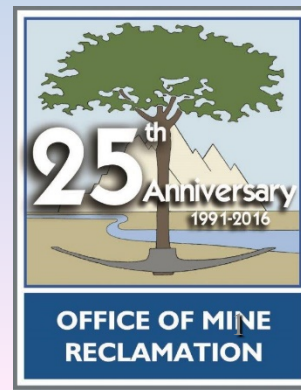


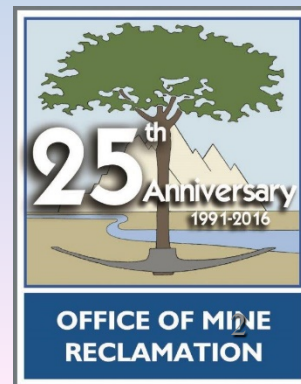
Mine Inspection Guidance Document and Regulations Workshop

**California Department of Conservation
Office of Mine Reclamation
State Mining and Geology Board**



**Hosted by Orange County
Santa Ana, CA
November 30, 2016
8:30 am – Noon**

- **Office of Mine Reclamation (OMR)**
 - **Pat Perez, Assistant Director**
 - **Paul Fry, Senior Engineering Geologist**
 - **Greg Marquis, Engineering Geologist**
 - **Beth Hendrickson, Senior Environmental Scientist**
- **State Mining and Geology Board (Board)**
 - **Jeffrey Schmidt, Executive Officer**
 - **Nick Lash, Associate Governmental Program Analyst**
- **Department of Conservation**
 - **Greg Tenorio, Senior Staff Counsel**



Background and Purpose

- Brief overview of changes to the Surface Mining and Reclamation Act as they pertain to mine inspections
- Development of mine inspection guidance and regulations
- Obtain public and industry input on developing surface mine inspection guidance document and regulations

Desired Outcomes

- Obtain early input, suggestions and comments prior to opening formal rulemaking
- Identify any outstanding questions, issues or challenges that need to be addressed
- Generate healthy dialogue

Mine Inspection Program Objectives

- Improve the quality and consistency of inspections
- Minimize inspection cost increases to lead agencies
- Enable lead agencies to adequately assess the nature and scope of noted violations and potential remedies
- Improve lead agency accountability during the enforcement
- And finally, improve compliance with California's mining laws (SMARA)

Inspection Requirements: Existing vs. *New*

PRC §2774(b)(1)

- Existing: Conduct an inspection within six months of receipt of the annual report
- *NEW*: Inspection of a surface mining operation (SMO) shall be conducted in intervals of no more than 12 months.

Inspection Requirements: Existing vs. *New*

PRC §2774(b)(1)

- Existing: Inspections may be conducted by state-licensed geologist, civil engineer, landscape architect, or forester
- *NEW*: Inspections shall be conducted by state-licensed geologist, civil engineer, landscape architect, or forester; or by a qualified lead agency employee

Inspection Requirements: Existing vs. *New*

PRC §2774(b)(1)

- Existing: The lead agency shall notify the director (OMR) that the inspection was completed within 30 days of the inspection
- *NEW*: The lead agency shall provide a notice of completion of inspection to OMR within 90 days of the inspection

Inspection Requirements:

New

PRC §2774(b)(1)(A-C)

Notice of completion of inspection shall specify, as applicable:

- Aspects of the SMO, if any, found to be inconsistent with SMARA and:
 - Were corrected before submitting the inspection form to OMR
 - Were not corrected before submitting the inspection form to OMR
- A statement describing the lead agency's intended response to any aspects not corrected before submission.

Inspection Requirements:

New

PRC §2774(b)(2)

The notice of completion shall indicate if the SMO has any of the following:

- Pending review of:
 - Reclamation Plan
 - Financial Assurance
 - Interim Management Plan
- Pending appeal before the board or lead agency

Inspection Requirements:

New

PRC §2774(c)

If an operator does not request an inspection date on the annual report or if the lead agency is unable to inspect on the date requested, the lead agency shall:

- Provide the operator a minimum of five days' written notice
- Or
- Lesser time period if agreed to by the operator

Inspection Requirements:

New

PRC §2774(e)

OMR shall establish an inspection training program and guidance document by December 31, 2017

- Guidance document to be developed by OMR in consultation with the board and stakeholders
- Training program shall include workshops in different regions of the state
- All inspectors shall have a certificate of training completion on file with the lead agency by July 1, 2020

Inspection Guidance Document: Concept Objectives

- Build on existing board guidelines
- Incorporate changes to SMARA
- Address the aspects of mine inspections that require state-licensed professionals
- Include a pre-inspection checklist
- Include reference materials, like graphs, charts, etc.

Related Regulations

CCR §3504.5

- Current regulation clarifies portions of PRC §2774 that have since been amended by AB1142 and will require amendment or deletion:
 - 3504.5(a): Inspection frequency
 - 3504.5(b): Inspector qualifications
 - 3504.5(e): operator responsible for reasonable cost of annual inspection (moved to PRC §2774)
 - 3504.5(g): Inspection form and submission timeline

Related Regulations

CCR §3504.5

May further clarify amended Sections of PRC §2774:

- Define 'qualified lead agency employee'
- Other clarifications if needed

Discussion

1. PRC §2774(b)(1): “Lead agencies shall cause surface mining operations to be inspected in intervals of no more than 12 months...”

Note: Currently, PRC §2774(b) requires lead agencies to inspect a surface mining operation within 6 months of receiving the operator’s annual report. CCR §3504.5 requires an inspection not less than once each calendar year. Neither the current statute nor regulation requires a specific inspection interval.

Discussion Question

a) What new procedures might you use to implement the inspection scheduling requirements?

Discussion

2. PRC §2774(b)(1) (continued): “...The lead agencies shall cause inspections to be conducted by a state-licensed geologist, state-licensed civil engineer, state-licensed landscape architect, state-licensed forester, or a qualified lead agency employee who has not been employed by the surface mining operation being inspected in any capacity during the previous 12 months, except that a qualified lead agency employee may inspect surface mining operations conducted by the local agency...”

Discussion

Question

a) The Department is considering guidance document instructions that provide that the evaluation and analysis of site conditions that implicate the need for licensed professions be conducted by appropriate state-licensed professionals or by an individual working under the responsible charge of a state-licensed professional, for all inspectors, including lead agency employees. This instruction is consistent with current professional practice requirements. What is your opinion about this instruction?

Discussion

Question

b) If a licensed professional was required for certain aspects of a mine inspection, where would you find that person? In another department? Would you need to use a consultant or other expertise?

Discussion

Questions

- c) As a lead agency, what other definitions would you add to what is a 'qualified lead agency employee'?

- d) How do you recover the cost of conducting an inspection for surface mining operations in your jurisdiction?

Discussion

Question

e) If you hired a mine inspector who previously worked (within the last 12 months) for a mine operator within another county and that operator also has operations within your lead agency's jurisdiction, how would you ensure potential conflict of interest issues are avoided?

Discussion

3. PRC §2774(b)(1) (continued): "...The lead agency shall provide a notice of completion of inspection to the director within 90 days of conducting the inspection. The notice shall contain a statement regarding the surface mining operation's compliance with this chapter and a copy of the completed inspection form, and shall specify, as applicable, all of the following:

(A) Aspects of the surface mining operation, if any, that were found to be inconsistent with this chapter but were corrected before the submission of the inspection form to the director.

Discussion

(B) Aspects of the surface mining operation, if any, that were found to be inconsistent with this chapter but were not corrected before the submission of the inspection form to the director.

(C) A statement describing the lead agency's intended response to any aspects of the surface mining operation found to be inconsistent with this chapter but were not corrected before the submission of the inspection form to the director.”

Discussion

Questions

- a) Do you use the SMARA Lead Agency Inspection Notice Form currently offered on the Department's website? If not, why? What suggestions can you offer to improve it?

- b) What challenges, if any, do you perceive with lead agencies now having to explain how it intends to deal with violations noted during the inspection?

Discussion

4. PRC §2774(c): “If an operator does not request an inspection date on the annual report filed pursuant to Section 2207 or if the lead agency is unable to cause the inspection of a given surface mining operation on the date requested by the operator, the lead agency shall provide the operator with a minimum of five days’ written notice of a pending inspection or a lesser time period if agreed to by the operator.”

Note: PRC §2774(c) relates to annual report requirements in PRC §2207(a) as amended by SB 209, which states, in part: “...A copy of the previously completed annual inspection form and a requested date, within 12 months of the prior inspection date, for the next annual inspection by the lead agency.”

Discussion

Questions

- a) As a lead agency, how difficult will it be to inspect the mining operation on the date requested by the operator on the annual report?

- b) What new procedures might you use to implement the inspection scheduling requirements?

Discussion

6. PRC §2774(e)(1): “No later than December 31, 2017, the department shall establish a training program for all surface mine inspectors. The program shall be designed to include a guidance document, developed by the department, in consultation with the board and stakeholders, to provide instruction and recommendations to surface mine inspectors performing inspections pursuant to subdivision (b).

(2) The training program shall include inspection workshops offered by the department in different regions of the state to provide practical application of the guidance document material.

Discussion

(3) On and after July 1, 2020, all inspectors shall have on file with the lead agency and the department a certificate of completion of an inspection workshop. An inspector shall attend a workshop no later than five years after the date of his or her most recent certificate.

(4) The adoption of the guidance document by the department pursuant to this subdivision shall be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).”

Discussion

Questions

- a) What would you want the Department to include in its inspector training program?

- b) What would you want the Department to include in a guidance document for conducting inspections?

Discussion

Questions

c) How can mine inspections be improved to better protect public health and safety, and prevent or minimize adverse effects on the environment?

d) How do you coordinate your inspections and share information with other regulatory agencies, such as the Regional Water Quality Control Board and the California Department of Fish and Wildlife?

Thank You for Attending!

Written submissions may be provided to the Department by regular mail or email at:

Department of Conservation
801 K Street, MS 09-06
Sacramento, CA 95814
ATTN: Guidance Document
Email: OMR@conservation.ca.gov