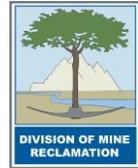




# DEPARTMENT OF CONSERVATION DIVISION OF MINE RECLAMATION



## Guidance Document for Surface Mine Inspectors

January 1, 2018

### Introduction

The Surface Mining and Reclamation Act of 1975 (Public Resources Code (PRC) § 2710 et seq., “SMARA”) was enacted into law to create and maintain an effective and comprehensive surface mining and reclamation policy in California. SMARA Lead Agencies, comprised of cities, counties, the San Francisco Bay Conservation and Development Commission, and the State Mining and Geology Board, have the principal responsibility to implement and administer SMARA within their respective jurisdictions.

SMARA Lead Agencies are required to conduct an annual inspection of every surface mining operation (SMO) subject to SMARA within its jurisdiction. Conditions observed during the annual inspection of an SMO, and documented in the surface mining inspection report by the inspector, are the basis to determine ongoing compliance with SMARA. Lead Agencies are also required to conduct an inspection when an operator seeks confirmation that they have completed reclamation in accordance with the approved reclamation plan, ultimately resulting in a closure of the SMO and a full release of financial assurances. Finally, Lead Agencies may be required to conduct inspections for more narrowly tailored purposes in addition to annual or final inspections. The Lead Agency’s determination of compliance with SMARA includes, but is not limited to, assessing the SMO’s physical and environmental conditions and general conformance relative to the approved reclamation plan and administrative compliance with SMARA.

The Department of Conservation’s Division of Mine Reclamation (DMR) is required to establish a training program for all surface mine inspectors (inspectors). A component of DMR’s Inspector Training Program (ITP) is this Guidance Document for Surface Mine Inspectors (Guidance Document). The Guidance Document is intended to provide instructions and recommendations to inspectors performing inspections pursuant to the requirements of SMARA and, in particular, PRC section 2774(b). The ITP includes inspection workshops, offered by DMR in different regions of the state, where practical application of the Guidance Document will be presented to Lead Agency inspectors. Inspections of SMOs must be conducted by an inspector who has on file with the Lead Agency and the Department of Conservation (DOC) a certificate of completion of an inspection training workshop on or after July 1, 2020.

The mine inspector, upon completion of the ITP, will possess the necessary skills to observe, document, and inform local Lead Agency decision makers of the SMO’s current condition for determination of compliance with SMARA. A completed Surface Mining Inspection Report and Notice of Completion of Inspection comprises the documentation by which operators, stakeholders, and DMR are annually informed by the Lead Agency on an SMO’s compliance with State mining laws.

DMR developed this Guidance Document in cooperation with the State Mining and Geology Board (SMGB) and local lead agencies. Input was also received from other stakeholders including: mine operators, mining associations, consultants, and public interest groups.

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## Acronyms

AR	Annual Report
BMP	Best Management Practice
B&PC	Business and Professions Code
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
DMR	Division of Mine Reclamation
DOC	Department of Conservation
FACE	Financial Assurance Cost Estimate
GPS	Global Positioning System
IR	Inspection Report
ITP	Inspection Training Program
PRC	Public Resources Code
SMARA	Surface Mining and Reclamation Act of 1975
SMGB	State Mining and Geology Board
SMO	Surface Mining Operation

## 1 Persons Conducting Inspections

Pursuant to PRC section 2774(b)(1), inspectors must attend DMR's Inspection Training Program and be either one of the following:

- a. A California state-licensed:
  - Geologist
  - Engineer
  - Landscape Architect
  - Forester
- b. A qualified Lead Agency employee who by determination of the Lead Agency has demonstrated competence in performing annual mine inspections.

Persons are precluded from performing an inspection of an SMO if they have been employed by that SMO in any capacity during the previous 12 months. A qualified Lead Agency employee may inspect SMO's conducted by their respective local agency. Additional requirements for mine inspectors are located in, Title 14, California Code of Regulations (CCR), section 3504.5.

### 1.1 Professional Practice

Any person conducting an inspection should be familiar with relevant laws and regulations that govern the professional practice of state-licensed disciplines, such as:

- Geologists and Geophysicists Act
  - Business and Professions Code (B&PC) section 7800-7887; Title 16, CCR, Division 29 sections 3000-3067
- Professional Engineers Act
  - B&PC sections 6700-6799; Title 16, CCR, Division 5 sections 400-476
- Landscape Architects Practice Act
  - B&PC section 5615-5683; Title 16, CCR, Division 26 sections 2602-2680
- Professional Forester Law
  - Public Resources Code sections 750-783; Title 14, CCR, Chapter 10, Article 1, sections 1600-1651
- Professional Land Surveyors' Act
  - B&PC sections 8700-8805; Title 16, CCR, Division 5 sections 400-476

Lead Agency determination of the SMO's compliance with SMARA and the approved reclamation plan may require evaluation by a state-licensed geologist, engineer, landscape architect, forester, or land surveyor with expertise in the condition or aspect in question. The identification of all such conditions or aspects that may require licensure is beyond the scope of this Guidance Document.

State-licensed professionals are ethically obligated to protect the health, safety, and welfare of the public and the environment and must practice within his/her area of expertise in accordance with applicable licensing acts and associated regulations. A surface mine inspector's potential unlicensed practice, or potential practice outside of their area of expertise, may be brought to the attention of the appropriate licensing board by any interested person or entity.

## 2 SMARA Inspection Requirements

Lead agencies are responsible for ensuring that SMOs are conducted in compliance with SMARA and that mined lands are reclaimed in accordance with each SMO's approved reclamation plan and end use. A Lead Agency must inspect each SMO subject to SMARA within its jurisdiction at least once every twelve months. Upon cessation of mining operations, mined lands shall be inspected by the Lead Agency to verify reclamation prior to the full release of financial assurances. Annual inspections are no longer required after the mined lands have been deemed reclaimed by the Lead Agency and the DMR in accordance with the approved reclamation plan, or remediated pursuant to PRC section 2773.1(b)(2)(C).

The failure of an operator to pay Lead Agency fees for the reasonable cost of an inspection does not relieve the Lead Agency of its statutory requirement to conduct an annual inspection once every 12 months.

### 2.1 Inspection Scheduling

Lead agencies shall cause SMOs to be inspected in intervals of no more than 12 months. The full calendar month containing the last conducted annual inspection may be considered when calculating the 12-month inspection interval. Operators are required to request an inspection date on the Annual Report Form MRRC-2 (Annual Report). The Lead Agency and the operator should attempt to coordinate mutually available dates before the operator requests the inspection date on the Annual Report. If the operator does not request an inspection date on the Annual Report, or if the Lead Agency is unable to inspect on the date requested by the operator, the Lead Agency must provide the operator with a minimum of five days' written notice of the intended date of inspection (unless a shorter time period is agreed upon by the Lead Agency and mine operator). For purposes of complying with this notification requirement, correspondence through email is considered adequate for purposes of maintaining the administrative record if both the Lead Agency and the operator agree. Factors such as weather, location of the mine, and availability of the operator should be considered by the inspector and operator when scheduling the inspection. Additionally, the Lead Agency and the operator should discuss requirements to submit an updated Financial Assurance Cost Estimate (FACE) to the Lead Agency by the operator within 30 days of conducting the inspection.

## 3 Inspection Goals and Objectives

The Legislature's intent in enacting SMARA was to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of SMOs so as to ensure that:

1. Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a useable condition that is readily adaptable for alternative land uses.
2. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.
3. Residual hazards to the public health and safety are eliminated.

To achieve these goals and ensure continued compliance by mining operators, PRC section 2774(b)(1) requires lead agencies to cause an annual inspection of SMOs “solely to determine whether the SMO is in compliance” with SMARA. The inspection of SMOs encourages a Lead Agency to annually review the physical, environmental, and administrative conditions of SMOs and determine the SMO’s compliance with SMARA. During the inspection process, the Lead Agency inspector should consider the SMO’s:

1. Compliance with the approved reclamation plan, including incorporated conditions of approval and mitigation measures that relate to reclamation.
2. Compliance with minimum acceptable surface mining practices for soil erosion control, water quality and watershed control, protection of fish and wildlife habitat, disposal of mine waste rock and overburden, erosion and drainage, and resoiling and revegetation, as applicable.
3. Compliance with an order to comply, if any.
4. Reported status of the operation and reclamation.
5. Status of FACEs and/or financial capability of operator.
6. Other conditions, if any, that may preclude reclamation of mined lands in accordance with the approved reclamation plan.

No requirement or recommendation contained in this Guidance Document is a limitation on inspections for any of the following:

- The power of any state agency to enforce or administer any provision of law that it is specifically authorized or required to enforce or administer.
- The power of the Lead Agency to inspect mining operations under any other provisions of law that it is specifically authorized or required to enforce or administer.
- The police power of the Lead Agency or on the power of the Lead Agency to declare, prohibit, and abate nuisances.

## 4 Preparing for the Inspection

Section 4 provides recommendations to assist inspectors when preparing for a SMARA mine inspection.

### 4.1 The Administrative Record

A critical component of the inspection process is the annual review of the SMO’s administrative record. The inspector should perform the file review prior to conducting the inspection.

The conduct of an inspection requires knowledge of the SMO’s approved reclamation plan and conditions for which it was approved. Additionally, annual review of the administrative record may also apprise the inspector of other regulatory actions undertaken since the completion of the previous inspection that may affect compliance with SMARA and reclamation of the mined lands. Annual review of the SMO’s administrative record may identify the need for potential amendments to the SMO’s reclamation requirements.

The following documents, at a minimum, constitute the administrative record, and should be reviewed prior to conducting the inspection.

#### 4.1.1 Approved Reclamation Plan

The inspector should be familiar with the SMO's approved reclamation plan, any amendments, and other reclamation requirements prepared as part of a permit application for the SMO that were used to satisfy the requirements of PRC sections 2772(c), 2773, and 2773.3, and Article 1 (commencing with section 3500) and Article 9 (commencing with section 3700) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the CCR. In addition, the inspector should review any approved modifications contained in permit conditions of approval or binding mitigation measures adopted or certified pursuant to the California Environmental Quality Act (CEQA) included by reference in the approved reclamation plan pursuant to PRC sections 2772(d) and 2772.1(b)(7)(B). Permit conditions solely of local concern, such as hours of operation, noise, aesthetics, and dust control are not subject to annual SMARA inspections.

#### 4.1.2 Reference Maps

The inspector should review available remotely sensed imagery (satellite or aerial imagery) and/or topographic maps of the mine site. The inspector should be familiar with maps from the reclamation plan, specifically maps that show property/lease boundaries, reclamation boundaries, and topographic maps that show the original, existing, and permitted horizontal and vertical extent of the SMO. It is recommended that the reclamation plan boundary be overlain on an aerial image to aid in inspection, if such technology is available to the inspector.

#### 4.1.3 Financial Assurances

FACEs are updated by the operator and approved annually by the Lead Agency. The operator is required to provide an annual FACE to the Lead Agency within 30 days of conducting the annual inspection. The financial assurance amount required of an SMO represents the estimated cost for the Lead Agency or DMR, utilizing third-party contractors, to complete reclamation of mined lands in accordance with the approved reclamation plan in the event the operator is unable to do so.

The inspector should be familiar with the most recently approved FACE and the description in the FACE of work required to complete reclamation of the mined lands.

The inspector should be knowledgeable of the Financial Assurance Guidelines prepared by the State Mining and Geology Board (SMGB).

#### 4.1.4 Operator Annual Reports

The inspector should be familiar with the Annual Reports submitted by the operator for the previous five years. The inspector should note the status reported by the operator in Sections Five and Six of previous Annual Reports for reference during the inspection.

#### 4.1.5 Prior Inspection Report and Notice of Completion of Inspection

The inspector should be familiar with the SMO's most recent Surface Mine Inspection Report Form MRRC-1 (Inspection Report) and Notice of Completion of Inspection. The inspector should identify any aspects noted to be inconsistent with SMARA from these documents. These aspects may require observation during the upcoming inspection. The inspector should also be familiar with the Lead Agency's statement describing its intended response to those aspects

identified as being inconsistent with SMARA from the previous Notice of Completion of Inspection.

#### 4.1.6 Enforcement Actions

The inspector should be familiar with any enforcement actions initiated by the Lead Agency, other permitting agencies, or court actions/determinations that affect operation and/or reclamation of the SMO.

#### 4.2 Other Recommendations

At least 24 hours prior to the on-site inspection, the inspector should confirm the date and time of the inspection with the operator. The inspector should confirm with the operator prior to the inspection that he or she has the appropriate personal protective equipment (such as bright safety vest, hard hat, steel-toed shoes, safety glasses, etc.) required for entry into the SMO. The inspector should discuss with the operator the upcoming annual review of the mine's FACE prior to conducting the annual inspection.

### 5 Conduct of the Inspection

Section 5 contains requirements and recommendations for inspectors conducting annual SMARA mine inspections. These requirements and recommendations also apply to the conduct of other inspections and may be modified to fit the nature and scope of the inspection. Inspectors should strive to conduct the inspection employing a standard of practice that is consistent with the current ethical principles and codes of conduct that meet or adhere to business and professions codes for engineering, land surveying, geology, landscape architecture; public resources codes for forestry; and the American Institute of American Planners (AIAP) "Code of Ethics and Professional Conduct" for planners. The inspector's observations and measurements shall be documented on the Inspection Report (MRRC-1).

#### 5.1 Tools and Reference Materials

The inspector should consider using the following items to collect field data and record observations:

- Photographic Device (smart phone, tablet, camera, etc.)
- Notebook (electronic or paper)
- Tape measure and/or rangefinder
- Clinometer or pocket transit
- A Global Positioning System (GPS) device to record the approximate locations of observations
- Calculator

The inspector should consider bringing the following materials for reference:

- Current version of the Surface Mining and Reclamation Act, associated regulations, and this Guidance Document.
- Copy of the approved permit, reclamation plan, and other related documents.
- Copies of reclamation maps (topographic maps of original, existing, and final configurations).

- Recent aerial/satellite imagery of the SMO.
- Copy of the most recently completed Inspection Report and Notice of Completion of Inspection.
- Copy of enforcement documents, if any, since the completion of the prior annual inspection.
- Court rulings or decisions that pertain to the site's reclamation.
- Inspection Report form with section I-VII and column 2 of section VIII completed, for quick reference of required reclamation performance standards.

## 5.2 Upon Arrival

Prior to commencing the physical inspection of the site, the inspector should:

- Introduce all members of the inspection party.
- Discuss the goals and objectives of the inspection to the operator or the operator's representative (see section 3 of this document).
- Discuss the safety requirements with the operator or operator's representative.
- Discuss the SMO's previous years, current, and anticipated activities for the upcoming year with the operator or operator's representative.

## 5.3 Inspector Observations

The inspector should request access to the highest elevation and/or points of interest that provide for the best panoramic views of the SMO. From these general overview locations, the inspector should take notice of ground surfaces, slope configurations and conditions, vegetation, equipment and structures, site drainage patterns, and impact of the SMO on adjacent properties. Areas where drainage enters and exits the SMO should be inspected. The inspector should consider walking the perimeter of the SMO, as feasible.

The inspector should be familiar with the minimum acceptable surface mining practices as described in CCR section 3503 for soil erosion control, water quality and watershed control, protection of fish and wildlife habitat, disposal of mine waste rock and overburden, erosion and drainage, and resoiling and revegetation, when required.

The inspector should assess performance standards applicable to mined lands in the context of the SMO's phase of mine development. For example, revegetation of a quarry wall during active extractive activities is not necessary; however, applying a seed mix to a salvaged topsoil stockpile may be prudent and necessary to prevent wind and water erosion of the topsoil until the time of reclamation. Mined lands include the surface, subsurface, and groundwater of an area in which SMOs will be, are being, or have been conducted. Mined lands include ground surfaces that are in an undisturbed, disturbed, and reclaimed condition. The inspector should assess what performance standards in the approved reclamation plan apply to mined lands relative to the SMO's stage of development. While performing the inspection, the inspector should also consider the amount and type of work required to reclaim disturbed areas of the SMO relative to the performance standards in the approved reclamation plan.

Specific performance standards in the approved reclamation plan may not be applicable to each surface of the SMO at the time of inspection depending on the phase of the mine's

development. The inspector should be aware of the surface conditions present at the SMO in order to ensure current activity will not preclude reclamation in accordance with the approved reclamation plan. In addition to the minimum standards described by CCR section 3503, the following items, as applicable, should be observed, measured, and documented during the inspection.

### 5.3.1 General Operations:

Observe and document, in general terms, the type and extent of the mined lands that comprise the SMO. Specifics to consider include the type of material being extracted, a general description of the SMO (areas of extraction, processing, interim storage of ore, waste, and finished product, etc.), type and nature of processing or beneficiation occurring on site, and the type of products being produced and/or stored onsite.

### 5.3.2 Ground Surfaces:

Ground surface types can be classified as “undisturbed,” “disturbed,” and “reclaimed.” “Undisturbed” ground surfaces are areas where surface mining operations did not occur after January 1, 1976. “Disturbed” ground surfaces are areas where surface mining operations commenced after January 1, 1976, and have not been reclaimed. “Reclaimed” ground surfaces are in a condition consistent with the performance standards and requirements of the approved reclamation plan.

For the purposes of this Guidance Document, undisturbed, disturbed, and reclaimed ground surfaces at an SMO can be further characterized as “native,” “cut,” or “fill.” “Native” ground surfaces have not been disturbed by mining operations or the actions of humans. Ground surfaces excavated into native earth materials are considered “cut.” Ground surfaces formed by the placement of excavated earth material are considered “fill.”

The inspector should be able to reasonably classify the extent of mined lands at the SMO to aid in the Lead Agency’s determination of compliance with the approved reclamation plan.

The inspector should document areas of the SMO that have been disturbed and/or reclaimed since the prior inspection. The inspector should also note the areas where the operator plans to conduct surface mining operations during the upcoming year and the anticipated horizontal and vertical extent of those activities. Undisturbed areas within the SMO’s reclamation plan boundary should also be described by the inspector.

The inspector should, at a minimum, observe, measure, and document, as necessary:

- The approximate horizontal and vertical dimensions of the SMO.
- The estimated volumes of materials stored at the SMO.
- The estimated angles of slopes along disturbed and reclaimed surfaces at the SMO.
- Any adverse geologic or geotechnical conditions at the SMO.

Determining whether reclaimed surfaces meet the performance standards and requirements of the approved reclamation plan may require evaluation by an appropriate state-licensed professional.

### 5.3.3 Boundaries:

The inspector should observe and document discernable property, permit, or reclamation boundaries at the SMO. In many cases, these boundaries are not delineated or readily apparent in the field. The inspector should observe the extent of the SMO's mined lands with respect to the permitted/approved reclamation plan boundaries. The inspector should consider whether the current conditions allow for the reclamation of the mined lands consistent with the performance standards and requirements of the approved reclamation plan. The determination that undisturbed, disturbed, and reclaimed surfaces are within the boundaries of the approved reclamation plan may require evaluation by an appropriate state-licensed professional.

### 5.3.4 Erosion Control:

SMOs are required to meet the minimum acceptable surface mining practices described by CCR section 3503 and the requirements of the Porter-Cologne Water Quality Control Act. SMOs may be subject to additional permit conditions such as: waste discharge requirements, storm water pollution prevention, and/or onsite mining waste management as required by the State Water Resources Control Board. Additionally, Best Management Practices (BMPs) required by permit conditions of approval and/or federal plan of operations may have separate requirements that apply at the time of reclamation.

The inspector must therefore review the approved reclamation plan and any other applicable permit documents to determine which requirements specifically relate to reclamation and the reclamation plan. For instance, if the site has varying requirements for erosion control on disturbed or reclaimed surfaces, the inspector will need to inspect those conditions to ensure they meet those specific requirements. The inspector should observe and document the condition of any sediment and erosion control structures or BMPs employed on the mined lands and determine if they are achieving their design function.

While notice of potential violations for erosion control may be initiated under SMARA, the resolution of potential violations should include the appropriate State or Federal entities, such as the California State and Regional Water Quality Control Boards, California Department of Fish and Wildlife, the United States Fish and Wildlife Service, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the United States Forest Service, and the Bureau of Land Management.

### 5.3.5 Stream and Wetland Protection/Water Quality and Watershed Control:

Pursuant to CCR section 3503, SMOs are required to prevent potential sedimentation of streams and substantially prevent siltation of groundwater recharge areas. The inspector should observe and document any efforts being employed by the operator to prevent potential sedimentation of streams and substantially prevent siltation of groundwater recharge areas as required by the approved reclamation plan and/or CEQA mitigation measure. The determination that mined lands meet the performance standards and requirements of the

approved reclamation plan may require evaluation by an appropriately qualified specialist or state-licensed professional.

While notice of potential violations for stream and wetland protection and water quality and watershed control may be initiated under SMARA, the resolution of potential violations should include the appropriate State or Federal entities, such as the California State and Regional Water Quality Control Boards, California Department of Fish and Wildlife, the United States Fish and Wildlife Service, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the United States Forest Service, and the Bureau of Land Management.

#### 5.3.6 Fish and Wildlife Habitat:

Pursuant to CCR section 3503, SMOs are required to employ reasonable measures to protect fish and wildlife habitat. SMOs within areas of sensitive fish and wildlife habitat are often required by CEQA mitigation measures, permit, or reclamation plan measures to protect sensitive fish and wildlife habitat. The inspector should observe and document any efforts employed by the operator to protect sensitive fish and wildlife habitat as required by the approved reclamation plan and/or CEQA mitigation measure. The determination that operational and/or reclaimed surfaces meet the performance standards and requirements of the approved reclamation plan may require evaluation by an appropriately qualified specialist.

While notice of potential violations for fish and wildlife habitat may be initiated under SMARA, the resolution of potential violations should include the appropriate State or Federal entities, such as the California State and Regional Water Quality Control Boards, California Department of Fish and Wildlife, the United States Fish and Wildlife Service, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the United States Forest Service, and the Bureau of Land Management.

#### 5.3.7 Soil/Overburden Stockpile Management:

The inspector should identify and note locations of any salvaged topsoil, overburden, mine waste, and/or tailings piles present on the SMO. It may be necessary for the inspector to obtain measurements of stockpiles to calculate approximate volumes and determine costs associated with the final disposition of materials from the mined lands. The inspector should note the Best Management Practices (BMPs) being employed by the operator to minimize water and wind erosion for any stockpiles located at the mine. The inspector should be aware of other agency permit requirements incorporated into the reclamation plan that relate to soil and overburden stockpile management and their effect on reclaiming mined lands pursuant to the approved reclamation plan.

#### 5.3.8 Revegetation:

The type and extent of revegetation required on mined lands is dependent on the approved end use. In some cases, such as mined lands that are planned with an industrial end use, revegetation may not be required in the reclamation plan. Alternatively, mined lands with an end use of open space or grazing may require an extensive revegetation with measurable performance standards for cover, density, and species richness. Revegetation of mined lands may be temporary, for erosion control purposes, or completed pursuant to the approved

reclamation plan and end use of the site. The type of revegetation required on the mined lands at any phase of the SMO is dependent on the type and condition of ground surfaces.

The inspector should be aware of any revegetation requirements contained in the reclamation plan and discuss the progress of revegetation with the mine operator during the inspection. The inspector should identify and document any efforts being undertaken by the mine operator to revegetate mined lands, whether for erosion control or reclamation purposes. This may include the following as applicable:

- The location of test plots, nurseries, and any ongoing or completed revegetation efforts, if required by the approved reclamation plan.
- The presence of structures designed to protect vegetation, if required by the approved reclamation plan.
- The presence and location of any noxious weeds and the effectiveness of the BMPs undertaken by the operator to control them as required by the approved reclamation plan.
- The volume and location of top soil/growth media stockpiles to determine the adequacy of cost estimates and compliance with the approved reclamation plan.

The determination that reclaimed surfaces, which require revegetation, meet the performance standards of the approved reclamation plan may necessitate evaluation by an appropriately state-licensed professional or an appropriately qualified specialist.

### 5.3.9 Structures:

The inspector should observe and note the presence and location of any surface and subsurface structures at the SMO. The inspector should be familiar with the requirements of the approved reclamation plan with respect to the final disposition of any structures and associated foundations present on site.

### 5.3.10 Equipment and Storage Yards:

The inspector should observe and note the presence and location of any mining equipment or storage areas at the SMO. The inspector should note whether the equipment is permanently affixed or is mobile and easily removed. The inspector should be familiar with the requirements of the approved reclamation plan with respect to the final disposition of any equipment, scrap, or debris.

### 5.3.11 Surface Openings:

The inspector should observe and note the presence and location of any surface openings that may include drill holes, water wells, monitoring wells, portals, shafts, tunnels, or other underground workings. The inspector should be familiar with the requirements of the approved reclamation plan with respect to the final disposition of any surface openings.

### 5.3.12 Other Reclamation Plan Requirements:

The inspector should observe and describe the status of any other reclamation plan requirements that are not included in the list above. Such requirements may include specific

permit conditions and/or mitigation measures within environmental documents that affect reclamation of the SMO.

#### 5.3.13 Enforcement Actions, Court Rulings, or Decisions:

The inspector should observe and note the progress toward resolution of any enforcement actions initiated by the Lead Agency, other permitting agencies, or court actions that affect reclamation of the SMO.

#### 5.3.14 Fee Status:

The operator's claimed operating status (active, idle, in reclamation, or closed with no intent to resume, etc.) should be compared with the Lead Agency's previous determination of status with regard to on-the-ground activities and site conditions observed during the inspection. The phasing of reclamation on mined lands and evaluation of the claimed fee status with respect to the monitoring requirements outlined in the reclamation plan should be evaluated during the inspection.

### 5.4 Inspection Considerations for Completion of Reclamation and Release of Financial Assurances

Inspections conducted to determine if the operator has completed all reclamation requirements contained in the approved reclamation plan may result in the full release of financial assurances and the "closure" of the surface mining operation. Closure constitutes the intent of the operator to cease operations, that mined lands have been reclaimed in accordance with SMARA, and that financial assurances are no longer required under SMARA. Confirmation of completion of reclamation and release of financial assurances requires the concurrence of DMR, which may conduct its own inspection. When conducting a closure inspection, the inspector shall consider whether the physical condition of the mine site is reclaimed in accordance with the performance standards of the approved reclamation plan and/or achievement of approved end use prior to release of financial assurances. In cases where the reclamation plan lacks specific performance standards, the reclaimed condition of the mined lands shall be consistent with the end use identified in the approved reclamation plan prior to the release of financial assurances.

At the time of closure, the determination that site conditions meet the performance standards and/or end use may require evaluation by a state-licensed professional or specialist, if that aspect is outside of the expertise of the inspector.

### 5.5 Discussion of Observations

The inspector should discuss observations made during the inspection with the operator prior to leaving the site. Discussion topics should include observed conditions and their relation to compliance with the performance standards of the approved reclamation plan and SMARA. If any aspect of the SMO does not appear to be consistent with the reclamation plan or SMARA, or appear to preclude reclamation of the mined lands consistent with the end use, the inspector should discuss with the operator and determine what future actions may be required to attain compliance. If a violation is observed, the inspector should discuss with the operator potential

resolution of the issue. The inspector should also discuss with the operator anticipated timelines for resolution of any aspect inconsistent with SMARA, if necessary.

If violations were documented during the previous year's inspection, the inspector should discuss with the operator the progress of resolution or compliance with previously issued enforcement actions.

## 6 Administrative Requirements Following the Inspection

The Inspection Report must be completed pursuant to the instructions included on the form and signed by the inspector. Photographs, reports, or documents prepared by others in support of the annual inspection should also be attached to the Inspection Report.

The Notice of Completion of Inspection must be completed by the Lead Agency and shall contain a statement regarding the SMO's compliance with SMARA and shall specify all of the following:

1. Aspects of the SMO, if any, that were found to be inconsistent with SMARA but were corrected before the submission of the inspection form to DMR.
2. Aspects of the SMO, if any, that were found to be inconsistent with SMARA but were *not* corrected before the submission of the inspection form to DMR.
3. A statement describing the Lead Agency's intended response to any aspects of the SMO found inconsistent with SMARA, if any, but were not corrected before the submission of the inspection form to DMR.

Pursuant to PRC section 2774(b), the Inspection Report and the Notice of Completion of Inspection must be submitted by the Lead Agency to DMR within 90 days of conducting the inspection. The Lead Agency must also forward a copy of the Inspection Report and Notice of Completion of Inspection to the mine operator. If any part of an SMO is located on federally managed lands, DMR also recommends that the Lead Agency send a copy of the Inspection Report to the appropriate federal entity. The Lead Agency must retain the original copy of the Inspection Report in accordance with CCR section 3504(a).

The DMR provides a template of the Notice of Completion of Inspection for use by Lead Agencies that meet the content required in PRC section 2774(b)(1). Lead Agency use of the template is not required. As a courtesy, the template is available at DMR's webpage for those interested Lead Agencies.

### 6.1 Considerations for Lead Agency Review of the Updated FACE

The statutory scheme described in PRC sections 2773.4 and 2774 also requires the operator to provide a FACE to the Lead Agency within 30 days of the inspection. The inspector's observations of the SMO should be used by the Lead Agency when reviewing the updated FACE. Any areas of the SMO that were reclaimed during the prior year and those areas intended to be disturbed during the upcoming year should be considered by the Lead Agency when reviewing of the updated FACE. The FACE must be completed by the operator or lead agency using the FACE-1 form, which can be downloaded from DMR's webpage.

## 7 SMARA Inspector Training Program

In accordance with PRC section 2774(e), DMR's ITP is designed to provide instruction and recommendations to surface mine inspectors to determine compliance with SMARA. The ITP consists of DMR-administered inspection training workshops that are offered in different regions of the state to provide prospective surface mine inspectors with practical application of this Guidance Document. PRC section 2774(e)(3) requires all surface mine inspectors to have a certificate of completion of an inspection training workshop on file with the Lead Agency and DMR no later than July 1, 2020. Surface mine inspectors must renew their certificate of completion every five years. Information on how to register for upcoming inspection workshops can be found at DMR's webpage.