

Senate Bill No. 462

(By Senators Facemire, Beach, Kirkendoll, Palumbo, Cann,
Edgell, Snyder, Stollings, D. Hall, McCabe and Plymale)

[Introduced March 6, 2013; referred to the Committee on Energy,
Industry and Mining; and then to the Committee on the Judiciary.]

A BILL 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 ~~division~~ 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 ~~director~~ secretary shall notify various appropriate federal
10 and state agencies as well as local governmental bodies,
11 planning agencies and sewage and water treatment authorities
12 or water companies in the locality in which the proposed
13 surface-mining operation will take place, notifying them of
14 the operator's intention to mine on a particularly described
15 tract of land and indicating the application number and where
16 a 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 ~~director~~ secretary on the mining
20 application with respect to the effect of the proposed
21 operation on the environment which is within their area of
22 responsibility. Such comments shall be immediately
23 transmitted by the ~~director~~ secretary to the applicant and to
24 the appropriate office of the ~~division~~ department. The
25 ~~director~~ secretary shall provide the name and address of each
26 applicant to the Commissioner of the Division of Labor who
27 shall within fifteen days from receipt notify the ~~director~~
28 secretary as to the applicant's compliance, if necessary, ~~with~~
29 pursuant to section fourteen, article five, chapter twenty-one
30 of this code.

31 (b) Any person having an interest which is or may be
32 adversely affected, or the officer or head of any federal, state
33 or local governmental agency, has the right to file written
34 objections to the proposed initial or revised permit
35 application for a surface-mining operation with the ~~director~~
36 secretary within thirty days after the last publication of the

37 advertisement required in subsection (a) of this section. Such
38 objections shall be immediately transmitted to the applicant
39 by the ~~director~~ secretary and shall be made available to the
40 public. If written objections are filed and an informal
41 conference requested within thirty days of the last publication
42 of the above notice, the ~~director~~ secretary shall then hold a
43 conference in the locality of the proposed mining within ~~three~~
44 ~~weeks~~ a reasonable time after the close of the public
45 comment period. Those requesting the conference shall be
46 notified and the date, time and location of the informal
47 conference shall also be advertised by the ~~director~~ secretary
48 in a newspaper of general circulation in the locality at least
49 two weeks prior to the scheduled conference date. The
50 ~~director~~ secretary may arrange with the applicant, upon
51 request by any party to the conference proceeding, access to
52 the proposed mining area for the purpose of gathering
53 information relevant to the proceeding. An electronic or
54 stenographic record shall be made of the conference

55 proceeding unless waived by all parties. ~~Such~~ The record
56 shall be maintained and shall be accessible to the parties at
57 their respective expense until final release of the applicant's
58 bond or other security posted in lieu thereof. The ~~director's~~
59 secretary's authorized agent ~~will~~ shall preside over the
60 conference. In the event all parties requesting the informal
61 conference stipulate agreement prior to the conference and
62 withdraw their request, 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 ~~director~~
2 secretary shall issue and furnish the applicant for a permit
3 and persons who were parties to the informal conference with
4 the written finding granting or denying the permit, in whole
5 or in part, and stating the reasons therefor within ~~thirty~~ sixty
6 days of the informal conference, notwithstanding the
7 requirements of subsection (a), section eighteen of this
8 article.

9 (b) If the application is approved, the permit shall be
10 issued. If the application is disapproved, specific reasons
11 therefor must be set forth in the notification. Within thirty
12 days after the applicant is notified of the ~~director's~~ secretary's
13 decision, the applicant or any person with an interest which
14 is or may be adversely affected may request a hearing before
15 the Surface Mine Board as provided in article one, chapter
16 twenty-two-b of this code to review the ~~director's~~ secretary's
17 decision.

(NOTE: The purpose of this bill is to extend from three weeks to a reasonable time after the close of the public comment period the time in which the Department of Environmental Protection must hold an informal conference on a surface-mining permit application and extends from 30 days to 60 days from the informal conference the time in which the secretary must issue or deny a surface-mining permit.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)