

Surface Mining Reclamation and Enforcement, Interior

§ 721.13

operations subject to regulation under the Act—

(a) On the basis of not less than two consecutive State inspection reports indicating a violation of the Act, regulations or permit conditions required by the Act;

(b) On the basis of information provided by a State or any person which gives rise to a reasonable belief that the provisions of the Act, regulations or permit conditions required by the Act are being violated, or that a condition or practice exists which creates an imminent danger to the health or safety of the public, or is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources; and

(c) On a random basis of at least one complete inspection each 6 months. A complete inspection is an onsite review of the operator's compliance with all applicable standards in these regulations within the entire area disturbed or affected by mining.

§ 721.12 Right of entry.

(a) Authorized representatives of the Secretary, without advance notice and upon presentation of appropriate credentials and without a search warrant, shall have the right of entry to, upon, or through any surface coal mining and reclamation operations or any premises in which any records required to be maintained are located.

(b) The authorized representatives may 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 Act, the regulations or the permit.

§ 721.13 Inspections based on citizen requests.

(a) *Citizens reports.* (1) Any person who believes that there is a violation of the Act, regulations or permit conditions required by the Act or that any imminent danger or harm exists may report this information to the Office of Surface Mining Reclamation and Enforcement. Written reports must be signed and include a phone number where the reporting party can be contacted. Oral reports will be accepted but must be followed by a written and

signed statement including the information reported. The complaint or other information shall be considered as having a reasonable basis if it alleges facts which, if proven to be true, would be sufficient to show a violation of the Act, regulations or permit. Unless the Office has reason to believe that the information is incorrect, or determines that even if true it would not constitute a violation, the Office shall conduct an inspection within 15 days of receipt of the complaint. If the complaint alleges an imminent danger or harm, the inspection shall be conducted promptly.

(2) The identity of any person supplying information to the Office relating to possible violations or imminent dangers or harms shall remain confidential with the Office, if requested by the person supplying the information, unless disclosure is required under the Freedom of Information Act (5 U.S.C. 552) or by other Federal law.

(b) *Right to accompany the authorized representative of the Secretary.* (1) If a Federal inspection is conducted as a result of information provided to the Office, the person who provided the information shall be notified when the inspection is to occur and the person will be allowed to accompany the authorized representative of the Secretary during the inspection.

(2) Any person accompanying an authorized representative of the Secretary has a right of entry to, upon and through the mining and reclamation operations about which he supplied information, only if he is in the presence of and is under the control, direction and supervision of the authorized representative while on the mine property.

(c) *Notification of results of investigation.* Within 10 days of the inspection or, if no inspection, within 15 days of the complaint, the Office shall notify the person in writing of the following—

(1) The results of the investigation, including a description of any inspection which occurred and any enforcement action taken; copies of Federal inspection reports, notices of violation, and cessation orders may be forwarded to the person in satisfaction of this requirement;