt from the grading requirements of this section.

D. The operator may construct earth dams to form lakes in pits resulting from surface mining operations, provided that the formation of lakes shall not interfere with other mining operations or damage property of others.

E. The operator shall cover the exposed face of a mineral seam, where significant concentrations of acid-forming materials are present, to a depth of not less than three (3) feet with earth that will support plant life or with a permanent water impoundment.

F. The operator shall grade down the banks of any pits or depressions created by the removal of sand or gravel by surface mining to a degree of slope determined by the Department, which shall give due consideration to the natural topography of the land affected and adjacent lands, the composition of such banks and the

most beneficial use of the pits and depressions comprising the affected land after reclamation. If the pits or depressions are deeper than ten (10) feet, the operator may elect to bench the highwall, provided that such benches are not in excess of ten (10) feet in height.

G. All affected land except that which is to be covered with water or used for homesites or industrial purposes shall be revegetated by the planting of seeds, plants, trees, shrubs or other plantings appropriate to the use to be made of the land as determined by the operator. No planting of any kind shall be required on any affected land so long as the chemical and physical characteristics of the soil of such affected land are toxic, deficient in plant nutrients or composed of sand, gravel, shale or stone to such an extent as to seriously inhibit plant growth. The Department may prescribe by rules and regulations the required density of such plantings, and may make replanting requirements.

H. Except where prevented by weather conditions, all grading shall be completed within one (1) year after mining of the affected land has been completed. Initial seeding or planting shall be made at the first appropriate time following completion of grading. If the operator is unable to acquire sufficient planting stock of desired species from state nurseries, or acquire such species elsewhere at comparable prices the Department shall grant the operator an extension of time until planting stock is available to plant such land as originally planned.

I. In any noncoal mining operation where the type and amount of material removed precludes the filling of the quarry, the Department of Mines shall prescribe necessary measures for the protection of the public and animal life.

Added by Laws 1971, c. 332, § 5, emerg. eff. June 12, 1971. Amended by Laws 1978, c. 10, § 1, emerg. eff. Feb. 2, 1978; Laws 1983, c. 139, § 2, emerg. eff. May 23, 1983.

§45-726. Refuse disposal areas.

All refuse disposal areas shall be reclaimed or treated or the refuse be contained by the operator to avoid adverse environmental effects.

Laws 1971, c. 332, § 6, emerg. eff. June 12, 1971.

§45-727. Inspection.

The Department, or its accredited representatives, may enter upon the lands of the operator at all reasonable times, for the purpose of inspection, to determine whether the provisions of this act have been complied with.

Laws 1971, c. 332, § 7, emerg. eff. June 12, 1971.

§45-728. Bond - Cash deposit.

A. Any bond required to be filed with the Department by the operator shall be in such form as the Director prescribes, payable to the State of Oklahoma, conditioned that the operator shall faithfully perform all requirements of the Mining Lands Reclamation Act and comply with all rules of the Department made in accordance with the provisions of the Mining Lands Reclamation Act. Such bond shall be signed by the operator as principal, and by a good and sufficient corporate surety, licensed to do business in the state, as surety.

B. The penal sum of such bond shall be determined by the Department and shall depend on the performance requirements of the approved permit. The minimum bond shall be Two Thousand Dollars (\$2,000.00).

In determining the amount of the bond, the Department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of reclamation to be required.

C. A bond shall not be cancelable by the surety except after not less than ninety (90) days' prior written notice to the Department. Bonds may be continued in effect from year to year, and a new bond need not be provided for each permit application. A single bond may cover all of the operator's mining operations in the state. The penalty of the bond or amount of cash and securities, as provided in subsection E of this section, shall be increased or reduced from time to time as provided in the Mining Lands Reclamation Act.

D. If the license to do business in the state of any surety upon a bond filed with the Department pursuant to the Mining Lands Reclamation Act shall be suspended or revoked, the operator, within thirty (30) days after receiving notice from the Department, shall substitute for such surety a good and sufficient corporate surety licensed to do business in the state. Upon failure of the operator to make substitution of surety as required, the Department shall have the right to suspend the permit of the operator to conduct operations upon the land described in such permit until such substitution has been made.

E. In lieu of such bond, the operator may deposit cash government securities, Certificates of Deposit or an irrevocable letter of credit with the Department in an amount equal to that of the required bond on conditions as prescribed by the Department. In the discretion of the Department surety bond requirements may also be fulfilled by using existing reclaimed areas, in excess of cumulative permit or mined acres, that have been completed under the jurisdiction of the Mining Lands Reclamation Act and approved by the Department.

F. Such bond or security shall remain in effect until the mined acres have been reclaimed, approved and released by the Department.

If the Department determines that grading has been satisfactorily completed pursuant to the Mining Lands Reclamation Act, the Department may release up to eighty percent (80%) of the penal sum of the bond filed for each acre of land graded. The remaining portion of the bond shall continue in effect until the completion of the requirements pursuant to Section 725 of this title. Amended by Laws 1982, c. 181, § 5, emerg. eff. April 20, 1982.

§45-729. Violations - Notice - Hearing - Enforcement - Informing of surface owners.

The Department of Mines shall notify the operator and the surety in writing of any claimed violation of the provisions of the Mining Lands Reclamation Act or the rules of the Department. If the alleged violation is discovered as a result of a citizen complaint and the person claiming the violation states in writing the desire that the source of the complaint be kept confidential, the Department shall maintain such information in confidence. If the operator denies the alleged violation, the Department shall hold a hearing on said charges. Said hearing shall be held not less than thirty (30) days from the notice of hearing.

At such hearing the operator shall have the right to present evidence in opposition to the claimed violation.

If upon such hearing the Department shall determine that a violation has occurred, the Department shall make detailed findings of fact and conclusions of law. The surety, if applicable, may perform for the operator.

If the operator or surety, if applicable, fails to perform the corrective work required by the Department or fails to properly perform said work, the Department may initiate permit revocation and/or bond forfeiture proceedings. After successful collection of the security required by Section 728 of this title, the Department shall contract for the work to be done consistent with all state requirements. The Department shall not issue any permits to an operator who has failed to perform such corrective work, or has defaulted with respect to the bond or other security required by Section 728 of this title, until such obligations are met by the operator or his surety or agent, as determined by the Department.

If the Department determines that an entity or individual has mined without a permit in violation of Section 724 of this title, the Department shall assess a fine of up to Ten Thousand Dollars (\$10,000.00) against the entity, individuals, or agents of said entity. Any agent is jointly and severally liable with its principal for such violation and any resulting fines.

The Department may pursue civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court for the district in which the illegal mining operation is located, in which the entity,

individuals, or agents of said entity, have their principal offices, or in Oklahoma County, to enforce any Department action against the entity, individual, or agents. Further, the Department shall be entitled to recover penalties or fines assessed for mining without a permit from the entity, individuals or agents conducting said mining in violation of this title. The Department shall also be entitled to reasonable attorneys fees incurred in enforcing this provision. All monies collected pursuant to this section shall be deposited in the Department of Mines Revolving Fund.

In order to fully inform affected surface owners who have filed a complaint of any alleged violations affecting the surface estate by an operator, the Department shall:

1. Provide by mail to the affected surface owners who have filed a complaint, a copy of any alleged violations affecting the surface estate issued to the operator within five (5) days after such violation is cited;

2. Notify the surface owners who have filed a complaint of any hearings in connection to alleged violations affecting the surface estate in the same manner and at the same time as the operator; and

3. Provide surface owners who have filed a complaint with complete information on the disposition of all violations affecting the surface estate cited at the same time the operator is notified.

Added by Laws 1971, c. 332, § 9, emerg. eff. June 12, 1971. Amended by Laws 1978, c. 67, § 1; Laws 1985, c. 339, § 1, emerg. eff. July 30, 1985; Laws 1989, c. 282, § 2, eff. Nov. 1, 1989; Laws 2005, c. 104, § 1, emerg. eff. April 26, 2005.

§45-730. Lateral support.

In the case of strip mining operations which remove and do not replace lateral support, unless pursuant to written agreement between the operator and the adjacent property owner, the top of the consolidated material of the open cut adjacent to the property line of other property not owned or leased by the operator shall, at the time mining is completed, not be closer to such other property line than a distance of twenty-five (25) feet plus one and one-half (1 1/2) times the depth of such cut as measured from original ground surface to the top of consolidated material.

Laws 1971, c. 332, § 10, emerg. eff. June 12, 1971.

§45-731. Maps - Release.

The operator shall submit to the Department, no later than September 1 following the end of each permit year, a map in a form approved by the Department showing the location of the pit or pits by section, township, range and county, with such other description as will identify the land which the operator has affected by mining during such permit year and has completed mining operations thereon, with a legend upon such map showing the number of acres of affected

land. Such map shall also show in acres the extent of the reclamation accomplished on the affected land, including grading and revegetation efforts, as of the end of the permit year, and shall show by appropriate designation any deviation from the plan of reclamation filed under subsection (c) of Section 724 of this title and the reasons therefor.

Whenever an operator shall have completed all requirements under the provisions of this act as to any affected land, he shall notify the Department thereof. If the Department determines that the operator has completed reclamation requirements and achieved results appropriate to the use for which the area was reclaimed, the Department shall release the operator from further obligations regarding such affected land and the penalty of the bond shall be reduced proportionately.

Laws 1971, c. 332, § 11, emerg. eff. June 12, 1971; Laws 1972, c. 231, § 3, emerg. eff. April 7, 1972.

§45-732. Powers and duties of Department.

In addition to the duties and powers conferred on the Department in other provisions of this act, the Department shall have authority and power to:

(a) Adopt and promulgate reasonable rules and regulations respecting the administration of this act and in conformity therewith and the Administrative Procedures Act.

(b) Order, after hearing, the revocation of any permit issued hereunder for violation of this act.

(c) Cause to be instituted, in any court of competent jurisdiction, legal proceedings for injunctive or other appropriate relief to enforce this act.

(d) Make investigations and inspections which are necessary or appropriate to insure compliance with this act.

(e) Collect and disseminate information relating to reclamation of affected lands.

(f) Request the assistance of any federal or state agency for technical advice or any other type of assistance deemed necessary to carry out the purposes of this act.

Laws 1971, c. 332, § 12, emerg. eff. June 12, 1971.

§45-733. Legal assistance.

At the request of the Department the Attorney General shall provide such legal assistance as may be needed in interpreting, enforcing and carrying out the provisions of this act including but not limited to institution of and prosecuting legal actions and proceedings for injunctive relief and this improvement shall include the provisions of Section 17 hereof.

Laws 1971, c. 332, § 13, emerg. eff. June 12, 1971.

§45-734. Chief Mine Inspector.

Any act authorized to be done by the Department may be performed by the Chief Mine Inspector, or an assistant designated by him. Laws 1971, c. 332, § 14, emerg. eff. June 12, 1971.

§45-735. Sand and gravel - Inspections - Penalties.

The Department is designated as the agency to make safety inspections in sand, sand and gravel and in quarrying operations. Any person required by this act to have a permit who engages in mining without a valid permit therefor issued pursuant to this act is guilty of a misdemeanor, and on conviction thereof shall be fined not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00). Each day of operation without the permit required by this act shall be deemed a separate violation. Added by Laws 1971, c. 332, § 15, emerg. eff. June 12, 1971.

§45-736. Revoked permits.

In no event shall a permit be issued to any operator if a permit issued to such operator has been revoked under Section 12 of this act.

Laws 1971, c. 332, § 16, emerg. eff. June 12, 1971.

§45-737. Governmental agencies to conform.

Any municipal or county governmental agency or body engaged in mining as defined in this act shall conform to all requirements of this act respecting reclamation of affected lands.

Laws 1971, c. 332, § 17, emerg. eff. June 12, 1971.

§45-738. Judicial review.

All final decisions and orders of the Department shall be subject to judicial review of the acts of administrative agencies.

Laws 1971, c. 332, § 18, emerg. eff. June 12, 1971.

§45-740.1. Short title.

This act may be cited as the "Oklahoma Abandoned Mine Reclamation Act".

Laws 1981, c. 185, § 1, emerg. eff. May 19, 1981.

§45-740.2. Legislative findings - Purpose.

A. The Legislature finds that:

1. The Congress of the United States has enacted the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. Sections 1201 et seq., hereinafter cited as the "federal act", which provides for the establishment of a nationwide program to regulate surface coal mining and reclamation and which vests exclusive authority in the Department of the Interior over the regulation of surface coal mining and reclamation within the United States.

2. Section 101 of the federal act, 30 U.S.C. Section 1201, contains the finding by Congress that because of the diversity in terrain, climate, biologic, chemical and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing and enforcing regulations for surface mining and reclamation operations subject to that act should rest with the states.

B. It is therefore declared to be the purpose of this act:

1. To promote the reclamation of mined areas left without adequate reclamation prior to the enactment of the federal act and that continue, in their unreclaimed condition, to substantially degrade the quality of the environment, to prevent or damage the beneficial use of land or water resources or to endanger the health or safety of the public;

2. To assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances to the land are protected from previously unregulated surface coal mining operations; and

3. To prevent the adverse effects to society and the environment resulting from previously unregulated surface coal mining.

Laws 1981, c. 185, § 2, emerg. eff. May 19, 1981.

§45-740.3. Powers and duties of Commission.

To accomplish the purposes of this act, the Oklahoma Conservation Commission, hereinafter cited as the "Commission", shall have the authority:

1. To adopt, amend and enforce rules pertaining to reclamation operations consistent with the general intent and purposes of this act;

2. To hire employees, adopt standards for employment of those persons and assist in carrying out the requirements of this act;

3. To conduct, encourage, request and participate in studies, surveys, investigations, research, experiments, training and demonstrations by contract, grant or otherwise;

4. To accept, receive and administer grants, gifts, loans or other funds made available from any source for the purposes of this act; and

5. To perform any other duties and acts necessary to allow the state to participate in the abandoned mines and mined land program provided in Subchapter IV of the federal act.

Laws 1981, c. 185, § 3, emerg. eff. May 19, 1981.

§45-740.4. Participation in Abandoned Mine Reclamation Fund.

The Commission is authorized to take all action necessary to insure Oklahoma's participation in the Abandoned Mine Reclamation Fund established by the federal act, and to function as the state's

agency for participation. Pursuant to the federal act, the Commission shall by rule establish priorities that meet the terms of the federal act for the expenditure of those funds, designate the land and water eligible for reclamation or abatement expenditures and submit reclamation plans, annual projects and applications to the appropriate authorities pursuant to the terms of the federal act. It shall administer all monies received for abandoned mine reclamation or related purposes, which expenditure constitutes a public benefit.

Laws 1981, c. 185, § 5, emerg. eff. May 19, 1981.

§45-740.5. Property adversely affected by past coal mining practices - Entry - Acquisition - Title - Disposition.

A. If the Commission makes a finding of fact that:

Land or water resources have been adversely affected by past coal mining practices; and the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control or prevent the adverse effects of past coal mining practices should be taken; and the owners of the land or water resources where entry must be made to restore, reclaim, abate, control or prevent the adverse effects of past coal mining practices are not known, or readily available; or the owners will not give permission for the state or any political subdivision to enter on the property to restore, reclaim, abate, control or prevent the adverse effects of past coal mining practices; then, on giving notice by mail to the owners of record, if known, or, if not known, by posting notice on the premises and advertising once in a newspaper of general circulation in the county in which the land lies, the Commission is entitled to enter on the property adversely affected by the past coal mining practices and any other necessary access property to do all things necessary or expedient to restore, reclaim, abate, control or prevent the adverse effects. This entry shall not be construed as an act of condemnation of property nor of trespass. The monies expended for that work and the benefits accruing to those premises entered on shall be chargeable against the land and shall mitigate or offset any claim or action brought by any owner of any interest in the premises for damages by virtue of such entry; provided, this provision is not intended to create new rights of action or eliminate existing immunities.

B. The Commission is entitled to enter on any property for the purposes of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control or prevention of those adverse effects. Such entry shall not be construed as an act of condemnation of property nor of trespass.

C. The state may acquire any land, where it is to the public interest, by purchase, donation or condemnation, that is adversely affected by past coal mining practices if the Commission determines that acquisition of the land is necessary to successful reclamation and that:

1. The acquired land, after restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, conservation and reclamation purposes, or provide open space benefits; and

2. Permanent facilities, such as a treatment plant or a relocated stream channel, will be constructed on the land for the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices; or

3. Acquisition of coal refuse disposal sites and all coal refuse on those sites will serve the purposes of this section or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

D. Title to all land acquired pursuant to this section shall be in the name of the state.

E. Where land acquired pursuant to this section is deemed to be suitable for industrial, commercial, residential or recreational development, the state may sell the land by public sale under a system of competitive bidding, at not less than fair market value and under such rules as are promulgated to insure that the land is put to proper use consistent with local plans, if any, as determined by the Commission. Where federal funds are involved in the acquisition of the land to be sold, the land may be sold only when authorized by the Secretary of the United States Department of the Interior. The Commission, after appropriate public notice, shall hold a public hearing in the county or counties of the state in which land acquired pursuant to this section is located. The hearings shall be held at a time that shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the land after restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices.

Laws 1981, c. 185, § 5, emerg. eff. May 19, 1981.

§45-740.6. Liens.

A. Within six (6) months after the completion of projects to restore, reclaim, abate, control or prevent the adverse effects of past mining practices on privately owned land, the Commission shall itemize the monies so expended and may file a statement of the monies spent with the clerk of the county in which the land lies, together with a notarized appraisal by an independent appraiser of

the value of the land before the restoration, reclamation, abatement, control or prevention of adverse effects of past mining practices if the monies so expended result in a significant increase in property value. The statement shall constitute a lien on the land. The lien shall not exceed the amount determined by either of two appraisals to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control or prevention of the adverse effects of past mining practices. No lien shall be filed against the property of any person, in accordance with this subsection, who owned the surface prior to May 2, 1977, and who neither consented to nor participated in nor exercised control over the mining operation that necessitated the reclamation performed hereunder.

B. Any affected landowner may petition the Commission within sixty (60) days of the filing of the lien for a hearing concerning the amount of the lien. That hearing and any appeal will be conducted under the provisions of Sections 301 et seq. of Title 75. Laws 1981, c. 185, § 6, emerg. eff. May 19, 1981.

§45-740.7. Emergencies.

A. The Commission is authorized to spend monies from the State Abandoned Mine Reclamation Fund for the emergency restoration, reclamation, abatement, control or prevention of adverse effects of coal mining practices on eligible land if it finds that:

1. An emergency exists constituting a danger to the public health, safety or general welfare; and
2. No other person or agency will act expeditiously to restore, reclaim, abate, control or prevent the adverse effects of coal mining practices.

B. The Commission may enter on any land where an emergency exists and any other necessary access land to restore, reclaim, abate, control or prevent the adverse effects of coal mining practices and to do all things necessary or expedient to protect the public health, safety or general welfare. This entry shall not be construed as an act of condemnation of property nor of trespass. The monies expended for this work and the benefits accruing to the premises entered on shall be chargeable against the land and shall mitigate or offset any claim in or any action brought by any owner of any interest in the premises for any damages by virtue of the entry; provided, however, that this provision is not intended to create new rights of action or eliminate existing immunities. Laws 1981, c. 185, § 7, emerg. eff. May 19, 1981.

§45-742.1. Short title - Intent of Legislature - Application of act - Public policy - Purpose of act.

This act shall be known and may be cited as the "Coal Reclamation Act of 1979".

It is the intent of the Oklahoma Legislature that the Coal Reclamation Act of 1978, Sections 742 et seq. of Title 45 of the Oklahoma Statutes, and this Coal Reclamation Act of 1979, be read together as the law regulating the reclamation of lands affected by surface coal mining operations and the surface effects of underground coal mining, to bring Oklahoma into compliance with Public Law 95-87, the "Surface Mining Control and Reclamation Act of 1977".

The provisions of the Mining Lands Reclamation Act, Sections 721 through 728 of Title 45 of the Oklahoma Statutes, shall not apply to surface coal mining operations or the surface effects of underground coal mining operations.

The Oklahoma Legislature finds and declares that coal mining operations presently contribute significantly to the nation's energy requirements, that Oklahoma's coal production is part of those energy requirements, and that the cooperative effort established by this act is necessary to prevent or mitigate adverse environmental effects of all surface mining operations.

It is the purpose of this act to protect the rights of surface owners and the environment, and to require reclamation of lands affected by surface and underground coal mining in a manner compatible with the social, environmental and aesthetic needs of this state. If reclamation is not feasible, surface mining operations should not be conducted. It is the intent of the Legislature to insure the existence of an expanding and economically healthy coal mining industry and that there be public participation in the development of rules and regulations appropriate to the State of Oklahoma and that the Department of Mines exercise the full reach of its powers to insure the protection of the public interest through the effective control of surface mining operations. Laws 1979, c. 249, § 2, emerg. eff. June 1, 1979.

§45-742.2. Definitions.

As used in this act:

1. "Acid drainage" means water with a pH of less than 6.0 Standard Units and in which total acidity exceeds total alkalinity, discharged from active, inactive, or abandoned mines and from areas affected by surface coal mining and reclamation operations.

2. "Acid-forming materials" means earth materials that contain sulfide minerals or other materials which, if exposed to air, water, or weathering processes, will result in the formation of acids that may create acid drainage.

3. "Adjacent area" means land located outside the affected area, permit area, or mine plan area, depending on the context in which "adjacent area" is used, where air, surface or ground water, fish, wildlife, vegetation or other resources protected by this act

may be adversely impacted by surface coal mining and reclamation operations.

4. "Affected area" means, with respect to surface mining activities, any land or water upon or in which those activities are conducted or located. With respect to underground mining activities, "affected area" means any water or surface land upon or in which those activities are conducted or located, and land or water which is located above underground mine workings.

5. "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles and coal refuse piles eliminated. Water impoundments may be permitted where the regulatory authority determines that they are in compliance with Section 745.18 of this title and applicable rules and regulations.

6. "Aquifer" means a zone, stratum, or group of strata confined or unconfined, including perched conditions, that can store and transmit water in sufficient quantities for a specific use.

7. "Auger mining" means a method of mining coal at a cliff or highwall by drilling holes laterally into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface.

8. "Box cut" means the first open cut in strip mining which results in the placing of overburden on unmined land adjacent to the initial pit and outside the area to be mined.

9. "Coal exploration" means the gathering of surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical or other techniques necessary to determine the quality and quantity of overburden and coal of an area and the gathering of environmental data to establish the conditions of the area beginning before surface coal mining and reclamation operations.

10. "Coal processing plant" means a collection of facilities where run-of-the-mine coal is prepared for market by chemical or physical processing, and separated from its impurities. The processing plant may consist of, but not be limited to, the following support facilities: loading facilities; storage and stockpile facilities; shed, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas; roads, railroads and other transport facilities; and utilities.

11. "Consolidated material" means material of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing.

12. "Department" means the office of the Chief Mine Inspector, including all employees, agents, deputies, and representatives of the Department, herein called the Department of Mines and Mining, or such department, bureau or commission as may lawfully succeed to the powers and duties of such department, having primary responsibility for administering all titles of the Surface Mining Law.

13. "Director" means the Chief Mine Inspector of the State of Oklahoma or such officer, bureau or commission as may lawfully succeed to the powers and duties of such Chief Mine Inspector or such employee, agent, deputy or representative of the Chief Mine Inspector as shall be designated by the Chief Mine Inspector to perform any actions required by this act.

14. "Disturbed area" means an area where vegetation, topsoil, or overburden is removed by surface coal mining operations or upon which topsoil, spoil, coal processing waste or noncoal waste is placed. Those areas are "disturbed" until reclamation of those areas is complete and the bond or other assurance of performance is released.

15. "Diversion" means a channel, embankment, or other manmade structure constructed for the purpose of diverting the flow of water from one area to another:

- a. Permanent diversion means a diversion remaining after surface coal mining and reclamation are completed and which has been approved for retention by the Department and other appropriate state and federal agencies,
- b. Temporary diversion means a diversion which is used during coal exploration or surface coal mining and reclamation operations, and not approved by the Department to remain after reclamation as part of the approved postmining land use.

16. "Ephemeral stream" means a stream which flows only in direct response to precipitation in the immediate watershed or in response to the melting of snow and ice, and which has a channel bottom that is always above the local water table.

17. "Ground water" means subsurface water that fills available openings in rock or soil materials such that they may be considered water-saturated.

18. "Head-of-hollow fill" means a fill structure consisting of any material, other than coal processing waste and organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than twenty (20) degrees or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than ten (10) degrees. In fills with less than two hundred fifty thousand (250,000) cubic yards of material, associated with contour mining, the top surface of the fill will be at the elevation of the

coal seam. In all other head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area.

19. "Highwall" means the face of exposed overburden and coal in an open cut of a surface or for entry to an underground coal mine.

20. "Hydrologic balance" means the relationship between the quality and quantity of inflow to, outflow from and storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the quantity and quality relationships between precipitation, runoff, evaporation, and the change in ground and surface water storage.

21. "Hydrologic regime" means the entire state of water movement in a given area. It is a function of the climate, and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form and falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

22. "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirements of this act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would not expose oneself to the danger during the time necessary for abatement.

23. "Impoundment" means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

24. "In situ processes" means activities conducted on the surface or underground in connection with in-place distillation, retorting, leaching, or other chemical or physical processing of coal, to include, but not be limited to, in situ gasification, in situ leaching, slurry mining, solution mining, bore hole mining and fluid recovery mining.

25. "Intermittent stream" means a stream or reach of a stream that drains a watershed of at least one (1) square mile, or a stream or reach of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.

26. "Operator" means any person, partnership, firm or corporation engaged in coal mining who removes or intends to remove

more than two hundred fifty (250) tons from the earth within twelve (12) consecutive months in any one location.

27. "Other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.

28. "Overburden" means all of the earth and other materials, excluding topsoil, which lie above natural deposits of coal and other minerals, and also means such earth and other materials disturbed from their natural state in the process of surface mining.

29. "Peak" means an upward projecting point of overburden created in the surface mining process.

30. "Perennial stream" means a stream or part of a stream that flows continuously during all of the calendar year as a result of groundwater discharge or surface runoff.

31. "Performance bond" means the indemnity instrument in a sum certain, supported by a surety's guarantee, pledge of collateral or other acceptable contractual guarantee, by which the permit applicant assures faithful performance of all the applicable permit requirements of this act and the rules and regulations promulgated thereunder.

32. "Permit" means a permit to conduct surface coal mining and reclamation operations issued by the Department pursuant to state law.

33. "Permit area" means the area, including all natural and human resources, included within the boundaries specified in a permit, whether or not the areas will be impacted by surface coal mining and reclamation operations, which are designated on the approved maps submitted by the applicant with his permit application and covered by the performance and reclamation bonds as required.

34. "Permittee" means a person holding a "permit" to conduct surface coal mining and reclamation operations issued by the Department pursuant to state law.

35. "Pit" means a tract of land from which overburden or minerals have been or are being removed in the process of surface mining.

36. "Prime farmland" means lands which meet the criteria of the Department, which shall prescribe criteria at least as stringent as criteria prescribed by the United States Secretary of Agriculture on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics, and which historically have been used for intensive agricultural purposes.

37. "Reclamation" means, through the process of backfilling, regrading, topsoil replacement, reutilization, and revegetation activities, the bringing back of land to its approximate original

contours and configuration, and resulting in an equal or better land use category, and shall be consistent with the existing surrounding environment.

38. "Reference areas" means land units of varying size and shape identified and maintained under appropriate management for the purpose of measuring ground cover, productivity and species diversity that are produced naturally or by crop production methods approved by the Department. Reference areas must be representative of geology, soils, slope, aspect and vegetation in the permit area.

39. "Refuse" means all waste material directly connected with the production, cleaning or preparation of coal or other minerals which have been mined by either underground or surface mining method.

40. "Regulatory authority" means the Department of Mines and Mining.

41. "Ridge" means a lengthened elevation of overburden created in the surface mining process.

42. "Significant, imminent environmental harm to land, air or water resources" is determined as follows:

- a. An environmental harm is any adverse impact on land, air, or water resources, including but not limited to, plant and animal life,
- b. An environmental harm is imminent if a condition, practice or violation exists which:
 - (1) is causing such harm or,
 - (2) may reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under Section 775 of this title,
- c. An environmental harm is significant if that harm is appreciable and not immediately reparable.

43. "Slope" means average inclination of a surface, measured from the horizontal; normally expressed as a unit of vertical distance to a given number of units of horizontal distance (e.g., one unit vertical (1v) to five units horizontal (5h) = 11.3 degrees).

44. "Soil horizons" means contrasting layers of soil lying one below the other, parallel or near parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The three (3) major soil horizons are:

- a. "A horizon". The uppermost layer in the soil profile often called the surface soil. It is the part of the soil in which organic matter is most abundant and where leaching of soluble or suspended particles is the greatest,

- b. "B horizon". The layer immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron or aluminum than the A or C horizons, and
- c. "C horizon". The deepest layer of the soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

45. "Spoil" means displaced overburden.

46. "Strip mining" means those mining operations carried out by removing the overburden lying above natural deposits of coal and other minerals, and mining directly from such natural deposits thereby exposed, but excludes auger mining, quarrying, dredging, pumping or the use of hydraulic methods.

47. "Substantially disturb" means, for purposes of coal exploration, to significantly impact upon land, air or water resources by such activities as blasting, mechanical excavation of land, drilling or altering coal or water exploratory holes or wells, construction or creation of roads and other access routes, and the placement of structures, excavated earth or other debris upon the surface of land.

48. "Surface coal mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations.

49. "Surface coal mining operations" means:

- a. Activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site. Such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for the purposes of commercial use or sale or coal exploration, subject to Section 745.11 of this title, and
- b. The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land, the use of which is incidental to any such activities, all

lands affected by the construction of new roads or improvement or use of existing roads to gain access to the site of such activities and for haulage and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

50. "Surface water" means water, either flowing or standing, on the surface of the earth.

51. "Topsoil" means the "A" soil horizon, which is the uppermost layer of the three (3) major soil horizons.

52. "Underground mining activities" means a combination of:

- a. Surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed, and
- b. Underground operations such as underground construction, operation, and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting, and
- c. The areas in which activities enumerated above occur or where such activities disturb the natural land surface.

53. "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the act due to indifference, lack of diligence, or lack of reasonable care.

54. "Water table" means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

Laws 1979, c. 249, § 3, emerg. eff. June 1, 1979. Amended by Laws 1990, c. 260, § 32, operative July 1, 1990.

§45-744. Application of act.

All surface coal mining operations which commence operations pursuant to a permit issued on or after February 3, 1978, shall comply, and such permits shall contain terms requiring compliance with the provisions set out in this act.

On and after May 3, 1978, all surface coal mining operations shall comply with this act, except as provided below.
Laws 1978, c. 10, § 4, emerg. eff. Feb. 2, 1978.

§45-745. Exemptions.

Surface coal mining operations in operation pursuant to a permit issued by this state before August 3, 1977, issued to a person in existence prior to May 2, 1977, and operated by a person whose total annual production of coal from surface and underground coal mining operations does not exceed one hundred thousand (100,000) tons shall not be subject to the provisions of this section except with reference to the provisions relating to steep slope mining in Section 15 of this act until January 1, 1979.
Laws 1978, c. 10, § 5, emerg. eff. Feb. 2, 1978.

§45-745.1. Permits for separate mining operations - Application - Forms - Plan of reclamation - Fees - Exemptions.

A. It shall be unlawful for any operator to engage in any mining operations in this state without first obtaining from the Department a permit to do so for each separate mining operation. The Department shall determine what constitutes a separate mining operation by rules and regulations promulgated under the Coal Reclamation Act.

B. Any operator desiring to engage in surface mining eight (8) months after the approval of Oklahoma's regulatory program by the United States Secretary of the Interior shall make written application to the Department for a permit within two (2) months after the approval of the state program. Before the approval of the Oklahoma program by the Secretary of the Interior, the requirements of the Coal Reclamation Act of 1978 shall continue to apply to all permits for coal mining covered by the Coal Reclamation Act. Application for such permit shall be made upon a form furnished by the Department, which form shall require all pertinent information including, but not limited to, all information required by federal law and regulations.

C. Any operator desiring to engage in underground mining shall make written application to the Department for a permit within two (2) months after approval of the state program. Application for such permit shall be made upon a form furnished by the Department, which form shall require all pertinent information including, but not limited to, all information required by federal law and regulations for underground coal mining, taking into account the

distinct differences between surface coal mining and underground coal mining.

D. Each application for a permit under subsections B and C of this section shall be accompanied by a plan for the reclamation of the affected land that meets the requirements of the Coal Reclamation Act.

E. Each application for a permit or permit renewal under subsections B and C of this section shall be accompanied by a fee of Five Hundred Dollars (\$500.00) for each permit year, payable at the rate of Five Hundred Dollars (\$500.00) per year on the anniversary date of the year in which the permit or permit renewal was issued. Such fee shall be deposited in the Department of Mines Revolving Fund and used to offset the cost of reviewing, administering and enforcing such permit issued pursuant to a state or federal program. Once mining operations have permanently terminated, no further permit fee shall be required of the operator.

F. The provisions of the Coal Reclamation Act shall not apply to the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him, or the extraction of coal as an incidental part of federal, state or local government-financed highway or other construction under regulations established by the Department.

Amended by Laws 1982, c. 181, § 6, emerg. eff. April 20, 1982; Laws 1989, c. 282, § 3, eff. Nov. 1, 1989,

§45-745.2. Term of permit - Fee - Transferability.

All permits issued pursuant to the requirements of this act shall be issued for a term not to exceed five (5) years. A successor in interest to a permittee who applies for a new permit within thirty (30) days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may, upon payment of a fee of Five Hundred Dollars (\$500.00) to the Department, continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successor's application is granted or denied.

Amended by Laws 1983, c. 39, § 1, emerg. eff. April 20, 1983; Laws 1985, c. 339, § 2, emerg. eff. July 30, 1985.

§45-745.3. Termination of permit - Extension.

A permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. The Department may grant reasonable extensions of time upon a showing and a finding by the Department that such extensions are necessary by reason of litigation precluding such commencement or threatening substantial economic loss to the permittee, or by reason of conditions beyond

the control and without the fault or negligence of the permittee; provided, further that with respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

Laws 1979, c. 249, § 6, emerg. eff. June 1, 1979.

§45-745.4. Renewal of permit - Application - Burden of proof - Term.

Any valid permit issued pursuant to this act shall carry with it the right of successive renewal with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued, provided that on application for renewal the burden shall be on the opponents of renewal, subsequent to fulfillment of the public notice requirements of Sections 15 and 17 of this act unless it is established that and written findings by the Department are made declaring:

1. The terms and conditions of the existing permit are not being satisfactorily met;

2. The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this act and the state program;

3. The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

4. The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the Department might require; or

5. Any additional revised or updated information required by the Department has not been provided. Prior to the approval of any renewal of permit the Department shall provide notice to the appropriate public authorities.

If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new applications under this act.

Any permit renewal shall be for a term not to exceed the period of the original permit established by this act. Application for permit renewal shall be made at least one hundred twenty (120) days prior to the expiration of the valid permit.

Laws 1979, c. 249, § 7, emerg. eff. June 1, 1979.

§45-745.5. Reclamation plan.

A. Each applicant for a permit shall be required to submit to the Department as part of the permit application a reclamation plan which shall meet the requirements of this act. Each reclamation plan submitted as part of a permit application shall include, in the degree of detail necessary to demonstrate that reclamation required can be accomplished, a statement of:

1. The identification of the lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

2. The condition of the land to be covered by the permit prior to any mining including:

a. the uses existing at the time of the application, and if the land has a history of previous mining, the uses which preceded any mining,

b. the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, vegetative cover and, if applicable, a soil survey, and

c. the productivity of the land prior to mining, including appropriate classification as prime farmlands, as well as the average yield of food, fiber, forage or wood products from such lands obtained under high levels of management;

3. The use which is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of such use to existing land use policies and plans, and the comments of any owner of the surface, state and local governments or agencies thereof which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation;

4. A detailed description of how the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

5. The engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading and appropriate revegetation; a plan for soil reconstruction, replacement and stabilization; an estimate of the cost per acre of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements of Oklahoma mining reclamation law;

6. The consideration which has been given to maximize the utilization and conservation of the solid fuel resource being recovered so that re-affecting the land in the future can be minimized;

7. A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

8. The consideration which has been given to making the surface mining and reclamation operations consistent with surface owner plans, and applicable state and local land use plans and programs; 9. The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;

10. The consideration which has been given to developing the reclamation plan in a manner consistent with local physical environmental, and climatological conditions;

11. All lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;

12. The results of test boring which the applicant has made at the area to be covered by the permit, or other equivalent information and data, including the location of subsurface water, and an analysis of the chemical properties including acid-forming properties of the coal and other minerals and overburden. Information which pertains only to the analysis of the chemical and physical properties of the coal shall be kept confidential and not made a matter of public record. Information regarding mineral or elemental contents which are potentially toxic in the environment shall be a part of the public record;

13. A detailed description of the measures to be taken during the mining and reclamation process to assure the protection of:

a. the quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process,

b. the rights of present users to such water, and

c. the quantity of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process or to provide alternative sources of water where such protection of quantity cannot be assured; and

14. Such other requirements as the Department shall prescribe by regulations.

B. Any information required by this section which is not on public file pursuant to state law shall be held in confidence by the Department. Information which pertains only to the chemical and physical properties of the coal, except those properties which are potentially toxic in the environment, shall be kept confidential and not made a matter of public record.

Laws 1979, c. 249, § 8, emerg. eff. June 1, 1979.

§45-745.6. Performance bond.

A. After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the Department, on a form prescribed and furnished by the Department, a bond for performance payable to the state, and conditional upon faithful performance of all the requirements of law and the permit. Such bond shall be signed by the operator as principal, and by a good and sufficient corporate surety licensed to do business in the state. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. Bonding will occur in one-year increments for the life of the permit and shall cover that segment of the permit area to be affected during the increment. As one-year increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the Department an additional bond or bonds to cover such increments in accordance with this section.

B. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit, and shall reflect the probable difficulty of reclamation and giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential, and shall be determined by the Department. The amount of the bond for coal mining shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the Department in the event of forfeiture, and in no case shall the bond for the entire area under one permit be less than Ten Thousand Dollars (\$10,000.00) unless the permit area is less than sixty-seven (67) acres, in which case a minimum bond of fifteen percent (15%) of the total original bond shall be maintained until completion of the reclamation.

Liability under a surface coal mining bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with the operator's responsibility for revegetation requirements. The bond shall be executed by the operator and a corporate surety licensed to do business in Oklahoma, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or of Oklahoma, negotiable certificates of deposit of any bank organized or transacting business in the United States, Certificates of Deposit or irrevocable letters of credit from a bank or lending institution licensed to do business in the State of Oklahoma. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

C. A bond shall not be cancelable by the surety except after not less than ninety (90) days' prior written notice to the Department and the arrangement of a replacement bond suitable to the

Department. Bonds may be continued in effect from year to year, and a new bond need not be provided for each permit year. The penalty of the bond or amount of cash and securities, as provided in subsection B of this section, shall be increased or reduced from time to time as affected land acreages are increased or decreased or when the cost of future reclamation changes.

D. If the license to do business in the state of any surety upon a bond filed with the Department pursuant to the Coal Reclamation Act shall be suspended or revoked, the operator, within thirty (30) days after receiving notice thereof from the Department, shall substitute for such surety a good and sufficient corporate surety licensed to do business in the state. Upon failure of the operator to make substitution of surety as provided in this section, the Department shall have the right to suspend the permit of the operator to conduct operations upon the land described in such permit until such substitution has been made.

E. The Department may accept the bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the Department the existence of a suitable agent to receive service of process, and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond such amount.

F. Such bond or security shall remain in effect until the mined acres have been reclaimed, approved and released by the Department. Amended by Laws 1982, c. 181, § 7, emerg. eff. April 20, 1982; Laws 1985, c. 339, § 3, emerg. eff. July 30, 1985.

§45-745.7. Grant, modification or denial of application for permit - Notice to applicant - Burden of proof - Notice to political subdivisions.

Upon the basis of a complete mining application and reclamation plan, including public notification and an opportunity for a public hearing, the Department shall grant, require modification of or deny the application for a permit in a reasonable time and notify the applicant in writing. The applicant for a permit, or revision of a permit, shall have the burden of establishing that his application is in compliance with all the requirements of the law. Within ten (10) days after the granting of a permit, the Department shall notify the local governmental officials in the political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land. Laws 1979, c. 249, § 10, emerg. eff. June 1, 1979.

§45-745.8. Criteria for approval of permit or revision application.

No permit or revision application shall be approved unless the application affirmatively demonstrates and the Department finds in writing, on the basis of the information set forth in the

application or from information otherwise available, which will be documented in the approval and made available to the applicant, that:

1. The permit application is accurate and complete and that all the requirements of this act have been complied with;

2. The applicant has demonstrated that reclamation as required by this act can be accomplished under the reclamation plan contained in the permit application;

3. The assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance has been made by the Department and the proposed operation has been designed to prevent material damage to hydrologic balance outside the permit area;

4. The area proposed to be mined is not included within an area designated unsuitable for surface coal mining, or is not within an area under study for such designation unless the operator demonstrates he has made substantial legal and financial commitments to the operation prior to January 1, 1977; and

5. In cases when the private coal or other mineral estate has been severed from the private surface estate, the applicant has submitted to the Department:

a. the written consent of the surface owner to the extraction of coal by surface mining methods, or

b. a conveyance that expressly grants or reserves the right to extract the coal by surface mining methods.

If the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship shall be determined in accordance with state law. Nothing in this act shall be construed to authorize the Department to adjudicate property rights disputes.

Laws 1979, c. 249, § 11, emerg. eff. June 1, 1979.

§45-745.9. Schedule of notices of violations of air or water environmental protection laws to be submitted - Effect of prior violations on application.

The applicant shall file with his permit application a schedule listing all notices of violations of this act and any law, rule or regulation of the United States, or of any department or agency in the United States, pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the three-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation. When the schedule or other information available to the Department indicates that any surface coal mining operation owned or controlled by the applicant is currently in violation of this act or such other laws referred to in this section, the permit shall not be issued until the applicant

submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority which has jurisdiction over such violation. No permit shall be issued to an applicant after a finding by the Department, after opportunity for hearing, that the applicant or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this act or the laws of another state or the United States regulating surface coal mining operations of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this act.
Laws 1979, c. 249, § 12, emerg. eff. June 1, 1979.

§45-745.10. Revision of permit.

A. 1. During the term of the permit the permittee may submit an application for a revision of the permit, together with a revised reclamation plan, to the Department. The Department shall promulgate by rule a definition of a major revision and a minor revision. The fees for an application for a revision shall be:

Major revision \$250.00

Minor revision \$100.00

Said fee shall be owing and due upon the Department's completion of action upon the application and said fee shall be paid in full prior to the issuance of any revised permit and the Department shall issue said revised permit no later than five (5) days after payment. The fees collected under this section shall be deposited in the Department of Mines Revolving Fund.

2. An application for a revision of a permit shall not be approved unless the Department finds that reclamation as required by this act can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within a reasonable period of time. The Department shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply. Any revisions which propose significant alterations in the reclamation plan shall, at a minimum, be subject to notice and hearing requirements.

3. Any extensions to the area covered by the permit except incidental boundary revisions shall be made by application for another permit.

B. The Department shall, within a time limit prescribed in regulations, review outstanding permits and may require reasonable revision or modification of the permit provisions during the term of such permit. Such revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by the Department.

Amended by Laws 1985, c. 339, § 4, emerg. eff. July 30, 1985; Laws 1986, c. 308, § 7, operative July 1, 1986.

§45-745.11. Exploration regulations - Contents - Confidential or privileged information - Tonnage limitations - Violations.

A. Coal exploration operations which substantially disturb the natural land surface shall be conducted in accordance with exploration regulations issued by the Department. Such regulations shall include, at a minimum:

1. The requirement that prior to conducting any exploration under this section, any person shall file with the Department notice of intention to explore, and such notice shall include a description of the exploration area and the period of supposed exploration; and

2. Provisions for reclamation, in accordance with the surface coal mining operations performance standards of this act, of all lands disturbed in exploration, including excavations, roads, drill holes and the removal of necessary facilities and equipment.

B. Information submitted to the Department pursuant to this subsection which is designated in writing as confidential, concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the person or entity intended to explore the described area, shall not be available for public examination.

C. No operator shall remove more than two hundred fifty (250) tons of coal pursuant to an exploration permit without the specific written approval of the Department.

D. Any person violating this section shall be subject to the penalty provisions of this act.

Laws 1979, c. 249, § 14, emerg. eff. June 1, 1979.

§45-745.12. Advertisement of ownership, location and boundaries of affected land - Notice to political subdivisions, etc. - Comments on proposed operation.

At the time of submission of an application for a surface coal mining and reclamation permit, or revision of an existing permit, the applicant shall submit to the Department a copy of his advertisement of the ownership, precise location and boundaries of the land to be affected. At the time of submission such advertisement shall be placed by the applicant in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four (4) consecutive weeks. The Department shall notify various local governmental bodies, planning agencies, sewage and water treatment authorities and water companies in the locality in which the proposed surface mining will take place notifying them of the operator's intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining

and reclamation plan may be inspected. These local bodies, agencies, authorities or companies may submit written comments within a reasonable period established by the Department on the mining applications with respect to the effect of the proposed operation on the environment which are within their areas of responsibility. Such comments shall immediately be transmitted to the applicant by the Department and shall be made available to the public at the same locations as are the mining applications. Laws 1979, c. 249, § 15, emerg. eff. June 1, 1979.

§45-745.13. Objections to application for permit - Informal conference - Hearings.

A. Any person having an interest which is or may be adversely affected, or the chief administrative officer of any federal, state or local governmental agency or authority, shall have the right to file written objections to the application for a permit with the Department within thirty (30) days after the last publication of the notice. Such objections shall immediately be transmitted to the applicant by the Department and shall be made available to the public. If written objections are filed and an informal conference requested, the Department shall then hold an informal conference in the locality of the proposed mining. The date, time and location of such informal conference shall be advertised by the Department in a newspaper of general circulation in the locality at least two (2) weeks prior to the scheduled conference date. The Department may arrange with the applicant, upon request by any party to the application process, access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding, unless waived by all parties. Such record shall be maintained and shall be accessible to the parties until final release of the applicant's performance bond. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their requests, such informal conference need not be held.

B. Where the lands included in an application for a permit are the subject of a federal coal lease in connection with which hearings were held and determinations were made under the Mineral Lands Leasing Act, as amended, 30 U.S.C. 201a, such hearings shall be deemed as to the matters covered to satisfy the requirements of this section and Section 17 of this act and such determinations shall be deemed to be a part of the record and conclusive for purposes of this section and Section 17 of this act. Laws 1979, c. 249, § 16, emerg. eff. June 1, 1979.

§45-745.14. Findings - Notice to applicant - Hearing on findings.

A. If an informal conference has been held, the Department shall issue and furnish the applicant and persons who are parties to the administrative proceedings with the written finding of the Department, granting or denying the permit in whole or in part and stating the reasons therefor, within the sixty (60) days of the hearings in the informal conference.

B. If no informal conference has been held, the Department shall notify the applicant for a permit within a reasonable time, whether the application has been approved or disapproved in whole or in part.

C. If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons shall be set forth in the notification. Within thirty (30) days after the applicant is notified of the final decision of the Department on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination. The Department shall hold a hearing within thirty (30) days of such request and provide notification to all interested parties at the time that the applicant is so notified. Such hearing shall be of record, adjudicatory in nature and no person who presided at an informal conference shall either preside at the hearing or participate in this decision or in any administrative appeal. Within thirty (30) days after the hearing the Department shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the Department granting or denying the permit in whole or in part and stating the reasons.

Laws 1979, c. 249, § 17, emerg. eff. June 1, 1979.

§45-745.15. Temporary relief pending final determination of proceedings - Conduct of hearings - Appeals.

When a hearing is requested pursuant to this act, the Department may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if:

1. All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

2. The person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

3. Such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air or water resources.

For the purpose of this and every hearing authorized by this act, the Department may, pursuant to the Administrative Procedures Act, administer oaths, subpoena witnesses, or written or printed materials, compel attendance of the witnesses, or production of the

materials, and take evidence including, but not limited to, site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each public hearing required by this act shall be made, and a transcript made available on the motion of any party or by order of the Department.

Any applicant or any person with an interest which is or may be adversely affected who has participated in the application process as an objector, and who is aggrieved by the decision of the Department, or if the Department fails to act within the time limits specified in this act, shall have the right to appeal as provided by Section 53 of this act.

Laws 1979, c. 249, § 18, emerg. eff. June 1, 1979.

§45-745.16.1. Small operator assistance program.

The Department shall operate a small operator assistance program to the extent required by federal law, and shall provide such services as are necessary to comply with the permanent regulatory program. The Department is authorized to enter into a cooperative agreement with the Secretary of the Interior regarding distribution of funds for the small operator assistance program.

Added by Laws 1983, c. 39, § 5, emerg. eff. April 20, 1983.

§45-745.17. Copy of application to be filed with county recorder or appropriate public office - Liability insurance - Blasting plans.

A. Each applicant for a surface coal mining and reclamation permit shall file a copy of his application for public inspection with the recorder at the courthouse of the county or an appropriate public office approved by the Department where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

B. Each applicant for a permit shall be required to submit to the Department as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other state or federal self-insurance requirements. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations including use of explosives and entitled to compensation under the applicable provisions of state law. Such policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

C. Each applicant for a surface coal mining and reclamation permit shall submit to the Department as part of the permit

application a blasting plan which shall outline the procedures and standards by which the operator will meet the provisions of law. Laws 1979, c. 249, § 20, emerg. eff. June 1, 1979.

§45-745.18. Impoundments of water on mining sites.

The operator may create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that:

1. The size of the impoundment is adequate for its intended purposes;

2. The impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006);

3. The quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream;

4. The level of water will be reasonably stable;

5. Final grading will provide adequate safety and access for proposed water users; and

6. Such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational or domestic uses.

Laws 1979, c. 249, § 21, emerg. eff. June 1, 1979.

§45-745.19. Augering operations.

The operator shall conduct any augering operation associated with surface mining in a manner to maximize recoverability of coal and other mineral reserves remaining after the operation and reclamation are complete, and seal all auger holes with an impervious and noncombustible material in order to prevent drainage except where the Department determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety. The Department may prohibit augering if necessary to maximize the utilization recoverability or conservation of the solid fuel resources or to protect against adverse water quality impacts.

Laws 1979, c. 249, § 22, emerg. eff. June 1, 1979.

§45-745.20. Disposal of wastes.

The operator shall, with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste

piles in designated areas through construction in compacted layers including the use of incombustible and impervious materials if necessary. He shall also assure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this act.

Laws 1979, c. 249, § 23, emerg. eff. June 1, 1979.

§45-745.21. Surface mining near active and abandoned underground mines.

The operator shall refrain from surface coal mining within five hundred (500) feet from active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners. The Department shall permit an operator to mine near, through or partially through an abandoned underground mine or closer to an active underground mine if the nature, timing and sequencing of the approximate coincidence of specific surface mine activities with specific underground mine activities will result in improved resource recovery, improved land use category abatement of water pollution, or elimination of hazards to the health and safety of underground miners and the public.

Laws 1979, c. 249, § 24, emerg. eff. June 1, 1979.

§45-745.22. Reclamation efforts - Variances.

The operator shall insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations. Where the applicant proposes to combine surface mining operations with underground mining operations to assure maximum practical recovery of the coal and other mineral resources, the Department may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation:

1. If the Department finds in writing that:

a. the applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations,

b. the proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the coal and other mineral resources and will avoid multiple disturbance of the surface,

c. the applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in the jurisdiction and that permits necessary for the underground mining operations have been issued,

d. the areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations,

e. no substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this act, and

f. provisions for the off-site storage of spoil will comply with the requirements of this act;

2. If the United States Secretary of the Interior has promulgated specific regulations to govern the granting of such variances in accordance with the provisions of federal law, and has imposed such additional requirements as he deems necessary;

3. If variances granted under the provisions of this section are to be reviewed by the Department not more than three (3) years from the date of issuance of the permit; and

4. If liability under the bond filed by the applicant with the Department shall be for the duration of the underground mining operations and until the requirements of this act have been fully complied with.

Laws 1979, c. 249, § 25, emerg. eff. June 1, 1979.

§45-746. Restoration of land.

The operator shall restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or of water diminution or pollution. The permit applicant's declared proposed land use following reclamation shall not be impractical or unreasonable, inconsistent with applicable land use policies and plans, involve unreasonable delay in implementation, or violate federal, state or local law.

Laws 1978, c. 10, § 6, emerg. eff. Feb. 2, 1978.

§45-747. Backfilling, compacting, and grading.

The operator shall backfill, compact where advisable to insure stability or to prevent leaching of toxic materials, and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this act.

Laws 1978, c. 10, § 7, emerg. eff. Feb. 2, 1978.

§45-748. Conditions where backfilling, compacting, and grading are necessary.

In surface coal mining:

1. Which is carried out at the same location over a substantial period of time when the operation transects the coal deposit;

2. The thickness of the coal deposits relative to the volume of the overburden is large; and

3. Where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour;

the operator, at a minimum, shall backfill, grade and compact, where advisable, using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose. The operator shall provide adequate drainage and cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region.

Laws 1978, c. 10, § 8, emerg. eff. Feb. 2, 1978.

§45-749. Restoring excess overburden, spoils and waste materials.

In surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade and compact, where advisable, the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region. Such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion and water pollution and shall be revegetated in accordance with the requirements of this act.

Laws 1978, c. 10, § 9, emerg. eff. Feb. 2, 1978.

§45-750. Removal and restoration of topsoil.

The operator shall remove the topsoil from the land in a separate layer, replace it on the backfill area or if not utilized immediately, segregate it in a separate pile from other spoil. When the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, the operator shall maintain a successful cover by quick-growing plants or other means so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation. If the topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be

shown to be more suitable for vegetation requirements, then the operator shall remove, segregate and preserve in a like manner such other strata which is best able to support vegetation.
Laws 1978, c. 10, § 10, emerg. eff. Feb. 2, 1978.

§45-751. Disturbances to hydrologic balance.

The operator shall minimize the disturbances to the prevailing hydrologic balance, at the mine site and in associated offsite areas, and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by:

1. Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

a. preventing or removing water from contact with toxic producing deposits,

b. treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses, and

c. casing, sealing, or otherwise managing boreholes, shafts, and wells and keeping acid or other toxic drainage from entering ground and surface waters;

2. a. Conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal law, and

b. constructing any siltation structures pursuant to this paragraph prior to commencement of surface coal mining operations. Such structures shall be certified by a qualified registered engineer to be constructed as designed and as approved in the reclamation plan;

3. Cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the Department;

4. Restoring recharge capacity of the mined area to approximate premining conditions;

5. Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

6. Preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

7. Such other actions as the Department may prescribe.

Laws 1978, c. 10, § 11, emerg. eff. Feb. 2, 1978.

§45-752. Waste piles.

The operator shall design, locate, construct, operate, maintain, enlarge, modify and remove or abandon, in accordance with the standards and criteria developed by the Department, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments.
Laws 1978, c. 10, § 12, emerg. eff. Feb. 2, 1978.

§45-753. Explosives - Rules and regulations.

A. The operator shall insure that explosives are used only in accordance with existing state and federal law and the regulations promulgated by the Department, which shall require:

1. Adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality, and by mailing a copy of the proposed blasting schedule to every resident living within one-half (1/2) mile of the proposed blasting site and by providing daily notice to resident/occupiers in such areas prior to any blasting;

2. Maintaining for a period of at least three (3) years and making available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

3. Limiting the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area;

4. All blasting operations be conducted by trained and competent persons as certified by the Department;

5. Upon the request of a resident or owner of a man-made dwelling or structure within one-half (1/2) mile of any portion of the permitted area the applicant or permittee shall conduct a pre-blasting survey of such structures and submit the survey to the Department and a copy to the resident or owner making the request. The area of the survey shall be decided by the Department; and

6. For the purposes of this section:

a. for blasting operations using electronic-blasting detonators, a "loaded hole" is defined as one that contains explosives or blasting agents with a primer where the hole has been stemmed and has a short length of connecting wire sticking out but does not have a firing device connected,

- b. for blasting operations not using electronic detonators, a hole with explosives and a blasting cap is considered a "loaded and charged hole",
- c. for blasting operations using electronic-blasting detonators, a "charged hole" is defined as one that contains explosives or blasting agents with a primer where the hole has been tamped with a short length of connecting device sticking out and it does have a firing device connected,
- d. "blasting site" is defined as the area within fifty (50) feet, or any alternative distance provided in the blasting plan of the approved permit on file, of any holes loaded with explosives, blasting agents or detonators,
- e. "blasting area" is defined as the area where flying rock may be considered dangerous, which shall be determined by the certified blaster.

B. Rules and procedures for the use of explosives are as follows:

1. Persons who use explosives, blasting agents or detonators shall be certified by the Oklahoma Mining Commission. Such persons shall understand the hazards involved, and trainees shall do such work only under the supervision of and in the immediate presence of certified persons;

2. Blasting operations shall be under the direct control of certified persons designated by the operator for that purpose;

3. Damaged or deteriorated explosives, blasting agents and detonators shall be disposed of in a safe manner;

4. For blasting operations using electronic blasting detonators, loaded holes shall be charged as near to blasting time as practical and in compliance with the known physical limitations and properties of the specific blasting materials and equipment specified by the manufacturer. Unless authorized by the appropriate regulatory authority, loaded holes shall be detonated within sixty (60) days from the date of loading;

5. No person shall smoke within fifty (50) feet of explosives, blasting agents or detonators;

6. Only wooden or other nonsparking devices shall be used to punch holes in explosives cartridges;

7. Tamping poles shall be blunt and squared at one end and made of wood or other nonsparking material;

8. No tamping shall be done directly on primer cartridges;

9. During the loading of holes, only the work activities associated with the explosives operation will be permitted in the blasting site;

10. During charging and firing, only the work activities associated with the explosives operation will be permitted in the blasting area;

11. Unused explosives and detonators shall be moved to a safe location as soon as charging operations are completed;

12. Approaches to areas in which charged holes are awaiting firing shall be guarded or barricaded and posted or flagged against unauthorized entry;

13. When a blast is about to be fired, ample warning shall be given to allow all persons to retreat to a safe place. Each mine shall have a definite plan of warning signals that can be clearly seen or heard by anyone in the blasting area. The operator shall inform all employees at the local mine as to the established procedure;

14. Enclosed blasting shelters constructed of strong materials shall be provided to protect all persons endangered by flying rock from blasting;

15. When safety fuse has been used, persons shall not return to misfired holes for at least thirty (30) minutes;

16. When electric blasting caps have been used, persons shall not return to misfired holes for at least fifteen (15) minutes. Leading wires from the power source must be disconnected before persons can be allowed to return to the blasting sites;

17. Blasted materials shall be examined for undetonated explosives after each blast and undetonated explosives found shall be disposed of safely;

18. Misfires shall be reported to the proper supervisor and shall be disposed of safely before any other work is performed in the blasting area;

19. Blast holes in hot-hole areas and holes that have been sprung shall not be charged before tests have been made to insure that the heat has been dissipated to a safe level;

20. If explosives are suspected of burning in a hole, all persons in the endangered area shall move to a safe location until the danger has passed;

21. Holes shall not be drilled where there is danger of intersecting a charge or misfired hole;

22. Fuses and igniters shall be stored in a cool, dry place away from oils or grease;

23. Fuses shall not be kinked, bent sharply or handled roughly;

24. Fuses shall be cut and capped in safe, dry locations posted with "No Smoking" signs;

25. Blasting caps shall be crimped to fuses only with devices designed for that specific purpose;

26. Fuses of less than forty-eight (48) inches in length shall not be used for any purpose;

27. At least two persons shall be present when lighting fuses, and no person shall light more than fifteen individual fuses. If more than fifteen holes per person are to be fired, igniter cord and connectors or electric blasting shall be used;

28. A safe interval of time shall be allowed to light a round and evacuate the blasting area;

29. Fuses shall be ignited with hot-wire lighters, lead spitters, igniter cord or other such devices designed for this purpose;

30. Fuses shall not be ignited before the primer and the entire charge are securely in place;

31. Electric detonators of different brands shall not be used in the same round;

32. Electric detonators shall remain shunted until they are being wired into the blasting circuit. Lead lines and wired rounds shall be kept shunted until immediately before blasting;

33. Completely wired rounds shall be tested with a blasting galvanometer before connections are made to the blasting line;

34. Lead wires and blasting lines shall not be strung across power conductors, pipelines or within twenty (20) feet of bare power lines. They shall be protected from sources of static or other electrical contact;

35. Permanent blasting lines shall be properly supported, insulated and kept in good repair;

36. Charging shall be stopped immediately when the presence of static electricity or stray current is detected; the condition shall be corrected before charging is resumed;

37. Charging of holes shall be suspended and the persons withdrawn to a safe location upon the approach of an electrical storm;

38. Safety switches and blasting switches shall be labeled, encased in boxes and arranged so that the covers of the boxes cannot be closed with the switches in closed position;

39. Blasting switches shall be locked in the open position except when closed to fire the blast. Lead wires shall not be connected to the blasting switch until the shot is ready to be fired;

40. The key to a blasting switch shall be entrusted only to the person designated to fire blasts;

41. Electric circuits from the blasting switches to the blast area shall not be grounded;

42. At least a five-foot air gap shall be provided between the blasting circuit and the power circuit;

43. Where electric blasting is to be performed, electric circuits to equipment within twenty-five (25) feet of a hole that is to be charged with an electric blasting cap shall be de-energized

before electric detonators are brought into the immediate area, or the electric equipment shall be moved out of the immediate area;

44. Power sources shall be suitable for the number of electric detonators to be fired and for the type of circuits used;

45. When instantaneous blasting is performed, the double-trunkline or loop system shall be used in detonating-cord blasting;

46. When instantaneous blasting is performed, trunklines in multiple-row blasting shall make one or more complete loops with crossties between loops at intervals of not over two hundred (200) feet;

47. All detonating-cord knots shall be tight and all connections shall be kept at right angles to the trunklines;

48. Delay connectors for firing detonating-cord shall be treated and handled with the same safety precautions as blasting caps and electric detonators; and

49. Detonating-cord shall not be kinked, bent or otherwise handled in such a manner that the train of detonation may be interrupted.

Added by Laws 1978, c. 10, § 13, emerg. eff. Feb. 2, 1978. Amended by Laws 2017, c. 269, § 1, eff. Nov. 1, 2017.

§45-754. Reestablishment of native flora - Length of liability.

A. The operator shall establish on the regraded areas and all other lands affected, a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan.

B. The operator shall assume the responsibility for successful revegetation for a period of five (5) full years after the last year of augmented seeding, fertilizing, irrigation or other work in order to assure compliance with this section. In those areas or regions of Oklahoma, where the annual average precipitation is twenty-six (26) inches or less as determined by the most recent National Oceanic and Atmospheric Administration Annual Summary of Climatological Data for Oklahoma, then the operator's assumption of responsibility and liability will extend for a period of ten (10) full years after the last year of augmented seeding, fertilizing, irrigation or other work. When the Department approves a long-term intensive agricultural postmining land use, the applicable five- or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use. When the Department issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the

Department may grant exception to the provisions of subsection A of this section.

Laws 1978, c. 10, § 14, emerg. eff. Feb. 2, 1978; Laws 1979, c. 249, § 26, emerg. eff. June 1, 1979.

§45-754.1. Spoil material - Placement.

The operator shall place all excess spoil material resulting from coal surface mining and reclamation activities in such a manner that:

1. Spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way to assure mass stability and to prevent mass movement;
2. The areas of disposal are within the bonded permit areas and all organic matter shall be removed immediately prior to spoil placement;
3. Appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and movement;
4. The disposal area does not contain springs, natural water courses or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented;
5. If placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the Department, the spoil could be placed in compliance with all the requirements of this act, and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement;
6. Where the toe of the spoil rests on a downslope, a rock toe buttress, of sufficient size to prevent mass movement, is constructed;
7. The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses;
8. Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and
9. All other provisions of this act are met.

Laws 1979, c. 249, § 27, emerg. eff. June 1, 1979.

§45-754.2. Performance standards.

The operator shall also fulfill the following performance standards:

1. Conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that re-affecting the land in the future through surface coal mining can be minimized;

2. Stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

3. Restore the topsoil or the best available subsoil which is best able to support vegetation;

4. Insure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;

5. Insure that the construction, maintenance and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property;

6. Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

7. Protect off-site areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

8. To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

9. Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the Department shall determine shall be retained in place as a barrier to slides and erosion; and

10. Meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this act, taking into consideration the physical, climatological, and other characteristics of the site.

Laws 1979, c. 249, § 28, emerg. eff. June 1, 1979.

§45-755. Steep slope surface mining - Performance standards - Exemptions.

The following performance standards shall be applicable to steep slope surface coal mining and shall be in addition to those general performance standards required by this act. These provisions shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area.

1. The operator shall insure that when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut;

2. Complete backfilling with spoil material shall be required to cover completely the highwall and return the site to the appropriate original contour, which material will maintain stability following mining and reclamation;

3. The operator may not disturb land above the top of the highwall unless the Department finds that such disturbance will facilitate compliance with the environmental protection standards of this act. The land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance; and

4. For the purposes of this section, the term steep slope is any slope above twenty (20) degrees or such lesser slope as may be defined by the Department after consideration of soil, climate and other characteristics of a region or state.

Laws 1978, c. 10, § 15, emerg. eff. Feb. 2, 1978.

§45-756. Performance standards for removal of entire coal seam - Postmining land use as condition for granting permit.

A. Where a surface coal mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge or hill by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining and which will be capable of supporting postmining uses in accordance with the requirements of this section, such operation shall require that:

1. The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

2. The reclaimed area is stable;

3. The resulting plateau or rolling contour drains inward from the out slopes except at specified points;

4. No damage will be done to natural watercourses;

5. Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use; and

6. Stability of the spoil retained on the mountaintop is insured and meets the other requirements of this act.

Such operation shall not be required to restore the original contour as provided in Section 747 of this title.

B. In cases where an industrial, commercial, agricultural, residential or public facility, including recreational facilities, use is proposed as the postmining use of the affected land, the Department may grant a permit for a surface mining operation of the nature described in this section if:

1. The proposed postmining land use is deemed to constitute an equal or better economic or public use of the affected land, as compared with premining use after consultation with the appropriate land use planning agencies;

2. The applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be:

- a. compatible with adjacent land uses,
- b. obtainable according to data regarding expected need and market,
- c. assured of investment in necessary public facilities,
- d. supported by commitments from public agencies where appropriate,
- e. practicable with respect to private financial capability for completion of the proposed use,
- f. planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use, and
- g. designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;

3. The proposed use would be consistent with adjacent land uses, and existing state and local land use plans and programs;

4. The Department provides the governing body of the unit of general-purpose government in which the land is located and any state or federal agency which the Department, in its discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty (60) days to review and comment on the proposed use;

5. All other requirements of this act will be met.
Laws 1978, c. 10, § 16, emerg. eff. Feb. 2, 1978; Laws 1979, c. 249, § 29, emerg. eff. June 1, 1979.

§45-757. Prime farmland - Soil restoration - Exemptions.

If the area proposed to be mined contains prime farmland, the Department shall, after consultation with the United States Secretary of Agriculture, and pursuant to regulations issued by the United States Secretary of the Interior with the concurrence of the United States Secretary of Agriculture, grant a permit to mine on prime farmland if the Department finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as non-mined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards. The requirements of this section shall apply to all permits issued after August 3, 1977.

Nothing in this section shall apply to any permit issued prior to August 3, 1977, or to any revisions or renewals thereof, or to any existing surface mining operations for which a permit was issued prior to August 3, 1977.

1. The operator shall be required to segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

2. Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

3. Replace and regrade the root zone material described in paragraph 2 above with proper compaction and uniform depth over the regraded spoil material; and

4. Redistribute and grade in a uniform manner the surface soil horizon described in paragraph 1 of this section.

Laws 1978, c. 10, § 17, emerg. eff. Feb. 2, 1978.

§45-760. Mine operators - Duties.

Each permit issued relating to underground coal mining shall require the operator to:

1. Adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible. The operator shall maximize mine stability and maintain the value and reasonably foreseeable use of surface lands, except in those instances when the mining technology used requires planned subsidence in a predictable and controlled manner. Nothing in this paragraph shall be construed to prohibit the standard method of room and pillar mining;

2. Seal all portals, entryways, drifts, shafts or other openings between the surface and underground mine working when no longer needed for the conduct of the mining operations;

3. Fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible the return of mine and processing waste, tailings and any other waste incident to the mining operation, to the mine workings or excavations;

4. Stabilize, with respect to surface disposal of mine wastes, tailings, coal processing wastes and other wastes in areas other than the mine workings or excavations, all waste piles created by the permittee from current operations through construction in compacted layers including the use of incombustible and impervious materials if necessary. The operator shall assure that the leachate will not degrade below water quality standards established pursuant to applicable federal and state law surface or ground waters. The operator shall assure that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

5. Design, locate, construct, operate, maintain, enlarge, modify and remove or abandon all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments as required by the Department;

6. Establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

7. Protect offsite areas from damages which may result from such mining operations;

8. Eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to the public health and safety;

9. Minimize the disturbances of the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quantity of water in surface ground water systems both during and after coal mining operations and during reclamation by:

a. avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(1) preventing or removing water from contact with toxic producing deposits,

(2) treating drainage to reduce toxic content which adversely affects downstream water upon being released to watercourses, and

(3) casing, sealing or otherwise managing boreholes, shafts and wells to keep acid or other toxic drainage from entering ground and surface waters, and

b. conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area. In no event shall such contributions be in excess of requirements set by applicable state or federal law. The operator shall avoid channel deepening or enlargement in operations requiring the discharge of water from mines;

10. Operate, with respect to other surface impacts not specified in this section, including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities or other property or materials on the surface, resulting from or incident to such activities, in accordance with the standards established under this title for such effects which result from surface coal mining operations. The Department shall make such modifications in the requirements imposed by this paragraph as are necessary to accommodate the distinct difference between surface and underground coal mining;

11. Minimize, to the extent possible using the best technology currently available, disturbances and adverse impacts of the operation on fish, wildlife and related environmental values and achieve enhancement of such resources where practicable; and

12. Locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner as to prevent a gravity discharge of water from the mine.

Laws 1978, c. 10, § 20, emerg. eff. Feb. 2, 1978.

§45-760.1. Suspension of underground mining in certain areas.

In order to protect the stability of the land, the Department shall suspend underground coal mining under urbanized areas, cities, towns and communities and adjacent to industrial or commercial buildings, major impoundments or permanent streams if it finds imminent danger to inhabitants of the urbanized areas, cities, towns and communities.

Laws 1979, c. 249, § 30, emerg. eff. June 1, 1979.

§45-760.2. Application of act to surface operations -
Modifications.

The provisions of this act relating to permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining. The Department shall adopt such modifications.

Laws 1979, c. 249, § 31, emerg. eff. June 1, 1979.

§45-761. Licenses and permits - Display - Inspection.

A copy of all current permits, licenses, approved plans or other authorizations to operate the mine shall be available for inspection at or near the mine site.

Laws 1978, c. 10, § 21, emerg. eff. Feb. 2, 1978.

§45-763. Renumbered as § 791 of this title by Laws 1979, c. 249, § 59, emerg. eff. June 1, 1979.

§45-764. Renumbered as § 792 of this title by Laws 1979, c. 249, § 59, emerg. eff. June 1, 1979.

§45-765. Data collection and analysis.

A. The Department shall require any permittee to establish and maintain appropriate records, make monthly reports to the Department, install, use and maintain any necessary monitoring equipment or methods, evaluate results in accordance with such methods, at such locations, intervals and in such manner as the Department shall prescribe, and provide such other information relative to surface coal mining and reclamation operations as the Department deems reasonable and necessary.

B. For those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance of water use either on or off the mining site, the Department shall specify:

1. Monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence;

2. Monitoring sites to record level, amount and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined;

3. Records of well logs and borehole data to be maintained; and

4. Monitoring sites to record precipitation.

The monitoring data collection and analysis required by this section shall be conducted according to standards and procedures set forth by the Department in order to assure their reliability and validity.

Laws 1979, c. 249, § 32, emerg. eff. June 1, 1979.

§45-766. Right of entry - Inspections - Signs - Violations - Public inspection of records, etc.

A. The representatives of the Department may enter upon the lands of the operator at all times deemed reasonable and necessary by the Department without advance notice and upon presentation of appropriate credentials for the purpose of inspection, to determine whether the provisions of this act have been complied with, and may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this act.

B. The inspections by the Department shall:

1. Occur on an irregular basis averaging at least one partial inspection per month for each active surface coal mining and reclamation operation covered by permit. Partial inspections on each inactive surface coal mining and reclamation operation covered by permit shall be conducted as necessary to ensure the effective enforcement of this act. At least one complete inspection shall be conducted per calendar quarter on each active and inactive surface coal mining and reclamation operation covered by permit.

For the purpose of this section, an inactive surface coal mining and reclamation operation is defined as those operations which have obtained at least a sixty percent (60%) bond release pursuant to paragraph 1 of subsection A of Section 772 of this title. All other surface coal mining operations shall be considered as active;

2. Occur without prior notice to the permittee or his agents or employees except for necessary on-site meetings with the permittee; and

3. Include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this act.

C. Each permittee shall maintain in a conspicuous place at the entrances to the surface coal mining and reclamation operations clearly visible signs which set forth the name, business address and phone number of the permittee and the permit number of the surface coal mining and reclamation operations.

D. Each inspector, upon detection of each violation of any requirement of this act, shall immediately inform the operator in writing of the violation, and shall report in writing any such violation to the Department.

E. Copies of any records, reports, inspection materials or information obtained under this act by the Department shall be made immediately available for inspection by the public at central and sufficient locations designated by the Department in the county, multicounty and state area of mining so that they are conveniently available to residents in the areas of mining, excepting such information required to be kept confidential by this act.

Amended by Laws 1984, c. 248, § 5, emerg. eff. May 29, 1984.

§45-767. Conflicts of interest - Violations.

No employee of the Department of Mines or any other state employee performing any function or duty under this act shall be directly or indirectly interested in any mining operation, or any contract for purchase of any property or construction or any work for any mining operation. Any person who knowingly violates the provision of this section shall be guilty of a misdemeanor and, upon conviction shall be punished by incarceration for a period not to exceed one (1) year or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

Laws 1979, c. 249, § 34, emerg. eff. June 1, 1979.

§45-768. Reports of violations of act - Informal review - Inspection procedure.

A. Any person who is or may be adversely affected by a surface mining operation may notify the Chief Mine Inspector or any representative of the Chief Mine Inspector responsible for conducting the inspection, in writing, of any violation of this act which he has reason to believe exists at the surface mining site. If the person who is or may be adversely affected by surface mining operations states in such writing that he desires the source of the complaint or writing kept confidential, the Department shall maintain such information in confidence. The Chief Mine Inspector shall, by regulation, establish procedures for informal review of any refusal by a representative of the Chief Mine Inspector to issue a citation with respect to any such alleged violation. The Chief Mine Inspector shall furnish such persons requesting the review a written statement of the reasons for the Chief Mine Inspector's final disposition of the case.

B. The Chief Mine Inspector shall also, by regulation, establish procedures to ensure that adequate and complete inspections are made. Any such person may notify the Chief Mine Inspector of any failure to make such inspections, after which the Chief Mine Inspector shall determine whether adequate and complete inspections have been made. The Chief Mine Inspector shall furnish such persons a written statement of the reasons for the Chief Mine Inspector's determination that adequate and complete inspections have or have not been conducted.

Amended by Laws 1985, c. 339, § 5, emerg. eff. July 30, 1985.

§45-769. Civil penalties.

A. In the enforcement of a state program pursuant to this act any operator who violates any permit condition or who violates any other provision of this act may be assessed a civil penalty by the Department except that if such violation leads to the issuance of a cessation order under this act, the civil penalty shall be assessed. Such penalty shall not exceed Five Thousand Dollars (\$5,000.00) for each violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the operator's history of previous violations at the particular surface coal mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

B. A civil penalty shall be assessed by the Department only after the person charged with a violation described under subsection A of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Chief Mine Inspector shall make findings of fact, and he shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. When appropriate, the Chief Mine Inspector shall consolidate such hearings with other proceedings under this act. Any hearing under this section shall be of record. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Chief Mine Inspector after the Chief Mine Inspector has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

C. Upon the issuance of a notice or order charging that a violation of this act has occurred, the Department shall inform the operator within thirty (30) days of the proposed amount of said penalty. The person charged with the penalty shall then have thirty (30) days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the Department for placement in an escrow account. If through administrative or judicial review of the proposed penalty, it is determined that no violation occurred, or that the amount of the penalty should be reduced, the Department shall within thirty (30) days remit the appropriate amount to the person, with interest at the rate of six percent (6%), or at the prevailing United States Department of the Treasury rate, whichever is greater. Failure to forward the money to the Department within thirty (30) days shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

D. Civil penalties owed under this act may be recovered in a civil action brought by the Attorney General at the request of the Chief Mine Inspector in any appropriate district court.

E. Any person who willfully and knowingly violates a condition of a permit issued pursuant to this act or fails or refuses to comply with any order issued under this act, or any order incorporated in a final decision issued by the Chief Mine Inspector under this act except an order incorporated in a decision issued under subsection B of this section, shall, upon conviction, be punished by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than one (1) year, or both.

F. Whenever a corporate permittee violates a condition of a permit issued pursuant to this act or fails or refuses to comply

with any order issued under this act, or any order incorporated in a final decision issued by the Chief Mine Inspector under this act except an order incorporated in a decision issued under subsection B of this section, any director, officer or agent of such corporation who willfully and knowingly authorized, ordered or carried out such violation, failure or refusal shall be subject to the same civil penalties, fines and imprisonment that may be imposed upon a person under subsections A and E of this section.

G. Whoever knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this act or any order of decision issued by the Department under this act, shall, upon conviction, be punished by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than one (1) year, or both.

H. Any operator who fails to correct a violation for which a citation has been issued within the period permitted for its correction shall be assessed a civil penalty of not less than Seven Hundred Fifty Dollars (\$750.00) for each day during which such failure or violation continues.

The period permitted for corrections of violations shall not end until:

1. The entry of a final order by the Department after an expedited hearing, as provided by Section 53 of this act, which ordered the suspension of the abatement requirements of the citation because it was determined that the operator will suffer irreparable loss or damage from the application of the abatement requirements; or

2. The entry of an order by a court in any review proceedings initiated by the operator in which the court orders the suspension of the abatement requirements.

I. Any person who shall, except as permitted by law, willfully resist, prevent, impede or interfere with the Chief Mine Inspector or any of the agents or employees of the Department in the performance of duties pursuant to this act shall, upon conviction, be punished by a fine of not more than Five Thousand Dollars (\$5,000.00), or by imprisonment for not more than one (1) year, or both.

Laws 1979, c. 249, § 36, emerg. eff. June 1, 1979.

§45-770. Release of performance bond or deposit - Application.

The permittee may file a request with the Department for the release of all or part of a performance bond or deposit. Within thirty (30) days after any application for bond or deposit release has been filed with the Department, the operator shall submit a copy of an advertisement placed at least once a week for four (4)

successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit and the date approved, the amount of the bond filed and the portion sought to be released, and the type and appropriate dates of reclamation work performed and a description of the results achieved as they relate to the operator's approved reclamation plan. In addition, as part of any bond release application, the applicant shall submit copies of letters which he has sent to adjoining property owners, local governmental bodies, planning agencies and sewage and water treatment authorities or water districts in the districts in which the surface coal mining and reclamation activities took place, notifying them of his intention to seek release from the bond.

Laws 1979, c. 249, § 37, emerg. eff. June 1, 1979.

§45-771. Release of performance bond or deposit - Inspection and evaluation of reclamation work.

Upon receipt of the notification and request, the Department shall within thirty (30) days conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance or future occurrence of such pollution, and the estimated cost of abating such pollution. The Department shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within sixty (60) days from the filing of the request, if no public hearing is held and if there has been a public hearing held within thirty (30) days thereafter.

Laws 1979, c. 249, § 38, emerg. eff. June 1, 1979.

§45-772. Release of performance bond or deposit - Schedule of release - Disapproval of application - Protection of affected area.

A. The Department may release in whole or in part the bond or deposit if the Department is satisfied the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this act according to the following schedule:

1. When the operator completes the backfilling, regrading and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area;

2. After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the Department shall retain that

amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period specified for operator responsibility of reestablishing revegetation. No part of the bond or deposit shall be released under this paragraph so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by law. No part of the bond shall be released until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey. When a silt dam is to be retained as a permanent impoundment, the remaining portion of bond may be released under this paragraph so long as provisions for sound future maintenance by the operator or the landowner have been made with the Department; and

3. When the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for operator responsibility. No bond shall be fully released until all reclamation requirements of this act are fully met.

B. If the Department disapproves the application for release of the bond or portion thereof, the Department shall notify the permittee in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure said release and allowing opportunity for a public hearing.

C. In order to protect areas affected by surface coal mining activities and the surface effects of underground coal mines, no oil or gas drilling activities shall be commenced or continued in any mine permit area while the reclamation bond or any portion thereof remains in effect, without the written approval of the Director.

The Department shall issue rules and regulations establishing criteria and conditions for the approval of the Director under this subsection.

Laws 1979, c. 249, § 39, emerg. eff. June 1, 1979.

§45-773. Release of performance bond or deposit - Notice to municipalities - Objections - Hearings - Informal conference - Authority of department.

A. When any application for total or partial bond release is filed with the Department, the Department shall notify any municipality in which a surface coal mining operation is located by certified mail at least thirty (30) days prior to the release of all or a portion of the bond.

B. Any person with a valid legal interest which might be adversely affected by release of the bond or the responsible

administration officer of any federal, state or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social or economic impact involved in the operation, or is authorized to develop and enforce environmental standards with respect to such operations, shall have the right to file written objections to the proposed release from bond to the Department within thirty (30) days after the last publication of the above notice. If written objections are filed and a hearing requested, the Department shall inform all the interested parties of the time and place of the hearing, and hold a public hearing in the locality of the surface coal mining operation proposed for bond release within thirty (30) days of the request for such hearing. The date, time and location of such public hearings shall be advertised as frequently as possible by the Department in each issue of a newspaper of general circulation in the locality for two (2) consecutive weeks, and shall hold a public hearing in the locality of the surface coal mining operation proposed for bond release or at the State Capitol Building at the option of the objector within thirty (30) days of the request for such hearing.

C. Without prejudice to the rights of the objectors, to the rights of applicant, or to the responsibilities of the Department pursuant to this section, the Department may establish an informal conference to resolve such written objections.

D. For the purpose of such hearing the Department shall have the authority, pursuant to the Administrative Procedures Act, and is hereby empowered to administer oaths, subpoena witnesses, or written or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. A verbatim record of each public hearing required by this act shall be made, and a transcript made available on the motion of any party or by order of the Department.

Laws 1979, c. 249, § 40, emerg. eff. June 1, 1979.

§45-774. Civil actions to compel compliance with act - Exceptions.

A. Except as provided in subsection B of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this act:

1. Against any governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution of the United States which is alleged to be in violation of the provisions of this act or of any rule, regulation, order or permit issued pursuant thereto, or against any other person who is alleged to be in violation of any rule, regulation, order or permit issued pursuant to this act; or

2. Against the Department to the extent permitted by the Eleventh Amendment to the Constitution of the United States where there is alleged a failure of the Department to perform any act or duty under this act which is not discretionary with the Department.

B. No action may be commenced:

1. Under paragraph 1 of subsection A of this section:

a. prior to sixty (60) days after the plaintiff has given notice in writing of the violation to the Department, and to any alleged violator, or

b. if the Department has commenced and is diligently prosecuting a civil action in a court of this state to require compliance with the provisions of this act, or any rule, regulation, order or permit issued pursuant to this act, but in any such action in a court of this state any person may intervene as a matter of right; or

2. Under paragraph 2 of subsection A of this section prior to sixty (60) days after the plaintiff has given notice in writing of such action to the Department, in such manner as the Department shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

C. Any action respecting a violation of this act or the regulations thereunder may be brought only in the judicial district in which the surface coal mining operation complained of is located. In such action under this section, the Department, if not a party, may intervene as a matter of right.

D. The court, in issuing any final order in any action brought pursuant to subsection A of this section, may award costs of litigation, including attorney and expert witness fees, to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security.

E. Nothing in this section shall restrict any right which any person, or class of persons, may have under any statute or common law to seek enforcement of any of the provisions of this act and the regulations thereunder, or to seek any other relief including relief against the Department.

F. Any person who is injured in his person or property through the violation by any operator of any rule, regulation, order or permit issued pursuant to this act may bring an action for damages, including reasonable attorney and expert witness fees, only in the judicial district in which the surface coal mining operation complained of is located. Nothing in this subsection shall affect

the rights established by or limits imposed under Oklahoma Workers' Compensation laws.

Amended by Laws 1983, c. 39, § 2, emerg. eff. April 20, 1983.

§45-775. Inspection of violations.

Whenever the Department has reason to believe that any person is in violation of any requirement of this act or any permit condition required by this act, the Department shall immediately order inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Department is a result of a previous inspection of such surface coal mining operation. When the inspection results from information provided to the Department by any person, the Department shall notify such person when the inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

Laws 1979, c. 249, § 42, emerg. eff. June 1, 1979.

§45-776. Conditions or practices in violation of act - Cessation order - Additional obligations on operator.

If, on the basis of any inspection, the Department determines that any unacceptable condition or practice exists, or that any permittee is in violation of any requirement of this act or any permit condition required by this act, which condition, practice or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources, the Department shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice or violation. Such cessation order shall remain in effect until the Department determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Department. If the Department finds that the ordered cessation of surface coal mining and reclamation operations, or any portion thereof, will not completely abate the imminent danger to the health or safety of the public or the significant imminent environmental harm to land, air or water resources, the Department shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the Department deems necessary to abate the imminent danger or the significant environmental harm.

Laws 1979, c. 249, § 43, emerg. eff. June 1, 1979.

§45-777. Abatement of violation - Notice - Hearing - Cessation orders.

If the Department determines that any permittee is in violation of any requirement of this act or any permit condition required by

this act, but such violation does not create an imminent danger to the health or safety of the public, or cannot be reasonably expected to cause significant, imminent environmental harm to land, air or water resources, the Department shall issue a notice to the permittee or his agent fixing a reasonable time not to exceed ninety (90) days for the abatement of the violation and providing opportunity for public hearing.

If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown and upon the written finding of the Department, the Department finds that the violation has not been abated, it shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Department determines that the violation has been abated, or until modified, vacated or terminated by the Department. In the order of cessation issued by the Department under this section, the Department shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures to abate in the order.

Laws 1979, c. 249, § 44, emerg. eff. June 1, 1979.

§45-778. Suspension or revocation of permit.

If the Department determines that a pattern of violations of any requirements of this act exists or has existed, and if the Department also finds that such violations are caused by the unwarranted or willful failure of the permittee to comply with any requirements of this act, the Department shall immediately issue an order to the permittee to show cause as to why the permit should not be suspended or revoked and shall provide opportunity for a public hearing. If a hearing is requested the Department shall inform all interested parties of the time and place of the hearing. Upon the permittee's failure to show cause as to why the permit should not be suspended or revoked, the Department shall immediately suspend or revoke the permit.

Laws 1979, c. 249, § 45, emerg. eff. June 1, 1979.

§45-779. Notices and orders - Requirements.

Notices and orders issued pursuant to Sections 42 through 45 of this act shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or his agent by the Department and all such notices and orders shall be in writing and shall be signed. Any notice or order issued pursuant to

this section may be modified, vacated or terminated by the Department. Any notice or order which requires cessation of mining by the operator shall expire within thirty (30) days of actual notice to the operator unless a public hearing is held at the site or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of public hearing. Laws 1979, c. 249, § 46, emerg. eff. June 1, 1979.

§45-780. Action for damages and expenses - Injunctions, restraining orders or other orders - Jurisdiction - Relief.

A. The Attorney General, upon request of the Department, shall institute proceedings to recover any damages and expense which the Department may have sustained by reason of the default of the operator. Such proceedings shall be brought against the operator and surety either in Oklahoma County or the county in which the violation occurred.

The Department may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order or any other appropriate order in the district court for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent:

1. Violates or fails or refuses to comply with any order or decision issued by the Department under this act;

2. Interferes with, hinders or delays the Department in carrying out the provisions of this act;

3. Refuses to admit authorized representatives of the Department to the mine;

4. Refuses to permit inspection of the mine by authorized representatives of the Department;

5. Refuses to furnish any information or report requested by the Department in furtherance of the provisions of this act; or

6. Refuses to permit access to, and copying of, such records as the Department determines necessary in carrying out the provisions of this act.

B. The court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under paragraph 1 of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless the district court granting such relief sets it aside or modifies it.

Laws 1979, c. 249, § 47, emerg. eff. June 1, 1979.

§45-781. Land unsuitable for certain types of surface coal mining operations - Designation - Criteria.

A. The Department shall establish a planning process enabling objective decisions based upon competent and scientifically sound

data and information as to which, if any, land areas or this state are unsuitable for all or certain types of surface coal mining operations pursuant to the standards set forth in this section but such designation shall not prevent the mineral exploration pursuant to this act of any area so designated.

B. Upon petition, the Department shall designate an area as unsuitable for all or certain types of surface coal mining operations if the Department determines that reclamation pursuant to the requirements of this act is not technologically and economically feasible.

C. Upon petition, a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will:

1. Be incompatible with existing state or local land use plans or programs;

2. Affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific and esthetic values and natural systems;

3. Affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas; or

4. Affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

D. Determinations of the unsuitability of land for surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the federal, state and local levels.

E. The requirements of this section shall not apply to lands on which surface coal mining operations were being conducted on August 3, 1977, or under a permit issued pursuant to this act or the Coal Reclamation Act of 1978, or where substantial legal and financial commitments in such operation were in existence prior to January 4, 1977.

Laws 1979, c. 249, § 48, emerg. eff. June 1, 1979.

§45-782. Petition to designate area as unsuitable for surface coal mining operations - Hearing - Decision - Impact statement.

A. Any person having an interest which is or may be adversely affected shall have the right to petition the Department to have an area designated as unsuitable for surface coal mining operations or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. Within ten (10) months after receipt of the petition the Department shall hold a public hearing in the locality of the affected area, after appropriate notice and

publication of the date, time and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this section, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty (60) days after such hearing, the Department shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefor. In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

B. Prior to designating any land areas as unsuitable for surface coal mining operations, the Department shall prepare a detailed statement on the potential coal resources of the area, the demand for coal resources, and the impact of such designation on the environment, the economy and the supply of coal.
Laws 1979, c. 249, § 49, emerg. eff. June 1, 1979.

§45-783. Limitations on surface coal mining operations.

After August 3, 1977, and subject to valid existing rights, no surface coal mining operations except those which existed on August 3, 1977, shall be permitted:

1. Within one hundred (100) feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the Department may permit such roads to be relocated or the area affected to lie within one hundred (100) feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected;

2. Within three hundred (300) feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred (300) feet of any public building, school, church, community or institutional building, public park, or within one hundred (100) feet of a cemetery;

3. Within twenty-five (25) feet plus one and one-half (1 1/2) times the depth of the surface cut from the property line of an adjacent property owner, if the surface cut removes and does not replace lateral support, unless there is written agreement between the operator and the adjacent property owner; or

4. On any land prohibited by federal law.

Laws 1979, c. 249, § 50, emerg. eff. June 1, 1979.

§45-784. Cooperative agreements with federal government.

The Department shall have the authority to enter into cooperative agreements with the United States Secretary of the

Interior to provide for departmental regulation of surface coal mining and reclamation operations on federal lands within Oklahoma. Laws 1979, c. 249, § 51, emerg. eff. June 1, 1979.

§45-785. Compliance with act.

Every agency, unit, or instrumentality of federal, state or local government, including any publicly owned utility or publicly owned corporation of federal, state, or local government, which proposes to engage in surface coal mining operations which are subject to the requirements of this act shall comply with the provisions of this act.

Laws 1979, c. 249, § 52, emerg. eff. June 1, 1979.

§45-786. Review of notices or order or modification, vacation or termination of notices or orders - Application - Investigation - Hearing - Temporary relief - Suspension or revocation of permit - Costs.

A. A permittee issued a notice or order by the Department pursuant to the provisions of this act or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation or termination of such notice or order, may apply to the Chief Mine Inspector for review of the notice or order within thirty (30) days of receipt thereof or within thirty (30) days of its modification, vacation or termination. Upon receipt of such application, the Chief Mine Inspector shall cause such investigation to be made as it deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation or termination thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five (5) days prior thereto. Any such hearing shall be of record.

B. Upon receiving the report of such investigation, the Chief Mine Inspector shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying or terminating the notice or order, or the modification, vacation or termination of such notice or order complained of and incorporate his findings therein. Where the application for review concerns an order for cessation of surface coal mining and reclamation operations issued pursuant to the provisions of this title, the Chief Mine Inspector shall issue the written decision within thirty (30) days of the receipt of the

application for review, unless temporary relief has been granted by the Chief Mine Inspector pursuant to this section or by the court.

C. Pending completion of the investigation and hearing required by this section, the applicant may file with the Chief Mine Inspector a written request that the Chief Mine Inspector grant temporary relief from any notice or order issued together with a detailed statement giving reasons for granting such relief. The Chief Mine Inspector shall issue an order or decision granting or denying such relief expeditiously. Where the applicant requests relief from an order for cessation of coal mining and reclamation operations, the order or decision on such a request shall be issued within five (5) days of its receipt. The Chief Mine Inspector may grant such relief, under such conditions as it may prescribe, if:

1. A hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

2. The applicant shows that there is substantial likelihood that the findings of the Chief Mine Inspector will be favorable to him; and

3. Such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air or water resources.

D. Following the issuance of an order to show cause as to why a permit should not be suspended or revoked, the Chief Mine Inspector shall hold a public hearing after giving written notice of the time, place and date. Any such hearing shall be of record. Within sixty (60) days following the public hearing, the Chief Mine Inspector shall issue and furnish to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Chief Mine Inspector revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Chief Mine Inspector, or the Chief Mine Inspector shall declare as forfeited the performance bonds for the operation.

E. Whenever an order is issued under this section, or as a result of any administrative proceeding under this act, at the request of any person, a sum equal to the aggregate amount of all costs and expenses, including attorney fees, as determined by the Chief Mine Inspector to have been reasonably incurred by such person for or in connection with his participation in such proceedings, including any judicial review of agency actions, may be assessed against any party or the Department as the court, resulting from judicial review or the Chief Mine Inspector, resulting from administrative proceedings, deems proper.

Amended by Laws 1983, c. 39, § 3, emerg. eff. April 20, 1983.

§45-787. Appeal of order or other action.

Any order or other action of the Department or the Chief Mine Inspector shall be appealable when entered, as provided in Sections 318 et seq. of Title 75 of the Oklahoma Statutes.

Laws 1979, c. 249, § 54, emerg. eff. June 1, 1979.

§45-788. Enforcement or protection of interest in water resources - Replacement of water supply.

A. Nothing in this act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation.

B. The operator of a surface coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution or interruption proximately resulting from such surface coal mine operation.

Laws 1979, c. 249, § 55, emerg. eff. June 1, 1979.

§45-789. Rules and regulations.

The Department shall adopt and promulgate all necessary rules and regulations including rules and regulations for hearings and appeals, subject to the provisions of this act and the Administrative Procedures Act, for the implementation of this act. Provided, the Department shall coordinate its regulations with the Office of Surface Mining to ensure consistency in regulatory actions and that state interpretations of the law and regulations are not more restrictive than those of the Office of Surface Mining. Amended by Laws 1983, c. 39, § 4, emerg. eff. April 20, 1983. Amended by Laws 1983, c. 39, § 4, emerg. eff. April 20, 1983.

§45-790. Unconstitutionality of Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87).

If any provisions of this act are required by the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) and any section, clause or phrase of that Act on which this act is based is declared unconstitutional or invalid by a court having jurisdiction over the State of Oklahoma, the Department may suspend the enforcement of that provision of this act for up to twelve (12) months, and shall immediately notify the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

Laws 1979, c. 249, § 57, emerg. eff. June 1, 1979.

§45-791. Federal rules and regulations - Compliance - Reimbursement for costs.

In compliance with all federal laws, rules and regulations, the Department shall take any such action as it shall deem necessary to make such compliance. The Department shall make every effort to obtain full reimbursement from the Director of the Office of Surface Mining and Reclamation for the costs of performing its duties under this act.

Added by Laws 1978, c. 10, § 23, emerg. eff. Feb. 2, 1978.

Renumbered from Title 45, § 763 Laws 1979, c. 249, § 59, emerg. eff. June 1, 1979.

§45-791.1. Alternative reclamation practices.

In order to encourage advances in mining and reclamation practices or to allow post-mining land use for industrial, commercial, residential or public use (including recreation facilities), the Department with approval by the Secretary of the Interior may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under Sections 746 through paragraph 2 of Section 760 of Title 47 of the Oklahoma Statutes. Such practices may be authorized if:

1. The experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards;

2. The mining operations approved for particular land use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices; and

3. The experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

Added by Laws 1984, c. 248, § 6, emerg. eff. May 29, 1984.

§45-792. Assistance of state agencies.

The Department is authorized to call upon the expertise of all state agencies in the implementation of this act. All state agencies shall provide any assistance as available on the request of the Department.

Added by Laws 1978, c. 10, § 24, emerg. eff. Feb. 2, 1978.

Renumbered from Title 45, § 764 by Laws 1979, c. 249, § 59, emerg. eff. June 1, 1979.

§45-793. Federally inspected reclamation activities.

During any action under which the Office of Surface Mining, Department of the Interior, assumes responsibility for the inspection and enforcement of surface coal mining and reclamation activities in the State of Oklahoma under the authority granted by 30 U.S.C. 1271, the Department may inspect such surface coal mining

and reclamation activities on a less frequent basis than required under Section 766 of Title 45 of the Oklahoma Statutes until full authority for inspection and enforcement is regained from the Office of Surface Mining.

Added by Laws 1984, c. 248, § 7, emerg. eff. May 29, 1984.

§45-801. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-802. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-803. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-804. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-805. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-806. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-807. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-808. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-809. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-810. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-811. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-812. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-813. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-814. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-815. Repealed by Laws 2006, c. 226, § 7, emerg. eff. June 6, 2006.

§45-851. Text of Compact.

The Interstate Mining Compact is hereby entered into by this state with any and all other states legally joining therein in accordance with its terms, in the form substantially as follows:

ARTICLE I. FINDING AND PURPOSES

(a) The party states find that:

1. Mining and the contributions thereof to the economy and well-being of every state are of basic significance.

2. The effects of mining on the availability of land, water and other resources for other uses present special problems which properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes, and the public.

3. Measures for the reduction of the adverse effects of mining on land, water and other resources may be costly and the devising of means to deal with them are of both public and private concern.

4. Such variables as soil structure and composition, physiography, climatic conditions, and the needs of the public make impracticable the application to all mining areas of a single standard for the conservation, adaptation, or restoration of mined land, or the development of mineral and other natural resources; but justifiable requirements of law and practice relating to the effects of mining on land, water, and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operations similarly situated.

5. The states are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles, and with due regard for local conditions.

(b) The purposes of this compact are to:

1. Advance the protection and restoration of land, water and other resources affected by mining.

2. Assist in the reduction or elimination or counteracting of pollution or deterioration of land, water and air attributable to mining.

3. Encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party states which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated.

4. Assist the party states in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health, and public

safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration or protection of such land and other resources.

5. Assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.

ARTICLE II. DEFINITIONS

As used in this compact, the term:

(a) "Mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning or other treatment of minerals, ores or other solid matter so as to make them suitable for commercial, industrial or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on site farming or construction.

(b) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a Territory or Possession of the United States.

ARTICLE III. STATE PROGRAMS

Each party state agrees that within a reasonable time it will formulate and establish an effective program for the conservation and use of mined land, by the establishment of standards, enactment of laws or the continuing of the same in force, to accomplish:

1. The protection of the public and the protection of adjoining and other landowners from damage to their lands and the structures and other property thereon resulting from the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations.

2. The conduct of mining and the handling of refuse and other mining wastes in ways that will reduce adverse effects on the economic, residential, recreational or aesthetic value and utility of land and water.

3. The institution and maintenance of suitable programs for adaptation, restoration and rehabilitation of mined lands.

4. The prevention, abatement and control of water, air and soil pollution resulting from mining, present, past and future.

ARTICLE IV. POWERS

In addition to any other powers conferred upon the Interstate Mining Commission, established by Article V of this compact, such Commission shall have power to:

1. Study mining operations, processes and techniques for the purpose of gaining knowledge concerning the effects of such operations, processes and techniques on land, soil, water, air,

plant and animal life, recreation and patterns of community or regional development or change.

2. Study the conservation, adaptation, improvement and restoration of land and related resources affected by mining.

3. Make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact.

4. Gather and disseminate information relating to any of the matters within the purview of this compact.

5. Cooperate with the federal government and any public or private entities having interests in any subject coming within the purview of this compact.

6. Consult, upon the request of a party state and within resources available therefor, with the officials of such state in respect to any problem within the purview of this compact.

7. Study and make recommendations with respect to any practice, process, technique, or course of action that may improve the efficiency of mining or the economic yield from mining operations.

8. Study and make recommendations relating to the safeguarding of access to resources which are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate use of land and other resources containing minerals or otherwise connected with actual or potential mining sites.

ARTICLE V. THE COMMISSION

(a) There is hereby created an agency of the party states to be known as the "Interstate Mining Commission", hereinafter called "the Commission". The Commission shall be composed of one commissioner from each party state who shall be the Governor thereof. Pursuant to the laws of his party state, each Governor shall have the assistance of an advisory body (including membership from mining industries, conservation interests and such other public and private interests as may be appropriate) in considering problems relating to mining and in discharging his responsibilities as the commissioner of his state on the Commission. In any instance where a Governor is unable to attend a meeting of the Commission or perform any other function in connection with the business of the Commission, he shall designate an alternate, from among the members of the advisory body required by this paragraph, who shall represent him and act in his place and stead. The designation of an alternate shall be communicated by the Governor to the Commission in such manner as its bylaws may provide.

(b) The commissioners shall be entitled to one vote each on the Commission. No action of the Commission making a recommendation pursuant to Articles IV-3, IV-7 and IV-8 or requesting, accepting or disposing of funds, services or other property pursuant to this paragraph, Articles V(g), V(h), or VII shall be valid unless taken

at a meeting at which a majority of the total number of votes on the Commission is cast in favor thereof. All other action shall be by a majority of those present and voting: provided that action of the Commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold and convey real and personal property and any interest therein.

(c) The Commission shall have a seal.

(d) The Commission shall elect annually, from among its members, a Chairman, a Vice Chairman and a Treasurer. The Commission shall appoint an Executive Director and fix his duties and compensation. Such Executive Director shall serve at the pleasure of the Commission. The Executive Director, the Treasurer and such other personnel as the Commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the Commission.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the Executive Director with the approval of the Commission, shall appoint, remove or discharge such personnel as may be necessary for the performance of the Commission's functions, and shall fix the duties and compensation of such personnel.

(f) The Commission may establish and maintain independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the Commission shall be eligible for social security coverage in respect of old-age and survivor's insurance provided that the Commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The Commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

(g) The Commission may borrow, accept or contract for the services of personnel from any state, the United States or any other governmental agency, or from any person, firm, association or corporation.

(h) The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (g) of this article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any,

of the donation, grant or services borrowed and the identity of the donor or lender.

(i) The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(j) The Commission annually shall make to the Governor, Legislature and advisory body required by Article V(a) of each party state a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been made by the Commission. The Commission may make such additional reports as it may deem desirable.

ARTICLE VI. ADVISORY, TECHNICAL AND REGIONAL COMMITTEES

The Commission shall establish such advisory, technical and regional committees as it may deem necessary, membership on which shall include private persons and public officials and shall cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities. Such committees may be formed to consider problems of special interest to any party states, problems dealing with particular commodities or types of mining operations, problems related to reclamation, development, or use of mined land, or any other matters of concern to the Commission.

ARTICLE VII. FINANCE

(a) The Commission shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-half in equal shares; and the remainder in proportion to the value of minerals, ores, and other solid matter mined. In determining such values, the Commission shall employ such available public source or sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of minerals, ores, and other solid matter mined.

(c) The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under Article V(h) of this compact: provided that the Commission takes specific action setting

aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under Article V(h) hereof, the Commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

(f) Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII. ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force when enacted into law by any four or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX. EFFECT ON OTHER LAWS

Nothing in this compact shall be construed to limit, repeal or supersede any other law of any party state.

ARTICLE X. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and

in full force and effect as to the state affected as to all severable matters.

Added by Laws 1970, c. 51, § 1, emerg. eff. March 3, 1970.

§45-852. Governor as ex officio member.

The Governor shall be, ex officio, this state's member of the Interstate Mining Compact as established by Article V of the Compact. Provided, that whenever the Governor shall deem it advisable to do so, he may appoint an alternate to serve in his stead and thereafter such alternate shall serve at the pleasure of the Governor. An executed counterpart of each letter of appointment by the Governor shall be filed with the Secretary of the Commission. Laws 1970, c. 51, § 2, emerg. eff. March 3, 1970.

§45-853. Supplementary agreements - Legislative appropriation.

Any supplementary agreement entered into pursuant to Article VII of Compact and requiring the expenditure of funds or the assumption of an obligation to expend funds shall not become effective as to this state prior to the making of an appropriation therefor by the Legislature. Provided, that with respect to the payment of this state's share of the budget of expenditures for the maintenance of the Commission as provided in Article V of the Compact, the Governor may, in the absence of a specific legislative appropriation for such purpose, use appropriations as are made available to him for emergency and contingency expenditures.

Laws 1970, c. 51, § 3, emerg. eff. March 3, 1970.

§45-901. Definitions.

As used in this act:

1. "Active workings" means any place in a mine where miners are normally required to work or travel;
2. "American table of distances" means the 1971 edition of "The American Table of Distances for Storage of Explosives" published by the Institute of Makers of Explosives;
3. "ANFO" means ammonium nitrate fuel oil mixtures;
4. "Approved" means tested and accepted for a specific purpose by a nationally recognized safety agency;
5. "Barricaded" means obstructed to restrict the passage of persons, vehicles or flying materials;
6. "Berm" means a pile or mound of material capable of restraining a vehicle; also a shelf, ledge or material placed to contain loose slope material;
7. "Blasting agent" means a cap insensitive chemical composition or mixture consisting of fuel and oxidizer and no explosive ingredient but which can be made to detonate when initiated with a high strength explosive primer;

8. "Blasting area" means the area near blasting operations in which concussion or flying material can reasonably be expected to cause injury;

9. "Blasting cap" means a detonator containing a charge of detonating compound which is ignited by electric current or the spark of a fuse and is used for detonating explosives;

10. "Blasting circuit" means electric current used to fire electric detonators or to ignite an igniter cord by means of an electric starter;

11. "Box-type magazine" means a small, portable magazine used to store limited quantities of explosives or detonators for short periods of time in locations at the mine which are convenient to the blasting sites at which they will be used;

12. "Capped fuse" means a length of safety fuse to which a detonator has been attached;

13. "Capped primer" means a package or cartridge of explosives which is specifically designed to transmit detonation to other explosives and which contains a detonator;

14. "Certified person" means an individual who has satisfactorily passed the required State Mining Board examination, thereby earning a certificate of competency which will allow him to work in a particular position for which certification is necessary;

15. "Combustible" means capable of being ignited and consumed by fire;

16. "Commercial mine" means any mine from which the product is mined for sale, exchange or commercial use. Except as the context requires otherwise, this act applies only to commercial mines;

17. "Company official" means a member of the company supervisory or technical staff;

18. "Department" means the State of Oklahoma Department of Mines;

19. "Detonator" means a device containing a small detonating charge that is used for detonating an explosive including, but not limited to, blasting caps, exploders, electric detonators and delay electric blasting caps;

20. "Distribution box" means a portable apparatus with an enclosure through which an electric circuit is carried to one (1) or more cables from a single incoming feedline, each cable circuit being connected through individual overcurrent protective devices;

21. "Electric blasting cap" means a blasting cap designed for and capable of being initiated by means of an electric current;

22. "Electric grounding" means to connect with the ground to make the earth part of the circuit;

23. "Employee" means a person who works for wages or salary in the service of an employer;

24. "Employer" means a person or organization employing one (1) or more persons to work for wages or salary;

25. "Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. Explosives include, but are not limited to, black powder, dynamite, nitroglycerin, fulminate and ammonium nitrate;

26. "Face" or "wall" means that part of any mine where excavating is progressing or was last done;

27. "Flammable" means capable of being easily ignited and of burning rapidly as defined by the National Fire Protection Association;

28. "Highway" means any public road or travelway used by the general public;

29. "Igniter cord" means a fuse, cordlike in appearance, which burns progressively along its length with an external flame at the zone of burning and is used for lighting a series of safety fuses in the desired sequence;

30. "Inhabited building" means a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, factory or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosives;

31. "Inspector" means a mine inspector in the employ of the State of Oklahoma;

32. "Magazine" means a storage place for explosives or detonators;

33. "Major electrical installation" means an assemblage of stationary electrical equipment for the generation, transmission, distribution or conversion of electric power;

34. "Misfire" means the complete or partial failure of a blasting charge to explode as planned;

35. "Overburden" means material of any nature, consolidated or unconsolidated, that overlies a deposit of useful materials or ores that are to be mined;

36. "Owner" means the owner, lessee, manager, superintendent, operator or agent, receiver or trustee operating any clay, coal or copper mine;

37. "Primer" or "booster" means a package or cartridge of explosives designed specifically to transmit detonation to other explosives but which does not contain a detonator;

38. "Reverse-current protection" means a method or device used on direct-current circuits of equipment to prevent the flow of current in the reverse direction;

39. "Roll protection" means a framework or safety canopy to protect the vehicle operator if equipment should overturn;

40. "Safety can" means an approved container of not over five (5) gallons capacity having a spring-closing lid and a spout cover;

41. "Safety fuse" means a train of powder enclosed in cotton, jute yarn and waterproofing compounds which burns at a uniform rate. It is used for firing a cap containing the detonating compound which in turn sets off the explosive charge;

42. "Safety switch" means a sectionalizing switch that also provides shunt protection in blasting circuits between the blasting switch and the shot area;

43. "Scaling" means removal of insecure material from a face or highwall;

44. "Secondary safety connection" means a second connection between a conveyance and rope, intended to prevent the conveyance from running away or falling in the event the primary connection fails;

45. "Semiconductive hose" means hose having an electrical resistance of not less than five thousand (5,000) ohms per foot and not more than two (2) megohms for its total length, used in pneumatic placement of blasting agents in boreholes;

46. "Sprung hole" means a blasting hole chambered or enlarged to take an increased charge of explosives;

47. "Stemming" means the inert material, and the placing of such material, on top of any charge of explosives;

48. "Stray current" means that portion of a total electric current that flows through paths other than the intended circuit;

49. "Strip or surface pit" means the excavation in which superincumbent strata are removed exposing the natural deposit so it may be excavated and loaded by hand or by mechanical equipment in open working. Strip or surface pits shall be subject to such mining laws of the State of Oklahoma as apply to them, and such operations shall comply with recommendations for safety of employees made by the Chief Mine Inspector;

50. "Substantial construction" means construction of such strength, material and workmanship that the object will withstand all reasonable shock, wear, usage and deterioration to which it will normally be subjected;

51. "Suitable" means that which fits and has the qualities or qualifications to normally meet a given purpose, occasion, condition, function or circumstance; 52. "Travelway" means a passage, walk or way regularly used and designated for persons to go from one place to another while at work;

53. Voltage:
a. "low voltage" means up to and including 660 volts,
b. "medium voltage" means from 661 to 1,000 volts,
and
c. "high voltage" means more than 1,000 volts;

54. "Wet drilling" means the continuous application of water to the back or bottom of the drill holes while drilling; and

55. "Working place" means any place in or about a mine where work is being performed.

Laws 1978, c. 148, § 1, emerg. eff. April 7, 1978.

§45-902. Certificate of competency - Violations - Examinations - First-aid certificates.

It shall be unlawful for any person in the State of Oklahoma to act as superintendent, mine foreman or shot firer without first having obtained a certificate of competency from the State Mining Board as herein provided for.

The examination given by the State Mining Board to an applicant for a certificate of competency as superintendent, mine foreman or shot firer shall include a written or oral or written and oral examination to determine that he fully understands the requirements of the mining laws of Oklahoma.

Each applicant shall hold a first-aid certificate issued to him within two (2) years previous to the date of the examination by an organization recognized by the State Mining Board.

Certificates of competency for the positions enumerated shall be granted to persons who have given the Chief Executive Officer of the Board satisfactory evidence of their ability to perform the duties of the positions applied for and who have obtained the necessary grades as determined by the Board for respective positions. In determining the grade of each applicant, due respect shall be given to the applicant's previous experience and record of service which shall have equal weight with the oral or written examination given to test the practical and technical knowledge of the applicant for the certificate of competency being sought. Provided, however, successful completion of the course of instruction provided by the Oklahoma Miner Training Institute (OMTI) or other courses of instruction provided by other training facilities and approved by the Board shall be considered as having met this examination requirement.

Laws 1978, c. 148, § 2, emerg. eff. April 7, 1978; Laws 1981, c. 23, § 1, emerg. eff. April 6, 1981.

§45-903. Certification of applicants - Fees.

Certifications provided for in this act shall be issued under the signature and seal of the State Mining Board; such certificates shall bear the date of issuance, full name, age and years of experience of recipient and shall designate the position for which the recipient is certified by the Board. Provided that all persons making applications to the State Mining Board for certificates of competency as mine superintendent, mine foreman or shot firer shall accompany said application with a fee of Two Dollars and fifty cents (\$2.50) as a fee for such examination and shall pay an additional

fee of Two Dollars and fifty cents (\$2.50) when said certificate is issued.

Laws 1978, c. 148, § 3, emerg. eff. April 7, 1978; Laws 1981, c. 23, § 2, emerg. eff. April 6, 1981.

§45-904. Records - Rights and duties of certificate holders.

The Secretary of the Board shall maintain a record of the names, addresses and other pertinent information of all persons to whom certificates are issued. Certificates of competency, when issued as provided for herein, shall entitle the holders thereof to accept and discharge the duties for which said certificates declare them qualified.

Laws 1978, c. 148, § 4, emerg. eff. April 7, 1978.

§45-905. Revocation of certificates - Notice.

The State Mining Board shall have power to revoke any certificates, by it granted, because of incompetency, intoxication or other sufficient cause, provided that any person against whom charges are made shall have ten (10) days written notice from the Board and shall have opportunity to be heard by it in his own behalf.

Laws 1978, c. 148, § 5, emerg. eff. April 7, 1978.

§45-906. Temporary permits.

The Secretary of the Board may, upon the recommendation of at least two (2) other members of the Board, issue a temporary permit to an applicant for a certificate for mine foreman or shot firer. Said temporary permit shall be valid only until the next meeting of the Board or not to exceed thirty-one (31) days.

Laws 1978, c. 148, § 6, emerg. eff. April 7, 1978; Laws 1981, c. 23, § 3, emerg. eff. April 6, 1981.

§45-907. Inspection and examination of active strip and surface mines - Reports - Recommendations.

It shall be the duty of the Department of Mines to enter into and examine thoroughly each and every active strip or surface mine in the state four to six times annually and in response to compliance concerns to see that the provisions of this act are observed and strictly carried out. Mines with resident safety engineers supplying the Department with monthly self-monitoring reports shall be inspected a minimum of twice a year. The Chief Mine Inspector or assistant inspectors, or both, may enter, inspect and examine any strip or surface pit and the works and machinery belonging thereto at all times, either by night or by day. The owner and the employees may each designate a person who shall accompany the inspector during the state inspection of the mine. After each inspection the inspector shall make a report in

triplicate of the condition of the mine with recommendations and orders. One copy shall be placed on file in the office of the Chief Mine Inspector, one copy shall remain with the inspector, and one copy shall be given to the operator who shall post it in a conspicuous place available for public inspection where it can be read and where it shall remain until the next state inspection report is issued. Within thirty (30) days after receiving the report of the inspector in which any important recommendations are made, the owner shall send a report to the Chief Mine Inspector stating what steps have been taken to comply with the recommendations.

Added by Laws 1978, c. 148, § 7, emerg. eff. April 7, 1978. Amended by Laws 1986, c. 308, § 8, operative July 1, 1986; Laws 2010, c. 293, § 1, emerg. eff. June 6, 2010.

§45-908. Employment of certified strip pit mine foreman.

The operator shall employ a certified strip pit mine foreman for every mine except those mines in which no more than three (3) persons including the operator are employed, in which case one (1) man must have at least the status of a certified shot firer. The mine foreman shall have full charge of all workings and of all persons employed therein in order that all the provisions of this act, so far as they relate to his duties, shall be complied with and the regulations prescribed for each class of workmen under his charge shall be carried out in the strictest possible manner. Laws 1978, c. 148, § 8, emerg. eff. April 7, 1978.

§45-909. Foreman - Duties and responsibilities.

The mine foreman shall keep a careful watch over all operations with the utmost regard for the safety of all employees. His responsibility includes the use, storage and handling of explosives, condition of all equipment used, condition of roads in and out of the pits, drainage, roads to the tibble and other surface structures. Strip pit foremen shall devote the whole of their time to their duties when the strip mine is in operation. Laws 1978, c. 148, § 9, emerg. eff. April 7, 1978.

§45-910. Proper ground control - Rules and procedures.

A. The following rules and procedures shall be complied with for proper ground control:

1. Practices and standards acceptable to the Chief Mine Inspector for the safe control of surface mine walls including the overall slope of the mine wall shall be established and followed by the operator. Such standards shall be consistent with sound engineering, the nature of the ground and the seam mined, and the insuring of safe working conditions according to the degree of slope. Mining methods shall be selected which will provide wall

stability; including benching if necessary, to obtain a safe overall slope;

2. All loose and hazardous material shall be stripped for a safe distance from the edge of the highwall;

3. The width and height of benches shall be governed by the type of equipment to be used and the operation to be performed;

4. Safe means of scaling walls shall be provided. Loose material or trees on exposed wall areas shall be removed before any other work is performed in the exposed wall area;

5. Men shall not work under dangerous walls. Hazardous overhanging walls shall be taken down immediately and other unsafe ground conditions shall be corrected promptly or the areas shall be barricaded or posted;

6. When removing rock by hand, men shall approach loose rock from above and shall scale from a safe location those areas on walls which must be scaled;

7. The supervisor or a certified person designated by him shall examine working areas and faces of walls for unsafe conditions at least at the beginning of each shift, during the shift while men are working, and after blasting. Any unsafe condition found shall be corrected before any further work is performed at the immediate area or face at which the unsafe condition exists;

8. Men shall examine their working places before starting work and frequently thereafter and any unsafe condition shall be reported immediately to the supervisor before any other work is performed;

9. Large boulders requiring secondary blasting shall be in a safe location before they are drilled or broken; and

10. Men shall not be permitted to work between equipment and the mine wall where the equipment may hinder escape from falls or slides of the wall, unless special safety precautions are taken in advance.

B. The following rules and procedures shall be complied with for proper fire prevention and control:

1. No person shall smoke or use an open flame where flammable or combustible liquids or greases are stored or in areas or places where fire or explosion hazards exist;

2. Signs warning against smoking and open flames shall be posted so they can readily be seen in areas or places where fire or explosion hazards exist;

3. Areas surrounding flammable-liquid storage tanks and electric substations and transformers shall be kept free from dry grass, weeds, underbrush and other combustible materials for at least twenty-five (25) feet in all directions;

4. Fires used for warming purposes shall be enclosed to prevent persons from coming in contact with flame or coals which would ignite clothing. Oily or easily ignited clothing shall not be worn where ignition hazards are present;

5. Buildings or rooms in which oil, grease, flammable liquids or similar flammable materials are stored shall be of fire-resistant construction and well ventilated. Provisions shall be made to control spilled flammable liquids;

6. Abandoned electrical circuits shall be de-energized and isolated so that they cannot become energized inadvertently. If no further use is intended they shall be removed;

7. Combustible materials, grease, lubricants or flammable liquids shall not be allowed to accumulate where they can create a fire hazard;

8. Materials, such as oily waste and rags, which are subject to spontaneous combustion shall be placed in tightly covered metal containers until disposed of properly;

9. When flammable solvents are used for cleaning, such solvents shall be transported in safety cans of not over five-gallon capacity. When used to clean parts, the containers used shall have tight-fitting covers. No cleaning may be done with flammable solvents near a possible source of ignition;

10. Oxygen cylinders shall not be stored near oil or grease;

11. Gauges and regulators used with oxygen or acetylene cylinders shall be kept clean and free of oil and grease;

12. Valves on oxygen and acetylene tanks shall be kept closed when they are not in use;

13. Battery charging stations shall be located in well-ventilated areas and in the clear of other equipment;

14. Internal combustion engines shall be shut off and stopped before being fueled;

15. Each mine shall have available, or be provided with, appropriate types of fire-fighting equipment adequate for the size of the mine;

16. Fire-fighting equipment shall be strategically located, readily accessible, plainly marked, properly maintained and inspected periodically with records kept of such inspections;

17. Fire extinguishers shall be:

- a. adequate in number and size and of the appropriate type for each particular fire hazard involved,
- b. replaced immediately with full charged extinguishers of the same capability after any discharge is made from the extinguishers,
- c. tested at least once every twelve (12) months and maintained according to the manufacturer's recommendation. Each extinguisher shall bear a tag showing the date of testing and the name of the person making the examination for testing, and
- d. approved by Underwriter's Laboratories, Inc. or Factory Mutual Research Corporation;

18. Appropriate fire extinguishers shall be provided on self-propelled mobile equipment;

19. Fire extinguishers of the appropriate type and size shall be an integral part of portable cutting and welding equipment;

20. When welding or cutting near combustible materials, precautions shall be taken to insure that smoldering metal or sparks do not result in fire; and

21. Belt conveyors in locations where fire would create a hazard to personnel shall be provided with safety switches to stop the drive pulley automatically in the event the belt stalls or there is excessive slippage.

Added by Laws 1978, c. 148, § 10, emerg. eff. April 7, 1978.

Amended by Laws 2004, c. 194, § 2, eff. Nov. 1, 2004.

§45-911. Explosives - Rules and procedures for storage.

A. Rules and procedures for storage of explosives shall be as follows:

1. Detonators and other cap-sensitive high explosives shall be stored in magazines provided for that purpose. Blasting agents may be stored in van-type trailers, provided they are well-ventilated, kept clean and free of extraneous material that could create a fire hazard;

2. Separate magazines shall be provided for the storage of detonators and for explosives;

3. Detonators shall not be stored in the same magazine with explosives or blasting agents;

4. Blasting agents, safety fuse or detonating cord may be stored with explosives, but blasting agents must be kept physically separated from the fuse, detonating cord and explosives;

5. Magazines shall be:

- a. located in accordance with the current American Table of Distances for Storage of Explosives,
- b. detached structures located away from power lines, fuel storage area and other possible sources of fire,
- c. constructed substantially of noncombustible material or covered with fire-resistant material,
- d. reasonably bullet-resistant,
- e. electrically bonded and grounded if constructed of metal,
- f. made of nonsparking materials on the inside, including floors,
- g. provided with adequate and effectively screened ventilation openings near the floor and ceiling,
- h. kept securely locked when unattended,
- i. posted with suitable danger signs so located that a bullet passing through the face of a sign will not strike the magazine,

- j. used exclusively for storage of blasting agents, explosives, or detonators and kept free of all extraneous materials,
- k. kept clean and dry in the interior, and in good repair, and
- l. unheated, unless heated in a manner that does not create a fire or explosion hazard. Electrical heating devices shall not be used inside a magazine;

6. Only permissible lights, worn or carried, shall be used inside magazines;

7. Areas surrounding magazines not less than twenty-five (25) feet in all directions shall be kept free of rubbish and other combustibles;

8. Smoking and open flames shall not be permitted within twenty-five (25) feet of explosives and detonator storage magazines;

9. Cases of explosives shall be stored in such a manner as to assure the use of the oldest stock first;

10. Ammonium nitrate fuel oil mixtures shall be physically separated from dynamite stored in the same magazine and in such a manner that oil does not contaminate the dynamite; and

11. Cases of explosives shall not be stored on case ends or sides nor in stacks over six (6) feet high.

B. Rules and procedures as follows shall be complied with in the transportation of explosives:

1. Explosives and detonators shall be transported in separate vehicles unless separated by four (4) inches of hardwood or the equivalent;

2. Self-propelled vehicles used to transport explosives or detonators shall be equipped with suitable fire extinguishers and marked with proper warning signs;

3. When vehicles containing explosives or detonators are parked, the brakes shall be set, the motive power shut off when not in use, and if parked on an incline, the vehicle shall be blocked securely against rolling;

4. Vehicles containing explosives or detonators shall not be left unattended except in blasting areas where loading or charging is in progress;

5. Vehicles containing explosives or detonators shall not be taken to a repair garage or shop for any purpose;

6. Vehicles used to transport explosives or detonators shall be maintained in good condition and shall be operated at a safe speed and in accordance with recognized safe operating practices;

7. Vehicles used to transport explosives other than Ammonium Nitrate Fuel Oil (ANFO) mixtures shall have substantially constructed bodies, no sparking metal exposed in the cargo space, and the explosives shall not be piled higher than the side or end enclosures;

8. Explosives shall be transported at times and over routes that endanger a minimum number of persons;

9. Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives or detonators;

10. No person shall smoke while transporting or handling explosives or detonators;

11. Only the necessary attendants shall ride on or in vehicles containing explosives or detonators;

12. Explosives shall be transported promptly without undue delays in transit;

13. Nonconductive containers with tight-fitting covers shall be used to transport or carry capped fuses and electric detonators to blasting sites; and

14. Substantial nonconductive closed containers shall be used to carry explosives to blasting sites.

C. Rules and procedures as follows shall be complied with in the use of explosives, with the exception of persons with a valid coal permit issued by the Department of Mines:

1. Persons who use explosives, blasting agents or detonators shall be certified by the Oklahoma Mining Commission. Such persons shall understand the hazards involved, and trainees shall do such work only under the supervision of and in the immediate presence of certified persons;

2. Blasting operations shall be under the direct control of certified persons designated by the operator for that purpose;

3. Damaged or deteriorated explosives, blasting agents and detonators shall be disposed of in a safe manner;

4. Holes to be blasted shall be charged as near to blasting time as practical, and such holes shall be blasted as soon as practical after charging has been completed;

5. No person shall smoke within fifty (50) feet of explosives, blasting agents or detonators;

6. Explosives and blasting agents shall be kept separated from detonators until charging of holes is started;

7. Primers shall be made up at the time of charging and as close to the blasting site as conditions allow;

8. Only wooden or other nonsparking devices shall be used to punch holes in explosives cartridges;

9. Tamping poles shall be blunt and squared at one end and made of wood or other nonsparking material;

10. No tamping shall be done directly on primer cartridges;

11. Unused explosives and detonators shall be moved to a safe location as soon as charging operations are completed;

12. Approaches to areas in which charged holes are awaiting firing shall be guarded, or barricaded and posted, or flagged, against unauthorized entry. If blasting is done after dark, red

flashing lights shall be used at the approaches to the blasting area;

13. When a blast is about to be fired, ample warning shall be given to allow all persons to retreat to a safe place. Each mine shall have a definite plan of warning signals that can be clearly seen or heard by anyone in the blasting area. The operator shall inform all employees at the local mine as to the established procedure;

14. Enclosed blasting shelters constructed of strong materials shall be provided to protect all persons endangered by flying rock from blasting;

15. When safety fuse has been used, persons shall not return to misfired holes for at least thirty (30) minutes;

16. When electric blasting caps have been used, persons shall not return to misfired holes for at least fifteen (15) minutes. Leading wires from the power source must be disconnected before persons can be allowed to return to the blasting sites;

17. Blasted materials shall be examined for undetonated explosives after each blast and undetonated explosives found shall be disposed of safely;

18. Misfires shall be reported to the proper supervisor and shall be disposed of safely before any other work is performed in the blasting area;

19. Blast holes in hot-hole areas and holes that have been sprung shall not be charged before tests have been made to insure that the heat has been dissipated to a safe level;

20. If explosives are suspected of burning in a hole, all persons in the endangered area shall move to a safe location until the danger has passed;

21. Holes shall not be drilled where there is danger of intersecting a charge or misfired hole;

22. Fuses and igniters shall be stored in a cool, dry place away from oils or grease;

23. Fuses shall not be kinked, bent sharply or handled roughly;

24. Fuses shall be cut and capped in safe, dry locations posted with "No Smoking" signs;

25. Blasting caps shall be crimped to fuses only with devices designed for that specific purpose;

26. Fuses of less than forty-eight (48) inches in length shall not be used for any purpose;

27. At least two persons shall be present when lighting fuses, and no person shall light more than fifteen individual fuses. If more than fifteen holes per person are to be fired, igniter cord and connectors or electric blasting shall be used;

28. A safe interval of time shall be allowed to light a round and evacuate the blasting area;

29. Fuses shall be ignited with hot-wire lighters, lead spitters, igniter cord or other such devices designed for this purpose;

30. Fuses shall not be ignited before the primer and the entire charge are securely in place;

31. Electric detonators of different brands shall not be used in the same round;

32. Electric detonators shall remain shunted until they are being wired into the blasting circuit. Lead lines and wired rounds shall be kept shunted until immediately before blasting;

33. Completely wired rounds shall be tested with a blasting galvanometer before connections are made to the blasting line;

34. Lead wires and blasting lines shall not be strung across power conductors, pipelines or within twenty (20) feet of bare power lines. They shall be protected from sources of static or other electrical contact;

35. Permanent blasting lines shall be properly supported, insulated and kept in good repair;

36. Charging shall be stopped immediately when the presence of static electricity or stray current is detected; the condition shall be corrected before charging is resumed;

37. Charging of holes shall be suspended and the persons withdrawn to a safe location upon the approach of an electrical storm;

38. Safety switches and blasting switches shall be labeled, encased in boxes and arranged so that the covers of the boxes cannot be closed with the switches in closed position;

39. Blasting switches shall be locked in the open position except when closed to fire the blast. Lead wires shall not be connected to the blasting switch until the shot is ready to be fired;

40. The key to a blasting switch shall be entrusted only to the person designated to fire blasts;

41. Electric circuits from the blasting switches to the blast area shall not be grounded;

42. At least a five-foot air gap shall be provided between the blasting circuit and the power circuit;

43. Where electric blasting is to be performed, electric circuits to equipment within twenty-five (25) feet of a hole that is to be charged with an electric blasting cap shall be de-energized before electric detonators are brought into the immediate area, or the electric equipment shall be moved out of the immediate area;

44. Power sources shall be suitable for the number of electric detonators to be fired and for the type of circuits used;

45. When instantaneous blasting is performed, the double-trunkline or loop system shall be used in detonating-cord blasting;

46. When instantaneous blasting is performed, trunklines in multiple-row blasting shall make one or more complete loops with crossties between loops at intervals of not over two hundred (200) feet;

47. All detonating-cord knots shall be tight and all connections shall be kept at right angles to the trunklines;

48. Delay connectors for firing detonating-cord shall be treated and handled with the same safety precautions as blasting caps and electric detonators; and

49. Detonating-cord shall not be kinked, bent or otherwise handled in such a manner that the train of detonation may be interrupted.

D. Rules and procedures as follows shall be complied with in dealing with sensitized ammonium nitrate blasting agents:

1. When sensitized ammonium nitrate mixtures and blasting agents are used, the same precautions shall be taken as for high explosives;

2. Adequate priming shall be employed to guard against misfires, increased toxic fumes and poor performance;

3. Where pneumatic loading is employed, before any type of blasting operation using blasting agents is put into effect, an evaluation of the potential hazard of static electricity shall be made. Adequate steps, including the grounding of the conductive parts of pneumatic loading equipment, shall be taken to eliminate the hazard of static electricity before blasting agent preparation is commenced;

4. Pneumatic loading equipment shall not be grounded to water lines, air lines, rails or other permanent electrical grounding systems;

5. Hoses used in connection with pneumatic loading machines shall be of the semiconductive type having a total resistance low enough to permit the dissipation of static electricity and high enough to limit the flow of stray electric currents to a safe level. Wire-counteracted hose shall not be used because of the potential hazard from stray electric currents; and

6. Plastic tubes shall not be used to protect pneumatically loaded blasting agent charges against water unless a positive grounding system is provided to drain electrostatic charges from the holes.

Added by Laws 1978, c. 148, § 11, emerg. eff. April 7, 1978.

Amended by Laws 1981, c. 23, § 4, emerg. eff. April 6, 1981; Laws 2017, c. 269, § 2, eff. Nov. 1, 2017.

§45-912. Drilling for blasting - Rules and procedures.

The following rules and procedures shall be complied with when dealing with drilling for blasting:

1. Equipment shall be inspected each shift by a certified person designated by the operator. Equipment defects affecting safety shall be reported immediately;
 2. Equipment defects affecting safety shall be corrected before the equipment is used;
 3. The drilling area shall be inspected by a certified person, designated by the operator, for hazards before drilling operations are started;
 4. Men shall not be on the mast while the drill is in operation;
 5. Drill crews and others shall stay clear of augers or drill stems that are in motion. Persons shall not pass under or step over a moving stem or auger;
 6. Receptacles or racks shall be provided for drill steel stored on drills;
 7. Tools and other objects shall not be left loose on the mast or drill platform;
 8. When a drill is being moved from one drilling area to another, drill steel, tools and other equipment shall be secured and the mast placed in a safe position;
 9. In the event of power failure, drill controls shall be placed in the neutral position until power is restored;
 10. While in operation drills shall be attended at all times;11. Drill
 12. Men shall not drill from positions that hinder their access to the control levers or from insecure footing or staging or from atop equipment not designed for this purpose;
 13. Bit wrenches or bit knockers shall be used to remove detachable bits from drill steel;
 14. Starter steels shall be used when collaring holes with handheld or feedleg drills;
 15. Men shall not hold the drill steel while collaring holes or rest their hands on the chuck or centralizer while drilling; and
 16. Air shall be turned off and bled from the hose before handheld drills are moved from one working area to another.
- Laws 1978, c. 148, § 12, emerg. eff. April 7, 1978.

§45-913. Loading, hauling or dumping - Rules and procedures.

The following rules and procedures shall be complied with when loading, hauling or dumping:

1. Equipment shall be inspected each shift by a qualified person designated by the operator. Equipment defects affecting safety shall be reported immediately;
2. Equipment defects affecting safety shall be corrected before the equipment is used;
3. Powered mobile equipment shall be provided with adequate brakes;

4. Powered mobile haulage equipment shall be provided with audible warning devices. Lights shall be provided on both ends when required;
5. Equipment operators shall be certain, by signal or other means, that all persons are in the clear before starting or moving equipment;
6. When the entire length of a conveyor is visible from the starting switch, the operator shall visually check to make certain that all persons are in the clear before starting the conveyor. When the entire length of the conveyor is not visible from the starting switch, a positive audible warning system shall be installed and operated to warn persons that the conveyor will be started;
7. Trucks, shuttle cars and front-end loaders shall be equipped with emergency brakes separate and independent of the regular braking system;
8. Operators' cabs shall be constructed to permit operators to see without difficulty and shall be reasonably comfortable;
9. Cab windows shall be of safety glass or equivalent, in good condition, and be kept clean;
10. Cabs of mobile equipment shall be kept free of extraneous materials;
11. Adequate back stops or brakes shall be installed on inclined conveyor drive units to prevent conveyors from running in reverse if a hazard to personnel will result;
12. No person shall be permitted to ride a power-driven chain belt or bucket conveyor unless the chain, belt or conveyor is specifically designed for the transportation of persons;
13. Equipment operating speeds shall be prudent and consistent with conditions of roadway, grades, clearance, visibility, traffic and the type of equipment used;
14. Dust control measures shall be taken where dust significantly reduces visibility of equipment operators. Haulage roads shall be wet down as necessary unless dust is controlled adequately by other methods;
15. Mobile equipment operators shall have full control of the equipment while it is in motion;
16. Dippers, buckets, loading booms or heavy suspended loads shall not be swung over the cabs of haulage vehicles until the drivers are out of the cabs and in safe locations, unless the trucks are designed specifically to protect the drivers from falling material;
17. Only authorized persons shall be present in areas of loading or dumping operations;
18. Unless safe provisions are made for persons to mount or leave equipment while it is in operation, the operator shall be notified of their intentions before getting on or off;

19. Persons shall not work or pass under the buckets or booms of loaders in operation;

20. When traveling between work areas, the equipment shall be secured in the travel position;

21. Dippers, buckets, scraper blades, and similar movable parts shall be secured or lowered to the ground when not in use;

22. Persons shall not ride in dippers, buckets, forks, clamshells or other parts of any equipment not specifically designed for the transportation of persons;

23. Loaded cars or trucks shall not be moved until the loads are trimmed properly;

24. Electrically powered mobile equipment shall not be left unattended unless the master switch is in the "off" position, all operating controls are in the "neutral" position, and the brakes are set or other equivalent precautions are taken against rolling;

25. Mobile equipment shall not be left unattended unless the brakes are set. The wheels shall be turned into a bank or wall, or shall be blocked, when such equipment is parked on a grade;

26. Persons shall not ride on top of loaded haulage equipment;

27. Persons shall not ride outside the cabs and beds of mobile equipment;

28. Equipment which is to be hauled shall be properly loaded and secured;

29. Dumping locations and haulage roads shall be kept reasonably free of water, debris and spillage;

30. Berms, bumper blocks, safety hooks or similar means shall be provided to prevent overtravel and overturning at dumping locations;

31. If truck spotters are used, they shall be well in the clear while trucks are backing into dumping position and dumping; lights shall be used at night to direct trucks;

32. Where overhead clearance is restricted, warning devices shall be installed and the restricted area shall be conspicuously marked;

33. Ramps and dumps shall be of solid construction, of ample width, have ample side clearance and headroom, and be kept reasonably free of spillage;

34. Lights, flares or other warning devices shall be posted when parked equipment creates a hazard to vehicular traffic;

35. Tires shall be deflated before repairs on them are started, and adequate means shall be provided to prevent wheel locking rims from creating a hazard during tire inflation;

36. Any load extending more than four (4) feet beyond the rear of the vehicle body shall be marked clearly with a red flag by day and a red light by night;

37. A tow bar shall be used to tow heavy equipment. A safety chain shall be used in conjunction with the tow bar; and

38. When heavy equipment is to be towed, the towing vehicle shall be of suitable weight and strength to maintain safe control of the load.

Laws 1978, c. 148, § 13, emerg. eff. April 7, 1978; Laws 1981, c. 23, § 5, emerg. eff. April 6, 1981.

§45-914. Travelways - Rules and procedures.

The following rules and procedures shall be complied with in dealing with travelways:

1. Safe means of access shall be provided and maintained to all working places;

2. Crossovers, elevated walkways, elevated ramps and stairways shall be of substantial construction, provided with handrails and maintained in good condition. Where necessary, toeboards shall be provided;

3. Ladders shall be of substantial construction, maintained in good condition and regularly inspected;

4. Portable straight ladders shall be provided with nonslip bases, shall be placed against a safe backing at the proper angle and set on secure footing;

5. Fixed ladders shall be anchored securely and installed to provide at least three (3) inches of toe clearance;

6. Fixed ladders shall have substantial railed landings at least every thirty (30) feet unless backguards are provided;

7. Steep fixed ladders, seventy (70) degrees to ninety (90) degrees from the horizontal, thirty (30) feet or more in length shall be provided with backguards, cages or equivalent protection, starting at a point not more than seven (7) feet from the bottom of the ladder;

8. Fixed ladders shall project at least three (3) feet above landings or substantial handholds shall be provided above the landings;

9. Wooden members of ladders shall not be painted;

10. Ladderways, stairways, walkways and ramps shall be kept free of loose rock and extraneous materials;

11. Men climbing or descending ladders shall face the ladders and have both hands free for climbing;

12. Railed walkways shall be provided wherever persons are regularly required to walk along conveyor belts. Inclined railed walkways shall be nonskid or provided with cleats;

13. Openings above, below or near travelways through which men or materials may fall shall be protected by railings, barriers or covers. Where it is impractical to install such protective devices, adequate warning signals shall be posted;

14. Scaffolds and working platforms shall be of substantial construction and provided with handrails and maintained in good condition. Floorboards shall be laid properly and the scaffolds and

working platforms shall not be overloaded. Working platforms shall be provided with toeboards where necessary;

15. Crossovers shall be provided where it is necessary to cross conveyors;

16. Moving conveyors shall be crossed only at designated crossover points;

17. Slippery walkways shall be provided with cleats and handrails and/or ropes; and

18. Regularly used walkways and travelways shall be sanded, salted or cleared of snow and ice as soon as practicable.

Laws 1978, c. 148, § 14, emerg. eff. April 7, 1978.

§45-915. Electricity - Rules and procedures.

The following rules and procedures shall be complied with in dealing with electricity:

1. Circuits shall be protected against excessive overloads by fuses or circuit breakers of the correct type and capacity;

2. Powerlines and telephone circuits shall be protected against short circuits and lightning;

3. Electric equipment and circuits shall be provided with switches or other controls. Such switches or controls shall be of approved design and construction and shall be properly installed;

4. Individual overload protection or short-circuit protection shall be provided for the trailing cables of mobile equipment;

5. Power wires and cables shall have adequate current-carrying capacity and shall be protected from mechanical injury;

6. Neither crawler-mounted nor rubber-tired equipment shall run over trailing cables unless the cables are properly bridged or otherwise protected;

7. Distribution boxes shall be provided with disconnect switches;

8. Trailing cable and power cable connections to junction boxes shall not be made or broken under load;

9. Power wires and cables shall be insulated adequately where they pass into or out of electrical compartments;

10. Power wires and cables which present a fire hazard shall be well installed on acceptable insulators;

11. Where metallic tools or equipment can come in contact with bare power lines, the lines shall be guarded or de-energized;

12. Telephone and low potential electric signal wires shall be protected from contacting energized power lines;

13. High potential transmission cables shall be covered, insulated or placed according to acceptable electrical codes to prevent contact with low potential circuits;

14. The potential on bare signal wires accessible to personal contact should not exceed thirty (30) volts;

15. Splices in power cables, including ground conductor, where provided, shall be:

- a. mechanically strong with adequate electrical conductivity,
- b. effectively insulated and sealed to exclude moisture, and
- c. provided with mechanical protection and electrical conductivity as near as possible to that of the original;

16. Shovel trailing cables shall not be moved with the shovel dipper unless cable slings or sleds are used;

17. Energized high potential cables shall be handled with insulated hooks or tongs;

18. Electrical equipment shall be de-energized before work is done on such equipment. Switches shall be locked out and suitable warning signs posted by the individuals who are to do the work; locks shall be removed only by authorized persons;

19. Power circuits shall be de-energized before work is done on such circuits unless hot line tools are used. Switches shall be locked out and suitable warning signs posted by the individuals who are to do the work; locks shall be removed only by authorized persons;

20. Principal power switches shall be labeled to show which units they control;

21. At least three (3) feet of clearance shall be provided around all parts of stationary electric equipment or switch gear where access or travel is necessary;

22. Dry wooden platforms, insulating mats or other electrically nonconductive material shall be kept in place at all switchboards and power control switches where shock hazards exist. However, metal plates on which a person normally would stand, plates which are kept at the same potential as the grounded metal noncurrent carrying parts of the power switches to be operated may be used;

23. Suitable danger signs shall be posted at all major electrical installations;

24. Areas containing major electrical installations shall be entered only by authorized personnel;

25. Electrical connections and resistor grids that are difficult or impractical to insulate shall be guarded unless protection is provided by location;

26. Reverse-current protection shall be provided at storage battery charging stations;

27. All metal enclosing or encasing electrical circuits shall be grounded or provided with equivalent protection. This requirement does not apply to battery-operated equipment;

28. Metal fencing and metal buildings enclosing transformers and switch gear shall be grounded;

29. Frame grounding or equivalent protection shall be provided for mobile equipment powered through trailing cables;

30. Continuity and resistance of grounding systems shall be tested immediately after installation;

31. Electric equipment and wiring shall be inspected by a certified person as often as necessary to assure safe operating conditions;

32. When a potentially dangerous condition is found it shall be corrected before equipment or wiring is energized;

33. Inspection and cover plates on electrical equipment shall be kept in place at all times except during testing or repairs;

34. Circuits shall be de-energized before fuses are removed or replaced;

35. Fuse tongs or hot line tools shall be used when fuses are removed or replaced in medium or high voltage circuits;

36. Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections;

37. Surplus trailing cables to shovels, cranes and similar equipment shall be stored in cable boots or on reels mounted on the equipment or otherwise protected from mechanical damage;

38. Operating controls shall be installed so that they can be operated without danger of contact with energized conductors;

39. Equipment with booms or masts which are not properly protected shall not be operated where the booms or masts can come within ten (10) feet of an energized overhead power line;

40. Overhead high potential power lines shall be installed as specified by the National Electrical Safety Code;

41. When equipment must be moved under energized power lines and the clearance is less than ten (10) feet, the power lines shall be de-energized or other precautions shall be taken;

42. Guy wires from poles supporting high voltage transmission lines shall be securely connected to the system ground or be provided with insulators installed near the pole end;

43. Telegraph, telephone or signal wires shall not be installed on the same crossarm with power conductors. When carried on poles supporting power lines, they shall be installed as specified by the National Electrical Safety Code;

44. Transformers shall be totally enclosed or shall be placed at least fifteen (15) feet above the ground, twenty (20) feet above driveways and haulage ways, or installed in a transformer house, or surrounded by a substantial fence at least six (6) feet high and at least three (3) feet from any energized parts, casings or wiring;

45. Transformer enclosures shall be kept locked against unauthorized entry; and

46. Tools and supplies shall be carried in the hands and not on the shoulders when men travel near bare power conductors.

Laws 1978, c. 148, § 15, emerg. eff. April 7, 1978.

§45-916. Equipment - Rules and procedures.

The following rules and procedures shall be complied with in dealing with the use of equipment:

1. Gears, sprockets, chains, drive, head, tail and take-up pulleys, flywheels, couplings, shafts, saw blades, fan inlets and similar exposed moving machine parts which may cause injury to persons shall be guarded;

2. Overhead belts shall be guarded if the whipping action from a broken belt would be hazardous to persons below;

3. Guards at conveyor drive, head and tail pulleys shall be sufficient to prevent a person from reaching behind the guard and becoming caught between the belt and the pulley;

4. Protruding set screws on revolving parts shall be guarded;

5. Except when testing the machinery, guards shall be securely in place while machinery is being operated;

6. Guards shall be sufficiently strong and maintained to provide the required protection;

7. Stationary grinding machines other than special bit grinders shall be equipped with:

a. peripheral hoods, less than ninety-degree throat openings, capable of withstanding the force of a bursting wheel,

b. adjustable tool rests set as close as practical to the wheel, and

c. safety washers;

8. Face shields or goggles, in good condition, shall be worn when operating a grinding wheel;

9. Hand-held power tools, other than rock drills, shall be equipped with controls requiring constant hand or finger pressure to operate the tools or shall be equipped with friction or other equivalent safety devices;

10. Guards or shields shall be provided in areas where flying or falling materials present a hazard;

11. Vehicles such as forklifts, trucks, front-end loaders and bulldozers shall be provided with roll bar protection when necessary to protect the operator;

12. Forklifts, trucks, front-end loaders and bulldozers shall be provided with substantial canopies when necessary to protect the operator against falling material;

13. Unsafe equipment or machinery shall be removed from service immediately;

14. Machinery and equipment shall be operated only by authorized and experienced persons;

15. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except when machinery motion is necessary to make adjustments or

when non-energized components of large machinery can be safely repaired while the machine is operating;

16. Men shall not work on mobile equipment in a raised position until it has been blocked in place securely. This does not preclude the use of equipment specifically designed, such as elevated mobile work platforms;

17. Drive belts shall not be shifted while in motion unless the machines are equipped with mechanical shifters;

18. Belts, chains, and/or ropes shall not be guided onto power-driven moving equipment especially designed for hand feeding;

19. Pulleys or conveyors shall not be cleaned manually while the conveyor is in motion;

20. Belt dressing shall not be applied manually while belts are in motion unless an aerosol-type dressing is used; and

21. Machinery shall not be lubricated while in motion when a hazard exists unless equipped with extended fittings or cups.

Laws 1978, c. 148, § 16, emerg. eff. April 7, 1978.

§45-917. Personal protection - Rules and procedures.

The following rules and procedures shall be complied with in dealing with personal protection:

1. Adequate first-aid materials, including stretchers and blankets, shall be provided at places convenient to all working areas. Water or neutralizing agents shall be available where corrosive chemicals or other harmful substances are stored, handled or used;

2. All persons shall wear suitable hard hats when in or around mine plants or active workings of the mine where falling objects may create a hazard;

3. All persons shall wear suitable protective footwear when in or around mine plants or active workings of the mine;

4. All persons shall wear safety glasses, goggles or face shields when doing work hazardous to the eyes;

5. Safety belts and lines shall be worn when men work where there is danger of falling, and a second person shall tend the lifeline when bins, tanks or other dangerous areas are entered;

6. Life jackets or belts shall be worn where there is danger of falling into deep water;

7. Protective clothing, rubber gloves, goggles or face shields shall be worn by persons handling substances that are corrosive, toxic or injurious to the skin;

8. Protective clothing or equipment and face shields or goggles shall be worn when welding, cutting or working with molten metal;

9. Snug-fitting clothing shall be worn by persons working around moving equipment and machinery;

10. Protective gloves shall be worn by employees handling materials which may cause injury;

11. Gloves shall not be worn where they could create a hazard by becoming entwined or caught in moving parts of machinery; and

12. Effective hearing protection shall be worn where noise levels may cause permanent ear damage or hearing loss unless the wearing of the protective devices would create a greater danger to the employee. In such case the noise shall be reduced to safe levels.

Added by Laws 1978, c. 148, § 17, emerg. eff. April 7, 1978.

Amended by Laws 2004, c. 194, § 3, eff. Nov. 1, 2004.

§45-918. Augering - Rules and procedures.

The following rules and procedures shall be complied with in dealing with augering:

1. Planning:

before augering is done, advance planning shall be made to insure that no hazards shall be created affecting active underground workings. Auger mine workings and holes drilled shall be located so as to prevent:

(1) interference with the ventilation system of any underground mine, and

(2) inundation hazards from the surface to active underground workings;

2. Inspection:

a. at least fifty (50) feet on each side of highwalls being drilled shall be inspected for loose material before drilling or other work in the area is begun, and an inspection shall be made at least once during each operating shift,

b. when abandoned mines or abandoned parts of active mines are penetrated by drilling, machinery shall be stopped and tests shall be made at the collar of the hole for explosive gas or oxygen or oxygen deficiency by a certified person qualified to use approved instruments to make such tests. If tests show the presence of gas or the lack of oxygen, the equipment shall not be operated until the condition has been corrected;

3. Auger holes; persons not to enter:

a. no person shall enter an auger hole for any purpose without having first received permission from a representative of the Oklahoma Department of Mines,

b. auger machines and other related equipment on which persons are required to work during drilling operations shall be protected against falling material from highwalls by heavy gauge screen or equivalent material subject to the approval of the mine inspector. The protective screen shall permit workmen to keep the highwall in view at all times,

c. no work shall be done on the highwall in the vicinity of drilling equipment while it is in operation;

4. Auger equipment; operation:

a. persons shall stay clear of the auger train while it is in motion, and they shall not pass over or under the auger train except where crossing facilities are provided; b. persons must be in the clear while auger sections are being swung into position,

c. auger operators shall not leave the controls of the equipment while the auger is operating, and

d. when auger operations are performed after dark, adequate illumination shall be provided;

5. Auger Holes; blocking: auger holes shall be securely blocked by spoil or other suitable material before they are abandoned.

Laws 1978, c. 148, § 18, emerg. eff. April 7, 1978.

§45-919. General rules and procedures.

The following general rules and procedures shall be complied with:

1. Each place of work shall be visited by a certified person at the beginning of, and at least once during, each shift and more frequently as is necessary to insure that work is being done in a safe manner;

2. No employee shall be assigned, allowed or required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard or can be seen;

3. When work is performed after dark, the areas of drilling, blasting, stripping and loading shall be properly illuminated;

4. An authorized, certified person shall be in charge at all times when men are working;

5. Where telephone service is not available, emergency communications shall be provided to the nearest point of assistance; and

6. Arrangements shall be made in advance for obtaining emergency medical assistance and transportation for injured persons.

Laws 1978, c. 148, § 19, emerg. eff. April 7, 1978.

§45-931. Operator's fee - Disposition - Production report and forms.

A. All operators of coal mining operations shall pay to the Department of Mines a fee of seven and one-half cents (\$0.075) per ton of coal produced.

B. All operators of noncoal mining operations shall pay to the Department of Mines a fee of one and one-fourth cents (\$0.0125) per ton of mineral produced. For the purposes of this section, "mineral" shall be defined as provided in paragraph 4 of Section 723 of this title.

C. The fees imposed by this section shall be paid no later than thirty (30) days after the end of each calendar quarter beginning the first calendar quarter after June 30, 1982.

D. The Department shall develop and promulgate a report form, which shall be as similar as possible to the form required of operators by federal law, and which shall state the amount of coal or mineral produced during the calendar quarter, the method of coal or mineral removal, and the type of coal or mineral. The operator shall swear to the accuracy of the report before a notary public, who shall duly notarize the report.

E. All fees collected by the Department of Mines pursuant to this section shall be deposited with the State Treasurer, who shall credit one cent (\$0.01) per ton of fees collected on coal produced on or after July 1, 1988, and one-tenth of one cent (\$0.001) per ton of fees collected on minerals produced on or after July 1, 1988, to the Oklahoma Miner Training Institute Revolving Fund, with the balance of the fees collected to be deposited in the Department of Mines Revolving Fund.

Added by Laws 1979, c. 74, § 1, eff. July 1, 1979. Amended by Laws 1981, c. 221, § 6, emerg. eff. June 22, 1981; Laws 1982, c. 266, § 5, emerg. eff. May 14, 1982; Laws 1983, c. 69, § 1, operative June 30, 1983; Laws 1987, c. 208, § 89, operative July 1, 1987; Laws 1987, c. 236, § 94, emerg. eff. July 20, 1987; Laws 1988, c. 235, § 5, operative July 1, 1988; Laws 2010, c. 293, § 2, emerg. eff. June 6, 2010; Laws 2017, c. 142, § 1, eff. Nov. 1, 2017.

§45-932. Delinquent reports and fees - Penalty - Time extension.

A. Any operator who shall fail or refuse to file such quarterly report and pay his fees within the time and in the manner prescribed by law shall be deemed delinquent and a penalty of ten percent (10%) shall be added to the amount of fees actually due for said period.

B. The Chief Mine Inspector may, in his discretion, grant an extension of time not exceeding thirty (30) days within which the fees for any quarterly period may be reported and paid without addition of the ten percent (10%) penalty.

Laws 1979, c. 74, § 2, eff. July 1, 1979.

§45-933. Failure to report - Ascertainment of coal mined - Determination of fees - Penalty.

If any operator shall fail to make reports at the time and in the manner prescribed, the Chief Mine Inspector shall in such case, upon such information as he may possess or obtain, ascertain the amount of coal or mineral mined, and shall thereupon find and determine the amount of fees due from such person, and shall add a penalty for failure to report, which penalty shall equal ten percent (10%) of the fees imposed.

Amended by Laws 1983, c. 69, § 2, operative June 30, 1983.

§45-934. Lien for fees - Perfecting - Notice - Indexing - Release

Fees which are due and unpaid shall be a first and perpetual lien upon all of the property of the operator against whom the fees are assessed, subject to any tax liens imposed by the state. The liens shall be perfected by the filing and recording of a notice of lien with the county clerk in the county in which the operator resides or has property and shall thereafter constitute constructive notice to purchasers of the existence and superiority of the lien. Said notice of lien shall contain the name of the operator, the amount of fees claimed to be due, and a description of the property against which the lien is claimed. The county clerk of any county in which such lien is filed shall index the lien in the same form and manner and in the same book as provided for the indexing of income tax liens, except that the said entry in the said index shall show that the lien is a coal or mineral fee lien. Upon payment of the fee the Chief Mine Inspector shall release the lien.

Amended by Laws 1983, c. 69, § 3, operative June 30, 1983.

§45-935. Collection of delinquent fees.

All delinquent fees imposed by this act shall constitute a debt due to the state and may be collected by action brought by the Attorney General in the name of the state against the delinquent debtor in any court of competent jurisdiction.

Laws 1979, c. 74, § 5, eff. July 1, 1979.

§45-936. Payment of fee as condition precedent to coal mining - Default in payment as ground for injunctive relief.

Payment of the fee levied by this act shall be a condition precedent to the engaging or continuing to engage in coal or mineral mining within this state, and default in the payment of fees as herein provided shall constitute cause for injunction in any court of competent jurisdiction upon application of the Chief Mine Inspector in the name of the state for an order restraining and enjoining any delinquent from engaging or continuing to engage in coal or mineral mining within this state.

Amended by Laws 1983, c. 69, § 4, operative June 30, 1983.

§45-937. Violations; penalty.

Any person who willfully obstructs or hinders the Chief Mine Inspector or other public officer or employee from collecting the fee prescribed in this act, or who makes any false or fraudulent report or return thereof with intent to defraud the state, or to evade the payment of the fee or any part thereof; or who willfully refuses to make and file a report or return as required by the terms of this act; or who aids or abets another in any of the foregoing

prohibited acts, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law. Laws 1979, c. 74, § 7, eff. July 1, 1979.

§45-938. Department of Mines Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Department of Mines to be designated the Department of Mines Revolving Fund. Expenditures from the fund shall be made for any lawful purpose of the Department of Mines. The revolving fund shall be administered in accordance with standard revolving fund procedures.

Added by Laws 1979, c. 74, § 8, eff. July 1, 1979.

§45-938.1. Oklahoma Miner Training Institute Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Miner Training Institute to be designated the "Oklahoma Miner Training Institute Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies designated by Section 931 of this title to be deposited in the fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Mining Commission for the contract with the Board of Regents of Eastern Oklahoma State College for operation of the Oklahoma Miner Training Institute and associated expenses. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1988, c. 235, § 6, operative July 1, 1988. Amended by Laws 2012, c. 304, § 158.

§45-939. Coal-fired electric generating plants - Burning Oklahoma coal.

All entities providing electric power for sale to the consumer in Oklahoma and generating said power from coal-fired plants located in Oklahoma shall burn a mixture of coal that contains a minimum of ten percent (10%) Oklahoma mined coal, as calculated on a BTU (British Thermal Unit) basis.

Added by Laws 1986, c. 43, § 1, eff. Jan. 1, 1987.

§45-939.1. Cost increases to consumers and impairment of certain contracts prohibited.

The cost to the entity shall not increase the cost to the consumer or exceed the energy cost of existing long-term contracts for out-of-state coal preference including preference given Oklahoma vendors as provided in Section 85.32 of Title 74 of the Oklahoma Statutes.

Added by Laws 1986, c. 43, § 2, eff. Jan. 1, 1987.

§45-940. Fly ash or other material from coal combustion, power-generating facilities and kiln dust generated by cement-producing entities - Solid waste permit exemption.

A. All fly ash, bottom ash or any other such material produced by coal combustion, power-generating facilities shall be exempt from all solid waste permitting requirements pursuant to Title 27A of the Oklahoma Statutes, provided such ash is constructively reutilized, or disposed of in any active or inactive coal mining operation subject to the provisions contained in Title 45 of the Oklahoma Statutes. The disposal of fly ash, bottom ash or any other such material generated by the burning of coal for the purpose of generating electricity by electric utilities and independent power producers in any noncoal mining operation shall be subject to the solid waste permitting requirements in Title 27A of the Oklahoma Statutes.

B. All ash and kiln dust generated by cement-producing entities shall be exempt from all solid waste permitting requirements pursuant to Title 27A of the Oklahoma Statutes, provided such ash or dust is constructively reutilized, or disposed of in any active or inactive coal or noncoal mining operation subject to the provisions contained in Title 45 of the Oklahoma Statutes.

Added by Laws 1991, c. 45, § 1, emerg. eff. April 4, 1991. Amended by Laws 1997, c. 161, § 2, emerg. eff. April 25, 1997; Laws 2016, c. 168, § 2, eff. Nov. 1, 2016.

§45-950. Moratorium on issuing permits or amending permits for locations overlying sensitive sole source groundwater basins or subbasins.

A. For purposes of this section, a "subject mine" shall mean a mine, as defined in paragraph 2 of Section 723 of Title 45 of the Oklahoma Statutes, proposed for a location overlying a sensitive sole source groundwater basin or subbasin, exclusive of any mine that meets at least one of the following conditions:

1. As of November 1, 2019, is engaged in the permitted extraction of minerals from natural deposits; or
2. Satisfies the criteria of paragraph 1 or 2 of subsection C of Section 1020.2 of Title 82 of the Oklahoma Statutes; or
3. Is not to be permitted to operate for a period of more than five (5) years, with no extensions or renewals; or
4. The operation of which will not result in more than five (5) acre-feet per year of groundwater emanating from a sensitive sole source groundwater basin or subbasin to infiltrate its pit, as that term is defined in paragraph 12 of Section 723 of Title 45 of the Oklahoma Statutes.

B. Due to the inadequacy of existing technical resources, analytic tools and regulatory systems for purposes of the effective implementation of statutes relating to the operation of mines that overlies a sensitive sole source groundwater basin or subbasin, the Legislature hereby declares and establishes a moratorium on the Department of Mines issuing, in relation to any location overlying a sensitive sole source groundwater basin or subbasin or in which groundwater emanating from any sensitive sole source groundwater basin or subbasin may collect within a pit, as defined in paragraph 12 of Section 723 of Title 45 of the Oklahoma Statutes:

1. Any permit, pursuant to Section 724 of Title 45 of the Oklahoma Statutes, to any subject mine;

2. Any amendment or revision to any existing mining permit, that covers additional land which shall include extensions of boundaries shown in the initial permit, pursuant to subsection J of Section 724 of Title 45 of the Oklahoma Statutes, if such amendment or revision would increase the acreage under such permit for that mine location by more than one hundred percent (100%) or four hundred (400) acres, whichever is less, as compared to the acreage under permit for that mine location prior to the effective date of this act; provided, however, on or after November 1, 2030, there shall be no limitation on an increase in acreage as specified in this paragraph.

C. Notwithstanding the moratorium, nothing in paragraph 2 of subsection B of this section shall preclude the Department of Mines from issuing an amendment or revision to cover additional land, other changes to method or conduct of mining, reclamation operations contemplated by the original permit or other authorization to allow a change in mine ownership or to implement bonding under a permit issued prior to the effective date of this act, nor shall any permit amendment or revision issued pursuant to this section be deemed to render the permitted mine a subject mine for purposes of Title 27A, 45 or 82 of the Oklahoma Statutes.

D. Notwithstanding the moratorium or any other provision of law, the Department of Mines shall not require a permit for purposes of road or railroad construction in relation to mining activities by any mine.

E. The moratorium shall remain in effect until such time as:

1. The conditions of subsection C of Section 3 of this act have been satisfied; and

2. The Department of Mines promulgates final rules to provide for effective interagency consultation and coordination of activities among the Department, the Oklahoma Water Resources Board and the Department of Environmental Quality on all administrative matters relating to the operation of mines at locations that overlie a sensitive sole source groundwater basin or subbasin.

F. The Department of Mines is hereby authorized and instructed to promulgate rules to implement the provisions of this section.

G. The Department of Mines is hereby authorized to cooperate with federal, tribal and any other agencies in this state in performing its responsibilities under this section.

Added by Laws 2019, c. 349, § 2, eff. Nov. 1, 2019.