

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4446

BY DELEGATES GRAVES, J. KELLY, HIGGINBOTHAM,
MAYNARD, SUMMERS, PACK, KESSINGER, STEELE,
HANNA, LINVILLE AND HANSHAW (MR. SPEAKER)

[Introduced January 21, 2020; Referred to the
Committee on Energy]

1 A BILL to amend and reenact §22-3-15 of the Code of West Virginia, 1931, as amended, relating
 2 to requiring inspections of surface coal mining operations be coordinated with inspections
 3 made by federal inspectors from the Department of the Interior and the Environmental
 4 Protection Agency.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.

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

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

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

12 (1) The director shall, at a minimum, require any operator to: (A) Establish and maintain
 13 appropriate records; (B) make monthly reports to the division; (C) install, use and maintain any
 14 necessary monitoring equipment or methods consistent with §22-3-9(a)(11) of this code; (D)
 15 evaluate results in accordance with such methods, at such locations, intervals and in such manner
 16 as the director prescribes; and (E) provide any other information relative to surface-mining
 17 operations as the director finds reasonable and necessary; and

18 (2) For those surface-mining operations which remove or disturb strata that serve as

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

28 (c) All surface-mining operations shall be inspected at least once every 30 days. The
29 inspections shall be made on an irregular basis without prior notice to the operator or the
30 operator's agents or employees, except for necessary on-site meetings with the operator. The
31 inspections shall include the filing of inspection reports adequate to enforce the requirements,
32 terms and purposes of this article. The inspections shall be coordinated with inspections made by
33 federal inspectors from the Department of the Interior and the Environmental Protection Agency
34 to minimize interference with the surface-mining operations.

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

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

42 (f) Within 30 days after service of a copy of an order of the director upon an operator by
43 registered or certified mail, the operator shall furnish to the director five copies of a progress map
44 prepared by or under the supervision of a person approved by the director showing the disturbed

45 area to the date of such map. Such progress map shall contain information identical to that
46 required for both the proposed and final maps required by this article, and shall show in detail
47 completed reclamation work as required by the director. Such progress map shall include a
48 geologic survey sketch showing the location of the operation, shall be properly referenced to a
49 permanent landmark, and shall be within such reasonable degree of accuracy as may be
50 prescribed by the director. If no land has been disturbed by operations during the preceding year,
51 the operator shall notify the director of that fact.

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

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

NOTE: The purpose of this bill is to require inspections of surface coal mining operations be coordinated with inspections made by federal inspectors from the Department of the Interior and the Environmental Protection Agency.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.