

SUBJECT: Protestors/Commentors

DATE: November 2, 2001 - Revised 09-01-06

Legal Authority: 22-4-6

1. Upon receipt of written comments regarding a pending application the permit supervisor shall:
 - Date stamp letter and enter in ERIS
 - Prepare and mail a written response immediately to each commentor
 - Prepare and mail a certified written response to applicant to include copy of commentor's letter
 - Maintain a list of commentors on ERIS
2. Proof of applicant's response to each letter must be submitted to regional office. (This can be in the form of signed acknowledgments by commentor, or copy of letter to commentor along with certified mail receipts).
3. Petitions: For any petition received, it is preferred that the petitioners select a representative (for correspondence purposes only). A written response will be prepared and mailed to the selected representative and shall request that the representative advise the remaining petitioners of all correspondence pertaining to this application. If no representative is listed, DEP will respond to the first name on the listing advising that they notify their co-petitioners.
4. Comments received after the end of comment period will be made a part of the application file and a copy provided to the applicant. Applicant will not be required to respond to comments received after the close of the comment period.
5. The director, upon receipt of comments expressing substantial new questions regarding the application, may reopen the public comment period [22-4-6(f)].
6. After a decision is made on the application, a letter must be sent to all commentors advising them of the decision.

Sample Response to Commentors/Protestors

STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF MINING AND RECLAMATION

DATE

Name
Address

RE: Applicant
 SMA/Permit No.

Dear _____:

This will acknowledge receipt of your recent correspondence concerning the above referenced quarry application in _____ County. Your letter is being made a part of the permanent records concerning this application, and it will be given proper consideration during the decision to approve or deny the application.

A copy of your letter has been forwarded to _____ (applicant name) _____. It is the policy of this agency to require that the applicant make a valid effort to resolve all protests set forth in protest letters before a decision is made to approve or deny the application. _____ (applicant name) _____ will be contacting you concerning this.

If you wish to discuss the application further, you may contact either me or Inspector _____, at the phone number on this letterhead.

Sincerely,

Permit Supervisor

cc: Inspector

Sample Response to Applicant

(Revised 09/01/06)

STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF MINING AND RECLAMATION

Date

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Applicant
Address

RE: SMA/Permit No.

Dear _____:

Attached are copies of protest letters we have received concerning your _____ application.

This agency requires that ____ (applicant name) ____ attempt to resolve the concerns set forth in the letters before the application can be considered for final approval. You need to contact the protestors and make a valid effort to resolve the concerns specified. The results of these efforts should then be explained in a letter to each protestor, and mailed Certified Mail. A copy of that letter, along with a copy of the Certified Mail “green card” must then be provided to this office.

If you have any questions, please advise.

Sincerely,

Permit Supervisor

Attachment

cc: Inspector

Sample Notification to Commentors/Protestors After Decision

STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF MINING AND RECLAMATION

Date

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Name
Address

RE: Applicant
QMA/Permit No. _____

Dear _____:

This is to advise you that the Department of Environmental Protection (issued/denied) the above referenced application on (Date).

In accordance with West Virginia Code 22-4-25, you may appeal this decision to the Surface Mine Board within thirty (30) days of receipt of this notice.

Sincerely,

DEP Representative