

## Opinion No. 47-5015

April 29, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. E. C. Anderson, Director New Mexico Bureau of Mines and Mineral Resources, Socorro, New Mexico.

{\*39} This is in response to your letter of April 28, 1947 in which you request the opinion of this office as to the actual authority and responsibility vested in the Director of the New Mexico Bureau of Mines and Mineral Resources by Ch. 210, Laws of 1947 (S. B. 157).

Section 67-404, N.M. 1941 Compilation, as amended by Ch. 210, Laws of 1947, sets out the duties of the State Inspector of Mines, as follows:

"67-404. Duties.

- (a) He shall make a careful and thorough inspection of every mine operated in the state as often as in his opinion may be necessary, but at least once yearly.
- (b) Proceed without delay to any mine within the state when he learns of any explosion or other catastrophe therein by which lives of men are jeopardized or in which fatalities have occurred, and render such aid as he can in the rescue of persons within the mine and in the protection of rescuers from danger.
- (c) Give written notice to the owners, operators or managers of any mine wherein he shall find improper construction or that said mine is not furnished with reasonable and proper machinery and appliances for the safety of miners and other employees, that said mine is unsafe, stating in what particular the same is unsafe, and shall require said owners, operators, or managers to provide such additional machinery, slopes, entries, shafts, drifts, means of escape, ventilation or other appliances necessary to the safety of miners and other employees of said mine, within a period to be named in said notice.
- (d) Inspect and pass upon the adequacy and safety of all hoisting apparatus in mines, and may demand a test of safety catches or clutches upon such hoisting apparatus as often as once in every three (3) months or whenever he may believe such hoisting apparatus to be defective.
- (e) Arrange a uniform system of mine bell signals and furnish a copy of the same to each mine operator within the state.
- (f) Make a report to the governor on or before the fifteenth (15) day of December of each year; which said report shall cover the preceding fiscal year and shall contain a review of the official acts of the inspector; statistics of the number of persons employed

in and about the mines in the state and of the production and the estimated value thereof, and a resume of the mining conditions generally existing in the state during the said year.

**(g) To perform all of the foregoing duties under the supervision {\*40} and direction of the Director of the New Mexico Bureau of Mines and Mineral Resources, and to perform such other duties related thereto as from time to time shall be prescribed by said director."**

Section (g) above, was added by the 1947 amendment and provides, specifically, that those duties enumerated in Section 67-404, or related thereto, shall be performed under the supervision and direction of the Director of the New Mexico Bureau of Mines.

Section 67-408, N.M. 1941 Compilation, as amended by Ch. 210, Laws of 1947, provides as follows:

"The Director of the New Mexico Bureau of Mines and Mineral Resources shall provide for the use of the State Inspector of Mines a suitable office, professional, clerical and stenographic assistance, and such appliances and instruments as are required in the work of the State Inspector of Mines; and in addition thereto shall pay traveling expenses actually incurred by said inspector; Provided, however, all appropriations and funds to the State Inspector of Mines shall go to the funds of the New Mexico Bureau of Mines and Mineral Resources. Any existing law or section of an existing law that conflicts with this Act is hereby repealed."

By Section 67-408, N.M. 1941 Compilation, as amended by Ch. 210 .Laws of 1947, the Director of the New Mexico Bureau of Mines provides an office for the State Inspector. The Director also provides for professional, clerical and stenographic assistance and for such appliances and instruments as are required in the work of the State Inspector of Mines.

Also, by Section 67-408, N.M. 1941 Compilation, as amended by Ch. 210, Laws of 1947, all appropriations and funds to the State Inspector of Mines go to the funds of the New Mexico Bureau of Mines.

I call your attention to the fact that the supervisory powers vested in the Director of the New Mexico Bureau of Mines by Ch. 210, Laws of 1947, are limited to the duties imposed upon the Inspector of Mines and enumerated by Section 67-404, 1941 Compilation, set out above.

I do not believe the supervisory powers of the Director of the New Mexico Bureau of Mines extends to other powers and duties which might be exercised by the State Inspector of Mines, but extends only to those duties specifically set out in Section 67-404, or related thereto.

By WM. R. FEDERICI,

Asst. Atty. General