

SUBJECT: Permit Applicant Hearing Before the Director

DATE: November 1, 2001 - Revised 09-01-06

Legal Authority 22-4-6

If, during the review of a new application, the applicant disagrees with a decision of the director concerning application completeness or technical deficiencies, the applicant may, by written notice, request a hearing within 30 calendar days of receipt of notice. The director or an authorized agent shall hold the hearing within 30 calendar days of receipt of this notice. The director shall notify the applicant of the decision by certified mail within 20 days of the hearing. An applicant aggrieved by the final order of the director may, after the hearing or without a hearing, appeal the order to the surface mine board. Any appeal to the board shall be taken without prejudice by the director in the final review of the permit application.

SUBJECT: Permit Denial Appeal to the Surface Mine Board

DATE: November 1, 2001

If the DEP decision to deny a permit is appealed to the Surface Mine Board, the \$1,000.00 permit fee must be submitted prior to the Board hearing the case.

If the Surface Mine Board upholds DEP decision to deny the application, the \$1,000.00 permit fee will be refunded.

SUBJECT:	Appeals to the Surface Mine Board
DATE:	November 1, 2001 - Revised 09-01-06

Legal Authority: 22B-4-1, 22-4-25

This policy outlines the procedure for appeals to the Surface Mine Board (SMB).

The SMB receives the appeal, in written form, and will provide a copy to the Director of Division of Mining and Reclamation (DMR). Contacts in DMR and Office of Legal Services (OLS) will receive notice of the appeal from the Director. OLS will assign an attorney to the case and the contact person in DMR will notify the appropriate supervisor of the appeal.

Within fourteen (14) days of SMB receipt of the notice of appeal, the DMR Supervisor shall be responsible for preparation and certification of the complete record of the proceedings out of which the appeal arises, including all documents and correspondence in the applicable files relating to the matter in question. The certified record should contain only pertinent information. For example, if an appeal concerned blasting of an approved application, it would NOT be necessary to provide a copy of the entire permit application for the certified record, only the sections of the application dealing with blasting.

Once the information is gathered, the DMR Supervisor will contact the OLS Attorney assigned to the case to discuss the information contained for the certified record. Once both parties agree on the information for the certified record, the information will be copied (*verify that all copies are legible*). The certified record must be in chronological order (*per permit if multiple permits*). A cover sheet will be attached indicating the following information:

(Company Name) vs. WVDEP
Surface Mine Board Case No. _____
CERTIFIED RECORD

Table of Contents (*for each document in the certified record, give a description of the document, date and number of pages*)

West Virginia Department of Environmental Protection
Division of Mining and Reclamation

BY: (Supervisors name typed in)

Signature _____

Submit the prepared certified record to the DMR contact in the headquarters office.