WEST VIRGINIA CODE: §22-3-4

§22-3-4. Reclamation; duties and functions of secretary.

(a) The secretary shall administer the provisions of this article relating to surface-mining operations. The secretary has within his or her jurisdiction and supervision all lands and areas of the State, mined or susceptible of being mined, for the removal of coal and all other lands and areas of the State deforested, burned over, barren or otherwise denuded, unproductive and subject to soil erosion and waste. Included within the lands and areas are lands seared and denuded by chemical operations and processes, abandoned coal mining areas, swamplands, lands and areas subject to flowage easements and backwaters from river locks and dams, and river, stream, lake and pond shore areas subject to soil erosion and waste. The jurisdiction and supervision exercised by the secretary shall be consistent with other provisions of this chapter.

(b) The secretary may:

(1) Propose rules for promulgation, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article: Provided, That the secretary shall give notice by publication of the public hearing required in article three, chapter twenty-nine-a of this code: Provided, however, That any forms, handbooks or similar materials having the effect of a rule as defined in article three, chapter twenty-nine-a of this code were issued, developed or distributed by the director pursuant to or as a result of a rule are subject to the provisions of article three, chapter twenty-nine-a of this code;

(2) Make investigations or inspections necessary to ensure complete compliance with the provisions of this code;

(3) Conduct hearings or appoint persons to conduct hearings under provisions of this article or rules adopted by the secretary; and for the purpose of any investigation or hearing under this article, the secretary or his or her designated representative, may administer oaths or affirmations, subpoena witnesses, compel their attendance, take evidence and require production of any books, papers, correspondence, memoranda, agreements or other documents or records relevant or material to the inquiry;

(4) Enforce the provisions of this article as provided in this article;

(5) Appoint such advisory committees as may be of assistance to the secretary in the development of programs and policies: Provided, That such advisory committees shall, in each instance, include members representative of the general public; and

(6) In relation to blasting on all surface-mining operations and all surface-blasting activities related to underground mining operations:

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(A) Regulate blasting on all surface-mining operations;

(B) Implement and oversee the preblast survey process, as set forth in section thirteen-a, article three of this chapter;

(C) Maintain and operate a system to receive and address questions, concerns and complaints relating to mining operations;

(D) Set the qualifications for individuals and firms performing preblast surveys;

(E) Educate, train, examine and certify blasters; and

(F) Propose rules for legislative approval pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code for the implementation of sections thirty-four through thirty-nine of this article.

(c)(1) After the secretary has adopted the rules required by this article, any person may petition the secretary to initiate a proceeding for the issuance, amendment or appeal of a rule under this article.

(2) The petition shall be filed with the secretary and shall set forth the facts which support the issuance, amendment or appeal of a rule under this article.

(3) The secretary may hold a public hearing or may conduct such investigation or proceeding as he or she considers appropriate in order to determine whether the petition should be granted or denied.

(4) Within ninety days after filing of a petition described in subdivision (1) of this subsection, the secretary shall either grant or deny the petition. If the secretary grants the petition, he or she shall promptly commence an appropriate proceeding in accordance with the provisions of chapter twenty-nine-a of this code. If the secretary denies the petition, he or she shall notify the petitioner in writing setting forth the reasons for the denial.

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