WEST VIRGINIA CODE: §22-3-13A

§22-3-13a. Preblast survey requirements.

(a) At least thirty days prior to commencing blasting, as defined in section twenty-two-a of this article, an operator or an operator's designee shall make the following notifications in writing to all owners and occupants of man-made dwellings or structures that the operator or operator's designee will perform preblast surveys in accordance with subsection (e) of this section:

(1) For surface mining operations the required notifications shall be to all owners and occupants of man-made dwellings or structures within one-half mile of the permitted area or areas; and

(2) For blasting associated with permitted surface disturbance of underground mines and blasting associated with specified construction, including but not limited to, haul roads, shafts, and/or drainage structures, the operator may send a written request to the secretary asking that the required notifications be limited to all owners and occupants of man-made dwellings or structures within one-half mile of the proposed blasting area.

(b) An owner of a man-made dwelling or structure within the areas described in subdivision (1) or (2), subsection (a) of this section may waive the right to a preblast survey in writing. If an occupant or owner of a man-made dwelling or structure refuses to allow the operator or the operator's designee access to the dwelling or structure and refuses to waive in writing the right to a preblast survey or to the extent that access to any portion of the structure, underground water supply or well is impossible or impractical under the circumstances, the preblast survey shall indicate that access was refused, impossible or impractical. The operator or the operator's designee shall execute a sworn affidavit explaining the reasons and circumstances surrounding the refusals. The secretary may not determine the preblast survey to be incomplete because it indicates that access to a particular structure, underground water supply or well was refused, impossible or impractical. The operator shall send copies of all written waivers and affidavits executed pursuant to this subsection to the secretary.

(c) If a preblast survey was waived by the owner and was within the requisite area and the property was sold, the new owner may request a preblast survey from the operator.

(d) An owner within the requisite area may request, from the operator, a preblast survey on structures constructed after the original preblast survey.

(e) The preblast survey shall include:

(1) The names, addresses or description of structure location and telephone numbers of the owner and the residents of the structure being surveyed and the structure number from the

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permit blasting map;

(2) The current home insurer of the owner and the residents of the structure;

(3) The names, addresses and telephone numbers of the surface mining operator and the permit number;

(4) The current general liability insurer of the surface mining operator;

(5) The name, address and telephone number of the person or firm performing the preblast survey;

(6) The current general liability insurer of the person or firm performing the preblast survey;

(7) The date of the preblast survey and the date it was mailed or delivered to the secretary;

(8) A general description of the structure and its appurtenances, including, but not limited to: (A) The number of stories; (B) the construction materials for the frame and the exterior and interior finish; (C) the type of construction including any unusual or substandard construction; and (D) the approximate age of the structure;

(9) A general description of the survey methods and the direction of progression of the survey, including a key to abbreviations used;

(10) Written documentation and drawings, videos or photographs of the preblast defects and other physical conditions of all structures, appurtenances and water sources which could be affected by blasting;

(11) Written documentation and drawings, videos or photographs of the exterior and interior of the structure to indicate preblast defects and condition;

(12) Written documentation and drawings, videos or photographs of the exterior and interior of any appurtenance of the structure to indicate preblast defects and condition;

(13) Sufficient exterior and interior photographs or videos, using a variety of angles, of the structure and its appurtenances to indicate preblast defects and the condition of the structure and appurtenances;

(14) Written documentation and drawings, videos or photographs of any unusual or substandard construction technique and materials used on the structure or its appurtenances or both structure and appurtenances;

(15) Written documentation relating to the type of water supply, including a description of the type of system and treatment being used, an analysis of untreated water supplies, a water analysis of water supplies other than public utilities and information relating to the quantity and quality of water;

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(16) When the water supply is a well, written documentation, where available, relating to the type of well; the well log; the depth, age and type of casing or lining; the static water level; flow data; the pump capacity; the drilling contractor; and the source or sources of the documentation;

(17) A description of any portion of the structure and appurtenances not documented or photographed and the reasons;

(18) The signature of the person performing the survey; and

(19) Any other information required by the secretary which additional information shall be established by rule in accordance with article three, chapter twenty-nine-a of this code.

(f) The preblast survey shall be submitted to the secretary at least fifteen days prior to the commencement of any production blasting. The secretary shall review each preblast survey as to form and completeness only and notify the operator of any deficiencies: Provided, That once all required surveys have been reviewed and accepted by the secretary, blasting may commence sooner than fifteen days after submittal. The secretary shall provide a copy of the preblast survey to the owner or occupant.

(g) The secretary shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code dealing with preblast survey requirements and setting the qualifications for individuals and firms performing preblast surveys.

(h) The provisions of this section do not apply to the extraction of minerals by underground mining methods.

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