



Publication Date: Friday, April 5th, 2024

OFFICIAL NOTICE OF PUBLIC MEETING

THE STATE MINING AND GEOLOGY BOARD

Will Conduct a Regular Business Meeting on:

Thursday, April 18th, 2024, at 10:00 a.m.

**California Natural Resources Headquarters
715 P Street, Conference Rooms 2-221A
Sacramento, California 95814**

**This meeting will be held in-person and
via video conference and will be recorded.**

To avoid any background noises while the meeting is in session, we ask that you mute your device. To join the meeting, please download the latest version of MS Teams by visiting their website at <https://aka.ms/getteams> or install the MS Teams app on your phone. After installing MS Teams on your device click on the [Microsoft Teams Meeting](#) link to join the meeting **Meeting ID: 255 558 414 701** and **Passcode: jfTRPc**. You may also join us by phone by dialing (916) 318-8892 and entering the **Phone Conference ID: 685 886 984#**

For questions or comments regarding this Agenda, please contact the Board by email at smgb@conservation.ca.gov. This Notice, the agenda, and all associated staff reports can be accessed at the SMGB's website at: <https://www.conservation.ca.gov/smgb>.



PUBLIC MEETING AGENDA

- 1. Call to Order (Sheingold)**
- 2. Pledge of Allegiance**
- 3. Roll Call and Declaration of a Quorum**
- 4. Review of the Agenda (Sheingold)**
- 5. Department Reports**
 - A. Department of Conservation Report (Tiffany)
 - B. Division of Mine Reclamation Report (Balestreri)
 - C. California Geological Survey Report (Lancaster)
- 6. Chair Report (Sheingold)**
- 7. Executive Officer Report (Schmidt)**
- 8. Geologist Report (Fry, Jones)**
- 9. Board Committee Reports**
 - A. Policy and Administration (Chair Landregan)
 - B. Geohazards (Chair Zafir)
 - C. Mineral Conservation (Vacant)
 - D. SMARA Compliance (Chair Kenline)
- 10. Ex-Parte Communication Disclosure**

Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.
- 11. Public Comment Period**

This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. Speaker testimony is limited to three minutes except by special consent of the Chair.
- 12. Consent Items**

All the items appearing under this section will be acted upon by the Board by one motion and without discussion; however, any Board member wishing to discuss any item may request the Chair to remove the item from the consent calendar and consider it separately.

 - A. Consideration and approval of minutes for the Regular Business Meeting held on:
December 20th, 2023
- 13. Regular Business Items**
 - A. Consideration and adoption of the 2023 Annual Mine Fee Schedule pursuant to Public Resources Code section 2207.
 - B. Consideration and adoption of non-substantive regulatory changes to various sections of the California Code of Regulations that meet the requirements of Section 100 of Title 1 for

changes that are not required to comply with the rulemaking procedure specified in Article 5 of the Administrative Procedure Act.

14. Presentations, Reports, and Informational Items

- A. *Mining Ordinance Workshop*: Informational update on Lead Agency Mining Ordinance Workshop rollout (Board Staff)
- B. *Our Future in Action; Implementing Cemex's Global Focus for Net Zero in California* (Kori Andrews, Director of Sustainability and Social Impact, CEMEX)

15. Executive Session (Closed to the Public)

The Board will discuss information from its legal counsel on potential litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.

16. Announcements and Future Meetings

17. Adjournment

THE STATE MINING AND GEOLOGY BOARD

THE BOARD

The State Mining and Geology Board (Board) serves as a regulatory, policy, and appeals body representing the State's interests in the reclamation of mined lands, geology, geologic and seismologic hazards, and the conservation of mineral resources.

The Board was established in 1885 as the Board of Trustees to oversee the activities of the State Mineralogist and the California Division of Mines and Geology (now the California Geological Survey). It is second oldest Board in California. Today's Board has nine members appointed by the Governor and confirmed by the State Senate, for four-year terms. By statute, Board members must have specific professional backgrounds in geology, mining engineering, environmental protection, groundwater hydrology and rock chemistry, urban planning, landscape architecture, mineral resource conservation, and seismology, with one member representing the general public.

Mission Statement

The mission of the Board is to provide professional expertise and guidance, and to represent the State's interest in the development, utilization, and conservation of mineral resources, the reclamation of mined lands and the development and dissemination of geologic and seismic hazard information to protect the health and welfare of the people of California.

STATUTORY AND REGULATORY AUTHORITY

The Board is an independent entity within the Department of Conservation under the Natural Resources Agency and is granted responsibilities and obligations under the following acts:

Surface Mining and Reclamation Act of 1975

Under this Act, Public Resources Code Sections 2710 et seq. and its regulations at 14 California Code of Regulations Section 3500 et seq., the Board provides a comprehensive surface mining and reclamation policy to assure that adverse environmental impacts are minimized, and mined lands are reclaimed. SMARA also encourages the production, conservation, and protection of the State's mineral resources.

Alquist-Priolo Earthquake Fault Zoning Act

Under this Act, Public Resources Code Section 2621 through Section 2630, and its regulations at 14 California Code Regulations Section 3600 et seq., the Board is authorized to represent the State's interests in establishing guidelines and standards for geological and geophysical investigations and reports produced by the California Geological Survey, public sector agencies, and private practitioners. The Board is also authorized to develop specific criteria through regulations to be used by Lead Agencies in complying with the provisions of the Act to protect the health, safety, and welfare of the public.

Seismic Hazards Mapping Act

Under this Act, Public Resources Code Section 2690 through Section 2699.6 and its regulations at 14 California Code of Regulations Section 3720 et seq. the Board is authorized to provide policy and guidance through regulations for a statewide seismic hazard mapping and technical advisory program to assist cities, counties, and State agencies in fulfilling their responsibilities for protecting the public health and safety from the effects of strong ground shaking, liquefaction or other ground failure, landslides and other seismic hazards caused by earthquakes, including tsunami and seiche threats.

GENERAL PROCEDURAL INFORMATION ABOUT BOARD MEETINGS

The Board is governed by the Bagley-Keene Open Meeting Act that requires the Board to:

- (1) Publish an Agenda at least ten days in advance of any meeting
- (2) Describe in the Agenda specific items to be transacted or discussed
- (3) Refuse to add an item no later than ten days prior to any meeting and republishing of the agenda
- (4) Call a closed session by the Chair to discuss litigation and other matters
- (5) Make all testimony, files, and documents part of the administrative record

Other Agenda material and reports will be available approximately one week prior to the scheduled Board meeting. All Board related information is available at <https://www.conservation.ca.gov/smgb>.

The Board encourages the submittal of comments, written material, or technical reports thirty days prior to the applicable Board meeting. All such material concerning any matters on the agenda can be submitted to: smgb@conservation.ca.gov or addressed to:

**State Mining and Geology Board
715 P Street, MS 1909
Sacramento, CA 95814**



Agenda Item No. 12A

April 18th, 2024

Consideration and Approval of Minutes for the December 20, 2023, Regular Business Meeting

INTRODUCTION:

Approve the Conformed Minutes for the State Mining and Geology Board's December 20, 2023, Regular Business Meeting.

SUGGESTED MOTION:

Board Chair and Members, in light of the information before the State Mining and Geology Board today, I move that the Board approve the Conformed Minutes for the December 20th, Regular Business Meeting.

Respectfully submitted:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke.

Jeffrey Schmidt,
Executive Officer



CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Will Conduct a Regular Business Meeting on:

Wednesday, December 20th, 2023, at 10:00 a.m.

**California Natural Resources Headquarters
715 P Street, Conference Room 2-310
Sacramento, California 95814**

**This meeting will be held in-person and
via video conference and will be recorded.**

To avoid any background noises while the meeting is in session, we ask that you mute your device. To join the meeting, please download the latest version of MS Teams by visiting their website at <https://aka.ms/getteams> or install the MS Teams app on your phone. After installing MS Teams on your device click on the Microsoft Teams Meeting link to join the meeting **Meeting ID: 271 399 674 182** and **Passcode: i9XjNw**. You may also join us by phone by dialing (916) 318-8892 and entering the **Phone Conference ID Number 190 312 358#**.

For questions or comments regarding this Agenda, please contact the Board by email at smgb@conservation.ca.gov. This Notice, the agenda, and all associated staff reports can be accessed at the SMGB's website at: <https://www.conservation.ca.gov/smgb>.



PUBLIC MEETING AGENDA

1. **Call to Order (Sheingold)**
Meeting was called to order by Chair Sheingold at 10:00 a.m.
2. **Pledge of Allegiance**
Executive Officer Jeffrey Schmidt led the Pledge of Allegiance.
3. **Roll Call and Declaration of a Quorum**
Natalie Decio called roll with Members Anderson, Kappmeyer, Kenline, Los Huertos, Zafir, Vice Chair Landregan, and Chair Sheingold present and a Quorum was declared.
4. **Review of the Agenda (Sheingold)**
Chair Sheingold outlined the non-routine agenda item, 13A. He explained that Sean Tucker of Gold Discovery Group would be giving a presentation on a request for a 2714(f) exemption. The Board would then ask questions and discuss a motion on that.
5. **Department Reports**
 - Department of Conservation Report (Tiffany, Deputy Director)
Deputy Director, Gabe Tiffany, first gave an update on the budget, acknowledging the impending deficit of approximately \$68 billion. Consequently, there will be a call for restrictions on state agency travel, purchasing, contracting, and IT projects. Departments will need to make a case for any expenditure in those areas although there are four exemption categories to note. Those exemption categories include: if an expenditure addresses a declared emergency, if it's necessary to provide 24-hour medical care, if the expenditure is necessary to avoid a significant revenue loss, or if it achieves significant net cost savings. More information on this to come in the near future. Deputy Director Tiffany finished his report by highlighting the Mining and Seismic Working Group that will next meet January 3, 2024 with an agenda that includes looking at issues around mineral classification and designation prioritization, lead agency roles, responsibilities, compliance, and enforcement.
 - Division of Mine Reclamation Report (Whalin, Acting Supervisor)
Acting DMR supervisor, Lindsay Whalin began with some background on herself and announced that the DMR supervisor position had been posted. Some of the SMARA related accomplishments for the year included: maintaining the integrity and accuracy of the purchase preference list, the development of the SMARA data tracking spreadsheet, the engagement of lead agency staff, and the conduction of four surface mining inspection workshops. Additionally, on the AML side of DMR, staff conducted 3660 mine feature inventories, conducted 117 bat surveys, scoped 44 mine features, and assisted with 151 remediations in the Mojave National Park, BLM Bishop recreation areas, Tahoe and Plumas National Forests as well as many other places in California. Heading into 2024 the SMARA side is planning to start issuing administrative penalties, and this is of note as mine operators may wish to come before the Board to appeal these penalties. Finally, AML will be continuing to pilot a project in 2024 to use gold and silver fees to assist priority mine cleanups with CalEPA. This project is in the development stages at this time.
 - California Geological Survey Report (Lancaster, State Geologist)
State Geologist, Jeremy Lancaster, began his report by thanking the Board members for their nomination and ultimate selection as the State Geologist. Lancaster reported that the

final seismic hazard zone maps for Contra Costa County as well as the final Alquist-Priolo earthquake fault zone maps for Sonoma County have gone through the public review process and are going through their final revisions. The publication date for those final maps is February 22, 2024. Additionally, in late January or early February, radon hazard maps for Western El Dorado and Western Nevada counties are anticipated to be published. Lancaster finished his report by asking the Board's permission to provide a full year in review update of CGS' accomplishments as well as an update on his vision and strategic planning for the survey at the next Board meeting. Chair Sheingold agreed to setting aside time at the next meeting for a presentation by Lancaster.

6. Chair Report (Sheingold)

Chair Sheingold reported that he communicates frequently with board staff, and he has meetings over the phone and virtually with DOC staff. Additionally, he continues to participate in the interdepartmental working group, and he recently sat in on the earthquake fault zone map public hearing.

7. Executive Officer Report (Schmidt)

Executive Officer, Jeffrey Schmidt, reported on the many accomplishments of the Board over the course of the seven regular business meetings held this calendar year. Some of those achievements included: the approval of the Metropolitan Water District's master reclamation plan, the adoption of the 2022 Annual Mine Fee Schedule, the election of the Board's Vice Chair, and the certification of the San Benito County amended mining ordinance. Additionally, the Board has been working with CGS and DOC to update the Mineral Classification and Designation Guidelines, had nominated and elected the new State Geologist, completed a new Mining Ordinance Guidance Document, and completed 46 annual inspections and 46 annual FACE approvals. The Board is also continuing to focus on rulemaking. Currently, the Board is working on the following: PRC 2714(f), which creates an application process to request an exemption from SMARA, PRC 2207 which establishes annual reporting fees for lithium brine operations, and CCR Section 100 to draft cleanup language for existing regulations.

8. Geologist Report (Fry, Jones)

Geologist, Mallory Jones, reported on the continued collaboration with CGS, DMR, OLRA, and the DOC on mineral designations, the 2714(f) rulemaking, and SMARA regulation cleanup. The greater Sacramento area is the current focus of the first mineral designation rulemaking package with a January pre-rulemaking workshop being held with affected Sacramento lead agencies. Regarding mining ordinances, the SMGB is looking to establish workshops directed at SMARA lead agencies for early 2024, and so far three additional mining ordinances have been submitted to board staff for comment and review. Jones concluded that annual inspections commenced in September and board staff are 95% complete with those inspections. Senior Geologist, Paul Fry, took over the report to give an update on Pyrite Quarry. In early October staff had issued a Notice of Violation (NOV) to Quality Aggregates (mine operator) and Riverside Mining (property owner) for reclamation plan boundary issues, and staff also issued a 30-day Notice of Intent to Approve the annual Financial Assurance Cost Estimate (FACE) to DMR. Early in November Riverside Mining filed an appeal of that FACE, and board staff have been receiving Public Records Act requests from both Quality Aggregates and Riverside Mining. Because there is litigation between Quality Aggregates and Riverside Mining that could impact the Board's next steps, staff are continuing to evaluate the next steps relative to the FACE approval, FACE appeal, as well as the resolution of the violations. As things progress, more updates will be provided to the Board. Fry concluded his portion of the report by acknowledging a number of other accomplishments from the year including: work done with operators to update Financial Assurance Mechanisms, board staff's attendance at the CalcIMA

education conference, and Fry's attendance at the final ceremony celebrating the completion of the Hallwood Floodplain and Side Channel Restoration Project.

9. Board Committee Reports

- Policy and Administration (Chair Landregan)
Vice Chair Landregan reported that the committee reviewed the Annual Report and did some editing on it. However, there was no official meeting.
- Geohazards (Chair Zafir)
Member Zafir had nothing to report.
- Mineral Conservation (Chair Anderson)
Member Anderson had nothing to report.
- SMARA Compliance (Chair Kenline)
Member Kenline also had nothing to report.

10. Ex-Parte Communication Disclosure

Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code (PRC) Sections 663.1 and 663.2.

Nothing to report.

11. Public Comment Period

There were no public comments.

12. Consent Items

All the items appearing under this section will be acted upon by the Board by one motion and without discussion; however, any Board member wishing to discuss any item may request the Chair to remove the item from the Consent Calendar and consider it separately.

A. Consideration and Approval of Minutes for the Regular Business Meeting held on:

September 21, 2023.

A vote to approve the minutes from the September 21st Regular Business Meeting was taken, and it was approved with all members voting yes except for Member Kappmeyer who abstained from voting as she was not present at the September Regular Business Meeting.

13. Regular Business Items

A. Consideration of a request for an exemption to the Surface Mining and Reclamation Act pursuant to Public Resources Code 2714(f) for the Gold Discovery Group for an exploratory drilling project located in Kern County.

Sean Tucker of Gold Discovery Group presented his case for a PRC 2714(f) exemption for an exploratory drilling project in Kern County. Member Kenline recused himself during this presentation, and it is worth noting that Tucker's legal counsel, Kerry Shapiro, was present for this presentation. Tucker began by explaining that although San Bernardino County and the Bureau of Land Management (BLM) determined the project to be exempt from SMARA, Kern County did not, and the county recommended going to the Board to obtain an exemption. He explained that the project fits the criteria for an exemption given that he believes it to be a mining operation of an infrequent nature and involves only minor surface disturbances. The project is expected to take seven months of drilling with a total disturbance of approximately five acres, and a removal of four cubic yards. Tucker also

noted the BLM's issuance of a Finding of No Significant Impact (FONSI) as another reason for exemption. After delineating the details of the project, the Board had a number of questions and SMGB's legal counsel, Nicole Rinke, brought up concerns to board members regarding making a decision on the exemption at the current meeting. She mentioned that she did not have an opportunity to confer with staff or the requesting party, and she therefore had not been able to render an opinion about the reality of the request or the exemption. Rinke did, however, wish to bring some background information to the attention of the Board to take note of. She flagged litigation in a previous case, *Nelson V. Kern*, that was cited in the staff report that she was not sure was related to the property in the proposed project. That case held the county to reviewing operations under CEQA and not solely relying on the Federal government's review under NEPA. With the possibility of legal implications and the Board's request for more legal review from counsel, the Board ultimately decided to not vote on the exemption request at this meeting. Instead, they passed a motion to table the exemption request until the January meeting, so that SMGB counsel could review the staff report, and the Board could respond to the concerns of counsel.

B. Consideration and Approval of the 2022-2023 Annual Report.

Before a vote was called, Member Los Huertos requested a summary of the year's inspections be added into the Annual Report. He explained that this would not only highlight the amount of work board staff accomplishes in the field, but it would also provide transparency to the public. After some discussion, it was decided that a summary paragraph would be added to the Annual Report, and a presentation at a future meeting would be given to the Board that would go into more detail on the inspections conducted last year. Vice Chair Landregan made a motion to approve the 2022-2023 Annual Report with these caveats, Member Los Huertos seconded the motion, and the motion carried unanimously.

C. Consideration and Approval of the 2024 SMGB Meeting Schedule.

Before voting on the 2024 SMGB meeting schedule, legal counsel, Rinke, wanted to share with the Board the fact that the rules for teleconferencing change January 1st. She let the members know that she would send an email to them and board staff delineating the changes. As there were no concerns regarding the proposed meeting schedule for 2024, Member Kappmeyer motioned to approve with a second from member Kenline, and the motion carried unanimously.

14. Presentations, Reports, and Informational Items

A. Graniterock's Green Journey: Lessons and considerations for our new energy transition (Jon Erskine, Director, Geological and Engineering Services, Graniterock)

Graniterock's, Jon Erskine, explained that "Graniterock's Green Journey" is a phrase they use to describe how they have developed a series of green mining practices, including habitat restoration, water recycling, and solar energy production, which have helped them produce greener products. In particular, Erskine focused on their flagship project, AR Wilson Quarry in the Monterey Bay area, where 18,000 solar panels have been installed. The combination of the two solar arrays built at the site have produced a total of approximately six megawatts of electricity and supply about 65% of the quarry's annual electricity consumption. The ability to build these arrays was in part due to provisions that were made in SMARA in 2018 that enabled the construction of renewable energy generation resources as interim reclamation methods without triggering a complicated

and expensive reclamation plan amendment. Looking towards the future, Erskine believes that mine sites could become green energy hubs depending on emerging technology and providing provisions in SMARA to expand the definition of renewable energy generation to be technology neutral. Additionally, the use of hydrogen as an alternative fuel to power heavy duty equipment on mine sites as well as electric vehicles and battery storage are possible avenues to continue their green journey. Having a concentration of EVs and battery storage in central locations such as mine sites could be used as export sites to help supply the regional grid. Erskine is also hopeful when it comes to other mining operations' green journeys, as he has seen interest in green energy at various conferences.

15. Executive Session (Closed to the Public)

No executive session was held.

16. Announcements and Future Meetings

The next Regular Business Meeting will be held January 18, 2024 with a presentation by State Geologist, Jeremy Lancaster. Additionally, the motion on the 2714(f) exemption will be addressed. At this time it is unknown if it will be a hybrid meeting held via MS Teams and in-person at the Natural Resources Conservation Agency Headquarters or solely in person.

17. Adjournment

The December State Mining and Geology Board Regular Board Meeting was adjourned by Chair Sheingold at 12:42 PM.

THE STATE MINING AND GEOLOGY BOARD

THE BOARD

The State Mining and Geology Board (Board) serves as a regulatory, policy, and appeals body representing the State's interests in the reclamation of mined lands, geology, geologic and seismologic hazards, and the conservation of mineral resources.

The Board was established in 1885 as the Board of Trustees to oversee the activities of the State Mineralogist and the California Division of Mines and Geology (now the California Geological Survey). It is second oldest Board in California. Today's Board has nine members appointed by the Governor and confirmed by the State Senate, for four-year terms. By statute, Board members must have specific professional backgrounds in geology, mining engineering, environmental protection, groundwater hydrology and rock chemistry, urban planning, landscape architecture, mineral resource conservation, and seismology, with one member representing the general public.

Mission Statement

The mission of the Board is to provide professional expertise and guidance, and to represent the State's interest in the development, utilization, and conservation of mineral resources, the reclamation of mined lands and the development and dissemination of geologic and seismic hazard information to protect the health and welfare of the people of California.

STATUTORY AND REGULATORY AUTHORITY

The Board is an independent entity within the Department of Conservation under the Natural Resources Agency and is granted responsibilities and obligations under the following acts:

Surface Mining and Reclamation Act of 1975

Under this Act, Public Resources Code Sections 2710 et seq. and its regulations at 14 California Code of Regulations Section 3500 et seq., the Board provides a comprehensive surface mining and reclamation policy to assure that adverse environmental impacts are minimized, and mined lands are reclaimed. SMARA also encourages the production, conservation, and protection of the State's mineral resources.

Alquist-Priolo Earthquake Fault Zoning Act

Under this Act, Public Resources Code Section 2621 through Section 2630, and its regulations at 14 California Code Regulations Section 3600 et seq., the Board is authorized to represent the State's interests in establishing guidelines and standards for geological and geophysical investigations and reports produced by the California Geological Survey, public sector agencies, and private practitioners. The Board is also authorized to develop specific criteria through regulations to be used by Lead Agencies in complying with the provisions of the Act to protect the health, safety, and welfare of the public.

Seismic Hazards Mapping Act

Under this Act, Public Resources Code Section 2690 through Section 2699.6 and its regulations at 14 California Code of Regulations Section 3720 et seq. the Board is authorized to provide policy and guidance through regulations for a statewide seismic hazard mapping and technical advisory program to assist cities, counties, and State agencies in fulfilling their responsibilities for protecting the public health and safety from the effects of strong ground shaking, liquefaction or other ground failure, landslides and other seismic hazards caused by earthquakes, including tsunami and seiche threats.

GENERAL PROCEDURAL INFORMATION ABOUT BOARD MEETINGS

The Board is governed by the Bagley-Keene Open Meeting Act that requires the Board to:

- (1) Publish an Agenda at least ten days in advance of any meeting
- (2) Describe in the Agenda specific items to be transacted or discussed
- (3) Refuse to add an item no later than ten days prior to any meeting and republishing of the agenda
- (4) Call a closed session by the Chair to discuss litigation and other matters
- (5) Make all testimony, files, and documents part of the administrative record

Other Agenda material and reports will be available approximately one week prior to the scheduled Board meeting. All Board related information is available at <https://www.conservation.ca.gov/smgb>.

The Board encourages the submittal of comments, written material, or technical reports thirty days prior to the applicable Board meeting. All such material concerning any matters on the agenda can be submitted to: smgb@conservation.ca.gov or addressed to:

**State Mining and Geology Board
715 P Street, MS 1909
Sacramento, CA 95814**

Agenda Item No. 13A

April 18, 2024

Consideration and adoption of the 2023 Annual Mine Fee Schedule pursuant to PRC section 2207.

INTRODUCTION: Public Resources Code (PRC) Section 2207(d) requires the State Mining and Geology Board (Board) to impose, by regulation, an annual reporting fee on, and method for collecting annual fees from each active and idle surface mining operation. Furthermore, the maximum fee for any single mining operation may not exceed ten-thousand dollars (\$10,000) annually and may not be less than one-hundred dollars (\$100) annually. These amounts shall be adjusted for cost of living as measured by the California Price Index (CPI).

BACKGROUND AND DISCUSSION: PRC Section 2207(d)(2)(A) states that a schedule of fees shall be adopted to cover the Department of Conservation’s (Department) cost in carrying out the Surface Mining and Reclamation Act of 1975 (SMARA) as reflected in the Governor’s proposed Budget. Additionally, PRC Section 2207(d)(3) outlines the amount of revenue to be generated by the fee schedule. The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of eight million dollars (\$8,000,000). This amount shall be adjusted for the cost of living beginning with the 2017-2018 Fiscal Year (FY) and annually thereafter.

Cost of Living Adjustments (COLA) are addressed in the California Code of Regulation Section 3698 and allow for increases to help maintain adequate funding for the SMARA programs within the Department. The COLA, or rate of inflation, is measured by the CPI. For reporting year 2023, the COLA pushes the maximum fee beyond the statutorily mandated \$10,000 to \$12,170.

Moreover, if the Director of the Department determines that the revenue collected in the preceding FY was greater or less than the cost to implement PRC Section 2207 and SMARA, the Board shall adjust the fees to compensate for the over collection or under collection of revenues.

PRC Section 2207(d)(4)(A) requires the reporting fee revenue be deposited in the Mine Reclamation Account (MRA) for carrying out the provisions of PRC Section 2207 and SMARA. Those provisions include “classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.”

The Department’s anticipated needs and projected revenues for the 2024-2025 FY are summarized below:

MINE RECLAMATION ACCOUNT REVENUE NEEDS: (rounded to the nearest thousand dollar)

<u>FY 2024-2025</u>	
\$ 5,789,000	Department of Conservation Budget Request
\$ 116,000	Potential General Salary Increases
\$ 174,000	Other Post Employment Employee Benefits
\$ 49,000	Supplemental Pension Payments
\$ 224,000	Pro Rata (Statewide Overhead)
\$ 6,352,000	Subtotal
\$ 953,000	Reserve for Economic Uncertainties
\$ 7,305,000	TOTAL Revenue Need

Other Revenue (not from Mine Operator Annual Fees)

\$ 2,810,000	Beginning Balance as of July 1, 2024 (projection)
\$ 179,000	SMGB Lead Agency Fees (projection)
\$ 81,000	Income from Surplus Money Investments
\$ 22,000	Penalties
\$ 3,092,000	Subtotal (other revenue)

Summary

\$ 7,305,000	TOTAL Revenue Need
-\$ 3,092,000	Subtotal (other revenue)

\$ 4,213,000

Mine Reclamation Account Revenue Need for 2024-2025 FY

The fee schedule calculation considers revenues collected from current and prior years, the revenue needs that the Department is authorized to collect, the amount projected to be collected from those operators expected to be at a fixed fee, and the amount projected to be collected from mine operations subject to the maximum fee amount of \$12,170.

To meet the requirements of PRC Section 2207(d)(2)(A) the proposed 2023 Annual Mine Fee Schedule sets the fee for the highest three tiers of production at the maximum amount of \$12,170 (\$10,000 plus COLA), an increase of \$419 from the previous year.

The first-tier fee in each production category is proposed to be \$487 (Fee Codes D, J, and P), which is a decrease of \$2,739 compared to the 2022 fee.

The second-tier fee in each production category is proposed to be \$1,704 (Fee Codes E, K, and Q), which a decrease of \$3,643 compared to the 2022 fee.

The third-tier fee in each production category is proposed to be \$4,138 (Fee Codes F, L, and R), which is a decrease of \$4,088 compared to the 2022 fee.

The fourth-tier fee in each production category is proposed to be \$7,789 (Fee Codes G, M, and S), which is a decrease of \$3,932 compared to the 2022 fee.

The fifth-tier fee in each production category is proposed to be \$9,249 (Fee Codes H, N, and T), which is a decrease of \$2,502 compared to the 2022 fee.

The sixth-tier fee in each production category is proposed to be \$12,170 (Fee Codes I, O, and U), which is an increase of \$419 compared to the 2022 fee.

For newly permitted and not operational or closed mining operations (Fee Codes A, B, and C) there is a COLA increase of \$6, for a proposed fee of \$174.

For the Low Gross Exemption (LGE) fee request, the gross income cut off is \$162,678, a COLA increase of \$5,599. The proposed fee for the LGE is \$649, an increase of \$22 compared to the 2022 fee.

For the Multiple Site fee request, the proposed fee is \$6,900, and increase of \$238 compared to the 2022 fee.

Attachments to this report illustrate the fee schedule changes and include (1) the proposed 2023 Annual Fee Schedule and (2) a comparison of the 2022 Annual Fee Schedule versus the proposed 2023 Annual Fee Schedule.

EXECUTIVE OFFICER RECOMMENDATION: Adopt the proposed 2023 Annual Mine Fee Schedule pursuant to PRC section 2207, as discussed and presented today.

SUGGESTED MOTION:

Board Chair and Members, considering the information before the State Mining and Geology Board today, I move that the State Mining and Geology Board adopt the proposed 2023 Annual Mine Fee Schedule pursuant to Public Resources Code Section 2207, as discussed and presented today.

Respectfully submitted:



Jeffrey Schmidt,
Executive Officer

Attachments:

- 1 – Proposed 2023 Annual Fee Schedule
- 2 – 2022 Annual Fee Schedule vs Proposed 2023 Annual Fee Schedule Comparison
- 3 – Slide Deck Presentation for Proposed 2023 Annual Fee Schedule

FEES SCHEDULE

STATUS AND PRODUCED MINERALS DURING THE 2023 REPORTING YEAR FOR ALL OPERATIONS:

TABLE 1 -- FOR "NEWLY-PERMITTED" AND "CLOSED" OPERATIONS:

REFER TO ITEM 5 OF YOUR ANNUAL REPORT	CODE	FEE
NEWLY-PERMITTED: NOT YET IN OPERATION	A	\$174
CLOSED: MINING CEASED WITH NO INTENT TO RESUME, NO PRODUCTION, RECLAMATION INCOMPLETE	B	\$174
CLOSED: MINING CEASED WITH NO INTENT TO RESUME, NO PRODUCTION, RECLAMATION COMPLETE, CERTIFIED RECLAIMED	C	\$174

TABLE II -- FOR ALL OTHER OPERATIONS:

CATEGORY NO. 1: REFER TO ITEM 15A OF ANNUAL REPORT	CODE	FEE
0 TONS UP TO AND INCLUDING 100 TONS	D	\$487
GREATER THAN 100 TONS UP TO AND INCLUDING 1,000 TONS	E	\$1,704
GREATER THAN 1,000 TONS UP TO AND INCLUDING 10,000 TONS	F	\$4,138
GREATER THAN 10,000 TONS UP TO AND INCLUDING 50,000 TONS	G	\$7,789
GREATER THAN 50,000 TONS UP TO AND INCLUDING 100,000 TONS	H	\$9,249
GREATER THAN 100,000 TONS	I	\$12,170
CATEGORY NO. 2: REFER TO ITEM 15A OF ANNUAL REPORT	CODE	FEE
0 OUNCES UP TO AND INCLUDING 1 OUNCE	J	\$487
GREATER THAN 1 OUNCE UP TO AND INCLUDING 10 OUNCES	K	\$1,704
GREATER THAN 10 OUNCES UP TO AND INCLUDING 50 OUNCES	L	\$4,138
GREATER THAN 50 OUNCES UP TO AND INCLUDING 150 OUNCES	M	\$7,789
GREATER THAN 150 OUNCES UP TO AND INCLUDING 300 OUNCES	N	\$9,249
GREATER THAN 300 OUNCES	O	\$12,170
CATEGORY NO. 3: REFER TO ITEM 15A OF ANNUAL REPORT	CODE	FEE
0 POUNDS UP TO AND INCLUDING 10 POUNDS	P	\$487
GREATER THAN 10 POUNDS UP TO AND INCLUDING 100 POUNDS	Q	\$1,704
GREATER THAN 100 POUNDS UP TO AND INCLUDING 1,000 POUNDS	R	\$4,138
GREATER THAN 1,000 POUNDS UP TO AND INCLUDING 10,000 POUNDS	S	\$7,789
GREATER THAN 10,000 POUNDS UP TO AND INCLUDING 20,000 POUNDS	T	\$9,249
GREATER THAN 20,000 POUNDS	U	\$12,170

COMPARISON OF 2022 AND PROPOSED 2023 ANNUAL FEES

TABLE 1 -- FOR "NEWLY-PERMITTED" AND "CLOSED" OPERATIONS:

REFER TO ITEM 5 OF YOUR ANNUAL REPORT	CODE	2022 Fee	2023 Fee	Change 22-23
NEWLY-PERMITTED: NOT YET IN OPERATION	A	\$168	\$174	+\$6
CLOSED: MINING CEASED WITH NO INTENT TO RESUME, NO PRODUCTION, RECLAMATION INCOMPLETE	B	\$168	\$174	+\$6
CLOSED: MINING CEASED WITH NO INTENT TO RESUME, NO PRODUCTION, RECLAMATION COMPLETE, CERTIFIED RECLAIMED	C	\$168	\$174	+\$6

TABLE II -- FOR ALL OTHER OPERATIONS:

CATEGORY NO. 1: REFER TO ITEM 15A OF ANNUAL REPORT	CODE	2022 Fee	2023 Fee	Change 22-23
0 TONS UP TO AND INCLUDING 100 TONS	D	\$3,226	\$487	-\$2,739
GREATER THAN 100 TONS UP TO AND INCLUDING 1,000 TONS	E	\$5,347	\$1,704	-\$3,643
GREATER THAN 1,000 TONS UP TO AND INCLUDING 10,000 TONS	F	\$8,226	\$4,138	-\$4,088
GREATER THAN 10,000 TONS UP TO AND INCLUDING 50,000 TONS	G	\$11,751	\$7,789	-\$3,932
GREATER THAN 50,000 TONS UP TO AND INCLUDING 100,000 TONS	H	\$11,751	\$9,249	-\$2,502
GREATER THAN 100,000 TONS	I	\$11,751	\$12,170	+\$419
CATEGORY NO. 2: REFER TO ITEM 15A OF ANNUAL REPORT	CODE	2022 Fee	2023 Fee	Change 22-23
0 OUNCES UP TO AND INCLUDING 1 OUNCE	J	\$3,226	\$487	-\$2,739
GREATER THAN 1 OUNCE UP TO AND INCLUDING 10 OUNCES	K	\$5,347	\$1,704	-\$3,643
GREATER THAN 10 OUNCES UP TO AND INCLUDING 50 OUNCES	L	\$8,226	\$4,138	-\$4,088
GREATER THAN 50 OUNCES UP TO AND INCLUDING 150 OUNCES	M	\$11,751	\$7,789	-\$3,932
GREATER THAN 150 OUNCES UP TO AND INCLUDING 300 OUNCES	N	\$11,751	\$9,249	-\$2,502
GREATER THAN 300 OUNCES	O	\$11,751	\$12,170	+\$419
CATEGORY NO. 3: REFER TO ITEM 15A OF ANNUAL REPORT	CODE	2022 Fee	2023 Fee	Change 22-23
0 POUNDS UP TO AND INCLUDING 10 POUNDS	P	\$3,226	\$487	-\$2,739
GREATER THAN 10 POUNDS UP TO AND INCLUDING 100 POUNDS	Q	\$5,347	\$1,704	-\$3,643
GREATER THAN 100 POUNDS UP TO AND INCLUDING 1,000 POUNDS	R	\$8,226	\$4,138	-\$4,088
GREATER THAN 1,000 POUNDS UP TO AND INCLUDING 10,000 POUNDS	S	\$11,751	\$7,789	-\$3,932
GREATER THAN 10,000 POUNDS UP TO AND INCLUDING 20,000 POUNDS	T	\$11,751	\$9,249	-\$2,502
GREATER THAN 20,000 POUNDS	U	\$11,751	\$12,170	+\$419

REGULAR BUSINESS ITEM: 13A

CONSIDERATION AND ADOPTION OF THE 2023 ANNUAL MINE FEE SCHEDULE

STATE MINING AND GEOLOGY BOARD



FEE SCHEDULE BACKGROUND

1. Public Resources Code (PRC) 2207(d) states that a schedule of fees shall be calculated on an equitable basis and the revenue collected may not exceed \$8,000,000.
2. Fixed fees and fees at the statutorily mandated \$10,000 cap are adjusted with the cost of living as measured by the California Price Index.
3. All other fee categories are adjusted to ensure that the total collected can maintain adequate funding for SMARA programs (California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, Article 8, Section 3698).

MINE RECLAMATION ACCOUNT REVENUE NEEDS

(ROUNDED TO THE NEAREST THOUSAND DOLLAR)

FY 2024-2025

\$ 5,789,000	Department of Conservation Budget Request
\$ 116,000	Potential General Salary Increases
\$ 174,000	Other Post Employment Employee Benefits
\$ 49,000	Supplemental Pension Payments
\$ 224,000	Pro Rata (Statewide Overhead)
\$ 6,352,000	Subtotal

\$ 953,000	Reserve for Economic Uncertainties
\$ 7,305,000	TOTAL Revenue Need

Other Revenue (not from Mine Operator Annual Fees)

\$ 2,810,000	Beginning Balance as of July 1, 2024 (projection)
\$ 179,000	SMGB Lead Agency Fees (projection)
\$ 81,000	Income from Surplus Money Investments
\$ 22,000	Penalties
\$ 3,092,000	Subtotal (other revenue)

Summary

\$ 7,305,000	TOTAL Revenue Need
-\$ 3,092,000	Subtotal (other revenue)

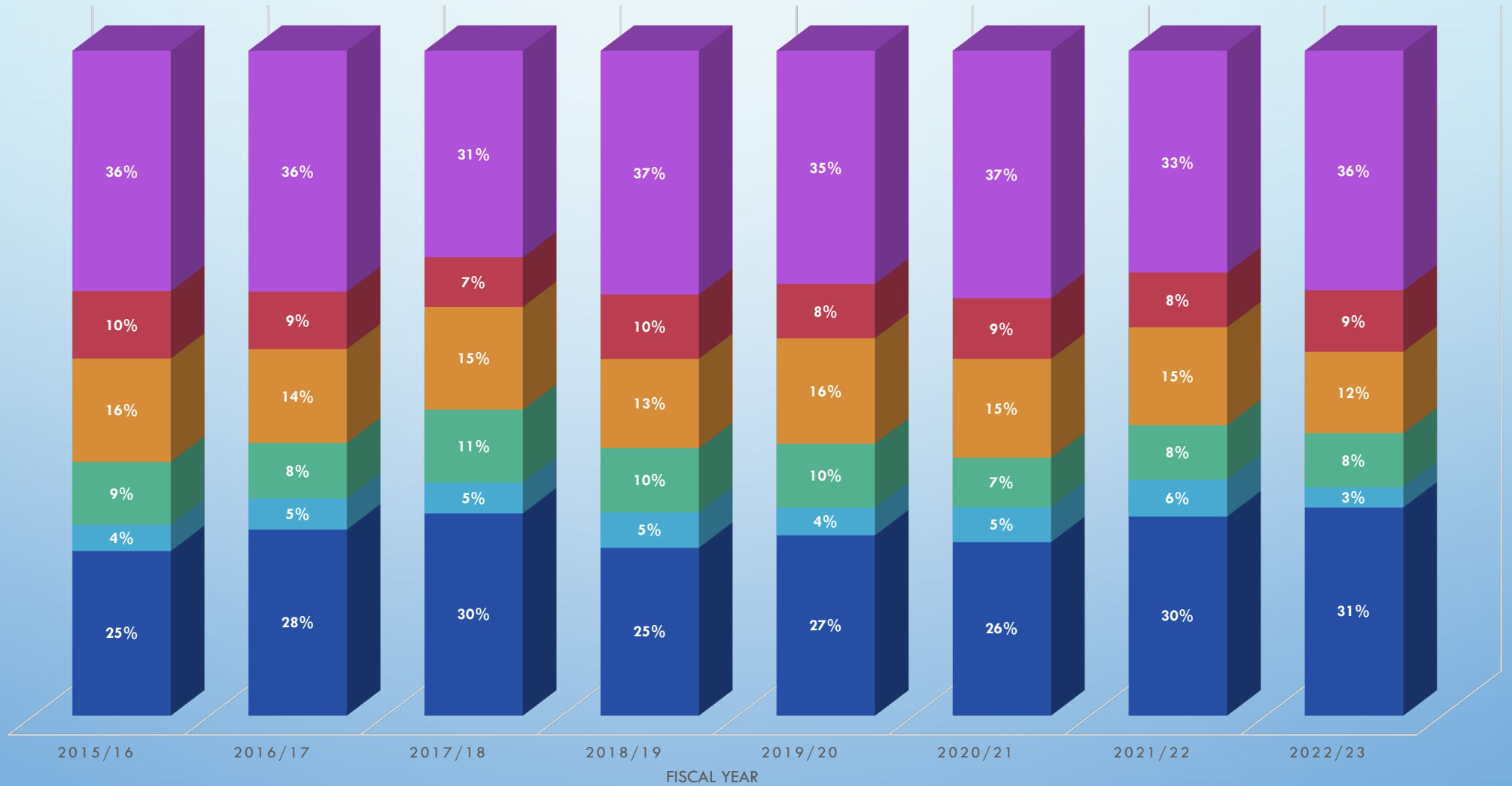
\$ 4,213,000 **Mine Reclamation Account Revenue Need for 2024-2025 FY**

Mine Reclamation Account Revenue Need



% OPERATORS PER FEE CATEGORY

■ 0-100 tons ■ 100-1,000 tons ■ 1,000-10,000 tons ■ 10,000-50,000 tons ■ 50,000 - 100,000 tons ■ > 100,000 tons



Annual Reporting Fee per Fee Category



CATEGORY COMPARISON 2022 vs 2023

TABLE 1 -- FOR "NEWLY-PERMITTED" AND "CLOSED" OPERATIONS:

REFER TO ITEM 5 OF YOUR ANNUAL REPORT	CODE	2022 Fee	2023 Fee	Change 22-23
<u>NEWLY-PERMITTED</u> : NOT YET IN OPERATION	A	\$168	\$174	+\$6
CLOSED: MINING CEASED WITH NO INTENT TO RESUME, NO PRODUCTION, RECLAMATION INCOMPLETE	B	\$168	\$174	+\$6
CLOSED: MINING CEASED WITH NO INTENT TO RESUME, NO PRODUCTION, RECLAMATION COMPLETE, CERTIFIED RECLAIMED	C	\$168	\$174	+\$6

TABLE II -- FOR ALL OTHER OPERATIONS:

CATEGORY NO. 1: REFER TO ITEM 15A OF ANNUAL REPORT	CODE	2022 Fee	2023 Fee	Change 22-23
0 TONS UP TO AND INCLUDING 100 TONS	D	\$3,226	\$487	-\$2,739
GREATER THAN 100 TONS UP TO AND INCLUDING 1,000 TONS	E	\$5,347	\$1,704	-\$3,643
GREATER THAN 1,000 TONS UP TO AND INCLUDING 10,000 TONS	F	\$8,226	\$4,138	-\$4,088
GREATER THAN 10,000 TONS UP TO AND INCLUDING 50,000 TONS	G	\$11,751	\$7,789	-\$3,932
GREATER THAN 50,000 TONS UP TO AND INCLUDING 100,000 TONS	H	\$11,751	\$9,249	-\$2,502
GREATER THAN 100,000 TONS	I	\$11,751	\$12,170	+\$419

STAFF RECOMMENDATION

Board & Department Staff recommend that the Board adopt the proposed 2023 Annual Mine Fee Schedule as discussed and presented today.

THANK YOU!
QUESTIONS?





Agenda Item No. 13B

April 18th, 2024

Consideration and adoption of non-substantive regulatory changes to various sections of the California Code of Regulations Title 14, Sections 3500-4000 implementing the State Mining and Reclamation Act.

STATUTORY AND REGULATORY AUTHORITY:

Public Resources Code (PRC) Section 2755 grants the State Mining and Geology Board (hereinafter the "SMGB" or the "Board") statutory authority to adopt regulations that establish state policy for the reclamation of mined lands in accordance with the Surface Mining and Reclamation Act of 1975 ("SMARA," Public Res. Code § 2710 et seq.). The guidelines and criteria the Board adopted pursuant to PRC 2755, in the form of regulation, are included in Title 14, California Code of Regulation (CCR), Sections 3500 – 4000.

Per the Office of Administrative Law's "Rulemaking Under the California Administrative Procedure Act" Training Manual, "changes without regulatory effect are also known as "non-regulatory changes," "non-substantive changes," or "Section 100 changes." The term "Section 100 changes" is used because CCR, title 1, section 100 contains the process and rules for making these changes and some examples of what are considered non-regulatory or non-substantive changes.

A change without regulatory effect is defined as any change which "does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulation provision." (1 CCR § 100(a))

This includes the following, without limitation:

- (1) Renumbering, reordering, or relocating regulations;
- (2) Repeals of regulation where all rulemaking authority has been repealed;
- (3) Repealing when a final court judgement invalidates a regulation;
- (4) Syntax, cross-reference, grammar, and punctuation changes;
- (5) Changing authority or reference citations; and
- (6) Conforming a regulation to mandated statutory language where a regulation is inconsistent with and superseded by a changed statute, and the agency has no discretion to have a regulation which differs from the proposed amended regulation." (1 CCR § 100(a)(1)-(6))

BACKGROUND AND DISCUSSION:

The Legislature adopted SMARA to provide a comprehensive surface mining and reclamation policy with the intention of: (1) preventing or minimizing the adverse environmental effects of mining, (2) reclaiming mined lands to a usable condition which is readily adaptable for alternative land uses, and (3) encouraging the production and conservation of minerals, "while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment." (See Public Res. Code § 2712.)

On April 18, 2016, Governor Brown signed Senate Bill 209 (SB 209) and Assembly Bill 1142 (AB 1142) into law making significant revisions to SMARA. As a result, regulations implementing SMARA required significant conforming amendments. The Board began advancing a series of rulemaking packages to conform the regulations to the revisions made to SMARA. This non-substantive rulemaking package continues that effort.

While both SB 209 and AB 1142 together made significant substantive changes to SMARA, SB 209 changed the structure of the executive department authorized to administer SMARA at the state level. SB 209 created the Division of Mine Reclamation (DMR), headed by a Supervisor of Mine Reclamation (Supervisor), to replace the

Office of Mine Reclamation (OMR), headed by the Director (Director) of the Department of Conservation (Department). While the Board has incorporated this change in previous rulemaking packages, it is necessary to fully incorporate SB 209's structural changes throughout SMARA's associated regulations through non-substantive rulemaking under Section 100 of Title 1 of the California Code of Regulations.

Additionally, AB 1142 reorganized the provisions of SMARA governing the Supervisor's review of proposed reclamation plans and plan amendments, and financial assurance cost estimates, pursuant to subdivision (c) of Public Resources section 2774. AB 1142 added Public Resources Code sections 2772.1 and 2773.4, moving the Supervisor's review of proposed reclamation plans and plan amendments, and financial assurance cost estimates to these new sections, respectively. The proposed rulemaking makes conforming changes to reflect the renumbering of these statutory sections.

Finally, this non-substantive rulemaking package is intended to correct spelling and grammatical issues, as well as to reflect a change of address of the Department, DMR, and the SMGB, when collectively the Department relocated its official address from 801 K Street in Sacramento to the new Natural Resource Agency building on 715 P Street in Sacramento.

EXECUTIVE OFFICER RECOMMENDATION:

Approve the changes without regulatory effect for 14 CCR 3504, 3550.1, 3550.7, 3550.9, 3550.10, 3550.14, 3550.16, 3550.17, 3631, 3653, 3697, 3698, 3699, 3710, 3801, 3802, 3803.2, 3804, 3805, 3805.5, 3806.1, 3806.2, 3900, 3901, 3902, 3903, 3906, 3909, 3910, and 3911 pursuant to 1 CCR 100, as discussed today, and direct Board staff to proceed with submitting the regulatory changes to the Office of Administrative Law.

SUGGESTED MOTION:

Board Chair and Members, considering the information before the State Mining and Geology Board today, I move that the Board approve the changes without regulatory effect for the various sections of 14 CCR pursuant to 1 CCR 100, as discussed today, and direct Board staff to proceed with submitting the regulatory changes to the Office of Administrative Law.

Respectfully submitted:



Jeffrey Schmidt,
Executive Officer

Attachments:

- 1 – Text of Proposed Regulations
- 2 – Statement of Basis
- 3 – Summary Table of Proposed Regulations
- 4 – Updated Form ILoC-1
- 5 – Notice of Proposed Adoption

Link to Presentation:

<https://doc.box.com/s/zkw9lh2yvpci3inhg4mqmxtfsngbw1md>

**DEPARTMENT OF CONSERVATION
STATE MINING AND GEOLOGY BOARD**

"SECTION 100" CHANGES WITHOUT REGULATORY EFFECT - 2024

TEXT OF THE PROPOSED REGULATIONS

New text added to existing regulations is shown in underline.

Text deleted from existing regulations is shown in ~~strike through~~.

CALIFORNIA CODE OF REGULATIONS, TITLE 14

DIVISION 2. DEPARTMENT OF CONSERVATION

CHAPTER 8. MINING AND GEOLOGY

Subchapter 1. State Mining and Geology Board

Article 1. Surface Mining and Reclamation Practice

§ 3504. Administration by Lead Agency.

(a) Record Keeping. The lead agency shall establish and maintain in-house measures and procedures to ensure organized record-keeping and monitoring of surface mining reclamation under its jurisdiction. The lead agency shall forward a copy of each permit and approved reclamation plan and financial assurance instrument to the ~~director~~ supervisor of the ~~Department of Conservation~~ Division of Mine Reclamation.

(b) Financial Assurances. The lead agency shall ensure that the objectives of the reclamation plan will be attained. This may include provisions for surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances adopted by the board in accordance with PRC § 2773.1(e), to guarantee the reclamation in accordance with the approved reclamation plan.

Authority cited: Section 2755, Public Resources Code. Reference: Sections 2757, 2758(b), 2774(a) and 2778, Public Resources Code.

Article 2. Areas Designated to be of Regional Significance

§ 3550.1. Tujunga and Pacoima Wash Areas of the San Fernando Valley Region, Los Angeles County.

On January 7, 1981, following a December 11, 1980, public hearing, the Mining and Geology Board designated Sectors A, B, C, and D of the Tujunga and Pacoima Wash areas to be of regional significance. In general, these sectors are described as follows:

- (1) Sector A -Tujunga Valley east of the Hansen Dam flood control basin, west of the 210 freeway and excluding identified archaeological sites;
- (2) Sector B -the Hansen Dam Area;
- (3) Sector C -an area southwest of Hansen Dam; and
- (4) Sector D -Pacoima Wash north of Lopez Dam.

These sectors contain sand and gravel ~~deposits~~ deposits which provide a source of construction aggregate for the region's future need.

Designation Map #81-1 and a report summarizing the designation findings of the State Mining and Geology Board are on file at the Board's office in Sacramento.

Authority and reference cited: Section 2790, Public Resources Code.

§ 3550.7. Construction Aggregate Resources, Claremont-Upland Region.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in Claremont-Upland Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A-The annual recharge area upstream from the San Antonio Creek Flood Control Dam.

Sector B-Eight parcels south of San Antonio Creek Flood Control Dam in the unurbanized areas of the San Antonio Creek Fan, northeast of the City of ~~Claremont~~ Claremont. Sector B is roughly bounded by Foothill Boulevard on the south, San Antonio Avenue on the east, and Thompson Creek on the west.

Sector C-Four parcels in the proximal part of the Cucamonga Creek Fan, north of the City of Upland. The area is generally north of 19th Street, west of Carmelian Avenue, east of Euclid Avenue, and south of the San Bernadino National Forest.

Sector D-Three parcels covering parts of the Day Creek and Deer Creek Fans between the Cities of Cucamonga and Fontana. It is bounded by the San Gabriel Mountains on the north and Highland Avenue on the south.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.9. Construction Aggregate Resources, Saugus-Newhall and Palmdale Regions.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in Saugus-Newhall and Palmdale Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A-Portions of the Santa Clara River and its immediate flood plain extending from the Los Angeles County Line to Bee Canyon, parts of ~~Castaie~~ Castaic Creek, and Oak Spring Canyon.

Sector B-An area bounded by Bee Canyon on the northwest, the Santa Clara River to the south, and extending approximately one mile east of the Agua Dulce Canyon; and a triangle-shaped area with a boundary extending from the mouth of Pole Canyon west along an old railroad grade, south to Oak Spring Canyon then northeast back to the mouth of Pole Canyon.

Sector C-A triangular area beginning at the mouth of Pole Canyon, running southeast along the canyon to Oak Spring Canyon then southwest to Coyote Canyon, turning northeast to close the triangle back at the mouth of Pole Canyon.

Sector D-An area north of the California Aqueduct whose eastern boundary is along Little Rock Wash then turns west approximately one mile north of Boundary Avenue. The western boundary runs south near 47th Street and Fort-Tejon Road.

Sector E-An area of the Big Rock Wash bounded by the aqueduct on the south, North 165th Street on the east, Palmdale Boulevard on the north, and 116th Street on the west.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.10. Construction Aggregate Resources, South San Francisco Bay Region.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in South San Francisco Bay Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

Sector A-Aggregate deposit located in Amador Valley and Livermore Valley areas in the Cities of Pleasanton and Livermore in Alameda County.

Sector B-Alluvial deposit consisting of six parcels along Arroyo del Valle on the southwestern edge of Livermore in Alameda County.

Sector C-Alluvial deposit consisting of six parcels located along Arroyo ~~Muche~~ Mocho on the eastern edge of Livermore in Alameda County.

Sector D-Greenstone deposit located on Apperson Ridge east of Sunol Valley in Alameda County.

Sector E-Alluvial deposit consisting of five parcels in Sunol Valley in southern Alameda County.

Sector H-Elongated sandstone deposit located on the foothills of the Cities of Fremont and Union City.

Sector I-Elongated series of parcels consisting of a sandstone deposit along the foothills east of the Cities of Fremont and Milpitas.

Sector J-Alluvial deposit located near Mowry Landing on the southern edge of Fremont in ~~Alameda~~ Alameda County.

Sector K-Alluvial deposit located west of Highway 17 on the southern edge of Fremont in Alameda County.

Sector L-Alluvial deposit consisting of three parcels located between the Nimitz Freeway, Alameda Creek, the Coyote Hills, and Jarvis Avenue in the northwestern portion of the City of Fremont in Alameda County.

Sector M-Located at the southern end of the Coyote Hills on the west side of Fremont in Alameda County.

Sector N-Greenstone deposit in the foothills east of the City of Hayward in Alameda County.

Sector O-Consists of greenstone and rhyolite located in the Berkeley Hills west of Lake Chabot in Alameda County.

Sector P-Consists of rhyolite located north of the Oak Knoll Naval Hospital in the Berkeley Hills.

Sector S-Mount Zion and a smaller adjacent hill in central Contra Costa County.

Sector T-Consists of basalt and andesite located at the south end of Gudde Ridge in the City of Moraga in southwestern Contra Costa County.

Sector U-Consists of basalt and andesite located on a small ridge southwest of the City of Orinda in Contra Costa County.

Sector V-Consists of basalt and andesite located on a small ridge southwest of the city of Orinda in Costa Contra County.

Sector W-Sandstone and shale deposit consisting of three parcels located on the west side of the City of Richmond in Contra Costa County.

Sector X-The Guadalupe Quarry property on the north side of Mount San Bruno adjacent to the City of Brisbane in San Mateo County.

Sector Y-Limestone and greenstone deposits located west of Pacifica near Rockway Beach in northern San Mateo County.

Sector Z-Greenstone deposit located in the Los Altos Hills in northwestern Santa Clara County.

Sector BB-Limestone deposit located west of the City of Cupertino on upper Permanente Creek in Santa Clara County.

Sector CC-Greenstone deposit located northwest of Stevens Creek Reservoir on the western edge of the City of Cupertino in Santa Clara County.

Sector DD-Conglomerate deposit located northwest of Stevens Creek Reservoir west of the City of Cupertino in Santa Clara County.

Sector EE-Located immediately northwest of the intersection of Capitol Expressway and Monterey Road (highway 82) on the City of San Jose in Santa Clara County.

Sector GG-Sandstone deposit located approximately four miles south of Brentwood in eastern Contra Costa County.

Sector HH-Granitic rock deposit located northwest of the City of Half Moon Bay in western San Mateo County.

Sector II-Sandstone and siltstone deposit located in Limekiln Canyon east of Lexington Reservoir in southwestern Santa Clara County.

Sector LL-Sandstone deposit located in the foothills east of the City of Fremont in Alameda County.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.14. Construction Aggregate Resources, Stockton-Lodi Production-Construction Region.

The designated resource areas, and resource areas being terminated, is shown on Plate 1, Updated Mineral Land Classification Map for Portland Cement Concrete-Grade Aggregate in the Stockton-Lodi Production Consumption (P-C) Region, San Joaquin and Stanislaus Counties, California (2015), and is incorporated by reference into this regulation. This map is available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A-Aggregate deposits on the alluvial fan created by Corral Hollow Creek, situated south of the City of Tracy.

Sector B-Aggregate deposit on the alluvial fan created by Lone Tree Creek. Deposit extends from just west of Interstate 580 near the base of the Coast Range hills northwest to the alignment of Interstate 5.

Sector C-Aggregate deposit that consists of the alluvial fan formed by Hospital Creek. Deposit extends from west of Interstate 580 within the foothills of the Coast Range and east into the San Joaquin Valley.

Sector D-Sand deposit centered on the San Joaquin River near the intersection of Highway 120 and Interstate 5 west of the City of Manteca.

Candidate Sector E (Subsectors E-1 through E-10) - This Sector is located southwest of the town of Vernalis, to the west of Welty ~~road~~ Road and east of Interstate 580. It is adjacent to Sector B on the northwest and Sector C to the south. A portion of Subsector E-10 extends into Stanislaus County.

Candidate Sector F (Subsectors F-1 through F-10) - This Sector is located west of the town of Vernalis and is traversed by Bird Road, Highway 132 and Interstate 580. It is adjacent to Sector B on the east. Subsectors F-1 through F-10 total 927 acres and cover an area west of the Lone Tree Creek Alluvial Fan.

Candidate Sectors G (Subsectors G-1 and G-2) - This Sector is located southwest of the City of Lathrop and is southeast of Interstate 205/5 and northeast of Paradise Cut. It is adjacent to Sector D to the northeast.

All or parts of eight Sectors are identified for termination of designation status because of depletion due to mining or development of incompatible land uses. These areas are indicated on the accompanying Plate, and as follows:

Sector A-1: There are twelve subsectors totaling 462 acres that have been depleted by mining (A-1b, A-1c, A-1d, A-1f, A-1h, A-1i, A-1j, A-1k, A-1n, A-1o, A-1p and A-1q).

Sector A-2: There are seventeen subsectors totaling 1,424 acres that have been depleted partially or completely by mining or now have land uses incompatible with mining. Subsectors A-2a, A-2b, A-2c, A-2h, and A-2i covering 677 acres containing 132,579,000 tons of PCC-grade aggregate resources have been lost to urbanization. Subsectors A-2i, A-2n, A-2p, A-2q, A-2r, A-2s, A-2t, A-2u, A-2v, A-2w, A-2y, and A-2z covering 747 acres have been depleted by mining.

Sector A-3: There are three subsectors totaling 140 acres that have been depleted by mining (A-3a, A-3b, and A-3c).

Sector A-4: There are two subsectors totaling 55 acres that have been depleted by mining (A-4a and A-4b).

Sector D-9: 197 acres of Sector D-9 have been depleted by mining.

Sector D-10: 9 acres of Sector D-10 have been depleted by mining.

Sector D-11: 51 acres of Sector D-11 have been depleted by mining.

Sector D-12: 10 acres of Sector D-12 have been depleted by mining.

Authority cited: Sections 2790 and 2793, Public Resources Code. Reference: Sections 2761, 2762, 2763, 2790, 2791 and 2792, Public Resources Code.

§ 3550.16. Construction Aggregates Resources, Bakersfield Production-Consumption Region.

The areas for designation are shown on two plates: Plate 1, Candidate Areas for Designation in the Bakersfield Production-Consumption (P-C) Region, Kern County California, Northern Area (2009), and Plate 2, Candidate Areas for Designation in the Bakersfield Production-Consumption (P-C) Region, Kern County California, Southern Area (2009), and are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following area are designated as being of regional significance:

Candidate Sector A - Deposits of the James Road Resource Area, five miles north of Bakersfield and southwest of the intersection of James Road and State Highway 65, are in a small alluvial fan composed of reworked sediments derived from older alluvial fan deposits and the Kern River Formation. (Plate 1)

Candidate Sector A (247 acres) is in Sections 28 and 29, T28S, R27E, MDBM, five miles north of Bakersfield, west of State Route 65 and southwest of the intersection of James Road and State Route 65.

Candidate Sector Group B - Deposits of the Kern River floodplain and alluvial fan, north of State Route 58 (Rosedale Highway) and west of Highway 99. Sector B is divided into five subsectors identified as B-1 through B-5. The combined area of the subsectors of Sector B is 231 acres. (Plate 1)

Candidate Sector B-1 (108 acres) is in Sections 14 and 15, T29S, R27E, MDBM, northwest of Bakersfield, north of State Route 58 and west of Highway 99.

Candidate Sector B-2 (70 acres) is in Section 15, T29S, R27E, MDBM, west of Highway 99 and north of State Route 58.

Candidate Sector B-3 (24 acres) is in Section 22, T29S, R27E, MDBM, west of Highway 99 and north of State Route 58.

Candidate Sector B-4 (14 acres) is in Section 22, T29S, R27E, MDBM, west of Highway 99 and north of State Route 58.

Candidate Sector B-5 (15 acres) is in Section 22, T29S, R27E, MDBM, west of Highway 99 and north of State Route 58.

Candidate Sector Group C - Deposits of the Kern River floodplain along the main course of the Kern River from Coffee Road east to Rio Bravo Ranch. Sector C is divided into 21 subsectors identified as C-1 through C-21. The combined area of Group C subsectors is 1,418 acres. (Plate 1)

Candidate Sector C-1 (20 acres) is in Section 33, T29S, R27E, MDBM, north of Kern River, west of Highway 99 and south of State Route 58.

Candidate Sector C-2 (149 acres) is in Sections 27, 33 and 34, T29S, R27E, MDBM, west of Highway 99 and south of State Route 58.

Candidate Sector C-3 (8 acres) is in Section 27, T29S, R27E, MDBM, west of Highway 99 and south of State Route 58.

Candidate Sector C-4 (51 acre) is in Sections 26 and 27, T29S, R27E, MDBM, west of Highway 99 and south of State Route 58.

Candidate Sector C-5 (36 acres) is in Sections 23, 24 and 26, T29S, R27E, MDBM, east of Highway 99 and west of State Route 204.

Candidate Sector C-6 (18 acres) is in Section 24, T29S, R27E, MDBM, east of Highway 99 and west of State Route 204.

Candidate Sector C-7 (14 acres) is in Sections 13 and 24, T29S, R27E, MDBM, east of State Route 204 and west of Chester Ave.

Candidate Sector C-8 (46 acres) is in Section 13, T29S, R27E, MDBM, and Section 18, T29S, R28E, MDBM, east of State Route 204 and west of Chester Ave.

Candidate Sector C-9 (85 acres) is in Section 18, T29S, R28E, MDBM, east of Chester Avenue and west of Manor St.

Candidate Sector C-10 (15 acres) is in Section 18, T29S, R28E MDBM, east of Chester Avenue and west of Manor St.

Candidate Sector C-11 (124 acres) is in Sections 8, 17 and 18, T29S, R28E, MDBM, east of Manor St.

Candidate Sector C-12 (104 acres) is in Sections 7 and 8, T29S, R28E, MDBM, north of Kern River and East of Manor St.

Candidate Sector C-13 (26 acres) is in Section 8, T29S, R28E, MDBM, north of Kern River, east of Manor Street.

Candidate Sector C-14 (163 acres) is in Sections 8, 9, 16 and 17, T29S, R28E, MDBM. Kern River, east of Manor St.

Candidate Sector C-15 (32 acres) is in Section 9, T29S, R28E, MDBM. Kern River, east of Manor St.

Candidate Sector C-16 (12 acres) is in Section 9, T29S, R28E, MDBM. Kern River, west of China Grade Bridge.

Candidate Sector C-17 (101 acres) is in Section 10, T29S, R28E, MDBM, south of Kern River and north of Alfred Harrell Highway.

Candidate Sector C-18 (70 acres) is in Sections 2, 3 and 10, T29S, R28E, MDBM. Kern River, south of Round Mountain Rd.

Candidate Sector C-19 (80 acres) is in Section 36, T28S, R28E, MDBM, Section 31, T28S, R29E, MDBM, and Section 6, T29S, R29E MDBM, northeast of Kern River and east of Hart Memorial Park.

Candidate Sector C-20 (11 acres) is in Section 5, T29S, R29E, MDBM, south of Kern River and north of Alfred Harrell Highway.

Candidate Sector C-21 (253 acres) is in Sections 33 and 34, T28S, R29E, MDBM, and Sections 2, 3, 10 and 11, T29S, R29E, MDBM, north of Kern River and east of Kern River Golf Course.

Candidate Sector Group D - Deposits of the floodplain and alluvial fan of Cottonwood Creek, ten miles east of Bakersfield, south of State Highway 178. Sector D is divided into four subsectors identified as D-1 through D-4. The combined area of the subsectors is 356 acres. (Plate 1)

Candidate Sector D-1 (105 acres) is in Sections 19 and 20, T29S, R30E, MDBM. Cottonwood Creek, south of Breckenridge Road.

Candidate Sector D-2 (19 acres) is in Section 24, T29S, R29E, MDBM. Cottonwood Creek, south of Breckenridge Road.

Candidate Sector D-3 (101 acres) is in Sections 12, 13 and 24, T29S, R29E, MDBM. Cottonwood Creek, south of State Route 178.

Candidate Sector D-4 (131 acres) is in Sections 1, 11 and 12, T29S, R29E, MDBM. Cottonwood Creek, south of State Route 178 and north of Breckenridge Road.

Candidate Sector Group E - Deposits of the floodplain of Caliente Creek, 15 to 20 miles east of Bakersfield, north of State Highway 58. Sector E is divided into 10 subsectors identified as E-1 through E-10. The combined area of the subsectors is 2,685 acres. (Plate 1)

Candidate Sector E-1 (572 acres) is in Sections 17, 18, 19 and 20, T30S, R30E, MDBM. Caliente Creek, south of State Route 58.

Candidate Sector E-2 (1,330 acres) is in Sections 9, 10, 14, 15, 16, 17, 20 and 21, T30S, R30E, MDBM (Rancho El Tejon). Caliente Creek, north of State Route 58.

Candidate Sectors E-3 (357 acres) is in Sections 9, 10, 11, 12, 13 and 14, T30S, R30E, MDBM (Rancho El Tejon). Caliente Creek, north of Bena Road.

Candidate Sector E-4 (171 acres) is in Sections 13 and 24, T30S, R30E, MDBM, and Sections 18, 19 and 20, T30S, R31E, MDBM (Rancho El Tejon). Caliente Creek, north of Bena Road.

Candidate Sector E-5 (18 acres) is in Sections 13, T30S, R30E, MDBM, and Section 18 T30S, R31E, MDBM (Rancho El Tejon). Caliente Creek, north of Bena Road.

Candidate Sector E-6 (8 acres) is in Section 19, T30S, R31E, MDBM (Rancho El Tejon). Caliente Creek, south of Bena Road.

Candidate Sector E-7 (11 acres) is in Section 27, T30S, R31E, MDBM. Caliente Creek, west of Caliente.

Candidate Sector E-8 (45 acres) is in Section 27, T30S, R31E, MDBM. Caliente Creek, west of Caliente.

Candidate Sector E-9 (24 acres) is in Section 26, T30S, R31E, MDBM. Caliente Creek, south of Caliente.

Candidate Sector E-10 (149 acres) is in Sections 24, 25 and 26, T30S, R31E, MDBM, and Section 19, T30S, R32E, MDBM. Caliente Creek, east of Caliente.

Candidate Sector Group F - Deposits of the alluvial fan of San Emigdio Creek, 25 miles southwest of Bakersfield, north and south of State Highway 166. Sector F is divided into eleven subsectors identified as F-1 through F-11. The combined area of the subsectors is 11,271 acres. (Plate 2)

Candidate Sector F-1 (289 acres) is in Sections 34, 35, and 36, T12N, R22W, MDBM, and Sections 1, 2 and 3, T11N, R22W, SBBM. San Emigdio Creek, north of the California Aqueduct.

Candidate Sector F-2 (44 acres) is in Section 36, T12N, R22W, SBBM, Section 6, T11N, R21W, SBBM, and Section 1 T11N, R22W, SBBM. San Emigdio Creek, north of the California Aqueduct.

Candidate Sector F-3 (782 acres) is in Sections 1, 2 and 3, T11N, R22W, SBBM, and Sections 5 and 6, T11N, R21W, SBBM. San Emigdio Creek, south of the California Aqueduct and north of State Route 166.

Candidate Sector F-4 (142 acres) is in Section 1 T11N, R22W, SBBM, and Sections 5 and 6, T11N, R21W, SBBM. San Emigdio Creek, south of the California Aqueduct and north of State Route 166.

Candidate Sector F-5 (1,468 acres) is in Sections 1, 2, 3, 10, 11, and 12, T11N, R22W, SBBM, and Sections 5, 6, 7 and 8, T11N, R21W, SBBM. San Emigdio Creek south of the California Aqueduct and north of State Route 166.

Candidate Sector F-6 (347 acres) is in Sections 10, 11 and 12, T11N, R22W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-7 (183 acres) is in Sections 7 and 8, T11N, R21W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-8 (2,254 acres) is in Sections 10, 11, 12, 13, 14 and 15, T11N, R22W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-9 (1,566 acres) is in Sections 7, 8, 17 and 18, T11N, R21W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-10 (3,356 acres) is in Sections 22, 23, 24, 25, 26, 35 and 36, T11N, R22W, SBBM, Sections 30 and 31, T11N, R21W, and Sections 1 and 2, T10N, R22W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-11 (840 acres) is in Sections 19, 20, 29 and 30, T11N, R21W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector G - Deposits of Wheeler Ridge, 25 miles south of Bakersfield, west of Interstate Highway 5, and south of State Highway 166. The deposits are in an uplifted ridge of Pleistocene sand and gravel of the Tulare Formation. The area of Sector G is 882 acres. (Plate 2)

Candidate Sector G (882 acres) is in Sections 25, 35, and 36, T11N, R20W, SBBM and Sections 30 and 31, T11N, R19W, SBBM, at Wheeler Ridge, west of Highways I-5 and 99.

Candidate Sector Group H - Deposits of the alluvial fan of Pastoria Creek, 30 miles southeast of Bakersfield, and north of Edmonston Pumping Plant Road. Sector H is divided into five subsectors identified as H-1 through H-5. The combined area of the subsectors is 467 acres. (Plate 2)

Candidate Sector H-1 (35 acres) is in Sections 18 and 19, T10N, R18W, SBBM, (projected - in Rancho El Tejon). Pastoria Creek, south of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector H-2 (48 acres) is in Section 19, T10N, R18W, SBBM, (projected - in Rancho El Tejon). Pastoria Creek, south of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector H-3 (47 acres) is in Sections 18 and 19, T10N, R18W, SBBM, (projected - in Rancho El Tejon). Pastoria Creek, south of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector H-4 (108 acres) is in Sections 12 and 13, T10N, R19W, SBBM, and Section 18 T10N, R18W, SBBM, (projected - Rancho El Tejon). Pastoria Creek, north of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector H-5 (409 acres) is in Sections 12 and 13, T10N, R19W, SBBM, and Sections 7 and 18, T10N, R18W, SBBM (projected - in Rancho El Tejon). Pastoria Creek, north of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector I - Deposits of the alluvial fan of El Paso Creek, 25 miles southeast of Bakersfield, east of Rancho Road and south of Sebastian Road. The area of Sector I is 2,151 acres. (Plate 2)

Candidate Sector I (2,151 acres) is in Sections 16, 17, 18, 19, 20, 21, 28, 29 and 30, T11N, R18W, SBBM. El Paso Creek east of Rancho Drive and south of Sebastian Road.

Candidate Sector Group J - Deposits of the floodplain of Cuddy Creek located 40 miles south of Bakersfield, along Frazier Mountain Park Road, two miles west of Interstate Highway 5. Sector J is divided into two subsectors identified as J-1 and J-2. The combined area of the subsectors is 180 acres. (Plate 2)

Candidate Sector J-1 (35 acres) is in Sections 31 and 32, T9N, R19W, SBBM. Cuddy Creek, east of Frazier Park, south of Frazier Mountain Park Road.

Candidate Sector J-2 (145 acres) is in Sections 32 and 33, T9N, R19W, SBBM. Cuddy Creek, east of Frazier Park, south of Frazier Mountain Park Road.

Candidate Sector K - Basement outcrops and the alluvial fan and floodplain of Little Sycamore Creek (La Liebre Ranch area), 40 miles southeast of Bakersfield, east of Interstate Highway 5 and north of State Highway 138. The area of Sector K is 125 acres. (Plate 2)

Candidate Sector K (125 acres) is in Sections 29 and 32, T9N, R17W, SBBM, (projected - in Rancho La Liebre), Little Sycamore Canyon.

Note: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2207, 2726, 2761-2763 and 2790-2791, Public Resources Code.

§ 3550.17. Construction Aggregate Resources, San Luis Obispo - Santa Barbara Production-Consumption Region.

The areas for designation are shown on four Plates: Plate 1, Designation in the San Luis Obispo-Santa Barbara Production-Consumption (P-C) Region, California - Northern Part (2015); Plate 2, Designation in the San Luis Obispo-Santa Barbara Production-Consumption Region, California - Middle Part (2015); Plate 3, Designation in the San Luis Obispo-Santa Barbara Production-Consumption Region, California - Southern Part (2015); and Plate 4, Designation in the San Luis Obispo-Santa Barbara Production-Consumption Region, California - Cuyama Valley (2015). These Plates are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A - Deposits of the Salinas River Resource Area: Deposits in the recent river channel and adjacent floodplain along about fourteen miles of the Salinas River, from the southeastern city limits of Atascadero north (downstream) to the Niblick Road Bridge in the city of Paso Robles. Sector A has been subdivided into five subsectors identified as A-1a, A-1b, A-2a, A-2b, and A-3 (Plate 1). Portions of this Sector are under the land use jurisdiction of the County of San Luis Obispo, City of Paso Robles, and City of Atascadero.

Subsector A-1a: Section 4, T27S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101, south of Niblick Road, and north of an unnamed pipeline.

Subsector A-1b: Sections 4, 9, 16, 20, 21, 28, 29, and 32, T27S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101, south of an unnamed pipeline, and north of Templeton Road.

Subsector A-2a: Sections 32, 33, T27S, R12E; 3, 4, 5, and 10, T28S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101, south of Templeton Road, and north of State Highway 41.

Subsector A-2b: Sections 10, 11, 14, and 15, T28S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101 and Sycamore Road, south of State Highway 41, west of Templeton Road, and north of unnamed pipelines.

Subsector A-3: Sections 13, 14, 23, 24, and 25, T28S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101, south of unnamed pipelines, and west of Rocky Canyon Road.

Sector B - Deposits of the Navajo Creek Resource Area: Deposits of the active channel and floodplain of Navajo Creek, from one-and-a-half miles upstream of the Highway 58 crossing to about three miles upstream of the crossing (Plate 1). This Sector is under the land use jurisdiction of the County of San Luis Obispo.

Sector B: Sections 15 and 16, T29S, R16E, MDBM, and is in the flood plain of Navajo Creek south of State Highway 58, and east of USFS Road 29S15.

Sector C - Deposits of the La Panza Granitics Resource Area: The La Panza Granitics outcrop southeast of the City of Atascadero. Sector C is divided into four subsectors identified as C-1a, C-1b, C-2, and C-3 (Plate 1). This Sector is under the land use jurisdiction of the County of San Luis Obispo.

Subsector C-1a: Sections 19, 20, 27, 28, 29, 30, 32, 33, 34, 35, T28S, R13E; 2, 3, 4, 5, 9, 10, and 11, T29S, R13E, MDBM, and is in the La Panza Granitics south of State Highway 41, east of the Salinas River, north of State Highway 58, and west of State Highway 229.

Subsector C-1b: Sections 35, 36, T28S, R13E; 1, 2, and 11, T29S, R13E, MDBM, and is in the La Panza Granitics north of State Highway 58, and east of State Highway 229.

Subsector C-2: Sections 1, 2, 10, 11, 12, 13, 14, T29S, R13E; 7, 8, 17, 18 and 19, T29S, R14E, MDBM, and is in the La Panza Granitics south of State Highway 58, north and east of Parkhill Road.

Subsector C-3: Sections 10, 13, 14, 15, 22, 23, 24, 25, 26, 27, 35, 36, T29S, R13E; 18, and 19, T29S, R14E, MDBM, and is in the La Panza Granitics east of West Pozo Road, south of State Highway 58 and Parkhill Road, and north of Las Pilitas Road.

Sector D - Deposits of the Santa Maria River Resource Area: Alluvial deposits of the active river channel and adjacent floodplain of the Santa Maria River. This Sector includes land in both San Luis Obispo and Santa Barbara counties and is divided into 41 subsectors identified as D-1 through D-11, and D-13 through D-37 (Plate 2). Portions of this Sector are under the land use jurisdiction of the County of San Luis Obispo, County of Santa Barbara, and City of Santa Maria.

Subsector D-1: Sections 22, 23, 25, 26, 27, T11N, R35W; and 30, T11N, R34W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of Nipomo Mesa, north of Division Street and Oso Flaco Lake Road, east of State Highway 1 (Guadalupe Road), and west of US Highway 101.

Subsector D-2: Sections 28, 29, 30, 31, 32, 33, T11N, R34W; 25, and 36, T11N, R35W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of Nipomo Mesa, Division Street and Riverside Road; east of Bonita School Road; north of the Santa Maria River flood control channel; and west of US Highway 101.

Subsector D-3: Sections 26, 27, 34, and 35, T11N, R35W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of Oso Flaco Lake Road, north of Division Street, and east of State Highway 1 (Guadalupe Road).

Subsector D-4: Sections 25, 26, 34, 35, and 36, T11N, R35W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of Division Street, west of Bonita School Road, north of the Santa Maria River flood control channel, and east of State Highway 1 (Guadalupe Road).

Sector D-5: Sections 35, 36, T11N, R35W; 1, and 2, T10N, R35W, SBBM, (projected), and is in the flood control channel of the Santa Maria River south of Division Street, west of Bonita School Road, north of State Highway (West Main Street), and east of State Highway 1 (Guadalupe Road).

Subsector D-6: Sections 36, T11N, R35W; 1, T10N, R35W; 31, 32, 33, T11N, R34W; and 6, T10N, R34W, SBBM, (projected), and is in the flood control channel of the Santa Maria River south of Division Street, east of Bonita School Road, north of State Highway 166 (West Main Street), and west of an unnamed utility corridor and US Highway 101.

Subsector D-7: Sections 32, 33, and 34, T11N, R34W, SBBM, (projected), and is in the flood control channel of the Santa Maria River south of Nippon Mesa, east of an unnamed utility corridor, west of US Highway 101, and north of Atlantic Place and the City of Santa Maria.

Subsector D-8: Sections 34 and 35, T11N, R34W, SBBM, (projected), and is in the flood control channel of the Santa Maria River east of an unnamed utility corridor, west of US Highway 101, and north of Atlantic Place and the City of Santa Maria.

Sector D-9: Sections 1 and 2, T10N, R35W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of the Santa Maria River flood control channel, west of Bonita School Road, and north of State Highway 166 (West Main Street).

Subsector D-10: Sections 1, T10N, R35W; 31, 32, T11N, R34W; 5, 6, and 7, T10N, R34W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of the Santa Maria River flood control channel, east of Bonita School Road, north of State Highway 166 (West Main Street), and west of an unnamed utility corridor.

Subsector D-11: Sections 32, 33, T11N, R34W; 4, and 5, T10N, R34W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of the Santa Maria River flood control channel, east of an unnamed utility corridor, north of West Donovan Road, and west of North Blosser Road and the City of Santa Maria.

NOTE: There is no Subsector D-12

Subsector D-13a: Sections 35, T11N, R34W; 1, and 2, T10N, R34E, SBBM, and is in the flood control channel of the Santa Maria River east of US Highway 101, north of Seaward Drive, and west of Bull Canyon Road.

Subsector D-13b: Sections 1, 12, T10N, R34E; 6, 7, 8, 15, 16, 17, 21, 22, 23, 26, 27, 35, and 36, T10N, R33W, SBBM, (projected), and is in the flood control channel of the Santa Maria River east of Bull Canyon Road, north and east of East Main Street and Foxen Canyon Road, and north of the Santa Maria Mesa Road river crossing.

Subsector D-14: Sections 35, T11N, R34W; and 2, T10N, R34E, SBBM, and is in the flood plain of the Santa Maria River south of the flood control channel, east of US Highway 101, and west of Mariah Drive.

Subsector D-15: Sections 5, 6, 7, and 8, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River north of State Highway 166, east of Bonita Lateral Road, and west of the City of Santa Maria.

Subsector D-16: Sections 8 and 9, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River north of State Highway 166, south of West Donovan Road, and west of North Blosser Road and the City of Santa Maria.

Subsector D-17: Section 9, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River north of State Highway 166, south of West Donovan Road, and west of North Blosser Road and the City of Santa Maria.

Subsector D-18: Sections 12, T10N, R34W; and 7, T10N, R33W, SBBM, (projected), and is on the Santa Maria River plain south of the Santa Maria River channel, east of Panther Drive, and north of East Main Street.

Subsector D-19: Sections 7 and 18, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of State Highway 166, east of Ray Road, and west of Black Road.

Subsector D-20a: Sections 8, 16, and 17, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of State Highway 166, north of West Stowell Road, west of Hanson Way, and east of Black Road.

Subsector D-20b: Section 16, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of State Highway 166, north of West Stowell Road, west of North Blosser Road, and east of Hansen Way.

Subsector D-21: Sections 13, T10N, R34W; 17, and 18, T10N, R33W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River north of East Jones Street, south of East Main Street, and east of US Highway 101 and Suey Road.

Subsector D-22: Section 18, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of State Highway 166, east of Ray Road, and west of Black Road.

Subsector D-23: Section 13, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Jones Street, north of East Stowell Road, east of US Highway 101, and west of Rosemary Road.

Subsector D-24a: Section 17 and 18, T10N, R33W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Jones Street, north of East Stowell Road, east of Rosemary Road, and west of Philbric Road.

Subsector D-24b: Sections 16, 17, 20, and 21, T10N, R33W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River east of Philbric Road, west of Andrew Avenue, and north of Foxen Canyon Road.

Subsector D-25: Sections 16, 17, and 21, T10N, R33W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River east of Philbric Road, west of Andrew Avenue, and south of Sugar Street.

Subsector D-26: Section 20, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, and east of Black Road.

Subsector D-27: Sections 20 and 21, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, and east of South East Street.

Subsector D-28a: Sections 20 and 21, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, east of Black Road, and west of A Street.

Subsector D-28b: Section 21, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, north of Battles Street, and west of South Blosser Road.

Subsector D-29: Section 22, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, north of Battles Street, east of South Blosser Road, and west of South Depot Street.

Subsector D-30a: Section 23, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Battles Road, north of East Betteravia Road, west of South College Drive, and east of Newlove Drive.

Subsector D-30b: Section 23, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Battles Road, north of East Betteravia Road, east of South College Drive, and west of US Highway 101.

Subsector D-31: Section 24, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Stowell Road, north of East Battles Road, east of US Highway 101, and west of Rosemary Road.

Subsector D-32: Sections 19 and 20, T10N, R33W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Stowell Road, north of East Betteravia Road, east of Rosemary Road and US Highway 101, and west of Philbric Road.

Subsector D-33: Section 24, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Battles Road, north of East Betteravia Road, east of US Highway 101, and west of Rosemary Road.

Subsector D-34: Sections 28 and 29, T10N, R33W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of Foxen Canyon Road, and east of Telephone Road.

Subsector D-35: Section 28, T10N, R33W, SBBM, and is in the ancestral flood plain of the Santa Maria River south and west of Foxen Canyon Road.

Subsector D-36: Sections 16, 21, 22, 26, 27, 28, and 35, T10N, R33W, SBBM (projected), and is in the flood plain of the Santa Maria River east of Andrew Avenue, north and east of Foxen Canyon Road.

Subsector D-37: Sections 34, and 35, T10N, R33W, SBBM, and is in the flood plain of the Santa Maria River south of Foxen Canyon Road.

Sector E - Deposits of the Sisquoc River Resource Area: Alluvial deposits of the active river channel and adjacent floodplain of the Sisquoc River. The Sector extends along the river from about seven miles east of the community of Sisquoc, downstream to the confluence with the Cuyama River. Sector E is divided into five subsectors identified as E-1 through E-4 (with subsector E-3 split into "a" and "b;" See Plate 2). This Sector is under the land use jurisdiction of the County of Santa Barbara.

Subsector E-1: Sections 1, 2, 12, T9N, R33W; 7, 8, and 17, T9N, R32W, SBBM, and is in the flood plain of the Sisquoc River north of Foxen Canyon Road, south of Santa Maria Mesa Road, and west of Tepusquet Road.

Subsector E-2: Section 18, T9N, R32W, SBBM, and is in the flood plain of the Sisquoc River south of Foxen Canyon Road, and east of the community of Sisquoc.

Subsector E-3a: Sections 16 and 17, T9N, R32W, SBBM, and is in the flood plain of the Sisquoc River north of Foxen Canyon Road, south of Santa Maria Mesa Road, and west of Tepusquet Road.

Subsector E-3b: Sections 14, 15, 16, 21, 22, and 23, T9N, R32W, SBBM, (projected), and is in the flood plain of the Sisquoc River east of Tepusquet Road, north of Foxen Canyon Road and USFS Route 10N06/Rancho Sisquoc Road.

Subsector E-4: Sections 13, 14, 23, 24, T9N, R32W; 19, 20, 29, and 30, T9N, R31W, SBBM, (projected), and is in the flood plain of the Sisquoc River in Rancho Sisquoc, east of Tepusquet Road, north of Foxen Canyon Road, and east of USFS Route 10N06.

Sector F - Deposits of Santa Ynez River Resource Area: Alluvial deposits of the active river channel and adjacent floodplain of the Santa Ynez River. The Sector extends from just downstream of Cachuma Dam to about eight miles west (downstream) of the Highway 101 Bridge. Sector F is divided into seven subsectors identified as F-1 through F-7 (Plate 3). Portions of this Sector are under the land use jurisdiction of the County of Santa Barbara, City of Buellton, and City of Solvang.

Subsector F-1: Sections 12, 13, T6N, R33W; 3, 7, 8, 9, 10, 11, 12, and 13, T6N, R32W, SBBM, (projected), and is in the flood plain of the Santa Ynez River west of US Highway 101 and Avenue of the Flags, north of Santa Rosa Road, and south of State Highway 246 and Mail Road.

Subsector F-2: Sections 12, T6N, R32W; 7, and 18, T6N, R31W, SBBM, (projected), and is in the flood plain of the Santa Ynez River west of US Highway 101, east of Avenue of the Flags, and north of Santa Rosa Road.

Subsector F-3: Sections 7, 16, 17, 18, 20, and 21, T6N, R31W, SBBM, (projected), and is in the flood plain of the Santa Ynez River east of US Highway 101, south of State Highway 246/Mission Avenue, and west of Alisal Road.

Subsector F-4: Sections 7, 8, 17, and 18, T6N, R31W, SBBM, (projected), and is in the ancestral flood plain of the Santa Ynez River east of US Highway 101 and Ballard Canyon Road, and north of State Highway 246/Mission Avenue.

Subsector F-5: Sections 21, 22, 23, and 24, T6N, R31W, SBBM, and is in the flood plain of the Santa Ynez River east of Alisal Road, north of Three Springs Road, south of Mesa Verde Road, and west of Refugio Road.

Subsector F-6: Sections 24, T6N, R31W; 19, 20, 21, 22, 29, and 30, T6N, R30W, SBBM (projected), and is in the flood plain of the Santa Ynez River east of Refugio Road, north of Old Santa Rosa Road, and west of State Highway 154/San Marcos Pass Road.

Subsector F-7: Sections 13, 14, 15, 22, 23, and 24, T6N, R30W, SBBM, (projected), and is in the flood plain of the Santa Ynez River east and north of State Highway 154/San Marcos Pass Road, and west of Cachuma Reservoir Dam.

Sector G - Deposits of the Upper Cuyama River Resource Area: Alluvial deposits of the Cuyama River, in the Cuyama Valley from the Highway 166 bridge, south (upstream) to the Ventura County line - a distance of about 24 miles. Sector G is divided into four subsectors identified as G-1 through G-4 (Plate 4). This deposit is under the land use jurisdiction of San Luis Obispo and Santa Barbara Counties, but currently serves the western Kern County market. Portions of this Sector are under the land use jurisdiction of the County of San Luis Obispo and County of Santa Barbara.

Subsector G-1: Sections 19, 20, 28, 29, 30, 33, and 34, T10N, R25W, SBBM, and is in the flood Plain of the Cuyama River south of State Highway 166, west of State Highway 33, east of Kirschenmann Road, and north of Foothill Road.

Subsector G-2: Sections 2, 3, 11, and 12, T9N, R25W, SBBM, and is in the flood Plain of the Cuyama River south of Foothill Road, west of State Highway 33, and north of USFS Route 9N11/Big Pine Road.

Subsector G-3: Sections 12, 13, 24, T9N, R25W; 18, 19, 30, and 31, T9N, R24W, SBBM, and is in the flood Plain of the Cuyama River south of USFS Route 9N11/Big Pine Road, west of State Highway 33, and north of unnamed pipeline.

Subsector G-4: Sections 31, 32, T9N, R24W; 1, T8N, R25W; 6, 7, 8, 17, and 18, T8N, R24W, SBBM, and is in the flood ~~Plain~~ plain of the Cuyama River south of an unnamed pipeline, and west of State Highway 33 and the Ventura County Line.

Sector H - Deposits of the Bee Rock Resource Area: Limestone deposits on the south side of Bee Rock in the Santa Ynez Mountains approximately two miles south of Cachuma Dam (Plate 3). This Sector is under the land use jurisdiction of the County of Santa Barbara.

Sector H: Section 31, T6N, R29W, SBBM, (projected), and is the Bee Rock Limestone Deposit in the Santa Ynez Mountains south of State Highway 154/San Marcos Pass Road and Cachuma Reservoir Dam.

Sector I - Deposits of the Huerhuero Creek Resource Area: Alluvial deposits in the active channel of the Main Branch, Middle Branch and East Branch of Huerhuero Creek, from 1.1 mile north of the intersection of State Highway 58 and O'Donovan Road, north (downstream) to approximately 0.25 mile north of the Creston Road crossing over Huerhuero Creek three miles north of State Highway 4 - a linear distance (in two segments) of about 10 miles. Sector I is divided into 11 subsectors identified as I-1 through I-11 (Plate 1). From north to south, Sectors I-1 through I-8 are in the Main and Middle Branches of Huerhuero Creek. Sectors I-9 through I-11 are in the East Branch of Huerhuero Creek. This Sector is under the land use jurisdiction of the County of San Luis Obispo.

Subsector I-1: Sections 14 and 23, T27S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek north of Creston Road, and east of Geneseo Road.

Subsector I-2: Section 23, T27S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek south and west of Creston Road, and north of unnamed pipeline.

Subsector I-3: Sections 23 and 26, T27S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek west of Creston Road, south of unnamed pipeline, and north of another unnamed pipeline.

Subsector I-4: Sections 25, 26, and 36, T27S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek north of State Highway 41, west of Creston Road, and south of an unnamed pipeline.

Subsector I-5: Sections 36, T27S, R13E; and 1, T28S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek south of State Highway 41, east of State Highway 229/Webster Road, west of La Panza Road, and north of an unnamed pipeline.

Subsector I-6: Section 1, T28S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek south of unnamed pipeline, east of State Highway 229/Webster Road and the community of Creston, and north of O'Donovan Road.

Subsector I-7: Sections 1 and 12, T28S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek south of the community of Creston, east of State Highway 229/Webster Road, and north of Reeves Pheasant Way.

Subsector I-8: Sections 1 and 12, T28S, R13E, MDBM, (projected), and in the active channel of Huerhuero Creek south of Reeves Pheasant Way, and east of State Highway 229/Webster Road.

Subsector I-9: Section 7, T28S, R14E, MDBM, (projected), and in the active channel of Huerhuero Creek east of O'Donovan Road, and north of Lady Amherst Way.

Subsector I-10: Sections 18 and 19, T28S, R14E, MDBM, (projected), and in the active channel of Huerhuero Creek west of O'Donovan Road, and south of Lady Amherst Way.

Subsector I-11: Sections 19, 20, and 29, T28S, R14E, MDBM, (projected), and in the active channel of Huerhuero Creek east of O'Donovan Road.

Authority cited: Section 2790, Public Resources Code. Reference: Sections 2761 and 2790, Public Resources Code.

Article 4. Designation Appeal Procedures

§ 3631. Hearing Procedures -Notice.

(a) At least 10 working days prior to the hearing, the Board shall give public notice as follows:

- (1) Mailing the notice to the lead agency, the appellant, and the project proponent (when not the same person as the appellant);
- (2) Mailing the notice to any person who requests notice of the ~~appel~~ appeal or hearing;
- (3) Mailing the notice to the Board's regular mailing list; and
- (4) Posting of the notice in a place where notices are customarily posted in the city or county jurisdiction within which the proposed surface mining operations are to take place.

(b) The notice of hearing shall include the following:

- (1) The name of the appellant;
- (2) Identification of the proposed surface mining operation, a brief description of the location of the operation by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;
- (3) A statement that the appellant has appealed the lead agency's decision to approve or deny the project and has requested the Board hear the appeal;
- (4) A statement inviting the appellant, the lead agency, the project proponent (when not the same person as the appellant), and the public to make statements at the hearing regarding the decision of the lead agency; and
- (5) The time, date, and location of the public hearing.

Note: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

Article 5. Reclamation Plan Appeals

§ 3653. Technical Review for Adequacy of Reclamation Plan.

(a) The Board may consult with the technical staff of the ~~Department of Conservation~~ Division of Mine Reclamation for determination of the adequacy of reclamation plans or plan amendments prepared for surface mining operations that are appealed to the Board. Preliminary determination of technical adequacy shall be based on, but shall not be limited to, the following:

(1) Substantial compliance with the requirements of PRC Sections 2772, 2772.1, and 2773;

(2) Substantial compliance with the requirements of Article 1 (commencing with Section 3500) and Article 9 (commencing with Section 3700) of this subchapter;

(3) Substantial compliance with the reclamation provisions of the lead agency's mining ordinance as certified by the Board pursuant to the provisions of PRC Section 2774; and

(4) Whether the proposed reclamation plan or plan amendment is technically feasible given the scope of the mining operations.

(b) The determination of whether substantial compliance with PRC Sections 2772, 2772.1, and 2773, Title 14 California Code of Regulations (CCR) Sections 3500 et seq. and Sections 3700 et seq., and the Board-certified lead agency surface mining and reclamation ordinance have been met shall be based on whether all elements of these provisions that are necessary to ensure viable, planned reclamation of a particular site are included and are technically feasible so as to satisfy the objectives of the Surface Mining and Reclamation Act of 1975 (SMARA). For example, a description of revegetation efforts might not be necessary for a pit to be used as a landfill, just as a description of final slope angles may not be necessary for a gravel bar skimming operation. In other sites, however, such information may be critical. In all cases, a site visit by the technical staff of the ~~Department of Conservation~~ Division of Mine Reclamation shall be made before substantial compliance is determined.

Note: Authority cited: Sections 2755, 2759 and 2770, Public Resources Code. Reference: Sections 2770(e) and 2774, Public Resources Code.

Article 8. Fees Schedule

§ 3697. Fees Due and Delinquent.

(a) The annual reporting fee and Mining Operation Annual Report (MRRC-2) are due and payable to the ~~Department of Conservation~~ Division of Mine Reclamation not later than July 1 for the prior reporting year, by the owner or operator of record on the preceding December 31. The initial reporting fee for a new mining operation, together with an initial report, are due and payable to the ~~Department of Conservation~~ Division

of Mine Reclamation not later than thirty (30) days after permit approval. An owner or operator of a mining operation submitting an annual reporting fee or annual report after July 1, or more than thirty (30) days after permit approval, shall be assessed a penalty fee and interest as provided in Public Resources Code Section 2207(c) and (d)(5).

(b) Except as otherwise provided in (c), for the purposes of this article, mining operations are deemed to be discrete operations per each reclamation plan required.

(c) Multiple site mining operations are deemed to be those mining operations which meet all of the following criteria:

- (1) one or more mining operations are operated on one or more sites by a single operator or mining company;
- (2) the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity product is not precious metals;
- (3) no sites are reporting fee assessments set forth in Section 3698, subsections (b), (d), or (e);
- (4) all of the operator or company's entire mining operations located in the State of California are tied to, or located on, the listed sites; and
- (d) In addition to the criteria provided in (c), multiple site mining operator's submittal of the annual report form (Mining Operation Annual Report, Form MRRC-2) shall be accompanied by a multiple site form (Multiple Site Single Fee Request, Form MRRC-4M) supplied by the ~~Department of Conservation~~ Division of Mine Reclamation.

Note: Authority cited: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

§ 3698. Fees Calculation.

Annual reporting fees cited in sections 3698 and 3699 shall be adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year and annually thereafter.

(a) The annual reporting fee for a multiple site mining operation shall be four thousand dollars (\$4,000).

(b) The annual reporting fee for mining operations which are no longer in operation with no intent to resume, which had no mineral production in the reporting calendar year, and

(1) which did not complete reclamation during the reporting calendar year shall be \$100; or

(2) which completed reclamation during the reporting calendar year shall be \$100. Proof of completion of reclamation, approved by the lead agency, shall be submitted with this fee.

(c) Except as otherwise provided, the annual reporting fee for mining operations shall be calculated on the total primary mineral commodity produced in the reporting calendar year. A factor to determine the amount of fee adjustments from one reporting calendar year to the next shall be calculated according to the following formula:

$$[(\text{ATRY}) - (\text{ATPY})]/(\text{ATPY}) = \text{Factor}$$

Where: Adjusted Total (AT) equals the Amount Requested by the Director of the Department of Conservation, less a projected amount from fees set in CCR §3698(a)(b)(d)(e) and CCR §3699, and less a projected amount from mine operations subject to the maximum fee amount in Public Resources Code Section 2207;

Where: ATRY is the Adjusted Total for the current "Reporting Year"

Where: ATPY is the Adjusted Total for the "Prior Year"

The new Fee Amount for each category is determined by the following formula (calculated amounts cannot be less than \$100 or more than the maximum fee in Public Resources Code Section 2207, and may be rounded to the nearest \$1 (one dollar)):

Formula: Current Year Reporting Fee = Prior Year Reporting Fee times (1 + Factor)

(1) Mining operations where the primary mineral commodity produced is either aggregate products or industrial minerals shall be assessed an annual reporting fee as follows:

Tons	Fee in Dollars
0 – 100	Formula (not less than \$100)
>100 - 1,000	Formula
>1,000 - 10,000	Formula
>10,000 - 50,000	Formula
>50,000 - 100,000	Formula
>100,000	Maximum fee per Public Resources Code Section 2207

(2) Mining operations where the primary mineral commodity produced is gold, silver, or precious metals shall be assessed an annual reporting fee as follows:

Ounces	Fee in Dollars
--------	----------------

0 – 1	Formula (not less than \$100)
>1 – 10	Formula
>10 – 50	Formula
>50 – 150	Formula
>150 – 300	Formula
>300	Maximum fee per Public Resources Code Section 2207

(3) Mining operations where the primary mineral commodity produced is base metals or other metals shall be assessed an annual reporting fee as follows:

Pounds	Fee in Dollars
0 – 10	Formula (not less than \$100)
>10 – 100	Formula
>100 - 1,000	Formula
>1,000 - 10,000	Formula
>10,000 - 20,000	Formula
>20,000	Maximum fee per Public Resources Code Section 2207

(d) The initial reporting fee for mining operations shall be five hundred dollars (\$500).

(e) The annual reporting fee for newly permitted mining operations which have not yet begun operations and disturbed the land shall be one hundred dollars (\$100).

(f) In addition to the annual reporting fees, the board shall collect five dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of silver based on the amount of product mined within the state during the reporting year.

Authority cited: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

§ 3699. Low Gross Exemptions.

(a) For the reporting calendar year, a single operator or mining company may file with the Division of Mine Reclamation of the Department of Conservation, a written request for an exemption from the method of fee assessment set forth in Section 3698. Neither the State, nor any county, city, district or other political subdivision shall be eligible for an exemption under this Section. A request for an exemption must be filed on a form (Low Gross Exemption Fee Request, Form MRRC-4L) supplied by the ~~Department of Conservation~~ Division of Mine Reclamation and postmarked or received by the ~~Department of Conservation~~ Division of Mine Reclamation on or before July 1 following the reporting calendar year in order to be considered. The ~~Department of Conservation~~ Division of Mine Reclamation shall grant the exemption if information submitted and

confirmed by the annual report form and approved reclamation plan, clearly demonstrates that the mining operation meets the following criteria:

(1) material is extracted from one mining operation, and lead agency approval of a reclamation plan and financial assurance has been obtained; and

(2) all of the single operator or mining company's mining operation located in the State of California is tied to, or located on, one site; and

(3) the amount of the single operator or mining company's gross income from the mining operation for the reporting calendar year was less than \$128,900, as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year and annually thereafter, and proof of gross income is supplied in the form of a signed federal tax return or returns accompanied by a complete and signed Federal Internal Revenue Service Form 4506, or a report prepared and signed by a certified public accountant or an enrolled agent listed on the active roster maintained by the Federal Internal Revenue Service; and

(4) the single operator or mining company has submitted an annual reporting fee of five hundred fifteen dollars (\$515) as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, and annually thereafter.

(b) For any request postmarked or received on or before July 1 following the reporting calendar year the ~~Department of Conservation~~ Division of Mine Reclamation may afford the applicant one 30-day period in which to correct minor deficiencies in the application.

(c) If the ~~Department of Conservation~~ Division of Mine Reclamation determines that an exemption is not warranted, the single operator or mining company may appeal that determination to the Board for any request postmarked or received by the ~~Department of Conservation~~ Division of Mine Reclamation on or before July 1 following the reporting calendar year. The appeal must be submitted in writing within fifteen (15) days of the denial of exemption notification by the ~~Department of Conservation~~ Division of Mine Reclamation. The Chairperson of the Board or their designee (Board Member), shall determine whether the Board has jurisdiction for the purposes of an appeal. In order for the Board to have jurisdiction the appeal must:

(1) Demonstrate the exemption request was complete and filed and postmarked or received by the ~~Department of Conservation~~ Division of Mine Reclamation on or before July 1 following the reporting calendar year;

(2) Specifically relate to the exemption criteria outlined in this Section; and

(3) Specify the appellant's arguments for granting the exemption.

(d) If the appeal is within the Board's jurisdiction, the Board, based on all the evidence in the record, may affirm the ~~Department of Conservation's~~ Division of Mine

Reclamation's decision or grant the exemption. If the single operator or mining company does not appeal, the appeal is not within the Board's jurisdiction, or the Board affirms the ~~Department of Conservation's~~ Division of Mine Reclamation's decision, the single operator or mining company shall submit an annual reporting fee calculated upon the total mineral commodity produced pursuant to Section 3698. Such fee shall be submitted within thirty (30) days of notification by the ~~Department of Conservation~~ Division of Mine Reclamation or the Board. A single operator or mining company who fails to submit the full annual reporting fee within thirty (30) days after notification shall be assessed a penalty and interest as provided in Public Resources Code Section 2207(d)(5).

Authority cited: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

Article 9. Reclamation Standards

§ 3710. Performance Standards for Stream Protection, Including Surface and Groundwater.

(a) Surface and groundwater shall be protected from siltation and pollutants which may diminish water quality as required by the Federal Clean Water Act, sections 301 et seq. (33 U.S.C. section 1311), 404 et seq. (33 U.S.C. section 1344), the Porter-Cologne Act, section 13000 et seq., County anti-siltation ordinances, the Regional Water Quality Control Board or the State Water Resources Control Board.

(b) In-stream surface mining operations shall be conducted in compliance with Section 16000 et seq. of the California Fish and Game Code, section 404 of the Clean Water Act, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(c) Extraction of sand and gravel from river channels shall be regulated to control channel ~~degradation~~ degradation in order to prevent undermining of bridge supports, exposure of pipelines or other structures buried within the channel, loss of spawning habitat, lowering of ground water levels, destruction of riparian vegetation, and increased stream bank erosion (exceptions may be specified in the approved reclamation plan). Changes in channel elevations and bank erosion shall be evaluated annually using records of annual extraction quantities and benchmarked annual cross sections and/or sequential aerial photographs to determine appropriate extraction locations and rates.

(d) In accordance with requirements of the California Fish and Game Code section 1600 et seq., in-stream mining activities shall not cause fish to become entrapped in pools or in off-channel pits, nor shall they restrict spawning or migratory activities.

Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

Article 11. Financial Assurance Mechanisms

§ 3801. Authority.

Review, approval, adjustment, enforcement, notification, forfeiture and all other responsibilities of the lead agency, operator and ~~Department of Conservation~~ Division of Mine Reclamation with respect to financial assurances shall be conducted as prescribed in Public Resources Code Section 2710 et seq. unless expressly outlined in this article.

Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1 (e), Public Resources Code.

§ 3802. Definitions.

The following definitions shall govern the interpretation of this article:

(a) "Budget Set Aside" means a financial assurance mechanism, meeting the requirements of Section 3806.2 of this article, by which a government entity proposes to make specific identified monies within the entity's budget available to perform reclamation pursuant to the approved reclamation plan.

(b) "Financial Assurance Cost Estimate" means the amount of money necessary to conduct and complete reclamation on the mined lands in accordance with the approved reclamation plan, plus a reasonable estimate of the administrative costs and expenses which would be incurred by the lead agency or the ~~Department of Conservation~~ Division of Mine Reclamation, the total of which shall be calculated in accordance with section 3804, and shall constitute an obligation to pay by the operator.

(c) "Financial Assurance Mechanism" means an instrument, fund or other form of Financial Assurance as provided in Section 2773.1 of the Public Resources Code and this Article.

(d) "Pledge of Revenue" means a financial assurance mechanism meeting the requirements of Section 3806.1, of this Article, by which a governmental entity proposes to make specific, identified future revenue available to perform reclamation pursuant to the approved reclamation plan.

Note: Authority cited: Section 2755, Public Resources Code. Reference: Section 2736, Public Resources Code.

§ 3803.2. Irrevocable Letters of Credit.

Irrevocable Letters of Credit submitted as a Financial Assurance Mechanism shall be provided only from a financial institution authorized to do business in the State of California. The Irrevocable Letter of Credit shall be on, or attached to, the financial institution's letterhead and include the text on form ILoC-1 (~~1/18~~ 3/24), which is hereby

incorporated by reference. Non-substantial changes to the text of form ILoC-1 (~~1/18~~ 3/24) may be made to accommodate the financial institution's business practices with respect to Irrevocable Letters of Credit, but shall not conflict with or materially alter form ILoC-1 (~~1/18~~ 3/24) subject to the procedures set forth in Public Resources Code section 2773.4, subdivisions (e)(2)(A) and (B).

§ 3804. Calculation of Financial Assurance Amount.

(a) The Financial Assurance Amount shall be calculated as prescribed in Public Resources Code Section 2773.1 and based on:

- (1) an analysis of the physical activities and materials necessary to implement the approved reclamation plan;
- (2) the lead agency's unit costs, or costs for third party contracting, for each of these activities, if applicable;
- (3) the number of units of each of these activities, if applicable;
- (4) a contingency amount not to exceed 10% of the reclamation costs.

(b) The calculated amount should not include the cost of completing mining of the site.

(c) In order for the lead agency or the ~~Department of Conservation~~ Division of Mine Reclamation to determine what annual adjustments, if any, are appropriate to the Financial Assurance Amount, the operator shall annually submit to the lead agency a revision of the written calculation required under Section 3804(a).

Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1 (e), Public Resources Code.

§ 3805. Review by the ~~Department of Conservation~~ Division of Mine Reclamation.

Pursuant to Section ~~2774(c)~~ 2773.4, Public Resources Code, the lead agency shall submit a copy of the proposed Financial Assurance and the Calculation of Financial Assurance Amount submitted by the operator pursuant to Section 3804 to the ~~Director supervisor~~ of the ~~Department of Conservation~~ Division of Mine Reclamation for review. With this submittal the lead agency shall include the information and documentation relied upon in calculating the amount of the proposed Financial Assurance and indicate to the ~~Director supervisor~~ that the Financial Assurance Amount is adequate for the lead agency or the ~~Department of Conservation~~ Division of Mine Reclamation to conduct and complete reclamation on the mined lands in accordance with the approved reclamation plan. The ~~Director supervisor~~ shall have 45 days, upon receipt, to prepare written comments regarding the proposed Financial Assurance, if he/she so chooses.

Authority cited: Section 2774, Public Resources Code. Reference: Section ~~2774(c)~~ 2773.4, (d), Public Resources Code.

§ 3805.5. Modification or Release of Financial Assurance.

(a) Prior to the modification of a financial assurance amount, or to the release of the financial assurance instrument to which both the lead agency and the Department of Conservation, are co-beneficiaries under Public Resources Code section 2773.1, the lead agency shall provide to the ~~director~~ supervisor of the ~~department~~ Division of Mine Reclamation the following documents at one time:

(1) An inspection report, prepared by a qualified person as provided for in Public Resources Code section 2774, indicating that there are aspects of the surface mining operation that require modification of the existing financial assurance amount, or stating that the mined land has been reclaimed in accordance with the approved reclamation plan, and that there are no aspects of the reclaimed surface mining operation that are inconsistent with the meaning of reclamation as defined in Public Resources Code section 2733, and the Surface Mining and Reclamation Act of 1975, Chapter 9, commencing with section 2710.

(2) A revised financial assurance cost estimate prepared by the operator and accepted by the lead agency, or prepared by the lead agency, in accordance with Public Resources Code section 2773.1, with supporting documentation, indicating the specific cost changes to the existing financial assurance amount, or indicating that there are no further outstanding reclamation liabilities to be included in the financial assurance.

(3) A statement by the lead agency, with supporting documentation that may include the most recent inspection report and any geological and engineering reports prepared as part of the inspection report, that the mined land remains subject to a financial assurance as modified, or that the mined land has been reclaimed in accordance with the approved reclamation plan, that there are no outstanding reclamation liabilities, and recommending to the ~~director~~ supervisor that the financial assurance be released.

(b) The ~~director~~ supervisor shall have 45 days from the date of receipt of the documents to review and comment on them as provided for in Public Resources Code section ~~2774~~ 2774.3, and to conduct the ~~director's~~ supervisor's own inspection of the surface mining operation if the ~~director~~ supervisor determines it necessary under Public Resources Code section 2774.1, and do one of the following:

(1) Notify the lead agency of the ~~director's~~ supervisor's concurrence that the modified financial assurance amount is adequate, or that there are no outstanding reclamation liabilities on the mined land and that the original financial assurance should be released pursuant to Public Resources Code section 2773.1, at which time the financial assurance shall be released; or,

(2) Notify the lead agency that the director has found, based upon an inspection, aspects of the surface mining operation that require additional modifications to the

financial assurance amount, or aspects that are not in compliance with the approved reclamation plan and the Surface Mining and Reclamation Act of 1975; or,

(3) Commence the financial assurance forfeiture process under Public Resources Code section 2773.1.

(c) If a violation by the surface mining operation is confirmed by an inspection either by the lead agency or by the ~~director~~ supervisor, then the lead agency, or the ~~director~~ supervisor, may take actions under Public Resources Code section 2774.1 to ensure that the violation is corrected. In any event, the financial assurance shall not be released until the violation is corrected.

(d) Prior to sending written notification and release of financial assurances as provided under Public Resources Code section 2773.1, the lead agency shall obtain written concurrence of the ~~director~~ supervisor that the completion of reclamation of the mined land disturbed by the surface mining operation is in accordance with the requirements of the lead agency-approved reclamation plan.

(e) If a violation of the Surface Mining and Reclamation Act of 1975 or of the approved reclamation plan is confirmed by the inspection, and the lead agency does not take action under Public Resources Code section 2774.1 to ensure that the violation is corrected or take action under Public Resources Code section 2773.1 for forfeiture of the financial assurance, then the ~~director~~ supervisor may refer the matter to the board for further action under Public Resources Code section 2774.4.

Authority cited: Section 2755, Public Resources Code. Reference: Sections 2729, 2731, 2733, 2735, 2773.1, 2774 and 2774.1, Public Resources Code.

§ 3806.1. Pledge of Revenue.

(a) A pledge of revenue shall consist of a resolution or other appropriate document from the governing body of the state, county, city, district, or other political subdivision responsible for reclamation of the mined lands pursuant to the approved reclamation plans. The resolution or document shall remain effective continuously throughout the period in which the pledge of revenue is used to satisfy the requirements of Section 2773.1, Public Resources Code.

(b) The pledge of revenue shall contain the following items:

(1) The resolution or document establishing the pledge of revenue;

(2) The types and sources of pledged revenue;

(3) The period of time that each source of revenue is pledged to be available;

(4) The calculation amount of the financial assurance prepared pursuant to Section 3804; and

(5) The authorization for the lead agency or the ~~Department of Conservation~~ Division of Mine Reclamation to use the proceeds of the pledge to conduct and complete

reclamation if the lead agency or the ~~Department of Conservation~~ Division of Mine Reclamation determines that the operator is incapable of performing the reclamation covered by the pledge pursuant to Section 2773.1 (b).

(c) The state, county, city, district, or other political subdivision may pledge any following types of revenue that it controls and that will be available in a timely manner to conduct and complete reclamation:

- (1) Fees, rents, or other charges;
- (2) Tax revenues within statutory limitations; and/or
- (3) Other guaranteed revenues that are acceptable to the lead agency and the Board.

(d) If the governmental entity ceases at any time to retain control of its ability to allocate any pledged revenue to conduct and complete reclamation, the entity shall notify the lead agency and the ~~Department of Conservation~~ Division of Mine Reclamation and shall obtain alternative coverage within 60 days after control lapses.

Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1 (e), Public Resources Code.

§ 3806.2. Budget Set Aside.

(a) A Budget Set Aside shall consist of a specific fund or line item set aside by the state, county, city, district or other political subdivision responsible for reclamation of the mined lands. The Budget Set Aside shall remain effective continuously throughout the period in which the Budget Set Aside is used to satisfy the requirements of Section 2773.1, Public Resources Code.

(b) The set aside shall contain the following items:

- (1) A resolution or other appropriate document establishing the set aside or line item including proof of approval by the governing body or appropriate official of the state, county, city, district, or other political subdivision;
- (2) The types and sources of specific funds;
- (3) The period of time that each funding source is to be available;
- (4) The calculation amount of the financial assurance prepared pursuant to Section 3804; and
- (5) The authorization for the lead agency or the ~~Department of Conservation~~ Division of Mine Reclamation to use the funds to conduct and complete reclamation if the lead agency or the ~~Department of Conservation~~ Division of Mine Reclamation determines that the operator is incapable of performing the reclamation covered by the set aside pursuant to Section 2773.1 (b).

Note: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

Article 12. Administrative Penalty Petition Procedures

§ 3900. Purpose of Regulations.

The regulations contained in this article govern procedures for petitions to the State Mining and Geology Board pursuant to Public Resources Code Section 2774.2 concerning the issuance of an Administrative Penalty by the ~~Director~~ supervisor of the ~~Department of Conservation~~ Division of Mine Reclamation.

Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3901. Filing of Petition/Notice of Defense.

Any person filing a petition to the Board pursuant to Public Resources Code Section 2774.2 concerning the issuance of an administrative penalty by the ~~Director~~ supervisor of the ~~Department of Conservation~~ Division of Mine Reclamation shall, within 30 days of the date of issuance of the order setting an administrative penalty, file a petition/notice of defense with the Board requesting a hearing. The petition/notice of defense shall be on the form set forth in Section 3911 of this article, or shall supply the following information to the Board. Failure to submit all the following documents within the 30 days filing period will result in an incomplete filing and an automatic rejection of the appeal.

- (1) Written statements, with supporting documentation, indicating specifically the basis for the petitioner's challenge of the ~~Director's~~ supervisor's order of administrative penalty;
- (2) A written statement advising the Board of the name, address and telephone number of the petitioner's representative, if any;

Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3902. Determination of Jurisdiction.

The Chairman of the Board, or the Chairman's designee who is a Board member, shall determine within 15 days of receipt of the information required by Section 3901 of this article, whether the petition is within the jurisdiction of the Board for the purpose of hearing the petition, and determine whether the petition's challenge raises substantial issues related to the validity of the allegations supporting the ~~Director's~~ supervisor's order. If the Chairman finds, based upon the criteria stated in (a), (b), and (c) below, that the petition raises no substantial issues with respect to the ~~Director's~~ supervisor's allegations contained in the order of administrative penalty, or has not

been filed within statutory time limits, then the Chairman shall refuse to grant a hearing on the petition. In making these determinations, the Chairman shall consider the following:

(a) Whether the filing of the petition/notice of defense with the Board is within the time limits stipulated in Public Resources Code Section 2774.2;

(b) Whether the petition specifically relates to the allegations contained in the ~~Director's~~ supervisor's notice and order of administrative penalty;

(c) Whether prima facie documentation supporting the petition's position is reasonably sufficient to substantiate the petition's challenge.

Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3903. Administrative Record.

The Administrative Record shall consist of the record before the ~~Director~~ supervisor, evidence submitted on behalf of the petitioner, any other relevant evidence which, in the judgment of the Board, should be considered applicable, and evidence presented during the hearing on the petition.

Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3906. Hearing Procedures -Notice.

(a) At least 10 days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing or delivering by personal service the notice to the petitioner and to the petitioner's lead agency;

(2) Mailing or delivering by personal service the notice to the ~~Director~~ supervisor of the ~~Department of Conservation~~ Division of Mine Reclamation.

(3) Mailing the notice to any person who requests notice of the petition or hearing; and,

(4) Mailing the notice to the Board's regular mailing list.

(b) The notice of hearing shall include the following:

(1) The name of the petitioner;

(2) A statement describing the basis for the action;

(3) The amount of the administrative penalty petitioned;

(4) The time, date, and location of the public hearing.

Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3909. Hearing Procedures -Use of Informal Hearing Procedure and Sequence.

(a) The Board may conduct the petition hearing under this article pursuant to the informal hearing adjudicative proceedings described in the California Administrative Procedure Act. The informal hearing procedure is intended to satisfy due process and public policy requirements in a manner that is simpler and more expeditious than hearing procedures otherwise required by statute, for use in appropriate circumstances.

(b) The public hearing shall normally proceed in the following manner:

- (1) Identification of the record;
- (2) Statements on behalf of the petitioner;
- (3) Statements on behalf of the ~~Director~~ supervisor;
- (4) Statements on behalf of the lead agency;
- (5) Statements on behalf of the public;
- (6) Rebuttal on behalf of the petitioner;
- (7) Rebuttal on behalf of the ~~Director~~ supervisor;
- (8) Motion to close the public hearing.

(c) Notwithstanding the above, the Chairman or the Chairman's designee (Board member) for the purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(d) The Chairman or the Chairman's designee (Board member) shall have the authority to impose time limits upon statements and presentations and to accept written statements in lieu of oral statements. Four copies of any written statements shall be submitted to the Board at least ten days prior to the hearing.

(e) Should the appellant, or his or her representative, fail to appear at the scheduled hearing, the board may make a determination upon the record otherwise before it, or, in the alternative, the board may consider the petition for hearing withdrawn.

(f) If the board determines that the petition for hearing has been withdrawn and more than 30 days has passed since the date of issuance of the order setting an administrative penalty, the order setting the administrative penalty shall not be subject to review by any court or agency.

(g) The actions of the Chairman or the Chairman's designee (Board member) under this section are not subject to judicial review.

Note: Authority cited: Sections 2755 and 2774.2, Public Resources Code; and Article 10, Administrative Procedure Act. Reference: Section 2774.2, Public Resources Code; and Article 10, Administrative Procedure Act.

§ 3910. Hearing Procedures -Determination.

(a) Following the public hearing, the Board shall determine: (1) whether the alleged violations cited in the ~~Director's~~ supervisor's order are supported by substantial evidence in light of the whole record before it; and, (2) the action the Board should take to affirm, modify, or set aside, in whole or in part, the administrative penalty issued by the ~~Director~~ supervisor. The Board shall issue its own order upholding its determination.

(b) Modify means to change the administrative penalty from its original construction by the ~~director~~ supervisor. The board may modify the administrative penalty, in whole or in part, by such measures as it deems appropriate which include, but are not limited to, increasing or decreasing the penalty amount, establishing compliance deadlines, and structuring a method for payment of the penalty.

(c) Notification of the Board's determination shall be made by certified mail or personal service to the petitioner, the lead agency, and the ~~Director~~ supervisor within 15 days following the regular business meeting of the Board at which the decision is made.

Note: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3911. Petition/Notice of Defense Form.

STATE OF CALIFORNIA
DEPARTMENT OF CONSERVATION
DIVISION OF MINE RECLAMATION
STATE MINING AND GEOLOGY BOARD

IN THE MATTER OF THE)	
ADMINISTRATIVE PENALTY)	Case No.
ASSESSED AGAINST:)	
)	PETITION/
)	NOTICE OF DEFENSE
an individual,)	
)	
d.b.a.)	
)	
PETITIONER(S))	
_____)	

I acknowledge receipt of this action assessing an administrative penalty under Public Resources Code Section 2774.1(c) against me or the company for which I am the agent.

I request a hearing before the State Mining and Geology Board.

I object to the action on the ground that it does not state acts or omissions upon which the ~~Department of Conservation~~ Division of Mine Reclamation may proceed.

I object to the form of the action on the ground that it is so indefinite or uncertain that I cannot identify the transaction or prepare a defense.

I admit the action in whole or in part. (Indicate which parts you admit by paragraph number or list on a separate page facts or allegations admitted.)

I deny the action in whole or in part. (Indicate which parts you deny by paragraph number or list on a separate page facts or allegations denied.)

I have no personal knowledge of the facts or allegations. (Indicate which parts by paragraph number or on a separate page.)

I present the following new matter by way of defense: (On a separate page, list other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the alleged violation. Be as specific as you can. If you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) copy(ies) if you can):

I wish to present the following information, statement, etc. in addition: (Use a separate page, if needed.)

I have documents, exhibits, declarations under penalty of perjury and/or other materials that I am attaching to this form or that I want to be made a part of the administrative record for this administrative penalty. (Please list in chronological order by date, author and title and enclose a copy with this completed form.)

I object to the action on the ground that, under the circumstances, compliance with the requirement of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights. (List the other regulation(s).)

I will pay the full assessed amount and waive a hearing.

DO NOT SEND CASH. Please note your case number on your remittance, made payable to: State of California, Department of Conservation, to ensure proper credit and mail it to this address: Department of Conservation, ~~Office Division~~ Division of Mine Reclamation, ~~801 K Street, MS-09-06~~ 715 P Street, MS 1905, Sacramento, California 95814.

If you intend to be represented by an attorney, please state his/her name, address, and telephone number. Otherwise, state the address and phone number where you want

legal documents sent. Mail this Notice of Defense to: Executive Officer, State Mining and Geology Board, ~~801 K Street, MS 24-05~~ 715 P Street, MS 1909, Sacramento, California 95814.

DATED: _____

Petitioner's Signature

Name of Counsel/Petitioner (circle one)

Phone Number

Address

City

State

Zip

**DEPARTMENT OF CONSERVATION
STATE MINING AND GEOLOGY BOARD**

STATEMENT OF BASIS

FOR

"SECTION 100" CHANGE WITHOUT REGULATORY EFFECT – 2024

INTRODUCTION

The Legislature adopted the Surface Mining and Reclamation Act of 1975 ("SMARA," Public Res. Code § 2710 et seq.) to provide a comprehensive surface mining and reclamation policy with the intention of: (1) preventing or minimizing the adverse environmental effects of mining, (2) reclaiming mined lands to a usable condition which is readily adaptable for alternative land uses, and (3) encouraging the production and conservation of minerals, "while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment." (See Public Res. Code § 2712.)

On April 18, 2016, Governor Brown signed Senate Bill 209 (SB 209) and Assembly Bill 1142 (AB 1142) into law making significant revisions to SMARA. As a result, regulations implementing SMARA¹ required significant conforming amendments. The State Mining and Geology Board (hereinafter the "SMGB" or the "Board") began advancing a series of rulemaking packages to conform the regulations to the revisions made to SMARA². This non-substantive rulemaking package continues that effort.

PROBLEM STATEMENT

While both SB 209 and AB 1142 together made significant substantive changes to SMARA, SB 209 changed the structure of the executive department authorized to administer SMARA at the state level. SB 209 created the Division of Mine Reclamation (DMR), headed by a Supervisor of Mine Reclamation (Supervisor), to replace the Office of Mine Reclamation (OMR), headed by the Director (Director) of the Department of Conservation³ (Department). While the Board has incorporated this change in previous rulemaking packages, it is necessary to fully incorporate SB 209's structural changes throughout SMARA's associated regulations through non-substantive rulemaking under Section 100 of Title 1 of the California Code of Regulations.

¹ Article 1, Subchapter 1, Chapter 8, Division 2 of Title 14 of California Code of Regulations, beginning at section 3500, et seq.

² The SMGB has authority to adopt regulations implementing SMARA under Public Resources Code section 2755.

³ See Public Resources Code sections 607 and 2006.5.

Additionally, AB 1142 reorganized the provisions of SMARA governing the Supervisor's review of proposed reclamation plans and plan amendments, and financial assurance cost estimates, pursuant to subdivision (c) of Public Resources section 2774. AB 1142 added Public Resources Code sections 2772.1 and 2773.4, moving the Supervisor's review of proposed reclamation plans and plan amendments, and financial assurance cost estimates to these new sections, respectively.

Finally, this non-substantive rulemaking package is intended to correct spelling and grammatical issues, as well as to reflect a change of address of the Department, DMR, and the SMGB, when collectively the Department relocated its official address from 801 K Street in Sacramento to the new Natural Resource Agency building on 715 P Street in Sacramento.

This statement justifies proposed changes to sections 3504, 3550.1, 3550.7, 3550.9, 3550.10, 3550.14, 3550.16, 3550.17, 3631, 3653, 3697, 3698, 3699, 3710, 3801, 3802, 3803.2, 3804, 3805, 3805.5, 3806.1, 3806.2, 3900, 3901, 3902, 3903, 3906, 3909, 3910, and 3911, that meet the requirements of Section 100 of Title 1 of the California Code of Regulations for changes that are not required to comply with the rulemaking procedure specified in Article 5 of the Administrative Procedure Act.

PROPOSED AMENDMENTS WITHOUT REGULATORY EFFECT

Amend: § 3504.

Section summary. Section 3504 describes lead agency administrative record keeping and financial assurance requirements for mining operations within their respective jurisdictions.

Proposed changes. The Board proposes to conform "director" to "supervisor," and "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3550.1.

Section summary. Section 3550.1 is an area designated to be of regional significance in the Tujunga and Pacoima Wash areas of the San Fernando Valley Region, Los Angeles County.

Proposed changes. The Board proposes to correct “deposts” to “deposits”.

Justification. In the version of the regulation that made it into print, “deposits” is misspelled. The proposed change would correct the spelling and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3550.7.

Section summary. Section 3550.7 is an area designated to be of regional significance in the Claremont-Upland Region.

Proposed changes. The Board proposes to correct “Clarement” to “Claremont”.

Justification. In the version of the regulation that made it into print, “Clarement” is misspelled. The proposed change would correct the spelling and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3550.9.

Section summary. Section 3550.9 is an area designated to be of regional significance in the Saugus-Newhall and Palmdale Regions.

Proposed changes. The Board proposes to correct “Castiac” to “Castaic”.

Justification. In the version of the regulation that made it into print, “Castiac” is misspelled. The proposed change would correct the spelling and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3550.10.

Section summary. Section 3550.10 is an area designated to be of regional significance in the South San Francisco Bay Region.

Proposed changes. The Board proposes to correct “Mucho” to “Mocho” and “Alamada” to “Alameda.”

Justification. In the version of the regulation that made it into print, “Mucho” and “Alamada” were misspelled. The proposed change would correct the spelling and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which

include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3550.14.

Section summary. Section 3550.14 is an area designated to be of regional significance in Stockton-Lodi Production Consumption Region in San Joaquin and Stanislaus Counties.

Proposed changes. The Board proposes to correct "Road" to "road".

Justification. In the version of the regulation that made it into print, "Road" was inappropriately capitalized. The proposed change would correct the spelling and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3550.16.

Section summary. Section 3550.16 is an area designated to be of regional significance in the Bakersfield Production-Consumption Region, Kern County.

Proposed changes. The Board proposes to correct a double comma by deleting one of the commas after the number 12 for the "Candidate Sector D-4."

Justification. In the version of the regulation that made it into print, an extra comma was inappropriately included. The proposed change would correct the spelling and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3550.17.

Section summary. Section 3550.17 is an area designated to be of regional significance in the San Luis Obispo-Santa Barbara Production-Consumption Region.

Proposed changes. The Board proposes to correct "Plain" to "plain".

Justification. In the version of the regulation that made it into print, "Plain" was inappropriately capitalized. The proposed change would correct the spelling and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3631.

Section summary. Section 3631 describes notice requirements for hearings before the Board, filed pursuant to Public Resources Code section 2775.

Proposed changes. The Board proposes to correct "appal" to "appeal".

Justification. In the version of the regulation that made it into print, "appal" is misspelled. The proposed change would correct the spelling and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3653.

Section summary. Section 3653 describes the Board's authority to consult with technical staff of the Department of Conservation for determination of the adequacy of reclamation plans or plan amendments prepared for surface mining operations that are appealed to the Board pursuant to Public Resources Code section 2770.

Proposed changes. The Board proposes to conform "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3697.

Section summary. Section 3697 describes requirements for the submission of annual reporting fees by mining operators under Public Resources Code section 2207.

Proposed changes. The Board proposes to conform "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3698.

Section summary. Section 3698 describes the method of calculating annual reporting fees paid by mining operators under Public Resources Code section 2207.

Proposed changes. The Board proposes to add “of the Department of Conservation” following the reference to the “Director.”

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. SB 209 retained the authority of the Director of the Department of Conservation over revenue collections and determinations under Public Resources Code section 2207. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3699.

Section summary. Section 3699 describes the process operators must follow when applying for an exemption from the method of fee assessments set forth in 14 CCR section 3698.

Proposed changes. The Board proposes to conform “Department of Conservation” to “Division of Mine Reclamation,” or “Division of Mine Reclamation's” where appropriate.

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3710.

Section summary. Section 3710 describes performance standards applicable to reclamation plans for stream protection, including surface and groundwater protection.

Proposed changes. The Board proposes to correct “degredation” to “degradation”.

Justification. In the version of the regulation that made it into print, “degredation” is misspelled. The proposed change would correct the spelling and meets the

requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3801.

Section summary. Section 3801 describes the authorities of lead agencies, operators, and the Department, with respect to financial assurances.

Proposed changes. The Board proposes to conform "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3802.

Section summary. Section 3802 provides definitions governing the interpretation of Article 11 of Subchapter 1, of Chapter 8, of Division 2, of Title 14 of the California Code of Regulations.

Proposed changes. The Board proposes to conform "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3803.2.

Section summary. Section 3803.2 provides the requirements for irrevocable letters of credit as a financial assurance mechanism available to mining operators and incorporates by reference a form, designated as version "ILoC-1 (1/18)." The designated form for the Irrevocable Letter of Credit can be found on the Board's website.

Proposed changes. The Board proposes to update the designated form's previous address of the Department of Conservation and the Division of Mine Reclamation of "801 K Street, MS 09-06," to their new address of "715 P Street, MS 1905." The version date for the form will be updated to 3/24.

Justification. On December 23, 2021, the Department, DMR, along with the Board, relocated their official address from 801 K Street in Sacramento to the new Natural Resource Agency building on 715 P Street in Sacramento. The proposed change updates the address of the Department and DMR following the relocation and meets the requirements of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations by making a change without regulatory effect.

Amend: § 3804.

Section summary. Section 3804 provides the method by which operators must calculate the amount of their financial assurances associated with their approved reclamation plans.

Proposed changes. The Board proposes to conform "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3805.

Section summary. Section 3805 describes the Department's review of proposed financial assurance cost estimates.

Proposed changes. The Board proposes to conform the section heading and body of text "Department of Conservation" to "Division of Mine Reclamation," and "director" to "supervisor."

Proposed changes. The Board proposes to conform the cross-reference section "2774(c)" to "2773.4."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute

where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

AB 1142 deleted and moved subdivision (c) of Resources Code section 2774 into a new section, Public Resources Code section 2773.4, which describes the submission, review, comment, and approval process for financial assurance cost estimates. The proposed change would correct the cross-reference and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3805.5.

Section summary. Section 3805.5 describes the modification or release of financial assurances.

Proposed changes. The Board proposes to conform "Department of Conservation" to "Division of Mine Reclamation," "director" to "supervisor," and "director's" to "supervisor's."

Proposed changes. The Board proposes to conform the cross-reference section "2774" to "2773.4."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

AB 1142 deleted and moved subdivision (c) of Resources Code section 2774 into a new section, Public Resources Code section 2773.4, which describes the submission, review, comment, and approval process for financial assurance cost estimates. The proposed change would correct the cross-reference and meets the requirements of paragraph (4) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change without regulatory effect, which include but are not limited to, those that revise the structure, syntax, cross-reference, grammar, or punctuation.

Amend: § 3806.1.

Section summary. Section 3806.1 describes the requirements for a Pledge of Revenue as a financial assurance mechanism available to government agencies.

Proposed changes. The Board proposes to conform "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3806.2.

Section summary. Section 3806.2 describes the requirements for a Budget Set Aside as a financial assurance mechanism available to government agencies.

Proposed changes. The Board proposes to conform "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3900.

Section summary. Section 3900 describes the purpose of the regulations under Article 12, Subchapter 1, of Chapter 8, Division 2, Title 14 of the Code of Regulations.

Proposed changes. The Board proposes to conform "director" to "supervisor," and "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3901.

Section summary. Section 3901 describes requirements for persons filing a petition and notice of defense when appealing an administrative penalty under Public Resources Code section 2774.2.

Proposed changes. The Board proposes to conform “Director” to “supervisor,” “Director’s” to “supervisor’s,” and “Department of Conservation” to “Division of Mine Reclamation.”

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section’s references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3902.

Section summary. Section 3902 describes the Board’s determination of jurisdiction over appeals of administrative penalties issued by the Director of the Department of Conservation.

Proposed changes. The Board proposes to conform “Director’s” to “supervisor’s.”

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section’s references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3903.

Section summary. Section 3903 describes the content of the administrative record in appeals of administrative penalties issued by the Director of the Department of Conservation.

Proposed changes. The Board proposes to conform “Director” to “supervisor.”

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section’s references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a

change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3906.

Section summary. Section 3906 describes notice requirements imposed on the Board when scheduling an appeal of an administrative penalty.

Proposed changes. The Board proposes to conform "Director" to "supervisor," and "Department of Conservation" to "Division of Mine Reclamation."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3909.

Section summary. Section 3909 describes the authorities and procedures provided to the Board when conducting a hearing on an appeal of an administrative penalty.

Proposed changes. The Board proposes to conform "Director" to "supervisor."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3910.

Section summary. Section 3910 describes the Board's options when making a final determination following an appeal of administrative penalties issued by the Director of the Department and when and how notice of the Board's decision must be provided after the hearing.

Proposed changes. The Board proposes to conform "Director's" to "supervisor's," and "Director" to "supervisor."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Amend: § 3911.

Section summary. Section 3911 provides an optional form entitled "PETITION/NOTICE OF DEFENCE," made available to petitioners filing administrative penalties.

Proposed changes. The Board proposes to conform "Department of Conservation" to "Division of Mine Reclamation" and "Office" to "Division."

The Board proposes to update the form's previous address of the Department of Conservation and the Division of Mine Reclamation of "801 K Street, MS 09-06," to their new address of "715 P Street, MS 1905," and the form's previous address of the Board's previous address of "801 K Street, MS 24-05," to their new address of "715 P Street, MS 1909."

Justification. SB 209 amended Public Resources Code section 607, establishing DMR under the direction of the Supervisor, in place of OMR under the direction of the Director of the Department. The proposed change would conform the section's references to current statute and meets the requirements of paragraph (6) of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations for a change making a regulatory provision consistent with a changed California statute where the regulatory provision is inconsistent with and superseded by the changed statute and the adopting agency has no discretion to adopt a change with differs in substance from the one chosen.

Justification. On December 23, 2021, the Department, DMR, along with the Board, relocated their official address from 801 K Street in Sacramento to the new Natural Resource Agency building on 715 P Street in Sacramento. The proposed change updates the addresses of the Department, DMR, and the Board, following the relocation and meets the requirements of subdivision (a) of Section 100 of Title 1 of the California Code of Regulations by making a change without regulatory effect.

"Attachment 3"

Non-Substantive Rulemaking – SMGB Regulations – Title 14 California Code of Regulations sections 3500 et seq.

CCR	Comments
3504	Conforming to statutory change: “director” to “supervisor,” and “Department of Conservation” to “Division of Mine Reclamation.”
3550.1	Misspelling: “deposts” to “deposits” (Sector D)
3550.7	Misspelling: “Clarement” to “Claremont” (Sector B)
3550.9	Misspelling: “Castiac” to “Castaic” (Sector A)
3550.10	Misspelling: “Mucho” to “Mocho” (Sector C), “Alamada” to “Alameda” (Sector J)
3550.14	Formatting: “road” to “Road” (Candidate Sector E)
3550.16	Formatting: “12,,” to “12,” (Candidate Sector D-4)
3550.17	Formatting: “Plain” to “plain” (Subsector G-4)
3631	Misspelling: “appal” to “appeal.”
3653	Conforming to statutory change: “Department of Conservation” to “Division of Mine Reclamation.”
3697	Conforming to statutory change: “Department of Conservation” to “Division of Mine Reclamation.”
3698	Conforming to statutory changes: Adding “of the Department of Conservation” following “the Director.”
3699	Conforming to statutory change: “Department of Conservation” to “Division of Mine Reclamation.”
3710	Misspelling: “degredation” to “degradation”
3801	Conforming to statutory change: “Department of Conservation” to “Division of Mine Reclamation.”
3802	Conforming to statutory change: “Department of Conservation” to “Division of Mine Reclamation.”
3803.2	Correcting/updating Irrevocable Letter of Credit’s address of “801 K Street, MS 09-06,” to new address for the Department of Conservation and the Division of Mine Reclamation to “715 P Street, MS 1905.”
3804	Conforming to statutory change: “Department of Conservation” to “Division of Mine Reclamation.”

3805	<p>Conforming to statutory change: "Director" to "supervisor," and "Department of Conservation" to "Division of Mine Reclamation."</p> <p>Conforming cross-reference to statutory change: "Section 2774(c)" to "Section 2773.4."</p>
3805.5	<p>Conforming to statutory change: "director" to "supervisor," and "Department of Conservation" to "Division of Mine Reclamation."</p> <p>Conforming cross-reference to statutory change: "Public Resources Code section 2774" to "Public Resources Code section 2773.4."</p>
3806.1	<p>Conforming to statutory change: "Department of Conservation" to "Division of Mine Reclamation."</p>
3806.2	<p>Conforming to statutory change: "Department of Conservation" to "Division of Mine Reclamation."</p>
3900	<p>Conforming to statutory change: "Director" to "supervisor," and "Department of Conservation" to "Division of Mine Reclamation."</p>
3901	<p>Conforming to statutory change: "Director" to "supervisor," and "Department of Conservation" to "Division of Mine Reclamation."</p>
3902	<p>Conforming to statutory change: "Director's" to "supervisor's."</p>
3903	<p>Conforming to statutory change: "Director" to "supervisor."</p>
3906	<p>Conforming to statutory change: "Director" to "supervisor," and "Department of Conservation" to "Division of Mine Reclamation."</p>
3909	<p>Conforming to statutory change: "Director" to "supervisor."</p>
3910	<p>Conforming to statutory change: "Director's" to "supervisor's," "Director" to "supervisor."</p>
3911	<p>Conforming to statutory change: "Department of Conservation" to "Division of Mine Reclamation," "Office" to "Division."</p> <p>Correcting/updating "Petition/Notice of Defense" address of "801 K Street, MS 09-06," to new address for the Department of Conservation and the Division of Mine Reclamation to "715 P Street, MS 1905."</p> <p>Correcting/updating "Petition/Notice of Defense" address of "801 K Street, MS 24-05," to new address for the State Mining and Geology Board to "715 P Street, MS 1909."</p>

"Attachment 4"

State of California
DEPARTMENT OF CONSERVATION
DIVISION OF MINE RECLAMATION
Form ILoC-1 (3/24) Page 1 of 4

IRREVOCABLE LETTER OF CREDIT

California Mine ID No.: _____
Irrevocable Letter of Credit No.: _____
Expiration Date: _____
Permit No.: _____
Reclamation Plan Name/No.: _____

Beneficiary(ies):

(1) _____
(Name of LEAD AGENCY)

Address: _____

(2) California Department of Conservation,
Division of Mine Reclamation
715 P Street, MS 19-05
Sacramento, California 95814-3529

The amount of \$ _____ will be paid to the Beneficiary(ies) upon the authorization and direction of a duly authorized representative of the _____ or the Department
(Name of LEAD AGENCY)

of Conservation, Division of Mine Reclamation when accompanied by the documents hereafter described and subject to the following conditions.

(1) The _____ may draw hereunder by means of its draft(s), accompanied
(Name of LEAD AGENCY)
by this original Letter of Credit, a statement authorizing the release to the _____
(Name of LEAD AGENCY)

signed by a duly authorized representative of the Department of Conservation, Division of Mine Reclamation, and the following signed and dated statement appropriately completed:

The amount of our accompanying draft \$ _____ represents a sum due to the
_____ pursuant to Public Resources Code Section 2773.1(b).
(Name of LEAD AGENCY)

The _____ has determined, following a noticed public
(Name of LEAD AGENCY)
hearing, that _____ is financially incapable of performing reclamation
(Name of APPLICANT)

in accordance with its approved reclamation plan, or has abandoned its surface mining operation without completing reclamation. The individual signing below certifies that the foregoing statements are true and correct and that the signatory is authorized to sign and deliver this statement on behalf of the _____, and that a copy of this statement has been forwarded
(Name of LEAD AGENCY)

by certified mail or courier service to the Department of Conservation, Division of Mine Reclamation.

(Name of LEAD AGENCY)

Date: _____

(Signature)

(Typed or Printed Name)

(Title)

(Phone)

(Email)

(2) The Department of Conservation, Division of Mine Reclamation may draw hereunder by means of its draft(s) and the following signed and dated statement appropriately completed (the original Letter of Credit need not accompany the draft(s)):

The amount of our accompanying draft \$ _____ is due to the Department of Conservation, Division of Mine Reclamation pursuant to Public Resources Code Section 2773.1(b). The State Mining and Geology Board, or the _____,
(Name of LEAD AGENCY)

has determined, following a public hearing, that _____
(Name of APPLICANT)

is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without completing reclamation. The individual signing below certifies that the foregoing statements are true and correct and that the signatory is authorized to sign and deliver this statement on behalf of the Department of Conservation, Division of Mine Reclamation and that a copy of this statement has been forwarded by certified mail or courier service to the

(Name of LEAD AGENCY)

California Department of Conservation,
Division of Mine Reclamation

Date: _____

(Signature)

(Typed or Printed Name)

(Title)

(Phone)

(Email)

In no event shall the aggregate amount drawn hereunder by either or both of the Beneficiaries exceed the amount of this Letter of Credit first set forth above.

This Letter of Credit shall be in full force and effect until the earliest of the following events:

- 1) receipt of a written statement by a duly authorized representative of both the _____ and the Department of Conservation, Division of Mine Reclamation that all of the obligations secured hereby have been performed;
(Name of LEAD AGENCY)
- 2) until disbursement of the full amount of this Letter of Credit pursuant to the preceding paragraphs;
- 3) until the Expiration Date hereunder.

The Letter of Credit shall expire on _____, or any extended date as hereinafter provided, at the counters of _____
(EXPIRATION DATE)

(FINANCIAL INSTITUTION AND ADDRESS)

(FINANCIAL INSTITUTION AND ADDRESS continued)

a financial institution authorized to do business in the State of California. It is a condition of this Letter of Credit that it shall be automatically extended upon the Expiration Date or extended Expiration Date for additional periods, each of one year, unless at least one hundred twenty (120) days prior to the then relevant expiration date _____ has advised the _____

(FINANCIAL INSTITUTION)

(Name of LEAD AGENCY)

and the Department of Conservation, Division of Mine Reclamation by registered or certified mail that _____ elects not to extend. In that event, either the

(FINANCIAL INSTITUTION)

_____ or the Department of Conservation, Division

(Name of LEAD AGENCY)

of Mine Reclamation may draw hereunder on or prior to the then relevant expiration date upon written concurrence of the other entity, up to the full amount available hereunder, against the sight draft(s) on _____, bearing the number of this Letter of Credit.

(FINANCIAL INSTITUTION)

The amount of this Letter of Credit may be reduced in accordance to conditions set forth in the Reclamation Plan, provided that any such reduction shall be made only with the written approval of a duly authorized representative of both the _____ and the Department of Conservation, Division of Mine Reclamation. _____ shall not be required to determine the satisfaction of conditions set forth in the Reclamation Plan.
(Name of LEAD AGENCY)
(FINANCIAL INSTITUTION)

This agreement shall be governed by and construed in accordance with the laws of the State of California. This credit shall be subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication Number 600 notwithstanding Article 36 of said publication. If this Letter of Credit expires during an interruption of business as described in Article 36, _____ is hereby specifically authorized and agrees to effect payment if the letter is drawn within thirty (30) days after the resumption of business.
(FINANCIAL INSTITUTION)

This shall constitute an irrevocable commitment of funds which shall not be subject to recall by _____ before the Expiration Date hereunder.
(FINANCIAL INSTITUTION)

[SEAL]

(Name of FINANCIAL INSTITUTION)

Date: _____

(Signature)

(Typed or Printed Name)

(Title)

(Phone)

(Email)



Notice Date: March 18, 2024

NOTICE OF PROPOSED ADOPTION

DEPARTMENT OF CONSERVATION STATE MINING AND GEOLOGY BOARD

**TITLE 14. NATURAL RESOURCES
Division 2. Department of Conservation
Chapter 8. Mining and Geology
Subchapter 1. State Mining and Geology Board
Article 1. Surface Mining and Reclamation Practice,
Article 2. Areas Designated to be of Regional Significance,
Article 4. Designation Appeals Procedures,
Article 5. Reclamation Plan Appeals,
Article 8. Fee Schedule,
Article 9. Reclamation Standards,
Article 11. Financial Assurance Mechanisms; and,
Article 12. Administrative Penalty Petition Procedures**

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) during a regular business meeting will consider adoption of a non-substantive rulemaking package that is intended to correct spelling and grammatical issues, as well as to reflect a change of address of the Department of Conservation (DOC), Division of Mine Reclamation (DMR), and the SMGB, when collectively they relocated its official address from 801 K Street in Sacramento to the new Natural Resource Agency building on 715 P Street in Sacramento.

This action proposes non-substantive changes to sections 3504, 3550.1, 3550.7, 3550.9, 3550.10, 3550.14, 3550.16, 3550.17, 3631, 3653, 3697, 3698, 3699, 3710, 3801, 3802, 3803.2, 3804, 3805, 3805.5, 3806.1, 3806.2, 3900, 3901, 3902, 3903, 3906, 3909, 3910, and 3911, that meet the requirements of Section 100 of Title 1 of the California Code of Regulations for changes that are not required to comply with the rulemaking procedure specified in Article 5 of the Administrative Procedure Act.

The date, time, and location of the meeting are:

**Thursday, April 18, 2024
10:00 a.m.**

This meeting will be held in person at:

**715 P Street RM 2-221A
Sacramento, California 95814
AND
Virtually via Microsoft Teams**

To join the meeting, please download the latest version of MS Teams by visiting their website at <https://aka.ms/getteams> or install the MS Teams app on your phone. After installing MS Teams on your device click on the [Microsoft Teams Meeting](#) link to join the meeting (**Meeting ID: 255 558 414 701 and Passcode: jfTRPc**). You may also join us by phone by dialing (916) 318-8892 and entering the **Phone Conference ID: 685 886 984#**.

BACKGROUND

The Legislature adopted the Surface Mining and Reclamation Act of 1975 (“SMARA,” Public Res. Code § 2710 et seq.) to provide a comprehensive surface mining and reclamation policy with the intention of: (1) preventing or minimizing the adverse environmental effects of mining, (2) reclaiming mined lands to a usable condition which is readily adaptable for alternative land uses, and (3) encouraging the production and conservation of minerals, “while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.” (See Public Res. Code § 2712.)

On April 18, 2016, Governor Brown signed Senate Bill 209 (SB 209) and Assembly Bill 1142 (AB 1142) into law making significant revisions to SMARA. As a result, regulations implementing SMARA1 required significant conforming amendments. The SMGB began advancing a series of rulemaking packages to conform the regulations to the revisions made to SMARA2. This non-substantive rulemaking package continues that effort.

While both SB 209 and AB 1142 together made significant substantive changes to SMARA, SB 209 changed the structure of the executive department authorized to administer SMARA at the state level. SB 209 created the Division of Mine Reclamation, headed by a Supervisor of Mine Reclamation (Supervisor), to replace the Office of Mine Reclamation, headed by the Director (Director) of the Department of Conservation. While the SMGB has incorporated this change in previous rulemaking packages, it is necessary to fully incorporate SB 209’s structural changes throughout SMARA’s associated regulations through non-substantive rulemaking under Section 100 of Title 1 of the California Code of Regulations.

AVAILABILITY OF DOCUMENTS

Documents related to the proposed action can be reviewed here:

<https://www.conservation.ca.gov/smgb/Pages/Rulemaking/index.aspx>



Agenda Item No. 14A

April 18, 2024

Presentation: *Mining Ordinance Workshop*
by: Paul Fry, Senior Geologist, Board Staff

INFORMATION:

Board staff member, Paul Fry, Senior Geologist will conduct an informational update on the Lead Agency Mining Ordinance Workshop rollout.

Link to Presentation: <https://doc.box.com/s/zt8h1pyhjj8aeby1ge0vtsnwzj6f1dbv>



Agenda Item No. 14B

April 18, 2024

Presentation: *Our Future in Action; Implementing Cemex's Global Focus for Net Zero in California*
by: Kori Andrews, Director of Sustainability and Social Impact, CEMEX

INFORMATION:

Kori Andrews, the Director of Sustainability and Social Impact for CEMEX, will conduct a presentation on CEMEX's global focus for accomplishing net zero carbon emissions in the state of California.

Link to Presentation: <https://doc.box.com/s/97a13sbsodiu3fe05xt193wdv6z9ofds>