

SB 255

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



## ENROLLED

*COMMITTEE SUBSTITUTE FOR*  
SENATE BILL NO. 255

(By Senators MILLER, SHARPE, PAS: HELMICK)



PASSED MARCH 9. 1996

In Effect NINETY DAYS FROM Passage

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COMMITTEE SUBSTITUTE  
FOR

### Senate Bill No. 255

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

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

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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,  
 2 the blasting shall be done in accordance with established  
 3 principles for preventing injury to persons and damage  
 4 to residences, buildings and communities. The blasting  
 5 is in compliance with provisions of this article if the  
 6 following measures are adhered to:

7 (1) The weight in pounds of explosives to be detonated  
 8 in any period less than an eight millisecond period  
 9 without seismic monitoring shall conform to the follow-  
 10 ing scaled distance formula:  $W = (D/50)^2$  (to the second  
 11 power). Where W equals weight in pounds of explosives  
 12 detonated at any one instant time, then D equals dis-  
 13 tance in feet from nearest point of blast to nearest  
 14 residence, building or structure, other than operation  
 15 facilities of the mine: *Provided*, That the scaled distance  
 16 formulas need not be used if a seismograph measurement  
 17 at or between the blast site and the nearest protected  
 18 structure (residence, building or structure) is recorded  
 19 and maintained for every blast. The peak particle  
 20 velocity in inches per second in any one of the three  
 21 mutually perpendicular directions shall not exceed the  
 22 following values at any protected structure:

23 Seismograph Measurement	24 Distance to the Nearest Protected Structure
25 1.25	0 - 300 feet
26 1.00	301 - 5,000 feet
27 0.75	5,001 feet or greater

28 The maximum ground vibration standards do not apply  
 29 to the structures owned by the permittee and not leased  
 30 to another person and structures owned by the permittee  
 31 and leased to another person, if a written waiver by the  
 32 lessee is submitted to the director before blasting.

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

37 Lower frequency limit of measuring 38 system in Hz(+3dB)	Maximum level in db
39 1Hz or lower-flat response*	134 peak
40 2Hz or lower-flat response	133 peak
41 6Hz or lower-flat response	129 peak
42 c-weighted-slow response*	105 peak dBC

43 \* only when approved by the director.

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

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

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

52 (4) A plan of each operation's methods for compliance  
 53 with this section (blast delay design) for typical blasts  
 54 which shall be adhered to in all blasting at each opera-  
 55 tion, shall be submitted to the division of environmental  
 56 protection with the application for a permit. It shall be  
 57 accepted if it meets the scaled distance formula estab-  
 58 lished in subdivision (1) of this section.

59 (5) Records of each blast shall be kept in a log to be  
 60 maintained for at least three years, which will show for  
 61 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  
69 blast;
- 70 (H) Seismograph data; and
- 71 (I) Date of seismograph calibration.

72 (6) Where inspection by the division of environmental  
73 protection establishes that the scaled distance formula or  
74 the seismograph results or the approved preplan are not  
75 being adhered to, the following penalties shall be im-  
76 posed:

77 (A) For the first offense in any one permit year under  
78 this section, the permit holder shall be assessed not less  
79 than five hundred dollars nor more than one thousand  
80 dollars;

81 (B) For the second offense in any one permit year under  
82 this section, the permit holder shall be assessed not less  
83 than one thousand dollars nor more than five thousand  
84 dollars;

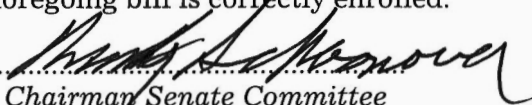
85 (C) For the third offense in any one permit year under  
86 this section or for the failure to pay any assessment  
87 hereinabove set forth within a reasonable time estab-  
88 lished by the commissioner, the permit shall be revoked.

89 All assessments as set forth in this section shall be  
90 assessed by the director, collected by the director and  
91 deposited with the treasurer of the state of West Vir-  
92 ginia, to the credit of the operating permit fees fund.

93 The director shall propose legislative rules pursuant to  
94 article three, chapter twenty-nine-a of this code which

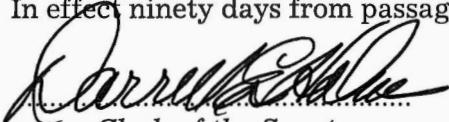
95 shall provide for a warning of impending blasting to the  
96 owners, residents or other persons who may be present  
97 on property adjacent to the blasting area.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

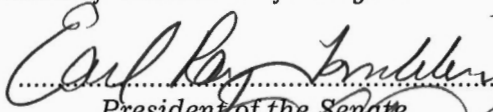
  
.....  
Chairman Senate Committee

  
.....  
Chairman House Committee

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

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *15<sup>th</sup>* .....  
day of *April* ....., 1996.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/96

Time 9:30am