

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1432 Session of
1989

INTRODUCED BY DALEY, KASUNIC, COLAIZZO, DISTLER, BELFANTI AND
ROBINSON, MAY 22, 1989

REFERRED TO COMMITTEE ON CONSERVATION, MAY 22, 1989

AN ACT

1 Amending the act of May 31, 1945 (P.L.1198, No.418), entitled,
2 as amended, "An act providing for the conservation and
3 improvement of land affected in connection with surface
4 mining; regulating such mining; providing for the
5 establishment of an Emergency Bond Fund for anthracite deep
6 mine operators; and providing penalties," further providing
7 for persons who have an adverse interest to certain mining
8 operations.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 4(b) of the act of May 31, 1945
12 (P.L.1198, No.418), known as the Surface Mining Conservation and
13 Reclamation Act, amended October 12, 1984 (P.L.916, No.181), is
14 amended to read:

15 Section 4. Mining Permit; Reclamation Plan; Bond.--* * *

16 (b) The applicant shall give public notice of every
17 application for a permit or a bond release under this act in a
18 newspaper of general circulation, published in the locality
19 where the permit is applied for, once a week for four
20 consecutive weeks. The department shall prescribe such

1 requirements regarding public notice and public hearings on
2 permit applications and bond releases as it deems appropriate:
3 Provided, however, That increments within the original permit
4 area upon which operations are initiated shall not be treated as
5 original permit applications with regard to the requirements of
6 this subsection so long as the original permit is in full force
7 and effect at the time the operations are initiated. For the
8 purpose of these public hearings, the department shall have the
9 authority and is hereby empowered to administer oaths, subpoena
10 witnesses, or written or printed materials, compel the
11 attendance of witnesses, or production of witnesses, or
12 production of materials, and take evidence including but not
13 limited to inspections of the land proposed to be affected and
14 other operations carried on by the applicant in the general
15 vicinity. Any person having an interest which is or may be
16 adversely affected by any action of the department under this
17 section may proceed to lodge an appeal with the Environmental
18 Hearing Board in the manner provided by law and from the
19 adjudication of said board such person may further appeal as
20 provided by Title 2 of the Pennsylvania Consolidated Statutes
21 (relating to administrative law and procedure). A person having
22 an interest which is or may be adversely affected must
23 demonstrate how he or she meets an "injury in fact" test by
24 describing the injury to his or her specific affected interests
25 and demonstrate how he or she is injured. The Environmental
26 Hearing Board, upon the request of any party, may in its
27 discretion order the payment of costs and attorney's fees it
28 determines to have been reasonably incurred by such party in
29 proceedings pursuant to this section. In all cases involving
30 surface coal mining operations, any person having an interest

1 which is or may be adversely affected shall have the right to
2 file written objections to the proposed permit application or
3 bond release within thirty (30) days after the last publication
4 of the above notice which shall conclude the public comment
5 period. Such objections shall immediately be transmitted to the
6 applicant by the department. If written objections are filed and
7 an informal conference or a public hearing requested within the
8 public comment period, the department shall then hold an
9 informal conference or a public hearing in the locality of the
10 surface mining operation. In the case of bond release
11 applications, such hearings or conferences shall be held within
12 thirty (30) days from the date of request for such hearings or
13 conferences: Provided, however, That all requests for such
14 hearings or conferences that are filed prior to the tenth day
15 following the final date of publication shall have a
16 constructive date of filing as of the tenth day following the
17 final date of publication of such notice. The department shall
18 notify the applicant of its decision within thirty (30) days of
19 such hearing or conference. If there has been no conference or
20 hearing, the department shall notify the applicant for a bond
21 release of its decision within sixty (60) days of the date of
22 the filing of the application. In the case of permit
23 applications, such hearings or conferences shall be conducted
24 within sixty (60) days of the close of the public comment
25 period. The department, within sixty (60) days of such hearing
26 or conference, shall notify the applicant of its decision to
27 approve or disapprove or of its intent to disapprove subject to
28 the submission of additional information to resolve
29 deficiencies. If there has been no informal conference or
30 hearing, the department shall notify the applicant for a permit,

1 within a reasonable time not to exceed sixty (60) days of the
2 close of the public comment period, of the deficiencies in the
3 application or whether the application has been approved or
4 disapproved. The applicant, operator, or any person having an
5 interest which is or may be adversely affected by an action of
6 the department to grant or deny a permit or to release or deny
7 release of a bond and who participated in the informal hearing
8 held pursuant to this subsection or filed written objections
9 before the close of the public comment period, may proceed to
10 lodge an appeal with the Environmental Hearing Board in the
11 manner provided by law and from the adjudication of said board
12 such person may further appeal as provided by Title 2 of the
13 Pennsylvania Consolidated Statutes. Subject to the
14 confidentiality provisions of subsection (a)(1), each applicant
15 for a permit under this act shall file a copy of his application
16 for public inspection, with the recorder of deeds at the
17 courthouse of the county or an appropriate public office
18 approved by the department where the mining is proposed to
19 occur.

20 * * *

21 Section 2. This act shall take effect in 60 days.