

SUBJECT: Inspection Frequencies

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

Authority: 22-4-4, 22-4-24, 38-3-16

Inspection Frequencies. The director shall inspect each active operation at least once every calendar quarter. Operations with approved inactive status shall be inspected at least once every six (6) months. More inspections may be conducted as necessary to ensure compliance. (38-3-16)

Newly started permits or operations where major construction is ongoing (i.e. installation of drainage system, fill or haul road construction, etc) shall be inspected at least monthly. Permits with unabated violations shall be inspected as often as necessary to insure compliance with remedial measures.

For active operations, the complete “Quarry Complete Checklist” (MR 44) will be attached to the inspection reports at least once every six months. For inactive quarries, the checklist will be attached to the inspection reports at least annually.

SUBJECT:	Wildcat Operations
DATE:	November 1, 2001 - Revised 09-01-06

Legal Authority: 22-4-3(13), 22-4-3(4) and 22-4-24

Breaking of the ground surface in order to facilitate the extraction of regulated minerals and any activity constituting all or part of a process for mineral extraction or removal from their original location requires a quarry permit from the DEP unless the activity meets the qualifications for an exemption under 22-4-29. The quarry permit must include adjacent areas ancillary to the operation, including preparation and processing activities, storage areas and haulage ways, roads and trails. An area from which soil, non-classified minerals or other materials are removed to be used without further processing is a borrow pit and does not require a quarry permit. This includes activities such as landscaping, building construction or highway maintenance and construction. Non-classified minerals means that the mineral being extracted is not required to meet any standards or specifications (such as site specific construction or ASTM Standards).

When an unpermitted quarry operation is identified, written notification shall be given to the operator (or landowner if the operator can not be identified), in person or by certified mail, advising that he or she appears to be conducting quarrying activities as defined in 22-4-3(20). A courtesy copy of the current statute and Rule will also be provided. The written notification shall advise the operator/landowner to demonstrate that the operation is not quarrying **or** that it qualifies for an exemption under 22-4-29 **or** to cease operations **or** obtain a permit. If the operation is causing or likely to cause imminent and substantial harm to the environment, public safety or public health, a Cessation Order shall be issued [22-4-24(b)].

If the operator/landowner does not appear to qualify for an exemption, several enforcement options are available. An Order shall be issued stating with reasonable specificity the nature of the alleged violation and requiring compliance immediately or within a specified time [22-4-24(c)]. The Order shall require remedial measures to be taken to avoid adverse impacts to the area.

An Order includes, but is not limited to any or all of the following:

- A Notice of Non-compliance,
- A consent agreement which provides opportunity for correction without further agency action, and/or
- A cease and desist order.

The inspector shall consult with his or her supervisor to determine the appropriate course of action.

If the operator/landowner fails to comply with the Order, the DEP may seek injunctive relief and/or criminal prosecution.

SAMPLE NOTIFICATION LETTER

(DEP letterhead)

Date

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Company Name
Address
City, State, Zip

Dear _____:

The Quarry Reclamation Act of West Virginia, Chapter 22, Article 4, defines quarrying as "...any breaking of the ground surface in order to facilitate the extraction of minerals. Quarrying also includes any activity constituting all or part of a process for mineral extraction or removal from their original location as well as adjacent areas ancillary to the operation, including preparation and processing activities, storage areas and haulage ways, roads and trails...". An inspection of your surface disturbance activity located at _____ near _____ in _____ County may fall under this definition and, therefore, could be a regulated activity.

This notification is being provided in order to give you an opportunity to demonstrate that your surface disturbance activity does not fall under the definition of quarrying or to provide documentation that the activity qualifies for an exemption under 22-4-29. For your convenience, a copy of the current statute and Rule is enclosed.

Therefore, you are hereby requested to submit to this office a written satisfactory demonstration, with proper and convincing documentation, that this surface disturbance is not subject to the requirements of Chapter 22, Article 4, **OR** obtain a quarry permit from this agency **OR** cease and desist operations. Your response will be expected in this office within fifteen (15) days of your receipt of this letter. Your response will be considered by this agency before initiating further action. In essence, this is your opportunity to provide input into this investigation and to influence future actions by this agency. Failure to respond to this notification could result in this agency taking appropriate enforcement action.

If you have any questions or need additional information, please contact Environmental Inspector _____, Environmental Specialist _____, or me through this office at (____)_____.

Sincerely,

(Environmental Supervisor)

SUBJECT: Site Evaluations for Hazardous Materials

DATE: November 1, 2001

When an Inspector observes that a permit has been abandoned or does not seem to be properly maintained, he/she will contact the Inspector Supervisor so that a site evaluation can be conducted. The evaluation will be for the purpose of determining if there are hazardous materials on the site that can possibly be spilled or released into the environment. The HAZ-MAT Evaluation and Inventory form (MR-45) can be found on our DMR web site. The completed form is sent to Headquarters. Also, the Hazardous Waste Section can also be notified if it is warranted.