

## CHAPTER 377

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**NATURAL RESOURCES**

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**SENATE BILL 03-329**

BY SENATOR(S) Taylor, Chlouber, and Entz;  
also REPRESENTATIVE(S) Miller, Larson, and McFadyen.

**AN ACT****CONCERNING THE CONFORMANCE OF STATE LAW REGARDING MINING EXPLOSIVES OVERSIGHT TO FEDERAL LAW.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Prior to the enactment of the federal "Homeland Security Act of 2002", P.L. No. 107-296:

(I) Pursuant to 40 U.S.C. sec. 841, et seq., the federal bureau of alcohol, tobacco, and firearms ("bureau") required mine operators to get a permit before engaging in the interstate use, storage, or transportation of explosives at mine sites;

(II) Under section 34-24-103, Colorado Revised Statutes, certain hardrock and coal mine operators in Colorado had to obtain a permit from the office of active and inactive mines ("office") in the division of minerals and geology in the department of natural resources prior to the intrastate storage, use, or on-site transportation of explosives purchased within Colorado;

(b) With enactment of the federal "Homeland Security Act of 2002":

(I) The bureau has been renamed the bureau of alcohol, tobacco, firearms, and explosives, has been granted new authorities and jurisdiction, and has been moved from the United States department of the treasury to the United States department of justice;

(II) The federal "Safe Explosives Act", subtitle C of title XI of the federal

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

"Homeland Security Act of 2002", requires, among other things, that anyone who uses, stores, or transports explosives at any mine site must obtain an explosives permit from the bureau regardless of where the explosives were purchased, used, stored, or transported.

(2) The general assembly hereby determines that some of the office's explosives permitting system is duplicative of the bureau's explosives permitting system established in the federal "Safe Explosives Act".

(3) The general assembly therefore declares that:

(a) Consistent with the office's duty to provide for permitting for the storage and use of explosives until a federal permit is required by law, it is in the state's best interest to eliminate this duplicative state explosives permitting system; and

(b) To ensure that certain mines in Colorado continue to store, transport, and use explosives at mine sites in a manner that protects the public health and safety, the office should be authorized to enter into agreements with the bureau and other federal agencies, consistent with their statutory authorities, to allow the office to provide certain mine site explosives inspections and other explosives assistance to such federal agencies.

**SECTION 2.** 34-24-103 (1), (2), (3), (5.5), and (6), Colorado Revised Statutes, are amended to read:

**34-24-103. Explosives and diesel permits - fund.** (1) ~~(a) It is unlawful for any operator to store, transport, or use explosives without first obtaining a permit from the office of active and inactive mines. Such permit shall be nontransferable, shall be valid until the end of the three-year period in which it is issued, and may be renewed on or before the end of such three-year period. The office of active and inactive mines is authorized to establish such three-year periods so as to coordinate with the renewal dates for federal permits.~~ TO PROTECT THE PUBLIC HEALTH AND SAFETY FROM THE IMPROPER STORAGE, TRANSPORTATION, AND USE OF EXPLOSIVES AT MINE SITES, THE OFFICE OF ACTIVE AND INACTIVE MINES IS AUTHORIZED TO ENTER INTO AGREEMENTS WITH THE UNITED STATES BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES AND OTHER AUTHORIZED FEDERAL AGENCIES, CONSISTENT WITH THEIR STATUTORY AUTHORITIES, TO PROVIDE EXPLOSIVES INSPECTION AND OTHER EXPLOSIVES ASSISTANCE TO SUCH FEDERAL AGENCIES REGARDING MINE SITE EXPLOSIVES STORAGE, TRANSPORTATION, AND USE.

~~(b) (I) Notwithstanding any provision of this section to the contrary, the office of active and inactive mines may issue transitional explosives permits, for periods of less than three years and for fees that are proportionately lower than the fees stated in paragraph (b) of subsection (5.5) of this section, to the holders of current and valid federal permits for the purpose of coordinating the renewal dates of state and federal permits. On or before the expiration date of such transitional permits, the holders thereof may apply for three-year permits upon payment of the fees specified in paragraph (b) of subsection (5.5) of this section.~~

~~(II) Nothing in this paragraph (b) shall be construed to waive any otherwise applicable requirement or condition upon the granting of a permit under this article.~~

~~(H) This paragraph (b) is repealed, effective July 1, 2003.~~

~~(2) Any person who stores or uses, except on an emergency basis, explosives for mining-related purposes without first obtaining a permit as required under the provisions of subsection (1) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars.~~

~~(3) Any person who removes or causes to be removed or carries away any explosive from the premises specified in subsection (1) of this section if said explosives are kept by a permittee under said subsection (1) without the consent or direction of such permittee shall be subject to the provisions of section 18-12-109, C.R.S.~~

~~(5.5) (a) The fee for the issuance of each three-year explosives permit relating to mining operations shall be a fee specified in paragraph (b) of this subsection (5.5). Moneys received from such fees shall be credited to the office of active and inactive mines operation fund created in subsection (5) of this section.~~

~~(b) The fee specified in paragraph (a) of this subsection (5.5) shall be in accordance with the following table:~~

<del>Employees</del>	<del>Permit Fee</del>
<del>1-5</del>	<del>\$30.00</del>
<del>6-25</del>	<del>\$90.00</del>
<del>26-50</del>	<del>\$150.00</del>
<del>51-75</del>	<del>\$210.00</del>
<del>76 or more</del>	<del>\$270.00</del>

~~(6) If, following a hearing held in accordance with the provisions of article 4 of title 24, C.R.S., the head of the office of active and inactive mines finds that the applicant for a permit under this section or the holder of a permit issued under this section has committed any violation of this article relating to the use of explosives or diesel equipment in mining operations, the head of the office of active and inactive mines may refuse to issue, revoke, or suspend such permit.~~

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2003