

DIVISION OF MINERAL MINING PROCEDURES MANUAL		PROCEDURE NO.	2.15.00
		ISSUE DATE	05/21/97
SUBJECT	Unpermitted/Unlicensed Mine Sites	Section	Enforcement
		Last Revised	09/21/95

OBJECTIVE AND INTENT:

The Mine Inspector has the ‘right of entry’ under provisions of the Mine Safety Act. The inspector will have access to any mining operation under jurisdiction of the DMM, and any site where mining activities which may come under DMM jurisdiction are being performed for the purposes of enforcing the DMM law and regulations. This policy establishes procedures to be used by DMM field personnel which will ensure consistency in enforcement actions involving illegal mining operations.

PROCEDURES:

- Upon reaching any unpermitted site, the Mine Inspector will present credentials to the person in charge at the site.
- The Mine Inspector will explain to the operator the reasons for being at the site as well as his right as an authorized representative of the Director to inspect the site.
- The Mine Inspector, if necessary, will advise the person in charge that denying entry to the mine inspector constitutes a Class I misdemeanor under the Mine Safety Act.
- The Mine Inspector will advise the operator of permitting/licensing requirements and exemptions under State law.
- Consequences of continued illegal operation of the mining activity will be stated by the Mine Inspector.
- If denied the right of entry, the Mine Inspector will leave the site and immediately contact the Mine Inspector Supervisor to determine further actions necessary to obtain entry to the site.
- If further confrontation with the operator is anticipated on any unpermitted site, the Mine Inspector will make arrangements to be accompanied by other DMM personnel.
- A determination will be made as to whether the operation is a mining activity, or whether it is exempt from DMM jurisdiction.
- When the site is found to be under DMM jurisdiction, the Mine Inspector will provide the following documentation:
 - * why the site falls under the definition of mining;
 - * estimate of acreage disturbed;
 - * any discussions with the operator;
 - * pictures of the site;
 - * persons legally responsible for the mining activity, including addresses and telephone numbers; and
 - * proper notice (given or sent certified mail) to responsible party of the violation.
 - * Also an “Excavation Activity Evaluation Chart” will be completed and attached to the Inspection Report.
- In cases where the status of the activity is not clearly established, the Mine Inspector will complete an “Excavation Activity Evaluation Chart” and forward it to the OMT for review.

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- The OMT will make a recommendation to the Mine Inspector as to how to proceed with enforcement activities on the site.
- If the operation is determined to be mining without the proper permit/license, the following actions will be taken:
 - * the operator will be issued a Closure Order effective immediately for mining without a license;
 - * the operator will be issued a Special Order requiring the submittal of a permit application or immediate reclamation of the disturbed area; and
 - * the Mine Inspector will provide the operator with the necessary forms and assistance to prepare the permit application for submittal.
- If the Mine Inspector will be doing surveillance of an illegal mine site outside of regular working hours, he will get prior approval from his supervisor.