



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.

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.

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>