WEST VIRGINIA CODE: §22A-1-19

§22A-1-19. Judicial review.

(a) Any order or decision issued by the director under this law, is subject to judicial review by the circuit court of the county in which the mine affected is located upon the filing in such court or with the judge thereof in vacation of a petition by any person aggrieved by the order or decision praying that the order or decision be modified or set aside, in whole or in part, except that the court shall not consider such petition unless such person has exhausted the administrative remedies available under this law and files within thirty days from date of such order or decision.

(b) The party making such appeal shall forthwith send a copy of such petition for appeal, by registered mail, to the other party. Upon receipt of such petition for appeal, the director shall promptly certify and file in such court a complete transcript of the record upon which the order or decision complained of was issued. The court shall hear such petition on the record made before the director. The findings of the director, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate or modify any order or decision or may remand the proceedings to the director for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the director under this law, except an order or decision pertaining to an order issued under subsection (a), section fifteen of this article or an order or decision pertaining to a notice issued under subsection (b), section fifteen of this article, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if:

(A) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(B) The person requesting such relief shows that there is a substantial likelihood that the person will prevail on the merits of the final determination of the proceeding; and

(C) Such relief will not adversely affect the health and safety of miners in the coal mine.

(d) The judgment of the court is subject to review only by the Supreme Court of Appeals of West Virginia upon a writ of certiorari filed in such court within sixty days from the entry of the order and decision of the circuit court upon such appeal from the director.

(e) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the director.

(f) Subject to the direction and control of the attorney general, attorneys appointed for the

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director may appear for and represent the director in any proceeding instituted under this section.

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