

SUBJECT: Wildcat Operations

DATE: November 1, 2001

Revised: May 1, 2002

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 Noncompliance,
- 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.