

SUBJECT:	Evaluation Codes for MR-6Q
DATE:	November 1, 2001 - Revised 09-01-06

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

The MR-6Q requires the Evaluation Codes listed below. "FC" is used when the particular category is in full compliance. "NCM" is used when a Notice of Non-Compliance (MR-15Q) is going to be issued. "PC" is used when a Notice of Non-Compliance was issued in a previous inspection and has not been terminated, withdrawn, nor vacated. "CE" is used when an issued MR-15Q includes this particular category also. "SUS" is used when the permit has been suspended for non-compliance in the particular category.

**EVALUATION
CODE DESCRIPTION**

CE	Non-compliance Cited Elsewhere
FC	Full Compliance
NCM	Notice of Non-Compliance
SUS	Permit Suspended
PC	Previously Cited non-compliance

SUBJECT: Cessation Orders and Permit Suspensions

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

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

Under WV Code 22-4-24(b) the director may issue a Cessation Order when he or she finds that the ongoing quarry operation is causing or is likely to cause imminent and substantial harm to the environment, public safety, or public health. The director may take other necessary action to avoid adverse impact to the area.

38CSR3-16.4 provides that the director may issue a Cessation Order for failure of the operator to abate a Notice of Non-compliance within the time specified.

Under WV Code 22-4-24(c)(1) the director may issue an order suspending a permit after discovering a violation of the Code, Rules, permit conditions, or other Order.

A Cessation Order may be modified to a Notice of Non-compliance when the director determines that the required remedial measures are being accomplished in a timely manner.

Definitions:

Cessation Order: An act of the director ordering the operation or portion of the operation to cease.

Suspension: An act of the director temporarily nullifying the validity of a permit. All operations within the permit, except remedial measures, must cease. A Suspension Order may be issued to permits that are expired and have not been renewed (unless an administrative extension has been granted).

SUBJECT: Citing and Assessing Violations Caused by Contractors

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

Legal Authority: 22-4-24, 38-3-16.10

38CSR3-16.10 states that violations by an operator shall be attributed to the permittee unless the permittee shows that they were acts of sabotage.

When a violation occurs for which a contract operator is responsible, a violation (MR-15Q) shall be issued in the permittee's name. The permittee's and operator's names shall be included on the MR-15Q (i.e., Decade Sandstone, Permittee, H.R. Hamstring, Inc., Operator). The original should be mailed certified or hand delivered to the permittee with a copy to the operator.

The resulting Inspection of Non-Compliance (MR-16Q) shall be issued and served the same way. This is in order to serve notice to the permittee and to inform the operator of the violation. The permittee can take actions to insure that the violation is abated, that all penalties are paid timely, and that a Quarry Revocation Report (MR-10Q) is avoided.

SUBJECT:**Civil Penalty Assessments and Criminal Warrants****DATE:****November 1, 2001 - Revised 09-01-06****Legal Authority:** 22-4-24, 38-3-16

The Inspector's Civil Penalty Assessment Recommendation on the bottom of the MR-16Q shall to be completed so that the violation can be assessed. This shall be completed when the first MR-16Q is submitted. The civil penalty charts can be found in Section 16 of the Rules.

If the Inspector decides that a Criminal Warrant should be pursued for a violation, he/she must consult the Inspector Supervisor before filing the complaint to obtain the Warrant.

QUARRY MINING CODE OF VIOLATIONS

WV CODE CHAPTER 22, ARTICLE 4
EFFECTIVE DATE 6-8-00

REGULATIONS TITLE 38, SERIES 3
EFFECTIVE DATE 8-1-01

VIOLATION	SUGGESTED CHARGE
ADMINISTRATIVE	
Permit 22-4-5(a)	Engaged in quarrying activities without having first obtained from the division a permit.
Permit Renewal 22-4-9(b)	Failed to submit an application for permit renewal at least 120 days prior to the expiration of the valid permit.
Bond 22-4-20(b) 38-3-4.1.	Failed to furnish a performance bond prior to disturbing an area for quarrying.
Bond Pool 22-4-22(b) 38-3-4.2.	Failed to make an annual payment to the Bond Pooling Fund.
Insurance 22-4-20(a)	Failed to maintain personal injury and property damage insurance.
Proof of Insurance 22-4-20(a)	Failed to provide proof of insurance on an annual basis.
Modifications 22-4-10(a)	Expanded or otherwise altered quarrying operations beyond the activities authorized under an existing quarry permit without having first obtained approval for modification from the director.
Permit Transfer 22-4-11 38-3-12.1.	Transferred or sold the rights granted under an Article 4 permit without having obtained approval of the director.
Permit Assignment 38-3-12.1.	Assigned the quarrying rights granted under an Article 4 permit without having obtained approval of the director.

MAPS

Progress Maps 22-4-18(g)	Failed to submit progress maps within 60 days after service of a copy of the order to furnish said maps.
Final Maps 22-4-18(g)	Failed to submit a final map within 60 days after completion of mining.
Annual Bonding Progress Report Map 22-4-4(c) 38-3-14.1.	Failed to provide to the director a Bonding Progress Report Map at least 30 days prior to the anniversary date of the permit issuance.

METHOD OF OPERATION

Permit Conditions 22-4-19(a)	Failed to conduct all quarry operations in compliance with the approved quarrying and reclamation plan.
Permit Conditions 22-4-14(m)	Failed to comply with all permit conditions in that... (describe the instance where the operator is not complying with the approved permit).
Signs & Markers 22-4-14(d) 38-3-11.7. 38-3-11.8.	Failed to establish an approved monument near the operation.
Material Outside Bonded Area 22-4-14(e)	Placed or allowed the placement of prohibited materials beyond or outside the area of land which is under permit and for which bond has been posted.
Operations Current 22-4-14 38-3-8.9.	Failed to keep water management practices, back-filling, and grading operations current with respect to the approved quarrying and reclamation plan.
Reclamation 22-4-19(a)	Failed to commence reclamation of disturbed areas in accordance with the approved quarrying and reclamation plan.
Backfilling & Regrading 22-4-14 38-3-8.11.	Failed to reclaim all disturbed areas in accordance with the approved quarrying and reclamation plan.
Topsoil 22-4-14 38-3-8.2.	Failed to remove topsoil or other suitable material and distribute over the backfilled or disturbed area.
Topsoil 22-4-14	Failed to segregate and stockpile topsoil if not utilized immediately on backfill areas.

38-3-8.2.	
Topsoil Stockpiles 22-4-14 38-3-8.2.	Failed to protect topsoil stockpiles from wind and water erosion.
Toxic Materials 22-4-14 38-3-8.3.	Failed to cover any toxic materials with a minimum of 4 feet of nontoxic and noncombustible material.
Grading Outer Spoil 22-4-14 38-3-8.6.	Failed to grade all outer spoil to blend into the adjoining undisturbed lands.
Rills & Gullies 22-4-14 38-3-8.7.	Failed to fill, grade, or otherwise stabilize and revegetate all rills or gullies deeper than nine inches.
Stabilization 22-4-14 38-3-8.12.	Failed to sufficiently compact or otherwise mechanically stabilize backfill material.
Equipment Removal 22-4-14(e)	Failed to remove or properly dispose of all metal, equipment, and other refuse resulting from the operation.
Stabilization 22-4-14(l)	Failed to stabilize the site to prevent erosion after quarrying is complete.
Inactive Status 22-4-19(b) 38-3-8.8.	Failed to obtain approved Inactive Status from the director.

BLASTING

Pre-blast Survey 22-4-12(a)	Failed to make notification in writing for pre-blast surveys at least 30 days prior to commencing blasting.
Pre-blast Survey 22-4-11 38-3-6.6.b.1.	Failed to conduct the required pre-blast surveys prior to initiation of blasting operations.
Written Notification 22-4-13 38-3-6.3.	Failed to provide written notification of blasting operations at least 30 days prior to blasting.
Certified Blaster 22-4-12 38-3-6.4.b.3. & 6.8.	Failed to conduct blasting operations by certified blasting personnel.

Explosives 22-4-13 38-3-6.1.	Failed to comply with all applicable state and federal laws relating to the transportation, storage, and use of explosives.
Signs 22-4-13 38-3-6.5.d.	Failed to install or maintain a blast warning sign.
Approaches 22-4-13(a)(3) 38-3-6.5.b.2.	Failed to control access to the blast area against the entrance of unauthorized personnel.
Blast Holes 22-4-13 38-3-6.5.b.3.	Failed to guard and post all charged holes against unauthorized entry; or, left unattended charged holes prior to firing.
Blast Warning 22-4-13 38-3-6.5.b.	Failed to provide an audible warning signal prior to the blast.
Formula 22-4-13(a)(1)	Failed to comply with the approved scaled distance formula.
Particle Velocity 22-4-13(a)(1)	Failed to comply with the approved peak particle velocity limits.
Air Blast 22-4-13(a)(2)	Failed to comply with the approved air blast limits.
Time 22-4-13 38-3-6.5.a.	Conducted blasting operations in violation of time restrictions, on Sunday, or between sunset and sunrise.
Safety 22-4-13 38-3-6.5.a.	Failed to conduct blasting in such a manner so as to prevent personnel injury or property damage outside the permit area.
Flyrock 22-4-13.1.a 38-3-6.5.b.4.	Cast flyrock from the blasting site beyond the bounds of the permit area; or, cast flyrock from the blasting site more than halfway to the nearest protected structure.
Records 22-4-13(a)(5) 38-3-6.4.a.	Failed to properly maintain a record of each blast.
Air Blast Monitoring 22-4-13 38-3-6.5.c.	Failed to monitor air blast levels as required by the director.
Seismograph	Failed to create a seismograph recording of any

22-4-13 or all blasts as required by the director.
38-3-6.5.e.

HAULAGEWAY & ACCESS ROADS

Construction Failed to properly construct the approved haul-
22-4-4(c) ageway or access road.
38-3-5.1.

Stabilization Failed to stabilize all fill and cut slopes after the
22-4-4(c) construction of a haulageway.
38-3-5.12.

Certification Failed to certify that the haulageway was con-
22-4-4(c) structed in accordance with the approved permit.
38-3-5.21.

Seeding Failed to seed and plant all fill and cut slopes of
22-4-14(h) the haulageway in accordance with the approved
quarrying and reclamation plan.

Maintenance Failed to properly maintain the approved haulage-
22-4-4(c) way or access road.
38-3-5.1.

Surfacing Surfaced a haulageway with acid-producing or
22-4-4(c) toxic material or with material which will pro-
38-3-5.13. duce a concentration of suspended solids in
surface drainage.

Surfacing Failed to stabilize a haulageway with proper surface
22-4-4(c) materials to prevent erosion.
38-3-5.13.

Surfacing Failed to surface the haulageway with sufficiently
22-4-4(c) durable material.
38-3-5.13.

Dust Control Failed to employ reasonable means to prevent
22-4-4(c) the loss of haulageway surface material in the
38-3-5.17. form of dust.

Public Roads Failed to minimize the deposition of mud and
22-4-4(c) debris on public roads to the extent possible
38-3-5.15. to prevent public nuisance.

Abandonment Failed to properly reclaim a haulageway.
22-4-4(c)
38-3-5.18.

DRAINAGE

Drainage Control 22-4-14(a)	Failed to impound, drain or treat all runoff water so as to reduce soil erosion, damage to agricultural lands and prevent unlawful pollution of streams and other waters.
Installation 22-4-14(f) 38-3-7.3.	Failed to properly install a drainage system in accordance with the approved drainage control plan.
Sediment Control 22-4-14(f) 38-3-7.4.a.	Failed to construct drainage control structures in appropriate locations in order to control sedimentation.
Revegetation 22-4-4(c) 38-3-7.7.	Failed to mechanically stabilize, or seed and mulch all areas disturbed in the installation of the drainage system.
Certification 22-4-14(f)	Failed to certify that the drainage system was installed in accordance with the approved drainage control plan.
Certification 22-4-14(f) 38-3-7.5.a.	Failed to complete and certify the drainage and sediment control system prior to disturbance in a component drainage area.
Maintenance 22-4-14(f)	Failed to properly maintain the approved drainage control system.
Sediment Clean-out 22-4-14(f) 38-3-7.4.c.	Failed to clean a sediment control structure when the sediment accumulation reaches 60% of design capacity.

HYDROLOGIC SYSTEM PROTECTION

Drainage Control 22-4-14(f) 38-3-7.6.a	Failed to take all reasonable measures to intercept all undisturbed surface water to prevent water from entering the pit area.
Breakthrough 22-4-14(b)	Failed to properly impound and treat storm water accumulations or any breakthrough of water prior to release to prevent pollution.
Effluent Limits 22-4-4(c) 38-3-7.6.d	Discharged water from the permit area which exceeds the effluent limitations as set forth in the NPDES permit.
Groundwater 22-4-14(a)	Failed to properly implement the approved ground water monitoring plan.

Surface water 22-4-4(c) 38-3-7.6.c.	Failed to monitor all water discharges from the permit in accordance with the NPDES permit.
Reports 22-4-4(c) 38-3-7.6.c	Failed to submit a report of surface water discharges to the director in accordance with the approved NPDES permit.
Water Rights Replacement 22-4-16(b)	Failed to replace the water supply of an owner of interest in real property where the supply has been affected by quarrying operations.

**EXCESS SPOIL DISPOSAL
SIDE HILL FILLS 38-3-9.1.**

Stabilization 22-4-18 38-3-9.1.c.	Failed to use keyway cuts, rocktoe buttresses or other techniques where the natural slope in the disposal area exceeds 36%.
Organic Material 22-4-18 38-3-9.1.c.	Failed to remove all organic material from the disposal area.
Topsoil 22-4-18 38-3-9.1.c.	Failed to remove and segregate topsoil before the overburden is placed in the disposal area.
Placement 22-4-18 38-3-9.1.c.	Failed to transport and place spoil in a controlled manner, concurrently compacted as necessary to ensure long-term mass stability and prevent mass movement.
Regrading 22-4-18 38-3-9.1.c.	Failed to drain and grade the fill to allow surface and subsurface drainage to be compatible with the natural surroundings.
Underdrain 22-4-18 38-3-9.1.d.	Failed to properly construct the approved fill underdrain system.
Clearing 22-4-18 38-3-9.1.e.1.	Failed to progressively clear all trees, brush, and shrubs from all areas upon which the fill is to be placed.
Compaction 22-4-18 38-3-9.1.e.2.	Failed to deposit and compact fill material in uniform horizontal layers approximately parallel with the proposed finish grade.
Lift Thickness 22-4-18 38-3-9.1.e.3.	Placed fill material in layers exceeding 4 feet.

Slopes & Benches 22-4-18 38-3-9.1.e.4.	Failed to properly construct the fill outer slope or face and benches.
Topsoil Placement and Seeding 22-4-18 38-3-9.1.e.5.	Failed to topsoil, seed, and mulch the fill slopes and benches upon completion of construction of each 50 foot lift.
Certification 22-4-18 38-3-9.1.b.2.	Failed to certify that the first 50 foot lift was properly constructed.
Certification 22-4-18 38-3-9.1.b.3.	Failed to certify that the completed fill was constructed as designed in the approved permit.
Stabilization 22-4-18 38-3-9.2.c.	Failed to use keyway cuts, rocktoe buttresses or other techniques where the natural slope in the disposal area exceeds 36 %.
Organic Material 22-4-18 38-3-9.2.c.	Failed to remove all organic material from the disposal area.
Topsoil 22-4-18 38-3-9.2.c.	Failed to remove and segregate topsoil before the overburden is placed in the disposal area.
Placement 22-4-18 38-3-9.2.c.	Failed to transport and place spoil in a controlled manner, concurrently compacted as necessary to ensure long-term mass stability and prevent mass movement.
Regrading 22-4-18 38-3-9.2.c.	Failed to drain and grade the fill to allow surface and subsurface drainage to be compatible with the natural surroundings.
Underdrain 22-4-18 38-3-9.2.d.	Failed to properly construct the approved fill underdrain system.
Clearing 22-4-18 38-3-9.2.e.1.	Failed to progressively clear all trees, brush, and shrubs from all areas upon which the fill is to be placed.
Clearing 22-4-18 38-3-9.2.e.1.	Cleared more than 3 acres in the valley fill site before completion of the first 50 foot lift.
Rock Core 22-4-18 38-3-9.2.e.2.	Failed to properly construct the approved valley fill rock core.

**EXCESS SPOIL DISPOSAL
VALLEY FILLS 38-3-9.2.**

<p>Compaction 22-4-18 38-3-9.2.e.3.</p>	<p>Failed to deposit and compact fill material in uniform horizontal layers approximately parallel with the proposed finish grade.</p>
<p>Lift Thickness 22-4-18 38-3-9.2.e.4.</p>	<p>Placed fill material in layers exceeding 4 feet.</p>
<p>Top of Fill Drainage 22-4-18 38-3-9.2.e.5.</p>	<p>Failed to properly grade and slope the top of fill during and after construction to drain back to a maximum size 10,000 cu. ft. drainage pocket at the head of the fill.</p>
<p>Slopes & Benches 22-4-18 38-3-9.2.e.6.</p>	<p>Failed to properly construct the fill outer slope or face and benches.</p>
<p>Topsoil Placement & Seeding 22-4-18 38-3-9.2.e.7.</p>	<p>Failed to topsoil, seed, and mulch the fill slopes and benches upon completion of construction of each 50 foot lift.</p>
<p>Certification 22-4-18 38-3-9.2.b.2.</p>	<p>Failed to certify that the first 50 foot lift was properly constructed.</p>
<p>Certification 22-4-18 38-3-9.2.b.3.</p>	<p>Failed to certify that the completed fill was constructed as designed in the approved permit.</p>

**EXCESS SPOIL DISPOSAL
DURABLE ROCK FILLS 38-3-9.3.**

<p>Clearing 22-4-18 38-3-9.3.f.</p>	<p>Failed to progressively clear all trees, brush, and shrubs above ground level within the fill area.</p>
<p>Clearing and Grubbing 22-4-18 38-3-9.3.f.</p>	<p>Failed to remove all organic material both above and below the ground surface in the fill critical foundation areas.</p>
<p>Underdrain 22-4-18 38-3-9.3.g.</p>	<p>Failed to properly construct the approved fill underdrain system.</p>
<p>Diversions 22-4-18 38-3-9.3.h.</p>	<p>Failed to properly construct diversion channels to ensure fill stability, control erosion, and minimize water infiltration into the fill.</p>

Surface Grading 22-4-18 38-3-9.3.i.	Failed to properly grade the top surface of the completed fill and slope toward the drainage channel.
Outer Slopes 22-4-18 38-3-9.3.j.	Failed to properly regrade the outer slope or face of fill.
Prohibited Materials 22-4-18 38-3-9.3.m.	Placed, deposited, or disposed of prohibited materials in a durable rockfill or durable rockfill area.
Inspections 22-4-18 38-3-9.3.n.2.	Failed to inspect the fill construction quarterly and during critical construction periods.
Certification During Construction 22-4-18 38-3-9.3.n.2.	Failed to submit to the director a certified report within two weeks following completion of the construction inspection.
Certification After Construction 22-4-18 38-3-9.3.n.3.	Failed to submit to the director a certification form after total completion of the fill construction.

**EXCESS SPOIL DISPOSAL
SPOIL PILES 38-3-9.4.**

Spoil Placement 22-4-18 38-3-9.4.	Failed to transport and place excess spoil in a controlled manner.
Clearing 22-4-18 38-3-9.4.c.1.	Failed to progressively clear all trees, brush, and shrubs from the areas upon which the spoil pile is to be placed.
Material Removal 22-4-18 38-3-9.4.c.1.	Failed to remove all trees, brush, and shrubs from the area of the spoil pile.
Placement & Compaction 22-4-18 38-3-9.4.c.2.	Failed to deposit all spoil material in uniform horizontal layers compacted with haulage equipment.
Lift Thickness 22-4-18 38-3-9.4.c.3.	Placed spoil material in layers exceeding four feet in thickness.

Outer Slopes 22-4-18 38-3-9.4.c.4.	Failed to properly regrade the outer slope or face of the spoil pile.
Topsoil 22-4-18 38-3-9.4.c.5.	Failed to spread topsoil or other suitable material over the completed slopes and benches.
Revegetation 22-4-18 38-3-9.4.c.5.	Failed to immediately seed and mulch the slopes and benches in accordance with the approved revegetation plan.

REVEGETATION

Planting Report 22-4-14(g) 38-3-10.3.h.1.	Failed to file a planting report of forms prescribed by the director.
Seeding 22-4-14(h)	Failed to seed and plant all fill and cut slopes of the operation in accordance with the approved quarrying and reclamation plan.
Planting 22-4-14(j)	Failed to complete planting before the end of the first planting season.
Revegetation 22-4-13.1.a.1 38-3-10.1.	Failed to establish on all regraded areas and all other disturbed areas a diverse, effective and permanent vegetative cover.
Temporary Revegetation 22-4-14 38-3-10.2.	Failed to establish a temporary vegetative cover by the end of the first growing season.
Permanent Revegetation 22-4-14 38-3-10.2.	Failed to establish a permanent vegetative cover by the end of the second growing season.
Concurrent Revegetation 22-4-13.1.a.2 38-3-10.3.e.	Failed to keep seeding concurrent with the operations as quarrying and reclamation progresses.
Mulch 22-4-14 38-3-10.3.g.	Failed to use mulch on all disturbed areas.
Grazing 22-4-13.1.a.1 38-3-10.4.	Failed to protect all vegetated areas from excessive grazing.