# WEST VIRGINIA CODE: §22-3-35

**§22-3-35. Legislative rules on surface-mining blasting; disciplinary procedures for certified blasters.**

(a) All authority to promulgate rules pursuant to article three, chapter twenty-nine-a of this code is hereby transferred from the office of explosives and blasting to the Division of Mining and Reclamation as of the effective date of enactment of this section and article during the 2016 session of the Legislature: Provided, That any rule promulgated by the office of explosives and blasting shall remain in force and effect as though promulgated by the Division of Mining and Reclamation until the secretary amends the rules in accordance with the provisions of article three, chapter twenty-nine-a of this code. Any rules promulgated by the secretary shall include, but not be limited to, the following:

(1) A procedure for the review, modification and approval, prior to the issuance of any permit, of any blasting plan required to be submitted with any application for a permit to be issued by the secretary pursuant to article three of this chapter, which sets forth procedures for the inspection and monitoring of blasting operations for compliance with blasting laws and rules, and for the review and modification of the blasting plan of any operator against whom an enforcement action is taken by the Department of Environmental Protection;

(2) Specific minimum requirements for preblast surveys, as set forth in section thirteen-a, article three of this chapter;

(3) A procedure for review of preblast surveys required to be submitted under section thirteen-a, article three of this chapter;

(4) A procedure for the use of seismographs for production blasting which shall be made part of the blasting log;

(5) A procedure to warn of impending blasting to the owners or occupants adjoining the blasting area;

(6) A procedure to limit 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: (A) Prevent injury to persons; (B) prevent damage to public and private property outside the permit area; (C) prevent adverse impacts on any underground mine; (D) prevent change in the course, channel or availability of ground or surface water outside the permit area; and (E) reduce dust outside the permit area;

(7) Provisions for requiring mining operators to publish the planned blasting schedule in a newspaper of general circulation in the locality of the mining operation;

(8) Provisions for requiring mining operators to provide adequate advance written notice of

WV Legislature

the proposed blasting schedule to local governments, owners and occupants living within the distances prescribed in subsection (a), section thirteen-a, article three of this chapter;

(9) Provisions for establishing a process for the education, training, examination and certification of blasters working on surface-mining operations;

(10) Provisions for establishing disciplinary procedures for all certified blasters responsible for blasting on surface-mining operations conducted within this state in violation of any law or rule promulgated by the Department of Environmental Protection to regulate blasting; and

(11) Provisions for establishing a fee on each quantity of explosive material used for any purpose on surface mining operations, which fee shall be calculated to generate sufficient money to provide for the operation of the explosives and blasting program and the Division of Energy. The secretary shall deposit all moneys received from these fees into a special revenue fund in the State Treasury known as the Mountaintop Removal Fund to be expended by the secretary and the Division of Energy in the performance of their duties.

WV Legislature