

AMENDED IN ASSEMBLY MARCH 17, 2016  
AMENDED IN ASSEMBLY SEPTEMBER 4, 2015  
AMENDED IN ASSEMBLY SEPTEMBER 2, 2015  
AMENDED IN ASSEMBLY AUGUST 17, 2015  
AMENDED IN ASSEMBLY JULY 16, 2015  
AMENDED IN ASSEMBLY JULY 7, 2015  
AMENDED IN SENATE MAY 12, 2015  
AMENDED IN SENATE MARCH 19, 2015

**SENATE BILL**

**No. 209**

---

---

**Introduced by Senator Pavley**

February 11, 2015

---

---

An act to amend Sections 607, 2207, ~~2714, 2770, 2772, and 2774~~  
*and 2714* of, and to add Sections ~~2006.5~~ *2006.5*, *2770.1*, and *2773.1.5*  
to, the Public Resources Code, relating to surface mining.

LEGISLATIVE COUNSEL'S DIGEST

SB 209, as amended, Pavley. Surface mining: ~~inspections:~~ financial  
assurances: reclamation plans.

(1) Existing law establishes the Office of Mine Reclamation within the Department of Conservation. Existing law requires the State Mining and Geology Board to impose, by regulation, an annual reporting fee on the operators of all active and idle mining operations. Existing law requires the maximum amount of the annual fee imposed on each mining operation to not exceed \$4,000. Existing law limits the maximum

amount of the total revenue generated from the reporting fee to no more than \$3,500,000, as specified.

This bill would instead establish the Division of ~~Mines~~ *Mine Reclamation* within the department under the direction of the Supervisor of ~~Mines and Mine~~ *Mine Reclamation*. The bill also would raise the maximum amount of the annual reporting fee to \$10,000 per mining operation, except as specified. The bill would raise the maximum amount of the total revenue generated from the reporting fee to \$8,000,000, as specified.

(2) The Surface Mining and Reclamation Act of 1975 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 the approval of reclamation plans and, among other things, would require a reclamation plan filed by an operator of a surface mining operation with a lead agency to include specified reclamation maps and would require a borrow pit operated by a lead agency to include a specified interim management plan. By adding to the duties of a local government acting as a lead agency under the act, this bill would impose a state-mandated local program.~~

*This bill would require a lead agency that is the owner or operator of a borrow pit surface mining operation that is used solely by that lead agency to include in the reclamation plan maintenance measures that become effective when the borrow pit surface mining operation is idle or to obtain an approved interim management plan, as specified. The bill would authorize a lead agency to conduct an inspection once every 2 calendar years during a period when the borrow pit surface mining operation that is used solely by that lead agency is idle.*

~~This bill would revise and recast provisions of the act related to the proof of financial assurances and, among other things, would allow an operator, after the board has adopted a specified regulation, to include in a financial assurance mechanism a corporate financial test, as described.~~

~~This bill would authorize a lead agency to cause an inspection to be conducted by an unlicensed employee who meets specified criteria; impose new requirements on the lead agency relating to the timing of inspections; and require the department to establish, no later than~~

December 31, 2016, a training program for all surface mine inspectors, as specified. By adding to the duties of a local government acting as a lead agency under the act, this bill would impose a state-mandated local program.

(3) 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.

(4) This bill would make its operation contingent on the enactment of Assembly Bill 1142 of the 2015–16 Regular Session.

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 607 of the Public Resources Code is  
2 amended to read:

3 607. The work of the department shall be divided into at least  
4 the following:

- 5 (a) California Geological Survey.
- 6 (b) Division of Oil, Gas, and Geothermal Resources.
- 7 (c) Division of Land Resource Protection.
- 8 (d) Division of ~~Mines~~ *Mine Reclamation*.

9 SEC. 2. Section 2006.5 is added to the Public Resources Code,  
10 to read:

11 2006.5. “Supervisor of ~~Mines and~~ *Mine Reclamation*” means  
12 the individual directing the Division of ~~Mines~~ *Mine Reclamation*  
13 established pursuant to subdivision (d) of Section 607.

14 SEC. 3. Section 2207 of the Public Resources Code is amended  
15 to read:

16 2207. (a) The owner or the operator of a mining operation  
17 within the state shall forward to the director annually, not later  
18 than a date established by the director, upon forms approved by  
19 the board from time to time, a report that identifies all of the  
20 following:

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

23 (2) The name, address, and telephone number of a designated  
24 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 Division of ~~Mines~~ *Mine Reclamation* or  
5 the 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 copy of the previously completed annual inspection form  
17 and a requested date, within 12 months of the prior inspection date,  
18 for the next annual inspection by the lead agency.

19 (9) Proof of financial assurances.

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

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

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

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

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

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

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

36 (b) (1) Every year, not later than the date established by the  
37 director, the person submitting the report pursuant to subdivision  
38 (a) shall forward to the lead agency, upon forms furnished by the  
39 board, a report that provides all of the information specified in  
40 subdivision (a).

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

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

29 (d) (1) The board shall impose, by regulation, pursuant to  
30 paragraph (2), an annual reporting fee on, and method for collecting  
31 annual fees from, each active or idle mining operation. The  
32 maximum fee for any single mining operation may not exceed ten  
33 thousand dollars (\$10,000) annually and may not be less than one  
34 hundred dollars (\$100) annually, as adjusted for the cost of living  
35 as measured by the California Consumer Price Index for all urban  
36 consumers, calendar year averages, using the percentage change  
37 in the previous year, except that the maximum fee for any single  
38 mining operation shall not exceed six thousand dollars (\$6,000)  
39 in the ~~2016-17~~ 2017-18 fiscal year and eight thousand dollars  
40 (\$8,000) in the ~~2017-18~~ 2018-19 fiscal year.

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 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). The  
16 adoption of any emergency regulations pursuant to this subdivision  
17 shall be considered necessary to address an emergency and shall  
18 be considered by the Office of Administrative Law to be necessary  
19 for the immediate preservation of the public peace, health, safety,  
20 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 eight million dollars  
23 (\$8,000,000), as adjusted for the cost of living as measured by the  
24 California Consumer Price Index for all urban consumers, calendar  
25 year averages, using the percentage change in the previous year,  
26 beginning with the ~~2016-17~~ 2017-18 fiscal year and annually  
27 thereafter. If the director determines that the revenue collected  
28 during the preceding fiscal year was greater or less than the cost  
29 to operate the program, the board shall adjust the fees to  
30 compensate for the overcollection or undercollection of revenues.

31 (4) (A) The reporting fees established pursuant to this  
32 subdivision shall be deposited in the Mine Reclamation Account,  
33 which is hereby created. Any fees, penalties, interest, fines, or  
34 charges collected by the director or board pursuant to this chapter  
35 or Chapter 9 (commencing with Section 2710) shall be deposited  
36 in the Mine Reclamation Account. The money in the account shall  
37 be available to the department and board, upon appropriation by  
38 the Legislature, for the purpose of carrying out this section and  
39 complying with Chapter 9 (commencing with Section 2710), which  
40 includes, but is not limited to, classification and designation of

1 areas with mineral resources of statewide or regional significance,  
2 reclamation plan and financial assurance review, mine inspection,  
3 and enforcement.

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

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

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

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

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

1 total annual combined mineral production for all sites is less than  
2 100 troy ounces for precious metals, if precious metals are the  
3 primary mineral commodity produced, or less than 100,000 short  
4 tons if the primary mineral commodity produced is not precious  
5 metals.

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

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

32 SEC. 4. Section 2714 of the Public Resources Code is amended  
33 to read:

34 2714. This chapter does not apply to any of the following  
35 activities:

- 36 (a) Excavations or grading of lands conducted for farming.
- 37 (b) Onsite excavation and onsite earthmoving activities that are  
38 integral and necessary for the construction of structures and that  
39 are undertaken to prepare a site for the construction of those  
40 structures, including landscaping or other land improvements

1 associated with those structures, including the related excavation,  
2 grading, compaction, or the creation of fills, road cuts, and  
3 embankments, whether or not surplus materials are exported from  
4 the site, subject to all of the following conditions:

5 (1) All required permits for the construction and any associated  
6 landscaping or related land improvements have been approved by  
7 a public agency in accordance with applicable provisions of state  
8 law and locally adopted plans and ordinances, including, but not  
9 limited to, the California Environmental Quality Act (Division 13  
10 (commencing with Section 21000)).

11 (2) The lead agency's approval of the construction project  
12 included consideration of the onsite excavation and onsite  
13 earthmoving activities pursuant to the California Environmental  
14 Quality Act (Division 13 (commencing with Section 21000)).

15 (3) The approved construction project is consistent with the  
16 general plan or zoning of the site.

17 (4) Surplus materials shall not be exported from the site unless  
18 and until actual construction work has commenced and shall cease  
19 if it is determined that construction activities have terminated, have  
20 been indefinitely suspended, or are no longer being actively  
21 pursued.

22 (c) Operation of a plant site used for mineral processing,  
23 including associated onsite structures, equipment, machines, tools,  
24 or other materials, including the onsite stockpiling and onsite  
25 recovery of mined materials, subject to all of the following  
26 conditions:

27 (1) The plant site is located on lands designated for industrial  
28 or commercial uses in the applicable county or city general plan.

29 (2) The plant site is located on lands zoned industrial or  
30 commercial or are contained within a zoning category intended  
31 exclusively for industrial activities by the applicable city or county.

32 (3) None of the minerals being processed are being extracted  
33 onsite.

34 (4) All reclamation work has been completed pursuant to the  
35 approved reclamation plan for any mineral extraction activities  
36 that occurred onsite after January 1, 1976.

37 (d) Prospecting for or the extraction of minerals for commercial  
38 purposes where the removal of overburden or mineral product  
39 totals less than 1,000 cubic yards in any one location and the total  
40 surface area disturbed is less than one acre.

- 1 (e) Surface mining operations that are required by federal law  
2 in order to protect a mining claim, if those operations are conducted  
3 solely for that purpose.
- 4 (f) Any other surface mining operations that the board  
5 determines to be of an infrequent nature and that involve only  
6 minor surface disturbances.
- 7 (g) The solar evaporation of sea water or bay water for the  
8 production of salt and related minerals.
- 9 (h) Emergency excavations or grading conducted by the  
10 Department of Water Resources or the Central Valley Flood  
11 Protection Board for the purpose of averting, alleviating, repairing,  
12 or restoring damage to property due to imminent or recent floods,  
13 disasters, or other emergencies.
- 14 (i) (1) Surface mining operations conducted on lands owned  
15 or leased, or upon which easements or rights-of-way have been  
16 obtained, by the Department of Water Resources for the purpose  
17 of the State Water Resources Development System or flood control,  
18 and surface mining operations on lands owned or leased, or upon  
19 which easements or rights-of-way have been obtained, by the  
20 Central Valley Flood Protection Board for the purpose of flood  
21 control, if the Department of Water Resources adopts, after  
22 submission to and consultation with, the department, a reclamation  
23 plan for lands affected by these activities, and those lands are  
24 reclaimed in conformance with the standards specified in  
25 regulations of the board adopted pursuant to this chapter. The  
26 Department of Water Resources shall provide an annual report to  
27 the department by the date specified by the department on these  
28 mining activities.
- 29 (2) Nothing in this subdivision shall require the Department of  
30 Water Resources or the Central Valley Flood Protection Board to  
31 obtain a permit or secure approval of a reclamation plan from any  
32 city or county in order to conduct surface mining operations  
33 specified in paragraph (1). Nothing in this subdivision shall  
34 preclude the bringing of an enforcement action pursuant to Section  
35 2774.1, if it is determined that a surface mine operator, acting  
36 under contract with the Department of Water Resources or the  
37 Central Valley Flood Protection Board on lands other than those  
38 owned or leased, or upon which easements or rights-of-way have  
39 been obtained, by the Department of Water Resources or the

1 Central Valley Flood Protection Board, is otherwise not in  
2 compliance with this chapter.

3 (j) (1) Excavations or grading for the exclusive purpose of  
4 obtaining materials for roadbed construction and maintenance  
5 conducted in connection with timber operations or forest  
6 management on land owned by the same person or entity. This  
7 exemption is limited to excavation and grading that is conducted  
8 adjacent to timber operation or forest management roads and shall  
9 not apply to onsite excavation or grading that occurs within 100  
10 feet of a Class One watercourse or 75 feet of a Class Two  
11 watercourse, or to excavation for materials that are, or have been,  
12 sold for commercial purposes.

13 (2) This exemption shall be available only if slope stability and  
14 erosion are controlled in accordance with subdivision (f) of Section  
15 3704 and subdivision (d) of Section 3706 of Title 14 of the  
16 California Code of Regulations and, upon closure of the site, the  
17 person closing the site implements, where necessary, revegetation  
18 measures and postclosure uses in consultation with the Department  
19 of Forestry and Fire Protection.

20 (k) Excavations, grading, or other earthmoving activities in an  
21 oil or gas field that are integral to and necessary for ongoing  
22 operations for the extraction of oil or gas that comply with all of  
23 the following conditions:

24 (1) The operations are being conducted in accordance with  
25 Division 3 (commencing with Section 3000).

26 (2) The operations are consistent with any general plan or zoning  
27 applicable to the site.

28 (3) The earthmoving activities are within oil or gas field  
29 properties under a common owner or operator.

30 (4) No excavated materials are sold for commercial purposes.

31 (l) (1) The immediate excavation or grading of lands affected  
32 by a natural disaster for the purpose of restoring those lands to  
33 their prior condition.

34 (2) The immediate removal of material deposited by a flood  
35 onto lands being farmed for the purpose of restoring those lands  
36 to their prior condition.

37 ~~SEC. 5. Section 2770 of the Public Resources Code is amended~~  
38 ~~to read:~~

39 ~~2770. (a) Except as provided in this section, a person shall not~~  
40 ~~conduct surface mining operations unless a permit is obtained~~

1 from, a reclamation plan has been submitted to and approved by,  
2 and financial assurances for reclamation have been approved by  
3 the lead agency for the operation pursuant to this article.

4 (b) A person with an existing surface mining operation who has  
5 vested rights pursuant to Section 2776 and who does not have an  
6 approved reclamation plan shall submit a reclamation plan to the  
7 lead agency not later than March 31, 1988. If a reclamation plan  
8 application is not on file by March 31, 1988, the continuation of  
9 the surface mining operation is prohibited until a reclamation plan  
10 is submitted to the lead agency.

11 (e) [Reserved]

12 (d) [Reserved]

13 (e) (1) A person who can substantiate, based on the evidence  
14 of the record, that a lead agency has either (1) failed to act  
15 according to due process or has relied on considerations not related  
16 to the specific applicable requirements of Sections 2772, 2772.1,  
17 2773, 2773.1, 2773.3, and 2773.4 and the lead agency surface  
18 mining ordinance adopted pursuant to subdivision (a) of Section  
19 2774 in reaching a decision to deny approval of a reclamation plan  
20 or financial assurances for reclamation, or (2) failed to act within  
21 a reasonable time of receipt of a completed application may appeal  
22 that action or inaction to the board.

23 (2) The director may appeal a lead agency's approval of a  
24 financial assurance cost estimate to the board if the director has  
25 commented pursuant to Section 2773.4 that the financial assurance  
26 cost estimate is inadequate based on consideration of the following:

27 (A) Section 2773.1.

28 (B) Article 11 (commencing with Section 3800) of Title 14 of  
29 the California Code of Regulations.

30 (C) The board's financial assurance guidelines adopted pursuant  
31 to subdivision (f) of Section 2773.1

32 (3) If the approved financial assurance cost estimate applies to  
33 a reclamation plan approved for a new surface mining operation,  
34 an expanded surface mining operation, or an interim financial  
35 assurance due to an order to comply, stipulated or otherwise, the  
36 operator shall provide a financial assurance mechanism pursuant  
37 to subdivision (e) of Section 2773.4 in the amount of the approved  
38 financial assurance cost estimate, notwithstanding an appeal filed  
39 pursuant to this subdivision and subject to modification pending  
40 the outcome of the appeal.

1     ~~(4) If the approved financial assurance cost estimate is an update~~  
2 ~~to an existing approved financial assurance cost estimate, the~~  
3 ~~existing financial assurance mechanism shall remain in place and~~  
4 ~~shall not be adjusted until a final determination by the board on~~  
5 ~~the appeal filed pursuant to this subdivision.~~

6     ~~(f) (1) The board may decline to hear an appeal if it determines~~  
7 ~~that the appeal raises no substantial issues related to the lead~~  
8 ~~agency's decision to deny approval of a reclamation plan or~~  
9 ~~financial assurance or the timeliness in reviewing a completed~~  
10 ~~application. An appeal filed by the director shall be heard by the~~  
11 ~~board.~~

12     ~~(2) If the board takes up an appeal, the appeal shall be scheduled~~  
13 ~~and heard at a public hearing within 45 days of the filing of the~~  
14 ~~appeal or a longer period may be mutually agreed upon by the~~  
15 ~~board, the appellant, and the operator or the board, the director,~~  
16 ~~and the operator.~~

17     ~~(g) (1) (A) When hearing an appeal filed pursuant to~~  
18 ~~subdivision (c), the board shall determine whether the reclamation~~  
19 ~~plan or the financial assurance cost estimate substantially meets~~  
20 ~~the applicable requirements of Sections 2772, 2772.1, 2773, 2773.1,~~  
21 ~~2773.3, and 2773.4, and Article 1 (commencing with Section 3500);~~  
22 ~~Article 9 (commencing with Section 3700), and Article 11~~  
23 ~~(commencing with Section 3800) of Chapter 8 of Division 2 of~~  
24 ~~Title 14 of the California Code of Regulations, and the lead~~  
25 ~~agency's surface mining ordinance adopted pursuant to subdivision~~  
26 ~~(a) of Section 2774. The board shall approve or uphold a~~  
27 ~~reclamation plan or financial assurance cost estimate determined~~  
28 ~~to meet those applicable requirements. In any event, the total~~  
29 ~~amount of financial assurances required for any one year shall not~~  
30 ~~exceed the amount necessary to perform reclamation of lands~~  
31 ~~remaining disturbed.~~

32     ~~(B) For purposes of this subdivision, "substantially" means~~  
33 ~~actual compliance in respect to the substance and form~~  
34 ~~requirements essential to the objectives of this chapter.~~

35     ~~(2) (A) A reclamation plan determined not to meet the~~  
36 ~~applicable requirements of Sections 2772, 2772.1, 2773, 2773.1,~~  
37 ~~2773.3, and 2773.4 and the lead agency's surface mining ordinance~~  
38 ~~adopted pursuant to subdivision (a) of Section 2774 shall be~~  
39 ~~returned to the operator with a notice of deficiencies. The operator~~  
40 ~~shall be granted, once only, a period of 30 days or a longer period~~

1 mutually agreed upon by the operator and the board to do both of  
2 the following:

3 (i) ~~Correct the noted deficiencies.~~  
4 (ii) ~~Submit the revised reclamation plan to the lead agency for~~  
5 ~~review and approval.~~

6 ~~(B) Within 10 days of the hearing, the board shall provide notice~~  
7 ~~via certified mail to the lead agency, the operator, and the~~  
8 ~~department of the board's determination. The notice shall include~~  
9 ~~instructions to the operator to submit to the lead agency for~~  
10 ~~approval a revised reclamation plan consistent with the board's~~  
11 ~~determination.~~

12 ~~(3) (A) If the board determines the lead agency's approved~~  
13 ~~financial assurance cost estimate does not meet the requirements~~  
14 ~~of Sections 2773.1 and 2773.4, and Article 11 (commencing with~~  
15 ~~Section 3800) of Chapter 8 of Division 2 of Title 14 of the~~  
16 ~~California Code of Regulations, and the board's financial assurance~~  
17 ~~guidelines adopted pursuant to subdivision (f) of Section 2773.1,~~  
18 ~~the board shall note the deficiencies and, based on the record,~~  
19 ~~include adequate cost estimates for each noted deficiency.~~

20 ~~(B) Within 10 days of the hearing, the board shall provide notice~~  
21 ~~via certified mail to the lead agency, the operator, and the~~  
22 ~~department of the board's determination with instructions to the~~  
23 ~~operator to submit to the lead agency for approval a revised~~  
24 ~~financial assurance cost estimate consistent with the board's~~  
25 ~~determination. The instructions shall include a reasonable~~  
26 ~~submission deadline of not less than 30 days.~~

27 ~~(C) The lead agency shall approve the revised financial~~  
28 ~~assurance cost estimate. That approval shall supersede and void~~  
29 ~~the prior approved financial assurance cost estimate.~~

30 ~~(D) A financial assurance mechanism shall be established by~~  
31 ~~the operator pursuant to subdivision (c) of Section 2773.4 following~~  
32 ~~the approval of the financial assurance cost estimate.~~

33 ~~(E) The failure of the operator to submit to the lead agency a~~  
34 ~~revised financial assurance cost estimate consistent with the board's~~  
35 ~~determination and deadline may be grounds for the issuance of an~~  
36 ~~order to comply pursuant to subdivision (a) of Section 2774.1.~~

37 ~~(h) (1) Within 90 days of a surface mining operation becoming~~  
38 ~~idle, as defined in Section 2727.1, the operator shall submit to the~~  
39 ~~lead agency for review and approval an interim management plan.~~  
40 ~~The review and approval of an interim management plan shall not~~

1 ~~be considered a project for purposes of the California~~  
2 ~~Environmental Quality Act (Division 13 (commencing with Section~~  
3 ~~21000)). The approved interim management plan shall be~~  
4 ~~considered an amendment to the surface mining operation's~~  
5 ~~approved reclamation plan for purposes of this chapter. The interim~~  
6 ~~management plan shall provide measures the operator will~~  
7 ~~implement to maintain the site in compliance with this chapter,~~  
8 ~~including, but not limited to, all permit conditions.~~

9 (2) ~~Except for an interim management plan for a borrow pit~~  
10 ~~surface mining operation owned or operated by the lead agency~~  
11 ~~solely for use by the lead agency, an interim management plan~~  
12 ~~may remain in effect for a period not to exceed five years, at which~~  
13 ~~time the lead agency shall do one of the following:~~

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

19 (B) ~~Require the operator to commence reclamation in accordance~~  
20 ~~with its approved reclamation plan.~~

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

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

37 (5) ~~The lead agency shall approve or deny approval of the~~  
38 ~~revised interim management plan within 60 days of receipt. If the~~  
39 ~~lead agency denies approval of the revised interim management~~  
40 ~~plan, the operator may appeal that action to the lead agency's~~

1 governing body, which shall schedule a public hearing within 45  
2 days of the filing of the appeal or a longer period mutually agreed  
3 upon by the operator and the governing body.

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

12 (7) ~~If a lead agency owns or operates a borrow pit surface mining  
13 operation that is solely for use by the lead agency, then all of the  
14 following apply:~~

15 (A) ~~The borrow pit surface mining operation is exempt from  
16 the requirements of this subdivision.~~

17 (B) ~~The lead agency shall maintain financial assurances while  
18 the borrow pit surface mining operation is idle.~~

19 (C) ~~The lead agency may obtain an interim management plan  
20 for the borrow pit surface mining to comply with subdivision (b)  
21 of Section 2772. That interim management plan shall not expire.~~

22 (i) ~~An enforcement action that may be brought against a surface  
23 mining operation for operating without an approved reclamation  
24 plan, financial assurance, or interim management plan shall be  
25 held in abeyance pending review pursuant to subdivision (h), or  
26 the resolution of an appeal filed with the board pursuant to  
27 subdivision (e), or with a lead agency governing body pursuant to  
28 subdivision (h).~~

29 (j) ~~Notwithstanding paragraph (1) of subdivision (b) of Section  
30 2774, a lead agency may inspect every two years a borrow pit  
31 surface mining operation that is solely for use by the lead agency  
32 while that surface mining operation is idle.~~

33 ~~SEC. 6. Section 2772 of the Public Resources Code is amended  
34 to read:~~

35 ~~2772. (a) The reclamation plan shall be filed with the lead  
36 agency, on a form provided by the lead agency, by any person who  
37 owns, leases, or otherwise controls or operates on all or any portion  
38 of any mined lands and who plans to conduct surface mining  
39 operations on the lands.~~

1 (b) ~~In addition to the other requirements for a reclamation plan~~  
2 ~~set forth in this section, a reclamation plan for a borrow pit surface~~  
3 ~~mining operation owned or operated by the lead agency solely for~~  
4 ~~use by the lead agency shall include maintenance measures that~~  
5 ~~become effective when the borrow pit surface mining operation~~  
6 ~~is idle.~~

7 (e) ~~The reclamation plan shall include all of the following~~  
8 ~~information and documents:~~

9 (1) ~~The name and address of the operator and the names and~~  
10 ~~addresses of any persons designated by the operator as an agent~~  
11 ~~for the service of process.~~

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

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

16 (4) ~~The maximum anticipated depth of the surface mining~~  
17 ~~operation.~~

18 (5) ~~A reclamation plan map or maps that shall include all of the~~  
19 ~~following:~~

20 (A) ~~Size and legal description of the lands that will be affected~~  
21 ~~by the surface mining operation and the names and addresses of~~  
22 ~~the owners of all surface interests and mineral interests in the lands.~~

23 (B) ~~Clearly defined and accurately drawn property lines,~~  
24 ~~setbacks, easements, and the reclamation plan boundary.~~

25 (C) ~~Existing topography and final topography depicted with~~  
26 ~~contour lines drawn at appropriate intervals for the site's~~  
27 ~~conditions.~~

28 (D) ~~Detailed geologic description of the area of the surface~~  
29 ~~mining operation.~~

30 (E) ~~Location of railroads, utility facilities, access roads,~~  
31 ~~temporary roads to be reclaimed, and any roads remaining for the~~  
32 ~~approved end use.~~

33 (F) ~~All maps, diagrams, or calculations that require preparation~~  
34 ~~in accordance with the Professional Engineers Act (Chapter 7~~  
35 ~~(commencing with Section 6700) of Division 3 of the Business~~  
36 ~~and Professions Code), the Geologist and Geophysicist Act~~  
37 ~~(Chapter 12.5 (commencing with Section 7800) of Division 3 of~~  
38 ~~the Business and Professions Code), or the Professional Land~~  
39 ~~Surveyors' Act (Chapter 15 (commencing with Section 8700) of~~  
40 ~~Division 3 of the Business and Professions Code) shall be prepared~~

1 by an appropriately licensed California-licensed professional, shall  
2 include his or her license number and name, and shall bear the  
3 signature and seal of the licensee.

4 (6) A description of and a plan for the type of surface mining  
5 to be employed and a time schedule that will provide for the  
6 completion of surface mining on each segment of the mined lands  
7 so that reclamation can be initiated at the earliest possible time on  
8 those portions of the mined lands that will not be subject to further  
9 disturbance by the surface mining operation.

10 (7) A description of the proposed use or potential uses of the  
11 mined lands after reclamation and evidence that all owners of a  
12 possessory interest in the land have been notified of the proposed  
13 use or potential uses.

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

17 (A) A description of the manner in which known contaminants  
18 will be controlled and mining waste will be disposed.

19 (B) A description of the manner in which affected streambed  
20 channels and streambanks will be rehabilitated to a condition that  
21 minimizes erosion and sedimentation.

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

24 (10) A statement that the person submitting the reclamation  
25 plan accepts responsibility for reclaiming the mined lands in  
26 accordance with the reclamation plan.

27 (11) Any other information that the lead agency may require  
28 by ordinance.

29 (12) A chart identifying the page number, chapter, appendix,  
30 or other specific location in the reclamation plan where content  
31 meeting the requirements, as applicable, of Sections 2772, 2773,  
32 and 2773.3 and Article 1 (commencing with Section 3500) and  
33 Article 9 (commencing with Section 3700) of Chapter 8 of Division  
34 2 of Title 14 of the California Code of Regulations is located.

35 (d) An item of information or a document required pursuant to  
36 subdivision (c), that has already been prepared as part of a permit  
37 application for the surface mining operation, or as part of an  
38 environmental document prepared for the project pursuant to the  
39 California Environmental Quality Act (Division 13 (commencing  
40 with Section 21000)) may be included in the reclamation plan by

1 reference, if that item of information or that document is attached  
2 to the reclamation plan when the lead agency submits the  
3 reclamation plan to the director for review. To the extent the  
4 information, document, or component of a document referenced  
5 in the reclamation plan is used to meet the requirements of  
6 subdivision (e) or Section 2773 or 2773.3, the information,  
7 document, or component of a document shall become part of the  
8 reclamation plan and shall be subject to all other requirements of  
9 this article.

10 (e) ~~This section does not limit or expand the Supervisor of Mines  
11 and Reclamation's authority or responsibility to review a document  
12 in accordance with the California Environmental Quality Act  
13 (Division 13 (commencing with Section 21000)).~~

14 *SEC. 5. Section 2770.1 is added to the Public Resources Code,  
15 to read:*

16 *2770.1. For the purposes of a borrow pit surface mining  
17 operation that is owned or operated by a lead agency solely for  
18 use by that lead agency, all of the following shall apply:*

19 *(a) (1) In addition to the requirements of Sections 2772 and  
20 2773, the lead agency shall include in its reclamation plan  
21 maintenance measures that become effective when the borrow pit  
22 surface mining operation is idle. The maintenance measures shall  
23 maintain the site in compliance with this chapter while the borrow  
24 pit surface mining operation is idle.*

25 *(2) Notwithstanding paragraph (1), a lead agency may obtain  
26 an interim management plan pursuant to subdivision (h) of Section  
27 2770.*

28 *(3) A lead agency that complies with this subdivision shall be  
29 exempt from the requirements of paragraph (6) of subdivision (h)  
30 of Section 2770.*

31 *(b) Notwithstanding paragraph (2) of subdivision (h) of Section  
32 2770, an interim management plan for a borrow pit surface mining  
33 operation may remain in effect until reclamation of the borrow pit  
34 surface mining operation is completed in accordance with the  
35 approved reclamation plan.*

36 *(c) Notwithstanding subdivision (b) of Section 2774, a lead  
37 agency may conduct an inspection of a borrow pit surface mining  
38 operation once every two calendar years during a period when  
39 the borrow pit surface mining operation is idle.*

1     ~~SEC. 7.~~

2     SEC. 6. Section 2773.1.5 is added to the Public Resources  
3 Code, to read:

4     2773.1.5. (a) Notwithstanding subdivision (e) of Section  
5 2773.1, a financial assurance mechanism may include corporate  
6 financial tests combined with surety bonds, irrevocable letters of  
7 credit, or trust funds, as described in this section, that together  
8 ensure the completion of reclamation in accordance with the  
9 approved reclamation plan.

10    (b) (1) Corporate financial tests shall only be allowed after the  
11 board adopts a regulation that establishes a comprehensive analysis  
12 and test of a corporation's financial status that includes, but is not  
13 limited to, all of the following:

14    (A) A minimum financial net worth of at least thirty-five million  
15 dollars (\$35,000,000), adjusted annually to reflect changes in the  
16 Consumer Price Index, as calculated by the United States Bureau  
17 of Labor Statistics.

18    (B) Income.

19    (C) Liabilities, including other environmental assurances.

20    (D) Assets located within the United States.

21    (2) The regulation also shall include, but need not be limited  
22 to, all of the following:

23    (A) Additional measures to provide the lead agency or the  
24 director with the recovery of costs associated with the full  
25 collection and satisfaction of the financial assurance mechanisms.

26    (B) Requirements for corporate financial tests that include, but  
27 are not limited to, all of the following:

28    (i) Provide for no more than 75 percent of the financial assurance  
29 cost estimate approved within the last year.

30    (ii) Be annually approved by both the lead agency and the  
31 director.

32    (iii) Be able to be disallowed by either the lead agency or the  
33 director.

34    (iv) Include an assessment from an independent certified public  
35 accountant using generally accepted accounting principles in the  
36 United States.

37    (c) Each surface mining operation shall have at least 25 percent  
38 of the financial assurance cost estimate in an acceptable financial  
39 assurance mechanism other than a corporate financial test if a  
40 qualifying corporation operates multiple surface mining operations.

1 (d) Subject to the requirements of this subdivision, an operator  
2 of multiple surface mining operations may use a corporate financial  
3 test that combines the financial assurance cost estimates of each  
4 surface mining operation.

5 ~~SEC. 8. Section 2774 of the Public Resources Code is amended~~  
6 ~~to read:~~

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

18 ~~(b) (1) The lead agency shall cause surface mining operations~~  
19 ~~to be inspected in intervals of no more than 12 months, solely to~~  
20 ~~determine whether the surface mining operation is in compliance~~  
21 ~~with this chapter. The lead agency shall cause an inspection to be~~  
22 ~~conducted by a state-licensed geologist, state-licensed civil~~  
23 ~~engineer, state-licensed landscape architect, state-licensed forester,~~  
24 ~~or a qualified lead agency employee who has not been employed~~  
25 ~~by the surface mining operation being inspected in any capacity~~  
26 ~~during the previous 12 months, except that a qualified lead agency~~  
27 ~~employee may inspect surface mining operations conducted by~~  
28 ~~the local agency. All inspections shall be conducted using a form~~  
29 ~~developed by the department and approved by the board that~~  
30 ~~includes the professional licensing and disciplinary information~~  
31 ~~of the person who conducted the inspection. The operator shall be~~  
32 ~~solely responsible for the reasonable cost of the inspection. The~~  
33 ~~lead agency shall provide a notice of completion of inspection to~~  
34 ~~the director within 90 days of conducting the inspection. The notice~~  
35 ~~shall contain a statement regarding the surface mining operation's~~  
36 ~~compliance with this chapter and a copy of the completed~~  
37 ~~inspection form, and shall specify, as applicable, all of the~~  
38 ~~following:~~

1     ~~(A) Aspects of the surface mining operation, if any, that were~~  
2     ~~found to be inconsistent with this chapter but were corrected before~~  
3     ~~the submission of the inspection form to the director.~~

4     ~~(B) Aspects of the surface mining operation, if any, that were~~  
5     ~~found to be inconsistent with this chapter but were not corrected~~  
6     ~~before the submission of the inspection form to the director.~~

7     ~~(C) A statement describing the lead agency's intended response~~  
8     ~~to any aspects of the surface mining operation found to be~~  
9     ~~inconsistent with this chapter but were not corrected before the~~  
10    ~~submission of the inspection form to the director.~~

11    ~~(2) If the surface mining operation has a review of its~~  
12    ~~reclamation plan, financial assurances, or an interim management~~  
13    ~~plan pending under subdivision (h) of Section 2770, or an appeal~~  
14    ~~pending before the board or lead agency governing body under~~  
15    ~~subdivision (e) or (h) of Section 2770, the notice shall so indicate.~~  
16    ~~The lead agency shall forward to the operator a copy of the notice,~~  
17    ~~a copy of the completed inspection form, and any supporting~~  
18    ~~documentation, including, but not limited to, any inspection report~~  
19    ~~prepared by the geologist, civil engineer, landscape architect,~~  
20    ~~forester, or qualified lead agency employee who conducted the~~  
21    ~~inspection.~~

22    ~~(e) If an operator does not request an inspection date on the~~  
23    ~~annual report filed pursuant to Section 2207 or if the lead agency~~  
24    ~~is unable to cause the inspection of a given surface mining~~  
25    ~~operation on the date requested by the operator, the lead agency~~  
26    ~~shall provide the operator with a minimum of five days' written~~  
27    ~~notice of a pending inspection or a lesser time period if agreed to~~  
28    ~~by the operator.~~

29    ~~(d) No later than July 1 of each year, the lead agency shall~~  
30    ~~submit to the director for each active or idle surface mining~~  
31    ~~operation within the lead agency's jurisdiction the following~~  
32    ~~information:~~

33    ~~(1) A copy of any permit or reclamation plan amendments, as~~  
34    ~~applicable.~~

35    ~~(2) A statement that there have been no changes during the~~  
36    ~~previous year, as applicable.~~

37    ~~(3) The date of each surface mining operation's last inspection.~~

38    ~~(4) The date of each surface mining operation's last financial~~  
39    ~~assurance review pursuant to Section 2773.1 for each operation~~  
40    ~~listed.~~

1 ~~(e) (1) No later than December 31, 2016, the department shall~~  
2 ~~establish a training program for all surface mine inspectors. The~~  
3 ~~program shall be designed to include a guidance document,~~  
4 ~~developed by the department, in consultation with the board and~~  
5 ~~stakeholders, to provide instruction and recommendations to~~  
6 ~~surface mine inspectors performing inspections pursuant to~~  
7 ~~subdivision (b).~~

8 ~~(2) The training program shall include inspections workshops~~  
9 ~~offered by the department in different regions of the state to provide~~  
10 ~~practical application of the guidance document material.~~

11 ~~(3) On and after July 1, 2019, all inspectors shall have on file~~  
12 ~~with the lead agency and the department a certificate of completion~~  
13 ~~of an inspection workshop. An inspector shall attend a workshop~~  
14 ~~no later than five years after the date of his or her most recent~~  
15 ~~certificate.~~

16 ~~(4) The adoption of the guidance document by the department~~  
17 ~~pursuant to this subdivision shall be subject to the requirements~~  
18 ~~of the Administrative Procedure Act (Chapter 3.5 (commencing~~  
19 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~  
20 ~~Government Code).~~

21 ~~SEC. 9.~~

22 ~~SEC. 7. No reimbursement is required by this act pursuant to~~  
23 ~~Section 6 of Article XIII B of the California Constitution because~~  
24 ~~a local agency or school district has the authority to levy service~~  
25 ~~charges, fees, or assessments sufficient to pay for the program or~~  
26 ~~level of service mandated by this act, within the meaning of Section~~  
27 ~~17556 of the Government Code.~~

28 ~~SEC. 10.~~

29 ~~SEC. 8. This act shall become operative only if both this bill~~  
30 ~~and Assembly Bill 1142 of the 2015–16 Regular Session are~~  
31 ~~enacted and become operative on or before January 1, 2016. 2017.~~