

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013



ENROLLED

Senate Bill No. 462

(BY SENATORS FACEMIRE, BEACH, KIRKENDOLL,
PALUMBO, CANN, EDGELL, SNYDER, STOLLINGS,
D. HALL, McCABE AND PLYMALE)

[PASSED APRIL 11, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

E N R O L L E D

Senate Bill No. 462

(BY SENATORS FACEMIRE, BEACH, KIRKENDOLL, PALUMBO,
CANN, EDGELL, SNYDER, STOLLINGS, D. HALL, MCCABE AND
PLYMALE)

[Passed April 11, 2013; in effect ninety days from passage.]

AN ACT to amend and reenact §22-3-20 and §22-3-21 of the Code of West Virginia, 1931, as amended, all relating to informal conferences on surface mining permit applications; extending time to hold informal conferences; and extending time from an informal conference in which the secretary must issue or deny a surface-mining permit.

Be it enacted by the Legislature of West Virginia:

That §22-3-20 and §22-3-21 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.

§22-3-20. Public notice; written objections; public hearings; informal conferences.

- 1 (a) At the time of submission of an application for a
- 2 surface-mining permit or a significant revision of an existing
- 3 permit pursuant to the provisions of this article, the applicant
- 4 shall submit to the department a copy of the required

5 advertisement. At the time of submission, the applicant shall
6 place the advertisement in a local newspaper of general
7 circulation in the county of the proposed surface-mining
8 operation at least once a week for four consecutive weeks.
9 The secretary shall notify various appropriate federal and
10 state agencies as well as local governmental bodies, planning
11 agencies and sewage and water treatment authorities or water
12 companies in the locality in which the proposed surface-
13 mining operation will take place, notifying them of the
14 operator's intention to mine on a particularly described tract
15 of land and indicating the application number and where a
16 copy of the proposed mining and reclamation plan may be
17 inspected. These local bodies, agencies, authorities or
18 companies may submit written comments within a reasonable
19 period established by the secretary on the mining application
20 with respect to the effect of the proposed operation on the
21 environment which is within their area of responsibility.
22 Such comments shall be immediately transmitted by the
23 secretary to the applicant and to the appropriate office of the
24 department. The secretary shall provide the name and
25 address of each applicant to the Commissioner of the
26 Division of Labor who shall within fifteen days from receipt
27 notify the secretary as to the applicant's compliance, if
28 necessary, pursuant to section fourteen, article five, chapter
29 twenty-one of this code.

30 (b) Any person having an interest which is or may be
31 adversely affected, or the officer or head of any federal, state
32 or local governmental agency, has the right to file written
33 objections to the proposed initial or revised permit
34 application for a surface-mining operation with the secretary
35 within thirty days after the last publication of the
36 advertisement required in subsection (a) of this section. Such
37 objections shall be immediately transmitted to the applicant
38 by the secretary and shall be made available to the public. If
39 written objections are filed and an informal conference

40 requested within thirty days of the last publication of the
41 above notice, the secretary shall then hold a conference in the
42 locality of the proposed mining within a reasonable time after
43 the close of the public comment period. Those requesting the
44 conference shall be notified and the date, time and location of
45 the informal conference shall also be advertised by the
46 secretary in a newspaper of general circulation in the locality
47 at least two weeks prior to the scheduled conference date.
48 The secretary may arrange with the applicant, upon request
49 by any party to the conference proceeding, access to the
50 proposed mining area for the purpose of gathering
51 information relevant to the proceeding. An electronic or
52 stenographic record shall be made of the conference
53 proceeding unless waived by all parties. The record shall be
54 maintained and shall be accessible to the parties at their
55 respective expense until final release of the applicant's bond
56 or other security posted in lieu thereof. The secretary's
57 authorized agent shall preside over the conference. In the
58 event all parties requesting the informal conference stipulate
59 agreement prior to the conference and withdraw their request,
60 a conference need not be held.

§22-3-21. Decision of secretary on permit application; hearing thereon.

1 (a) If an informal conference has been held, the secretary
2 shall issue and furnish the applicant for a permit and persons
3 who were parties to the informal conference with the written
4 finding granting or denying the permit, in whole or in part,
5 and stating the reasons therefor within sixty days of the
6 informal conference, notwithstanding the requirements of
7 subsection (a), section eighteen of this article.

8 (b) If the application is approved, the permit shall be
9 issued. If the application is disapproved, specific reasons
10 therefor must be set forth in the notification. Within thirty

11 days after the applicant is notified of the secretary's decision,
12 the applicant or any person with an interest which is or may
13 be adversely affected may request a hearing before the
14 Surface Mine Board as provided in article one, chapter
15 twenty-two-b of this code to review the secretary's decision.

The 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.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this the

Day of, 2013.

.....
Governor