

SUBJECT:	Hearings (Public)
DATE:	November 1, 2001 - Revised 09-01-06

Legal Authority: 22-4-6(c), 38-3-13

No public hearing is required for a notice of intent to operate an underground quarry with a surface disturbance less than five acres (22-4-6).

Hearings may be requested for new permit or major modifications of a permit and shall be submitted in writing and received by the DEP Secretary prior to the close of the public comment period. The protest must identify the company name and QMA or permit number.

In the event all parties requesting the public hearing stipulate agreement prior to the hearing and withdraw their request, a hearing need not be held.

The Director, upon receipt of comments expressing substantial new questions regarding the application, may reopen the public comment period. A final decision will be made within thirty days of the close of the public comment period for a new permit application.

1. Upon receipt of a written request for a public hearing, the Permit Supervisor shall:
 - A. Determine if the request was received within the public comment period for protests to be received.
 - B. Determine if the request was received by a person having an expressed concern or objection.
 - C. Schedule a date, time and place for the public hearing. This date shall be within three weeks of the end of comment period.
 - D. Notify the person(s) requesting the hearing by certified mail of the date, time and place of the hearing (sample letter in this section).
 - E. Notify the applicant of the time and place of the hearing and of the right to participate (sample letter in this section).
 - F. Notify the Public Information Office of the hearing.
 - G. Cause a notice to be published in a newspaper of general circulation in the counties in which any portion of the proposed permit area is located at least 7 days prior to the date of the scheduled hearing date
 - H. The hearing will be held in the locality where the quarry operation is proposed to be located and will be scheduled no earlier than 6 pm.
2. The Permit Supervisor (or another appointed representative) shall act as authorized agent of the DEP Secretary and shall conduct the public hearing within the following guidelines.
 - A. A sign-in sheet shall be available for everyone in attendance, specifying those requesting to speak.

- B. The speakers will be given every reasonable opportunity to present their concerns and shall conduct themselves in a polite and professional manner.
 - C. Other affected parties and the applicant will be afforded an opportunity to participate.
 - D. The hearing shall be electronically recorded.
 - E. DMR personnel will:
 - 1. Moderate the meeting
 - 2. Answer questions relating to law or regulations
 - 3. Permit Supervisor will give brief summary of permit proposal
 - 4. The DEP authorized agent will have absolute authority regarding procedural questions, i.e:
 - a. decide when all useful information has been collected from those participating
 - b. have the authority to end the hearing if it becomes unruly or is serving no useful purpose
 - F. A question and answer session may be conducted at the end of the meeting. The applicant or his or her representative(s) may participate if agreeable. A DEP representative will moderate the question and answer session.
3. After the hearing has ended, the DEP authorized agent shall prepare a brief summary of the hearing. The summary, tapes, sign-up sheets and other pertinent information are the responsibility of the Permit Supervisor.
4. The records pertaining to the hearing for a new permit will be included in the “Facts and Findings” folder and forwarded to headquarters along the application for decision.
5. All records pertaining to the hearing shall be filed with both the regional and headquarters copies of the application until final release of the permit.

PUBLIC HEARING RULES OF CONDUCT

(revised 08/01/06)

- All parties shall conduct themselves in a polite manner
- Specific rules of conduct for the conference will be discussed and agreed to by all participating parties at the beginning of the hearing.
- All proceedings shall be electronically recorded via audio tape.
- Copies of the tape recordings can be requested and shall be made available at a cost of \$5.00 per tape by DEP. Requests must be accompanied by Certified or Cashier's Check or Money Order made payable to "Department of Environmental Protection". Authorized agent should have request forms available at the hearing (*request form in this section*).
- A decision will not be made by DMR at the hearing. DMR's only participation will be to conduct the hearing in an orderly manner.

A final decision for new permits, will be made by the Secretary of the Department of Environmental Protection, within thirty (30) days of the conference. A final decision for significant modifications will be made by the Permit Supervisor; within thirty (30) days of the conference.

- Anyone who commented either written or verbal at the hearing will be notified of the decision.

MATERIALS NEEDED TO CONDUCT PUBLIC HEARING

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- Tape Recorder
 - Sufficient amount of tapes (*6-hours recommended*)
 - Copy of DEP rules
 - Copy of DEP law
 - Electrical extension cord (*50'*)
 - Sign-up sheets
 - Pencils
 - Requests for copies of tapes
 - Copy of application
 - Proposal Map posted in convenient location

(Revised 08/01/06)

SUGGESTED FORMAT FOR CONDUCTING PUBLIC HEARING

Good evening, I am _____, Hearings Officer for the West Virginia Department of Environmental Protection and I have been appointed by the Secretary to conduct this public hearing being held on this _____ day of _____ 20____ at _____.

This hearing was requested by _____ In reference to the

_____ *Issuance of a permit for Quarry Mine Application No.* _____

_____ *Major Modification No. ____ to Permit No.* _____

for (*applicant name*) _____

If you will be speaking or presenting comments, please sign the speaker list.

This hearing will be informal, however, we must have rules in order for the hearing to be beneficial:

1. *Please state your name and the group you represent, if any. This will assist the person reviewing the tape in identifying the speaker.*
2. *Do not interrupt a speaker during his statement.*
3. *Remember that none of the employees of the Department of Environmental Protection will take an active part in the hearing with the exception of myself. I am responsible to ensure that the hearing proceeds in an orderly manner and answer questions only if it will improve clarity.*
4. *Any gross violation of these rules or any special procedural rules (list if any) which we agreed to before the opening of this hearing will cause the hearing to be ended.*

As previously agreed, _____ will now open the hearing.

END OF HEARING

I thank you all for participating in this public hearing. The tapes will be forwarded to the appropriate DMR permitting staff who will make a final decision on this application. The applicant and those persons who commented either written or verbal at the hearing will be notified of the decision. Anyone wishing a copy of the tapes may do so by completing a “request form” and mailing to the DEP regional office along with payment. The cost is \$5.00 per tape. This hearing has resulted in a total of _____ tapes.

***Sample Notification for
Acceptance of Public Hearing Request***

Date

CERTIFIED MAIL

Name
Address

The Department of Environmental Protection has determined that your request for an Hearing concerning _____ (*applicant name*) QMA/Permit No. _____ has been granted. You will be notified of the time and location as soon as it is scheduled.

I would like to point out that the public hearing shall be limited to the requirements set forth in Chapter 22, Article 4 of the Code of West Virginia.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

Permit Supervisor

cc: Inspector

(Revised 08/01/06)

***Sample Notification to
Applicant of Public Hearing***

Date

CERTIFIED MAIL

Applicant Name
Address

In response to a valid request for a public hearing on your application, QMA/Permit No. _____, the Department of Environmental Protection has scheduled an public hearing to be conducted on _____ (*date*) beginning at _____ (*time*) at _____ (*city*), West Virginia.

Although not required by law, it may be in your best interest to attend said public hearing in order to represent your company’s position in this matter.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Permit Supervisor

cc: Inspector

**Sample Notification of
Public Hearing**

Date

CERTIFIED MAIL

Name of Person Requesting Hearing
Address

The public hearing concerning ____(applicant name)____, QMA/Permit No. _____, will be held on ____(date)_____ beginning at ____(time)_____ at ____(city)_____, West Virginia.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Permit Supervisor

cc: Inspector

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
INFORMAL CONFERENCE

APPLICANT: _____	QMA/PERMIT NO.: _____
DATE: _____	LOCATION: _____

REGISTRATION

*NOTE: **PLEASE PRINT** - If information is not **complete or legible**, notification of decision will not be provided by DMR*

FULL NAME <i>(Only one name per line)</i>	COMPLETE MAILING ADDRESS Include Address, City, State, and Zip Code	REPRESENTING	“X” IF SPEAKING

STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF MINING AND RECLAMATION
(Insert Regional Office Address)

Request for Copy of Informal Conference Recording

Please send me _____ copies of the recording(s) for the following informal conference.

QMA/Permit No. _____ *Date of Conference* _____

Applicant Name

Location of Conference _____

Number of Cassettes per Conference	_____	@	\$	5.00	each
Number of CD per Conference	_____			5.00	each
Number of Copies Requested	_____	=	\$	_____	
TOTAL PAYMENT ENCLOSED			\$	_____	

PAYMENT ENCLOSED IS:

Check one

_____ *Certified Check No.* _____

_____ *Cashier's Check No.* _____

_____ *Money Order No.* _____

NOTES: *Checks are to be made payable to "Department of Environmental Protection"
Requests and payment are to be mailed to the appropriate DEP regional office*

Please return copies of recording(s) to:

Name _____
Address _____

**“SAMPLE NOTIFICATION TO NEWSPAPER
LETTER”**

(On Regional DMR Letterhead)

Date

Newspaper
Address
City, State Zip

RE: Public Notice for Permit _____

Dear Sirs:

Attached is a copy of a legal notice that is to be published in your newspaper one time on day of week, day & month, year. The invoice should be mailed to the following address:

Department of Environmental Protection
Regional Office Address
City, State Zip

If you should have any questions, please feel free to contact our office.

Yours truly,

Permit Supervisor

Notice of Public Hearing

Pursuant to Chapter 22, Article 4, Section 6 of the Code of West Virginia, the Division of Mining and Reclamation will hold a public hearing on the pending quarry permit application (QMA number) at (time), (date), at the (name of building), (address). The purpose of the meeting is to allow public comments regarding the expected or perceived impact of the quarry operation on the local area by issuance of a permit for (description), to (company), near (general location of where permit is). Persons wishing to make comments on the application are invited to be present or represented at the hearing to submit written and/or oral statements to the Department of Environmental Protection. All comments will be considered before a final decision is made on the application. A copy of the application will be available for review and copies may be obtained for a nominal fee, during normal business hours by contacting the Permit Supervisor at the West Virginia Department of Environmental Protection, Division of Mining and Reclamation regional office located at (address). For further information, call (DEP Regional number)