

**Introduced by Senator Pavley**February 11, 2015

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An act to amend Section 2774 of the Public Resources Code, relating to surface mining.

## LEGISLATIVE COUNSEL'S DIGEST

SB 209, as introduced, Pavley. Surface mining: inspections: training. The Surface Mining and Reclamation Act of 1975 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 requires a lead agency to inspect a surface mining operation within 6 months of receiving the operation's 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 require the Department of Conservation, no later than January 1, 2018, and on an ongoing basis thereafter, to offer continuing educational opportunities for lead agency employees to become certified, as appropriate, by the department to inspect surface mining operations. The bill would prohibit a lead agency that operates a surface mining operation from having an inspection performed by a lead agency employee, as specified, unless that employee has become certified as a surface mining operation inspector within the previous 2 years.

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

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

1 SECTION 1. Section 2774 of the Public Resources Code is  
2 amended to read:

3 2774. (a) Every lead agency shall adopt ordinances in  
4 accordance with state policy that establish procedures for the  
5 review and approval of reclamation plans and financial assurances  
6 and the issuance of a permit to conduct surface mining operations,  
7 except that any lead agency without an active surface mining  
8 operation in its jurisdiction may defer adopting an implementing  
9 ordinance until the filing of a permit application. The ordinances  
10 shall establish procedures requiring at least one public hearing and  
11 shall be periodically reviewed by the lead agency and revised, as  
12 necessary, to ensure that the ordinances continue to be in  
13 accordance with state policy.

14 (b) (1) The lead agency shall conduct an inspection of a surface  
15 mining operation within six months of receipt by the lead agency  
16 of the surface mining operation's report submitted pursuant to  
17 Section 2207, solely to determine whether the surface mining  
18 operation is in compliance with this chapter. In no event shall a  
19 lead agency inspect a surface mining operation less than once in  
20 any calendar year. The lead agency may cause an inspection to be  
21 conducted by a state licensed geologist, state licensed civil  
22 engineer, state licensed landscape architect, or state licensed  
23 forester, who is experienced in land reclamation and who has not  
24 been employed by a surface mining operation within the  
25 jurisdiction of the lead agency in any capacity during the previous  
26 12 months. *If a lead agency operates a surface mining operation,*  
27 *the inspector shall not have been an employee of the lead agency*  
28 *in any capacity during the previous 12 months unless, beginning*  
29 *January 1, 2018, the lead agency employee has become certified*  
30 *as a surface mining operation inspector within the previous two*  
31 *years pursuant to paragraph (2). All inspections shall be conducted*  
32 *using a form developed by the department and approved by the*  
33 *board that shall include the professional licensing and disciplinary*  
34 *information of the person who conducted the inspection. The*  
35 *operator shall be solely responsible for the reasonable cost of the*  
36 *inspection. The lead agency shall notify the director within 30 days*  
37 *of the date of completion of the inspection that the inspection has*  
38 *been conducted. The notice shall contain a statement regarding*

1 the surface mining operation’s compliance with this chapter, shall  
2 include a copy of the completed inspection form, and shall specify  
3 which aspects of the surface mining operations, if any, are  
4 inconsistent with this chapter. If the surface mining operation has  
5 a review of its reclamation plan, financial assurances, or an interim  
6 management plan pending under subdivision (b), (c), (d), or (h)  
7 of Section 2770, or an appeal pending before the board or lead  
8 agency governing body under subdivision (e) or (h) of Section  
9 2770, the notice shall so indicate. The lead agency shall forward  
10 to the operator a copy of the notice, a copy of the completed  
11 inspection form, and any supporting documentation, including,  
12 but not limited to, any inspection report prepared by the geologist,  
13 civil engineer, landscape architect, or forester, who conducted the  
14 inspection.

15 (2) *No later than January 1, 2018, and on an ongoing basis*  
16 *thereafter, the department shall offer continuing educational*  
17 *opportunities for lead agency employees to become certified, as*  
18 *appropriate, by the department to inspect surface mining*  
19 *operations.*

20 (c) Before approving a surface mining operation’s reclamation  
21 plan, financial assurances, including existing financial assurances  
22 reviewed by the lead agency pursuant to subdivision (c) of Section  
23 2770, or any amendments, the lead agency shall submit the plan,  
24 assurances, or amendments to the director for review. All  
25 documentation for that submission shall be submitted to the director  
26 at one time. When the lead agency submits a reclamation plan or  
27 plan amendments to the director for review, the lead agency shall  
28 also submit to the director, for use in reviewing the reclamation  
29 plan or plan amendments, information from any related document  
30 prepared, adopted, or certified pursuant to ~~Division~~ *the California*  
31 *Environmental Quality Act (Division 13 (commencing with Section*  
32 *21000); 21000)),* and shall submit any other pertinent information.  
33 The lead agency shall certify to the director that the reclamation  
34 plan is in compliance with the applicable requirements of this  
35 chapter and Article 1 (commencing with Section 3500) of Chapter  
36 8 of Division 2 of Title 14 of the California Code of Regulations  
37 and the lead agency’s mining ordinance in effect at the time that  
38 the reclamation plan is submitted to the director for review.

39 (d) (1) The director shall have 30 days from the date of receipt  
40 of a reclamation plan or plan amendments submitted pursuant to

1 subdivision (c), and 45 days from the date of receipt of financial  
2 assurances submitted pursuant to subdivision (c), to prepare written  
3 comments, if the director so chooses. The lead agency shall  
4 evaluate written comments received from the director relating to  
5 the reclamation plan, plan amendments, or financial assurances  
6 within a reasonable amount of time.

7 (2) The lead agency shall prepare a written response to the  
8 director's comments describing the disposition of the major issues  
9 raised by the director's comments, and submit the lead agency's  
10 proposed response to the director at least 30 days prior to approval  
11 of the reclamation plan, plan amendment, or financial assurance.  
12 The lead agency's response to the director's comments shall  
13 describe whether the lead agency proposes to adopt the director's  
14 comments to the reclamation plan, plan amendment, or financial  
15 assurance. If the lead agency does not propose to adopt the  
16 director's comments, the lead agency shall specify, in detail, why  
17 the lead agency proposes not to adopt the comments. Copies of  
18 any written comments received and responses prepared by the lead  
19 agency shall be forwarded to the operator. The lead agency shall  
20 also give the director at least 30 days' notice of the time, place,  
21 and date of the hearing before the lead agency at which time the  
22 reclamation plan, plan amendment, or financial assurance is  
23 scheduled to be approved by the lead agency. If no hearing is  
24 required by this chapter, or by the local ordinance, or other state  
25 law, then the lead agency shall provide 30 days' notice to the  
26 director that it intends to approve the reclamation plan, plan  
27 amendment, or financial assurance. The lead agency shall send to  
28 the director its final response to the director's comments within  
29 30 days following its approval of the reclamation plan, plan  
30 amendment, or financial assurance during which period the  
31 department retains all powers, duties, and authorities of this  
32 chapter.

33 (3) To the extent that there is a conflict between the comments  
34 of a trustee agency or a responsible agency that are based on the  
35 agency's statutory or regulatory authority and the comments of  
36 other commenting agencies which are received by the lead agency  
37 pursuant to ~~Division~~ *the California Environmental Quality Act*  
38 *(Division 13 (commencing with Section 21000) 21000))* regarding  
39 a reclamation plan or plan amendments, the lead agency shall

1 consider only the comments of the trustee agency or responsible  
2 agency.

3 (e) A lead agency shall notify the director of the filing of an  
4 application for a permit to conduct surface mining operations  
5 within 30 days of an application being filed with the lead agency.  
6 By July 1, 1991, each lead agency shall submit to the director for  
7 every active or idle mining operation within its jurisdiction, a copy  
8 of the mining permit required pursuant to Section 2774, and any  
9 conditions or amendments to those permits. By July 1 of each  
10 subsequent year, the lead agency shall submit to the director for  
11 each active or idle mining operation a copy of any permit or  
12 reclamation plan amendments, as applicable, or a statement that  
13 there have been no changes during the previous year. Failure to  
14 file with the director the information required under this section  
15 shall be cause for action under Section 2774.4.

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