

1 **ENROLLED**

2 **Senate Bill No. 462**

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

5 _____
6 [Passed April 11, 2013; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §22-3-20 and §22-3-21 of the Code of
11 West Virginia, 1931, as amended, all relating to informal
12 conferences on surface mining permit applications; extending
13 time to hold informal conferences; and extending time from an
14 informal conference in which the secretary must issue or deny
15 a surface-mining permit.

16 *Be it enacted by the Legislature of West Virginia:*

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

19 **ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.**

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

22 (a) At the time of submission of an application for a surface-
23 mining permit or a significant revision of an existing permit

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

1 (b) Any person having an interest which is or may be adversely
2 affected, or the officer or head of any federal, state or local
3 governmental agency, has the right to file written objections to
4 the proposed initial or revised permit application for a surface-
5 mining operation with the secretary within thirty days after the
6 last publication of the advertisement required in subsection (a) of
7 this section. Such objections shall be immediately transmitted to
8 the applicant by the secretary and shall be made available to the
9 public. If written objections are filed and an informal conference
10 requested within thirty days of the last publication of the above
11 notice, the secretary shall then hold a conference in the locality
12 of the proposed mining within a reasonable time after the close of
13 the public comment period. Those requesting the conference shall
14 be notified and the date, time and location of the informal
15 conference shall also be advertised by the secretary in a newspaper
16 of general circulation in the locality at least two weeks prior to
17 the scheduled conference date. The secretary may arrange with the
18 applicant, upon request by any party to the conference proceeding,
19 access to the proposed mining area for the purpose of gathering
20 information relevant to the proceeding. An electronic or
21 stenographic record shall be made of the conference proceeding
22 unless waived by all parties. The record shall be maintained and
23 shall be accessible to the parties at their respective expense
24 until final release of the applicant's bond or other security

1 posted in lieu thereof. The secretary's authorized agent shall
2 preside over the conference. In the event all parties requesting
3 the informal conference stipulate agreement prior to the conference
4 and withdraw their request, a conference need not be held.

5 **§22-3-21. Decision of secretary on permit application; hearing**
6 **thereon.**

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

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