
By: **Delegate Owings**

Introduced and read first time: February 12, 1998

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Surface Mining - Temporary Water Appropriations - Permits**

3 FOR the purpose of exempting surface mining operations whose average annual
4 water use is below a certain amount from certain water appropriations permit
5 requirements; requiring the Department of the Environment to issue certain
6 temporary water appropriations permits to certain persons under certain
7 circumstances; requiring an applicant to obtain a bond in a certain amount for
8 certain purposes under certain circumstances; establishing the term of the
9 temporary permit; and generally relating to temporary water appropriations
10 permits for surface mining operations.

11 BY repealing and reenacting, with amendments,
12 Article - Environment
13 Section 5-502
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1997 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Environment**

19 5-502.

20 (a) Every person is required to obtain a permit from the Department to
21 appropriate or use or begin to construct any plant, building, or structure which may
22 appropriate or use any waters of the State, whether surface water or groundwater.
23 The permit is obtained upon written application to the Department. The applicant
24 shall provide the Department with satisfactory proof that the proposed withdrawal of
25 water will not jeopardize the State's natural resources.

26 (b) This section does not apply to use of water for:

27 (1) Domestic purposes other than for heating and cooling; [or]

1 (2) Agricultural purposes, if the average annual water use is less than
2 10,000 gallons per day, except as provided in subsection (c)(2) of this section; OR

3 (3) SUBJECT TO SUBSECTION (D) OF THIS SECTION, SURFACE MINING
4 OPERATIONS IF THE AVERAGE ANNUAL WATER USE IS LESS THAN 10,000 GALLONS
5 PER DAY.

6 (c) (1) The Department shall issue a permit to a person using water prior to
7 July 1, 1988 for agricultural purposes upon written application to the Department.

8 (2) A person using less than an annual average of 10,000 gallons of water
9 per day for agricultural purposes may apply for a permit to appropriate or use waters
10 of the State.

11 (D) (1) THE DEPARTMENT SHALL ISSUE A TEMPORARY WATER
12 APPROPRIATIONS PERMIT FOR SURFACE MINING OPERATIONS WHOSE AVERAGE
13 ANNUAL WATER USE IS LESS THAN 10,000 GALLONS PER DAY UPON WRITTEN
14 APPLICATION TO THE DEPARTMENT.

15 (2) AN APPLICANT APPLYING FOR A TEMPORARY WATER
16 APPROPRIATIONS PERMIT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL FIRST
17 OBTAIN A BOND IN AN AMOUNT SUFFICIENT TO INSURE THE OPERATION BETWEEN
18 THE TIME THAT THE TEMPORARY WATER APPROPRIATIONS PERMIT IS GRANTED AND
19 THE TIME THAT THE PERMANENT PERMIT IS GRANTED UNDER THIS SECTION.

20 (3) TEMPORARY WATER APPROPRIATIONS PERMITS ISSUED UNDER THIS
21 SUBSECTION SHALL BE VALID FOR A PERIOD NOT TO EXCEED 1 YEAR FROM THE
22 DATE OF ISSUANCE, AND SHALL ONLY BE ISSUED TO AN APPLICANT A SINGLE TIME.

23 [(d)] (E) When the Department determines that a water supply emergency
24 exists and available water supplies are inadequate in an area to meet the needs of all
25 persons who have permits under this subtitle, the following uses shall have priority
26 for appropriation or use of water in the order listed:

27 (1) Domestic and municipal uses for sanitation, drinking water, and
28 public health and safety;

29 (2) Agricultural uses, including the processing of agricultural products;
30 and

31 (3) All other uses.

32 [(e)] (F) Notwithstanding any other provision of this subtitle, an application
33 for a certificate of public convenience and necessity associated with power plant
34 construction which involves use or diversion of waters of the State made to the Public
35 Service Commission under Article 78 of the Code constitutes an application for the
36 permit required by this section, and the provisions of § 3-306 of the Natural
37 Resources Article apply. If an application is made to the Public Service Commission,
38 the hearing provided for by this subtitle is not required. All evidence relevant to the
39 purposes of this subtitle shall be presented at the hearing held by the Public Service

1 Commission, as required by Article 78, § 54A of the Code. The permit required by this
2 subtitle is included in the certificate of public convenience and necessity issued by the
3 Public Service Commission.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1998.