

SUBJECT:	Blasting Notification Requirements for Quarries
DATE:	November 1, 2001 - Revised: 05-01-02- Revised 09-01-06

Legal Authority: 22-4-13(d), 38-3-6.3

WV Code 22-4-13(d) states that “The director shall propose legislative rules ...which shall provide for a warning of impending blast to owners, residents or other persons who may be present on property adjacent to the blasting area.”

WV Rules at 38-3-6.3 requires in part that “... prior to blasting operations, written notification of blasting operations...shall be delivered in person or by certified mail to each residence and owners of- protected structures, adjacent to any part of the proposed operation.” A written receipt of delivery of the notice shall be maintained with the blasting log. The notification shall contain at a -minimum:

- Name, address, telephone number and an emergency contact -phone number of the operator.
- Identification of the specific areas in which blasting shall take place.
- A general schedule when explosives are to be detonated.
- Types and patterns of audible warning and all clear signals to be used before and after blasting.

For blasting purposes, the term “adjacent” is not defined by Chapter 22, Article 4 of the WV Code or by 38-3-6.3 of the WV Rules. Therefore, for purposes of 38-3-6.3, “adjacent” shall be defined as five hundred feet (500’) or less from any part of the operation.

The applicant must provide written notification of the meaning of blast warning signals to each resident and/or business within one-half mile of the permit area. It is the responsibility of the business to provide the information to their employees and post the information for the public who visit the business.

SUBJECT: Pre-blast Surveys

DATE: November 1, 2001 - Revised 09-01-06

Legal Authority: 22-4-12, 22-4-3(19), 38-3-6.6

Persons Approved to Conduct Pre-Blast Survey

The insurance carrier who has indemnified the operations under provisions of Chapter 22-4-20 of the Code of West Virginia, shall conduct the pre-blasting survey in accordance with the provisions of Chapter 22-4-12 and Section 38-3-6.6 of the Rules and Regulations. If the carrier or the operator elects to engage the services of an outside agency or person to conduct the pre-blast survey, then the insurance carrier shall certify and submit in writing that this agency or person is acceptable to do such. This submittal shall be included in the pre-blast survey.

When Required

At least thirty days prior to commencing blasting, an operator or an operator's designee shall notify in writing all owners and occupants of protected structures that the operator or operator's designee will perform pre-blast surveys in accordance with 22-4-12(f). An occupant or owner of a man-made dwelling or structure may waive the right to a pre-blast survey in writing. If the dwelling is occupied by a persons other than the owner, both the owner and the occupant must waive the right to a pre-blast survey in writing. If an occupant or owner of a man-made dwelling or structure refuses to allow the operator or his designee access to the protected structure or refuses to waive in writing the right to a pre-blast survey or to the extent that access to any portion of the structure, underground water supply or well is impossible or impractical under the circumstances, the pre-blast survey shall indicate that access was refused, impossible or impractical a Pre-Blast Survey Affidavit (form EB-39C) must be completed when an owner or resident refuses to allow inspection, refuses to sign a waiver or can not be contacted after repeated attempts. The operator or his designee shall execute a sworn affidavit explaining the reasons and circumstances surrounding the refusals.

If a pre-blast survey was waived by the owner and the property is sold, the new owner may request a pre-blast survey from the operator

Protected Structures

Quarrying operations must be conducted in such a manner as to prevent damage to buildings and property outside the permit area and to prevent injury to persons.

For blasting purposes, utility distribution lines, such as pipelines, telephone lines, electric lines or utility lines are not considered commercial structures and, therefore, are not protected structures.

New Permits

For all new permits issued after the effective date of the Act, pre-blast surveys are required on all protected structures within 1,500' (fifteen hundred feet) of the blasting area.

Forms

Office of Explosive and Blasting forms are available on the DEP web site at www.dep.wv.gov then go to "Offices" (there will be a drop down where you can select different divisions, select "Division of Mining and Reclamation", select "Office of Explosive and Blasting"), OEB forms are located on right-hand side of page..

SUBJECT: Pre-blast Surveys – Approval Process

DATE: November 1, 2001 -Revised 09-01-06

Legal Authority: 22-4-12

“Any property owner may, at their own expense, pay for a pre-blast survey meeting the provisions of Article 4, for his or her protected structure to assess the impact of future blasts to those dwellings or structures by an existing quarry.” The landowner may submit a copy to DEP’s Division of Mining and Reclamation to be forwarded to OEB.

Blasting cannot commence until all surveys are accepted. It is the DMR Environmental Inspector’s responsibility to make certain that all owners and occupants listed in the permit receive proper notification of blasting operations and that every person who is eligible, either receives a survey or signs a waiver. A sworn affidavit by the operator or operator’s designee may be executed if an owner or occupant refuses access to perform a survey, refuses to sign a waiver for a survey, or if no response by the owner/occupant to the notification letter, telephone calls, and several (at least five (5) attempts at varying times of the day over a thirty (30) day period) site visits. Detailed documentation (certified mail receipt, phone logs, dates and times of site visits, etc.) of attempts to contact the owner/occupant must be attached to the signed and notarized affidavit explaining the situation. A sample affidavit form EB-39C is located at the DEP web site.

Two copies of each pre-blast survey will be submitted to the Office of Explosives and Blasting (OEB) for acceptance and archiving. OEB shall notify the operator of any deficiencies within 15 days from the date OEB stamps the survey as received. A letter from OEB advising that the survey is complete and adequate is distributed to the company and the DEP regional office. OEB archives the DEP copy of the survey. OEB provides a copy of the survey to the owner of the protected structure.

OEB has no authority over quarries but as a courtesy to DMR they review pre-blast surveys for quarries. This is the only involvement OEB will have with quarry operations.

The company is required to keep a copy of pre-blast surveys until final release. All pre-blast surveys are confidential.

The Environmental Inspector will be notified when the survey has been accepted.

SUBJECT: Blaster's Certification Number

DATE: November 1, 2001 – Revised 09-01-06

Legal Authority: 38-3-6.4.b.3, 38-3-6.8

The Certified Blaster Number is either the number assigned by the Fire Marshall or by the Office of Blasting and Explosives.

INSERT LETTERHEAD

Draft Pre-Blast Survey Correction Letter

Date

Company
Address
City, State Zip

Re: Pre-Blast Survey: _____
Permit # _____

Dear Company:

Your pre-blast survey for _____, Permit No. _____ cannot be accepted because it is not complete. Items that need to be addressed or corrected are marked below.

- 1. The names, addresses or description of structure location and telephone numbers of the owner and the residents of the structure being surveyed and the structure number from the permit-blasting map.
- 2. The current home insurer of the owner and the residents of the structure.
- 3. The names, addresses and telephone numbers of the operator and the permit number.
- 4. The current general liability insurer of the operator.
- 5. The name, address and telephone number of the person or firm performing the pre-blast survey.
- 6. The current general liability insurer of the person or firm performing the pre-blast survey.
- 7. The date of the pre-blast survey and the date it was mailed or delivered to the director.
- 8. A general description of the structure and its appurtenances including, but not limited to: (A) The number of stories; (B) the construction materials for the frame and the exterior and interior finish; (C) the type of construction including any unusual or substandard construction and (D) the approximate age of the structure.
- 9. A general description of the survey methods and the direction of progression of the survey, including a key to abbreviations used.

- 10. Written documentation and drawings, videos or photographs of the pre-blast defects and other physical conditions of all structures, appurtenances and water sources which could be affected by blasting.
- 11. Written documentation and drawings, videos, or photographs of the exterior and interior of the structure to indicate pre-blast defects and conditions.
- 12. Written documentation and drawings, videos or photographs of the exterior and interior of any appurtenance of the structure to indicate pre-blast defects and conditions.
- 13. Sufficient exterior and interior photographs or videos, using a variety of angles, of the structure and its appurtenances to indicate pre-blast defects and the condition of the structure and appurtenances.
- 14. Written documentation and drawings, videos or photographs or any unusual or substandard construction technique and materials used on the structure and/or its appurtenances.
- 15. Written documentation relating to the type of water supply, including a description of the type of system and treatment being used, an analysis of untreated water supplies, a water analysis of water supplies other than public utilities, and information relating to the quantity and quality of water.
- 16. When the water supply is a well, written documentation, where available, relating to the type of well; the well log; the depth, age and type of casing or lining; the static water level; flow data; the pump capacity; the drilling contractor; and the source or sources of the documentation.
- 17. A description of any portion of the structure and appurtenances not documented or photographed and the reasons;
- 18. The signature of the person performing the survey.
- 19. Any other information required by the director which additional information shall be established by rule in accordance with article three, chapter twenty-nine-a of this code.

If you have any questions regarding the corrections to your pre-blast survey, please contact _____ at (304)_____.

Sincerely,

Pre-blast Survey Coordinator

SUBJECT: Assessments for Blasting Violations on Quarries

DATE: November 1, 2001

Legal Authority: 22-4-13(e)

When a Notice of Non-Compliance (MR-15Q), is issued for a blasting violation, the line marked “Blasting Assessment Y/N” shall be marked and the appropriate line on the Inspection Report (MR-6Q) should indicate either “Blasting Procedures 4007” or Scaled Dist. Form/Seismo 4009”. A copy of the MR-15Q shall be sent to the assessments section for initial penalty assessment and the operator/permittee notification of assessment.