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By: **Allegany County Delegation**  
Introduced and read first time: February 10, 2003  
Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Department of the Environment - Open-Pit Strip Mining - Application for**  
3 **Permit**

4 FOR the purpose of requiring the Department of the Environment to review an  
5 application for an open-pit mining permit in a timely manner; requiring the  
6 Department to take a certain action for a permit within certain time periods for  
7 a new permit, certain permit revisions, or a certain updated application;  
8 authorizing the Department to provide for a certain extension for up to a certain  
9 period by providing certain notice to an applicant prior to certain dates; and  
10 generally relating to the application process for an open-pit strip mining permit.

11 BY repealing and reenacting, without amendments,  
12 Article - Environment  
13 Section 15-501(a), (g), (n), and (t)  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 2002 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article - Environment  
18 Section 15-505(d)  
19 Annotated Code of Maryland  
20 (1996 Replacement Volume and 2002 Supplement)

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

23 **Article - Environment**

24 15-501.

25 (a) In this subtitle the following words have the meanings indicated.

26 (g) "Department" means the Department of the Environment.

1 (n) (1) "Open-pit mining", "strip mining", and "surface coal mining" are  
2 terms used interchangeably in this subtitle to mean the mining or recovery of  
3 bituminous coal by removing the strata or material which overlies or is above the coal  
4 deposit or seam in its natural condition, or any other recovery of coal by methods  
5 other than deep-mining, and land affected by such activities.

6 (2) These terms include methods such as contour, strip, auger, mountain  
7 top removal, box cut, open-pit, and area mining, the use of explosives and blasting,  
8 and in situ distillation or retorting, leaching or other chemical or physical processing,  
9 and the cleaning, concentrating, or other processing or preparation, loading of coal at  
10 or near the mine site.

11 (3) "Open-pit mining", "strip mining", or "surface coal mining" do not  
12 include the incidental extraction of coal at a level that does not exceed within any  
13 calendar year 16 2/3 percent of the total cumulative production of coal and other  
14 minerals removed from a mining area for purposes of bona fide sale or reasonable  
15 commercial use.

16 (t) "Permit" means a permit to conduct open-pit mining pursuant to this  
17 subtitle.

18 15-505.

19 (d) Procedures for review of an application shall be as follows:

20 (1) Notwithstanding any provision of the State Government Article,  
21 public notice on pending applications provided in accordance with the provisions of  
22 this subtitle shall be the only notice required by law.

23 (2) (i) Except as provided in subparagraph (iii) of this paragraph, upon  
24 receipt of a complete application for a permit or permit revision the Department shall  
25 require the applicant to publish an approved advertisement of the application  
26 submitted under subsection (c) of this section.

27 (ii) The public notice required in subparagraph (i) of this paragraph  
28 shall be published at least once a week for 4 successive weeks in a newspaper of  
29 general circulation in the county of the proposed mining operation.

30 (iii) The public notice required in subparagraph (i) of this paragraph  
31 may not be required for an application for permit revision that does not propose  
32 significant alterations in a permit in accordance with the Department's regulations.

33 (3) The Department shall provide written notice of applications for  
34 permits or permit revisions to any interested person who requests written notice.

35 (4) If a public informational hearing is requested, the Department shall  
36 notify the applicant and any person who requests the hearing of the date, time, and  
37 location of the hearing and shall publish the date, time, and location of the hearing in  
38 a newspaper of general circulation in the area of the proposed operation. The

1 Department shall hold a public informational hearing on the application. A record of  
2 the hearing shall be made and shall be available to the public.

3 (5) Any public informational hearing shall be at least 15 but not more  
4 than 60 days after the Department provides public notice of the hearing. Members of  
5 the public shall be provided an opportunity to comment on the application in writing  
6 until the date of any hearing and copies of the application shall be available for public  
7 inspection at the Department 15 days before any hearing.

8 (6) The Department shall review all aspects of the application, including  
9 information pertaining to any other permit required from the Department for the  
10 proposed strip mining operation IN A TIMELY MANNER.

11 (7) (I) Upon completion of the review required by paragraph (6) of this  
12 subsection, the Department shall grant, require modification of, or deny the  
13 application for a permit and notify the applicant and any participant to a public  
14 informational hearing, in writing, of its decision:

15 1. WITHIN 90 DAYS OF RECEIVING AN APPLICATION FOR A  
16 NEW PERMIT OR AN APPLICATION FOR PERMIT REVISION THAT PROPOSES  
17 SIGNIFICANT ALTERATIONS IN THE PERMIT; OR

18 2. WITHIN 45 DAYS OF RECEIVING:

19 A. AN UPDATED APPLICATION FOR A NEW PERMIT OR AN  
20 APPLICATION FOR A PERMIT REVISION THAT PROPOSES SIGNIFICANT ALTERATIONS  
21 IN THE PERMIT AFTER A REQUEST FOR ADDITIONAL INFORMATION UNDER THIS  
22 PARAGRAPH; OR

23 B. AN APPLICATION FOR A PERMIT REVISION THAT DOES  
24 NOT PROPOSE SIGNIFICANT ALTERATIONS IN THE PERMIT.

25 (II) The applicant for a permit shall have the burden of establishing  
26 that the application is in compliance with all of the requirements of this subtitle and  
27 the rules and regulations issued under this subtitle.

28 (III) THE DEPARTMENT MAY PROVIDE FOR ONE EXTENSION OF THE  
29 DEADLINES IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR UP TO 30 DAYS BY  
30 NOTIFYING THE APPLICANT IN WRITING PRIOR TO THE EXPIRATION OF THE  
31 ORIGINAL DEADLINES.

32 (8) The Department shall immediately notify the operator, local  
33 governments, and any participants to a public informational hearing of the decision  
34 by the Department. Within 30 days of notification, any person adversely affected by  
35 the decision may request an adjudicatory hearing. The Department shall hold a  
36 hearing in accordance with Title 10, Subtitle 2 of the State Government Article within  
37 30 days of the request and render a decision within 30 days thereafter.

38 (9) Any applicant, or any person with an interest which is or may be  
39 adversely affected, who has participated in the administrative proceedings as an

1 objector, and who is aggrieved by the decision of the Department, or if the  
2 Department fails to act within the time limits specified in this subtitle, shall have the  
3 right to judicial review in accordance with § 10-222 of the State Government Article.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2003.