

AMENDED IN SENATE MAY 12, 2015  
AMENDED IN SENATE MARCH 19, 2015

**SENATE BILL**

**No. 209**

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**Introduced by Senator Pavley**

February 11, 2015

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An act to amend Sections 607, 2207, 2772, 2773.1, and 2774 of, and to add Sections ~~Section 2006.5 and 2780~~ to, the Public Resources Code, relating to surface mining.

LEGISLATIVE COUNSEL'S DIGEST

SB 209, as amended, Pavley. Surface mining: inspections and financial assurances.

~~Existing~~

(1) *Existing* law establishes the Office of Mine Reclamation within the Department of Conservation.

This bill would instead establish the Division of Mines within the department under the direction of the State Mine Inspector.

~~Existing~~

(2) *Existing* law requires the owner or operator of a *surface* 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 and proof of financial assurances. The Surface Mining and Reclamation Act of 1975 requires the owner or operator of a *surface* mining operation to file with the lead agency *a* reclamation ~~plans~~ *plan* containing specified information. The act requires the lead agency to require financial assurances of each surface mining operation. The act requires a lead agency to inspect a surface mining operation within 6 months of receiving the operation's annual 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.

This bill would revise the proof of financial assurances to be submitted with the annual report. The bill would define “financial assurances” to be the combination of an approved current financial assurance cost estimate and a financial assurance mechanism, as specified. The bill would require the inspections be conducted by a state licensed geologist, state licensed civil engineer, or state licensed geophysicist, as specified. The bill would authorize the lead agency and the State Mine Inspector to inspect all *surface* mining operations and, when conducting those inspections, would require certain determinations be made. The bill would require the reclamation plan to be filed on a form developed by *the department and approved by the State Mining and Geology Board*, and to include a schedule with time limits for completing reclamation, in accordance with the plan, to be reviewed and confirmed by the lead agency during the annual inspections. ~~The bill would authorize a lead agency to relinquish some or all of its duties and responsibilities under the act and other state law regulating surface mining operation and would require the State Mine Inspector to assume those duties and responsibilities relinquished by the lead agency.~~ *inspection.*

This bill would state the intent of the Legislature to, ~~among other things,~~ modernize the Surface Mining and Reclamation Act of 1975, *among other things.*

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. It is the intent of the Legislature to modernize
- 2 the Surface Mining and Reclamation Act of 1975 (Chapter 9

1 (commencing with Section 2710) of Division 2 of the Public  
2 Resources Code) to remedy concerns and issues identified by  
3 various stakeholders, ranging from conservation groups to mine  
4 operators to local governments. Issues that have been raised  
5 include, but are not limited to, the following:

6 (a) A fair and adequate fee structure to support the Office of  
7 Mine Reclamation.

8 (b) Improving compliance with the annual inspection  
9 requirement and enforcement.

10 (c) Training to local governments that often serve as the lead  
11 agency for surface mines.

12 (d) Ensuring the adequacy of financial assurances and  
13 reclamation plans.

14 (e) Improving the professionalism of the Office of Mine  
15 Reclamation and improving administrative efficiency and appeals  
16 processes within the act.

17 SEC. 2. Section 607 of the Public Resources Code is amended  
18 to read:

19 607. The work of the department shall be divided into at least  
20 the following:

21 (a) California Geological Survey.

22 (b) Division of Oil, Gas, and Geothermal Resources.

23 (c) Division of Land Resource Protection.

24 (d) Division of Mines.

25 SEC. 3. Section 2006.5 is added to the Public Resources Code,  
26 to read:

27 2006.5. "State Mine Inspector" means the individual directing  
28 the Division of Mines established pursuant to subdivision (d) of  
29 Section 607.

30 SEC. 4. Section 2207 of the Public Resources Code is amended  
31 to read:

32 2207. (a) The owner or the operator of a mining operation  
33 within the state shall forward to the director annually, not later  
34 than a date established by the director, upon forms approved by  
35 the board from time to time, a report that identifies all of the  
36 following:

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

39 (2) The name, address, and telephone number of a designated  
40 agent who resides in this state, and who will receive and accept

1 service of all orders, notices, and processes of the lead agency,  
2 board, director, or court.

3 (3) The location of the mining operation, its name, its mine  
4 number as issued by the ~~federal Bureau~~ *Division* of Mines or the  
5 director, its section, township, range, latitude, longitude, and  
6 approximate boundaries of the mining operation marked on a  
7 United States Geological Survey 7½-minute or 15-minute  
8 quadrangle map.

9 (4) The lead agency.

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

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

14 (7) The commodities produced by the mine and the type of  
15 mining operation.

16 (8) (A) Proof of annual inspection by the lead agency.

17 (B) It is the intent of the Legislature to develop a separate  
18 procedure for county-owned borrow pits and similar sites and the  
19 training necessary to inspect them.

20 (9) Proof of the most recently approved financial cost estimate  
21 and the approved financial assurance cost mechanism.

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

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

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

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

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

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

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

38 (b) (1) Every year, not later than the date established by the  
39 director, the person submitting the report pursuant to subdivision

40 (a) shall forward to the lead agency, upon forms furnished by the

1 board, a report that provides all of the information specified in  
2 subdivision (a).

3 (2) The owner or operator of a mining operation shall allow  
4 access to the property to any governmental agency or the agent of  
5 any company providing financial assurances in connection with  
6 the reclamation ~~plan~~, *plan* in order that the reclamation can be  
7 carried out by the entity or company, in accordance with the  
8 provisions of the reclamation plan.

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

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

1 (2) (A) The board shall adopt, by regulation, a schedule of fees  
2 authorized under paragraph (1) to cover the department's cost in  
3 carrying out this section and Chapter 9 (commencing with Section  
4 2710), as reflected in the Governor's *proposed* Budget, and may  
5 adopt those regulations as emergency regulations. In establishing  
6 the schedule of fees to be paid by each active and idle mining  
7 operation, the fees shall be calculated on an equitable basis  
8 reflecting the size and type of operation. The board shall also  
9 consider the total assessed value of the mining operation, the  
10 acreage disturbed by mining activities, and the acreage subject to  
11 the reclamation plan.

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

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

32 (4) (A) The reporting fees established pursuant to this  
33 subdivision shall be deposited in the Mine Reclamation Account,  
34 which is hereby created. Any fees, penalties, interest, fines, or  
35 charges collected by the director or board pursuant to this chapter  
36 or Chapter 9 (commencing with Section 2710) shall be deposited  
37 in the Mine Reclamation Account. The money in the account shall  
38 be available to the department and board, upon appropriation by  
39 the Legislature, for the purpose of carrying out this section and  
40 complying with Chapter 9 (commencing with Section 2710), which

1 includes, but is not limited to, classification and designation of  
2 areas with mineral resources of statewide or regional significance,  
3 reclamation plan and financial assurance review, mine inspection,  
4 and enforcement.

5 (B) (i) In addition to reporting fees, the board shall collect five  
6 dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of  
7 silver mined within the state and shall deposit the fees collected  
8 in the Abandoned Mine Reclamation and Minerals Fund  
9 Subaccount, which is hereby created in the Mine Reclamation  
10 Account. The department may expend the moneys in the  
11 subaccount, upon appropriation by the Legislature, for only the  
12 purposes of Section 2796.5 and as authorized herein for the  
13 remediation of abandoned mines.

14 (ii) Notwithstanding subdivision (j) of Section 2796.5, fees  
15 collected pursuant to clause (i) may also be used to remediate  
16 features of historic abandoned mines and lands that they impact.  
17 For the purposes of this section, historic abandoned mines are  
18 mines for which operations have been conducted before January  
19 1, 1976, and include, but are not limited to, historic gold and silver  
20 mines.

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

31 (e) The lead agency, or the board when acting as the lead agency,  
32 may impose a fee upon each mining operation to cover the  
33 reasonable costs incurred in implementing this chapter and Chapter  
34 9 (commencing with Section 2710).

35 (f) For purposes of this section, "mining operation" means a  
36 mining operation of any kind or character whatever in this state,  
37 including, but not limited to, a mining operation that is classified  
38 as a "surface mining operation" as defined in Section 2735, unless  
39 excepted by Section 2714. For the purposes of fee collections only,  
40 "mining operation" may include one or more mines operated by

1 a single operator or mining company on one or more sites, if the  
2 total annual combined mineral production for all sites is less than  
3 100 troy ounces for precious metals, if precious metals are the  
4 primary mineral commodity produced, or less than 100,000 short  
5 tons if the primary mineral commodity produced is not precious  
6 metals.

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

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

33 SEC. 5. Section 2772 of the Public Resources Code is amended  
34 to read:

35 2772. (a) Reclamation plans and amended reclamation plans  
36 shall be filed with the lead agency, on a form developed by the  
37 *department and approved by the* board, with provisions for  
38 additional information required at the discretion of the lead agency,  
39 by any person or company that plans to conduct surface mining  
40 operations on any land.

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

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

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

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

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

12 (4) The maximum anticipated depth of the surface mining  
13 operation.

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

24 (6) A description of, and a plan for, the type of surface mining  
25 to be employed, and a time schedule that will provide for the  
26 completion of surface mining on each segment of the mined lands  
27 so that reclamation can be initiated at the earliest possible time on  
28 those portions of the mined lands that will not be subject to further  
29 disturbance by the surface mining operation.

30 (7) A description of the proposed use or potential uses of the  
31 mined lands after reclamation and evidence that all owners of a  
32 possessory interest in the land have been notified of the proposed  
33 use or potential uses.

34 (8) A description of the manner in which reclamation, adequate  
35 for the proposed use or potential uses will be accomplished,  
36 including both of the following:

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

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

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

6 (10) A statement that the person submitting the reclamation  
7 plan accepts responsibility for reclaiming the mined lands in  
8 accordance with the reclamation plan.

9 (11) A schedule with time limits for completing reclamation,  
10 in accordance with the reclamation plan, to be reviewed and  
11 confirmed by the lead agency during the annual ~~inspections~~  
12 *inspection*.

13 (12) Any other information that the lead agency may require  
14 by ordinance.

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

29 (e) This section does not limit or expand the State Mine  
30 Inspector's authority or responsibility to review a document in  
31 accordance with ~~Division the California Environmental Quality~~  
32 ~~Act (Division 13 (commencing with Section 21000); 21000)).~~

33 SEC. 6. Section 2773.1 of the Public Resources Code is  
34 amended to read:

35 2773.1. (a) All surface mining operations subject to this chapter  
36 shall have financial assurances approved pursuant to this chapter  
37 to ensure reclamation can be completed at any time during surface  
38 mining operations in accordance with this chapter and the surface  
39 mining operation's reclamation plan. For purposes of this section,  
40 "financial assurances" are the combination of an approved current

1 financial assurance cost estimate and a financial assurance  
2 mechanism that is equal to or greater than the current financial  
3 assurance cost estimate.

4 (1) The financial assurance mechanism may take the form of  
5 surety bonds executed by an admitted surety insurer, as defined  
6 in subdivision (a) of Section 995.120 of the Code of Civil  
7 Procedure, irrevocable letters of credit, trust funds, or other forms  
8 of financial assurance mechanisms specified by the board pursuant  
9 to subdivision (e), ~~which~~ *that* the lead agency reasonably  
10 determines are adequate to perform reclamation in accordance  
11 with the surface mining operation's approved reclamation plan.

12 (2) The financial assurance mechanism shall remain in effect  
13 for the duration of the surface mining operation and any additional  
14 period until reclamation is completed.

15 (3) The amount of financial assurances required of a surface  
16 mining operation for any one year shall be adjusted annually to  
17 account for new lands disturbed by surface mining operations,  
18 inflation, and reclamation of lands accomplished in accordance  
19 with the approved reclamation plan.

20 (4) The financial assurance mechanism shall be made payable  
21 to the lead agency and the department and shall not be reduced or  
22 released without mutual written consent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (f) On or before March 1, 1993, the board shall adopt guidelines  
18 to implement this section. The guidelines are exempt from the  
19 requirements of ~~Chapter~~ *the Administrative Procedure Act (Chapter*  
20 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*  
21 *Title 2 of the Government-Code, Code)*, and are not subject to  
22 review by the Office of Administrative Law.

23 SEC. 7. 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) (1) (A) The lead agency shall conduct an inspection of a  
37 surface mining operation within six months of receipt by the lead  
38 agency of the surface mining operation's report submitted pursuant  
39 to Section 2207, solely to determine whether the surface mining  
40 operation is in compliance with this chapter. In no event shall a

1 lead agency inspect a surface mining operation less than once in  
2 any calendar year. The lead agency shall cause an inspection to  
3 be conducted by a state licensed geologist, state licensed civil  
4 engineer, or state licensed geophysicist, who is experienced in land  
5 reclamation and who has not been employed by a surface mining  
6 operation within the jurisdiction of the lead agency in any capacity  
7 during the previous 12 months. If a lead agency operates a surface  
8 mining operation, the inspector shall not have been an employee  
9 of the lead agency in any capacity during the previous 12 months  
10 unless, beginning January 1, 2018, the lead agency employee has  
11 become certified as a surface mining operation inspector within  
12 the previous two years pursuant to paragraph (2). 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 shall notify the  
18 director within 30 days of the date of completion of the inspection  
19 that the inspection has been conducted. The notice shall contain a  
20 statement regarding the surface mining operation's compliance  
21 with this chapter, shall include a copy of the completed inspection  
22 form, and shall specify which aspects of the surface mining  
23 operations, if any, are inconsistent with this chapter. If the surface  
24 mining operation has a review of its reclamation plan, financial  
25 assurances, or an interim management plan pending under  
26 subdivision (b), (c), (d), or (h) of Section 2770, or an appeal  
27 pending before the board or lead agency governing body under  
28 subdivision (e) or (h) of Section 2770, the notice shall so indicate.  
29 The lead agency shall forward to the operator a copy of the notice,  
30 a copy of the completed inspection form, and any supporting  
31 documentation, including, but not limited to, any inspection report  
32 prepared by the geologist, civil engineer, or geophysicist, who  
33 conducted the inspection.

34 (B) It is the intent of the Legislature to define which aspects of  
35 an inspection constitute the professional practice of geology and  
36 engineering requiring certification by an appropriate professional.

37 (2) No later than January 1, 2018, and on an ongoing basis  
38 thereafter, the department shall offer continuing educational  
39 opportunities for lead agency employees to become certified, as  
40 appropriate, by the department to inspect surface mining operations.

1 (c) In addition to subdivision (a), lead agencies or the State  
2 Mine Inspector may inspect all *surface* mining operations to  
3 determine if the operation is in compliance with this chapter and  
4 Section 2207. In conducting the inspection, the lead agencies or  
5 the State Mine Inspector shall determine all of the following:

6 (1) If the *surface* mining operation is in compliance with its  
7 approved reclamation plan.

8 (2) If adequate and appropriate financial assurances have been  
9 established for the *surface* mining operation.

10 (3) If the *surface* mining operation has complied with any notice  
11 of violation or order to correct.

12 (d) (1) The director shall have 30 days from the date of receipt  
13 of a reclamation plan or plan amendments submitted pursuant to  
14 subdivision (c), and 45 days from the date of receipt of financial  
15 assurances submitted pursuant to subdivision (c), to prepare written  
16 comments, if the director so chooses. The lead agency shall  
17 evaluate written comments received from the director relating to  
18 the reclamation plan, plan amendments, or financial assurances  
19 within a reasonable amount of time.

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

1 the director its final response to the director’s comments within  
2 30 days following its approval of the reclamation plan, plan  
3 amendment, or financial assurance during which period the  
4 department retains all powers, duties, and authorities of this  
5 chapter.

6 (3) To the extent ~~that~~ there is a conflict between the comments  
7 of a trustee agency or a responsible agency that are based on the  
8 agency’s statutory or regulatory authority and the comments of  
9 other commenting agencies ~~which~~ *that* are received by the lead  
10 agency pursuant to the California Environmental Quality Act  
11 (Division 13 (commencing with Section 21000)) regarding a  
12 reclamation plan or plan amendments, the lead agency shall  
13 consider only the comments of the trustee agency or responsible  
14 agency.

15 (e) A lead agency shall notify the director of the filing of an  
16 application for a permit to conduct surface mining operations  
17 within 30 days of an application being filed with the lead agency.  
18 By July 1, 1991, each lead agency shall submit to the director for  
19 every active or idle mining operation within its jurisdiction, a copy  
20 of the mining permit required pursuant to Section 2774, and any  
21 conditions or amendments to those permits. By July 1 of each  
22 subsequent year, the lead agency shall submit to the director for  
23 each active or idle mining operation a copy of any permit or  
24 reclamation plan amendments, as applicable, or a statement that  
25 there have been no changes during the previous year. Failure to  
26 file with the director the information required under this section  
27 shall be cause for action under Section 2774.4.

28 ~~SEC. 8. Section 2780 is added to the Public Resources Code,~~  
29 ~~to read:~~

30 ~~2780. A lead agency may unilaterally and voluntarily relinquish~~  
31 ~~any or all of its duties and responsibilities under this chapter. The~~  
32 ~~State Mine Inspector shall assume the duties and responsibilities~~  
33 ~~relinquished by the lead agency.~~