

Workshop Draft Proposed Regulatory Language Strikeout/Underline

§ 3504.5. Conduct of Mine Inspections ~~Per Calendar Year. The purpose of this section is to clarify and make specific the scope, nature, and frequency of a surface mine inspection required under Public Resources Code Section 2774(b).~~

(a) Inspection of a surface mining operation shall be conducted ~~not less than once each calendar year~~ at intervals not to exceed twelve (12) months to determine if the operation is in compliance with the requirements of Public Resources Code Chapter 9, commencing with section 2710. ~~The lead agency, or the board if the board is the lead agency, shall send written notice to the operator at least ten days prior to any inspection.~~ In accordance with Public Resources Code Section 2207(a)(8), the operator shall include a proposed date for the next annual inspection on their Mining Operation Annual Report (Form MRRC-2).

(b) ~~A~~ Inspections shall be performed by a California state-licensed individual as specified in Public Resources Code Section 2774(b)(1) or by a qualified lead agency employee ~~person, who in the determination of the lead agency has demonstrated competence in performing inspections of surface mining operations, shall perform inspections.~~ A qualified lead agency employee may include contract employees and those hired pursuant to third-party contracts.

(c) In cases where a qualified lead agency employee is not a California state-licensed professional, and/or where a California state-licensed professional encounters an aspect or condition outside of their expertise, the mine inspection report shall indicate that aspect or condition of the operation that requires an evaluation by an appropriate California state-licensed professional, technical expert or specialist. Aspects of surface mine inspections may require a specialist or a team of specialists with expertise that includes but is not limited to, geology, engineering, surveying, ecology, water chemistry, and permitting. California state-licensed professionals, and other technical specialists, that only provide an evaluation of a particular aspect or condition of a surface mining operation requiring technical expertise or licensure in support of an inspection report may, but are not required to, obtain a certificate of completion of inspection workshop conducted by the Division of Mine Reclamation. ~~Evaluation of geological and engineering conditions, when required, shall be performed by or under the supervision of a Geologist Registered to practice in the state under the Geologists and Geophysicists Act or a Professional Engineer registered to practice in the state under the Professional Engineers Act.~~

(ed) Annual surface mine inspections shall not be performed by any person who holds a financial interest in, or has been employed by, the surface mining operation in any capacity, ~~including as a consultant or as a contractor.~~ contract employees and those hired pursuant to third-party contracts, during the year-12 months preceding the inspection. A qualified lead agency employee may inspect mining operations owned and operated by the lead agency.

(de) ~~Annual surface mine inspections may be conducted by a specialist or a team of specialists with expertise that includes but is not limited to, geology, engineering, surveying, ecology, water chemistry and quality, and permitting.~~ Persons participating in the inspection shall follow such reasonable requirements of the operator so that there is minimal interference with the surface

mining operation and the inspection is conducted in a safe manner in accordance with all state and federal safety requirements.

~~(e) The operator shall be responsible for the reasonable cost of the annual inspection conducted by the lead agency or by the board if the board is the lead agency.~~

(f) Inspections may include, but shall not be limited to the following: the operation's horizontal and vertical dimensions; volumes of materials stored on the site; slope angles of stock piles, waste piles and quarry walls; effects of sidecasting and potential geological hazards; equipment and other facilities; samples of materials; photographic or other electronic images of the operation; any measurements or observations deemed necessary by the inspector or the lead agency to ensure the operation is in compliance with Public Resources Code Chapter 9.

(g) The inspection report ~~to the lead agency~~ shall consist of the Surface Mining Inspection Report (Form MRRC-1 (4/97)), developed by the ~~department~~ Division of Mine Reclamation and approved by the ~~board~~ State Mining and Geology Board, and any other reports or documents prepared by the inspector or ~~inspection team~~ specialists in support of the annual inspection report. ~~The lead agency shall provide a copy of the completed inspection report along with the lead agency's statement regarding the status of compliance of the operation to the director within 30 days of completion of the inspection.~~ A copy of the completed inspection report and ~~lead agency statement of compliance~~ a copy of the notice of completion with the lead agency's statement regarding the status of compliance of the surface mining operation shall ~~also~~ be provided to the mine operator within 30-90 days of completion of the inspection.

NOTE

Authority cited: Section 2755, Public Resources Code. Reference: Sections 2770 and 2774, Public Resources Code.

HISTORY

1. *New section filed 4-7-2003; operative 5-7-2003 (Register 2003, No. 15).*