

AMENDED IN SENATE JUNE 11, 2014

AMENDED IN SENATE MAY 7, 2014

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 1270

Introduced by Senator Pavley

February 21, 2014

An act to amend Sections 607, 677, 2006, 2207, 2208, 2209, 2210, 2732.5, 2733, 2770, 2770.6, 2772, 2773.1, 2774, 2774.1, 2774.3, and 2774.4 of, and to add Section 2006.5 to, the Public Resources Code, relating to mining.

LEGISLATIVE COUNSEL'S DIGEST

SB 1270, as amended, Pavley. Surface mining operations.

(1) Under existing law, the Department of Conservation, under the supervision of the Director of Conservation, is comprised of various entities, including the State Mining and Geology Board, and the work of the department is divided into divisions including the California Geological Survey and the Office of Mine Reclamation. Existing law requires the board to nominate, and the director to appoint, the State Geologist to advise the director regarding technical, scientific, and engineering issues, including the scientific quality of the products and activities of the California Geological Survey, and requires the State Geologist to meet specific qualifications.

This bill would require the board to nominate at least 2 individuals for appointment as the State Geologist and would make the State Geologist responsible for the management of the California Geological Survey. The bill would also designate the Office of Mine Reclamation as the Division of Mines, would require *the board to nominate at least*

2 individuals to serve as, and the director to appoint a, State Mine Inspector to be responsible for the management of the Division of Mines, and would prescribe the specific qualifications for that person.

(2) Existing law requires the owner ~~of~~ or operator of a mining operation to forward annually to the director and the lead agency a report that provides specified information with respect to the mining operation.

This bill would require, among other changes, that the report be submitted to the State Mine Inspector and the lead agency. The bill would additionally require the State Mine Inspector to submit to the board and the director an annual report relating to abandoned mines, as provided.

(3) The Surface Mining and Reclamation Act of 1975, administered by the board, prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a permit, as defined, is obtained from, a reclamation plan, as specified, is submitted to and approved by, and financial assurances for reclamation have been approved by, the lead agency for the operation. Existing law provides an appeals process for decisions of the lead agency in approval or denial of approval of a reclamation plan.

This bill would ~~instead~~ *prohibit a person from conducting surface mining operations, unless, in addition to the above, any required amendments to the reclamation plan are approved, and financial assurances are approved and adjusted annually, as provided. The bill would* make the lead agency or, in certain circumstances, the State Mine Inspector responsible for reviewing and approving financial assurances in surface mining operations and would require the lead agency or the State Mine Inspector to take specified actions in seeking forfeiture of those financial assurances. The bill would also provide an appeals process for the State Mine Inspector's approval or denial of approval of financial assurances. The bill would require a portion of the reclamation plan to be certified by a registered professional geologist, geophysicist, or civil engineer and to include a schedule with time limits for completing reclamation, as specified. The bill would require the lead agency or the State Mine Inspector to determine a time period for reclamation to be complete in certain circumstances. By imposing additional duties on lead agencies, this bill would impose a state-mandated local program. For purposes of the act, the bill would also revise the definition of permit.

(4) Existing law requires the lead agency to conduct an inspection of a surface mining operation within 6 months of receipt by the lead agency of the annual report described in paragraph (2) above. Under existing law, if the lead agency or the director determines that a surface mining operation is not in compliance, the lead agency or director is required to notify the operator of that violation.

This bill would also require the State Mine Inspector, in certain circumstances, to conduct an inspection of those operations within 6 months of receipt of the report by the State Mine Inspector and to provide notice of the inspection to the lead agency. The bill would require the notice of violation to include, among other things, specific remedial steps to be taken to correct the noncompliance and also information on the time to comply. *The bill would require the State Mine Inspector, on and after January 1, 2018, and on an ongoing basis after that date, to offer continuing education opportunities to lead agency employees that qualifies those employees to be credentialed to inspect mines.*

(5) Existing law requires the board to assume the powers and duties under the act of the lead agency if, following a public hearing, as prescribed, the board finds deficiencies in the lead agency's implementation and enforcement of the act.

This bill would require the board, in those circumstances, to assign those powers and duties to the State Mine Inspector. The bill would also authorize a lead agency to unilaterally and voluntarily relinquish its responsibilities under the act and would require the State Mine Inspector to assume those responsibilities. The bill would authorize the lead agency to resume its relinquished role if certain requirements are met.

(6) Existing law requires the board to adopt a schedule of fees to cover the department's costs of carrying out specified provisions and to impose an annual reporting fee on each mining operation, not to exceed \$4,000 annually for any single mining operation and not to be less than \$100. Existing law requires the board to adjust the fees if the director determines the resources collected were greater to or less than the department's costs.

This bill would require that an annual reporting fee, which would also be required to cover the board's costs, as provided, on each mining operation not be less than \$1,000 or more than an unspecified amount and would require the fee to be based on a cost per acre as determined by the board. The bill would require the board to adjust the fees if the

State Mine Inspector determines the revenues collected were greater to or less than the department’s costs.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) Since its passage, the implementation of the Surface Mining
- 3 and Reclamation Act of 1975 (*Chapter 9 (commencing with Section*
- 4 *2710) of Division 2 of the Public Resources Code*) has depended
- 5 on coordinated administrative efforts by local governments, the
- 6 Department of Conservation, and the State Mining and Geology
- 7 Board. Two of the major goals of the act are to encourage
- 8 production and conservation of minerals in California, and to
- 9 ensure reclamation of mined lands.
- 10 (b) The essential components of the act for each of the more
- 11 than ~~2,000~~ *approximately 1,150 active* mines in California are
- 12 annual inspections, reclamation plans for mines that have ceased
- 13 production, and a financial surety mechanism to pay for
- 14 reclamation in the event the operator is unable or fails to do so.
- 15 (c) It is the intent of the Legislature that siting decisions for
- 16 mines and the approval of reclamation plans for those mines remain
- 17 with local governments.
- 18 (d) The act provides for approval procedures for financial
- 19 assurances and reclamation plans that depend on active inspections,
- 20 remediation of compliance shortfalls, and appropriate updates to
- 21 financial assurance commitments. Based on a review of official
- 22 state data, industry and government analysts agree that the goals
- 23 of the act are not being achieved because of multiple failures in
- 24 the internal processes of this important legislation. ~~As examples:~~
- 25 (1) ~~Twenty-five percent of mines that have closed have not~~
- 26 ~~begun reclamation. This includes about 100 mines in the state.~~
- 27 (2) ~~Inspection rates by counties who serve as lead agencies~~
- 28 ~~under the act, over a multiyear period, range from 66 percent to~~

1 74 percent, inclusive, but 12 counties have inspection rates below
2 50 percent.

3 ~~(3) Data on inspections by cities that serve as lead agencies~~
4 ~~under the act, over the same multiyear period, indicate that 22~~
5 ~~cities have inspected all of their mines annually, 25 cities have an~~
6 ~~inspection rate below 50 percent, and 14 cities have never inspected~~
7 ~~a mine.~~

8 ~~(4) Financial assurance documents that ensure the ability to pay~~
9 ~~for mine reclamation are not routinely updated. The adjustment~~
10 ~~rate for counties is about 27 percent, based on official data, and~~
11 ~~about 20 percent for cities.~~

12 ~~(e) Data from the Department of Conservation and the State~~
13 ~~Mining and Geology Board confirms that the implementation of~~
14 ~~the Surface Mining and Reclamation Act of 1975 by both state and~~
15 ~~local agencies has been erratic and that numerous mines are not~~
16 ~~inspected annually, have not been directed to upgrade their~~
17 ~~financial assurances, or begun reclamation, all of which are~~
18 ~~required by existing law.~~

19 ~~(e)~~

20 (f) It is the intent of the Legislature to retain the existing
21 structure of the act while improving the statutory relationships
22 between state and local government entities by strengthening the
23 interconnections between inspections, financial assurances, and
24 reclamation plans, in order to ensure improved compliance with
25 the provisions of this important law.

26 SEC. 2. Section 607 of the Public Resources Code is amended
27 to read:

28 607. The work of the department shall be divided into at least
29 the following:

- 30 (a) California Geological Survey.
- 31 (b) Division of Oil, Gas, and Geothermal Resources.
- 32 (c) Division of Land Resource Protection.
- 33 (d) Division of Mines.

34 SEC. 3. Section 677 of the Public Resources Code is amended
35 to read:

36 677. (a) The board shall nominate at least two individuals to
37 serve as State Geologist. The director shall appoint the State
38 Geologist, who shall be responsible for the management of the
39 California Geological Survey. The State Geologist shall either be
40 registered in compliance with the Geologist and Geophysicist Act

1 (Chapter 12.5 (commencing with Section 7800) of Division 3 of
2 the Business and Professions Code) at least one year from the date
3 of appointment, or the Board for Professional Engineers, Land
4 Surveyors, and Geologists may, upon the review of academic and
5 professional experience, grant registration. The State Geologist
6 shall possess general knowledge of mineral resources, structural
7 geology, seismology, engineering geology, and related disciplines
8 in science and engineering, and the reclamation of mined lands
9 and waters. The State Geologist shall advise the director regarding
10 technical, scientific, and engineering issues, including the scientific
11 quality of the products and activities of the California Geological
12 Survey.

13 ~~(b) A State Mine Inspector shall be appointed by the director~~
14 ~~and shall be responsible for the management of the Division of~~
15 ~~Mines. The board shall nominate at least two individuals to serve~~
16 ~~as the State Mine Inspector. The director shall appoint the State~~
17 ~~Mine Inspector who shall be responsible for the management of~~
18 ~~the Division of Mines.~~ The State Mine Inspector shall either be
19 registered in compliance with the Geologist and Geophysicist Act
20 (Chapter 12.5 (commencing with Section 7800) of Division 3 of
21 the Business and Professions Code) or the Professional Engineers
22 Act (Chapter 7 (commencing with Section 6700) of Division 3 of
23 the Business and Professions Code) at least one year from the date
24 of appointment, or the Board for Professional Engineers, Land
25 Surveyors, and Geologists may, upon the review of academic and
26 professional experience, grant registration. The State Mine
27 Inspector shall possess general knowledge of mining, mineral
28 resources, structural geology, seismology, engineering geology,
29 and related disciplines in science and engineering, and the
30 reclamation of mined lands and waters. The State Mine Inspector
31 shall advise the director regarding technical, scientific, and
32 engineering issues, including the scientific quality of the products
33 and activities of the Division of Mines.

34 SEC. 4. Section 2006 of the Public Resources Code is amended
35 to read:

36 2006. "State Geologist" means the individual holding the office
37 created by subdivision (a) of Section 677.

38 SEC. 5. Section 2006.5 is added to the Public Resources Code,
39 to read:

1 2006.5. “State Mine Inspector” means the individual holding
2 the office created by subdivision (b) of Section 677.

3 SEC. 6. Section 2207 of the Public Resources Code is amended
4 to read:

5 2207. (a) The owner or the operator of a mining operation
6 within the state shall forward to the State Mine Inspector annually,
7 not later than a date established by the State Mine Inspector, upon
8 forms approved by the board from time to time, a report that
9 identifies all of the following:

10 (1) The name, address, and telephone number of the person,
11 company, or other owner of the mining operation.

12 (2) The name, address, and telephone number of a designated
13 agent who resides in this state, and who will receive and accept
14 service of all orders, notices, and processes of the lead agency,
15 board, State Mine Inspector, or court.

16 (3) The location of the mining operation, its name, its mine
17 number as issued by the State Mine Inspector, its section, township,
18 range, latitude, longitude, and approximate boundaries of the
19 mining operation marked on a United States Geological Survey
20 7½-minute or 15-minute quadrangle map.

21 (4) The lead agency.

22 (5) The approval date of the mining operation’s reclamation
23 plan.

24 (6) The mining operation’s status as active, idle, reclaimed, or
25 in the process of being reclaimed.

26 (7) The commodities produced by the mine and the type of
27 mining operation.

28 (8) Proof of annual inspection. All annual inspections conducted
29 on or after July 1, 2015, shall be certified by a registered
30 professional geologist, geophysicist, or civil engineer who either
31 works for the local lead agency or the division or, if not employed
32 by the local lead agency, has not worked for a mining operation
33 in the jurisdiction of the local agency for at least one year. *Annual*
34 *inspections may also be conducted by other employees of the lead*
35 *agency who are credentialed in mine inspections by the State Mine*
36 *Inspector, pursuant to paragraph (2) of subdivision (b) of Section*
37 *2774, if every fifth year the inspections are conducted by a*
38 *registered professional geologist, geophysicist, or civil engineer*
39 *as described in this paragraph.*

40 (9) Proof of financial assurances.

1 (10) Ownership of the property, including government agencies,
2 if applicable, by the assessor's parcel number, and total assessed
3 value of the mining operation.

4 (11) The approximate permitted size of the mining operation
5 subject to Chapter 9 (commencing with Section 2710), in acres.

6 (12) The approximate total acreage of land newly disturbed by
7 the mining operation during the previous calendar year.

8 (13) The approximate total of disturbed acreage reclaimed during
9 the previous calendar year.

10 (14) The approximate total unreclaimed disturbed acreage
11 remaining as of the end of the calendar year.

12 (15) The total production for each mineral commodity produced
13 during the previous year.

14 (16) A copy of any approved reclamation plan and any
15 amendments or conditions of approval to any existing reclamation
16 plan approved by the lead agency.

17 (b) (1) Every year, not later than the date established by the
18 State Mine Inspector, the person submitting the report pursuant to
19 subdivision (a) shall forward to the lead agency, upon forms
20 furnished by the board, a report that provides all of the information
21 specified in subdivision (a).

22 (2) The owner or operator of a mining operation shall allow
23 access to the property to any governmental agency or the agent of
24 any company providing financial assurances in connection with
25 the reclamation plan, in order that the reclamation can be carried
26 out by the entity or company, in accordance with the provisions
27 of the reclamation plan.

28 (c) Subsequent reports shall include only changes in the
29 information submitted for the items described in subdivision (a),
30 except that, instead of the approved reclamation plan, the reports
31 shall include any reclamation plan amendments approved during
32 the previous year. The reports shall state whether review of a
33 reclamation plan, financial assurances, or an interim management
34 plan is pending under subdivision (b), (c), (d), or (h) of Section
35 2770, or whether an appeal before the board or lead agency
36 governing body is pending under subdivision (e) or (h) of Section
37 2770. The State Mine Inspector shall notify the person submitting
38 the report and the owner's designated agent in writing that the
39 report and the fee required pursuant to subdivision (d) have been
40 received, specify the mining operation's mine number if one has

1 not been issued by the State Mine Inspector, and notify the person
2 and agent of any deficiencies in the report within 90 days of receipt.
3 That person or agent shall have 30 days from receipt of the
4 notification to correct the noted deficiencies and forward the
5 revised reports to the State Mine Inspector and the lead agency.
6 Any person who fails to comply with this section, or knowingly
7 provides incorrect or false information in reports required by this
8 section, may be subject to an administrative penalty as provided
9 in subdivision (c) of Section 2774.1.

10 (d) (1) The board shall impose, by regulation, pursuant to
11 paragraph (2), an annual reporting fee on, and method for collecting
12 annual fees from, each active or idle mining operation. The
13 minimum fee for any single mining operation may not be less than
14 one thousand dollars (\$1,000) annually, as adjusted for the cost of
15 living as measured by the California Consumer Price Index for
16 All Urban Consumers, calendar year averages, using the percentage
17 change in the previous year, beginning with the 2014–15 fiscal
18 year and annually thereafter.

19 (2) (A) The board shall adopt, by regulation, a schedule of fees
20 authorized under paragraph (1) to cover the department’s and
21 board’s costs in carrying out this section and Chapter 9
22 (commencing with Section 2710), as reflected in the Governor’s
23 Budget, and may adopt those regulations as emergency regulations.
24 The board’s costs shall be reflected separately in a format approved
25 by the Department of Finance and shall be displayed in the annual
26 budget proposed by the Governor. In establishing the schedule of
27 fees to be paid by each active and idle mining operation, the board
28 shall consider and establish a cost per acre on an equitable basis
29 reflecting the size and type of operation, the acreage disturbed and
30 undisturbed by mining activities, the acreage subject to the
31 reclamation plan, and other factors addressed by the approved
32 reclamation plan. The fee for each active and idle mining operation
33 shall not exceed ____ dollars (\$____).

34 (B) Regulations adopted pursuant to this subdivision shall be
35 adopted by the board in accordance with Chapter 3.5 (commencing
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the
37 Government Code. The adoption of any emergency regulations
38 pursuant to this subdivision shall be considered necessary to
39 address an emergency and shall be considered by the Office of

1 Administrative Law to be necessary for the immediate preservation
2 of the public peace, health, safety, and general welfare.

3 (3) The total revenue generated by the reporting fees may not
4 exceed, and may be less than, the amount of ~~_____~~ *five million five*
5 *hundred thousand* dollars (~~_____~~) (*\$5,500,000*), as adjusted for
6 the cost of living as measured by the California Consumer Price
7 Index for All Urban Consumers, calendar year averages, using the
8 percentage change in the previous year, beginning with the
9 2005–06 fiscal year and annually thereafter and shall be based on
10 a cost per acre, subject to the approved reclamation plan, as
11 determined by the board pursuant to paragraph (2). If the State
12 Mine Inspector determines that the revenue collected during the
13 preceding fiscal year was greater or less than the cost to operate
14 the program, the board shall adjust the fees to compensate for the
15 overcollection or undercollection of revenues.

16 (4) (A) (i) The reporting fees established pursuant to this
17 subdivision shall be deposited in the Mine Reclamation Account,
18 which is hereby created. Any fees, penalties, interest, fines, or
19 charges collected by the State Mine Inspector or board pursuant
20 to this chapter or Chapter 9 (commencing with Section 2710) shall
21 be deposited in the Mine Reclamation Account. The moneys in
22 the account shall be available to the department and board, upon
23 appropriation by the Legislature, for the purpose of carrying out
24 this section and complying with Chapter 9 (commencing with
25 Section 2710), which includes, but is not limited to, classification
26 and designation of areas with mineral resources of statewide or
27 regional significance, reclamation plan and financial assurance
28 review, mine inspection, and enforcement.

29 (ii) *Notwithstanding paragraph (2), fees paid by an active or*
30 *idle mining operation in the 2015–16 and 2016–17 fiscal years*
31 *shall be no more than 15 percent greater than the fee paid in the*
32 *2014–15 fiscal year for that mine. The board shall provide a*
33 *detailed report to the joint Legislature Budget Committee on or*
34 *before January 1, 2016, on the revenues and expenses of the Mine*
35 *Reclamation Account prior to adjusting any fees paid by mining*
36 *operators pursuant to paragraph (3). The report shall also identify*
37 *the minimum revenue requirements of the board and the division*
38 *to implement this article, including Section 2207. The report*
39 *require pursuant to this clause shall be submitted in compliance*
40 *with Section 9795 of the Government Code and the reporting*

1 *requirement shall be inoperative on January 1, 2020, pursuant to*
2 *Section 10231.5 of the Government Code.*

3 (B) On or before January 1, 2018, and each year thereafter, the
4 State Mine Inspector shall submit to the board and the director a
5 report on the activities of the Abandoned Mines Land Unit. This
6 report shall include, but is not limited to, all of the following:

7 (i) The number and location of known abandoned mines
8 identified along with any associated features and supporting
9 documentation.

10 (ii) Type of mine site and minerals or materials mined.

11 (iii) Summary of assessment and overall mitigation activities
12 and mitigation activities per site performed to date.

13 (iv) Prioritized assessment of sites that present an imminent
14 danger to public health, safety, and welfare, and to the environment.

15 (v) Available funding and efforts to obtain funding to mitigate
16 high-risk sites.

17 (vi) Planned activities for *the* upcoming year.

18 (C) (i) In addition to reporting fees, the board shall collect five
19 dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of
20 silver mined within the state and shall deposit the fees collected
21 in the Abandoned Mine Reclamation and Minerals Fund
22 Subaccount, which is hereby created in the Mine Reclamation
23 Account. The department may expend the moneys in the
24 subaccount, upon appropriation by the Legislature, for only the
25 purposes of Section 2796.5 and as authorized herein for the
26 remediation of abandoned mines.

27 (ii) Notwithstanding subdivision (j) of Section 2796.5, fees
28 collected pursuant to clause (i) may also be used to remediate
29 features of historic abandoned mines and lands that they impact.
30 For the purposes of this section, historic abandoned mines are
31 mines for which operations have been conducted before January
32 1, 1976, and include, but are not limited to, historic gold and silver
33 mines.

34 (5) In case of late payment of the reporting fee, a penalty of not
35 less than one hundred dollars (\$100) or 10 percent of the amount
36 due, whichever is greater, plus interest at the rate of 1 ½ percent
37 per month, computed from the delinquent date of the assessment
38 until and including the date of payment, shall be assessed. New
39 mining operations that have not submitted a report shall submit a
40 report prior to commencement of operations. The new operation

1 shall submit its fee according to the reasonable fee schedule
2 adopted by the board, and the month that the report is received
3 shall become that operation's anniversary month.

4 (e) The lead agency, or the board or State Mine Inspector when
5 acting as the lead agency pursuant to Section 2774.4, may impose
6 a fee upon each mining operation to cover the reasonable costs
7 incurred in implementing this chapter and Chapter 9 (commencing
8 with Section 2710).

9 (f) For purposes of this section, "mining operation" means a
10 mining operation of any kind or character whatsoever in this state,
11 including, but not limited to, a mining operation that is classified
12 as a "surface mining operation" as defined in Section 2735, unless
13 excepted by Section 2714. For the purposes of fee collections only,
14 "mining operation" may include one or more mines operated by
15 a single operator or mining company on one or more sites, if the
16 total annual combined mineral production for all sites is less than
17 100 troy ounces for precious metals, if precious metals are the
18 primary mineral commodity produced, or less than 100,000 short
19 tons if the primary mineral commodity produced is not precious
20 metals.

21 (g) Any information in reports submitted pursuant to subdivision
22 (a) that includes or otherwise indicates the total mineral production,
23 reserves, or rate of depletion of any mining operation may not be
24 disclosed to any member of the public, as defined in subdivision
25 (b) of Section 6252 of the Government Code. Other portions of
26 the reports are public records unless excepted by statute. Statistical
27 bulletins based on these reports and published under Section 2205
28 shall be compiled to show, for the state as a whole and separately
29 for each lead agency, the total of each mineral produced therein.
30 In order not to disclose the production, reserves, or rate of depletion
31 from any identifiable mining operation, no production figure shall
32 be published or otherwise disclosed unless that figure is the
33 aggregated production of not less than three mining operations. If
34 the production figure for any lead agency would disclose the
35 production, reserves, or rate of depletion of less than three mining
36 operations or otherwise permit the reasonable inference of the
37 production, reserves, or rate of depletion of any identifiable mining
38 operation, that figure shall be combined with the same figure of
39 not less than two other lead agencies without regard to the location

1 of the lead agencies. The bulletin shall be published annually by
2 June 30 or as soon thereafter as practicable.

3 (h) The approval of a form by the board pursuant to this section
4 is not the adoption of a regulation for purposes of Chapter 3.5
5 (commencing with Section 11340) of Part 1 of Division 3 of Title
6 2 of the Government Code and is not subject to that chapter.

7 SEC. 7. Section 2208 of the Public Resources Code is amended
8 to read:

9 2208. The State Mine Inspector, State Geologist, director, or
10 a qualified assistant may at any time enter or examine any and all
11 mines, quarries, wells, mills, reduction works, refining works, and
12 other mineral properties or working plants in this state in order to
13 gather data to comply with the provisions of this chapter.

14 SEC. 8. Section 2209 of the Public Resources Code is amended
15 to read:

16 2209. The director or the State Geologist may fix a price upon
17 and dispose of to the public all publications of the division,
18 including reports, bulletins, maps, registers, or other publications.
19 The price shall approximate the cost of publication and distribution.
20 The director or the State Geologist may also furnish the
21 publications of the division to public libraries without cost and
22 may exchange publications with geological surveys, scientific
23 societies, and other like bodies.

24 SEC. 9. Section 2210 of the Public Resources Code is amended
25 to read:

26 2210. All money received by the division and the State
27 Geologist from sales of publications issued by the division shall
28 be deposited at least once each month in the State Treasury to the
29 credit of the General Fund.

30 SEC. 10. Section 2732.5 of the Public Resources Code is
31 amended to read:

32 2732.5. "Permit" means a land use authorization from, or
33 approval by, a lead agency, the absence of which would preclude
34 surface mining operations.

35 SEC. 11. Section 2733 of the Public Resources Code is
36 amended to read:

37 2733. "Reclamation" means the combined process of land
38 treatment that minimizes water degradation, air pollution, damage
39 to aquatic or wildlife habitat, flooding, erosion, and other adverse
40 effects from surface mining operations, including adverse surface

1 effects incidental to underground mines, so that mined lands are
2 reclaimed, to a usable condition that is readily adaptable for
3 alternate land uses, and create no danger to public health or safety.
4 The process may extend to affected lands surrounding mined lands;
5 may require backfilling, grading, resoiling, revegetation, soil
6 compaction, stabilization, or other measures; and shall be certified
7 by a registered professional geologist, geophysicist, or civil
8 engineer.

9 SEC. 12. Section 2770 of the Public Resources Code is
10 amended to read:

11 2770. (a) Except as provided in this section, a person shall not
12 conduct surface mining operations unless a permit is ~~obtained~~
13 ~~from~~, *obtained*, a reclamation plan, *including any required*
14 ~~amendments, has been submitted to and approved by~~, *have been*
15 *approved*, and financial assurances for reclamation have been
16 ~~approved by~~, *approved and adjusted annually in compliance with*
17 *paragraph (3) of subdivision (a) of Section 2773.1*, by the lead
18 agency for the ~~operation pursuant to this article~~. *operation*. Where
19 the State Mine Inspector has assumed the lead agency's authority
20 pursuant to Section 2774.4, *a person shall not conduct* surface
21 ~~mining operations shall not be conducted in that jurisdiction~~ unless,
22 in addition to having a permit approved by the lead agency, the
23 person has a ~~current~~ reclamation plan, *including any required*
24 ~~amendments, approved by the State Mine Inspector~~, and financial
25 assurances for reclamation ~~approved~~ *have been approved and*
26 *adjusted annually in compliance with paragraph (3) of subdivision*
27 *(a) of Section 2773.1* by the State Mine Inspector.

28 (b) A person with an existing surface mining operation who has
29 vested rights pursuant to Section 2776 and who does not have an
30 approved reclamation plan shall submit a reclamation plan to the
31 lead agency not later than March 31, 1988. If a reclamation plan
32 application is not on file by March 31, 1988, the continuation of
33 the surface mining operation is prohibited until a reclamation plan
34 is submitted to the lead agency. For purposes of this subdivision,
35 a reclamation plan may consist of all or the appropriate sections
36 of any plans or written agreements previously approved by the
37 lead agency or another agency, together with any additional
38 documents needed to substantially meet the requirements of
39 Sections 2772 and 2773 and the lead agency surface mining
40 ordinance adopted pursuant to subdivision (a) of Section 2774,

1 provided that all documents which together were proposed to serve
2 as the reclamation plan are submitted for approval to the lead
3 agency in accordance with this chapter.

4 (c) The lead agency shall administratively review, at least
5 annually, and make any changes, to ensure financial assurances
6 for all surface mining operations within its jurisdiction are in
7 accordance with subdivision (d). If the State Mine Inspector has
8 assumed the lead agency's authority pursuant to Section 2774.4,
9 a person operating a surface mining operation within the lead
10 agency's jurisdiction shall submit financial assurances for
11 reclamation to the State Mine Inspector within 60 days after the
12 State Mine Inspector's assumption for review and approval in
13 accordance with subdivision (d). The State Mine Inspector shall
14 administratively review, at least annually, and make any changes,
15 to ensure financial assurances for all mining operations for which
16 the State Mine Inspector has authority pursuant to Section 2774.4
17 are in accordance with subdivision (d). The review of existing
18 financial assurances shall not be considered a project for purposes
19 of Division 13 (commencing with Section 21000).

20 (d) The review of a reclamation plan submitted pursuant to
21 subdivision (b) or the review of financial assurances pursuant to
22 subdivision (c) is limited to whether the plan or the financial
23 assurances substantially meet the applicable requirements of
24 Sections 2772, 2773, and 2773.1, and the lead agency surface
25 mining ordinance adopted pursuant to subdivision (a) of Section
26 2774, but, in any event, the lead agency or the State Mine Inspector,
27 as the case may be, shall require that financial assurances for
28 reclamation be sufficient to perform reclamation of lands remaining
29 disturbed. For purposes of this chapter, reclamation plans or
30 financial assurances determined to substantially meet these
31 requirements shall be approved. Reclamation plans or financial
32 assurances determined not to substantially meet these requirements
33 shall be returned to the operator within 60 days. The operator shall
34 have 60 days to revise the plan or financial assurances to address
35 identified deficiencies, at which time the revised plan or financial
36 assurances shall be returned to the lead agency, or the State Mine
37 Inspector, as the case may be, for review and approval, or the
38 revised reclamation plan shall be returned to the ~~director~~ *State*
39 *Mine Inspector* for review and approval. Except as specified in
40 subdivision (e) or (i), the continuation of the surface mining

1 operation is prohibited until a reclamation plan and financial
2 assurances for reclamation are approved.

3 (e) (1) A person who, based on the evidence of the record,
4 claims that a lead agency has (A) failed to act according to due
5 process or has relied on considerations not related to the specific
6 applicable requirements of Sections 2772, 2773, and 2773.1, and
7 the lead agency surface mining ordinance adopted pursuant to
8 subdivision (a) of Section 2774, in reaching a decision to ~~approve~~
9 ~~or~~ deny approval of a reclamation plan, (B) failed to act within a
10 reasonable time of receipt of a completed application, or (C) failed
11 to review and approve reclamation plans as required by
12 subdivisions (c) and (d), may appeal that action or inaction to the
13 board.

14 (2) A person who, based on the evidence of the record, claims
15 that the State Mine Inspector has either (A) failed to act according
16 to due process or has relied on considerations not related to the
17 specific applicable requirements of Sections 2772, 2773, and
18 2773.1, in reaching a decision to approve or deny approval of
19 financial assurances, or (B) failed to review and approve financial
20 assurances as required by subdivisions (c) and (d), may appeal that
21 action or inaction to the board.

22 (f) The board may decline to hear an appeal if it determines that
23 the appeal raises no substantial issues related to the lead agency's
24 or the State Mine Inspector's review pursuant to this section.

25 (g) Appeals that the board does not decline to hear shall be
26 scheduled and heard at a public hearing within 45 days of the filing
27 of the appeal, or a longer period as may be mutually agreed upon
28 by the board and the person filing the appeal. In hearing an appeal,
29 the board shall only determine whether the reclamation plan or the
30 financial assurances substantially meet the applicable requirements
31 of Sections 2772, 2773, and 2773.1, and the lead agency surface
32 mining ordinance adopted pursuant to subdivision (a) of Section
33 2774. A reclamation plan or financial assurances determined to
34 meet these requirements shall be approved. A reclamation plan or
35 financial assurances determined not to meet these requirements
36 shall be returned to the operator with a notice of deficiencies, who
37 shall be granted, once only, a period of 30 days, or a longer period
38 mutually agreed upon by the operator and the board, to correct the
39 noted deficiencies and submit the revised reclamation plan or

1 financial assurances to the lead agency or the State Mine Inspector,
2 as the case may be, for review and approval.

3 (h) (1) Within 90 days of a surface mining operation becoming
4 idle, as defined in Section 2727.1, the operator shall submit to the
5 lead agency for review and approval, an interim management plan.
6 The review and approval of an interim management plan shall not
7 be considered a project for purposes of Division 13 (commencing
8 with Section 21000). The approved interim management plan shall
9 be considered an amendment to the surface mining operation's
10 approved reclamation plan, for purposes of this chapter. The
11 interim management plan shall provide measures the operator will
12 implement to maintain the site in compliance with this chapter,
13 including, but not limited to, all permit conditions.

14 (2) The interim management plan may remain in effect for a
15 period not to exceed five years, at which time the lead agency shall
16 do one of the following:

17 (A) Renew the interim management plan for an additional period
18 not to exceed five years, which may be renewed for one additional
19 five-year renewal period at the expiration of the first five-year
20 renewal period, if the lead agency finds that the surface mining
21 operator has complied fully with the interim management plan.

22 (B) Require the surface mining operator to commence
23 reclamation in accordance with its approved reclamation plan.

24 (3) The financial assurances required by Section 2773.1 shall
25 remain in effect during the period that the surface mining operation
26 is idle. If the surface mining operation is still idle after the
27 expiration of its interim management plan, the surface mining
28 operation shall commence reclamation in accordance with its
29 approved reclamation plan.

30 (4) Within 60 days of the receipt of the interim management
31 plan, or a longer period mutually agreed upon by the lead agency
32 and the operator, the lead agency shall review and approve the
33 plan in accordance with its ordinance adopted pursuant to
34 subdivision (a) of Section 2774, so long as the plan satisfies the
35 requirements of this subdivision, and so notify the operator in
36 writing. Otherwise, the lead agency shall notify the operator in
37 writing of any deficiencies in the plan. The operator shall have 30
38 days, or a longer period mutually agreed upon by the operator and
39 the lead agency, to submit a revised plan.

1 (5) The lead agency shall approve or deny approval of the
 2 revised interim management plan within 60 days of receipt. If the
 3 lead agency denies approval of the revised interim management
 4 plan, the operator may appeal that action to the lead agency's
 5 governing body, which shall schedule a public hearing within 45
 6 days of the filing of the appeal, or a longer period mutually agreed
 7 upon by the operator and the governing body.

8 (6) Unless review of an interim management plan is pending
 9 before the lead agency, or an appeal is pending before the lead
 10 agency's governing body, a surface mining operation that remains
 11 idle for over one year after becoming idle as defined in Section
 12 2727.1 without obtaining approval of an interim management plan
 13 shall be considered abandoned and the operator shall commence
 14 and complete reclamation in accordance with the approved
 15 reclamation plan.

16 (i) An enforcement action that may be brought against a surface
 17 mining operation for operating without an approved reclamation
 18 plan, financial assurance, or interim management plan shall be
 19 held in abeyance pending review pursuant to subdivision (b), (c),
 20 (d), or (h), or the resolution of an appeal filed with the board
 21 pursuant to subdivision (e), or with a lead agency governing body
 22 pursuant to subdivision (h).

23 *SEC. 13. Section 2770.6 of the Public Resources Code is*
 24 *amended to read:*

25 2770.6. (a) ~~Whenever~~*If* surface mining operations are
 26 proposed within the boundaries of the San Gabriel Basin Water
 27 Quality Authority that may penetrate the groundwater, and
 28 ~~whenever~~ *if* proposed reclamation activities may impact
 29 groundwater quality, the lead agency, *or the State Mine Inspector,*
 30 *as the case may be,* reviewing an application to conduct surface
 31 mining operations, or reviewing an application for the approval
 32 of a reclamation plan, shall notify and provide copies of the subject
 33 application to the appropriate California regional water quality
 34 control board, and any watermaster for the groundwater recharge
 35 basin. Notwithstanding any other ~~provision~~ of law, the appropriate
 36 California regional water quality control board may impose an
 37 administrative fee on the applicant to cover its costs associated
 38 with the review of, and preparation of, comments on the subject
 39 application, as required pursuant to this section.

1 (b) Each agency shall have 60 days to review and comment on
2 the proposed surface mining operation described in subdivision
3 (a) and the adoption of any reclamation plan therefor. Each agency
4 shall comment on the existing groundwater quality and the potential
5 impacts to water quality that may result from the mining operations
6 and the proposed reclamation plan, and shall recommend methods
7 and procedures to protect groundwater quality and prevent
8 groundwater degradation. Each agency shall also comment on the
9 proposed mining activities, including the conduct of excavation
10 and backfilling operations in contact with groundwater, and the
11 impact of any proposed alternative land uses on groundwater
12 quality. ~~When~~ *If* the proposed surface mining operations or
13 reclamation plan will impact the groundwater, the lead agency, *or*
14 *the State Mine Inspector, as the case may be*, shall not approve
15 the reclamation plan without requiring actions to ensure the
16 reasonable protection of the beneficial uses of groundwater and
17 the prevention of nuisance. Each agency shall have 60 days to
18 review and comment or until 60 days from the date of application,
19 whichever occurs first.

20 (c) This section applies to activities otherwise subject to this
21 chapter conducted within the boundaries of the San Gabriel Basin
22 Water Quality Authority. To the extent of any conflict between
23 this section and any other provision of this chapter, this section
24 shall prevail.

25 ~~SEC. 13.~~

26 *SEC. 14.* Section 2772 of the Public Resources Code is
27 amended to read:

28 2772. (a) The reclamation plan shall be filed with the lead
29 agency, on a form developed by the board, with provisions for
30 additional information provided at the discretion of the lead agency,
31 by any person who owns, leases, or otherwise controls or operates
32 on all, or any portion, of any mined lands, and who plans to conduct
33 surface mining operations on the lands.

34 (b) All documentation for the reclamation plan shall be
35 submitted by the lead agency to the department at one time.

36 (c) The reclamation plan shall include all of the following
37 information and documents:

38 (1) The name and address of the surface mining operator and
39 the names and addresses of any persons designated by the operator
40 as an agent for the service of process.

1 (2) The anticipated quantity and type of minerals for which the
2 surface mining operation is to be conducted.

3 (3) The proposed dates for the initiation and termination of
4 surface mining operation.

5 (4) The maximum anticipated depth of the surface mining
6 operation.

7 (5) The size and legal description of the lands that will be
8 affected by the surface mining operation, a map that includes the
9 boundaries and topographic details of the lands, a description of
10 the general geology of the area, a detailed description of the
11 geology of the area in which surface mining is to be conducted,
12 the location of all streams, roads, railroads, and utility facilities
13 within, or adjacent to, the lands, the location of all proposed access
14 roads to be constructed in conducting the surface mining operation,
15 and the names and addresses of the owners of all surface interests
16 and mineral interests in the lands.

17 (6) A description of, and a plan for, the type of surface mining
18 to be employed, and a time schedule that will provide for the
19 completion of surface mining on each segment of the mined lands
20 so that reclamation can be initiated at the earliest possible time on
21 those portions of the mined lands that will not be subject to further
22 disturbance by the surface mining operation.

23 (7) A description of the proposed use or potential uses of the
24 mined lands after reclamation and evidence that all owners of a
25 possessory interest in the land have been notified of the proposed
26 use or potential uses.

27 (8) A description of the manner in which reclamation, adequate
28 for the proposed use or potential uses, will be accomplished, as
29 certified by a registered professional geologist, geophysicist, or
30 civil engineer, pursuant to Section 2733, including both of the
31 following:

32 (A) A description of the manner in which contaminants will be
33 controlled, and mining waste will be disposed.

34 (B) A description of the manner in which affected streambed
35 channels and streambanks will be rehabilitated to a condition
36 minimizing erosion and sedimentation will occur.

37 (9) An assessment of the effect of implementation of the
38 reclamation plan on future mining in the area.

1 (10) A statement that the person submitting the reclamation
2 plan accepts responsibility for reclaiming the mined lands in
3 accordance with the reclamation plan.

4 (11) A schedule with time limits, updated annually, for
5 completing reclamation in accordance with the reclamation plan
6 and the then-current condition of the mining site. *The requirement*
7 *for an annually updated schedule does not, by itself, require an*
8 *amendment to the existing reclamation plan.*

9 (12) Any other information that the lead agency may require
10 by ordinance.

11 (d) An item of information or a document required pursuant to
12 subdivision (c) that has already been prepared as part of a permit
13 application for the surface mining operation, or as part of an
14 environmental document prepared for the project pursuant to
15 Division 13 (commencing with Section 21000), may be included
16 in the reclamation plan by reference, if that item of information
17 or that document is attached to the reclamation plan when the lead
18 agency submits the reclamation plan to the director for review. To
19 the extent that the information or document referenced in the
20 reclamation plan is used to meet the requirements of subdivision
21 (c), the information or document shall become part of the
22 reclamation plan and shall be subject to all other requirements of
23 this article.

24 (e) ~~Nothing in this section is intended to~~ *This section does not*
25 *limit or expand the department's State Mine Inspector's authority*
26 *or responsibility to review a document in accordance with Division*
27 *13 (commencing with Section 21000).*

28 ~~SEC. 14.~~

29 *SEC. 15.* Section 2773.1 of the Public Resources Code is
30 amended to read:

31 2773.1. (a) Financial assurances, based on the most recent
32 inspection by the lead agency or the State Mine Inspector, as the
33 case may be, shall be required of each surface mining operation
34 to ensure reclamation is performed in accordance with the surface
35 mining operation's approved reclamation plan, as follows:

36 (1) Financial assurances may take the form of surety bonds
37 executed by an admitted surety insurer, as defined in subdivision
38 (a) of Section 995.120 of the Code of Civil Procedure, irrevocable
39 letters of credit, trust funds, or other forms of financial assurances
40 specified by the board pursuant to subdivision (e), that the lead

1 agency or the State Mine Inspector, as the case may be, reasonably
2 determines are adequate to perform reclamation in accordance
3 with the surface mining operation's approved reclamation plan.

4 (2) The financial assurances shall remain in effect for the
5 duration of the surface mining operation and any additional period
6 until reclamation is completed.

7 (3) (A) The amount of financial assurances required of a surface
8 mining operation for any one year shall be adjusted annually by
9 the lead agency or the State Mine Inspector, as the case may be,
10 to account for new lands disturbed by surface mining operations,
11 inflation, and reclamation of lands accomplished in accordance
12 with the approved reclamation plan.

13 (B) The annual adjustment of financial assurances is not subject
14 to the procedures specified in paragraph (3) of subdivision (d) of
15 Section 2774 unless made in response to an amendment to an
16 existing reclamation plan.

17 (4) The financial assurances shall be made payable to the lead
18 agency and the department. Financial assurances that were
19 approved by the lead agency prior to January 1, 1993, and were
20 made payable to the State Geologist shall be considered payable
21 to the department for purposes of this chapter. However, if a surface
22 mining operation has received approval of its financial assurances
23 from a public agency other than the lead agency, the lead agency
24 or the State Mine Inspector, as the case may be, shall deem those
25 financial assurances adequate for purposes of this section, or shall
26 credit them toward fulfillment of the financial assurances required
27 by this section, if they are made payable to the public agency, the
28 lead agency, and the department and otherwise meet the
29 requirements of this section. In any event, if a lead agency and one
30 or more public agencies exercise jurisdiction over a surface mining
31 operation, the total amount of financial assurances required by the
32 lead agency or the State Mine Inspector, as the case may be, and
33 the public agencies for any one year shall not exceed that amount
34 that is necessary to perform reclamation of lands remaining
35 disturbed. For purposes of this paragraph, a "public agency" may
36 include a federal agency but does not include the State Mine
37 Inspector.

38 (b) If the lead agency or the board, following a public hearing,
39 determines that the operator is financially incapable of performing
40 reclamation in accordance with its approved reclamation plan, or

1 has abandoned its surface mining operation without commencing
2 reclamation, either the lead agency or the State Mine Inspector
3 shall do all of the following:

4 (1) Notify the operator by personal service or certified mail that
5 the lead agency or the State Mine Inspector intends to take
6 appropriate action to forfeit the financial assurances and specify
7 the reasons for so doing.

8 (2) (A) Allow the operator 60 days to commence or cause the
9 commencement of reclamation in accordance with its approved
10 reclamation plan and require that reclamation be completed within
11 the time limits specified in the approved reclamation plan or some
12 other time period mutually agreed upon by the lead agency or the
13 State Mine Inspector and the operator.

14 (B) If no time period is specified in the reclamation plan, or if
15 the time period specified is determined by the lead agency or the
16 State Mine Inspector to be inappropriate for the condition of the
17 site, the lead agency or the ~~Sate~~ State Mine Inspector shall
18 determine a time period for reclamation to be completed if an
19 agreement for such a time period cannot be reached between the
20 lead agency or the State Mine Inspector and the operator.

21 (3) Proceed to take appropriate action to require forfeiture of
22 the financial assurances if the operator does not substantially
23 comply with paragraph (2).

24 (4) Use the proceeds from the forfeited financial assurances to
25 conduct and complete reclamation in accordance with the approved
26 reclamation plan. In no event shall the financial assurances be used
27 for any other purpose. The operator is responsible for the costs of
28 conducting and completing reclamation in accordance with the
29 approved reclamation plan that are in excess of the proceeds from
30 the forfeited financial assurances.

31 (c) Financial assurances shall no longer be required of a surface
32 mining operation, and shall be released, upon written notification
33 by the lead agency, with the written concurrence of the State Mine
34 Inspector, which shall be forwarded to the operator, that
35 reclamation has been completed in accordance with the approved
36 reclamation plan. If a mining operation is sold or ownership is
37 transferred to another person, the existing financial assurances
38 shall remain in force and shall not be released by the lead agency
39 or the State Mine Inspector until new financial assurances are
40 secured from the new owner and have been approved by the lead

1 agency or the State Mine Inspector, as the case may be, in
2 accordance with Section 2770.

3 (d) (1) The lead agency shall have primary responsibility to
4 seek forfeiture of financial assurances and to reclaim mine sites
5 under subdivision (b). However, in cases where the board is not
6 the lead agency pursuant to Section 2774.4, the State Mine
7 Inspector may act to seek forfeiture of financial assurances and
8 reclaim mine sites pursuant to subdivision (b) only if both of the
9 following occurs:

10 (A) The financial incapability of the operator or the
11 abandonment of the mining operation has come to the attention of
12 the State Mine Inspector.

13 (B) The lead agency has been notified in writing by the State
14 Mine Inspector of the financial incapability of the operator or the
15 abandonment of the mining operation for at least 15 days, and has
16 not taken appropriate measures to seek forfeiture of the financial
17 assurances and reclaim the mine site; and one of the following has
18 occurred:

19 (i) The lead agency has been notified in writing by the State
20 Mine Inspector that failure to take appropriate measures to seek
21 forfeiture of the financial assurances or to reclaim the mine site
22 shall result in actions being taken against the lead agency under
23 Section 2774.4.

24 (ii) The State Mine Inspector determines that there is a violation
25 that amounts to an imminent and substantial endangerment to the
26 public health, safety, or to the environment.

27 (iii) The lead agency notifies the State Mine Inspector in writing
28 that its good faith attempts to seek forfeiture of the financial
29 assurances have not been successful.

30 (2) The State Mine Inspector, in seeking forfeiture of financial
31 assurances and reclaiming mine sites, shall do all of the following:

32 (A) Notify the operator by personal service or certified mail
33 that the State Mine Inspector intends to take appropriate action to
34 forfeit the financial assurances and specify the reasons for so doing.

35 (B) (i) Allow the operator 60 days to commence or cause the
36 commencement of reclamation in accordance with its approved
37 reclamation plan and require that reclamation be completed within
38 the time limits specified in the approved reclamation plan or some
39 other time period mutually agreed upon by the State Mine Inspector
40 and the operator.

1 (ii) If no time period is specified in the reclamation plan, or if
2 the time period specified is determined by the State Mine Inspector
3 to be inappropriate for the condition of the site, the State Mine
4 Inspector shall determine a time period for reclamation to be
5 completed if an agreement for such a time period cannot be reached
6 between the State Mine Inspector and the operator pursuant to
7 clause (i).

8 (C) Proceed to take appropriate action to require forfeiture of
9 the financial assurances if the operator does not substantially
10 comply with subparagraph (B).

11 (D) Use the proceeds from the forfeited financial assurances to
12 conduct and complete reclamation in accordance with the approved
13 reclamation plan. In no event shall the financial assurances be used
14 for any other purpose. The operator shall be responsible for the
15 costs of conducting and completing reclamation in accordance
16 with the approved reclamation plan that are in excess of the
17 proceeds from the forfeited financial assurances.

18 (e) The board may adopt regulations specifying financial
19 assurance mechanisms other than surety bonds, irrevocable letters
20 of credit, and trust funds, that the board determines are reasonably
21 available and adequate to ensure reclamation pursuant to this
22 chapter, but these mechanisms may not include financial tests, or
23 surety bonds executed by one or more personal sureties. These
24 mechanisms may include reclamation bond pool programs.

25 (f) The board shall adopt, and update as required, guidelines to
26 implement this section. The guidelines are exempt from the
27 requirements of Chapter 3.5 (commencing with Section 11340) of
28 Part 1 of Division 3 of Title 2 of the Government Code, and are
29 not subject to review by the Office of Administrative Law.

30 ~~SEC. 15.~~

31 *SEC. 16.* Section 2774 of the Public Resources Code is
32 amended to read:

33 2774. (a) Every lead agency shall adopt ordinances in
34 accordance with state policy that establish procedures for the
35 review and approval of reclamation plans and financial assurances,
36 and the issuance of a permit to conduct surface mining operations,
37 as well as receipt of financial assurances approved by the State
38 Mine Inspector when authorized pursuant to Section 2774.4, except
39 that any lead agency without an active surface mining operation
40 in its jurisdiction may defer adopting an implementing ordinance

1 until the filing of a permit application. The ordinances shall
2 establish procedures requiring at least one public hearing and shall
3 be periodically reviewed by the lead agency and revised, as
4 necessary, with notice to the board of any changes, to ensure that
5 the ordinances continue to be in accordance with state policy.

6 (b) (1) The lead agency shall conduct an inspection of a surface
7 mining operation within six months of receipt by the lead agency
8 of the surface mining operation's report submitted pursuant to
9 Section 2207, solely to determine whether the surface mining
10 operation is in compliance with this chapter. In no event shall the
11 lead agency inspect a surface mining operation less than once in
12 any calendar year. The lead agency shall cause any inspection to
13 be conducted by a state licensed geologist, or state licensed civil
14 engineer, who is experienced in land reclamation and who has not
15 been employed by a surface mining operation within the
16 jurisdiction of the lead agency in any capacity during the previous
17 12 months. If a lead agency operates a surface mine, the inspector
18 shall not have been an employee of the lead agency in any capacity
19 during the previous 12 months, *unless commencing January 1,*
20 *2018, the inspector has satisfactorily completed mine inspection*
21 *training from the State Mine Inspector within the previous two*
22 *years pursuant to paragraph (2).* All inspections shall be conducted
23 using a form developed by the department and approved by the
24 board that shall include the professional licensing and disciplinary
25 information of the person who conducted the inspection. The
26 operator shall be solely responsible for the reasonable cost of the
27 inspection. The lead agency shall notify the State Mine Inspector
28 within 30 days of the date of completion of the inspection that the
29 inspection has been conducted. The notice shall contain a statement
30 regarding the surface mining operation's compliance with this
31 chapter, shall include a copy of the completed inspection form,
32 and shall specify which aspects of the surface mining operations,
33 if any, are inconsistent with this chapter. If the surface mining
34 operation has a review of its reclamation plan, financial assurances,
35 or an interim management plan pending under subdivision (b), (c),
36 (d), or (h) of Section 2770, or an appeal pending before the board
37 or lead agency governing body under subdivision (e) or (h) of
38 Section 2770, the notice shall so indicate. The lead agency shall
39 forward to the operator a copy of the notice, a copy of the
40 completed inspection form, and any supporting documentation,

1 including, but not limited to, any inspection report prepared by the
2 geologist or civil engineer who conducted the inspection. A lead
3 agency's failure to comply with the requirements of this section
4 shall be cause for action pursuant to Section 2774.4.

5 (2) *On or before January 1, 2018, and on an ongoing basis after*
6 *that date, the State Mine Inspector shall offer lead agencies*
7 *continuing educational opportunities that qualifies employees of*
8 *the lead agencies to be credentialed, as appropriate, by the State*
9 *Mine Inspector, to inspect mines.*

10 (c) ~~Where, If pursuant to Section 2774.4, 2774.4~~ the State Mine
11 Inspector has assumed a lead agency's authority, ~~inspections shall~~
12 ~~be carried out in accordance with subdivision (b)~~ *the State Mine*
13 *Inspector shall carry out inspections in that jurisdiction in*
14 *accordance with subdivision (b).* The operator shall be solely
15 responsible for the reasonable cost of the inspection. The State
16 Mine Inspector shall notify the lead agency within 30 days of the
17 date of completion of the inspection that the inspection has been
18 conducted. The notice shall contain a statement regarding the
19 surface mining operation's compliance with this chapter, shall
20 include a copy of the completed inspection form, and shall specify
21 which aspects of the surface mining operations, if any, are
22 inconsistent with this chapter. If the surface mining operation has
23 a review of its reclamation plan, financial assurances, or an interim
24 management plan pending under subdivision (b), (c), (d), or (h)
25 of Section 2770, or an appeal pending before the board or lead
26 agency governing body under subdivision (e) or (h) of Section
27 2770, the notice shall so indicate. The State Mine Inspector shall
28 forward to the operator a copy of the notice, a copy of the
29 completed inspection form, and any supporting documentation,
30 including, but not limited to, any inspection report prepared by the
31 geologist or civil engineer who conducted the inspection.

32 (d) Before approving a surface mining operation's reclamation
33 plan, financial assurances, including existing financial assurances
34 reviewed by the lead agency pursuant to subdivision (c) of Section
35 2770, or any plan amendments, the lead agency shall submit the
36 plan, assurances, or amendments to the State Mine Inspector for
37 review. All documentation for that submission shall be submitted
38 to the State Mine Inspector at one time. When the lead agency
39 submits a reclamation plan or plan amendments to the State Mine
40 Inspector for review, the lead agency shall also submit to the State

1 Mine Inspector, for use in reviewing the reclamation plan or plan
2 amendments, information from any related document prepared,
3 adopted, or certified pursuant to Division 13 (commencing with
4 Section 21000), and shall submit any other pertinent information.
5 The lead agency shall certify in writing to the State Mine Inspector
6 that the reclamation plan is complete and in compliance with the
7 applicable requirements of this chapter and Article 1 (commencing
8 with Section 3500) of Chapter 8 of Division 2 of Title 14 of the
9 California Code of Regulations and the lead agency's mining
10 ordinance in effect at the time that the reclamation plan is submitted
11 to the State Mine Inspector for review.

12 (e) (1) The State Mine Inspector shall have 30 days from the
13 date of receipt of a complete reclamation plan or complete plan
14 amendments and financial assurances submitted pursuant to
15 subdivision (d) to prepare written comments, if the State Mine
16 Inspector so chooses. The lead agency shall evaluate written
17 comments received from the State Mine Inspector relating to the
18 reclamation plan, plan amendments, or financial assurances within
19 a reasonable amount of time.

20 (2) The lead agency shall prepare a written response to the State
21 Mine Inspector's comments describing the disposition of the major
22 issues raised by the State Mine Inspector's comments, and submit
23 the lead agency's proposed response to the State Mine Inspector
24 at least 30 days prior to approval of the reclamation plan, plan
25 amendment, or financial assurances. The lead agency's response
26 to the State Mine Inspector's comments shall describe whether the
27 lead agency proposes to adopt the State Mine Inspector's comments
28 to the reclamation plan, plan amendment, or financial assurances.
29 If the lead agency does not propose to adopt the State Mine
30 Inspector's comments, the lead agency shall specify, in detail, why
31 the lead agency proposes not to adopt the comments. Copies of
32 any written comments received and responses prepared by the lead
33 agency shall be forwarded to the operator. The lead agency shall
34 also give the State Mine Inspector at least 30 days' notice of the
35 time, place, and date of the hearing before the lead agency at which
36 the reclamation plan, plan amendment, or financial assurances
37 may be approved by the lead agency. If no hearing is required by
38 this chapter, or by the local ordinance, or other state law, then the
39 lead agency shall provide 30 days' notice to the State Mine
40 Inspector that it intends to approve the reclamation plan, plan

1 amendment, or financial assurances. ~~If the State Mine Inspector~~
2 ~~is dissatisfied with the lead agency's approval, the State Mine~~
3 ~~Inspector may seek judicial review of that approval pursuant to~~
4 ~~Section 1094.5 of the Code of Civil Procedure within 30 days of~~
5 ~~notice of the lead agency's action. *The State Mine Inspector,*~~
6 ~~*notwithstanding subdivision (e) of Section 2770, may appeal the*~~
7 ~~*lead agency's approval to the board within 30 days notice of the*~~
8 ~~*lead agency's action.*~~ Lead agency approval of a reclamation plan,
9 plan amendment, or financial assurances that is inconsistent with
10 this chapter shall be cause for action under Section 2774.4, whether
11 judicial review of the approval was obtained or not.

12 ~~(3) (A) Prior to approving initial financial assurances for a~~
13 ~~reclamation plan or any amendments, pursuant to subdivision (a)~~
14 ~~of Section 2770, the State Mine Inspector shall have 45 days from~~
15 ~~the date of receipt of a complete reclamation plan or complete plan~~
16 ~~amendments submitted pursuant to subdivision (c) to prepare~~
17 ~~financial assurances for reclamation pursuant to the proposed~~
18 ~~reclamation plan and to submit the proposed financial assurances~~
19 ~~to the lead agency for review.~~

20 *(3) (A) If the State Mine Inspector has assumed lead agency*
21 *authority for any mine operation pursuant to Section 2774.4, before*
22 *approving a reclamation plan or financial assurances, or any*
23 *amendments pursuant to subdivision (a) of Section 2770, the State*
24 *Mine Inspector shall submit the proposed reclamation plan,*
25 *financial assurances, or any amendments to the former lead agency*
26 *for review. All documentation for that submission shall be*
27 *submitted to the lead agency at one time.*

28 (B) The former lead agency shall have 30 days from the date
29 of its receipt of the financial assurances *documentation* to evaluate
30 the ~~financial assurances~~ *proposal* prepared by the State Mine
31 Inspector and to submit written comments, if the former lead
32 agency so chooses.

33 (C) The State Mine Inspector shall evaluate any written
34 comments received from the former lead agency pursuant to
35 subparagraph (B) and shall, *within a reasonable time*, prepare a
36 written response to the former lead agency's comments, describing
37 the disposition of the major issues raised by the former lead
38 agency's comments. The response shall indicate whether the State
39 Mine Inspector proposes to adopt the former lead agency's
40 comments or, if not, shall specify, in detail, why the State Mine

1 Inspector does not propose to ~~adopt the lead agency's comments~~
 2 *do so*. Copies of any written comments received and responses
 3 prepared by the State Mine Inspector shall be forwarded to the
 4 operator. ~~The State Mine Inspector shall submit the response and~~
 5 ~~the approved financial assurances to the lead agency and to the~~
 6 ~~operator within 30 days of receipt of the lead agency's comments.~~
 7 *former lead agency, notwithstanding subdivision (e) of Section*
 8 *2770, may appeal the State Mine Inspector's approval to the board*
 9 *within 30 days notice of the State Mine Inspector's action.*

10 (4) To the extent that there is a conflict between the comments
 11 of a trustee agency or a responsible agency that are based on the
 12 agency's statutory or regulatory authority and the comments of
 13 other commenting agencies that are received by the lead agency
 14 pursuant to Division 13 (commencing with Section 21000)
 15 regarding a reclamation plan or plan amendments, the lead agency
 16 shall consider only the comments of the trustee agency or
 17 responsible agency.

18 (e)

19 (f) A lead agency shall notify the State Mine Inspector of the
 20 filing of an application for a permit to conduct surface mining
 21 operations within 30 days of an application being filed with the
 22 lead agency. By July 1 of each year, the lead agency shall submit
 23 to the State Mine Inspector for each active or idle mining operation
 24 a copy of any permit or reclamation plan amendments, as
 25 applicable, or a statement that there have been no changes during
 26 the previous year. Failure to file with the State Mine Inspector the
 27 information required under this section shall be cause for action
 28 under Section 2774.4.

29 ~~SEC. 16.~~

30 *SEC. 17.* Section 2774.1 of the Public Resources Code is
 31 amended to read:

32 2774.1. (a) Except as provided in subdivision (i) of Section
 33 2770, if the lead agency or the State Mine Inspector determines,
 34 based upon an annual inspection ~~pursuant to Section 2774~~, or
 35 ~~otherwise confirmed by an inspection of the mining operation~~, that
 36 a surface mining operation is not in compliance with this chapter,
 37 the lead agency or the State Mine Inspector shall notify the operator
 38 of that violation by personal service or certified mail. The notice
 39 of violation shall specify the remedial steps to be taken to correct
 40 any noncompliance identified in the notice, as well as a reasonable

1 time for compliance of each instance of noncompliance if
2 compliance cannot reasonably be attained within 30 days of the
3 date of the notice. If a violation extends beyond 30 days after the
4 date of the lead agency's or the State Mine Inspector's notification,
5 unless the operator has accepted a scope of work and schedule,
6 agreed to by the lead agency or the State Mine Inspector, for
7 achieving compliance, the lead agency or the State Mine Inspector
8 shall issue an order by personal service or certified mail requiring
9 the operator to comply with this chapter or, if the operator does
10 not have an approved reclamation plan or financial assurances, to
11 cease all further mining activities.

12 (b) An order issued under subdivision (a) shall not take effect
13 until the operator has been provided a hearing before the lead
14 agency for orders issued by the lead agency, or board for orders
15 issued by the State Mine Inspector, concerning the alleged
16 violation. An order issued under subdivision (a) shall specify which
17 aspects of the surface mine's activities or operations are
18 inconsistent with this chapter, shall specify a time for compliance
19 that the lead agency or State Mine Inspector determines is
20 reasonable, taking into account the seriousness of the violation
21 and any good faith efforts to comply with applicable requirements,
22 and shall set a date for the hearing, which shall not be sooner than
23 30 days after the date of the order.

24 (c) Following the issuance of an order under subdivision (a),
25 the lead agency or the State Mine Inspector shall be entitled to
26 access to the mining operation to inspect the status of compliance
27 with the order. Entitlement to access shall be without further notice
28 than the order, and shall end only when the lead agency or the
29 State Mine Inspector determines that compliance with the order
30 has been attained or the order is reversed on appeal, whichever is
31 sooner.

32 (d) An operator who violates or fails to comply with an order
33 issued under subdivision (a) after the order's effective date, as
34 provided in subdivision (b), or who fails to submit a report to the
35 State Mine Inspector or lead agency as required by Section 2207,
36 shall be subject to an order by the lead agency or the State Mine
37 Inspector imposing an administrative penalty of not more than five
38 thousand dollars (\$5,000) per day, assessed from the original date
39 of noncompliance with this chapter or Section 2207. The penalty
40 may be imposed administratively by the lead agency or the State

1 Mine Inspector. In determining the amount of the administrative
2 penalty, the lead agency or the State Mine Inspector shall take into
3 consideration the nature, circumstances, extent, and gravity of the
4 violation or violations, any prior history of violations, the degree
5 of culpability, economic savings, if any, resulting from the
6 violation, and any other matters justice may require. Orders setting
7 administrative penalties shall become effective upon issuance of
8 the order and payment shall be made to the lead agency or the
9 State Mine Inspector within 30 days, unless the operator petitions
10 the legislative body of the lead agency, the board, or the superior
11 court for review as provided in Section 2774.2. An order shall be
12 served by personal service or by certified mail upon the operator.
13 Penalties collected by the State Mine Inspector shall not be used
14 for purposes other than to cover the reasonable costs incurred by
15 the board or the State Mine Inspector in implementing this chapter
16 or Section 2207.

17 (e) If the lead agency or the State Mine Inspector determines
18 that the surface mine is not in compliance with this chapter, so that
19 the surface mine presents an imminent and substantial
20 endangerment to the public health or the environment, the lead
21 agency or the Attorney General, on behalf of the State Mine
22 Inspector, may seek an order from a court of competent jurisdiction
23 enjoining that operation.

24 (f) Upon a complaint by the department, the State Mine
25 Inspector, or the board, the Attorney General may bring an action
26 to recover administrative penalties under this section, and penalties
27 under Section 2207, in any court of competent jurisdiction in this
28 state against any person violating any provision of this chapter or
29 Section 2207, or any regulation adopted pursuant to this chapter
30 or Section 2207. The Attorney General may bring this action on
31 his or her own initiative if, after examining the complaint and the
32 evidence, he or she believes a violation has occurred. The Attorney
33 General may also seek an order from a court of competent
34 jurisdiction compelling the operator to comply with this chapter
35 and Section 2207 and to cease operation until compliance is proven.

36 (g) (1) The lead agency has primary responsibility for enforcing
37 this chapter and Section 2207. In cases where the board is not the
38 lead agency pursuant to Section 2774.4, or in cases where the State
39 Mine Inspector has not assumed authority for mine inspections
40 and determining financial assurance amounts pursuant to Section

1 2774.4, enforcement actions may be initiated by the State Mine
2 Inspector pursuant to this section only after the violation has come
3 to the attention of the State Mine Inspector and either of the
4 following occurs:

5 (A) The lead agency has been notified by the State Mine
6 Inspector in writing of the violation for at least 30 days, and has
7 not taken appropriate enforcement action, which may include
8 failing to issue an order to comply within a reasonable time after
9 issuing a notice of violation.

10 (B) The State Mine Inspector determines that there is a violation
11 that amounts to an imminent and substantial endangerment to the
12 public health or safety, or to the environment.

13 (2) If the board or the State Mine Inspector is the lead agency
14 pursuant to Section 2774.4, the board or the State Mine Inspector,
15 as the case may be, has sole responsibility for enforcing this chapter
16 and Section 2207.

17 (3) *If the State Mine Inspector has given notice of a violation*
18 *to the lead agency under subparagraph (A), or made a*
19 *determination under subparagraph (B), the lead agency shall not*
20 *resolve enforcement for any violation without the concurrence of*
21 *the State Mine Inspector.*

22 (h) Remedies under this section are in addition to, and do not
23 supersede or limit, any and all other remedies, civil or criminal.

24 ~~SEC. 17.~~

25 *SEC. 18.* Section 2774.3 of the Public Resources Code is
26 amended to read:

27 2774.3. The board shall review lead agency ordinances that
28 establish permit and reclamation procedures, and any proposed
29 changes thereto, to determine whether each ordinance or proposed
30 change is in accordance with state policy, and shall certify the
31 ordinance or proposed change as being in accordance with state
32 policy if it adequately meets, or imposes requirements more
33 stringent than, the California surface mining and reclamation
34 policies and procedures established by the board pursuant to this
35 chapter. Proposed changes to lead agency ordinances shall not be
36 effective until certified by the board pursuant to this section.

37 ~~SEC. 18.~~

38 *SEC. 19.* Section 2774.4 of the Public Resources Code is
39 amended to read:

1 2774.4. (a) If the board finds that a lead agency either has (1)
2 approved reclamation plans or financial assurances that are not
3 consistent with this chapter, (2) failed to inspect or cause the
4 inspection of surface mining operations as required by this chapter,
5 (3) failed to seek forfeiture of financial assurances and to carry
6 out reclamation of surface mining operations as required by this
7 chapter, (4) failed to take appropriate enforcement actions as
8 required by this chapter, (5) intentionally misrepresented the results
9 of inspections required under this chapter, or (6) failed to submit
10 information to the department as required by this chapter, including
11 annually certifying to the board all of the following: (A) that the
12 lead agency has approved an adequate reclamation plan and
13 financial assurances, including any amendments thereto, for each
14 mining operation in its jurisdiction, (B) that its mineral resources
15 management plan complies with applicable law and has been
16 adopted in accordance with Section 2762, and (C) that all notices
17 required pursuant to Section 2772.7 have been recorded, the board
18 shall assign to the State Mine Inspector the authority to exercise
19 any of the powers of that agency under this chapter, except for
20 permitting authority.

21 (b) Until January 1, 2016, in cases where the board has assumed
22 authority to exercise the powers of the lead agency under this
23 chapter, except for permitting authority, the board shall continue
24 to do so. Thereafter, the board shall assign those powers to the
25 State Mine Inspector.

26 (c) If, no sooner than three years after the board has taken action
27 pursuant to subdivision (a), the board finds, after a public hearing,
28 that a lead agency has corrected its deficiencies in implementing
29 and enforcing this chapter, and the rules and regulations adopted
30 pursuant to this chapter, the board shall restore to the lead agency
31 the powers assumed by the State Mine Inspector pursuant to
32 subdivision (a).

33 (d) Before taking any action pursuant to subdivision (a), the
34 board shall first notify the lead agency of the identified
35 deficiencies, and allow the lead agency 45 days to correct the
36 deficiencies to the satisfaction of the board. If the lead agency has
37 not corrected the deficiencies to the satisfaction of the board within
38 the 45-day period, the board shall hold a public hearing within the
39 lead agency's area of jurisdiction, upon a 45-day written notice
40 given to the public in at least one newspaper of general circulation

1 within the city or county, and directly mailed to the lead agency
2 and to all surface mining operators within the lead agency's
3 jurisdiction who have submitted reports as required by Section
4 2207.

5 (e) Affected surface mining operators and interested persons
6 have the right, at the public hearing, to present oral and written
7 evidence on the matter being considered. The board may, at the
8 public hearing, place reasonable limits on the right of affected
9 surface mining operators and interested persons to question and
10 solicit testimony.

11 (f) If, after conducting the public hearing required by subdivision
12 (d), the board decides to take action pursuant to subdivision (a),
13 the board shall, based on the record of the public hearing, adopt
14 written findings which explain all of the following:

- 15 (1) The action to be taken by the board.
- 16 (2) Why the board decided to take the action.
- 17 (3) Why the action is authorized by, and meets the requirements
18 of, subdivision (a).

19 In addition, the findings shall address the significant issues
20 raised, or written evidence presented, by affected surface mining
21 operators, interested persons, or the lead agency. The transcript of
22 testimony and exhibits, together with all papers and requests filed
23 in the proceedings, shall constitute the exclusive record for decision
24 by the board.

25 (g) The lead agency, any affected surface mining operator, or
26 any interested person who has presented oral or written evidence
27 at the public hearing before the board pursuant to subdivision (e)
28 may obtain review of the board's action taken pursuant to
29 subdivision (a) by filing in the superior court a petition for writ of
30 mandate within 30 days following the issuance of the board's
31 decision. Section 1094.5 of the Code of Civil Procedure governs
32 judicial proceedings pursuant to this subdivision, except that in
33 every case the court shall exercise its independent judgment. If a
34 petition for a writ of mandate is not filed within the time limits set
35 by this subdivision, the board's action under subdivision (a) shall
36 not be subject to review by any court or agency.

37 (h) (1) A lead agency may unilaterally and voluntarily relinquish
38 any or all of its responsibilities under this chapter, and the State
39 Mine Inspector shall assume those responsibilities.

1 (2) (A) No sooner than three years after relinquishing its lead
2 agency responsibilities, the lead agency may request the board to
3 authorize it to resume its role as a lead agency.

4 (B) If the board finds, after holding a public hearing as described
5 in subdivision (e), that the lead agency has corrected all
6 deficiencies, if any, pursuant to subdivision (a) in implementing
7 and enforcing this chapter and its implementing regulations, the
8 board shall restore to the agency the lead agency powers assumed
9 by the State Mine Inspector pursuant to this subdivision.

10 ~~SEC. 19.~~

11 *SEC. 20.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 a local agency or school district has the authority to levy service
14 charges, fees, or assessments sufficient to pay for the program or
15 level of service mandated by this act, within the meaning of Section
16 17556 of the Government Code.