

extraction permits larger than those defined in accordance with W. Va. Code 22-3-13a(a)(1). The State also revised an existing sentence providing that, unless blasting operations will occur on drainage structures and roads, [such] structures are exempt from measuring the notification area. In addition, the State added a requirement that a list of residents, utilities, and owners of man-made structures within the notification area shall be made part of the blasting plan, and shall be updated on an annual basis. Finally, the provision now requires publication and redistribution of the blasting schedule in a newspaper of general circulation in all the counties of the proposed [permit] area, rather than just in the county of the proposed permit area. We find that as amended, CSR 199-1-3.3(a) is consistent with and no less effective than the Federal regulations at 30 CFR 816.64(b) and can be approved.

199-1-3.4 Public notice of surface blasting incident to underground coal mining. This provision, which is nearly identical to the provision at CSR 38-2-6.3.b, is amended by adding the words "and workplaces" immediately following the word "residents" and before the words "or owners." The effect of this amendment is to require that "workplaces" also receive the written notification of the proposed times and locations of the surface blasting operations incidental to underground coal mining operations. We find that the addition of the words "and workplaces" does not render the provision less effective than the Federal regulations at 30 CFR 817.64(a) and 816.79 and can be approved.

199-1-3.6.i Ground vibration. This provision was copied from CSR 38-2-6.5.j and amended by adding language to provide that seismographs used to demonstrate compliance with this subdivision must be shake-table calibrated annually. Also, the annual calibration certificate shall be kept filed with the blasting logs and seismograph records and made available for review as required by subdivision CSR 199-1-3.5.a. While there is no Federal counterpart to the new language, we find that it is not inconsistent with the Federal regulations concerning ground vibration at 30 CFR 816/817.67(d) and that CSR 199-1-3.6.i can be approved.

199-1-3.7.a Blasting control for other structures. This provision was copied from CSR 38-2-6.6.a, and amended by adding language to provide that if alternative maximum allowable limits on vibration are not included in the approved blast plan, the operator shall comply with the limits specified in paragraph 3.6.c.1, and subdivisions

3.6.h and 3.6.i. While there is no direct Federal counterpart to this provision, we find that it is consistent with the intent of 30 CFR 816/817.67(b) and (d) and can be approved.

199-1-3.8 Pre-blast survey. This provision is copied from CSR 38-2-6.8.a.2, and amended by adding the following language at the end of the provision:

The pre-blast survey shall include a description of the water source and water delivery system. When the water supply is a well, the pre-blast survey shall include written documentation about the type of well, and where available, the well log and information about the depth, age, depth and type of casing, the static water level, flow and recharge data, the pump capacity, the name of the drilling contractor, and the source or sources of the information.

While the proposed language has no direct Federal counterpart, we find that it is consistent with and no less effective than the Federal regulations at 30 CFR 816/817.62(c) and can be approved.

We must note that the State has not included specific procedures in its rules requiring operators, at least 30 days prior to the beginning of blasting operations, to notify residents or owners of structures in writing on how to request a preblast survey. However, this specific requirement is contained in W.Va. Code 22-3-13a(a), and it is our understanding that W.Va. Code 22-3-13a(a) continues to apply.

In addition, subsection 3.8 does not specifically require that copies of the preblast survey be promptly provided the person requesting the survey and the Secretary, and that the report be signed by the person conducting the preblast survey. However, W. Va. Code 22-3-13a(f)(18) specifically requires that the preblast survey include the signature of the person performing the survey. In addition, W. Va. Code 22-3-13a(g) provides that pre-blast surveys must be submitted to the Office of Explosives and Blasting, and that the Office shall provide a copy of the survey to the owner or occupant. It is our understanding that both W. Va. Code 22-3-13a(f)(18) and 22-3-13a(g) continue to apply. Our approval of subsection 3.8 is based upon those understandings.

199-1-3.8.a Pre-blast survey. This provision provides that surveys, waivers or affidavits for each dwelling or structure within the pre-blast survey area shall be completed and submitted to the Office of Explosives and Blasting at least 15 days before any blasting may occur, provided, that once all pre-blast surveys have been accepted by the Office, blasting may commence sooner than 15 days from submittal. There is no

direct Federal counterpart to this provision. However, the Federal regulations at 30 CFR 816/817.62(e) provide that surveys requested more than 10 days before the planned initiation of blasting shall be completed by the operator before the initiation of blasting. While subdivision 199-1-3.8.a does not contain a specific counterpart to this language at 30 CFR 816/817.62(e), we find that CSR 199-1-3.8.a does not conflict with the Federal requirement. That is, the State provision in no way prohibits surveys being requested more than 10 days before the planned initiation of blasting. Furthermore, the State's existing regulations at CSR 38-2-6.8.a.4 provide that pre-blast surveys requested more than 10 days before the planned initiation of blasting must be completed before blasting begins. This ensures that any preblast survey that may be requested after the 15-day submission period will be completed before blasting commences. Therefore, we are approving this provision because, when read in conjunction with CSR 38-2-6.8.a.4, it is not inconsistent with 30 CFR 816/817.62(e).

199-1-3.8.a.1 Disagreement with pre-blast survey results. This provision provides that any person who disagrees with the results of the survey may submit a detailed description of the specific areas of disagreement, to the Office of Explosives and Blasting. The description of the areas of disagreement will be made a part of the pre-blast survey on file at the Office. We find that this new provision is no less effective than the Federal regulations at 30 CFR 816/817.62(d) and can be approved.

199-1-3.8.a.2 Structures/renovations after an initial pre-blast survey. This provision provides that if a structure is added to or renovated subsequent to a survey, a survey of such additions and/or renovations shall be performed upon request of the resident or owner. If a pre-blast survey was waived by the owner and was within the requisite area and the property was sold, the new owner may request a pre-blast survey from the operator. An owner within the requisite area may request, from the operator, a pre-blast survey on structures constructed after the original pre-blast survey. We find that this new provision is no less effective than the Federal regulations at 30 CFR 816/817.62(b) and can be approved.

199-1-3.9 Pre-blast surveyors. These new provisions set forth the qualifications for individuals and firms performing pre-blast surveys. There are no Federal counterparts to these provisions. We find, however, that these