

ASSEMBLY BILL

No. 1142

Introduced by Assembly Member Gray

February 27, 2015

An act to amend Sections 2207, 2773.1, 2774, and 2774.1 of, to amend and repeal Section 2717 of, and to add Section 2773.11 to, the Public Resources Code, relating to mining and geology.

LEGISLATIVE COUNSEL'S DIGEST

AB 1142, as introduced, Gray. Mining and geology: surface mining.

(1) The Surface Mining and Reclamation Act of 1975 requires the department to publish in the California Regulatory Notice Register, or otherwise make available, upon request, to the Department of General Services or any other state or local agency, a list identifying certain surface mining operations. Existing law also prohibits a state agency from acquiring or utilizing mined material, or from contracting with a person utilizing these materials, as specified, unless the material is produced from a mining operation on that list that meets certain requirements. The act, until January 1, 2019, requires this list to identify surface mining operations whose reclamation plan has been approved and is in compliance with the act, whose mining operation is in compliance with the approved reclamation plan or an order to comply, as specified, and whose mining operation has an approved financial assurance, as specified.

This bill would continue indefinitely the inclusion on the list the identification of those surface mining operations.

(2) The act prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a permit is obtained from, a specified reclamation plan is submitted to and approved

by, and financial assurances for reclamation have been approved by the lead agency for the operation of the surface mining operation.

This bill would revise and recast provisions of the act related to financial assurances and, among other things, would prohibit an operator being required to adjust financial assurances that are in excess of the amount determined necessary to perform reclamation in accordance with the surface mining operation's approved reclamation plan, require financial assurance cost estimates be submitted for review and include estimates of the time needed to complete reclamation of the mine, and prescribe the actions to be taken by an operator, lead agency, and the director prior to the modification of the amount of a financial assurance or the full or partial release of the financial assurance instrument. By adding to the duties of local agencies, this bill would impose a state-mandated local program.

(3) The act requires the owner or operator of a mining operation to forward annually to the director and the lead agency a report that provides, among other things, proof of annual inspection by the lead agency. The act also requires every lead agency to adopt ordinances that establish procedures for the review and approval of reclamation plans, and, before approving a reclamation plan, to submit the plan to the director. The act requires a lead agency to inspect a surface mining operation within 6 months of receiving a specified report and to conduct an inspection no less than once every calendar year. The act authorizes a lead agency to authorize an inspection to be conducted by a state licensed geologist, state licensed civil engineer, state licensed landscape architect, or state licensed forester, as specified.

This bill would revise and recast those provisions and, among other things, would require the owner or operator to provide a copy of the previously completed annual inspection form and a requested date for the next annual inspection by the lead agency, require a lead agency to authorize an inspection to be conducted by an employee of the local agency who has received specified training, impose new requirements on the lead agency related to the timing of inspections, impose timelines on a lead agency related to the submission of an application for a permit to conduct a surface mining operation, and require the State Geologist to coordinate with the director, board, lead agencies, and interested parties to develop a curriculum for the training of mine inspectors. By adding to the duties of local agencies, this bill would impose a state-mandated local program.

(4) The act requires that the lead agency have primary responsibility in enforcing the act. The act authorizes, in cases where the board is not the lead agency, the director to initiate enforcement actions if the lead agency has been notified by the director, for at least 15 days, of a violation and has not taken appropriate enforcement action, or the director determines there is a violation that presents an imminent and substantial endangerment to the public health or safety, or the environment.

This bill would require the lead agency, the director, or the board, as appropriate, to take into account and seek to minimize the impact of any proposed enforcement action on the number of existing jobs supported directly or indirectly by the surface mining operation.

(5) 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. Section 2207 of the Public Resources Code is
2 amended to read:

3 2207. (a) The owner or the operator of a mining operation
4 within the state shall forward to the director annually, not later
5 than a date established by the director, upon forms approved by
6 the board from time to time, a report that identifies *and contains*
7 all of the following:

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

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

14 (3) The location of the mining operation, its name, its mine
15 number as issued by the ~~Bureau of Mines~~ *Office of Mine*
16 *Reclamation* or the director, its section, township, range, latitude,
17 longitude, and approximate boundaries of the mining operation

1 marked on a United States Geological Survey 7½-minute or
2 15-minute quadrangle map.

3 (4) The lead agency.

4 (5) The approval date of the mining operation's reclamation
5 plan.

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

8 (7) The commodities produced by the mine and the type of
9 mining operation.

10 ~~(8) Proof of annual inspection by the lead agency.~~

11 *(8) A copy of the previously completed annual inspection form*
12 *and a requested date for the next annual inspection by the lead*
13 *agency.*

14 (9) Proof of financial assurances.

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

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

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

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

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

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

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

31 (b) (1) Every year, not later than the date established by the
32 director, the person submitting the report pursuant to subdivision
33 (a) shall forward to the lead agency, upon forms furnished by the
34 board, a report that provides all of the information specified in
35 ~~paragraphs (1) to (16), inclusive, of subdivision (a).~~

36 (2) The owner or operator of a mining operation shall allow
37 access to the property to any governmental agency or the agent of
38 any company providing financial assurances in connection with
39 the reclamation ~~plan,~~ *plan* in order that the reclamation can be

1 carried out by the entity or company, in accordance with the
2 provisions of the reclamation plan.

3 (c) Subsequent reports shall include only changes in the
4 information submitted for the items described in subdivision (a),
5 except that, instead of the approved reclamation plan, the reports
6 shall include any reclamation plan amendments approved during
7 the previous year. The reports shall state whether review of a
8 reclamation plan, financial assurances, or an interim management
9 plan is pending under subdivision (b), (c), (d), or (h) of Section
10 2770, or whether an appeal before the board or lead agency
11 governing body is pending under subdivision (e) or (h) of Section
12 2770. The director shall notify the person submitting the report
13 and the owner's designated agent in writing that the report and the
14 fee required pursuant to subdivision (d) have been received, specify
15 the mining operation's mine number if one has not been issued by
16 the ~~Bureau of Mines~~, *Office of Mine Reclamation*, and notify the
17 person and agent of any deficiencies in the report within 90 days
18 of receipt. That person or agent shall have 30 days from receipt of
19 the notification to correct the noted deficiencies and forward the
20 revised ~~reports~~ *report* to the director and the lead agency. Any
21 person who fails to comply with this section, or knowingly provides
22 incorrect or false information in reports required by this section,
23 may be subject to an administrative penalty as provided in
24 subdivision (c) of Section 2774.1.

25 (d) (1) The board shall impose, by regulation, pursuant to
26 paragraph (2), an annual reporting fee on, and method for collecting
27 annual fees from, each active or idle mining operation. The
28 maximum fee for any single mining operation may not exceed four
29 thousand dollars (\$4,000) annually and may not be less than one
30 hundred dollars (\$100) annually, as adjusted for the cost of living
31 as measured by the California Consumer Price Index for all urban
32 consumers, calendar year averages, using the percentage change
33 in the previous year, beginning with the 2005-06 fiscal year and
34 annually thereafter.

35 (2) (A) The board shall adopt, by regulation, a schedule of fees
36 authorized under paragraph (1) to cover the department's cost in
37 carrying out this section and Chapter 9 (commencing with Section
38 2710), as reflected in the Governor's *proposed* Budget, and may
39 adopt those regulations as emergency regulations. In establishing
40 the schedule of fees to be paid by each active and idle mining

1 operation, the fees shall be calculated on an equitable basis
2 reflecting the size and type of operation. The board shall also
3 consider the total assessed value of the mining operation, the
4 acreage disturbed by mining activities, and the acreage subject to
5 the reclamation plan.

6 (B) Regulations adopted pursuant to this subdivision shall be
7 adopted by the board in accordance with ~~Chapter~~ *the Administrative*
8 *Procedure Act (Chapter 3.5* (commencing with Section 11340) of
9 Part 1 of Division 3 of Title 2 of the Government ~~Code~~ *Code*).
10 The adoption of any emergency regulations pursuant to this
11 subdivision shall be considered necessary to address an emergency
12 and shall be considered by the Office of Administrative Law to be
13 necessary for the immediate preservation of the public peace,
14 health, safety, and general welfare.

15 (3) The total revenue generated by the reporting fees may not
16 exceed, and may be less than, the amount of three million five
17 hundred thousand dollars (\$3,500,000), as adjusted for the cost of
18 living as measured by the California Consumer Price Index for all
19 urban consumers, calendar year averages, using the percentage
20 change in the previous year, beginning with the 2005–06 fiscal
21 year and annually thereafter. If the director determines that the
22 revenue collected during the preceding fiscal year was greater or
23 less than the cost to operate the program, the board shall adjust
24 the fees to compensate for the overcollection or undercollection
25 of revenues.

26 (4) (A) The reporting fees established pursuant to this
27 subdivision shall be deposited in the Mine Reclamation Account,
28 which is hereby created. Any fees, penalties, interest, fines, or
29 charges collected by the director or board pursuant to this chapter
30 or Chapter 9 (commencing with Section 2710) shall be deposited
31 in the Mine Reclamation Account. The money in the account shall
32 be available to the department and board, upon appropriation by
33 the Legislature, for the purpose of carrying out this section and
34 complying with Chapter 9 (commencing with Section 2710), which
35 includes, but is not limited to, classification and designation of
36 areas with mineral resources of statewide or regional significance,
37 reclamation plan and financial assurance review, mine inspection,
38 and enforcement.

39 (B) (i) In addition to reporting fees, the board shall collect five
40 dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of

1 silver mined within the state and shall deposit the fees collected
2 in the Abandoned Mine Reclamation and Minerals Fund
3 Subaccount, which is hereby created in the Mine Reclamation
4 Account. The department may expend the moneys in the
5 subaccount, upon appropriation by the Legislature, for only the
6 purposes of Section 2796.5 and as authorized herein for the
7 remediation of abandoned mines.

8 (ii) Notwithstanding subdivision (j) of Section 2796.5, fees
9 collected pursuant to clause (i) may also be used to remediate
10 features of historic abandoned mines and lands that they impact.
11 For the purposes of this section, historic abandoned mines are
12 mines for which operations have been conducted before January
13 1, 1976, and include, but are not limited to, historic gold and silver
14 mines.

15 (5) In case of late payment of the reporting fee, a penalty of not
16 less than one hundred dollars (\$100) or 10 percent of the amount
17 due, whichever is greater, plus interest at the rate of 1 ½ percent
18 per month, computed from the delinquent date of the assessment
19 until and including the date of payment, shall be assessed. New
20 mining operations that have not submitted a report shall submit a
21 report prior to commencement of operations. The new operation
22 shall submit its fee according to the reasonable fee schedule
23 adopted by the board, and the month that the report is received
24 shall become that operation's anniversary month.

25 (e) The lead agency, or the board when acting as the lead agency,
26 may impose a fee upon each mining operation to cover the
27 reasonable costs incurred in implementing this chapter and Chapter
28 9 (commencing with Section 2710).

29 (f) For purposes of this section, "mining operation" means a
30 mining operation of any kind or character whatever in this state,
31 including, but not limited to, a mining operation that is classified
32 as a "surface mining operation" as defined in Section 2735, unless
33 excepted by Section 2714. For the purposes of fee collections only,
34 "mining operation" may include one or more mines operated by
35 a single operator or mining company on one or more sites, if the
36 total annual combined mineral production for all sites is less than
37 100 troy ounces for precious metals, if precious metals are the
38 primary mineral commodity produced, or less than 100,000 short
39 tons if the primary mineral commodity produced is not precious
40 metals.

1 (g) Any information in reports submitted pursuant to subdivision
 2 (a) that includes or otherwise indicates the total mineral production,
 3 reserves, or rate of depletion of any mining operation may not be
 4 disclosed to any member of the public, as defined in subdivision
 5 (b) of Section 6252 of the Government Code. Other portions of
 6 the reports are public records unless excepted by statute. Statistical
 7 bulletins based on these reports and published under Section 2205
 8 shall be compiled to show, for the state as a whole and separately
 9 for each lead agency, the total of each mineral produced therein.
 10 In order not to disclose the production, reserves, or rate of depletion
 11 from any identifiable mining operation, no production figure shall
 12 be published or otherwise disclosed unless that figure is the
 13 aggregated production of not less than three mining operations. If
 14 the production figure for any lead agency would disclose the
 15 production, reserves, or rate of depletion of less than three mining
 16 operations or otherwise permit the reasonable inference of the
 17 production, reserves, or rate of depletion of any identifiable mining
 18 operation, that figure shall be combined with the same figure of
 19 not less than two other lead agencies without regard to the location
 20 of the lead agencies. The bulletin shall be published annually by
 21 June 30 or as soon thereafter as practicable.

22 (h) The approval of a form by the board pursuant to this section
 23 is not the adoption of a regulation for purposes of ~~Chapter the~~
 24 *Administrative Procedure Act (Chapter 3.5* (commencing with
 25 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
 26 ~~Code Code~~) and is not subject to that ~~chapter~~ *act*.

27 SEC. 2. Section 2717 of the Public Resources Code, as
 28 amended by Section 2 of Chapter 417 of the Statutes of 2013, is
 29 amended to read:

30 2717. (a) Notwithstanding Section 10231.5 of the Government
 31 Code, the board shall submit to the Legislature on December 1 of
 32 each year a report on the actions taken pursuant to this chapter
 33 during the preceding fiscal year. The report shall include a
 34 statement of the actions, including legislative recommendations,
 35 that are necessary to carry out more completely the purposes and
 36 requirements of this chapter.

37 (b) For *the* purposes of ensuring compliance with Sections
 38 10295.5 and 20676 of the Public Contract Code, the department
 39 shall, at a minimum, quarterly publish in the California Regulatory
 40 Notice Register, or otherwise make available upon request to the

1 Department of General Services or any other state or local agency,
2 a list identifying all of the following:

3 (1) Surface mining operations for which a report is required and
4 has been submitted pursuant to Section 2207 that indicates all of
5 the following:

6 (A) The reclamation plan and financial assurances have been
7 approved pursuant to this chapter.

8 (B) Compliance with state reclamation standards developed
9 pursuant to Section 2773.

10 (C) Compliance with the financial assurance guidelines
11 developed pursuant to Section 2773.1.

12 (D) ~~The~~ *Whether the* annual reporting fee has been submitted
13 to the ~~Department of Conservation.~~ *department.*

14 (2) Surface mining operations for which an appeal is pending
15 before the board pursuant to subdivision (e) of Section 2770, if
16 the appeal was not pending before the board for more than 180
17 days.

18 (3) Surface mining operations for which an inspection is required
19 and for which an inspection notice has been submitted by the lead
20 agency pursuant to Section 2774 that indicates both compliance
21 with the approved reclamation plan and that sufficient financial
22 assurances, pursuant to Section 2773.1, have been approved and
23 secured.

24 (4) Surface mining operations that meet all of the following:

25 (A) The reclamation plan has been approved and is in
26 compliance with this chapter.

27 (B) The mining operation is in compliance with either of the
28 following:

29 (i) The approved reclamation plan.

30 (ii) An order to comply issued prior to January 1, 2019, pursuant
31 to this chapter and that is being complied with by the operator. An
32 order to comply may be stipulated to as follows:

33 (I) By the department, lead agency, and operator if the
34 enforcement action was initiated by the director.

35 (II) By the lead agency and the operator, with notice of the
36 stipulation provided to the director if the enforcement action was
37 initiated by the lead agency.

38 (C) In accordance with Section 2773.1 and Article 11
39 (commencing with Section 3800) of Title 14 of the California Code
40 of Regulations, as amended, the surface mining operation has an

1 approved financial assurance in place that is adequate for
2 reclamation pursuant to the approved reclamation plan.

3 (c) Between July 1, 2017, and January 1, 2018, the department
4 shall submit to the Legislature a report on the activities of lead
5 agencies and surface mining operations. This report shall include,
6 but ~~is~~ *need not be* limited to, all of the following:

7 (1) Number of financial assurance cost estimates reviewed and
8 approved each year by each lead agency.

9 (2) Number of annual mine inspections performed by each lead
10 agency.

11 (3) Information on idle mines and interim management plans
12 approved by each lead agency.

13 (4) Number and location of mining operations that are no longer
14 in operation with no intent to resume and are in the process of
15 reclamation and how many years each of these mining operations
16 has claimed that status.

17 (5) Information on approved mineral resources management
18 plans across the state from the board.

19 (6) Number and location of mines with reclamation plans
20 approved prior to the adoption of the 1993 reclamation standards.

21 (7) Percentage of mining operations on the list published
22 pursuant to subdivision (b) and the number and location of mining
23 operations that have been placed on the list pursuant to clause (ii)
24 of subparagraph (B) of paragraph (4) of subdivision (b).

25 (8) Number of historic abandoned mines remediated by the
26 department and *the* locations of known remaining hazards.

27 (9) Number, types, and status of notices of violations and orders
28 to comply issued by the department organized by location.

29 (10) Number of administrative penalties issued by the
30 department and amounts, as well as information on the amounts
31 actually collected by the department organized by location.

32 (d) A report submitted pursuant to subdivision (a) or (c) shall
33 be submitted in compliance with Section 9795 of the Government
34 Code.

35 ~~(e) This section shall remain in effect only until January 1, 2019,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before January 1, 2019, deletes or extends that date.~~

38 SEC. 3. Section 2717 of the Public Resources Code, as added
39 by Section 3 of Chapter 417 of the Statutes of 2013, is repealed.

1 ~~2717. (a) Notwithstanding Section 10231.5 of the Government~~
2 ~~Code, the board shall submit to the Legislature on December 1 of~~
3 ~~each year a report on the actions taken pursuant to this chapter~~
4 ~~during the preceding fiscal year. The report shall include a~~
5 ~~statement of the actions, including legislative recommendations,~~
6 ~~that are necessary to carry out more completely the purposes and~~
7 ~~requirements of this chapter.~~

8 ~~(b) For purposes of ensuring compliance with Sections 10295.5~~
9 ~~and 20676 of the Public Contract Code, the department shall, at a~~
10 ~~minimum, quarterly publish in the California Regulatory Notice~~
11 ~~Register, or otherwise make available upon request to the~~
12 ~~Department of General Services or any other state or local agency,~~
13 ~~a list identifying all of the following:~~

14 ~~(1) Surface mining operations for which a report is required and~~
15 ~~has been submitted pursuant to Section 2207 that indicates all of~~
16 ~~the following:~~

17 ~~(A) The reclamation plan and financial assurances have been~~
18 ~~approved pursuant to this chapter.~~

19 ~~(B) Compliance with state reclamation standards developed~~
20 ~~pursuant to Section 2773.~~

21 ~~(C) Compliance with the financial assurance guidelines~~
22 ~~developed pursuant to Section 2773.1.~~

23 ~~(D) The annual reporting fee has been submitted to the~~
24 ~~Department of Conservation.~~

25 ~~(2) Surface mining operations for which an appeal is pending~~
26 ~~before the board pursuant to subdivision (e) of Section 2770, if~~
27 ~~the appeal was not pending before the board for more than 180~~
28 ~~days.~~

29 ~~(3) Surface mining operations for which an inspection is required~~
30 ~~and for which an inspection notice has been submitted by the lead~~
31 ~~agency pursuant to Section 2774 that indicates both compliance~~
32 ~~with the approved reclamation plan and that sufficient financial~~
33 ~~assurances, pursuant to Section 2773.1, have been approved and~~
34 ~~secured.~~

35 ~~(4) Surface mining operations to which an order to comply was~~
36 ~~issued pursuant to this chapter prior to January 1, 2019, and that~~
37 ~~is being complied with. An order to comply may have been~~
38 ~~stipulated to as follows:~~

39 ~~(A) By the department, lead agency, and operator if the~~
40 ~~enforcement action was initiated by the director.~~

1 ~~(B) By the lead agency and the operator, with notice of the~~
 2 ~~stipulation provided to the director if the enforcement action was~~
 3 ~~initiated by the lead agency.~~

4 ~~(e) A report submitted pursuant to subdivision (a) shall be~~
 5 ~~submitted in compliance with Section 9795 of the Government~~
 6 ~~Code.~~

7 ~~(d) This section shall become operative January 1, 2019.~~

8 SEC. 4. Section 2773.1 of the Public Resources Code is
 9 amended to read:

10 2773.1. (a) Lead agencies shall require financial assurances
 11 of each surface mining operation to ensure reclamation is
 12 performed in accordance with the surface mining operation's
 13 approved reclamation plan, as follows:

14 (1) Financial assurances may take the form of surety bonds
 15 executed by an admitted surety insurer, as defined in subdivision
 16 (a) of Section 995.120 of the Code of Civil Procedure, irrevocable
 17 letters of credit, trust funds, or other forms of financial assurances
 18 specified by the board pursuant to subdivision (e), ~~which~~ *that* the
 19 lead agency reasonably determines are adequate to perform
 20 reclamation in accordance with the surface mining operation's
 21 approved reclamation plan.

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

25 (3) The amount of financial assurances required of a surface
 26 mining operation for any one year shall be *reviewed and, if*
 27 *necessary, adjusted annually once each calendar year* to account
 28 for new lands disturbed by surface mining operations, inflation,
 29 and reclamation of lands accomplished in accordance with the
 30 approved reclamation plan. *An operator shall not be required to*
 31 *adjust financial assurances that are in excess of the amount*
 32 *determined necessary to perform reclamation in accordance with*
 33 *the surface mining operation's approved reclamation plan.*

34 (4) *Financial assurance cost estimates shall be submitted to the*
 35 *lead agency for review on the form adopted by the board by*
 36 *regulation pursuant to subdivision (f). The estimates shall include*
 37 *estimates of the time needed to complete reclamation of the mine*
 38 *in accordance with the approved reclamation plan, including, but*
 39 *not limited to, any monitoring studies required by the reclamation*
 40 *plan.*

1 ~~(4)~~

2 (5) The financial assurances shall be made payable to the lead
3 agency and the department. Financial assurances that were
4 approved by the lead agency prior to January 1, 1993, and were
5 made payable to the State Geologist shall be considered payable
6 to the department for purposes of this chapter. However, if a surface
7 mining operation has received approval of its financial assurances
8 from a public agency other than the lead agency, the lead agency
9 shall deem those financial assurances adequate for purposes of
10 this section, or shall credit them toward fulfillment of the financial
11 assurances required by this section, if they are made payable to
12 the public agency, the lead agency, and the department and
13 otherwise meet the requirements of this section. In any event, if a
14 lead agency and one or more public agencies exercise jurisdiction
15 over a surface mining operation, the total amount of financial
16 assurances required by the lead agency and the public agencies
17 for any one year shall not exceed that amount—~~which~~ *that* is
18 necessary to perform reclamation of lands remaining disturbed.
19 For purposes of this paragraph, a “public agency” may include a
20 federal agency.

21 (b) If the lead agency or the board, following a public hearing,
22 determines that the operator is financially incapable of performing
23 reclamation in accordance with its approved reclamation plan, or
24 has abandoned its surface mining operation without commencing
25 reclamation, either the lead agency or the director shall do all of
26 the following:

27 (1) Notify the operator by personal service or certified mail that
28 the lead agency or the director intends to take appropriate action
29 to forfeit the financial assurances and specify the reasons for so
30 doing.

31 (2) Allow the operator 60 days to commence or cause the
32 commencement of reclamation in accordance with its approved
33 reclamation plan and require that reclamation be completed within
34 the time limits specified in the approved reclamation plan or some
35 other time period mutually agreed upon by the lead agency or the
36 director and the operator.

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

1 (4) Use the proceeds from the forfeited financial assurances to
2 conduct and complete reclamation in accordance with the approved
3 reclamation plan. ~~In no event shall the~~ *The* financial assurances
4 *shall not* be used for any other purpose. The operator is responsible
5 for the costs of conducting and completing reclamation in
6 accordance with the approved reclamation plan ~~which~~ *that* are in
7 excess of the proceeds from the forfeited financial assurances.

8 (c) Financial assurances shall no longer be required of a surface
9 mining operation, and shall be released, upon written notification
10 by the lead agency, which shall be forwarded to the operator and
11 the director, that reclamation has been completed in accordance
12 with the approved reclamation plan. If a mining operation is sold
13 or ownership is transferred to another person, the existing financial
14 assurances shall remain in force and shall not be released by the
15 lead agency until new financial assurances are secured from the
16 new owner and have been approved by the lead agency in
17 accordance with Section 2770.

18 (d) The lead agency shall have primary responsibility to seek
19 forfeiture of financial assurances and to reclaim mine sites under
20 subdivision (b). However, in cases where the board is not the lead
21 agency pursuant to Section 2774.4, the director may act to seek
22 forfeiture of financial assurances and reclaim mine sites pursuant
23 to subdivision (b) only if both of the following occurs:

24 (1) The financial incapability of the operator or the abandonment
25 of the mining operation has come to the attention of the director.

26 (2) The lead agency has been notified in writing by the director
27 of the financial incapability of the operator or the abandonment
28 of the mining operation for at least 15 days, ~~and the lead agency~~
29 has not taken appropriate measures to seek forfeiture of the
30 financial assurances and reclaim the mine ~~site~~; *site*, and one of the
31 following has occurred:

32 (A) The lead agency has been notified in writing by the director
33 that failure to take appropriate measures to seek forfeiture of the
34 financial assurances or to reclaim the mine site shall result in
35 actions being taken against the lead agency under Section 2774.4.

36 (B) The director determines that there is a violation that amounts
37 to an imminent and substantial endangerment to the public health,
38 safety, or to the environment.

1 (C) The lead agency notifies the director in writing that its good
2 faith attempts to seek forfeiture of the financial assurances have
3 not been successful.

4 The director shall comply with subdivision (b) in seeking
5 forfeiture of financial assurances and reclaiming mine sites.

6 (e) The board may adopt regulations specifying financial
7 assurance mechanisms other than surety bonds, irrevocable letters
8 of credit, and trust funds, which the board determines are
9 reasonably available and adequate to ensure reclamation pursuant
10 to this chapter, but these mechanisms ~~may~~ shall not include
11 financial tests, or surety bonds executed by one or more personal
12 sureties. These mechanisms may include reclamation bond pool
13 programs.

14 (f) On or before March 1, 1993, the board shall adopt guidelines
15 to implement this section. The guidelines are exempt from the
16 requirements of ~~Chapter~~ *the Administrative Procedure Act (Chapter*
17 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
18 *Title 2 of the Government Code, Code*), and are not subject to
19 review by the Office of Administrative Law.

20 SEC. 5. Section 2773.11 is added to the Public Resources Code,
21 to read:

22 2773.11. (a) Prior to the modification of the amount of a
23 financial assurance or the full or partial release of the financial
24 assurance instrument to which both the lead agency and the
25 department are cobeneficiaries pursuant to Section 2773.1, the
26 lead agency shall provide to the director all of the following
27 documents at one time:

28 (1) An inspection report, prepared by a qualified person pursuant
29 to Section 2774, indicating that there are aspects of the surface
30 mining operation that require modification of the existing financial
31 assurance amount or stating that the mined land has been reclaimed
32 in full or in part, as the case may be, in accordance with the
33 approved reclamation plan.

34 (2) A revised financial assurance cost estimate prepared by the
35 operator and accepted by the lead agency, or prepared by the lead
36 agency pursuant to Section 2773.1, with supporting documentation
37 that indicates the specific cost changes to the existing financial
38 assurance amount, or that indicates there are no further outstanding
39 reclamation liabilities to be included in the financial assurance.

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

9 (4) The director shall review and comment on the documents
10 within 45 days from the date of receipt of the documents, pursuant
11 to Section 2774. The director shall inspect the surface mining
12 operation if the director determines it necessary pursuant to Section
13 2774.1 and shall do any of the following:

14 (A) Notify the lead agency of the director’s concurrence that
15 the modified financial assurance amount is adequate or that there
16 are no outstanding reclamation liabilities on the mined land and
17 that the original financial assurance should be released in full or
18 in part pursuant to Section 2773.1, at which time the financial
19 assurance shall be released.

20 (B) Notify the lead agency that the director has found, based
21 on an inspection, aspects of the surface mining operation that
22 require additional modifications to the financial assurance amount
23 or aspects that are not in compliance with the approved reclamation
24 plan.

25 (C) Commence the financial assurance forfeiture process
26 pursuant to Section 2773.1.

27 (b) (1) An operator may request the lead agency and the director
28 jointly to inspect and review a request for full or partial release of
29 a financial assurance instrument. Notwithstanding subdivision (a),
30 the operator may submit a request for a joint inspection and review
31 to the lead agency and the director along with the surface mining
32 operation’s most recent inspection report, a revised financial
33 assurance cost estimate, and other supporting documentation.

34 (2) The lead agency and the director shall conduct a joint
35 inspection for the purpose of evaluating the operator’s request
36 within 90 days after receipt of the operator’s request.

37 (3) Within 45 days after completion of the joint inspection, the
38 lead agency and the director shall do any of the following:

39 (A) Notify the operator the modified financial assurance amount
40 is adequate or that there are no outstanding reclamation liabilities

1 on the mined land and that the original financial assurance should
2 be released in full or in part pursuant to Section 2773.1, at which
3 time the financial assurance shall be released.

4 (B) Notify the operator that aspects of the surface mining
5 operation require additional modifications to the financial assurance
6 amount or that aspects of the surface mining operation are not in
7 compliance with the approved reclamation plan.

8 (C) Commence the financial assurance forfeiture process
9 pursuant to Section 2773.1.

10 (c) If a violation by the operator is confirmed by an inspection
11 either by the lead agency or by the director, the lead agency or the
12 director may take actions pursuant to Section 2774.1 to ensure the
13 violation is corrected. The financial assurance shall not be released
14 until the violation is corrected.

15 (d) Prior to sending written notification and release of financial
16 assurances pursuant to Section 2773.1, the lead agency shall obtain
17 the written concurrence of the director that the completion of
18 reclamation of the mined land disturbed by the surface mining
19 operation is in accordance with the requirements of the reclamation
20 plan approved by the lead agency.

21 (e) The board shall promulgate a regulation consistent with this
22 section.

23 SEC. 6. Section 2774 of the Public Resources Code is amended
24 to read:

25 2774. (a) Every lead agency shall adopt ordinances in
26 accordance with state policy that establish procedures for the
27 review and approval of reclamation plans and financial assurances
28 and the issuance of a permit to conduct surface mining operations,
29 except that any lead agency without an active surface mining
30 operation in its jurisdiction may defer adopting an implementing
31 ordinance until the filing of a permit application. The ordinances
32 shall establish procedures requiring at least one public hearing and
33 shall be periodically reviewed by the lead agency and revised, as
34 necessary, to ensure that the ordinances continue to be in
35 accordance with state policy.

36 ~~(b) The lead agency shall conduct an inspection of a surface~~
37 ~~mining operation within six months of receipt by the lead agency~~
38 ~~of the surface mining operation's report submitted pursuant to~~
39 ~~Section 2207, *Surface mining operations shall be inspected*~~
40 ~~annually, solely to determine whether the surface mining operation~~

1 is in compliance with ~~this chapter~~. In no event shall a lead agency
2 inspect a surface mining operation less than once in any calendar
3 year. ~~its reclamation plan as described in subdivision (c) of Section~~
4 2772. The lead agency ~~may~~ shall cause an inspection to be
5 conducted by a state licensed geologist, state licensed civil
6 engineer, state licensed landscape architect, ~~or~~ state licensed
7 forester, *or a lead agency employee who is a mine inspector*
8 *qualified pursuant to subdivision (i)*, who is experienced in land
9 reclamation and who has not been employed by a surface mining
10 operation within the jurisdiction of the lead agency in any capacity
11 during the previous 12 months, *except that a local government*
12 *may inspect its own surface mining operations*. All inspections
13 shall be conducted using a form developed by the department and
14 approved by the board that ~~shall include~~ *includes* the professional
15 licensing and disciplinary information of the person who conducted
16 the inspection. The operator shall be solely responsible for the
17 reasonable cost of the inspection. The lead agency *or the inspector*
18 *qualified pursuant to subdivision (i)* shall ~~notify the director within~~
19 ~~30 days of the date of completion of the inspection that the~~
20 ~~inspection has been conducted~~ *provide a notice of completion of*
21 *inspection to the director within 90 days of conducting the*
22 *inspection*. The notice shall contain a statement regarding the
23 surface mining operation's compliance with ~~this chapter~~, shall
24 ~~include~~ *its approved reclamation plan, as described in subdivision*
25 *(c) of Section 2772*, a copy of the completed inspection form, and
26 ~~shall specify~~ which aspects of the surface mining operations, if
27 any, are inconsistent with ~~this chapter~~ *its approved reclamation*
28 *plan, as described in subdivision (c) of Section 2772, and any*
29 *corrective measures recommended by the inspector*. If the surface
30 mining operation has a review of its reclamation plan, financial
31 assurances, or an interim management plan pending under
32 subdivision (b), (c), (d), or (h) of Section 2770, or an appeal
33 pending before the board or lead agency governing body under
34 subdivision (e) or (h) of Section 2770, the notice shall so indicate.
35 The lead agency shall forward to the operator a copy of the notice,
36 a copy of the completed inspection form, and any supporting
37 documentation, including, but not limited to, any inspection report
38 prepared by the geologist, civil engineer, landscape architect, ~~or~~
39 forester, *or mine inspector qualified pursuant to subdivision (i)*
40 who conducted the inspection.

1 (c) Before approving a surface mining operation's reclamation
2 ~~plan, plan or~~ financial assurances, ~~including existing financial~~
3 ~~assurances reviewed by the lead agency pursuant to subdivision~~
4 ~~(e) of Section 2770~~, or any amendments *to the reclamation plan*
5 *and adjustments to financial assurances based on an amendment*
6 *to a reclamation plan*, the lead agency shall submit the plan,
7 assurances, or amendments to the director for review. *The plan or*
8 *amendments shall be submitted to the director as early as*
9 *practicable in order to facilitate review of the plan pursuant to*
10 *the California Environmental Quality Act (Division 13*
11 *(commencing with Section 21000))*. All documentation for that
12 submission shall be submitted to the director at one time. When
13 the lead agency submits a reclamation plan or plan amendments
14 to the director for review, the lead agency shall also submit to the
15 director, for use in reviewing the reclamation plan or plan
16 amendments, information from any *prior final* related document
17 prepared, adopted, or certified pursuant to ~~Division 13~~
18 ~~(commencing with Section 21000)~~ *the California Environmental*
19 *Quality Act (Division 13 (commencing with Section 21000))*, and
20 shall submit any other pertinent information. The lead agency shall
21 certify to the director that the reclamation plan is *considered*
22 *complete and in substantial* compliance with the applicable
23 requirements of this chapter and Article 1 (commencing with
24 Section 3500) of Chapter 8 of Division 2 of Title 14 of the
25 California Code of Regulations and the lead agency's mining
26 ordinance in effect at the time that the reclamation plan is submitted
27 to the director for review.

28 (d) (1) The director shall have 30 days from the date of receipt
29 of a reclamation plan or plan amendments submitted pursuant to
30 subdivision (c), and 45 days from the date of receipt of financial
31 assurances submitted pursuant to subdivision (c), to prepare written
32 comments, if the director so chooses. The lead agency shall
33 evaluate written comments received from the director relating to
34 the reclamation plan, plan amendments, or financial assurances
35 within a reasonable amount of time.

36 (2) The lead agency shall prepare a written response to the
37 director's comments describing the disposition of the major issues
38 raised by the director's comments, and submit the lead agency's
39 proposed response to the director at least 30 days prior to approval
40 of the reclamation plan, plan amendment, or financial assurance.

1 The lead agency's response to the director's comments shall
2 describe whether the lead agency proposes to adopt the director's
3 comments to the reclamation plan, plan amendment, or financial
4 assurance. If the lead agency does not propose to adopt the
5 director's comments, the lead agency shall specify, in detail, why
6 the lead agency proposes not to adopt the comments. Copies of
7 any written comments received and responses prepared by the lead
8 agency shall be forwarded to the operator. The lead agency shall
9 also give the director at least 30 days' notice of the time, place,
10 and date of the hearing before the lead agency at which time the
11 reclamation plan, plan amendment, or financial assurance is
12 scheduled to be approved by the lead agency. If no hearing is
13 required by this chapter, or by the local ordinance, or other state
14 law, then the lead agency shall provide 30 days' notice to the
15 director that it intends to approve the reclamation plan, plan
16 amendment, or financial assurance. The lead agency shall send to
17 the director its final response to the director's comments within
18 30 days following its approval of the reclamation plan, plan
19 amendment, or financial assurance, *along with final approved*
20 *copies of those documents*, during which period the department
21 retains all powers, duties, and authorities of this chapter.

22 (3) To the extent ~~that~~ there is a conflict between the comments
23 of a trustee agency or a responsible agency that are based on the
24 agency's statutory or regulatory authority and the comments of
25 other commenting agencies ~~which~~ *that* are received by the lead
26 agency pursuant to ~~Division 13 (commencing with Section 21000)~~
27 *the California Environmental Quality Act (Division 13*
28 *(commencing with Section 21000))* regarding a reclamation plan
29 or plan amendments, the lead agency shall consider only the
30 comments of the trustee agency or responsible agency.

31 ~~(e) A lead agency shall notify the director of the filing of an~~
32 ~~application for a permit to conduct surface mining operations~~
33 ~~within 30 days of an application being filed with the lead agency.~~
34 ~~By July 1, 1991, each lead agency shall submit to the director for~~
35 ~~every active or idle mining operation within its jurisdiction, a copy~~
36 ~~of the mining permit required pursuant to Section 2774, and any~~
37 ~~conditions or amendments to those permits. By July 1 of each~~
38 ~~subsequent year, the lead agency shall submit to the director for~~
39 ~~each active or idle mining operation a copy of any permit or~~
40 ~~reclamation plan amendments, as applicable, or a statement that~~

1 ~~there have been no changes during the previous year. Failure to~~
2 ~~file with the director the information required under this section~~
3 ~~shall be cause for action under Section 2774.4.~~

4 *(e) (1) If an operator does not request an inspection date on*
5 *the annual report filed pursuant to Section 2207, or if the lead*
6 *agency is unable to cause the inspection of a given surface mining*
7 *operation on the date requested by the operator, the lead agency*
8 *shall provide the operator with a minimum of 30 days' written*
9 *notice of a pending inspection or a lesser time period if agreed to*
10 *by the operator.*

11 *(2) Within 30 days of an annual inspection being conducted*
12 *pursuant to this section, each operator shall provide an annual*
13 *financial assurance cost estimate, on the form developed by the*
14 *board by regulation pursuant to subdivision (f) of Section 2773.1,*
15 *to the director and the lead agency for review.*

16 *(3) The director shall have 45 days from the date of receipt of*
17 *the operator's annual financial assurance cost estimate to prepare*
18 *written comments on the operator's financial assurances and*
19 *provide the comments to the lead agency and the operator. The*
20 *lead agency shall have 30 days from receipt of the director's*
21 *comments to evaluate the written comments received from the*
22 *director and provide the director and operator its proposed*
23 *response to the director. The lead agency shall accept or reject a*
24 *surface mining operation's annual financial assurance cost*
25 *estimate within 60 days of receipt of the director's comments or*
26 *the due date of the director's comments if comments are not*
27 *received. The lead agency shall send to the director its final*
28 *response to the director's comments within 30 days of its*
29 *acceptance of the annual financial assurance cost estimate.*

30 *(4) If the lead agency determines an operator's annual financial*
31 *assurance cost estimate is inadequate, the lead agency shall specify*
32 *the reasons for that determination. The operator shall have 30*
33 *days to appeal that denial pursuant to subdivision (e) of Section*
34 *2770 or provide a revised financial assurance cost estimate*
35 *incorporating the suggested changes to the director and the lead*
36 *agency for approval by the lead agency.*

37 *(5) The operator shall provide the director and the lead agency*
38 *with a revised financial assurances mechanism within 60 days of*
39 *the lead agency's approval. An operator shall not be required to*
40 *adjust financial assurances that are in excess of the amount*

1 *determined necessary to perform reclamation in accordance with*
2 *the surface mining operation's approved reclamation plan provided*
3 *that financial assurance mechanism remains in effect.*

4 (f) (1) *No later than April 1 of each year, the director shall*
5 *provide each lead agency with a notice listing each active or idle*
6 *surface mining operation within the lead agency's jurisdiction.*
7 *For each surface mining operation, the director shall request, and*
8 *the lead agency shall provide to the director, on a form provided*
9 *by the director, no later than July 1 of each year, the following*
10 *information:*

11 (A) *A copy of any permit or reclamation plan amendments, as*
12 *applicable.*

13 (B) *A statement that there have been no changes during the*
14 *previous year, as applicable.*

15 (C) *The date of each surface mining operation's last inspection.*

16 (D) *The date of each surface mining operation's last financial*
17 *assurance review pursuant to Section 2773.1 for each operation*
18 *listed.*

19 (2) *The director shall request similar information on any new*
20 *or omitted operations, to be provided to the director no later than*
21 *July 1 of each year.*

22 (3) *The form provided by the director shall include the*
23 *department's current information for each operation. The notice*
24 *to each lead agency shall include a statement that failure to file*
25 *with the director the information requested pursuant to this*
26 *subdivision may be cause for action pursuant to Section 2774.4.*

27 (g) *The review and approval of financial assurances pursuant*
28 *to this section shall not be considered a project for purposes of*
29 *the California Environmental Quality Act (Division 13*
30 *(commencing with Section 21000)).*

31 (h) (1) *If a surface mining operation is not inspected by the*
32 *lead agency on the date requested by the operator pursuant to*
33 *Section 2207 and the operator has not received a 30-day notice*
34 *of pending inspection from the lead agency as provided in*
35 *subdivision (e), the operator may send a notice to the lead agency*
36 *and the director stating the operator's intent to have the surface*
37 *mining operation inspected by a third party who has not been*
38 *employed in any capacity by the operator in the previous 12 months*
39 *and who is a state-licensed geologist, state-licensed civil engineer,*
40 *state-licensed landscape architect, or state-licensed forester who*

1 *is experienced in land reclamation. An inspector retained by the*
2 *operator pursuant to this section shall provide the lead agency a*
3 *15-day notice of the inspector's intended inspection date for the*
4 *operation and shall provide a reasonable opportunity for a*
5 *representative of the lead agency to attend the inspection.*

6 *(2) An inspector who inspects a surface mining operation*
7 *pursuant to this subdivision shall provide the notice of completion*
8 *of inspection specified in subdivision (b) to the director and the*
9 *lead agency, whether or not a lead agency representative*
10 *participated in the inspection. The notice shall include the stamp*
11 *of the licensed professional who conducted the inspection.*

12 *(i) (1) The State Geologist shall coordinate with the director,*
13 *board, lead agencies, and interested parties to develop a*
14 *curriculum for the training of mine inspectors. The curriculum*
15 *shall include, but need not be limited to, all of the following:*

16 *(A) Training on determining revegetative success.*

17 *(B) Evaluating slopes for signs of instability.*

18 *(C) How to properly use the inspection form approved by the*
19 *board.*

20 *(D) The calculation of financial assurances.*

21 *(E) Considerations for corrective measures.*

22 *(F) Other issues necessary to ensure the consistent inspection*
23 *of surface mines under this chapter.*

24 *(2) Lead agency employees who inspect surface mining*
25 *operations under this chapter on or before December 31, 2015,*
26 *shall be deemed qualified mine inspectors for up to two years after*
27 *the State Geologist has finalized the curriculum pursuant to*
28 *paragraph (1) and the training has been available to lead agency*
29 *employees.*

30 *(3) A lead agency employee who has completed the training*
31 *curriculum developed pursuant to paragraph (1) shall be a*
32 *qualified mine inspector.*

33 *(4) Nothing in this subdivision shall be construed to affect or*
34 *impose qualifications or standards on employees designated by a*
35 *local, state, or federal agency to perform inspections of real*
36 *property under separate provisions of local, state, or federal law,*
37 *including, but not limited to, the Porter-Cologne Water Quality*
38 *Control Act (Division 7 (commencing with Section 13000) of the*
39 *Water Code), the federal Clean Water Act (33 U.S.C. Sec. 1251*
40 *et seq.), and the Fish and Game Code, notwithstanding the fact*

1 *that that informational addenda are submitted to lead agencies*
2 *pursuant to this chapter in addition to reclamation plans, including*
3 *materials submitted pursuant to subdivision (d) of Section 2772.*

4 *(5) Absent express authorization under this chapter, mine*
5 *inspectors shall not inspect operations for the purpose of*
6 *evaluating compliance with separate provisions of local, state, or*
7 *federal law, including, but not limited to, the Porter-Cologne Water*
8 *Quality Control Act (Division 7 (commencing with Section 13000)*
9 *of the Water Code), the federal Clean Water Act (33 U.S.C. Sec.*
10 *1251 et seq.), and the Fish and Game Code.*

11 SEC. 7. Section 2774.1 of the Public Resources Code is
12 amended to read:

13 2774.1. (a) Except as provided in subdivision (i) of Section
14 2770, if the lead agency or the director determines, based upon an
15 annual inspection pursuant to Section 2774, or otherwise confirmed
16 by an inspection of the mining operation, that a surface mining
17 operation is not in compliance with this chapter, the lead agency
18 or the director may notify the operator of that violation by personal
19 service or certified mail. If the violation extends beyond 30 days
20 after the date of the lead agency's or the director's notification,
21 the lead agency or the director may issue an order by personal
22 service or certified mail requiring the operator to comply with this
23 chapter or, if the operator does not have an approved reclamation
24 plan or financial assurances, cease all further mining activities.

25 (b) An order issued under subdivision (a) shall not take effect
26 until the operator has been provided a hearing before the lead
27 agency for orders issued by the lead agency, or board for orders
28 issued by the director, concerning the alleged violation. An order
29 issued under subdivision (a) shall specify which aspects of the
30 surface mine's activities or operations are inconsistent with this
31 chapter, shall specify a time for compliance that the lead agency
32 or director determines is reasonable, taking into account the
33 seriousness of the violation and any good faith efforts to comply
34 with applicable requirements, and shall set a date for the hearing,
35 which shall not be sooner than 30 days after the date of the order.

36 (c) An operator who violates or fails to comply with an order
37 issued under subdivision (a) after the order's effective date, as
38 provided in subdivision (b), or who fails to submit a report to the
39 director or lead agency as required by Section 2207, shall be subject
40 to an order by the lead agency or the director imposing an

1 administrative penalty of not more than five thousand dollars
2 (\$5,000) per day, assessed from the original date of noncompliance
3 with this chapter or Section 2207. The penalty may be imposed
4 administratively by the lead agency or the director. In determining
5 the amount of the administrative penalty, the lead agency or the
6 director shall take into consideration the nature, circumstances,
7 extent, and gravity of the violation or violations, any prior history
8 of violations, the degree of culpability, economic savings, if any,
9 resulting from the violation, and any other matters justice may
10 require. Orders setting administrative penalties shall become
11 effective upon issuance of the order and payment shall be made
12 to the lead agency or the director within 30 days, unless the
13 operator petitions the legislative body of the lead agency, the board,
14 or the superior court for review as provided in Section 2774.2. An
15 order shall be served by personal service or by certified mail upon
16 the operator. Penalties collected by the director shall not be used
17 for purposes other than to cover the reasonable costs incurred by
18 the director in implementing this chapter or Section 2207.

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

25 (e) Upon a complaint by the director, the department, or the
26 board, the Attorney General may bring an action to recover
27 administrative penalties under this section, and penalties under
28 Section 2207, in any court of competent jurisdiction in this state
29 against any person violating any provision of this chapter or Section
30 2207, or any regulation adopted pursuant to this chapter or Section
31 2207. The Attorney General may bring this action on his or her
32 own initiative if, after examining the complaint and the evidence,
33 he or she believes a violation has occurred. The Attorney General
34 may also seek an order from a court of competent jurisdiction
35 compelling the operator to comply with this chapter and Section
36 2207.

37 (f) (1) The lead agency has primary responsibility for enforcing
38 this chapter and Section 2207. In cases where the board is not the
39 lead agency pursuant to Section 2774.4, enforcement actions may
40 be initiated by the director pursuant to this section only after the

1 violation has come to the attention of the director and either of the
2 following occurs:

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

8 (B) The director determines that there is a violation that amounts
9 to an imminent and substantial endangerment to the public health
10 or safety, or to the environment.

11 (2) The director shall comply with this section in initiating
12 enforcement actions.

13 (g) *In exercising enforcement authority pursuant to this section,*
14 *the lead agency, the director, or the board, as appropriate, shall*
15 *take into account and seek to minimize the impact of any proposed*
16 *enforcement action on the number of existing jobs supported*
17 *directly or indirectly by the surface mining operation.*

18 ~~(g)~~

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

21 SEC. 8. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 a local agency or school district has the authority to levy service
24 charges, fees, or assessments sufficient to pay for the program or
25 level of service mandated by this act, within the meaning of Section
26 17556 of the Government Code.