

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF MINING AND RECLAMATION**

DOCUMENT NUMBER: 562-3900-402

TITLE: Citizens' Requests: Receiving, Tracking, Investigating, Appealing, and Filing

EFFECTIVE DATE: Upon publication of notice as final in the *Pennsylvania Bulletin*.

AUTHORITY: Surface Mining Conservation and Reclamation Act, Coal Refuse Disposal Control Act, Bituminous Mine Subsidence and Land Conservation Act, Non-Coal Surface Mining Conservation and Reclamation Act, Clean Streams Law, Right to Know Law, and 25 PA Code Section 86.215 and Pennsylvania's Federally (OSMRE) approved mine regulation and reclamation program.

POLICY: Citizens' requests will be processed according to the guidelines in this document.

PURPOSE: The purpose of this guidance is to outline a standard procedure for processing citizens' requests relating to mining and explosives.

APPLICABILITY: This guidance applies to all citizens' requests received and processed by the Bureaus of District Mining Operations and Mining and Reclamation.

DISCLAIMER: The policies and procedures outlined in this guidance document are intended to supplement existing requirements. Nothing in the policies or procedures shall affect more stringent regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of the Department to give this document that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

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PROCEDURE

A. Service Request

It is the policy of the Department to respond to citizens' complaints, claims or requests for service in an expeditious manner. Any Department employee may receive a service request, claim or complaint. It is the responsibility of that employee to make sure that the Service Representative gets the information needed to track the complaint. Unless circumstances warrant otherwise, service requests should be handled in the following manner:

1. Receiving the Request
 - a. Once received the Service Representative will record the information on the Complaint Tracking System.
 - b. For all non-anonymous requests, the person receiving the information will explain the bureau's confidentiality policy and ask if the requester would like to waive their right to confidentiality.
 - c. The receiver will inform the requester of their right to accompany the investigator on a surface mining site inspection if it is determined that one is needed, and ask if the requester would like to do so.
 - d. The Detail Form will be forwarded to the assigned investigator.
2. Investigating the Request
 - a. The investigator will contact the requester within two business days to gather additional information and inform the requester of the date and time of the inspection, if one is required. Unless it is necessary to do it sooner, the field investigation will be conducted in conjunction with the next routine inspection for the mine site. In cases where the requester wishes to accompany the investigator onto a surface mining site, reasonable efforts should be made to schedule the inspection at the convenience of the requester. If a requester chooses to accompany a DEP investigator, the right to confidentiality is waived.
 - b. Investigations will be conducted with the confidentiality status of the request in mind.
 - c. If the requester chooses to accompany the investigator on a surface mining site, the requester shall be informed of the safety requirements and must sign the safety instruction sheet.
 - d. The investigator will complete the Detail Form and submit it along with a written copy of his findings to the Service Representative.
 - e. Upon request of the District Office, assistance from the Bureau of Mining and Reclamation will be provided.
3. Completing the Request
 - a. The BDMO Service Representative reviews the Detail Form and the written findings for completeness and updates the Complaint Tracking System.

- b. A final response letter is prepared and forwarded with supporting documentation to the appropriate supervisor for review.
 - c. If the investigation results in a finding that there is a violation, a notification letter is prepared for the alleged violator.
4. Resolving the Request
- a. The final response letter, all supporting documentation, instructions for filing an appeal and a questionnaire are sent to the requester.
 - b. If the investigation results in the conclusion that there is a violation, then a notification letter, along with copies of any materials sent to the requester, must be sent to the alleged violator. Confidential information will be edited from this copy.
 - c. When completed, a non-confidential request must be filed in the public file with all supporting documentation. In the case of confidential service requests, a complete copy with all supporting documentation will be placed in the confidential file. Only the copy of the notification packet sent to the alleged violator will be placed in the public file.

B. Public availability of Service Request Information.

- 1. Copies of Non-confidential files shall be available to the public in accordance with the Department's policy.
- 2. Confidential records shall be maintained in accordance with the Department's policy on confidentiality and shall not be released to the general public without the written authorization of the original requester.

C. Confidentiality of Citizen Complaints

- 1. The policy of keeping the identity of a person who files a complaint confidential unless the person waives their right to anonymity, elects to accompany the investigator onto the surface coal mining site, or the complaint is of such a nature that requires disclosure (e.g. water supply loss or fly rock), is in accordance with state law. The various statutes provide that most information in the Department's permit files are public records. The Department's records are also governed by Pennsylvania's Right-to-Know law. The Right-to-Know law excludes from public access information that could impair a person's personal security.
- 2. Keeping confidential the identity of a complainant who desires anonymity protects the person from retribution. Maintaining their anonymity also furthers the Commonwealth's legitimate interest in having citizens disclose possible violations of the mining laws.

D Appeals

The results of many complaint investigations are decisions of the Department that may be appealable. Therefore, complainants must be notified of their appeal rights. However, there are some complaint investigations that clearly do not result in an appealable action by the Department. For example, a response to an inquiry requesting information would not be appealable. In addition, cases where the Department does not have the information needed to support an enforcement action are not appealable. If there is any doubt, the requester should be notified of the right to appeal.