WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED
Committee Substitute for Senate Bill No. 255

(By Senators Hulse, Sharpe, Ross, Heiner)

PASSED March 9, 1996
In Effect Ninety Days from Passage
ENROLLED

COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 255

(SENATORS MILLER, SHARPE, ROSS AND HELMICK, original sponsors)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section eleven, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to surface mining and reclamation of minerals other than coal; blasting restrictions; formula; filing preplan; penalties; notice; permitting seismograph measurement to be used in place of scaled-distance formula; modifying scaled-distance formula; modifying requirements relating to blasting; and requiring that legislative rules be promulgated relating notification of impending blasting activities.

Be it enacted by the Legislature of West Virginia:
That section eleven, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. SURFACE MINING AND RECLAMATION OF MINERALS OTHER THAN COAL.

§22-4-11. Blasting restriction; formula; filing preplan; penalties; notice.

1 Where blasting of overburden or mineral is necessary, the blasting shall be done in accordance with established principles for preventing injury to persons and damage to residences, buildings and communities. The blasting is in compliance with provisions of this article if the following measures are adhered to:

(1) The weight in pounds of explosives to be detonated in any period less than an eight millisecond period without seismic monitoring shall conform to the following scaled distance formula: \[ W = \left( \frac{D}{50} \right)^2 \]. Where \( W \) equals weight in pounds of explosives detonated at any one instant time, then \( D \) equals distance in feet from nearest point of blast to nearest residence, building or structure, other than operation facilities of the mine: Provided, That the scaled distance formulas need not be used if a seismograph measurement at or between the blast site and the nearest protected structure (residence, building or structure) is recorded and maintained for every blast. The peak particle velocity in inches per second in any one of the three mutually perpendicular directions shall not exceed the following values at any protected structure:

<table>
<thead>
<tr>
<th>Seismograph Measurement</th>
<th>Distance to the Nearest Protected Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.25</td>
<td>0 - 300 feet</td>
</tr>
<tr>
<td>1.00</td>
<td>301 - 5,000 feet</td>
</tr>
<tr>
<td>0.75</td>
<td>5,001 feet or greater</td>
</tr>
</tbody>
</table>
The maximum ground vibration standards do not apply to the structures owned by the permittee and not leased to another person and structures owned by the permittee and leased to another person, if a written waiver by the lessee is submitted to the director before blasting.

(2) Airblast shall not exceed the maximum limits listed below at the location of any dwelling, public buildings, school or community or institutional building outside the permit area:

**Lower frequency limit of measuring system in Hz(+3dB)**

<table>
<thead>
<tr>
<th>Lower Frequency Limit</th>
<th>Maximum Level in db</th>
</tr>
</thead>
<tbody>
<tr>
<td>1Hz or lower-flat response*</td>
<td>134 peak</td>
</tr>
<tr>
<td>2Hz or lower-flat response</td>
<td>133 peak</td>
</tr>
<tr>
<td>6Hz or lower-flat response</td>
<td>129 peak</td>
</tr>
<tr>
<td>C-weighted-slow response*</td>
<td>105 peak dBC</td>
</tr>
</tbody>
</table>

* only when approved by the director.

(3) Access to the blast area shall be controlled against the entrance of unauthorized personnel during blasting for a period thereafter until an authorized person has reasonably determined that:

(A) No unusual circumstances exist such as imminent slides or undetonated charges, etc.; and

(B) Access to and travel in or through the area can be safely resumed.

(4) A plan of each operation’s methods for compliance with this section (blast delay design) for typical blasts which shall be adhered to in all blasting at each operation, shall be submitted to the division of environmental protection with the application for a permit. It shall be accepted if it meets the scaled distance formula established in subdivision (1) of this section.

(5) Records of each blast shall be kept in a log to be maintained for at least three years, which will show for each blast the following information:
62  (A) Date and time of blast;
63  (B) Number of holes;
64  (C) Typical explosive weight per delay period;
65  (D) Total explosives in blast at any one time;
66  (E) Number of delays used;
67  (F) Weather conditions;
68  (G) Signature of operator employee in charge of the blast;
69  (H) Seismograph data; and
70  (I) Date of seismograph calibration.

72  (6) Where inspection by the division of environmental protection establishes that the scaled distance formula or the seismograph results or the approved preplan are not being adhered to, the following penalties shall be imposed:
77  (A) For the first offense in any one permit year under this section, the permit holder shall be assessed not less than five hundred dollars nor more than one thousand dollars;
81  (B) For the second offense in any one permit year under this section, the permit holder shall be assessed not less than one thousand dollars nor more than five thousand dollars;
85  (C) For the third offense in any one permit year under this section or for the failure to pay any assessment hereinabove set forth within a reasonable time established by the commissioner, the permit shall be revoked.

All assessments as set forth in this section shall be assessed by the director, collected by the director and deposited with the treasurer of the state of West Virginia, to the credit of the operating permit fees fund.

The director shall propose legislative rules pursuant to article three, chapter twenty-nine-a of this code which
shall provide for a warning of impending blasting to the owners, residents or other persons who may be present on property adjacent to the blasting area.
That Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st
day of 1996.

Governor