WEST VIRGINIA CODE: §5b-2A-2

§5B-2A-2. Application of article.

(a) The provisions of this article shall apply to all surface-mining operations, except:

(1) The surface operations and surface impacts incident to an underground coal mine; and

(2) Surface-mining operations of operators that: (A) Establish that their probable total annual coal production from all locations during any consecutive twelve-month period, either during the term of the permit or during the first five years after issuance of the permit, whichever period is shorter, will not exceed three hundred thousand tons, as determined pursuant to rules promulgated by the division; and (B) otherwise qualify for the small operator assistance program authorized under the federal Surface-Mining Control and Reclamation Act of 1977, as amended, and the federal regulations promulgated thereunder, as amended.

(b) The provisions of this article shall not apply: (1) To underground coal mining operations; or (2) to the extraction of minerals by underground mining methods or the surface impacts thereof.

WV Legislature