

coal seams and shall not include construction blasting. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.36 defines "protected structure" to mean any of the following structures that are situated outside the permit area: An occupied dwelling, a temporarily unoccupied dwelling which has been occupied within the past 90 days, a public building, a habitable building for commercial purposes, a school, a church, a community or institutional building, a public park or a water supply. This definition is used in the provisions at CSR 199-1-3.6 to provide protection from blasting damage for such protected structures. CSR 199-1-3.7 provides for the protection of structures in the vicinity of the blasting area which are not defined as protected structures. We find that this definition is not inconsistent with SMCRA or the Federal blasting regulations at 30 CFR 816/817.67 and can be approved.

199-1-2.37 defines "supervised a blasting crew" to mean that a person assumed responsibility for the conduct of a blasting crew(s) and that the crew(s) reported directly to that person. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.38 defines "surface mine and surface area of underground mines" to mean:

all areas except underground workings surface mined or being surfaced mined, including adjacent areas ancillary to the operations, *i.e.*, preparation and processing plants, storage areas, shops, haulageways, roads, and trails, which are covered by the provisions of W. Va. Code 22-3-1 *et seq.*, and rules promulgated under that article.

Although it lacks commas setting apart the phrase, it is our understanding that this definition intends to exclude "underground workings" from the definition of "surface mine and surface area of underground mines." Our finding that this definition is not inconsistent with SMCRA or the Federal definition of "surface coal mining operations" at 30 CFR 700.5 and can be approved is based upon that understanding of its intended meaning.

199-1-2.39 defines "worked on a blasting crew" to mean a person has first-hand experience in storing, handling, transporting, and using explosives, and has participated in the loading, connecting, and preparation of blast holes and has participated in detonating blasts. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

10. CSR 199-1-3 Blasting.

199-1-3.2.a Blasting plans. This subdivision is nearly identical to CSR 38-2-6.2 with the following changes. The first sentence was deleted, which required that each application for a permit, where blasting is anticipated, shall include a blasting plan. The deleted sentence was replaced by the following sentence: "As required by statute, all surface mining operations that propose blasting shall include a blasting plan." The W. Va. Code 22-3-9(e) provides that each applicant for a surface-mining permit shall submit to the director as part of the permit application a blasting plan where explosives are to be used, which shall outline the procedures and standards by which the operator will meet the provisions of the blasting performance standards. We find that this new sentence is substantively identical to the Federal requirement at 30 CFR 780.13(a) concerning blasting plan, and that it can be approved.

Proposed 199-1-3.2.a was amended by deleting the phrase "and the terms and conditions of the permit." We find that the deletion of this phrase does not render the provision less effective than the counterpart Federal provision at 30 CFR 780.13(a) and can be approved.

Proposed 199-1-3.2.a was amended to provide that the blasting plan would include methods to be applied in preventing, rather than controlling, the adverse effects of blasting. It was also amended by adding language that requires that blasting plans shall delineate the type of explosives and detonation equipment, the size, the timing and frequency of blasts, and the effect of geologic and topographic conditions on specific blasts. The new language also provides that blasting plans shall be designed to prevent injury to persons, prevent damage to public and private property outside the permit area, prevent adverse impacts on any underground mine, prevent change in the course, channel or availability of ground or surface water outside the permit area, and reduce dust outside the permit area. We find that this new language, which provides for the prevention of the adverse effects of blasting, is substantively identical to the requirements in SMCRA at section 515(b)(15)(C) with one exception. There is no Federal counterpart to the new provision at 199-1-3.2.a.5, which requires that blasting shall be designed to reduce dust outside the permit area. We find, however, that the provision is not inconsistent with the Federal requirements. Therefore, we find that the amendments to CSR 199-1-3.2.a can be approved.

199-1-3.2.b Review of blasting plans. This provision requires the Office of Explosives and Blasting to review blasting plans for administrative and technical completeness. There is no direct Federal counterpart to this provision. However, we find that the provision is not inconsistent with SMCRA section 515(b)(15) and the Federal regulations at 30 CFR 777.15 and 780.13(a) concerning completeness of a permit application and the blasting plan and can be approved.

199-1-3.2.c Inspection and monitoring procedure. This provision provides that each blasting plan shall contain an inspection and monitoring procedure to insure that blasting operations are conducted to eliminate, to the maximum extent technically feasible, adverse impacts to the surrounding environment and surrounding occupied dwellings. In addition, this subdivision provides that for all surface coal extraction operations that will include production blasting, the monitoring procedure shall include provisions for monitoring ground vibrations and air blast. This mandatory monitoring of production blasting is no less effective than the Federal requirements at 30 CFR 780.13(b), which requires each permit application to include a description of any system to be used to monitor compliance with blasting standards. We find that subdivision 3.2.c is consistent with the Federal requirements at 30 CFR 780.13(b) and can be approved.

199-1-3.2.d Review of blasting plans where a blasting related notice of violation (NOV) or cessation order (CO) have been issued. This provision requires that where a blasting related NOV or CO has been issued, the Office shall review the blasting plan within thirty (30) days of final disposition of the NOV or CO. This review will focus on the specific circumstances that led to the enforcement action. If necessary, the blasting plan will be modified to insure all precautions are being taken to safely conduct blasting operations. There is no direct Federal counterpart to this provision. However, we find that subdivision 3.2.d. is consistent with the Federal regulations at 30 CFR 816/817.61(d)(5), which states that the regulatory authority may require changes to the blast design, and can be approved.

199-1-3.3(a) Public notice of blasting operations. This provision is copied from CSR 38-2-6.3 and amended by adding a requirement that copies of the blasting schedule must also be distributed by Certified Mail to residents within seven tenths of a mile of the blasting sites for all surface coal