WEST VIRGINIA CODE: §24C-1-9

§24C-1-9. Civil enforcement.

(a) Any person who violates this article by failure to notify the one-call system, or who violates the rules proposed or promulgated under this article, shall be subject to civil penalty as follows:

(1) For a first violation, the violator shall complete a course of training concerning compliance with this article as determined by the board;

(2) For a second violation occurring within a five-year period, the violator shall complete a course of training concerning compliance with this article as determined by the board or pay a civil penalty in an amount set by the board, not to exceed $500 per incident, or both;

(3) For a third or subsequent violation occurring within a five-year period, the violator shall pay a civil penalty in an amount set by the board, not to exceed $2,500 per incident; and

(4) Notwithstanding this section, if any violation was the result of gross negligence or willful or wanton misconduct as determined by the board, the board shall require the violator to complete a course of training concerning compliance with this article as determined by the board and pay a civil penalty not to exceed $5,000 per incident.

(b) Any person who is required to complete a course of training under this section shall be responsible for the cost of the training. As used in this section, "course of training" means training developed by or under the direction of the board.

(c) Any excavator who violates this article by failing to notify the one-call system of the intended excavation or demolition may be required to cease work on any excavation, or not start a proposed excavation, until the excavator complies with this article.

(d) Nothing in this article shall limit any person’s right to pursue any additional civil remedy otherwise allowed by law.

(e)(1) If the person to whom the citation is issued under this section does not pay the citation or submit to training as ordered or both, within 30 days, the board shall appoint a hearing officer to conduct a hearing and issue an initial order pursuant to the State Administrative Procedures Act. The hearing shall be held at the time and place set forth in the citation notice of hearing in the county where excavation referenced in the citation occurred unless otherwise agreed to by the person to whom the citation was issued.

(2) A person aggrieved by the final order may, within 30 days, file a petition for judicial review by the intermediate court of appeals pursuant to §29A-1-1 *et seq.* of this code.

WV Legislature