



Publication Date: Friday, August 2nd, 2024

OFFICIAL NOTICE OF PUBLIC MEETING

THE STATE MINING AND GEOLOGY BOARD

Will Conduct a Regular Business Meeting on:

Thursday, August 15, 2024, at 10:00 a.m.

**California Natural Resources Headquarters
715 P Street, First Floor Auditorium RM 1-302
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: 234 310 931 455** and **Passcode: svfZp4**. You may also join us by phone by dialing (916) 318-8892 and entering the **Phone Conference ID: 184 258 617#**

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. Department of Conservation Report (Betancourt)
 - C. Division of Mine Reclamation Report (Whalin)
 - D. 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 (Chair Kappmeyer)
 - 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:
June 20th, 2024
- 13. Regular Business Items**
 - A. Consideration and approval of preliminary regulatory language and associated rulemaking package describing the Board's administrative procedures for determining an exemption from the Surface Mining and Reclamation Act of 1975 pursuant to Public Resource Code Section 2714(f).

- B. Consideration and approval of preliminary regulatory language and associated rulemaking package for the Board's designation of mineral lands in the greater Sacramento area production-consumption region.
- C. Election of the Board's Vice-Chair

14. Presentations, Reports, and Informational Items

- A. *An Overview of Programs and Products of the California Geological Survey* (Jeremy Lancaster, State Geologist)
- B. *Mines Online Document Storage (MODS) Update* (April Balestreri, DMR)
- C. *SMGB Mine Inspection Update* (Paul Fry and Mallory Jones, SMGB)
- D. *Ex-Parte Communication Disclosure Requirements and Bagley-Keene Open Meeting Act* (Nicole Rinke, Esq., DAG, Attorney General's Office)

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.

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- 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

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



Agenda Item No. 12A

August 15, 2024

Consideration and Approval of Minutes for the June 20, 2024, Regular Business Meeting

INTRODUCTION:

Approve the Conformed Minutes for the State Mining and Geology Board's June 20, 2024, 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 June 20th, Regular Business Meeting.

Respectfully submitted:

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

Jeffrey Schmidt,
Executive Officer



*****DRAFT*****

CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Will Conduct a Regular Business Meeting on:

Thursday, June 20th, 2024, at 10:00 a.m.

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

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

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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**
Regulatory Analyst, Natalie Decio, called roll with Members Holst, Jung, Kappmeyer, Kenline, Zafir, Vice Chair Landregan, and Chair Sheingold present and Quorum was declared. Member Los Huertos was not in attendance.
- 4. Review of the Agenda (Sheingold)**
Chair Sheingold noted that during agenda item 13A, Member Kenline would be recusing himself, and for agenda item 13B he requested that members of the board review the new arrangement of committees and to voice any desired changes once they reached that agenda item. Lastly, he informed the Board that legal counsel would be reviewing Ex-Parte communications later in the meeting.
- 5. Department Reports**
 - A. Department of Conservation Report (Tiffany)**
Deputy Director, Gabe Tiffany, reported on the working group that discusses issues regarding mining, geology, and policy regulation and legislation. Tiffany is leading a new compliance subgroup within the working group that both Chair Sheingold and State Mining and Geology Board (SMGB) staff have been participating in. This subgroup is still in the initial phase, but it will focus on identifying problems to pursue through operational change, regulatory change, or even legislation change. He also mentioned upcoming enforcement efforts within the Division of Mine Reclamation (DMR) that is in line with the Department's goals for enhanced accountability.
 - B. Division of Mine Reclamation Report (Whalin)**
DMR Supervisor, Lindsay Whalin, reported on the Notice to Operators letters that were sent out recently. DMR is focusing on enhanced enforcement in an attempt to ensure fairness. They are planning on issuing Administrative Penalties for operations that do not send in their annual reports, and they are also performing thorough reviews and inspections to determine why some mining operations are not submitting their Financial Assurance Cost Estimate documents. Already, DMR has issued four 30-day notices and two notices of violations in response to those inspections and enhanced reviews. DMR will continue to collaborate with Lead Agencies and operators as the first approach to bring operations into compliance. Whalin also gave an update on the Abandoned Mine Lands unit which has already inspected 3,375 legacy mines this year, identified 214 associated hazards on public lands, and conducted 84 bat surveys. Finally, Whalin concluded that Kyle Johnson from the Central Valley Water Board has been offered the manager position in the Abandonment Mine Lands Unit within DMR.
 - C. California Geological Survey Report (Lancaster)**
State Geologist, Jeremy Lancaster, reported that the CGS has added two branch chief positions, one overseeing the Seismic Program and the other overseeing the Non-Seismic Programs. One of the branch chiefs hired is Dr. Wendy Bohan who has 20 years of

experience including her time as the former Geoscience Communications Director for NASA Goddard Space Flight Center as well as with the USGS. Lancaster also detailed some of the activities of the Seismic Hazards Program. 22 preliminary earthquake zones were mapped and released, and they are currently in the public review process. He also noted that the 5th anniversary of the Ridgecrest earthquake is coming up on July 4th and 5th, and during that time CGS is planning to release a new web page, story map, and social media around their role in earthquake response and seismic risk reduction. Finally, Lancaster reported on the Strong Motion Instrumentation Program and their continued work on updating the state's 16,159 seismic monitoring stations in the state. Since receiving the funding for the seismic hazard instrument upgrade in 2022, the program has upgraded 426 stations in real time.

6. Chair Report (Sheingold)

Chair Sheingold reported that he speaks with board and department staff on a fairly regular basis while also participating in the Working Group's Compliance subcommittee. Sheingold also worked with SMGB staff and Legal Counsel, Nicole Rinke, on the consideration of Southern Empire Resources Corp's appeal regarding a reclamation plan denial by Imperial County.

7. Executive Officer Report (Schmidt)

Executive Officer, Jeffrey Schmidt, reported that the final language for PRC 2714(f) has been completed and will be back in front of the Board in August. Board staff are also working on PRC 2707 which establishes annual reporting fees for lithium brine operations, and staff also have eight mineral designation reports to complete. The Sacramento package will be finalized first with the remaining seven to be done as one complete package. Lastly, in July, board staff will be assisting DMR in beta testing their lead agency portal on the Mines Online Document Storage system in preparation of their launch.

8. Geologist Report (Fry, Jones)

Geologist, Mallory Jones, reported on recent Board staff activities including the Rule 100 regulatory package submittal to the Office of Administrative Law (OAL), the completion of a preliminary review of the City of Susanville Mining Ordinance, the development of a curriculum for the Lead Agency Mining Ordinance workshop, and the finalization of approvals for the 2023 cycle of Financial Assurances. Additionally, Jones noted that Board staff are now working from headquarters two days a week and that staff member Natalie Decio recently completed the OAL Rulemaking training. Finally, Jones highlighted an inspection her and Fry performed of marine sand mining operations within the San Francisco Bay on June 12, 2024 and also indicated one of staff's upcoming projects is scheduling 2024 annual SMARA inspections.

9. Board Committee Reports

- A. Policy and Administration (Chair Landregan)**
Nothing to report.
- B. Geohazards (Chair Zafir)**
Nothing to report.
- C. Mineral Conservation (Vacant)**
Nothing to report.
- D. SMARA Compliance (Chair Kenline)**
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 Sections 663.1 and 663.2.

Nothing to report.

11. Public Comment Period

Prior to the meeting, via email, comments were submitted collectively by conservation organizations urging the Board to deny Gold Discovery Group's PRC 2714(f) exemption request for their exploratory drilling project. During the meeting there was one public comment made from the California Construction and Industrial Materials Association's (CalCIMA) Adam Harper. He announced that the CalCIMA annual conference has been scheduled for October 28 – October 31 in Napa, CA.

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:
April 18th, 2024

Vice Chair Landregan motioned to approve the Conformed Minutes for the April 18, 2024, Regular Business Meeting with Member Jung seconding the motion. A vote was taken, and it was approved with all present members voting yes except for Member Zafir who abstained from voting as he was not present at the April 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, founder and operator of Gold Discovery Group (GDG), presented his case for a PRC 2714(f) exemption for an exploratory drilling project in Kern County. Member Kenline recused himself during this presentation. Tucker 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. Some of the reasoning that Tucker provided for granting an exemption included the Memorandum of Understanding (MOU) between the Bureau of Land Management (BLM) and Kern County as well as BLM's issuance of a Finding of No Significance (FONSI). Additionally, Tucker detailed GDG's consciousness of the environment through the use of biological and cultural monitoring, the employment of Desert Tortoise fencing, and GDG's endeavors to carry out same day reclamation throughout this project. After the conclusion of Tucker's presentation, SMGB Legal Counsel, Nicole Rinke, discussed the Board's options and considerations including the determination of whether this exploratory drilling is a project or not, the requirement for the California Environmental Quality Act (CEQA) analysis, and the potential reliance on the National Environmental Policy Act (NEPA) to fulfill CEQA stipulations if deemed a project. Before a vote was taken, public comments were heard regarding GDG's exemption request. Comments were made from Jared Naimark of Earthworks as well as Lisa Belenky from the Center for Biological Diversity who both raised concerns regarding the exploratory project and urged the Board to deny the exemption request. After the conclusion of public comments, a vote was taken with Member Holst and Vice Chair Landregan voting against the approval for the request of an exemption while Members Jung, Kappmeyer, Zafir, and Chair Sheingold voting to approve the request. Member Kenline did not participate in the vote as he recused himself. Passing 4-2, GDG's exploratory drilling project was granted a one-time exemption.

- B. Consideration and Approval of the New Board Committees Roster.

No concerns were raised regarding the new Board Committees Roster. Member Kappmeyer motioned to adopt the proposed new Board Committees with Member Jung seconding the motion. A vote was taken, and it was approved with all present members voting yes.

14. Presentations, Reports, and Informational Items

A. *Emergency Construction Operations and Critical Infrastructure Support* (Emelia Michel, Environmental Engineer, Granite Construction)

Environmental Engineer, Emelia Michel, detailed the many ways Granite Construction has aided in emergency construction operations and has provided critical infrastructure support. Michel explained how Granite Construction offers disaster response services like debris removal and management, disposal facilities, temporary roads, pavement and structure repair, earthworks, excavation and grading, and immediate access to construction personnel and materials. She highlighted instances where Granite Construction mobilized after various disasters to assist. After these disasters, Granite helped stabilize and repair roadways and levee systems, built temporary access roads, and assisted with the deployment of traffic control and construction materials. In one example, Michel detailed how Granite crews worked to clear more than 750,00 cubic yards of debris from Highway 101 after mud flows hit the Montecito area after the Thomas Fire in 2018. To aid in the disposal of the mud, Granite brought approximately 250,000 cubic yards of soil from the highways to their Gardner facility in Buellton, CA. The debris was used there to backfill formerly mined out pits and therefore both helped clean up the debris from the highway and aided Granite in satisfying their reclamation obligations. Michel ended her presentation by emphasizing that the construction and industrial materials industry are essential to everything that supports our economy, and Granite Construction in particular is willing to mobilize immediately to support response to critical infrastructure failures or other emergency situations, and they're not afraid to stay involved in the long-term solutions.

B. *SMGB Mine Inspection Update* (Paul Fry and Mallory Jones, SMGB)

Board Staff's update on mine inspections was deferred to the next Regular Business Meeting in August.

C. *Ex-Parte Communication Disclosure Requirements* (Nicole Rinke, Esq., DAG, Attorney General's Office)

Chair Sheingold postponed SMGB legal counsel's review of Ex-Parte communication disclosure requirement to the next Regular Business Meeting in August.

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 on August 15, 2024.

17. Adjournment

Member Zafir motioned to adjourn, and Member Kappmeyer seconded the motion. The June State Mining and Geology Board Regular Business Meeting was adjourned by Chair Sheingold at 1:21 p.m.

THE STATE MINING AND GEOLOGY BOARD

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



Agenda Item No. 13A

August 15, 2024

Consideration and approval of preliminary regulatory language and associated rulemaking package describing the Board’s administrative procedures for determining an exemption from the Surface Mining and Reclamation Act of 1975 pursuant to Public Resource Code Section 2714(f).

INTRODUCTION:

The proposed regulations detail the procedures needed to apply for an exemption for surface mining operations of infrequent nature that involve minor surface disturbances. These proposed regulations also detail the administrative record, public hearing procedures, and effect of exemption determination.

STATUTORY AND REGULATORY AUTHORITY:

Under the authority of PRC section 2755, the Board is proposing to adopt sections 4050-4059 of Article 17, Title 14, Division 2, Chapter 8, Subchapter 1 of the California Code of Regulations. The proposed regulation implements, interprets, and makes specific section 2714(f) of the Public Resources Code.

BACKGROUND AND DISCUSSION:

Established in 1885, the Board serves as a regulatory, policy, and hearing body representing the state’s interests 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.

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

SMARA provides that Surface Mining Operations shall not be conducted “unless a permit is obtained from, a Reclamation Plan has been submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency” (PRC section 2770(a)). SMARA requires at least one public hearing for the approval of a mining permit, pursuant to PRC section 2774(a). Prior to or at the time of approval, the lead agency must also comply with the California Environmental Quality Act (CEQA). Lead agencies often combine the approval of a mining permit and applicable CEQA documents with the approval of a Reclamation Plan and/or related approvals.

The exemption process provides an opportunity to perform “surface mining operations that the board determines to be of an infrequent nature and that involve only minor surface disturbances” without having to meet these SMARA requirements (PRC section 2714(f)). SMARA exempts other activities from its purview—most of which describe projects or activities that include what may appear to be mining or earth moving activities that are a component of a larger permitted project. For example, one exemption applies to excavations or,

grading associated with farming (PRC § 2714(a)). Another exempts excavations or grading to obtain materials for roadbed construction and maintenance for certain timber operations (PRC § 2714(k)(1)). Others outright exempt traditional surface mining operations under a certain size (PRC § 2714(d)) or the mining of a particular mineral such as salt or other minerals from sea or bay water (PRC § 2714(g)).

As extensive as the list of exemptions under PRC section 2714 might be, generating a list of every situation involving surface mining operations that might best be exempt from SMARA is problematic. In those cases, including where surface mining operations are conducted as a component of an activity, like restoration projects not covered by any exemption, the PRC 2714(f) exemption allows the Board to fill the gap and exempt “any other surface mining operations that the Board determines to be of an infrequent nature and that involve only minor surface disturbances”. A review of exemption requests submitted to the Board since 2008 demonstrates the range of projects without an express exemption that included surface mining as a component of the activity. PRC section 2714(f) provides the Board the authority to exempt the mining component of the project or activity, especially in cases where the primary or underlying purpose of the project is not a traditional commercial surface mining operation.

Currently, no statutory or regulatory process for seeking an exemption from the Board under PRC section 2714(f) exists. This leaves an applicant with little choice but to contact Board staff to determine what the exemption process entails. Board staff must decide on a case-by-case basis, the content of the application including the amount and type of information required, the time it will take for Board staff to process the application, if and when a hearing is required and how the hearing will be conducted, and when the applicant can expect to receive a decision from the Board.

The lack of procedures and instructions describing the exemption request process results in, among other things, a longer process, increased costs to the applicant, a lack of transparency for applicants and the public, increased Board staff resources, potentially disparate exemption outcomes or decisions, potential reduced protections to the environment, and an overall lack of fairness, perceived or otherwise. The intent of this rulemaking is to standardize the exemption application process by clearly stating the procedures required for each request for exemption and ensuring that each request receives the same diligent and comprehensive evaluation by the Board before the determination of exemption is made.

Extensive public outreach has been conducted regarding the proposed regulations. The Board conducted pre-rulemaking workshops on March 24, 2022 and August 18, 2022, to discuss the purpose of the proposed regulatory action and concepts for draft regulatory language. Over 80 persons participated in the workshops including SMARA lead agency staff, mine operators, mining industry consultants and association representatives, other state government staff, and members of the public. Additional comments from Board members and the public were received during information updates at Board meetings dating back to December 2021 and at the Board’s regular business meetings on March 23, 2023, and April 20, 2023, the preliminary draft regulatory language was reviewed and subsequently approved by the Board. On August 8 and 9, 2024, Board staff received written comments from the Center for Biological Diversity (CBD) regarding this proposed rulemaking. The comments are attached for the Board’s consideration.

Board staff prepared the proposed regulatory language and associated rulemaking package in consultation with the Department of Conservation. The rulemaking package consists of the proposed regulatory language for new CCR sections 4050-4059 and several documents required per the Administrative Procedure Act.

Please see the attached documents and links for your review:

1. Proposed regulatory language for new CCR sections 4050-4059,
2. Notice of Proposed Regulatory Action,
3. Initial Statement of Reasons,
4. Economic Impact Analysis,
5. Table of Past 2714(f) Exemption Determinations, and
6. Graph of Past 2714(f) Exemption Determinations
7. [Public Comments Submitted by the Center for Biological Diversity](#)

EXECUTIVE OFFICER RECOMMENDATION:

Approve the proposed regulatory language and associated rulemaking package and direct Board staff to proceed with the formal rulemaking process.

SUGGESTED MOTION:

Board Chair and Members, in light of the information before the Board today, I move that the Board approve the preliminary regulatory language and associated rulemaking package describing the Board's administrative procedures for determining an exemption from the Surface Mining and Reclamation Act of 1975 pursuant to Public Resource Code Section 2714(f), and direct Board staff to proceed with the rulemaking process through the Office of Administrative Law.

Respectfully submitted:



Jeffrey Schmidt

Executive Officer

Attachments and links:

1. Proposed Regulatory Language for CCR sections 4050-4059
2. Notice of Proposed Regulatory Action
3. Initial Statement of Reasons
4. Economic Impact Analysis
5. Table of Past 2714(f) Exemption Determinations
6. Graph of Past 2714(f) Exemption Determinations
7. [Public Comments Submitted by the Center for Biological Diversity](#)

Agenda Item 13A: Consideration and approval of preliminary regulatory language and associated rulemaking package describing the Board's administrative procedures for determining an exemption from the Surface Mining and Reclamation Act of 1975 pursuant to Public Resource Code Section 2714(f).

PROPOSED REGULATIONS

PUBLIC RESOURCES CODE SECTION 2714(f) EXEMPTION REGULATIONS

Title 14. Natural Resources

Division 2. Department of Conservation

Chapter 8. Mining and Geology

Subchapter 1. State Mining and Geology Board

Article 17. Surface Mining Operations of Infrequent Nature That Involve Minor Surface Disturbances

14 CCR § 4050

§ 4050 Purpose of Regulations. The regulations contained in this article set forth the procedures that the State Mining and Geology Board shall use for the determination of exemptions pursuant to Public Resources Code section 2714(f).

§ 4051 Pre-submittal Consultation. The project proponent shall request a pre-submittal consultation prior to submitting the exemption application. The State Mining and Geology Board Executive Officer shall consult with the project proponent, the SMARA Lead Agency, and the land use agency with jurisdiction while considering an exemption requested under Public Resources Code section 2714(f). Topics of discussion will include the following:

- a) The scope, nature and intent of the proposed surface mining operation.
- b) The amount and type of mineral commodity or materials that will be produced as well as the proposed method of production or exploration.
- c) The condition in which the site will be left that minimizes adverse effects on the environment, protects public health and safety, and that is readily adaptable to the designed use or readily adaptable to alternative land uses.

§ 4052 Eligibility for Exemption. Only a surface mining operation that the State Mining and Geology Board determines to be of an infrequent nature and that involves only minor surface disturbances shall be eligible for the exemption.

§ 4053 Filing a Request for a Determination of Exemption. A request for exemption under Public Resources Code section 2714(f) shall be initiated by filing a request for determination of exemption with the State Mining and Geology Board. The request for determination of exemption shall include the following information:

- a. Name, address, telephone number, and email address of the applicant and any agent for contact of service;
- b. Name, address, telephone number, and email address of the subject property owner(s);
- c. Name, address, telephone number, and email address of the mineral rights owner(s);
- d. Name, address, telephone number, and email address of any lessee or lien holder to the surface mining operation;
- e. Name, address, telephone number, and email address for the land use agency with jurisdiction;
- f. Name, address, telephone number, and email address for the SMARA lead agency with jurisdiction;
- g. Name, address, telephone number, email address, and California mine identification number for each mining operation located within 60 miles of the proposed surface mining operation;

PRC § 2714(f)
Proposed Regulatory Language

- h. Name, address, telephone number, and email address of the owners of properties contiguous to the surface mining operation;
- i. A map, prepared by an appropriately qualified professional, indicating the location, the latitude and longitude, and the boundaries and the limits of the surface mining operation and acreage;
- j. A legal description of such property comprising the surface mining operation, such as township and range, metes and bounds, parcel numbers, or other descriptive methods to specifically identify such property;
- k. The land use agency permit application and/or the approved permit and conditions of approval for the surface mining operation including California Environmental Quality Act and National Environmental Policy Act review documentation prepared for the surface mining operation or other evidence of the right to operate such as by specific zoning or ordinance;
- l. Copies of any other permits associated with the surface mining operations and a statement regarding the current status of required permits which have not yet been obtained;
- m. Lead agency staff reports concerning the approval or impacts of the surface mining operation and meeting minutes of any public hearings related to the lead agency's consideration or approval of the permit to conduct the surface mining operation;
- n. The time frame planned for the proposed surface mining operations, including the start date and the estimated schedule of completion, and whether period of inactivity would occur;
- o. Approximate volume and type of material to be removed from the surface mining operation;
- p. Approximate volume of the topsoil proposed to be disturbed or salvaged by the surface mining operation and final disposition;
- q. Approximate volume of the overburden proposed to be disturbed or salvaged by the surface mining operation and final disposition;
- r. Approximate volume of residual mining waste and final disposition following the surface mining operation;
- s. Grading plans showing current topography and proposed final elevations of mined lands; and
- t. A declaration or affidavit attesting to the true and accurate nature of the materials and information provided pursuant to this section.

§ 4054 Initial Review of a Request for a Determination of Exemption. The State Mining and Geology Board's Executive Officer shall initially evaluate whether the request for determination of exemption contains the minimum information specified in section 4053 of this article and shall also determine if the request for exemption is complete within thirty days of receipt of the filing. If the State Mining and Geology Board's Executive Officer determines that the request for exemption does not contain sufficient information to meet the requirements of section 4053, the request shall be rejected and the deficiencies in the request shall be identified by the State Mining and Geology Board's Executive Officer in written correspondence to the applicant. The applicant may address the deficiencies and may resubmit the request for a determination of exemption.

§ 4055 Administrative Record. The administrative record before the State Mining and Geology Board shall consist of the documents specified in section 4053, State Mining and Geology Board staff reports, related materials other persons may have submitted to the State Mining and Geology Board during its consideration of the request for exemption, and any other materials the staff of the State Mining and Geology Board considered in reviewing the request.

§ 4056 Public Hearing. No determination of exemption shall be made by the State Mining and Geology Board without a public hearing and an opportunity for the applicant, the lead agency, any interested persons, and the public to comment. Notice of the application for exemption and hearing will be provided to those identified in 4053(g) and (h). The public hearing shall be held by the State Mining and Geology Board within ninety days

of the Executive Officer's determination that the request is complete and, at its discretion, within the county where the exemption is claimed or within the county of the State Mining and Geology Board's offices (County of Sacramento).

§ 4057 Hearing Procedures.

(a) The public hearing should proceed in the following manner:

- (1) Review of the Executive Officer's informational report and the administrative record;
- (2) Statements on behalf of the applicant;
- (3) Statements on behalf of the land use and SMARA lead agency;
- (4) Statements on behalf of the public;
- (5) Rebuttal on behalf of the applicant;
- (6) Rebuttal on behalf of the land use and SMARA lead agency;
- (7) Rebuttal on behalf of the public;
- (8) State Mining and Geology Board deliberations. The State Mining and Geology Board may ask questions of Board staff, the applicant, the land use and SMARA lead agency and members of the public as part of its deliberations. The State Mining and Geology Board shall upon a motion determine by a vote whether the surface mining operation is exempt from SMARA pursuant to Public Resources Code section 2714(f). The determination shall identify the specific facts that support or deny the exemption. The Board may also, within its discretion, choose to continue the request to a future Board meeting; and
- (9) Motion to close the public hearing.

(b) Notwithstanding the above, the Chair of the State Mining and Geology Board may, in the exercise of their discretion, determine the order of the proceedings, provide for additional testimony, or provide for additional rebuttal.

(c) The Chair of the State Mining and Geology Board may impose reasonable time limits upon statements and presentations.

§ 4058 Following the Public Hearing. Within ten days following the public hearing, the State Mining and Geology Board's Executive Officer shall notify the applicant and the lead agency, by certified mail, of the determination of exemption. Notification of the final determination of the State Mining and Geology Board shall also be posted to the State Mining and Geology Board's website.

§ 4059 Effect of a Determination of Exemption. Under Public Resources Code section 2714(f), a determination of exemption by the State Mining and Geology Board exempts the surface mining operation from the requirements of SMARA (Public Resources Code sections 2710 et. Seq.), only to the extent it is operated consistent with the request for exemption and the Board's approval. The applicant shall notify the State Mining and Geology Board within thirty days of any future modification to the surface mining operation. The State Mining and Geology Board may conduct periodic inspections of the surface mining operation. The State Mining and Geology Board shall notify the operator and the Lead Agency at least five days prior to conducting an inspection of the surface mining operation. If surface mining operations are modified or conducted inconsistent with the submitted documents under California Code of Regulations, Title 14, Section 4053, the State Mining

PRC § 2714(f)
Proposed Regulatory Language

and Geology Board may, within its discretion, require the steps outlined in this Article to be repeated, including resubmittal of documentation and a public hearing to reconsider its prior determination of exemption.

Authority: Section 2755, Public Resources Code. Reference: Section 2714(f), Public Resources Code.

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NOTICE OF PROPOSED RULEMAKING ACTION

PROPOSED REGULATIONS

PUBLIC RESOURCES CODE SECTION 2714(F) EXEMPTION

TITLE 14. NATURAL RESOURCES

Division 2. Department of Conservation

Chapter 8. Mining and Geology

Subchapter 1. State Mining and Geology Board

Article 17. Surface Mining Operations of Infrequent Nature that Involve Minor Surface Disturbances

Notice Published: _____

Office of Administrative Law Notice File Number: **Z2024-XXXX-XX**

NOTICE IS HEREBY GIVEN the State Mining and Geology Board (Board) proposes to adopt the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to adopt California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1, Article 17 criteria (sections 4050-4059) for exemptions from the Surface Mining and Reclamation Act of 1975 (Public Resources Code § 2710 et seq., SMARA) under Public Records Code (PRC) section 2714(f) which pertains to: "...mining operations that the Board determines to be of an infrequent nature and that involve only minor surface disturbances." The proposed regulations detail the procedures needed to apply for an exemption for Surface Mining Operations of infrequent nature that involve minor surface disturbances. These proposed regulations also detail the administrative record, public hearing procedures, and effect of exemption determination.

WRITTEN COMMENT PERIOD AND PUBLIC HEARING

Any Person, or his or her authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the Board.

Comments may be submitted by email smgbregulations@conservation.ca.gov or by mail to:

State Mining and Geology Board
ATTN: 2714 (f) Exemption
715 P Street, MS 19-09
Sacramento, CA 95814

The written comment period closes at _____ on _____. The Board will only consider comments received at the Board office by that time.

The Board will hold a hearing if it receives a written request for a public hearing from any interested Person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

Accessibility

If you have a disability and require a reasonable accommodation to fully participate in this event, please contact Sarah Rubin, Outreach and Engagement Coordinator as soon as possible to discuss your accessibility needs.

Email: Sarah.Rubin@conservation.ca.gov | PH: (916) 214-5731

[English]

Translation and interpretation services may be provided upon request. To ensure availability of these services, please make your request no later than ten working days prior to the workshop by contacting Sarah Rubin, Outreach and Engagement Coordinator. Email: Sarah.Rubin@conservation.ca.gov | PH: (916) 214-5731

[Spanish]

Se podrán proporcionar servicios de traducción e interpretación a petición previa. Para poder garantizar la disponibilidad de estos servicios, asegúrese de realizar su solicitud a más tardar diez días hábiles antes de la reunión comunitaria comunicándose con Sarah Rubin, Coordinadora de Alcance y Participación. Correo electrónico: Sarah.Rubin@conservation.ca.gov | Tel: (916) 214-5731

AUTHORITY AND REFERENCE

Under the authority of PRC section 2755, the Board is proposing to adopt sections 4050-4059 of Article 17, Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR. The proposed regulation implements, interprets, and makes specific section 2714(f) of the PRC.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

SMARA was enacted to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated, and public health and safety is protected. SMARA, at PRC section 2770, requires Surface Mining Operations obtain a local government approved permit or other authority to mine, an approved reclamation plan, and approved financial assurances to cover reclamation costs should the operator become financially incapable of reclamation, or they abandon the operation.

PRC section 2714 provides a list of exemptions from SMARA's requirements. Subdivision (f) of PRC section 2714 provides the Board with the authority to exempt “Any other surface mining operations that the board determines to be of an infrequent nature and that involve only minor surface disturbances.”

Proposed Regulation

The purpose of Article 17, Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR sections 4050-4059 is to govern procedures the Board will use to determine if a proposed Surface Mining Operation is of an infrequent nature and will only involve a minor surface disturbance and should therefore not be subject to SMARA pursuant to PRC section 2714(f).

The proposed regulations address and detail:

- The purpose of the proposed regulations
- Requirement for a consultation before submittal of a request for a determination of exemption
- Information required to be included in a request for a determination of exemption
- The administrative record requirements

- The public hearing requirements and procedure
- Effects of the determination of exemption

Anticipated Benefits of the Proposed Regulations

The statute imbuing the Board with the exemption authority does not include the process for filing for an exemption under PRC section 2714(f). Applicants seeking an exemption have little to no guidance on the scope and contents of an application, how the Board conducts the public hearing, or even when or how a decision is issued by the Board, following a public hearing. The proposed regulations will specify and standardize the procedure to submit the request for exemption to the Board. The jurisdiction determination procedures are also outlined and detailed. Proposed CCR sections 4050-4059 specify and define the requirements for the administrative record, development of that record, and the requirements for public hearings and communication associated with the submitted request for exemption.

The specific benefits anticipated from the regulation include the Board's receipt of defined application contents and information, allowing the Board to make an informed decision following a required public hearing. This will ensure the continued protection of the environment and public health and safety, promote fairness to all applicants, ensure social equity, and increase openness and transparency of the Board's exemption application and hearing process.

Consistency with Federal Statute and Regulation

The proposed regulations do not duplicate nor conflict with existing federal statutes or regulations.

Consistency with Existing State Regulation

The proposed regulations are not inconsistent nor incompatible with existing state regulations. After conducting a review for any regulations that relate to or would affect the Board's exemption determination, the Board has concluded that these are the only regulations concerning the Board's exemption determination procedures.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following determinations, based in part on the Economic Impact Analysis prepared for this proposed rulemaking:

Mandate on local agencies and school districts: The rulemaking would require the Executive Officer to consult with the SMARA lead agency and the land use lead agency with jurisdiction. Participation in this consultation by these lead agencies is voluntary on their part. If the project proponent subsequently decides to request a determination of exemption, the SMARA lead agencies may attend the hearing to provide statements and/or rebuttal and may be asked questions by the Board during the deliberative phase. However, under PRC section 2207(e) local lead agencies may impose a fee on mining operations to cover the costs of SMARA administration, thus there is no unfunded local mandate.

Costs or savings to any state agency: There could conceivably be a modest savings to state agencies due to the elimination of superfluous steps by outlining the determination of exemption process.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The Board staff determined this proposed regulation does not impose any additional cost obligations on local agencies or on local school districts.

Other nondiscretionary costs or savings imposed upon local agencies: The Board staff determined that no other non-discretionary costs or savings to local agencies are imposed by the proposed regulations.

Cost or savings in federal funding to the state: The Board staff determined that there are no costs or savings in Federal funding to the State.

Significant effect on housing costs: The Board staff has determined that the adoption of these regulations will have no significant effect on housing costs.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: The Board staff determined that no statewide adverse impacts to

California businesses result from the adoption of this proposed regulatory language. The proposed regulations will have no cost impact on businesses beyond the cost associated with the request for exemption, and no existing businesses in California will be expanded or eliminated.

Creation or elimination of jobs within California: The Board does not anticipate the proposed regulations would create or eliminate jobs within California.

Creation of new businesses or the elimination of existing businesses within California: The Board does not anticipate the proposed regulations would create new businesses or eliminate existing businesses.

Expansion of businesses currently doing business within California: The Board does not anticipate the proposed regulations would lead to the expansion of businesses currently doing business within California.

Benefits to the health and welfare of California residents, worker safety, and the state’s environment: The Board does not anticipate the proposed regulations would negatively impact the health and welfare of California residents, worker safety, and the state’s environment. A structured procedure for a determination of exemption will ensure the Board gives due diligence to every request for a determination of exemption and will sufficiently evaluate each request to ensure an exemption is appropriate and the Surface Mining Operation will not have a negative impact to the health and welfare of California residents, worker safety, and the state’s environment.

Costs impacts on a representative private Person or business: The cost of a request for a determination of exemption for the requestor is somewhere between \$71,600 and \$172,800. However, the proposed regulations do not add any requirements to the current determination of exemption procedure; instead, they specifically outline the procedure, which could conceivably result in a modest cost savings to requestors due to the elimination of superfluous steps.

Effects on small businesses: The proposed regulations will only affect small businesses which request a determination of exemption and would conceivably result in modest cost savings to those who file a request due to the elimination of superfluous steps by outlining the determination of exemption process.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board or identified and brought to the Board’s attention would be more effective in carrying out the rulemaking’s purpose, equally effective and less burdensome to affected private Persons, or more cost-effective to affected private Persons and equally effective in implementing PRC section 2714(f).

The Board invites interested persons to present statements or arguments regarding alternatives to the proposed regulations during the public comment period or at any scheduled hearing.

CONTACT PERSONS

Inquiries concerning the substance of the proposed amended regulation should be directed to:

Paul Fry, Senior Geologist
State Mining and Geology Board
715 P Street, MS 1909
Sacramento, CA 95814
Phone: (916) 324-0681
Fax: (916) 322-4862
Paul.Fry@conservation.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of this regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which this rulemaking is based to Paul Fry at the above address.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file

consists of this notice, the proposed text of the regulation, the initial statement of reasons, and a standard form 399.

Copies of these documents may be obtained by contacting Paul Fry at the address and phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period and any hearing that may be conducted by the Board to accept comments and evidence regarding the adoption of the proposed regulation, the Board will consider all timely and relevant comments received. Thereafter, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Paul Fry at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Paul Fry at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed amended text of the regulation can be accessed through our webpage at:

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



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INITIAL STATEMENT OF REASONS

PROPOSED REGULATIONS PUBLIC RESOURCES CODE SECTION 2714(F) EXEMPTION

TITLE 14. NATURAL RESOURCES Division 2. Department of Conservation Chapter 8. Mining and Geology Subchapter 1. State Mining and Geology Board Article 17. Surface Mining Operations of Infrequent Nature That Involve Minor Disturbances

The State Mining and Geology Board (Board), proposes to adopt article 17, sections 4050, 4051, 4052, 4053, 4054, 4055, 4056, 4057, 4058, and 4059 of the California Code of Regulations (CCR), title 14, division 2, chapter 8, subchapter 1.

Unless otherwise specified, references in this document to a "section" are references to a section of CCR title 14, as it would be added by this rulemaking.

INTRODUCTION AND BACKGROUND

Established in 1885, the Board serves as a regulatory, policy, and hearing body representing the state's interests 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.

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

SMARA provides that Surface Mining Operations shall not be conducted "unless a permit is obtained from, a Reclamation Plan has been submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency" (PRC section 2770(a)). The exemption process provides an opportunity to perform "Surface Mining Operations that the board determines to be of an infrequent nature and that involve only minor surface disturbances" without having to meet these SMARA requirements.

SMARA requires at least one public hearing for the approval of a mining permit, pursuant to PRC section 2774(a). Prior to or at the time of approval, the lead agency must also comply with the California Environmental Quality Act (CEQA). Lead agencies often combine the approval of a mining permit and applicable CEQA documents with the approval of a Reclamation Plan and/or related approvals.

The subsections of PRC section 2714 list activities that are considered exempt from the requirements of SMARA. Most of the listed exemptions under PRC section 2714 describe projects or activities that include mining as a component of the activity or project. For example, some exemptions identify certain excavations, grading, or other earthmoving activities that might appear to be mining, such as excavations or grading associated with farming (PRC § 2714(a)) or excavations or grading to obtain materials for roadbed construction and maintenance for timber operations (PRC § 2714(k)(1)). Others outright exempt traditional surface mining operations under a certain size (PRC § 2714(d)) or the mining of a particular mineral such as salt or other minerals from sea or bay water (PRC § 2714(g)).

As extensive as the list of exemptions under PRC section 2714 might be, generating a list of every situation involving surface mining operations that might best be exempt from SMARA is problematic. In those cases, including where surface mining operations are conducted as a component of an activity, like construction or restoration projects not covered by any exemption, the PRC 2714(f) exemption allows the Board to fill the gap and exempt "any other Surface Mining Operations

that the Board determines to be of an infrequent nature and that involve only minor surface disturbances". A survey of every exemption request submitted to the Board since 2008 demonstrates the range of projects without an express exemption that included surface mining as a component of the activity. PRC section 2714(f) provides the Board the authority to exempt the mining component of the project or activity, especially in cases where the primary or underlying purpose of the project is not a traditional commercial surface mining operation.

Currently, no statutory or regulatory process for seeking an exemption from the Board under PRC section 2714(f) exists. This leaves an applicant with little choice but to contact Board staff to determine what the exemption process entails. Board staff must decide on a case-by-case basis, the content of the application including the amount and type of information required, the time it will take for Board staff to process the application, if and when a hearing is required and how the hearing will be conducted, and when the applicant can expect to receive a decision from the Board.

The lack of procedures and instructions describing the exemption request process results in, among other things, a longer process, increased costs to the applicant, a lack of transparency for applicants and the public, increased Board staff resources, potentially disparate exemption outcomes or decisions, potential reduced protections to the environment, and an overall lack of fairness, perceived or otherwise. The intent of this rulemaking is to standardize the exemption application process by clearly stating the procedure required for each request for exemption and ensuring that each request receives a diligent and comprehensive evaluation by the Board before the determination of exemption is made.

Public Input Efforts Preceding this Rulemaking

Extensive public outreach has been conducted regarding the regulations. The Board conducted pre-rulemaking workshops on March 24, 2022, and August 18, 2022, to discuss the purpose of the proposed regulatory action and concepts for draft regulatory language. Over 80 persons participated in the workshops including SMARA lead agency staff, mine operators, mining industry consultants and association representatives, other state government staff, and members of the public. Additional comments from Board members and the public were received during information updates at Board meetings dating back to December 2021 and at the Board's regular business meetings on March 23, 2023, and April 20, 2023, the

preliminary draft regulatory language was reviewed and subsequently approved by the Board.

SPECIFIC PURPOSE, RATIONALE, AND BENEFITS OF EACH REGULATION

The purpose, rationale, and anticipated benefits of each proposed section are discussed specifically below:

Section 4050 requires that the regulations in article 17 be the procedures the Board uses for determination of exemptions. Requiring a standardized process in the determination of exemption will increase clarity for the entities involved in the process by clearly defining the responsibilities of the project proponent, lead agencies, and the Board. This will result in a more streamlined, efficient, and transparent process.

Section 4051 requires the Board's Executive Officer to consult with the project proponent and both the SMARA Lead Agency and land use agency with jurisdiction before submission of a request for exemption. Coordination between all parties before submission will help ensure a more complete application for exemption upon submission and foster a concerted effort that will likely be more efficient. It will also act as a filter to rule out any projects that are not Surface Mining Operations before project proponents spend time and resources creating their application and will ensure National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) agencies are aware of the request for exemption at an early stage.

Section 4052 stipulates that only Surface Mining Operations determined to be of an infrequent nature and involving only minor surface disturbances shall be eligible for an exemption. This is necessary to ensure alignment with statute.

Section 4053 stipulates that a request for exemption shall be initiated by filing a request for determination of exemption with the Board. Each subsection includes an item of information that will be used when determining if an exemption will be granted:

Subsections (a) through (h) are contact information for all pertinent parties and each is necessary to ensure that a contact can be sent relevant documents or reached for inquiry or notification related to the Surface Mining Operation.

Subsections (i) and (j) are a map and legal description of the property comprising the Surface Mining Operation and are necessary to specifically identify the geographical location of the operation. The permits and lead agency reports included in **subsections (k) through (m)** are necessary because they are records of conditions of approval for the Surface Mining Operation or the underlying project or activity that includes mining as a component of the project or activity. **Subsections (n) through (r)** are proposed parameters for the Surface Mining Operation and are necessary to determine eligibility for an exemption under PRC section 2714(f). **Subsection (s)** is grading plans showing topography of the land before and after mining and is necessary to ensure restoration of the mined land. **Subsection (t)** is an attestation that all material and information provided in the request for exemption is true and accurate and is necessary to ensure diligence and accountability by the applicant.

The inclusion of each subsection of section 4053 contributes to a diligent and thorough investigation of an application for exemption before a Board determination is made and will ultimately help minimize or prevent adverse effects on the environment and the protection of public health and safety.

Section 4054 designates the Board's Executive Officer to verify that a request for determination of exemption contains each of the items listed in section 4053 and is fully completed. If a request is not complete, the Executive Officer shall reject the request and identify the deficiencies in written correspondence to the applicant. The requirement to identify and communicate any deficiencies to an applicant will make the process more objective and transparent and will help foster a concerted effort that will likely be more efficient.

Section 4055 stipulates the items that make up the administrative record before the Board. This section will increase transparency and ensure that a comprehensive record of documents is kept in the event that an appeal or legal challenge arises, and the determination of exemption must be defended.

Section 4056 requires that a public hearing be held within 90 days of the Executive Officer's determination that a request for exemption is complete within the county where the exemption is requested or the county of the Board's offices (Sacramento County). Public outreach and analysis of the resulting feedback is crucial in ensuring that any concerns or questions from interested parties are considered, addressed, and answered. A robust and responsive outreach effort helps to cultivate public

trust and a diverse respondent demographic can identify issues that may have been overlooked or unintended.

Section 4057(a) outlines how a public hearing procedure regarding an application for exemption under PRC section 2714(f) should proceed:

Subsection (a)(1) is necessary to ensure that the proposed Surface Mining Operation meets the prescribed standards for exemption before testimony by interested parties occurs. **Subsections (a)(2) through (a)(7)** are necessary to ensure each party with an interest in the application for exemption has an opportunity to both state their argument for or against the exemption and rebut arguments contrary to their position. **Subsection (a)(8)** is necessary to allow the Board to make a determination of exemption at the conclusion of the hearing or to postpone the determination in order to further consider relevant information. **Subsection (a)(9)** is necessary to verify that the hearing can be formally concluded.

Section 4057(b) allows for the Chair of the Board to determine an alternate order of hearing proceedings or allow for additional testimony or rebuttal, at their discretion. This is necessary to ensure that due diligence is performed in a determination of exemption if extenuating circumstances exist.

Section 4057(c) allows for the Chair of the Board to impose reasonable time limits upon testimonies and rebuttals during the hearing. This is necessary to prevent an interested party from presenting for a disproportionate amount of time during the hearing and promotes fairness to all parties involved.

The inclusion of each subsection of section 4057 will ensure a diligent and thorough investigation of an application for exemption before a Board determination is made and will ultimately help minimize or prevent adverse effects on the environment and the protection of public health and safety.

Section 4058 requires the Board's Executive Officer to notify the applicant and lead agency or agencies by certified mail of the determination of exemption no more than ten days following the public hearing. This section also requires the determination to be posted on the Board's website. The requirements of this section ensure that applicants receive a timely determination of exemption from the Board and that the determination is publicly available to all interested parties. An expeditious response by the Board serves to foster a positive working relationship

with applicants and prevents determinations from dragging out over long periods of time. Posting each determination on the Board's website increases transparency.

Section 4059 requires an applicant to notify the Board within thirty days of any future modification to the Surface Mining Operation. This section also requires the Board to notify a mine operator at least five days prior to conducting an inspection. Operators may make modifications that render a previously exempted operation ineligible for exemption and the Board may decide to hold a public hearing to determine if the previous exemption is still valid considering any modifications made by the operator.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private Persons than the proposed action. The Board's Executive Officer has not identified any adverse impacts resulting from the proposed regulation.

- An alternative the Board considered was the Board taking no action to address the unprescribed nature of section 2714(f). By taking no action, the Board would continue to address the exemption process the way it has in the past, leaving the unprescribed nature of the exemption process intact, allowing for variation in the exemption determination and resulting in an ambiguous process that could be perceived as inequitable.
- An alternative the Board considered, but rejected, was to impose a fee for the processing of the exemption application. It was determined that the Board does not have the authority under SMARA to charge a fee for this process.
- An alternative the Board considered, but rejected, was providing definitions for "infrequent nature" and "only minor surface disturbances". It was determined that leaving these terms flexible would allow the board discretion to consider these projects in context rather than being limited to defined quantities. The Legislature included this exemption language in SMARA when it was initially drafted in 1975 with the intention of providing the Board with the discretion to determine on a case-by-case basis what type of operation is "infrequent" and "minor." While conducting pre-rulemaking workshops and

public outreach, some interested parties requested that the proposed regulations further clarify and specify “infrequent” and “minor.” The Board considered those comments but wanted to maintain its discretionary authority, as described in the statutory language, and therefore directed staff not to further define those terms in the proposed regulatory language.

- An alternative the Board considered, but rejected, was requiring the project proponent provide information about how the project was funded. It was determined that this information was out of scope for projects which received exemption from PRC section 2714(f).

The Board invites interested persons to present statements or arguments regarding alternatives to the proposed regulations during the public comment period or at any scheduled hearing.

CEQA COMPLIANCE

The Board has determined that this rulemaking process is either not a project under Title 14, CCR section 15378 of the CEQA Guidelines, or is exempt under the common sense exemption under Title 14, CCR section 15061(b)(3) of the CEQA Guidelines, because there is no possibility that the development and approval of these regulations will have a direct or indirect significant effect on the environment. The proposed regulations would merely establish a procedure to implement an existing statutory provision that allows the Board to exempt Surface Mining Operations that it determines are of an infrequent nature and that involve only minor surface disturbances.

CONSISTENCY WITH COMPARABLE FEDERAL REGULATION OR STATUTE

The proposed regulations do not duplicate nor conflict with existing Federal statutes or regulations.

CONSISTENCY WITH STATE REGULATIONS

The proposed regulations are not inconsistent nor incompatible with existing state regulations. After conducting a review for any regulations that relate to or would affect the Board’s exemption determination, the Board has concluded that these are the only regulations concerning the Board’s exemption determination procedures.

MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The rulemaking would require the Executive Officer to consult with the SMARA lead agency and the land use lead agency with jurisdiction. Participation in this consultation by these lead agencies is voluntary on their part. If the project proponent subsequently decides to request a determination of exemption, the SMARA lead agencies may attend the hearing to provide statements and/or rebuttal and may be asked questions by the Board during the deliberative phase. However, under PRC section 2207(e) local lead agencies may impose a fee on mining operations to cover the costs of SMARA administration, thus there is no unfunded local mandate. School districts are not affected by the regulation.

ECONOMIC IMPACTS

The Board has made the following determinations, based in part on the Economic Impact Analysis prepared for this proposed rulemaking, which is included as a separate document in the rulemaking package and incorporated here by reference.

Costs impacts on a representative private Person or business: The cost of a request for a determination of exemption for the requestor is somewhere between \$71,600 and \$172,800. However, the proposed regulations do not add any requirements to the current determination of exemption procedure; instead, they specifically outline the procedure, which could conceivably result in a modest cost savings to requestors due to the elimination of superfluous steps.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: The Board staff determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language. The proposed regulations will have no cost impact on businesses beyond the cost associated with the request for exemption, and no existing businesses in California will be expanded or eliminated.

Significant effect on housing costs: The Board staff has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The proposed regulations will only affect small businesses which request a determination of exemption and would conceivably result in modest cost savings to those who file a request due to the elimination of superfluous steps by outlining the determination of exemption process.

Creation or elimination of jobs within California: The Board does not anticipate the proposed regulations would create or eliminate jobs within California.

Creation of new businesses or the elimination of existing businesses within California: The Board does not anticipate the proposed regulations would create new businesses or eliminate existing businesses.

Expansion of businesses currently doing business within California: The Board does not anticipate the proposed regulations would lead to the expansion of businesses currently doing business within California.

Ability of businesses to compete with businesses in other states. The Board does not anticipate the proposed regulations would affect the ability of businesses in California to compete with businesses in other states.

Benefits to the health and welfare of California residents, worker safety, and the state's environment: The Board does not anticipate the proposed regulations would negatively impact the health and welfare of California residents, worker safety, and the state's environment. A structured procedure for a determination of exemption will ensure the Board gives due diligence to every request for a determination of exemption and will sufficiently evaluate each request to ensure an exemption is appropriate and the Surface Mining Operation will not have a negative impact to the health and welfare of California residents, worker safety, and the state's environment.

DOCUMENTS RELIED UPON

The Board relied upon the following documents in proposing this rulemaking:

- The Economic Impact Analysis and STD 399 for the proposed regulations.
- Benchmark Resources. (2023). *PRC § 2714(f) Potential Applicant Costs*.
- Department of Conservation. (2023). *CalGEM Fiscal Worksheet 2324_2714(f)*.
- State Mining and Geology Board (2021, December 16). *15.B. Historical Board Information for PRC 2714(f)*. Department of Conservation.
- State Mining and Geology Board (2022, August 18). *Pre-Rulemaking Workshop Proposed Regulatory Text for PRC 2714(f)*. Department of Conservation.
- State Mining and Geology Board (1996). *Mining Ordinance Guidance Document*. [\[Link\]](#)
- State of California – CalHR. (2023, November 7). *Civil Service Pay Scale*. https://www.calhr.ca.gov/Pay%20Scales%20Library/PS_Sec_15.pdf [\[Link\]](#)

- State of California – CalHR. (2023, March 3). *Exempt Pay Scale*. <https://www.calhr.ca.gov/Documents/exempt-pay-scale.pdf> [\[Link\]](#)
- State of California – CalHR. (2023, December 11). *Travel Reimbursements*. <https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx> [\[Link\]](#)
- U.S. Bureau of Labor Statistics. (2022, May). *Occupational Employment and Wage Statistics - Urban and Regional Planners*. <https://www.bls.gov/oes/current/oes193051.htm#ind> [\[Link\]](#)
- U.S. General Services Administration. (2023, January 1). *Privately Owned Vehicle (POV) Mileage Reimbursement Rates*. https://www.gsa.gov/plan-book/transportation-airfare-pov-etc/privately-owned-vehicle-pov-mileage-reimbursement?gsaredirect=pov&gclid=EAlaIQobChMI8ea2q8KhgwMVOwytBh0K_wj4EAAYASAAEgLZMPD_BwE [\[Link\]](#)

DRAFT

Public Resources Code Section 2714(f) Exemption Regulations Economic Impact Assessment

1. Summary of Economic Impact Assessment

The Public Resources Code 2714(f) Exemption draft regulations would have a negligible economic impact on California's mining industry and no noticeable consequences to the state economy. The economic impact is summarized as follows:

- Total direct costs to project proponents would be an estimated range of \$71,600 to \$172,800 in both the first year after the proposed regulations were effective ("Year 1") and in the second year ("Year 2"). This analysis is explained in Section 3.
- Total fiscal costs to California would be \$19,443 in both Years 1 and 2. This analysis is explained in Section 4.
- Total costs aggregating both direct and fiscal costs would be an estimated range from \$91,043 to \$192,243 in both Years 1 and 2. Given California's Gross State Product (GSP) of over \$3 trillion, this impact is negligible to California's economy.¹
- There would be virtually no impact on the creation or elimination of jobs within California, no impact on the expansion of businesses within the state, no impact on the creation of new businesses or the elimination of existing businesses within the state, and no impact on the ability of businesses within the state to compete with businesses in other states.
- Although not quantified in this analysis, the proposed regulations could increase efficiency of the exemption process which would lead to reduced costs to project proponents, lead agencies, and the State Mining and Geology Board (Board).
- The proposed regulations would not have significant economic impacts on individuals, businesses, or the government.

¹ State of California Department of Finance, "Gross State Product,"

<https://dof.ca.gov/forecasting/economics/economic-indicators/gross-state-product/>

2. 2714(f) Exemption in California

Established in 1885, the Board serves as a regulatory, policy, and hearing body representing the state's interests 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.

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

SMARA provides that Surface Mining Operations shall not be conducted "unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency" (PRC section 2770(a)).

SMARA requires at least one public hearing for the approval of a mining permit, Reclamation Plan, and financial assurances pursuant to PRC section 2774(a). Prior to or at the time of approval, the lead agency must also comply with the California Environmental Quality Act (CEQA). Lead agencies often combine the approval of a mining permit and applicable CEQA documents with the approval of a Reclamation Plan and/or related approvals.

The subsections of PRC section 2714 list activities that are considered exempt from the requirements of SMARA. The majority of the listed exemptions under PRC section 2714 describe projects or activities that include mining as a component of the activity or project. For example, some exemptions identify certain excavations, grading, or other earthmoving activities that might appear to be mining, such as excavations or grading associated with farming (PRC § 2714(a)) or excavations or grading to obtain materials for roadbed construction and maintenance for timber operations (PRC § 2714(k)(1)). Others outright exempt traditional surface mining operations under a certain size (PRC §

2714(d)) or the mining of a particular mineral such as salt or other minerals from sea or bay water (PRC § 2714(g)).

As extensive as the list of exemptions under PRC section 2714 might be, generating a list of every situation involving surface mining operations that might best be exempt from SMARA is problematic. In those cases, including where surface mining operations are conducted as a component of an activity, like construction or restoration projects not covered by any exemption, the PRC 2714(f) exemption allows the Board to fill the gap and exempt "any other Surface Mining Operations that the Board determines to be of an infrequent nature and that involve only minor surface disturbances". A survey of every exemption request submitted to the Board since 2008 demonstrates the range of projects without an express exemption that included surface mining as a component of the activity. PRC section 2714(f) provides the Board the authority to exempt the mining component of the project or activity, especially in cases where the primary or underlying purpose of the project is not a traditional commercial surface mining operation.

Currently, no statutory or regulatory process for seeking an exemption from the Board under PRC section 2714(f) exists. This leaves an applicant with little choice but to contact Board staff to determine what the exemption process entails. Board staff must decide on a case-by-case basis, the content of the application including the amount and type of information required, the time it will take for Board staff to process the application, if and when a hearing is required and how the hearing will be conducted, and when the applicant can expect to receive a decision from the Board.

The lack of procedures and instructions describing the exemption request process results in, among other things; (1) a longer process, (2) increased costs to the applicant, (3) a lack of transparency for applicants and the public, (4) increased Board staff resources, (5) potentially disparate exemption outcomes or decisions, (6) potential reduced protections to the environment, (7) and an overall lack of fairness, perceived or otherwise.

The process for application for exemption from SMARA under PRC section 2714(f) is currently unstandardized, which can create confusion for operators and lead agencies about what is needed for the Board to make a

determination of exemption, thereby lengthening the process. The intent of this rulemaking is to standardize the exemption application process by clearly stating the criteria required for each request for exemption and ensuring that each request receives a diligent, objective, and comprehensive evaluation by the Board before the determination of exemption is made.

3. Direct Costs of Proposed Regulations for Project Proponents

The standardization of the exemption application process has various economic costs, both directly to the project proponents and fiscally. The analysis has segmented the total costs into two sections indicating how they will be distributed; Section 3 will cover costs pertaining to project proponents and Section 4 will cover fiscal costs to lead agencies and the state. The analysis calculated costs with the assumption that an exemption application will occur once a year. This assumption is conservative because since 2014, exemptions have occurred less than annually.² Since exemptions have been granted in the past, it is plausible that project proponents already abide by some of the requirements outlined in the regulations. However, the analysis has proceeded with the assumption that the standardization of exemptions has created a formal list of action steps that all project proponents must adhere to going forward. Therefore, the analysis acknowledges that estimates may be inflated depending upon the information previously prepared by project proponents.

The analysis has identified five regulation sections as being economically significant for project proponents and estimated the total direct costs for each section in Table 1. These sections detail the requirements that will be imposed by the regulations and the costs associated with each element. It is worth noting that costs in Years 1 and 2 are identical. Therefore, it is implied that any costs referenced in this document apply to both years. Lastly, the total direct costs are displayed in a range of a lower and upper bound format. The analysis proceeded with this methodology to mitigate the uncertainty of particular cost elements.

² Data about the frequency of exemptions were obtained from Board professional staff.

Table 1- Total Direct Costs by Proposed Regulation Section

Section		Year 1	Year 2
4051	Pre-submittal Consultation.	\$1,000-\$2,000	\$1,000-\$2,000
4053	Filing a Request for a Determination of Exemption.	\$22,400-\$66,000	\$22,400-\$66,000
4054	Response to Initial Review of a Request for a Determination of Exemption.	\$2,000-\$4,000	\$2,000-\$4,000
4056	Public Hearing.	\$10,400-\$14,400	\$10,400-\$14,400
4059	Future Modification to the Surface Mining Operation.	\$35,800-\$86,400	\$35,800-\$86,400
Total		\$71,600-172800	\$71,600-172,800

3.1. Pre-submittal Consultation, Proposed Section 4051.

Proposed section 4051 requires the project proponent to participate in a pre-submittal consultation prior to submitting the exemption application. The pre-submittal consultation consists of three components. The first would be the Board professional staff time needed to prepare for the consultation. The second component would be the staff time for the lead agency to coordinate with the Board. The first and second cost components are fiscal costs and will be discussed in Section 4. Lastly, the third component would be the submission of the request which would take approximately four to eight hours by the project manager. Direct costs to the project proponents for section 4051 therefore amount to \$1,000 and \$2,000 for lower and upper bound estimates.

3.2. Filing a Request for a Determination of Exemption, Proposed Section 4053.

Proposed section 4053 requires the project proponent to submit information to the Board in order to be considered for an exemption. The collection, aggregation, and verification of this information has various associated economic costs.

The analysis uses estimations from multiple consultants within the industry to calculate the direct costs for the project proponent. The consultants identified several professions within the organization that would be responsible for obtaining the necessary information; the hourly wage rate for each of these professions was estimated by the consultants and will be used throughout Section 3.

Administrative staff for the project proponent would spend six hours collecting the name, address, telephone number, and email address of the applicant, property owner, mineral rights owner, lessee, and SMARA lead agency with jurisdiction. Administrative staff would then spend two hours compiling legal descriptions of such property comprising the Surface Mining Operation-which would require a Title Report from a Title Company ranging from \$500 to \$2,500. Lastly, the administrative staff would spend two hours documenting the time frame planned for the proposed Surface Mining Operations and attesting to the true and accurate nature of the materials and information required by this proposed regulation section. Therefore, accounting for the title report and an estimated hourly wage for administrative staff of \$125, the lower bound estimate is \$1,750 and the upper bound estimate is \$3,750.³

Proposed regulation section 4053 would also likely require services from a project manager. The project manager would spend an hour on a map indicating the location and boundary limits of the Surface Mining Operation. The project manager would also spend eight hours assisting with the engineered grading plans. With an hourly wage of \$250, the direct costs for the project manager relating to proposed section 4053 would be \$2,250 for both the lower and upper bound estimate.⁴

The graphics information system (GIS) department of the project proponent would be responsible for several tasks related to section 4053. For example, GIS staff would spend two to four hours on three separate items of information: collecting identification information for each mining operation within 60 miles of the proposed operation, collecting identification information of the owner of properties contiguous to the surface mining operation, and work on a map indicating the boundaries and limits of the operation. In addition to spending two to four hours on each of those tasks, GIS staff would spend 40 hours on the engineered grading plans. With an hourly wage of \$150, the direct costs associated with GIS staff would be a lower bound estimate of \$6,900 and upper bound estimate of \$7,800.

³ The number of hours worked by the administrative staff member is 10 for both the lower and upper bound estimates.

⁴ The number of hours worked by the project manager is 9 for both the lower and upper bound estimates.

A planner would be required to work on three cost elements associated with proposed section 4053. Each of these cost elements would take the planner two to four hours to complete. The first would be to review the documentation prepared for the Surface Mining Operation. Secondly, the planner would prepare a statement regarding the current status of the permits associated with the Surface Mining Operations. Lastly, the planner would gather and provide the lead agency staff reports concerning the approval or impacts of the Surface Mining Operation. With an hourly wage of \$200, the direct costs associated with a planner would be a lower bound estimate of \$1,200 and upper bound estimate of \$2,400.

Proposed regulation section 4053 would require work from engineers. Grading plans showing the current topography and proposed final elevations of mined lands would require 24 hours of a Mine Engineer with an hourly wage of \$200. An estimated \$5,000 would be required for an engineer to review and stamp the grading plans. So, the total estimated costs associated with engineers for proposed section 4053 would be \$9,800.

Proposed section 4053 requires the project proponent to approximate the volume of four quantifiable amounts of material pertaining to the Surface Mining Operation. Given the uncertainty of the materials for each potential surface mining project, the analysis provides an estimated range of \$125 to \$10,000 for each of the four cost elements. For these calculations, the project proponent would need to approximate the volume and the nature and type of material to be removed, the volume of the topsoil proposed to be disturbed, the volume of the overburden proposed to be disturbed, and the volume of residual mining waste proposed to remain onsite. Aggregating these costs of approximations for the four cost elements would amount to a lower bound estimate of \$500 and an upper bound estimate of \$40,000. The analysis determined it was necessary to have such a large discrepancy in the range of estimates to account for the uncertainty of the details of such approximations.

Therefore, the sum of all lower and upper bound direct cost estimates associated with proposed section 4053 is \$22,400 and \$66,000 respectively.

3.3. Response to Initial Review of a Request for a Determination of Exemption, Proposed Section 4054.

Proposed section 4054 outlines the requirements for the Board and the project proponent to initially review an exemption request which requires costs for the project proponent and fiscal costs that will be discussed in Section 4. The project proponent will respond to the Board's initial review after the determination has been made. It is estimated that the project manager would spend 8 to 16 hours to respond. As previously mentioned, their hourly wage is \$250. Therefore, the economic costs associated with section 4054 for project proponents are a lower bound of \$2,000 and an upper bound of \$4,000.

3.4. Public Hearing, Proposed Section 4056.

For any exemption to be determined, proposed regulation section 4056 would require a public hearing be held by the Board within 90 days of the Executive Officer's determination that the Surface Mining Operation is eligible for exemption under the regulatory scheme and SMARA. Public hearing costs would be incurred once per exemption. As a request for a determination of exemption is only expected to occur once per year, the public hearing costs would be incurred once in Year 1 and once in Year 2. These hearings would be held in the Board's offices in the County of Sacramento.

Project proponents would incur various costs as a result of the public hearing. For example, it is estimated that a project manager would spend anywhere from 24 to 40 hours preparing for the public hearing, attending it, and then following up. It is assumed that travel expenses such as transportation, lodging, and food would be included in the lower and upper bound estimates of \$6,000 and \$10,000 respectively. GIS and administrative staff would also contribute 16 hours each for the public hearing. With their hourly wage of \$150 for GIS staff and \$125 for administrative staff, direct costs from these components would be \$2,400 and \$2,000. Therefore, adding up the costs from the project manager, GIS staff, and administrative staff, the lower bound estimate is \$10,400 and the upper bound estimate is \$14,400.

3.5. Future Modification to the Surface Mining Operation, Proposed Section 4059.

Proposed section 4059 states the process an applicant must abide by if there is any future modification to the Surface Mining Operation after the initial exemption has been approved. This is the most expensive section because it requires project proponents to resubmit all of their documentation updated for the modifications, incurring the costs a second time. Although unlikely, it is possible that the Board may determine that the modifications are inconsistent with the exemption as approved and require the project proponent to resubmit for the exemption. Board staff determined that there is a five percent chance of this occurring and if it does, the applicant must restart the application process. This analysis takes a conservative approach and uses the sum of all other proposed regulation sections for project proponents of \$35,800 for the lower bound estimate and \$86,400 for the upper bound estimate.⁵ The analysis acknowledges that this estimate may be overinflating the costs to project proponents because it is assuming a full cost of an element that only has a five percent chance of occurring. However, this assumption was determined to best account for the uncertainty of driving factors that may result in higher costs.

Therefore, the sum of all lower bound estimates in Section 3 is \$71,600 and the sum of all upper bound estimates is \$172,800.

4. Fiscal impact of proposed regulations

The following sections highlight the fiscal impact of the proposed regulations. Of the estimated range of \$91,043 to \$192,243 total of the entire regulations, \$19,443 is associated with fiscal costs. The breakdown of fiscal costs for each regulation section can be seen in Table 2.

Table 2- Total Fiscal Costs by Proposed Regulation Section

⁵ The \$35,800 and \$86,400 figures come from the aggregated lower and upper bound estimates from sections 4053, 4056, 4054, and 4051. These numbers can be seen in Table 1.

Section		YEAR 1	YEAR 2
4051	Pre-submittal Consultation.	\$1,704	\$1,704
4054	Initial Review of a Request for a Determination of Exemption.	\$2,123	\$2,123
4055	Administrative Record.	\$3,277	\$3,277
4058	Following the Public Hearing.	\$1,373	\$1,373
4059	Future Modification to the Surface Mining Operation.	\$10,966	\$10,966
Total		\$19,443	\$19,443

4.1. Pre-submittal Consultation, Proposed Section 4051.

Direct costs to project proponents were discussed in Section 3. However, there are fiscal costs associated with proposed section 4051. For example, the Board would need to prepare for the consultation on an exemption. This would take four hours of scheduling and meeting by the Board Executive Officer, Senior Engineering Geologist, and Engineering Geologist. Considering the hourly wages of each of these positions, fiscal costs amount to \$1,319. Also, proposed section 4051 would require four hours of consulting with the Board for a lead agency planner and a staff planner. The analysis estimates the hourly wage to be \$58 and \$38 for a lead agency planner and staff planner respectively.⁶ Therefore, total fiscal costs for section 4051 amount to \$1,704.

4.2. Initial Review of a Request for a Determination of Exemption, Proposed Section 4054.

Proposed section 4054 requires the Board to determine if the exemption request is complete within 30 days of receipt of the filing. The Board's determination would take eight hours of review by the Senior Engineering Geologist and Engineering Geologist, and four hours by the Executive Officer. Multiplying the number of hours of review by each of the position's hourly rate, the costs of the determination are \$2,123.

⁶ Hourly wage estimates for the lead agency planner and the staff planner are from Occupational Employment and Wage Statistics (OEWS). <https://www.bls.gov/oes/current/oes193051.htm>. There was no distinction between the lead agency planner and staff planner by the OEWS, so the analysis uses the median hourly wage rates for the staff planner and the hourly wage rate in the 90th percentile for the lead agency planner.

4.3. Administrative Record, Proposed Section 4055.

Proposed section 4055 specifies the documentation, known as the Administrative Record, that must be created and maintained by the Board to document the exemption request and processing of the exemption. One of these specifications would require the Board to prepare a staff report for each exemption processed. The staff report would take eight hours of work by the Senior Engineering Geologist and the Engineering Geologist, one hour of review by the Executive Officer, and four hours of review by the Board's attorney.⁷ In addition to the preparation of the staff report, the Board staff would hold an exemption request hearing which would take two hours for the Senior Engineering Geologist, Engineering Geologist, and Executive Officer. Hourly wage rates for Board staff were determined by the State of California's Civil Service and Exempt Pay Scales.⁸ The analysis calculated a midpoint between the minimum and maximum values for each position and accounted for wages, employee benefits, and other operating expenses in order to determine the hourly wage; these estimates will be utilized throughout the document.

The estimated hourly wage is \$128 for the Executive Officer, \$115 for the Senior Engineering Geologist, \$87 for the Engineering Geologist, and \$220 for the attorney.⁹ Therefore, after multiplying the hourly wage rate for each position by the number of hours required to review the staff report, the total fiscal costs associated with section 4055 are \$3,277.

4.4. Following the Public Hearing, Proposed Section 4058.

Proposed section 4058 requires the Board's Executive Officer to notify the applicant and the lead agency by certified mail of the determination regarding the exemption request within 10 days of the public hearing. The preparation to inform the applicant and the lead agency would take the Executive Officer one hour, the Senior Engineering Geologist and Engineering Geologist four hours of

⁷ All estimates about hours of work dedicated to each regulation section throughout the fiscal cost section have been determined by Board professional staff.

⁸ <https://www.calhr.ca.gov/Documents/exempt-pay-scale.pdf>
https://www.calhr.ca.gov/Pay%20Scales%20Library/PS_Sec_15.pdf

⁹ The hourly wage rate of the attorney is an estimate by Board professional staff based on data from a previous project.

work each, and an attorney two hours. Therefore, with an estimated hourly wage of \$128 for the Executive Officer, \$115 for the Senior Engineering Geologist, \$87 for the Engineering Geologist, and \$220 for the attorney, the total costs for this regulation section are \$1,373. The sum of all estimates in Section 4 is \$19,443.

4.5. Future Modification to the Surface Mining Operation, Proposed Section 4059.

Proposed section 4059 states the process an applicant must follow if there is any future modification to the surface mining operation. The Board may also conduct an inspection of the Surface Mining Operations and must notify the operator and the lead agency at least five days prior. The event of an inspection is unlikely, and the Board determined that there is a 10 percent chance of it occurring. Similar to the cost calculation in Section 3.1, the analysis acknowledges the 10 percent likelihood but proceeds assuming the full cost will be absorbed.

If the Board conducts an inspection, it will require eight hours to inspect the site by both the Senior Engineering Geologist and Engineering Geologist. In addition to wages, the cost of travel from Sacramento must be accounted for. Because the Board may travel to anywhere in the state, the analysis used a methodology of identifying three major airports in California in terms of passenger traffic¹⁰: San Francisco (SFO), Los Angeles (LAX), and San Diego (SAN). While this approach acknowledges that the Board would not be traveling to these airports, it serves as an appropriate proxy to cover California's vast distances. This approach is conservative from an economic perspective as LAX and SAN are significant geographic distances from Sacramento. However, this method was determined to best mitigate the uncertainty of the locations that the Board would travel to. The travel costs are displayed in Table 3.

Table 3 – Estimated Travel Costs for Surface Mining Inspection under Proposed Section 4059

¹⁰ "Visit California" provides data on the busiest airports in California in terms of Airport Passenger Traffic. <https://industry.visitcalifornia.com/research/passenger-traffic?a1=LAX&a2=SAN>. Accessed 8/18/23.

	Round Trip Vehicle (Miles)¹¹	Private Car Costs (\$0.66 per mile)
SMF-SFO	206	\$135
SMF-LAX	798	\$523
SMF-SAN	1,030	\$627

Another assumption that the analysis uses is that a privately owned automobile is authorized which has a cost rate of \$0.66 per mile.¹² Calculating the average of the potential distances traveled, the analysis estimated the travel costs to be \$444. Also, lodging costs would be necessary for the two Board staff members. For this estimate, the analysis uses the median figure of \$125 which incorporates the reimbursement rates for all counties in California.¹³ The analysis uses maximum reimbursement allowance figures per day provided by CalHR to quantify the meals and incidental expenses-this figure is \$46. Therefore, considering the two-day trip, the sum of all costs associated with the inspection would be \$2,488.

As mentioned in Section 3, there is a five percent chance that the Board may determine that the modifications are inconsistent with the submitted documents under California Code of Regulations-this would prompt the project proponent to apply again. The analysis utilizes the same approach as in Section 3.1 and uses the sum of all previous fiscal costs of \$8,478¹⁴.

Therefore, the aggregated total fiscal costs for proposed section 4059 are \$10,966.

¹¹ Driving distances were estimated from airmilescalculator.com, <https://www.airmilescalculator.com>. Accessed 8/18/23.

¹² According to the GSA as of January 1st 2023, cost rates per mile for a privately owned automobile is \$0.66. <https://www.gsa.gov/plan-book/transportation-airfare-pov-etc/privately-owned-vehicle-pov-mileage-reimbursement>

¹³ <https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>

¹⁴ The \$8,748 figure comes from the aggregated fiscal totals from sections 4051, 4054, 4055, and 4058. These numbers can be seen in Table 2.

5. Benefits of the Proposed Regulations

Although the quantification of benefits associated with the proposed regulations is beyond the scope of this Economic Impact Assessment, there are many qualitative benefits. The standardization of the exemption process addresses issues of inconsistency which fosters a fair and impartial procedure for all future applicants. Also, because of the pre-submittal process, the Board is able to ensure that they are only reviewing Surface Mining Operations that would need an exemption under SMARA. Currently, the Board occasionally receives exemption requests for construction or agricultural projects that may have components that appear to be mining, but do not meet the definition of Surface Mining Operations under SMARA Section 2735. The pre-submittal process allows the Board to effectively screen out projects that are not Surface Mining Operations which conserves resources for both the Board and the agencies of these various industries seeking an exemption unnecessarily.

Additionally, the proposed regulations could, in theory, lead to reduced costs to operators, lead agencies, and the Board, as they would prevent superfluous actions, prevent unnecessary documents from being printed and/or submitted, and reduce the amount of correspondence needed between the Board and an applicant. Because of the unstandardized nature of the current exemption process, it is difficult to explicitly measure the potential reduced costs, but a standardized procedure that is publicly available should result in a more efficient process.

The thoroughness of the standardization would also provide the Board with better data and information to improve decision making. Lastly, the Public Hearing formally provides the public with an opportunity to voice their opinions in the exemption process. This could have many benefits for the communities in which the exemptions are taking place and also it could be beneficial for the Board's decision making to hear from multiple perspectives. The Public Hearing also provides the Board with a formal platform to ask the applicant questions which could potentially enlighten the decision-making process for an exemption.

6. Cost Impact in California

The Board estimates that the overall impact of the proposed regulations on California's economy would be negligible. The total direct and fiscal costs associated with the proposed regulations are a lower bound estimate of \$91,043 and upper bound of \$192,243. Therefore, the Board does not foresee the regulations significantly affecting the economy on either a macro or micro scale.

The Board projects that all additional work created by the regulations would be absorbed by positions already employed. So, it is assumed that no new jobs will be created or eliminated within the State of California as a result of the regulations. Similarly, the regulations would not expand businesses, create new businesses or eliminate existing businesses within California. Although the State and local agencies would bear the burden of costs ranging from \$91,043 to \$192,243, the standardization of the exemption process is expected to provide many benefits as discussed in the previous section.

7. Conclusion

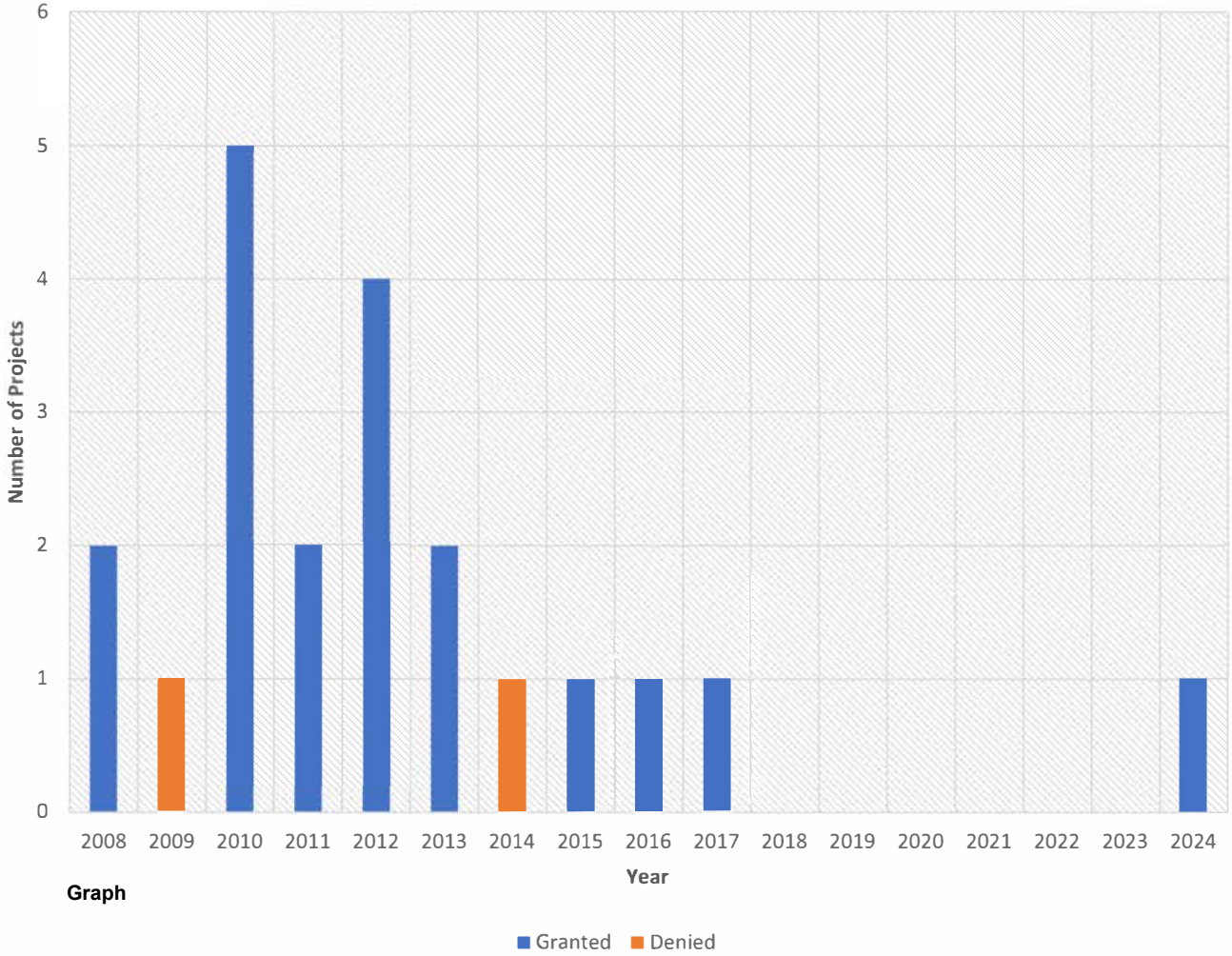
The standardization of the exemption process would have a miniscule impact on California's economy of \$91,043 to \$192,243. Given this range of estimates, the Board forecasts that the proposed regulations would not have significant fiscal impacts on individuals, businesses, or the government. The proposed regulations promote a more efficient method for the Board to grant applicant exemptions and provide various other benefits to the State of California.

Historical Data on PRC 2714(f)

Date	Project Name	General Activity Type	General Scope	General Location	Board Determination
2008	Willets Bypass	Highway construction	1,000,000 yds of fill, 27 acres	Mendicino County	Granted
2008	Willow Glen Drive	Road construction, rockfall protection	100,000 yds of fill, 3.9 acres	San Diego County	Granted
2009	Natomas Urban	Levee and canal improvements	85,000 yds of fill, 20 acres	Sacramento County	Denied
2010	California Vision	Site characterization for potential mine	4.48 acres	Kern County	Conditionally Granted
2010	M&T Ranch	Water intake and fish screen maintenance	150,000 tons of gravel	Butte County	Conditionally Granted
2010	Ford Construction	PG&E Easement construction	4,600 yds of fill	Tehema County	Granted
2010	Black Rock Project	California Energy Commision facility	300,000 yds of fill, 34 acres	Imperial County	Conditionally Granted
2010	Broome Ranch Project	Gravel removal following flood	100,000 yds of gravel	Ventura County	Granted
2011	Ojai Oil Company	Agricultural Mining	5,000 tons of boulders, 7 acres	Ventura County	Conditionally Granted
2011	Regional Beach Sand Project	Beach improvement	undetermined	City of San Diego	Granted
2012	Spanish Creek, Meadow Valley	River restoration	8,500 yds of gravel, 4.4 acres	Plumas County	Conditionally Granted
2012	WSID Main Canal	Renovation	5,000 yds of fill	Stanislaus County	Conditionally Granted
2012	Sand Creek	Flood management	30,000 of fill	Colusa County	Conditionally Granted
2012	East Area Project	Construction project	up to 340,000 tons of fill, 150 acres	City of Santa Paula	Conditionally Granted
2013	San Cayatano Orchard	Agricultural Mining	40,000 yds, 11 acres	Ventura County	Granted
2013	Mendicino Forest Products	Highway construction	800,000 yds, 22 acres	Mendicino County	Granted
2014	Barn Project	Highway construction	902,000 yds, 21.8 acres	Mendicino County	Denied
2015	Lower Clear Creek	River restoration	330,500 yds of sand, 43.5 acres	Shasta County	Granted
2016	Sycamore Road	Agricultural Mining	10 acres	Ventura County	Granted
2017	Hallwood Side Channel	Flood management and river restoration	3,200,000 yds of gravel	Yuba County	Conditionally Granted
2024	Gold Discover Group Atolia Project	Site characterization for potential mine	5.37 acres and 4yds	Kern County	Granted

Table

Historical Data on PRC 2714(f)





Agenda Item No. 13B

August 15, 2024

Consideration and approval of preliminary regulatory language and associated rulemaking package for the Board's designation of mineral lands in the Greater Sacramento Area Production-Consumption Region.

INTRODUCTION:

The Board proposes to designate certain mineral resource sectors within geographical areas to be of regional significance. Designation is the formal recognition by the Board of lands containing mineral resources of regional economic significance that are needed to meet the demands of the future. The Board proposes to add new proposed regulations which would add Section 3550.18 to Title 14, Article 2, of the California Code of Regulations (CCR), and provide a description of the locations of mineral resources areas designated to be of regional significance within the Greater Sacramento Area Production-Consumption Region (GSA), Sacramento County.

STATUTORY AND REGULATORY AUTHORITY:

The Board is proposing to adopt new proposed regulations which would add Section 3550.18 to Title 14, Article 2, of the California Code of Regulations. Public Resources code section 2755 and 2790 authorize the Board to adopt the proposed regulations. Specifically, Public Resources Code Section 2790 authorizes the Board to designate areas of regional significance in its regulations upon the receipt of mineral information from the State Geologist. The proposed regulation complies with Section 2790.

BACKGROUND AND DISCUSSION:

Established in 1885, the Board serves as a regulatory, policy, and hearing body representing the state's interests 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.

The Board proposes to adopt, by regulation set forth in CCR Section 3550.18 the designation of certain mineral resource sectors within geographical areas to be of regional significance. Designation is the formal recognition by the Board of lands containing mineral resources of regional economic significance that are needed to meet the demands of the future. Designation is based in the recommendations of the California Geological Survey (CGS) as delineated in a designation memo prepared by CGS. CGS bases their designation memo on the finding of the Special Reports that cover the GSA.

In 2018, CGS released Special Report 245 – Mineral Land Classification: Concrete Aggregate in the Greater Sacramento Area Production-Consumption Region (O'Neal and Gius, 2018). This report is the first mineral land classification (MLC) study of concrete aggregate resources in the newly defined GSA P-C Region.

Special Report 245 combines nine mineral studies CGS previously conducted into a single P-C Region. Additionally, Special Report 245 classifies approximately 3,500 square miles of previously unclassified land

within the GSA. The newly defined P-C Region covers approximately 6,080 square miles and includes the Sacramento-Fairfield and Yuba City-Marysville P-C Regions, Sacramento County, and the western portions of Nevada, Placer, and El Dorado County study areas. Additionally, lands within Yuba, Sutter, Yolo, and Solano counties, which had not been previously classified, are now classified in this new P-C Region.

Nine previous mineral land classification studies conducted between 1988 and 2010 evaluated portions of the GSA P-C region and identified a total of 85 sectors to be of regional or statewide significance. Special Report 245 incorporated and updated information from these previous studies to evaluate the mineral resource potential for PCC and AC grade aggregate within the GSA P-C region and showed that only some of the sectors are of significance presently: Sectors 1 through 43, 45, 46, 48, 49, 50, 52, 54 through 70, 72, 73, 75, 77, 78, 79, 81, 82, and 83 (Plate 1A, Plate 1B). Sectors 44, 47, 51, 53, 71, 74, 76, 80, 84, and 85 were either depleted by mining, lost to incompatible land uses, or determined to no longer be significant upon re-evaluation. Additionally, Special Report 245 identifies nine new sectors (Sectors 86 through 94) of significance.

At its February 14, 2019 regular business meeting, the Board accepted Special Report 245. On January 19, 2022, the State Geologist recommended for designation select mineral resource lands in the GSA P-C Region. In Special Report 245, the State Geologist identified several candidate areas which meet or exceed the threshold economic value, thus qualifying each area to be considered for designation as an area of regional or statewide significance by the Board.

Additionally, a petition for classification of mineral lands was submitted to the Board on November 4, 2020 by Teichert Materials for a 277-acre project area on the Shifler Property, which is located approximately 3 miles west of the town of Woodland in Yolo County. Two years prior, Special Report 245 had classified approximately 90 acres of the northern portion of the project area as MRZ-2, classified about 1.5 acres of the eastern portion of the project area as MRZ-1, and classified the majority of the remaining project area as MRZ-3.

The petition included drill logs that showed the presence of construction aggregate at mineable depths throughout the project area. In 2021, CGS produced a mineral land classification report (Special Report 255) for the Shifler property and subsequently re-classified the proposed mining project area within the property as MRZ-2 due to the presence of PCC grade aggregate. On January 4, 2021, the State Geologist recommended the Board accept the Shifler Property petition and at its January 21, 2021 regular business meeting, the Board accepted the request for petition. On May 20, 2021, the Board accepted Special Report 255.

Board staff prepared the proposed regulatory language and associated rulemaking package in consultation with the Department of Conservation. The rulemaking package consists of the proposed regulatory language for new CCR section 3550.18 and several documents required per the Administrative Procedure Act.

Please see the attached documents and links for your review:

1. Proposed regulatory language for new CCR section 3550.18,
2. Notice of Proposed Regulatory Action,
3. Initial Statement of Reasons,
4. Economic Impact Analysis,
5. [Special Report 255 – MLC of the Teichert Shifler Property.](#)
6. [Special Report 245 – MLC of the Greater Sacramento Production-Consumption Region.](#)
7. [Special Report 245 – CGS Designation Memorandum.](#)
8. [Special Report 245 Classification Map.](#)

Agenda Item 13B: Consideration and approval of preliminary regulatory language and associated rulemaking package for the Board's designation of mineral lands in the greater Sacramento area production-consumption region.

9. [Special Report 245 Sector Map A](#),
10. [Special Report 245 Sector Map B](#),
11. [Special Report 245 Designation Map A, and](#)
12. [Special Report 245 Designation Map B](#)

EXECUTIVE OFFICER RECOMMENDATION:

Approve the proposed regulatory language and associated rulemaking package and direct Board staff to proceed with the formal rulemaking process.

SUGGESTED MOTION:

Board Chair and Members, in light of the information before the Board today, I move that the Board approve the preliminary regulatory language and associated rulemaking package for the Board's designation of mineral lands in the greater Sacramento area production-consumption region, and direct Board staff to proceed with the rulemaking process.

Respectfully submitted:



Jeffrey Schmidt
Executive Officer

Attachments and links:

1. Proposed Regulatory Language for CCR sections 3550.18
2. Notice of Proposed Regulatory Action
3. Initial Statement of Reasons
4. Economic Impact Analysis
5. [Special Report 255 – MLC of the Teichert Shifler Property](#)
6. [Special Report 245 – MLC of the Greater Sacramento Production-Consumption Region](#)
7. [Special Report 245 – CGS Designation Memorandum](#)
8. [Special Report 245 Classification Map](#)
9. [Special Report 245 Sector Map A](#)
10. [Special Report 245 Sector Map B](#)
11. [Special Report 245 Designation Map A](#)
12. [Special Report 245 Designation Map B](#)

Agenda Item 13B: Consideration and approval of preliminary regulatory language and associated rulemaking package for the Board's designation of mineral lands in the greater Sacramento area production-consumption region.

GREATER SACRAMENTO AREA MINERAL DESIGNATION REGULATIONS

TEXT OF PROPOSED REGULATIONS

Added text is shown in underline.

Deleted text is shown in ~~strikethrough~~.

CALIFORNIA CODE OF REGULATIONS, TITLE 14

Division 2. Department of Conservation

Chapter 8. Mining and Geology

Subchapter 1. State Mining and Geology Board

Article 2. Areas Designated to be of Regional Significance

§ 3550.18. Greater Sacramento Area Production-Consumption Region

The State Geologist classified aggregate resources for the Greater Sacramento Area Production-Consumption Region in Special Report 245 (2018). The areas designated are shown on two Plates: Plate 1A and Plate 1B – Candidate Areas for Designation for Concrete Aggregate in the Greater Sacramento Area Production-Consumption Region (2022). These Plates are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

Urban expansion continues in the region, threatening to preclude mineral resource extraction. Consequently, it is important that land-use decisions be made recognizing the presence and importance of local aggregate resources. The purpose of the designation is to provide local governments with the information needed to identify and protect areas of construction aggregate from development incompatible with mining. This information is particularly important because the designated areas are located within an approximate 45-mile radius to the densely populated Sacramento region. Protection of these resources will allow aggregate to be transported to this region via the shortest distance possible for use. This will reduce transportation impacts including greenhouse gas emissions. Without this designation, areas with minerals and areas surrounding minerals may be developed in ways that are incompatible with mining. As a result, construction aggregate would have to be transported over longer distances, increasing cost and adverse environmental impact.

In addition, there is a substantial and important disparity between the geographic distribution of mineral resources and population centers within the Greater Sacramento region. Only a minor proportion of resources are located near population centers. If these resources become depleted or precluded due to land use changes, a significant increase in cost to the aggregate consumer and to the state in general should be expected, in the form of increasing aggregate cost, road wear and tear, traffic congestion, greenhouse gas emissions, and air pollution.

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

Sectors 1 through 9: Approximately 8,086 acres of dredge tailings and lesser alluvium located along the Yuba River from 7 to 20 miles upstream of the town of Marysville (Plate 1A).

Sectors 10 through 18: Approximately 6,020 acres of alluvium located along the Yuba River approximately from the town of Marysville to eight miles upstream (Plate 1A).

Sectors 19 through 34: Approximately 16,849 acres of alluvium located along Cache Creek, from the southern end of the Capay Valley eastward to within one-half mile of the Interstate 5 overpass (Plate 1A).

Sectors 35 and 36: Approximately 246 acres of fluvial sediments and hydraulic mining debris located on San Juan Ridge, about one mile southeast of North Columbia and about a mile north of the South Yuba River (Plate 1B).

Sectors 37 through 39: Approximately 345 acres of fluvial gravels, sands, and silts and metamorphic and igneous bedrock located along Greenhorn Creek, from two to nine miles upstream of its confluence with the Bear River at Rollins Reservoir (Plate 1B).

Sectors 40 and 41: Approximately 76 acres of fluvial gravels, sands, and silts and lesser metamorphic and igneous bedrock located on Steephollow Creek, just upstream of its confluence with the Bear River and about one mile upstream of Rollins Reservoir (Plate 1B).

Sectors 42 and 48: Approximately 1,428 acres of fluvial sediments located on the Bear River near the margin of the Great Valley, two to five miles east-northeast of Highway 65 at Wheatland (Plate 1B).

Sectors 43 and 52: Approximately 1,321 acres of fluvial sediments and quartz diorite located on Coon Creek near the margin of the Great Valley, approximately four miles east-southeast of Highway 65 at Sheridan (Plate 1B).

Sectors 45, 46, 49, and 50: Approximately 939 acres of fluvial sediments located along the Bear River from Lake Combie to about five miles upstream of Rollins Reservoir (Plate

1B).

Sector 54: Approximately 395 acres of bedrock, consisting predominantly of metavolcanic rocks, located off-channel, immediately adjacent to and upstream of Lake Combie (Plate 1B).

Sectors 55 through 66, 72, and 75: Approximately 2,768 acres of alluvium located in Sacramento from the intersection of Watt Avenue and Gerber Road to the intersection of Sunrise Blvd and White Rock Road (Plate 1A).

Sectors 67 through 70, and 73: Approximately 917 acres of fluvial sediments located immediately west of Sunrise Blvd at its intersection with Jackson Highway (Plate 1A).

Sectors 77 and 78: Approximately 127 acres of limestone located immediately east-northeast of Highway 49 and one mile north-northwest of the town of Cool (Plate 1B).

Sectors 79 and 81: Approximately 32 acres of limestone located approximately three miles east of the town of Diamond Springs north of Pleasant Valley Road and west of Cedar Ravine Road (Plate 1A).

Sector 82: Approximately 27 acres of marble located on the Middle Fork Consumnes River, approximately six miles upstream of the Mt. Aukum Road crossing and four miles southwest of the town of Grizzly Flats (Plate 1A).

Sector 83: Approximately 40 acres of limestone located along Indian Creek, about seven miles north of the town of Volcano and two and one-half miles south of Omo Ranch Road (Plate 1A).

Sector 86: Approximately 80 acres consisting predominantly of metavolcanic rock located adjacent to and northwest of the Bear River at the upstream end of Lake Combie (Plate 1B).

Sector 87: Approximately 595 acres of alluvium located immediately south of the Hammonton Dredge Field, approximately seven miles east-northeast of the town of Marysville and one and one-half miles south of the Yuba River (Plate 1A).

Sector 88: Approximately 874 acres of monzonitic to quartz-dioritic intrusive rocks and lesser metamorphosed sedimentary rocks located approximately one and one-half miles southeast of the intersection of White Rock Road and Scott Road, and south of the boundary of the City of Folsom (Plate 1A).

Sector 89: Approximately 206 acres predominantly of meta-volcanic rocks located adjacent to and west-northwest of the Bear River at the upstream end of Lake Combie (Plate 1B).

Sector 90: Approximately 668 acres of sediments located in Sacramento, less than half a mile south of Jackson Highway between Bradshaw and Excelsior roads (Plate 1A).

Sector 91: Approximately 293 acres of alluvium located immediately south of the Hammonton Dredge Field, approximately seven miles east-northeast of the town of Marysville and one and one-half miles south of the Yuba River (Plate 1A).

Sector 92: Approximately 561 acres of dredge tailings located in Rancho Cordova, approximately two and one-half miles southeast of the intersection of Highway 50 and Sunrise Blvd (Plate 1A).

Sector 93: Approximately 294 acres of dredge tailings located in Folsom, approximately one mile southeast of the intersection of White Rock Road and Grant Line Road (Plate 1A).

Sector 94: Approximately 309 acres of alluvium located about four miles east of Wheatland, adjacent to the Bear River and immediately north of and adjacent to Sectors 42 and 48 (Plate 1B).

Shifler Property: Approximately 442 acres of Portland cement concrete aggregate on the property located approximately 2.5 miles west of the town of Woodland, north of Highway 16 and County Road 22, and east of County Road 94B. The property consists of two parcels with APN 025-430-02 and 025-120-32 (Plate 1A).

Authority: 2755 and 2790, Public Resources Code, Reference: 2761, 2762, and 2790, Public Resources Code



NOTICE OF PROPOSED RULEMAKING ACTION

PROPOSED NEW REGULATIONS FOR DESIGNATION OF MINERAL LANDS IN THE GREATER SACRAMENTO AREA PRODUCTION-CONSUMPTION REGION,

TITLE 14. NATURAL RESOURCES Division 2. Department of Conservation Chapter 8. Mining and Geology Subchapter 1. State Mining and Geology Board Article 2. Areas Designation to be of Regional Significance

Notice Published: _____

Office of Administrative Law Notice File Number: **Z2024-XXXX-XX**

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (Board) proposes to adopt the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to designate certain mineral resource sectors within geographical areas to be of regional significance. Designation is the formal recognition by the Board of lands containing mineral resources of regional economic significance that are needed to meet the demands of the future. The Board proposes to add new proposed regulations which would add Section 3550.18 to Title 14, Article 2, of the California Code of Regulations (CCR), and provide a description of the locations of mineral resources areas designated to be of regional significance within the Greater Sacramento Area Production-Consumption Region (GSA), Sacramento County.

WRITTEN COMMENT PERIOD AND PUBLIC HEARING

Public Resources Code (PRC) section 2791 requires the Board to seek the recommendations of concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals in the identification of areas of statewide and regional significance. Any person, or his or her authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the Board.

Comments may be submitted by email smgbregulations@conservation.ca.gov or by mail to:

State Mining and Geology Board
ATTN: Greater Sacramento Area P-C Region
715 P Street, MS 19-09
Sacramento, CA 95814

The written comment period closes at 11:59 p.m. on MM/DD, 2024. The Board will only consider comments received by that time.

The Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

AUTHORITY AND REFERENCE

The Board is proposing to adopt new proposed regulations which would add Section 3550.18 to Title 14, Article 2, of the California Code of Regulations. Public Resources code section 2755 and 2790 authorize the Board to adopt the proposed regulations. The proposed regulation will implement, interpret, make specific or reference section 2762 of the Public Resources Code.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Board proposes to adopt, by regulation set forth in CCR Section 3550 the designation of certain mineral resource sectors within geographical areas to be of regional significance. Designation is the formal recognition by the Board of lands containing mineral resources of regional economic significance that are needed to meet the demands of the future. Designation is based in the recommendations of the California Geological Survey (CGS) as delineated in a designation memo prepared by CGS. CGS bases their designation memo on the finding of the Special Reports that cover the GSA.

In 2018, CGS released Special Report 245 – Mineral Land Classification: Concrete Aggregate in the Greater Sacramento Area Production-Consumption Region (O’Neal and Gius, 2018). This report is the first mineral land classification (MLC) study of concrete aggregate resources in the newly defined GSA P-C Region.

Special Report 245 re-evaluates, re-calculates, and combines parts of the nine previous mineral classification studies into a single P-C Region. Additionally, Special Report 245 classifies approximately 3,500 square miles of previously unclassified land within the GSA. The newly defined P-C Region covers approximately 6,080 square miles and includes the Sacramento-Fairfield and Yuba City-Marysville P-C Regions,

Sacramento County, and the western portions of Nevada, Placer, and El Dorado County study areas. Additionally, lands within the Yuba, Sutter, Yolo, and Solano counties, which had not been previously classified, are now classified in this new P-C Region.

Nine previous mineral land classification studies conducted between 1988 and 2010 evaluated portions of the GSA P-C region and identified a total of 85 sectors to be of regional or statewide significance. Special Report 245 incorporated and updated information from these previous studies to evaluate the mineral resource potential for PCC and AC grade aggregate within the GSA P-C region and showed that only some of the sectors are of significance presently: Sectors 1 through 43, 45, 46, 48, 49, 50, 52, 54 through 70, 72, 73, 75, 77, 78, 79, 81, 82, and 83 (Plate 1A, Plate 1B). Sectors 44, 47, 51, 53, 71, 74, 76, 80, 84, and 85 were either depleted by mining, lost to incompatible land uses, or determined to no longer be significant upon re-evaluation. Additionally, Special Report 245 identifies nine new sectors (Sectors 86 through 94) of significance.

At its February 14, 2019 regular business meeting, the Board accepted Special Report 245. On January 19, 2022, the State Geologist recommended for designation select mineral resource lands in the GSA P-C Region. The State Geologist identified several candidate areas which meet or exceed the Board's threshold economic value, thus qualifying each area to be considered for designation as an area of regional or statewide significance by the Board.

Additionally, a petition for classification of mineral lands was submitted to the Board on November 4, 2020 by Teichert Materials for a 277-acre project area on the Shifler Property, which is located approximately 3 miles west of the town of Woodland in Yolo County. Two years prior, Special Report 245 had classified approximately 90 acres of the northern portion of the project area as MRZ-2, classified about 1.5 acres of the eastern portion of the project area as MRZ-1, and classified the majority of the remaining project area as MRZ-3.

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CONSISTENCY WITH FEDERAL STATUTE AND REGULATION

This regulation does not duplicate nor conflict with existing federal statutes or regulations.

CONSISTENCY WITH EXISTING STATE REGULATIONS

The proposed regulatory change is not inconsistent nor incompatible with existing state regulations.

CEQA COMPLIANCE

The Board has determined that this rulemaking process is categorically exempt under Title 14, CCR section 15307 of the California Environmental Quality Act Guidelines. Thus, there is no environmental impact in considering the proposed regulatory language.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: Board staff determined that adoption of this regulation will impose mandates on lead agencies in the sense that under PRC section 2762, lead agencies who have received a new or updated designation in their area are required to update their Mineral Resource Management Policies in their General Plan within 12 months of the classification or designation. Board staff determined that adoption of this regulation does not impose any new mandates on local school districts.

Cost or savings to any state agency: Board staff determined this proposed regulation does not impose any additional cost obligations on state agencies.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: Board staff determined this proposed regulation does not impose any additional cost obligations that must be reimbursed on local agencies or on local school districts.

Other nondiscretionary cost or savings imposed on local agencies: Board staff determined that this proposed regulation imposes costs of between \$70,000 and \$130,000 in the first year and between \$0 and \$60,000 in the second year on local land use lead agencies. These amounts are cumulative expenses predicted to be incurred by the eight lead agencies in the GSA region. However, under PRC section 2207(e) local lead agencies may impose a fee on mining operations to cover the

costs of SMARA administration, thus there is no unfunded local mandate. School districts are not affected by the regulation.

Cost or savings in federal funding to the state: Board staff determined that there are no costs or savings in federal funding to the State.

Costs impacts on a representative private person or business: The imposition of the proposed regulatory language on a directly affected local mining operation will have a positive cost impact to the operation by the recognition of the designated mineral land of regional significance which in some circumstances may reduce the amount of time, and thus cost, in acquiring a permit to mine from its lead agency.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: Board staff determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language. The imposition of the proposed new regulation will have no cost impact on businesses, and no existing businesses in California will be expanded or eliminated. The proposed regulatory language serves as a planning tool for local government (counties and cities) and considering future land use as it relates to surface mining of aggregates.

Significant effect on housing costs: Board staff has determined that the adoption of these regulations will have no significant effect on housing costs.

Small business determination: Board staff has determined that the designation of mineral lands areas will have no effect on small businesses. The imposition of the proposed amendment will have no cost impact on small businesses. The proposed regulatory language allows lead agencies to consider the regional significance of mineral lands designated by the Board when making land use decisions but does not impose any fees or costs to business as part of that consideration.

Business reporting requirement: None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Creation or elimination of jobs within California: The proposed regulations will not create or eliminate jobs within California.

Creation of new businesses or the elimination of existing businesses within California: The proposed regulations will not create new businesses or eliminate existing businesses.

Expansion of businesses currently doing business within California: The proposed regulations will not lead to the expansion of businesses currently doing business within California.

Benefits to the health and welfare of California residents, worker safety, and the state's environment: The proposed regulations will benefit the welfare of California residents because it will provide protection of additional local resources for PC concrete aggregate, which will reduce negative effects to the environment caused by long-distance transport.

CONSIDERATION OF ALTERNATIVES

One alternative to designating mineral lands in the GSA P-C region considered was to perform no such designation. This alternative was rejected based on the determination that the preservation of proximal mineable aggregate was necessary to meet the aggregate demands of the region and avoid the consequences of long-distance transportation of aggregate. Designation of an area of regional significance requires lead agencies to justify a decision to permit development that "would threaten the potential to extract minerals..." and to consider "balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction."

No other alternatives have been considered by the Board at this time that would be more effective in carrying out the purpose for which the regulatory action is proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses. Furthermore, no alternative has been considered by the Board at this time that would more cost effect and equally as effective to affected private persons, lead agencies, or small businesses.

CONTACT PERSONS

Inquiries concerning the substance of the proposed amended regulation should be directed to:

Paul Fry, Senior Geologist
State Mining and Geology Board
715 P Street, MS 1909
Sacramento, CA 95814
Phone: (916) 324-0681
Paul.Fry@conservation.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of this regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which this rulemaking is based to Paul Fry at the above address.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons, and a standard form 399.

Copies of these documents may be obtained by contacting Paul Fry at the address and phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period and any hearing that may be conducted by the Board to accept comments and evidence regarding the adoption of the proposed regulation, the Board will consider all timely and relevant comments received. Thereafter, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Paul Fry at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Paul Fry at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed amended text of the regulation can be accessed through our webpage at: <https://www.conservation.ca.gov/smgb/Pages/Rulemaking/index.aspx>



INITIAL STATEMENT OF REASONS

PROPOSED NEW REGULATIONS FOR DESIGNATION OF MINERAL LANDS IN THE GREATER SACRAMENTO AREA PRODUCTION-CONSUMPTION REGION

TITLE 14. NATURAL RESOURCES Division 2. Department of Conservation Chapter 8. Mining and Geology Subchapter 1. State Mining and Geology Board Article 2. Areas Designation to be of Regional Significance

GENERAL PURPOSE AND CONDITION ADDRESSED

Article 6 of the Surface Mining and Reclamation Act of 1975 (SMARA), commencing with Public Resources Code (PRC) section 2790, provides for the State Mining and Geology Board (Board), based upon mineral information from the State Geologist pursuant to subdivision (d) of PRC section 2761, to adopt in regulation specific geographic areas of the state as areas of statewide or regional mineral resource significance and specify the boundaries of those areas.

Aggregate, which is a collection of sand, gravel, and crushed rock, is used to provide bulk and strength to Portland cement concrete (PCC), asphaltic concrete (AC), Class II Base, and other aggregate commodities such as subbase, drain, and fill. The material specifications for PCC and AC aggregates are more restrictive than specifications for the other commodities. Given these restrictions, deposits acceptable for use as PCC or AC aggregate are the scarcest and most valuable aggregate resources. Because aggregate is a low unit-value, high bulk-weight commodity, it must be obtained from nearby sources to minimize economic and environmental costs associated with transportation.

To ensure that mineral materials will be available when needed and do not become inaccessible because of inadequate information during the land-use decision making process, the State Geologist identifies and classifies lands containing significant mineral deposits. The classification of these lands is published by the California Geological Survey (CGS) in Mineral Land Classification reports. These reports identify resources areas that fall under:

To ensure that mineral resources will be available when needed and do not become inaccessible because of inadequate information during the land-use decision making process, the State Geologist identifies and classifies lands containing significant mineral deposits. The classification of these lands is published by the California Geological Survey (CGS) in Mineral Land Classification reports. These reports identify resources areas that fall under:

- PRC 2761(b)(1) - An area that contains mineral deposits and is not of regional or statewide significance.
- PRC 2761(b)(2) – An area that contains mineral deposits and is of regional or statewide significance.
- PRC 2761(b)(3) – An area that contains mineral deposits, the significance of which requires further evaluation.

To be considered significant for the purpose of classification, a mineral deposit, or group of mineral deposits that can be mined as a unit, must meet marketability and threshold value criteria adopted by the Board. Threshold values are intended to indicate the approximate minimum size of a mineral deposit that will be considered for classification and designation. The value criteria vary for different mineral deposits depending on their uniqueness and commodity-type category. The threshold value of construction materials in 2017 and 2020 was \$20.25 million and \$22 million, respectively, and the price of concrete-grade aggregate in the GSA P-C region ranged from \$9 to \$22 per ton, so to be considered significant, a deposit of construction materials must contain at least 1.22 million tons of aggregate material.

In 2018, CGS produced a mineral land classification report (Special Report 245) on a newly denoted Greater Sacramento Area (GSA) Production-Consumption (P-C) Region. This report combined the Sacramento-Fairfield and Yuba City-Marysville P-C Regions, the Sacramento County study area, and the western portions of the Nevada, Placer, and El Dorado study areas into a single P-C region along with newly classified lands within Yuba, Sutter, Solano, and Yolo counties. As a result, about 2,580 square miles of classified land was combined with about 3,500 square miles of unclassified land to form a single approximately 6,080 square mile P-C Region.

Nine previous mineral land classification studies conducted between 1988 and 2010 evaluated portions of the GSA P-C region and identified a total of 85 sectors to be of regional or statewide significance. Special Report 245 incorporated and updated information from these previous studies to evaluate the mineral resource potential for PCC and AC grade aggregate within the GSA P-C region and showed that only some of the sectors are of significance presently: Sectors 1 through 43, 45, 46, 48, 49, 50, 52, 54 through 70, 72, 73, 75, 77, 78, 79, 81, 82, and 83 (Plate 1A, Plate 1B). Sectors 44, 47, 51, 53, 71, 74, 76, 80, 84, and 85 were either depleted by mining, lost to incompatible land uses, or determined to no longer be significant upon re-evaluation. Additionally, Special Report 245 identifies nine new sectors (Sectors 86 through 94) of significance.

On January 19, 2022, the acting State Geologist recommended for designation select mineral resource lands in the GSA P-C Region. This decision was largely guided by Special Report 245. In Special Report 245, the State Geologist identified several candidates, or areas, which meet or exceed the Board's threshold economic value, thus qualifying each area to be considered for designation as an area of regional or statewide significance.

Additionally, Teichert Material submitted a petition for a reclassification of a project area as MRZ-2 for PCC aggregate under 2761(b)(2). This petition was for a 277-acre project area on the Shifler Property, which is located approximately 3 miles west of the town of Woodland in Yolo County. Special Report 245 had initially classified approximately 90 acres of the northern portion of the project area as MRZ-2 (2761(b)(2)), classified about 1.5 acres of the eastern portion of the project area as MRZ-1 (2761(b)(1)), and classified the majority of the remaining project area as MRZ-3 (2761(b)(3)). The petition requested that the entire area be classified as regionally significant under 2761(b)(2).

The petition included drill logs that showed the presence of construction aggregate at mineable depths throughout the project area. In 2021, CGS produced a mineral land classification report (Special Report 255) for the Shifler property and subsequently re-classified the entire proposed mining project area within the property as regionally significant due to the presence of PCC grade aggregate. On January 4, 2021, the State Geologist recommended the Board accept the Shifler Property petition and at its January 21, 2021 regular business meeting, the Board accepted the request for petition. On May 20, 2021, the Board accepted Special Report 255.

As urban expansion continues in the GSA P-C region, areas containing mineral resource deposits are threatened to be developed with alternative land uses. Consequently, it is important that land-use decisions be made with consideration to the presence and importance of local aggregate resources. The proposed new regulations, California Code of Regulations, article 2, section 3550.18, are intended to establish mineral lands that are designated by the Board as having regional significance within the GSA P-C Region and reflect the findings in Special Reports 245 and 255.

Public Input Efforts Preceding this Rulemaking

Extensive public outreach has been conducted regarding the regulations. The Board conducted pre-rulemaking workshops on January 23, 2024 with representatives from the lead agencies and on February 27, 2024 with members of the general public. Additional comments from Board members and members of industry were received during the presentation of Special Report 245 at the February 14, 2019 Board regular business meeting and the presentation of Special Report 255 at the May 20, 2021 Board regular business meeting.

SPECIFIC PURPOSE, RATIONALE, AND BENEFITS OF EACH REGULATION

PRC Section 2790 provides the SMGB the authority to adopt regulations that establish state policy for the designation of mineral lands of statewide or regional significance. PRC section 2790 states that after receipt of mineral information from the State Geologist, the Board may, by regulation adopted after a public hearing, designate specific geographic areas of the state as areas of statewide or regional significance and specify the boundaries thereof. Such designation shall be included as a part of the state policy and shall indicate the reason for which the particular area designated is of significance to the state or region, the adverse effects that might result from premature development of incompatible land uses, the advantages that might be achieved from extraction of the minerals of the area, and the specific goals and policies to protect against the premature incompatible development of the area. This regulation is necessary to designate mineral resources consistent with these statutory goals. Urban expansion continues in the region, threatening to preclude mineral resource extraction. Consequently, it is important that land-use decisions be made recognizing the presence and importance of local aggregate resources. The purpose of the designation is to provide local governments with the information needed to protect areas of construction aggregate from development incompatible with mining. This information is particularly important because the designated areas are located in close proximity to the densely populated Sacramento region. Protection of these resources will allow aggregate to be transported to this region via the shortest distance possible for use. This will reduce transportation impacts including greenhouse gas emissions. Without this designation, areas with minerals and areas surrounding minerals may be developed in ways that are incompatible with mining. As a result, construction aggregate would have to be transported over longer distances, increasing cost and adverse environmental impact.

In addition, there is a substantial and important disparity between the geographic distribution of mineral resources and population centers within the Greater Sacramento region. Only a minor proportion of resources are located near population centers. If these resources become depleted or precluded due to land use changes, a significant increase in cost to the aggregate consumer and to the state in general should be expected, in the form of increasing aggregate cost, road wear and tear, traffic congestion, greenhouse gas emissions, and air pollution.

Section 3550.18 defines the areas for designation due to the significant presence of construction aggregate deposits. The purpose of including each area is to ensure that the mineral resource potential of the land is recognized and considered before

local land-use decisions are made that could preclude development of the mineral resource. As previously stated, because these aggregates are a low unit-value, high bulk-weight commodity, the aggregate deposits need to be located proximally to the areas where the aggregates will be used, else the cost of transportation will quickly render use of the aggregates infeasible. Consequently, there is inherent benefit to designate lands where construction aggregates are located to facilitate land-use decisions that are compatible with extraction of the aggregates. As transportation distances of aggregates increase, so do fuel consumption, greenhouse gas emissions, air pollution, traffic congestion, road maintenance costs, and construction costs. The benefit of this designation will be local land use decisions that take mineral resources into account, with the resulting reduction in transportation impacts if resources are developed.

CEQA COMPLIANCE

The Board has determined that this rulemaking process is categorically exempt under Title 14, CCR section 15307 of the California Environmental Quality Act Guidelines. Thus, there is no environmental impact in considering the proposed regulatory language.

ECONOMIC IMPACT

The Board has made the following determinations, based in part on the Economic Impact Analysis prepared for this proposed amended regulation:

Mandate on local agencies and school districts: Board staff determined that adoption of this regulation will impose mandates on lead agencies in the sense that under PRC section 2762, lead agencies who have received a new or updated designation in their area are required to update their Mineral Resource Management Policies in their General Plan within 12 months of the classification or designation. Board staff determined that adoption of this regulation does not impose any new mandates on local school districts.

Costs or savings to any State agency: Board staff determined this proposed regulation does not impose any additional cost obligations on state agencies.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: Board staff determined that this proposed regulation imposes costs of between \$70,000 and \$130,000 in the first year and between \$0 and \$60,000 in the second year on local land use lead agencies. These amounts are cumulative expenses predicted to be incurred by the eight lead agencies in the GSA region. However, under PRC section 2207(e) local lead agencies may impose a fee on mining operations to cover the

costs of SMARA administration, thus there is no unfunded local mandate. School districts are not affected by the regulation.

Other non-discretionary costs or savings imposed upon local agencies: Board staff determined that there are no other non-discretionary costs or savings to local agencies are imposed by the proposed regulations.

Cost or savings in federal funding to the State: Board staff determined that there are no costs or savings in federal funding to the State.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: Board staff determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language. The imposition of the proposed new regulation will have no cost impact on businesses, and no existing businesses in California will be expanded or eliminated. The proposed regulatory language serves as a planning tool for local government (counties and cities) and considering future land use as it relates to surface mining of aggregates.

Potential cost impact on private persons or directly affected businesses: Board staff has determined that the proposed regulatory language will not have a potential cost impact on private persons.

Creation or elimination of jobs in California: Board staff has determined that the adoption of these regulations will not:

- Create nor eliminate jobs within California;
- Create new nor eliminate existing businesses within California;
- Expand businesses currently doing business in California.

Board staff have determined that the adoption of this regulation will benefit the health and welfare of California residents and the state's environment by providing sufficient information for local governments to reduce transportation costs for aggregate minerals by refraining from permitting incompatible uses near in and near designated mineral zones.

Significant effect on housing costs: Board staff has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: Board staff has determined that the designation of mineral lands areas will have no effect on small businesses. The imposition of the proposed amendment will have no cost impact on small businesses. The proposed regulatory language allows lead agencies to consider the regional significance of mineral lands designated by the Board when making land use decisions but does not impose any fees or costs to business as part of that consideration.

ALTERNATIVES CONSIDERED

One alternative to designating mineral lands in the GSA P-C region considered was to perform no such designation. This alternative was rejected based on the determination that the preservation of proximal mineable aggregate was necessary to meet the aggregate demands of the region and avoid the consequences of long-distance transportation of aggregate discussed in greater detail in the General Purpose section.

No other alternatives have been considered by the Board at this time that would be more effective in carrying out the purpose for which the regulatory action is proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses. Furthermore, no alternative has been considered by the Board at this time that would more cost effective and equally as effective to affected private persons, lead agencies, or small businesses.

CONSISTENCY WITH FEDERAL REGULATIONS

This regulation change does not duplicate nor conflict with existing Federal statutes or regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the Board, SMARA and federal law are coordinated to eliminate duplication.

CONSISTENCY WITH STATE REGULATIONS

The proposed regulations are not inconsistent nor incompatible with existing state regulations.

DOCUMENTS RELIED UPON

- The Economic Impact Analysis and STD 399 for the proposed regulations.
- Austin P. C. (2009). *Balance diagnostics for comparing the distribution of baseline covariates between treatment groups in propensity-score matched samples*. *Statistics in medicine*, 28(25), 3083–3107.
<https://doi.org/10.1002/sim.3697>
- Berck, P., (2005). *Working Paper 994, A Note on the Environmental Costs of Aggregates*. Department of Agricultural and Resource Economics and Policy, Division of Agriculture and Natural Resources, University of California at Berkeley. <https://nature.berkeley.edu/pberck/Research/WP%20994%20Berck-Aggregates%20IV.pdf>
- Bohlen, Steven R., (2022, January 19). *Memorandum: Designation of the Greater Sacramento Area Production-Consumption Region*. Department of Conservation.
- The California Environmental Quality Act (CEQA).
<https://wildlife.ca.gov/Conservation/Environmental-Review/CEQA#:~:text=The%20California%20Environmental%20Quality%20Act>

%20(CEQA)%20serves%20to%3A&text=Prevent%20or%20minimize%20damage%20to,mitigation%20measures%2C%20and%20mitigation%20monitoring.

- Ford, George S. (May 2022). *What is the Effect of Rock Quarries on Home Prices? An Empirical Analysis of Three Cities*. Phoenix Center Policy Paper No. 57. <http://dx.doi.org/10.2139/ssrn.4159781>
- Marquis, G. (2021). *Mineral Land Classification of the Teichert Shifler Property, Yolo County, California for Portland Cement Concrete Aggregate* (Special Report 255). Department of Conservation.
- Neelawala, Prasad et. al. (2012). *The impact of mining and smelting activities on property values: a study of Mount Isa city, Queensland, Australia*. *The Australian Journal of Agricultural and Resource Economics*, 57, pp. 60–78. doi: 10.1111/j.1467-8489.2012.00604.x
- O'Neal, M., & Gius, F. (2018). *Mineral Land Classification: Concrete Aggregate in the Greater Sacramento Area Production-Consumption Region* (Special Report 245). Department of Conservation.
- State Mining and Geology Board. (2021, May 20). *Regular Business Conformed Minutes*.
- State Mining and Geology Board. (2019, February 14). *Regular Business Conformed Minutes*.
- State Mining and Geology Board. (1977/1979/1983/2000). *Special Publication 51: State Policy for Surface Mining and Reclamation Practice*. Department of Conservation.
- State Mining and Geology Board (January 2024). *Lead Agency Economic Survey and Responses*.
- State of California Department of Finance. *Gross State Product*. <https://dof.ca.gov/forecasting/economics/economic-indicators/gross-state-product/>

INCORPORATION BY REFERENCE

As the maps referenced in the regulation are large and cumbersome, it would be unduly expensive and otherwise impractical to publish them in the California Code of Regulations. However, the maps are readily available in the offices of the Board, as well as published on the Board's website.

Greater Sacramento Area Mineral Designation Draft Regulations

DRAFT Economic Impact Assessment

1. SUMMARY OF ECONOMIC IMPACT ASSESSMENT

The Greater Sacramento Area (GSA) mineral designation draft regulations would have minimal economic impact on California's mining industry and no noticeable consequences to the state economy. The economic impact is summarized as follows:

- Total direct costs to lead agencies would be an estimated range of \$70,000 to \$130,000 in the first year after the proposed regulations were effective ("Year 1") and a range of \$0 to \$60,000 in the second year ("Year 2"). This analysis is explained in Section 3.
- Given California's Gross State Product (GSP) of over \$3 trillion, the direct costs to lead agencies is negligible to California's economy.¹
- There would be virtually no impact on the creation or elimination of jobs within California, no impact on the expansion of businesses within the state, no impact on the creation of new businesses or the elimination of existing businesses within the state, and no impact on the ability of businesses within the state to compete with businesses in other states.
- Although not quantified in this analysis, there are potential qualitative costs and benefits from the proposed regulations. These impacts are addressed in Section 4.
- The proposed regulations would not have significant economic impacts on individuals, businesses, or the government.

2. GENERAL PURPOSE AND CONDITION ADDRESSED

Article 6 of the Surface Mining and Reclamation Act of 1975 (SMARA), commencing with Public Resources Code (PRC) section 2790, provides for the State Mining and Geology Board (Board), based upon mineral information from the State Geologist pursuant to subdivision (b) of PRC section 2761, to adopt in regulation specific geographic areas of the state as areas of statewide or regional mineral resource significance and specify the boundaries of those areas.

Aggregate, which is a collection of sand, gravel, and crushed rock, is used to provide bulk and strength to Portland cement concrete (PCC), asphaltic concrete (AC), Class II Base, and other aggregate commodities such as subbase, drain, and fill. The material specifications for PCC and AC aggregates

¹ State of California Department of Finance, "Gross State Product," <https://dof.ca.gov/forecasting/economics/economic-indicators/gross-state-product/>

are more restrictive than specifications for the other commodities. Given these restrictions, deposits acceptable for use as PCC or AC aggregate are the scarcest and most valuable aggregate resources. Because aggregate is a low unit-value, high bulk-weight commodity, it must be obtained from nearby sources to minimize economic and environmental costs associated with transportation.

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To be considered significant for the purpose of classification, a mineral deposit, or group of mineral deposits that can be mined as a unit, must meet marketability and threshold value criteria adopted by the Board. Threshold values are intended to indicate the approximate minimum size of a mineral deposit that will be considered for classification and designation. The value criteria vary for different mineral deposits depending on their uniqueness and commodity-type category. The threshold value of construction materials in 2017 and 2020 was \$20.25 million and \$22 million, respectively, and the price of concrete-grade aggregate in the GSA P-C region ranged from \$9 to \$22 per ton, so to be considered significant, a deposit of construction materials must contain at least 1.22 million tons of aggregate material.

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Nine previous mineral land classification studies conducted between 1988 and 2010 evaluated portions of the GSA P-C region and identified a total of 85 sectors to be of regional or statewide significance. Special Report 245 incorporated and updated information from these previous studies to evaluate the mineral resource potential for PCC and AC grade aggregate within the GSA P-C region and showed that only some of the sectors are of significance presently: Sectors 1 through 43, 45, 46, 48, 49, 50, 52, 54 through 70, 72, 73, 75, 77, 78, 79, 81, 82, and 83 (Plate 1A, Plate 1B). Sectors 44, 47, 51, 53, 71, 74, 76, 80, 84, and 85 were either depleted by mining, lost to incompatible land uses, or determined to no longer be significant upon re-evaluation. Additionally, Special Report 245 identifies nine new sectors (Sectors 86 through 94) of significance.

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Additionally, Teichert Material submitted a petition for a reclassification of a project area as MRZ-2 for PCC aggregate under 2761(b)(2). This petition was for a 277-acre project area on the Shifler Property, which is located approximately 3 miles west of the town of Woodland in Yolo County. Special Report 245 had initially classified approximately 90 acres of the northern portion of the project area as MRZ-2 (2761(b)(2)), classified about 1.5 acres of the eastern portion of the project area as MRZ-1 (2761(b)(1)), and classified the majority of the remaining project area as MRZ-3 (2761(b)(3)). The petition requested that the entire area be classified as regionally significant under 2761(b)(2).

The petition included drill logs that showed the presence of construction aggregate at mineable depths throughout the project area. In 2021, CGS produced a mineral land classification report (Special Report 255) for the Shifler property and subsequently re-classified the entire proposed mining project area within the property as regionally significant due to the presence of PCC grade aggregate. On January 4, 2021, the State Geologist recommended the Board accept the Shifler Property petition and at its January 21, 2021 regular business meeting, the Board accepted the request for petition. On May 20, 2021, the Board accepted Special Report 255.

As urban expansion continues in the GSA P-C region, areas containing mineral resource deposits are threatened to be developed with alternative land uses. Consequently, it is important that land-use decisions be made with consideration to the presence and importance of local aggregate resources. The proposed new regulations, California Code of Regulations, article 2, section

3550.18, are intended to establish mineral lands that are to be designated by the Board as having regional significance within the GSA P-C Region and reflect the findings in Special Reports 245 and 255.

3. DIRECT COSTS TO LEAD AGENCIES

There are various economic costs associated with the proposed regulations in both Years 1 and 2. The direct costs to lead agencies can be seen in Figure 1 and will be discussed in Section 3.

Figure 1 - Direct Costs to Lead Agencies

Cost	Year 1	Year 2
Direct Costs to Lead Agency	\$70,000 - \$130,000	\$0 - \$60,000

The following direct costs have been estimated after collecting responses to a survey created by the Board to quantify economic impacts associated with the proposed regulations. The survey was responded to by several representatives of various lead agencies in the GSA. The analysis acknowledges that the survey responses may not be representative of the population of lead agencies in the GSA due to the small sample size.² In addition to the survey, the Board informally interviewed several subject matter experts to discuss economic impacts of mineral designation. Along with these informal interviews, the Board held a lead agency meeting which gave attendees an opportunity to opine about the potential economic impacts of mineral designation in their jurisdiction. The comments from this hearing were also considered.

PRC section 2762 requires lead agencies who have received a new or updated mineral classification or designation in their area to update their Mineral Resource Management Policies in the General Plan within 12 months of the classification or designation. Therefore, lead agencies under the jurisdiction of any of the areas to be affected by the proposed regulations may need to update the mineral resource management policy in Year 1 if they did not act when the classification report was released. Updating a mineral resource management policy in the general plan costs a lead agency about \$8,750 in staff and consultant time.³ There are eight lead agencies in the GSA to be

² Only four of the eight lead agencies to be affected by the regulations responded to the survey (50%).

³ \$8,750 is the sample mean from the four responses that were collected from the Department's survey. This sample mean may be subject to nonresponse bias as only four out of the eight lead agencies of interest in the GSA responded. However, the sample mean was chosen as the best

affected by the proposed regulations. Multiplying the \$8,750 figure by the number of lead agencies to be affected amounts to \$70,000 in Year 1 with no costs in Year 2.

PRC section 2763 requires lead agencies to release a statement specifying the reason for permitting a proposed use that may affect minerals designated by the Board as significant. The lead agency must also hold a public hearing on the issue. As a result of the additional designation and classifications from the proposed regulations, PRC section 2763 would therefore require the lead agencies to prepare a statement specifying the reasons for permitting an incompatible activity and hold a public hearing. This would cost a lead agency about \$7,500 in staff and consultant time.⁴ However, three out of the four respondents indicated that they do not anticipate the need for preparing a statement while one respondent answered “unknown”. This was a challenging decision for the analysis considering the small sample size and inevitable uncertainty from the other lead agencies. Without survey responses from other lead agencies, the analysis took the three responses indicating no need for such statement at face value and calculated a lower bound range of \$0 for all lead agencies with this assumption. Then, the analysis attempted to mitigate the “unknown” by assuming that each lead agency will prepare one such statement in both Years 1 & 2. Considering both the lower and upper bound range, the estimated costs associated with PRC section 2763 amount to a range of \$0 to \$60,000 in Years 1 and 2.

In total, direct costs to lead agencies are \$70,000 to \$130,000 in Year 1 and \$0 to \$60,000 in Year 2.

4. OTHER POTENTIAL COSTS AND BENEFITS

Section 3 discussed the direct costs to lead agencies that are quantifiable and within the scope of the analysis. Section 4 will address costs and benefits related

statistic to represent the population as it better captures the min and max variation than the sample median. Utilizing the max value to create an estimate for the eight lead agencies was considered but ultimately determined to be unnecessarily conservative. Another method that was considered was to calculate a 95% confidence interval of the sample mean and then display the cost estimate intervals in a lower and upper bound format. However, this method was determined to be problematic with an unknown population standard deviation, unknown population distribution, and a significantly small sample.

It is also worth noting that two out of the four responses reported a cost of \$0. It is plausible that a lead agency may not have any costs associated with PRC section 2762. Therefore, the values of \$0 were not excluded from the sample mean to best replicate the population mean.

⁴ Again, the sample mean from the four survey responses is utilized for this estimate and the analysis acknowledges the potential of nonresponse bias.

to the regulation that were considered but were not within the scope to quantify for this economic impact assessment.

4.1. Property Values

Without substantial academic literature to understand how mineral designations and classifications affect property values in California, it is difficult to produce an estimate on such dollar amount. Responses from the Board's survey and discussion with various subject matter experts (SMEs) within the industry suggest that there is likely no significant impact on property values (both residential and commercial) after an area has been designated or classified. Despite the potential impact that mining has on property values, simply designating or classifying an area likely does not affect housing prices.⁵⁶ Without sufficient data to determine a causal impact, the analysis will not quantify such effect with any degree of certainty.

However, it is worth noting that there have been several historical examples of mineral designations in California that the analysis used to compare if a similar impact would occur in the GSA. Of the eight mineral designations that have occurred in California since 2011, the analysis determined the county most akin to Sacramento in terms of population, location, and median home prices is the San Joaquin County.^{7,8} Figure 2 illustrates this similarity in terms of median home values from 2010 to 2023.⁹

⁵ Literature on the mining's impact on property values suggests differing conclusions. For example, one paper suggests that mining does not negatively impact housing prices. Ford, George S., What is the Effect of Rock Quarries on Home Prices? An Empirical Analysis of Three Cities (May 2022). Phoenix Center Policy Paper No. 57 (2022), Available at SSRN: <https://ssrn.com/abstract=4159781> or <http://dx.doi.org/10.2139/ssrn.4159781>

⁶Another paper uses data in Australia and focuses on lead and copper mining, but a case can be made that the findings are applicable to aggregate mining in California. Neelawala, Prasad et. al. "The impact of mining and smelting activities on property values: a study of Mount Isa city, Queensland, Australia". *The Australian Journal of Agricultural and Resource Economics*, 57, pp. 60–78. 2012. doi: 10.1111/j.1467-8489.2012.00604.x

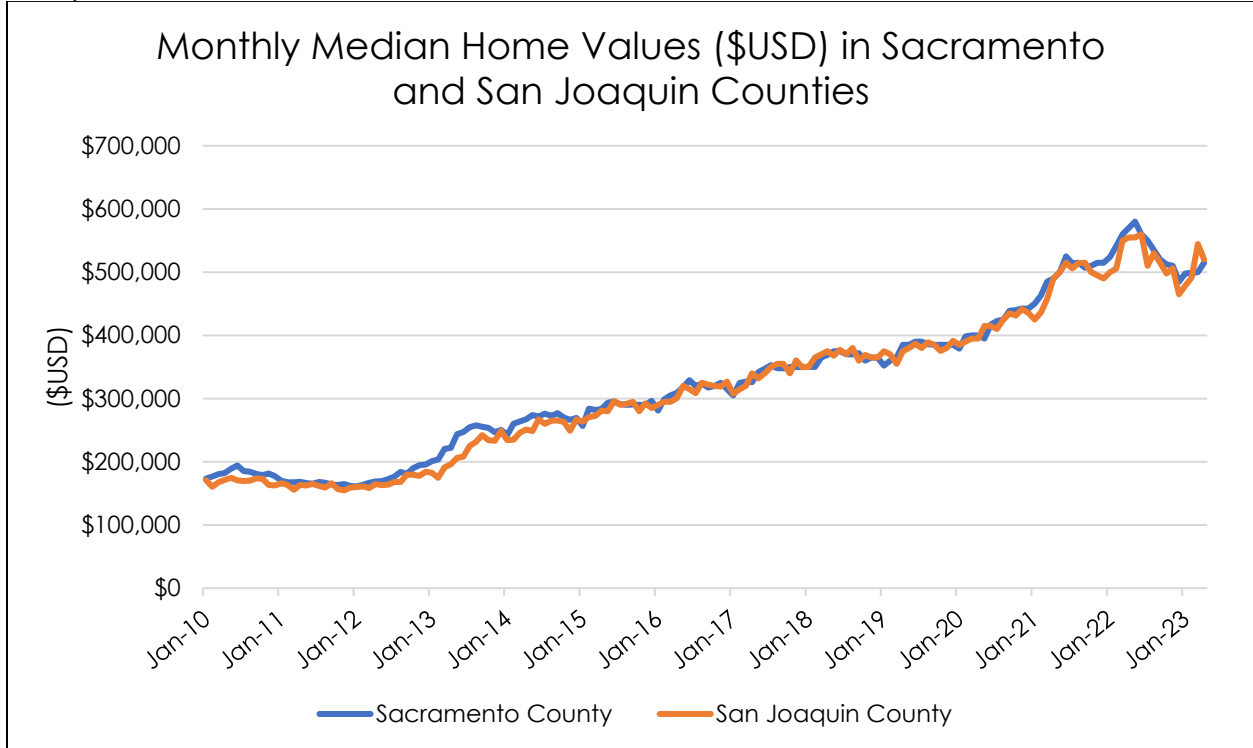
The paper by Neelawala may be relevant because of aggregate mining's reported environmental externalities associated such as, noise, dust, and visual disamenity in the production of minerals- [https://doi.org/10.1016/S0301-4207\(99\)00012-4](https://doi.org/10.1016/S0301-4207(99)00012-4). Although the literature suggests varying conclusions, the economic impact assessment will focus on the impact of designations in the GSA, not mining activities.

⁷ The other seven counties that received a mineral designation since 2011 were Bakersfield (2011), Riverside (2014), San Bernadino (2014), Los Angeles (2014), Napa (2016), Marin (2016), and Sonoma (2016).

⁸ The proposed regulations will affect multiple counties within the GSA. However, Sacramento County was utilized to analyze property value impacts.

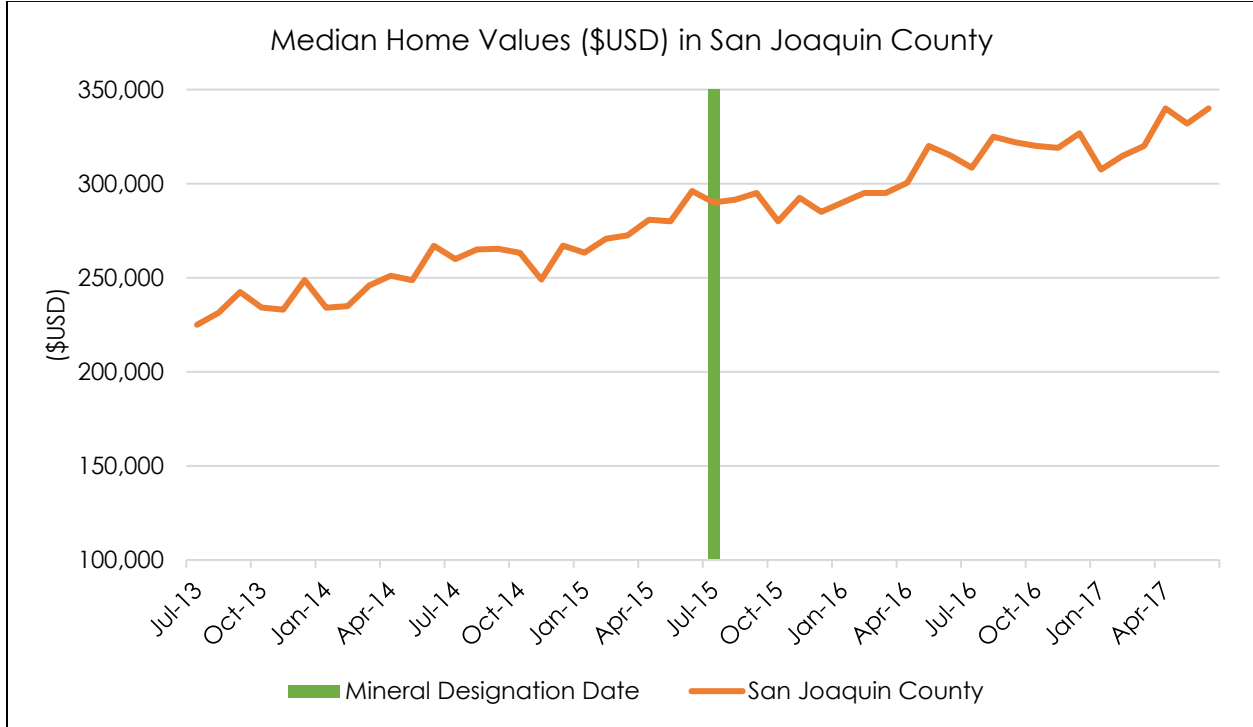
⁹ Data was obtained from the California Association of Realtors (CAR) and consists of monthly median prices for single family detached homes only.

Figure 2 - Median home values (\$USD) in Sacramento and San Joaquin counties (2010-2023).



San Joaquin County received a mineral designation in July of 2015 and the analysis uses time series housing price data for both 24 months before and after the designation to visualize if there is any significant impact. This is depicted in Figure 3. The analysis utilized a 24-month window before and after the designation. Although the data from the California Association of Realtors (CAR) uses seasonally adjusted data, it is important to observe two calendar years before and after the designation to account for any potential seasonality. It is plausible that housing markets fluctuate in a calendar year due to weather or summer vacations for schools. Also, the total observed time frame is a substantial sample size and provides the analysis enough time after the designation to discern any significant impact.

Figure 3 - Median home values (\$USD) in San Joaquin County with Mineral Designation Reference line.



To observe the potential impact from a mineral designation, the analysis used a statistical method called the standardized difference which quantifies if there is a statistically significant difference between the means of treated and untreated groups.¹⁰ The analysis calculated the standardized difference for both a 12- and 24-month window before and after the Mineral Designation in San Joaquin County in July of 2015. The standardized differences can be seen in Figure 4. There are various thresholds of determining statistical significance, for example, 0.2, 0.5, and 0.8.¹¹

Using a more conservative 0.2, the analysis determines that the means from 12 months before the mineral designation are not statistically different than the means from 12 months after the mineral designation in July of 2015. This is because the standardized difference of 0.18 is less than the 0.2 threshold. However, when increasing the sample size and comparing the means from 24 months before the mineral designation to 24 months after, the value of 0.59 is greater than our 0.2 threshold. Therefore, the analysis determines that there is a statistically significant difference between the two means.

¹⁰ Austin P. C. (2009). Balance diagnostics for comparing the distribution of baseline covariates between treatment groups in propensity-score matched samples. *Statistics in medicine*, 28(25), 3083–3107. <https://doi.org/10.1002/sim.3697>

¹¹ Ibid.

These results are not surprising when referring to Figure 2 which shows that median home values have been steadily increasing since about 2012 (when the financial market had time to recover after the housing crisis in 2008). Although there is no difference between the 12-month period before and after the designation, it is understandable the two means are systematically different when the analysis increases the sample size.

Figure 4 - Standardized Difference values for both a 12- and 24-month window before and after the mineral designation in July of 2015¹²

	Mean Sales before Designation	Mean Sales after Designation	Standardized Difference
San Joaquin County (July 2014- June 2016)	\$287,053	\$312,793	0.18
San Joaquin County (July 2013 – June 2017)	\$273,469	\$355,211	0.59

Simply comparing statistical differences between means of 12- and 24-month windows before and after the mineral designation can be misleading for several reasons. As previously alluded to, there has been a steady increase in home prices for more than a decade- the larger the window of time observed, the more likely there will be a statistical difference. Also, analyzing the standardized differences before and after a mineral designation does not imply that there is a causal impact. The analysis is limited in this facet and does not control for the many other factors that likely affect home prices such as interest rates, GDP, or locational data. The purpose of comparing median home values in Sacramento and San Joaquin counties in Figure 2, and the standardized differences in Figure 4 is to simply suggest that there would likely be no negative impact on housing prices in Sacramento as a result of the proposed regulations.

4.2. Qualitative Benefits

Although the quantification of benefits associated with the proposed regulations is beyond the scope of this Economic Impact Assessment, there are many potential qualitative benefits. By designating areas to be of regional significance, it enables land planners to best utilize the land's resources. The

¹² A technical clarification must be made about the utilization of standardized differences here. The comparison of means across the two groups requires the arithmetical mean which in theory would aggregate all sales and divide this value by the number of units sold to calculate the true mean. The analysis is limited as the only data available from CAR are monthly mean values (without individual data points). Therefore, the analysis took a mean of these monthly means to best mimic the true arithmetical mean. Although the two values should in theory be significantly close in value and would likely not alter the standardized difference interpretation, it is worth making this clarification.

process of designation provides land planners with the information necessary to make sound decisions about how to best use land; this aids in decision making regarding mining, development, or any other utilization of land. When land planners are informed with such information, it likely minimizes the risk of investing money in an incompatible land use.

The point of improving decision making about land uses coincides with another environmental benefit about aggregate mining. All five of the subject matter experts that the analysis interviewed about the costs and benefits of a mineral designation mentioned the importance that designations have on transportation costs of aggregate. Designating areas of land as regional significance allows new aggregate construction sites to be chosen in a location that is economically efficient. This has many associated environmental benefits.

For example, a significant portion of construction costs and aggregate mining result from the transportation of aggregate.¹³ The transportation of aggregate is particularly costly because of two main reasons. The first is the carbon dioxide emissions associated with large trucks transporting these heavy materials. The other is the damage to the roads that occurs from aggregate trucking. The damaging of roads creates an externality for residents of California as roads are repaired with public funds. Also, one SME that the analysis interviewed postulated that the damaged roads from aggregate trucking are further exacerbated by floods and natural disasters which has been an increasing challenge in California.

Lastly, the streamlining of the California Environmental Quality Act (CEQA) was another qualitative benefit that was discussed by multiple SMEs who were interviewed by the analysis. Among many things, CEQA is intended to minimize damage to the environment through development of project alternatives, mitigation measures, and mitigation monitoring.¹⁴ CEQA maintains transparency with the public and the process of designation better informs land use planners with the information needed to convey the pertinence of such environmental implications.

5. COST IMPACT IN CALIFORNIA

The analysis estimates that the overall impact of the proposed regulations on California's economy would be negligible. In total, direct costs to lead agencies

¹³ According to Peter Berck in the paper, "A note on the Environmental Costs of Aggregates", the cost of aggregates usually a tenth or less of the cost of a construction project.

¹⁴ [https://wildlife.ca.gov/Conservation/Environmental-Review/CEQA#:~:text=The%20California%20Environmental%20Quality%20Act%20\(CEQA\)%20services%20to%3A&text=Prevent%20or%20minimize%20damage%20to,mitigation%20measures%2C%20and%20mitigation%20monitoring.](https://wildlife.ca.gov/Conservation/Environmental-Review/CEQA#:~:text=The%20California%20Environmental%20Quality%20Act%20(CEQA)%20services%20to%3A&text=Prevent%20or%20minimize%20damage%20to,mitigation%20measures%2C%20and%20mitigation%20monitoring.)

are \$70,000 to \$130,000 in Year 1 and \$0 to \$60,000 in Year 2. Therefore, the Board does not foresee the regulations significantly affecting the economy on either a macro or micro scale. The Board projects that all additional work created by the regulations would be absorbed by positions already employed. So, it is assumed that no new jobs will be created or eliminated within the State of California as a result of the regulations. Similarly, the regulations would not expand businesses, create new businesses or eliminate existing businesses within California. Although the lead agencies would bear the burden of \$70,000 to \$130,000 in Year 1 and \$0 to \$60,000 in Year 2, the designation of numerous regions in the GSA is expected to provide qualitative benefits as discussed in the previous section.

6. CONCLUSION

The designation of numerous regions in the GSA would have a miniscule impact on California's economy of \$70,000 to \$130,000 in Year 1 and \$0 to \$60,000 in Year 2. Given these ranges, the Board forecasts that the proposed regulations would not have significant fiscal impacts on individuals, businesses, or the government. The proposed regulations equip land planners with tools to improve their decision making about the utilization of land and provide various other benefits to the State of California.



Agenda Item No. 13C

August 15, 2024

Election of the Board's Vice-chair

INTRODUCTION:

Pursuant to Public Resource Code (PRC) 669, which states, "the board shall annually elect a vice chair from among its members," the State Mining and Geology Board will nominate and elect a vice chair that will succeed this position currently held by Member Stephanie Landregan. This appointment will be effective immediately following the conclusion of the August 15th, 2024 regular board meeting.

SUGGESTED MOTION:

Board Chair and Members, pursuant to PRC 669, I move that the Board nominate and elect a vice-chair of the State Mining and Geology Board.

Respectfully submitted:

A handwritten signature in blue ink, appearing to be "Jeffrey Schmidt".

Jeffrey Schmidt,
Executive Officer



Agenda Item No. 14A

August 15, 2024

Presentation: *An Overview of Programs and Products of the California Geological Survey*
by: Jeremy Lancaster, State Geologist, CGS

INFORMATION:

Jeremy Lancaster, State Geologist, will give an overview of the California Geological Survey and its current programs and project.



Agenda Item No. 14B

August 15, 2024

Presentation: *Mines Online Document Storage (MODS) Update*
by: April Balestreri, DMR

INFORMATION:

The Division of Mine Reclamation's Reporting Unit Manager, April Balestreri, will give an informational update on the division's ongoing MODS project.



Agenda Item No. 14C

August 15, 2024

Presentation: *SMGB Mine Inspections Update*

by: Paul Fry, Senior Geologist, Board Staff

and

Mallory Jones, Geologist, Board Staff

INFORMATION:

Board staff members, Paul Fry, Senior Geologist and Mallory Jones, Geologist will conduct a presentation with updates on annual inspections. The presentation will provide overviews of the annual inspection and Financial Assurance Cost Estimate (FACE) processes as well as an overview of the mines under SMGB lead agency authority. Additionally, staff will detail informal and formal enforcement as well as case studies.



Agenda Item No. 14D

August 15, 2024

Presentation: *Ex-Parte Communication Disclosure Requirements & Bagley-Keene Open Meeting Act*
by: Nicole Rinke, Esq., DAG, Attorney General's Office

INFORMATION:

The legal counsel for the State Mining and Geology Board (SMGB), Deputy Attorney General, Nicole Rinke, will provide a legal overview regarding Board Member Ex-Parte communication disclosure requirements and the Bagley-Keene Open Meeting Act.