WEST VIRGINIA CODE: §22-3-15

§22-3-15. Inspections; monitoring; right of entry; inspection of records; identification signs; progress maps.

(a) The director shall cause to be made inspections of surface-mining operations as are necessary to effectively enforce the requirements of this article and for such purposes the director or his or her authorized representative shall without advance notice and upon presentation of appropriate credentials: (A) Have the right of entry to, upon or through surface-mining operations or any premises in which any records required to be maintained under subdivision (1), subsection (b) of this section are located; and (B) at reasonable times and without delay, have access to and copy any records and inspect any monitoring equipment or method of operation required under this article.

(b) For the purpose of enforcement under this article, in the administration and enforcement of any permit under this article, or for determining whether any person is in violation of any requirement of this article:

(1) The director shall, at a minimum, require any operator to: (A) Establish and maintain appropriate records; (B) make monthly reports to the division; (C) install, use and maintain any necessary monitoring equipment or methods consistent with subdivision (11), subsection (a), section nine of this article; (D) evaluate results in accordance with such methods, at such locations, intervals and in such manner as the director prescribes; and (E) provide any other information relative to surface-mining operations as the director finds reasonable and necessary; and

(2) For those surface-mining operations which remove or disturb strata that serve as aquifers which significantly ensure the hydrologic balance of water use either on or off the mining site, the director shall require that: (A) Monitoring sites be established to record the quantity and quality of surface drainage above and below the mine site as well as in the potential zone of influence; (B) monitoring sites be established to record level, amount and samples of groundwater and aquifers potentially affected by the surface-mining and also below the lowermost mineral seam to be mined; (C) records or well logs and borehole data be maintained; and (D) monitoring sites be established to record precipitation. The monitoring, data collection and analysis required by this section shall be conducted according to standards and procedures set forth by the director in order to assure their reliability and validity.

(c) All surface-mining operations shall be inspected at least once every thirty days. The inspections shall be made on an irregular basis without prior notice to the operator or the operator's agents or employees, except for necessary on-site meetings with the operator. The inspections shall include the filing of inspection reports adequate to enforce the requirements, terms and purposes of this article.

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(d) Each permittee shall maintain at the entrances to the surface-mining operations a clearly visible monument which sets forth the name, business address and telephone number of the permittee and the permit number of the surface-mining operations.

(e) Copies of any records, reports, inspection materials or information obtained under this article by the director shall be made immediately available to the public at central and sufficient locations in the county, multicounty or state area of mining so that they are conveniently available to residents in the areas of mining unless specifically exempted by this article.

(f) Within thirty days after service of a copy of an order of the director upon an operator by registered or certified mail, the operator shall furnish to the director five copies of a progress map prepared by or under the supervision of a person approved by the director showing the disturbed area to the date of such map. Such progress map shall contain information identical to that required for both the proposed and final maps required by this article, and shall show in detail completed reclamation work as required by the director. Such progress map shall include a geologic survey sketch showing the location of the operation, shall be properly referenced to a permanent landmark, and shall be within such reasonable degree of accuracy as may be prescribed by the director. If no land has been disturbed by operations during the preceding year, the operator shall notify the director of that fact.

(g) Whenever on the basis of available information, including reliable information from any person, the director has cause to believe that any person is in violation of this article, any permit condition or any rule promulgated under this article, the director shall immediately order state inspection of the surface-mining operation at which the alleged violation is occurring unless the information is available as a result of a prior state inspection. The director shall notify any person who supplied such reliable information when the state inspection will be carried out. Such person may accompany the inspector during the inspection.

(h) When requested by the permittee, the director may provide for a compliance conference with his or her authorized representative to review the compliance status of any coal exploration or surface-coal mining and reclamation operation. Any such conference may not constitute an inspection as defined in this section.

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