WEST VIRGINIA CODE: §22-3-2

§22-3-2. Legislative findings and purpose; jurisdiction vested in Division of Environmental Protection; authority of secretary; inter-departmental cooperation.

(a) The Legislature finds that it is essential to the economic and social well-being of the citizens of the State of West Virginia to strike a careful balance between the protection of the environment and the economical mining of coal needed to meet energy requirements.

(1) Further, the Legislature finds that there is great diversity in terrain, climate, biological, chemical and other physical conditions in parts of this nation where mining is conducted; that the State of West Virginia in particular needs an environmentally sound and economically healthy mining industry; and therefor it may be necessary for the secretary to promulgate rules which vary from federal regulations as is provided for in sections 101 (f) and 201 (c)(9) of the federal Surface Mining Control and Reclamation Act of 1977, as amended, "Public Law 95-87."

(2) Further, the Legislature finds that unregulated surface coal mining operations may result in disturbances of surface and underground areas that burden and adversely affect commerce, public welfare and safety by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural and forestry purposes; by causing erosion and landslides; by contributing to floods; by polluting the water and river and stream beds; by destroying fish, aquatic life and wildlife habitats; by impairing natural beauty; by damaging the property of citizens; by creating hazards dangerous to life and property; and by degrading the quality of life in local communities, all where proper mining and reclamation is not practiced.

(3) Further, the Legislature finds that the reasonable control of blasting associated with surface mining within the State of West Virginia is in the public interest and will promote the protection of the citizens of the State of West Virginia and their property without sacrificing economic development. It is the policy of the State of West Virginia, in cooperation with other governmental agencies, public and private organizations, and the citizens of this state, to use reasonable means and measures to prevent harm from the effects of blasting to its property and citizens.

(b) Therefore, it is the purpose of this article to:

(1) Expand the established and effective statewide program to protect the public and the environment from the adverse effects of surface-mining operations;

(2) Assure that the rights of surface and mineral owners and other persons with legal interest in the land or appurtenances to land are adequately protected from the operations;

(3) Assure that surface-mining operations are not conducted where reclamation as required

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by this article is not feasible;

(4) Assure that surface-mining operations are conducted in a manner to adequately protect the environment;

(5) Assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface-mining operations;

(6) Assure that adequate procedures are provided for public participation where appropriate under this article;

(7) Assure the exercise of the full reach of state common law, statutory and constitutional powers for the protection of the public interest through effective control of surface-mining operations;

(8) Assure that the coal production essential to the nation's energy requirements and to the State's economic and social well-being is provided; and

(9) Vest in the secretary the authority to enforce all of the laws, regulations and rules established to regulate blasting consistent with the authority granted in sections thirty-four through thirty-nine of this article.

(c) In recognition of these findings and purposes, the Legislature vests authority in the secretary of the Department of Environmental Protection to:

(1) Administer and enforce the provisions of this article as it relates to surface mining to accomplish the purposes of this article;

(2) Conduct hearings and conferences or appoint persons to conduct them in accordance with this article;

(3) Promulgate, administer and enforce rules pursuant to this article;

(4) Enter into a cooperative agreement with the Secretary of the United States Department of the Interior to provide for state regulation of surface-mining operations on federal lands within West Virginia consistent with section 523 of the federal Surface Mining Control and Reclamation Act of 1977, as amended; and

(5) Administer and enforce rules promulgated pursuant to this chapter to accomplish the requirements of programs under the federal Surface Mining Control and Reclamation Act of 1977, as amended.

(d) The secretary of the Department of Environmental Protection and the director of the Office of Miners Health, Safety and Training shall cooperate with respect to each agency's programs and records to effect an orderly and harmonious administration of the provisions of this article. The secretary of the Department of Environmental Protection may avail

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himself or herself of any services which may be provided by other state agencies in this State and other states or by agencies of the federal government, and may reasonably compensate them for those services. Also, he or she may receive any federal funds, state funds or any other funds, and enter into cooperative agreements, for the reclamation of land affected by surface mining.

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