

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

400T0345

## HOUSE BILL NO. 1012

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Environment and Natural Resources

1 FOR AN ACT ENTITLED, An Act to require public hearings for applications for oil and gas  
2 orders only if contested and to reduce the number of hearing notice publications required  
3 for oil and gas cases.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 45-9-31 be amended to read as follows:

6 45-9-31. In the absence of voluntary pooling, the Board of Minerals and Environment or the  
7 secretary, as applicable, upon the application of any interested person, shall enter an order  
8 pooling all interests in the spacing unit for the development and operation of the spacing unit,  
9 and for the sharing of production from the spacing unit. Each such pooling order shall be made  
10 after notice and opportunity for hearing, and shall be upon terms and conditions that are just and  
11 reasonable, and that afford to the owner of each tract or interest in the spacing unit the  
12 opportunity to recover or receive without unnecessary expense, his or her just and equitable  
13 share.

14 Section 2. That § 45-9-37 be amended to read as follows:

15 45-9-37. The Board of Minerals and Environment upon its own motion ~~may, and~~ or upon



1 the application of any interested person shall, ~~hold~~ provide an opportunity for a hearing to  
2 consider the need for the operation as a unit of one or more pools or parts thereof in a field.

3 Section 3. That § 45-9-41 be amended to read as follows:

4 45-9-41. If the plan for unit operations has not been approved as required by § 45-9-40 at  
5 the time the order providing for unit operations is made, the Board of Minerals and Environment  
6 shall upon application and notice ~~hold such~~ provide opportunity for supplemental hearings ~~as~~  
7 ~~may be required~~ to determine if and when the plan for unit operations has been ~~so~~ approved.

8 Section 4. That § 45-9-57 be repealed.

9 ~~45-9-57. On the filing of a petition concerning any matter within the jurisdiction of the~~  
10 ~~Board of Minerals and Environment that requires a hearing, the board shall promptly fix a date~~  
11 ~~for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held~~  
12 ~~without undue delay after the filing of the petition. The board shall enter its order within thirty~~  
13 ~~days after the hearing.~~

14 Section 5. That § 45-9-58 be amended to read as follows:

15 45-9-58. The notice of a hearing on any application made pursuant to this chapter shall be  
16 served either by certified mail or by ~~two publications in a newspaper of general circulation in~~  
17 ~~the state capital city and~~ publication in a newspaper of general circulation in the county where  
18 the affected land, or some part thereof, is situated. ~~The notice prepared by the Board of Minerals~~  
19 ~~and Environment shall comply with the provisions of chapter 1-26.~~ The applicant shall give  
20 notice of any hearing that may affect property interests by mailing the notice by certified mail,  
21 return receipt requested, to any person whose property may be affected by the hearing. As proof  
22 of service, the applicant shall file with the board an affidavit declaring that the notice was  
23 mailed and the certified mail return receipt. Any person who cannot be served notice by certified  
24 mail may be served notice of the hearing by publication.

1 Section 6. That § 45-9-63 be repealed.

2 ~~45-9-63. No rule or order, except in an emergency may be made by the Board of Minerals~~  
3 ~~and Environment without a public hearing upon at least ten days' notice. The public hearing~~  
4 ~~shall be conducted in accordance with the provisions of chapter 1-26 and shall be held at such~~  
5 ~~time and place as may be prescribed by the board and any interested person shall be entitled to~~  
6 ~~be heard.~~

7 Section 7. That chapter 45-9 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 The Board of Minerals and Environment shall provide an opportunity for public hearing,  
10 through public notice, on any application made for an order under this chapter. The notice shall  
11 comply with the provisions of chapter 1-26 and indicate, unless a person files a petition  
12 requesting a hearing by the deadline established in the notice, no hearing need be held. If held,  
13 the hearing shall be conducted in accordance with chapter 1-26. Any person who files a petition  
14 requesting a contested case hearing by the deadline established by the board shall be entitled to  
15 be heard during the hearing. The board shall enter its order within thirty days after the hearing.  
16 If no hearing is held, the applicant shall submit a proposed order to the secretary for review and  
17 approval.