

State of California

California Statutes and Regulations for the California Geological Survey

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Department of Conservation
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State of California

**CALIFORNIA
STATUTES AND REGULATIONS
for the
CALIFORNIA GEOLOGICAL
SURVEY**

**California Department of Conservation
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STATUTES

Business and Professions Code

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000-9998.8] (Heading of Division 3 added by Stats. 1939, Ch. 30.)

CHAPTER 12.5. Geologists and Geophysicists [7800-7887] (Heading of Chapter 12.5 amended by Stats. 1972, Ch. 1396.)

Article 1. General Provisions [7800-7807.1] (Article 1 added by Stats. 1968, Ch. 942.)

§ 7800. This chapter of the Business and Professions Code constitutes the chapter on geologists and geophysicists. It may be cited as the Geologist and Geophysicist Act.
(Amended by Stats. 1972, Ch. 1396.)

§ 7801. (a) “Board,” as used in this chapter, means the Board for Professional Engineers, Land Surveyors, and Geologists established under Section 6710. Any reference in any law or regulation to the Board for Geologists and Geophysicists or the State Board of Registration for Geologists and Geophysicists shall be deemed to refer to the Board for Professional Engineers, Land Surveyors, and Geologists.

(b) The board shall succeed to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction previously vested in the Board for Geologists and Geophysicists.

(c) The board shall receive two personnel years that were previously allocated to the Board for Geologists and Geophysicists for the performance of the board’s responsibilities under this chapter.
(Amended by Stats. 2010, Ch. 696, Sec. 4. Effective January 1, 2011.)

§ 7802. “Geology,” as used in this chapter, refers to that science which treats of the earth in general; investigation of the earth’s crust and the rocks and other materials which compose it; and the applied science of utilizing knowledge of the earth and its constituent rocks, minerals, liquids, gases and other materials for the benefit of mankind.
(Added by Stats. 1968, Ch. 942.)

§ 7802.1. “Geophysics,” as used in this chapter, refers to that science which involves study of the physical earth by means of measuring its natural and induced fields of force, including, but not limited to, electric, gravity, and magnetic, and its responses to natural and induced energy and the interpreting of these measurements and the relating of them to the physics of the earth.
(Amended by Stats. 1973, Ch. 873.)

§ 7803. “Geologist,” as used in this chapter, refers to a person engaged in the practice of geology.
(Added by Stats. 1968, Ch. 942.)

§ 7803.1. “Geophysicist,” as used in this chapter, refers to a person engaged in the practice of geophysics.
(Added by Stats. 1972, Ch. 1396.)

§ 7804. Only a person registered as a geologist under the provisions of this chapter shall be entitled to take and use the title “professional geologist.” Only a person registered as a geologist and certified under the provisions of this chapter shall be entitled to take and use the title of a registered certified specialty geologist.
(Amended by Stats. 2004, Ch. 865, Sec. 18. Effective January 1, 2005.)

§ 7804.1. Only a person registered as a geophysicist under the provisions of this chapter shall be entitled to take and use the title “professional geophysicist.” Only a person registered as a geophysicist and certified under the provisions of this chapter shall be entitled to take and use the title of a registered certified specialty geophysicist.
(Amended by Stats. 2005, Ch. 657, Sec. 8. Effective January 1, 2006.)

§ 7805. The term “responsible charge of work” means the independent control and direction by the use of initiative, skill and independent judgment of geological or geophysical work or the supervision of such work.
(Amended by Stats. 1972, Ch. 1396.)

§ 7806. A subordinate is any person who assists a professional geologist or professional geophysicist in the practice of geology or geophysics without assuming the responsible charge of work.
(Amended by Stats. 2005, Ch. 657, Sec. 9. Effective January 1, 2006.)

§ 7807. A qualified geologist is a person who possesses all the qualifications specified in Section 7841 for registration except that he is not registered.
(Added by Stats. 1968, Ch. 942.)

§ 7807.1. A qualified geophysicist is a person who possesses all the qualifications specified in Section 7841.1 for registration except that he is not registered.
(Added by Stats. 1972, Ch. 1396.)

Article 2. Administration

[7810.1-7825] (Article 2 added by Stats. 1968, Ch. 942.)

§ 7810.1. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions pursuant to this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
(Amended by Stats. 2009, 4th Ex. Sess., Ch. 18, Sec. 42. Effective October 23, 2009.)

§ 7818. The board, pursuant to the provisions contained in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt, amend or repeal rules and regulations to carry out the provisions of this chapter.
(Added by Stats. 1968, Ch. 942.)

§ 7819. Except as otherwise provided by law, all records of the board shall be open to inspection by the public during regular office hours.
(Added by Stats. 1968, Ch. 942.)

§ 7820. The board shall have and use a seal bearing the name “Board for Professional Engineers, Land Surveyors, and Geologists.”

(Amended by Stats. 2011, Ch. 432, Sec. 22. Effective January 1, 2012.)

§ 7821. The board shall compile and maintain, or may have compiled and maintained on its behalf, a register of all licensees that contains the licensee’s name, address of record, type of branch license, license number, the date the license was issued, and the date the license will expire.

(Amended by Stats. 2011, Ch. 432, Sec. 23. Effective January 1, 2012.)

§ 7822. The board may, by regulation, provide for the division of the certification of registration into different specialties, including, but not limited to, petroleum, mining, and ground water, and may issue certificates in one or more of the specialties in which the applicant demonstrated proficiency. The board shall provide such a certificate for those qualified in engineering geology.

(Added by Stats. 1968, Ch. 942.)

§ 7825. The board shall establish relations with bodies which regulate the practice of geology and geophysics, or closely related geologic and geophysical disciplines, or which register geologists and geophysicists in the other states, and may establish relations with such bodies in other countries, for the purposes of working toward (1) uniformly high professional standards and (2) mutual recognition of registration.

(Amended by Stats. 1972, Ch. 1396.)

Article 2.1. Technical Advisory Committees

[7826-7826.4] (Article 2.1 added by Stats. 2011, Ch. 432, Sec. 25.)

§ 7826. The board may establish one or more technical advisory committees to advise and assist the board with respect to the following:

- (a) Application review and verification for any level of registration, licensure, authority, or title.
- (b) Evaluation and investigation of potential violations of this chapter.
- (c) Amendment, repeal, adoption, or revision of board rules, regulations, policies, and procedures.

(Added by Stats. 2011, Ch. 432, Sec. 25. Effective January 1, 2012.)

§ 7826.1. Each member of each technical advisory committee shall be appointed by the board and shall serve at the pleasure of the board. Each committee shall be composed of no more than five members.

(Added by Stats. 2011, Ch. 432, Sec. 25. Effective January 1, 2012.)

§ 7826.2. Each member of each technical advisory committee shall be an expert in the area of geology or geophysics within the committee’s jurisdiction and shall be licensed under this chapter.

(Added by Stats. 2011, Ch. 432, Sec. 25. Effective January 1, 2012.)

§ 7826.3. All the members of each technical advisory committee shall serve without compensation but shall receive per diem and expenses as provided in Section 103.

(Added by Stats. 2011, Ch. 432, Sec. 25. Effective January 1, 2012.)

§ 7826.4. Each member of each technical advisory committee shall be granted the same immunity as is granted to a public employee pursuant to Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1 of the Government Code.

(Added by Stats. 2011, Ch. 432, Sec. 25. Effective January 1, 2012.)

Article 3. Scope of Regulation

[7830-7839.2] (Article 3 added by Stats. 1968, Ch. 942.)

§ 7830. It is unlawful for anyone other than a geologist registered under this chapter to stamp or seal any plans, specifications, plats, reports, or other documents with the seal or stamp of a professional geologist or registered certified specialty geologist, or to use in any manner the title “professional geologist” or the title of any registered certified specialty geologist unless registered or registered and certified under this chapter.

(Amended by Stats. 2004, Ch. 865, Sec. 20. Effective January 1, 2005.)

§ 7830.1. It is unlawful for anyone other than a geophysicist registered under this chapter to stamp or seal any plans, specifications, plats, reports, or other documents with the seal or stamp of a registered geophysicist, professional geophysicist, or registered certified specialty geophysicist, or to use in any manner the title “registered geophysicist,” “professional geophysicist,” or the title of any registered certified specialty geophysicist unless registered, or registered and certified, under this chapter.

(Amended by Stats. 2009, 4th Ex. Sess., Ch. 18, Sec. 49. Effective October 23, 2009.)

§ 7831. It is unlawful for anyone to stamp or seal any plans, specifications, plats, reports, or other documents with the seal after the certificate of the registrant, named thereon, has expired or has been suspended or revoked, unless the certificate has been renewed or reissued.

(Added by Stats. 1968, Ch. 942.)

§ 7832. Any person, except as in this chapter specifically exempted, who shall practice or offer to practice geology or geophysics for others in this state is subject to the provisions of this chapter.

(Amended by Stats. 1972, Ch. 1396.)

§ 7833. This chapter does not prohibit one or more geologists or geophysicists from practicing through the entity of a sole proprietorship, partnership, or corporation. In a partnership or corporation whose primary activity consists of geological services, at least one partner or officer shall be a professional geologist. In a partnership or corporation whose primary activity consists of geophysical services, at least one partner or officer shall be a professional geophysicist.

(Amended by Stats. 2005, Ch. 657, Sec. 13. Effective January 1, 2006.)

§ 7834. This chapter does not prevent or prohibit an individual, firm, company, association or corporation whose principal business is other than the practice of geology or geophysics from employing a geologist or geophysicist to perform professional services in geology or geophysics incidental to the conduct of their business.

(Amended by Stats. 1972, Ch. 1396.)

§ 7835. All geologic plans, specifications, reports, or documents shall be prepared by a professional geologist or registered certified specialty geologist, or by a subordinate employee under his or her direction. In addition, they shall be signed by the professional geologist or registered certified specialty geologist or stamped with his or her seal, either of which shall indicate his or her responsibility for them.

(Amended by Stats. 2004, Ch. 865, Sec. 22. Effective January 1, 2005.)

§ 7835.1. All geophysical plans, specifications, reports, or documents shall be prepared by a professional geophysicist, registered certified specialty geophysicist, professional geologist, registered certified specialty geologist, or by a subordinate employee under his or her direction. In addition, they shall be signed by the professional geophysicist, registered certified specialty geophysicist, professional geologist, or registered certified specialty geologist, or stamped with his or her seal, either of which shall indicate his or her responsibility for them.

(Amended by Stats. 2005, Ch. 657, Sec. 14. Effective January 1, 2006.)

§ 7836. Officers and employees of the United States of America practicing solely as such officers or employees are exempt from registration under the provisions of this chapter.

(Added by Stats. 1968, Ch. 942.)

§ 7837. A subordinate to a geologist or geophysicist registered under this chapter, insofar as he or she acts solely in that capacity, is exempt from registration under the provisions of this chapter. This exemption, however, does not permit any subordinate to practice geology or geophysics for others in his or her own right or to use the title “professional geologist” or “professional geophysicist.”

(Amended by Stats. 2005, Ch. 657, Sec. 15. Effective January 1, 2006.)

§ 7838. A civil engineer empowered to practice civil engineering in this state, and a petroleum engineer registered in this state, under provisions of Chapter 7 (commencing with Section 6700) of Division 3 of this code insofar as they practice civil engineering in its various branches or petroleum engineering, respectively, are exempt from registration under the provisions of this chapter.

(Added by Stats. 1968, Ch. 942.)

§ 7839. This chapter shall not empower a geologist or geophysicist registered under this chapter to practice or offer to practice civil engineering and any of its various recognized branches.

(Amended by Stats. 1972, Ch. 1396.)

§ 7839.1. This chapter shall not empower a geologist registered under this chapter to practice or offer to practice geophysics for others in this state except as such geophysical work is related to his practice of geology.

This chapter shall not empower a geophysicist registered under this chapter to practice or offer to practice geology for others in this state except as such geological work is related to his practice of geophysics.

(Added by Stats. 1972, Ch. 1396.)

§ 7839.2. (a) A geologist or geophysicist shall use a written contract when contracting to provide geological or geophysical services to a client pursuant to this chapter. The written contract shall be executed by the geologist or geophysicist and the client or the client’s representative prior to the geologist or geophysicist

commencing work, unless the client states in writing that work may be commenced before the contract is executed. The written contract shall include, but is not limited to, all of the following:

- (1) A description of the services to be provided to the client by the geologist or geophysicist.
- (2) A description of any basis of compensation applicable to the contract, and the method of payment agreed upon by the parties.
- (3) The name, address, and license or certificate number of the geologist or geophysicist, and the name and address of the client.
- (4) A description of the procedure that the geologist or geophysicist and the client will use to accommodate additional services.
- (5) A description of the procedure to be used by any party to terminate the contract.

(b) Subdivision (a) shall not apply to any of the following:

- (1) Geologic or geophysical services rendered by a geologist or geophysicist for which the client will not pay compensation.
- (2) A geologist or geophysicist who has a current or prior contractual relationship with the client to provide geologic or geophysical services, and who has already been paid the fees that are due under the contract by the client.
- (3) If the client executes a waiver in writing after full disclosure of this section that a contract that complies with the requirements of this section is not required.
- (4) Geological or geophysical services rendered by a geologist or geophysicist to any of the following:

- (A) A geologist or geophysicist licensed under this chapter.
- (B) An engineer licensed under Chapter 7 (commencing with Section 6700).
- (C) A land surveyor licensed under Chapter 15 (commencing with Section 8700).
- (D) An architect licensed under Chapter 3 (commencing with Section 5500).
- (E) A contractor licensed under Chapter 9 (commencing with Section 7000).
- (F) A public agency.

(c) As used in this section, "written contract" includes a contract in electronic form.

(Added by Stats. 2013, Ch. 178, Sec. 4. Effective January 1, 2014.)

Article 4. Registration

[7840-7855] (Article 4 added by Stats. 1968, Ch. 942.)

§ 7840. An application for registration as a geologist or for registration as a geophysicist shall be made to the board on a form prescribed by it and shall be accompanied by the application fee fixed by this chapter. *(Amended by Stats. 1972, Ch. 1396.)*

§ 7841. An applicant for registration as a geologist shall have all the following qualifications:

- (a) Not have committed any acts or crimes constituting grounds for denial of licensure under Section 480.
- (b) Graduation with a major in geological sciences from college or university.
- (c) Have a documented record of a minimum of five years of professional geological experience of a character satisfactory to the board, demonstrating that the applicant is qualified to assume responsible charge of this work upon licensure as a geologist. This experience shall be gained under the supervision

of a geologist or geophysicist licensed in this or any other state, or under the supervision of others who, in the opinion of the board, have the training and experience to have responsible charge of geological work. Professional geological work does not include routine sampling, laboratory work, or geological drafting. Each year of undergraduate study in the geological sciences shall count as one-half year of training up to a maximum of two years, and each year of graduate study or research counts as a year of training.

Teaching in the geological sciences at college level shall be credited year for year toward meeting the requirement in this category, provided that the total teaching experience includes six semester units per semester, or equivalent if on the quarter system, of upper division or graduate courses.

Credit for undergraduate study, graduate study, and teaching, individually, or in any combination thereof, shall in no case exceed a total of three years towards meeting the requirement for at least five years of professional geological work as set forth above.

The ability of the applicant shall have been demonstrated by the applicant having performed the work in a responsible position, as the term "responsible position" is defined in regulations adopted by the board. The adequacy of the required supervision and experience shall be determined by the board in accordance with standards set forth in regulations adopted by it.

(d) Successfully pass a written examination that incorporates a national examination for geologists created by a nationally recognized entity approved by the board, and a supplemental California specific examination. The California specific examination shall test the applicant's knowledge of state laws, rules and regulations, and of seismicity and geology unique to practice within this state.

(Amended by Stats. 2003, Ch. 325, Sec. 5. Effective January 1, 2004.)

§ 7841.1. An applicant for registration as a geophysicist shall have all of the following qualifications. This section shall not apply to applicants for registration as geologists.

(a) Not have committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Meet one of the following educational requirements fulfilled at a school or university whose curricula meet criteria established by rules of the board.

(1) Graduation with a major in a geophysical science or any other discipline which in the opinion of the board is relevant to geophysics.

(2) Completion of a combination of at least 30 semester hours, in courses which in the opinion of the board are relevant to geophysics. At least 24 semester hours, or the equivalent, shall be in the third or fourth year, or graduate courses.

(c) Have at least seven years of professional geophysical work which shall include either a minimum of three years of professional geophysical work under the supervision of a professional geophysicist, except that prior to July 1, 1973, professional geophysical work shall qualify under this subdivision if it is under the supervision of a qualified geophysicist, or a minimum of five years' experience in responsible charge of professional geophysical work. Professional geophysical work does not include the routine maintenance or operation of geophysical instruments, or, even if carried out under the responsible supervision of a professional geophysicist, the routine reduction or plotting of geophysical observations.

Each year of undergraduate study in the geophysical sciences referred to in this section shall count as one-half year of training up to a maximum of two years, and each year of graduate study or research counts as a year of training.

Teaching in the geophysical sciences referred to in this section at a college level shall be credited year for year toward meeting the requirement in this category, provided that the total teaching experience includes six semester units per semester, or equivalent if on the quarter system, of third or fourth year or graduate courses.

Credit for undergraduate study, graduate study, and teaching, individually, or in any combination thereof, shall in no case exceed a total of four years towards meeting the requirements for at least seven years of professional geophysical work as set forth above.

The ability of the applicant shall have been demonstrated by his or her having performed the work in a responsible position, as the term “responsible position” is defined in regulations adopted by the board. The adequacy of the required supervision and experience shall be determined by the board in accordance with standards set forth in regulations adopted by it.

(d) Successfully pass a written examination.

(Amended by Stats. 2005, Ch. 657, Sec. 16. Effective January 1, 2006.)

§ 7841.2. An applicant for certification as a geologist-in-training shall comply with all of the following:

(a) Not have committed acts or crimes constituting grounds for denial of certification under Section 480.

(b) Successfully pass the Fundamentals of Geology examination. The applicant shall be eligible to sit for the Fundamentals of Geology examination after graduation with a degree in a geological science from a college or university, the curriculum of which has been approved by the board.

(Added by Stats. 2011, Ch. 432, Sec. 26. Effective January 1, 2012.)

§ 7842. An applicant for certification in a specialty in geology shall meet all of the requirements of Section 7841 and, in addition, his or her seven years of professional geological work shall include one of the following:

(a) A minimum of three years performed under the supervision of a geologist certified in the specialty for which the applicant is seeking certification or under the supervision of a licensed civil engineer if the applicant is seeking certification as an engineering geologist, except that prior to July 1, 1970, professional geological work shall qualify under this subdivision if it is performed under the supervision of a geologist qualified in the specialty for which the applicant is seeking certification or under the supervision of a licensed civil engineer if the applicant is seeking certification as an engineering geologist.

(b) A minimum of five years’ experience in responsible charge of professional geological work in the specialty for which the applicant is seeking certification.

(Amended by Stats. 2014, Ch. 400, Sec. 12. Effective January 1, 2015.)

§ 7842.1. An applicant for certification in a specialty in geophysics shall meet all of the requirements of Section 7841.1 and in addition, his seven years of professional geophysical work shall include one of the following:

(a) A minimum of three years performed under the supervision of a geophysicist, certified in the specialty for which he is seeking certification.

(b) A minimum of five years’ experience in responsible charge of professional geophysical work in the specialty for which the applicant is seeking certification.

(Amended by Stats. 1973, Ch. 873.)

§ 7843. (a) An applicant for certification as a geologist-in-training shall, upon making a passing grade in the National Association of State Boards of Geology's Fundamentals of Geology examination be issued a certificate as a geologist-in-training. A renewal or other fee, other than the application fee, may not be charged for this certification. The certificate shall become invalid when the holder has qualified as a professional geologist as provided in Section 7841.

(b) A geologist-in-training certificate does not authorize the holder thereof to practice or offer to practice geology, in his or her own right, or to use the title specified in Section 7804.

(c) It is unlawful for anyone other than the holder of a valid geologist-in-training certificate issued under this chapter to use the title of "geologist-in-training" or any abbreviation of that title.

(Added by Stats. 2004, Ch. 865, Sec. 25. Effective January 1, 2005.)

§ 7844. Examination for registration shall be held at the times and places within the state as the board shall determine. The scope of examinations and the methods of procedure may be prescribed by rule of the board.

(Added by Stats. 1968, Ch. 942.)

§ 7845. Examinations for registration as a geologist or registered certified specialty geologist shall test the applicant's knowledge of geology and of any established specialty for which he or she applies and his or her ability to apply that knowledge and to assume responsible charge in the professional practice of geology or a certified specialty geology, or both geology and a certified specialty geology.

(Amended by Stats. 2004, Ch. 865, Sec. 26. Effective January 1, 2005.)

§ 7845.1. Examinations for registration as a geophysicist or registered certified specialty geophysicist shall test the applicant's knowledge basic to geophysics and his ability to apply that knowledge and to assume responsible charge in the professional practice of geophysics or a certified specialty geophysics, or both geophysics and a certified specialty geophysics.

(Added by Stats. 1972, Ch. 1396.)

§ 7846. An applicant failing in an examination may be examined again upon filing a new application and the payment of the application fee fixed by this chapter.

(Added by Stats. 1968, Ch. 942.)

§ 7847. The board, upon application therefor, on its prescribed form, and upon the payment of the application and registration fees fixed by this chapter, which fees shall be retained by the board, may issue a certificate of registration as a geologist or as a geophysicist to a person holding an equivalent certificate of registration as a geologist or as a geophysicist, issued to him or her by any state or country when the applicant's qualifications meet the other requirements of this chapter and the rules established by the board.

(Amended by Stats. 2009, Ch. 140, Sec. 17. Effective January 1, 2010.)

§ 7850. Any applicant who has passed the examination and has otherwise qualified hereunder as a geologist, upon payment of the registration fee fixed by this chapter shall have a certificate of registration issued to him or her as a professional geologist.

(Amended by Stats. 2005, Ch. 657, Sec. 17. Effective January 1, 2006.)

§ 7850.1. Any applicant who has passed the examination and has otherwise qualified hereunder as a geophysicist, upon payment of the registration fee fixed by this chapter shall have a certificate of registration issued to him or her as a professional geophysicist.

(Amended by Stats. 2005, Ch. 657, Sec. 18. Effective January 1, 2006.)

§ 7850.5. An applicant who has passed the examination for a certified specialty geologist and has otherwise qualified under this chapter in the specialty, upon payment of the fee fixed by this chapter shall have a certificate issued to him or her as a certified specialty geologist.

A certificate of certified specialty geologist shall be signed by the president and executive officer and issued under the seal of the board.

(Amended by Stats. 1984, Ch. 47, Sec. 74. Effective March 21, 1984.)

§ 7850.6. An applicant who has passed the examination for a certified specialty geophysicist and has otherwise qualified under this chapter in the specialty, upon payment of the fee fixed by this chapter shall have a certificate issued to him or her as a certified specialty geophysicist. A certificate of certified specialty geophysicist shall be signed by the president and executive officer and issued under the seal of the board.

(Amended by Stats. 1984, Ch. 47, Sec. 75. Effective March 21, 1984.)

§ 7851. (a) The board shall issue, upon application and payment of the fee established by Section 7887, a retired license to a geologist or geophysicist who has been licensed by the board for a minimum of five years within California and a minimum of 20 years within the United States or its territories, and who holds a license that is not suspended, revoked, or otherwise disciplined, or subject to pending discipline under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active geologist's or geophysicist's license is required. A geologist or geophysicist holding a retired license may use the titles "retired professional geologist" or "professional geologist, retired," or "retired professional geophysicist" or "professional geophysicist, retired."

(c) The holder of a retired license shall not be required to renew that registration.

(d) In order for the holder of a retired license, issued pursuant to this section, to restore his or her license to active status he or she shall pass the examination required for initial licensure with the board.

(Added by Stats. 2013, Ch. 319, Sec. 12. Effective January 1, 2014.)

§ 7852. (a) Each geologist registered under this chapter may, upon registration, obtain a seal of the design authorized by the board bearing the registrant's name, number of his or her certificate, and the legend "professional geologist."

(b) Each specialty geologist certified under this chapter may, upon certification, obtain a seal of the design authorized by the board bearing the registrant's name, number of his or her certificate, and the legend of the appropriate specialty in geology in which he or she is certified under this chapter.

(Amended by Stats. 2011, Ch. 432, Sec. 27. Effective January 1, 2012.)

§ 7852.1. (a) Each geophysicist registered under this chapter may, upon registration, obtain a seal of the design authorized by the board bearing the registrant's name, number of his or her certificate, and the legend "professional geophysicist."

(b) Each specialty geophysicist certified under this chapter may, upon certification, obtain a seal of the design authorized by the board bearing the registrant's name, number of his or her certificate, and the legend of the appropriate specialty in geophysics in which he or she is certified under this chapter.

(Amended by Stats. 2011, Ch. 432, Sec. 28. Effective January 1, 2012.)

§ 7853. A duplicate certificate of registration to replace one lost, destroyed, or mutilated may be issued subject to the rules and regulations of the board. The duplicate certificate fee fixed by this chapter shall be charged.

(Added by Stats. 1968, Ch. 942.)

§ 7854. An unsuspended, unrevoked and unexpired certificate and endorsement of registry made under this chapter is presumptive evidence in all courts and places that the person named therein is legally registered.

(Added by Stats. 1968, Ch. 942.)

§ 7855. Any applicant who is denied registration or authorization shall, in writing, be so notified and informed of the reason therefor. Within 30 days after receipt of notice, such applicant may make written request to the board for a hearing which, if granted, shall be conducted as specified in Section 7861.

(Added by Stats. 1968, Ch. 942.)

Article 5. Disciplinary Proceedings

[7860-7864] (Article 5 added by Stats. 1968, Ch. 942.)

§ 7860. (a) The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any professional geologist or geophysicist, and make findings thereon.

(b) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any geologist or geophysicist registered hereunder, on any of the following grounds:

(1) Conviction of a crime substantially related to the qualifications, functions, or duties of a geologist or geophysicist.

(2) Misrepresentation, fraud, or deceit by a geologist or geophysicist in his or her practice.

(3) Negligence or incompetence by a geologist or geophysicist in his or her practice.

(4) Violation of any contract undertaken in the capacity of a geologist or geophysicist.

(5) Fraud or deceit in obtaining a certificate to practice as a geologist or geophysicist.

(c) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or may revoke the certificate of any geologist or geophysicist registered under this chapter, for unprofessional conduct. Unprofessional conduct includes, but is not limited to, any of the following:

(1) Aiding or abetting any person in a violation of this chapter or any regulation adopted by the board pursuant to this chapter.

(2) Violating this chapter or any regulation adopted by the board pursuant to this chapter.

(3) Conduct in the course of practice as a geologist or geophysicist that violates professional standards adopted by the board.

(Amended by Stats. 2014, Ch. 400, Sec. 13. Effective January 1, 2015.)

§ 7861. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(Added by Stats. 1968, Ch. 942.)

§ 7862. The board may reissue a certificate of registration, certification, or authority, to any person whose certificate has been revoked if a majority of the members of the board vote in favor of such reissuance for reasons the board deems sufficient.

(Added by Stats. 1968, Ch. 942.)

§ 7863. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a geologist or geophysicist is deemed to be a conviction within the meaning of this article. The board may order the certificate or authorization suspended or revoked, or may decline to issue a certificate or authorization, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(Amended by Stats. 1978, Ch. 1161.)

§ 7864. (a) A petitioner may petition the board for reinstatement or modification of penalty, including reduction, modification, or termination of probation, after the following minimum periods have elapsed from the effective date of the decision ordering the disciplinary action, or if the order of the board or any portion of it is stayed by a court, from the date the disciplinary action is actually implemented in its entirety:

(1) Except as otherwise provided in this section, at least three years for reinstatement of a certificate that was revoked or surrendered. However, the board may, in its sole discretion, specify in its order of revocation or surrender a lesser period of time that shall be at a minimum of one year.

(2) At least two years for early termination of a probation period of three years or more.

(3) At least one year for early termination of a probation period of less than three years.

(4) At least one year for reduction or modification of a condition of probation.

(b) The board shall notify the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and the petitioner and the Attorney General shall be given the opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.

(c) The board itself or an administrative law judge, if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision.

(d) The board may grant or deny the petition or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction or modification of the penalty.

(e) A petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. A petition shall not be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(f) The board may, in its discretion, deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

(g) Judicial review of the board's decision following a hearing under this section may be sought by way of a petition for writ of administrative mandamus pursuant to Section 1094.5 of the Code of Civil Procedure. The party seeking to overturn the board's decision shall have the burden of proof in any mandamus proceeding. In the mandamus proceeding, if it is alleged that there has been an abuse of discretion because the board's findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the whole record.

(h) The following definitions shall apply for purposes of this section:

(1) "Certificate" includes a certificate of registration or license as a professional geologist or professional geophysicist or certification as a geologist-in-training.

(2) "Petitioner" means a professional geologist or professional geophysicist or a geologist-in-training whose certificate has been revoked, suspended, or surrendered or placed on probation.

(Added by Stats. 2014, Ch. 400, Sec. 14. Effective January 1, 2015.)

Article 6. Offenses Against the Chapter

[7870-7873] (Article 6 added by Stats. 1968, Ch. 942.)

§ 7870. The board shall have the power, duty and authority to investigate violations of the provisions of this chapter.

(Added by Stats. 1968, Ch. 942.)

§ 7871. It shall be the duty of the respective officers charged with the enforcement of laws and ordinances to prosecute all persons charged with the violation of any of the provisions of this chapter.

It shall be the duty of the executive officer of the board, under the direction of the board, to aid these officers in the enforcement of this chapter.

(Amended by Stats. 1984, Ch. 47, Sec. 76. Effective March 21, 1984.)

§ 7872. Every person is guilty of a misdemeanor and for each offense of which he or she is convicted is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed three months, or by both fine and imprisonment:

(a) Who, unless he or she is exempt from registration under this chapter, practices or offers to practice geology or geophysics for others in this state according to the provisions of this chapter without legal authorization.

(b) Who presents or attempts to file as his or her own the certificate of registration of another.

(c) Who gives false evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration.

(d) Who impersonates or uses the seal of any other practitioner.

(e) Who uses an expired or revoked certificate of registration.

(f) Who shall represent himself or herself as, or use the title of, professional geologist, or any other title whereby the person could be considered as practicing or offering to practice geology for others, unless he or she is qualified by registration as a geologist under this chapter, or who shall represent himself or herself as, or use the title of, professional geophysicist, or any other title whereby the person could be considered as practicing or offering to practice geophysics for others, unless he or she is qualified by registration as a geophysicist under this chapter.

(g) Who manages, or conducts as manager, proprietor, or agent, any place of business from which geological or geophysical work is solicited, performed or practiced for others, unless the geological work is supervised or performed by a professional geologist, or unless the geophysical work is supervised or performed by a professional geophysicist or geologist.

(h) Who violates any provision of this chapter.

(Amended by Stats. 2005, Ch. 657, Sec. 20. Effective January 1, 2006.)

§ 7873. Whenever any person has engaged in or is about to engage in any act or practice which constitutes or which, in the opinion of the board, will constitute an offense against this chapter, the superior court of the county in which the offense has occurred or is about to occur, on application of the board, may issue an injunction or other appropriate order restraining such act or practice.

The proceedings authorized by this section shall be in accordance with the provisions contained in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(Amended by Stats. 1982, Ch. 517, Sec. 28.)

Article 7. Revenue

[7880-7887] (Article 7 added by Stats. 1968, Ch. 942.)

§ 7880. A certificate of registration as a geologist or as a specialty geologist or as a geophysicist or as a specialty geophysicist shall expire at 12 a.m. of the last day of the birth month of the certificate holder during the second year of a two-year term if not renewed. To renew an unexpired certificate, the certificate holder shall, on or before the date of expiration of the certificate, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

For purposes of implementing the distribution of the renewal of registrations throughout the year, the board may establish a system of staggered certificate expiration dates and a pro rata formula for the payment of renewal fees by certificate holders affected by the implementation of the program.

(Amended by Stats. 1992, Ch. 1289, Sec. 43. Effective January 1, 1993.)

§ 7881. Except as otherwise provided in this article, certificates of registration as a geologist or as a geophysicist, or certified specialty certificates, may be renewed at any time within five years after expiration on filing an application for renewal on a form prescribed by the board and payment of all accrued and unpaid renewal fees. If the certificate is renewed more than 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certificate shall continue in effect through the date provided in Section 7880 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

(Amended by Stats. 2001, Ch. 306, Sec. 10. Effective January 1, 2002.)

§ 7882. A suspended certificate is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the holder of the certificate, while it remains suspended and until it is reinstated, to engage in the activity to which the certificate relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.

(Added by Stats. 1968, Ch. 942.)

§ 7883. A revoked certificate is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the holder of the certificate, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular date before the date on which it is reinstated, plus all accrued and unpaid renewal fees and the delinquency fee, if any, accrued at the time of its revocation.

(Amended by Stats. 2003, Ch. 325, Sec. 7. Effective January 1, 2004.)

§ 7884. Certificates of registration as a geologist or as a geophysicist or certified specialty certificates which are not renewed within five years after expiration may not be renewed, restored, reinstated, or reissued thereafter. The holder of such certificate may apply for and obtain a new certificate, however, if:

(a) He has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) He takes and passes the examination, if any, which would be required of him if he were then applying for the certificate for the first time.

The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination pursuant to the provisions of this section. *(Amended by Stats. 1978, Ch. 1161.)*

§ 7885. (a) The board shall report each month to the State Controller the amount and source of all revenue received by it pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Geology and Geophysics Account, which is hereby created within the Professional Engineer's and Land Surveyor's Fund established in Section 6797.

(b) All moneys in the Geology and Geophysics Fund on January 1, 2012, shall be transferred on that date to the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund. *(Amended by Stats. 2011, Ch. 448, Sec. 25. Effective January 1, 2012.)*

§ 7886. The moneys paid into the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund pursuant to this chapter are hereby appropriated to be used by the board to carry out the provisions of this chapter.

(Amended by Stats. 2011, Ch. 448, Sec. 26. Effective January 1, 2012.)

§ 7887. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a geologist or a geophysicist or certification as a specialty geologist or a specialty geophysicist and for administration of the examination shall be fixed at not more than two hundred fifty dollars (\$250).

(b) The license fee for a geologist or for a geophysicist and the fee for the certification in a specialty shall be fixed at an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, with respect to certificates that will expire less than one year after issuance, the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The duplicate certificate fee shall be fixed at not more than six dollars (\$6).

(d) The renewal fee for a geologist or for a geophysicist shall be fixed at not more than four hundred dollars (\$400).

(e) The renewal fee for a specialty geologist or for a specialty geophysicist shall be fixed at not more than one hundred dollars (\$100).

(f) Notwithstanding Section 163.5, the delinquency fee for a certificate is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date.

(g) Each applicant for licensure as a geologist shall pay an examination fee fixed at an amount equal to the actual cost to the board to administer the examination described in subdivision (d) of Section 7841.

(h) Each applicant for licensure as a geophysicist or certification as an engineering geologist or certification as a hydrogeologist shall pay an examination fee fixed by the board at an amount equal to the actual cost to the board for the development and maintenance of the written examination, and shall not exceed one hundred dollars (\$100).

(i) The fee for a retired license shall be fixed at not more than 50 percent of the fee for filing an application for licensure as a geologist or a geophysicist in effect on the date of application for a retired license.

(Amended by Stats. 2013, Ch. 319, Sec. 13.5. Effective January 1, 2014.)

Civil Code

DIVISION 2. PROPERTY

[654-1422] (Heading of Division 2 amended by Stats. 1988, Ch. 160, Sec. 13.)

PART 4. Acquisition of Property

[1000-1422] (Part 4 enacted 1872.)

TITLE 4. Transfer

[1039-1231] (Title 4 enacted 1872.)

CHAPTER 2. Transfer of Real Property

[1091-1134] (Chapter 2 enacted 1872.)

Article 1.5. Disclosures Upon Transfer of Residential Property

[1102-1102.17] (Article 1.5 added by Stats. 1985, Ch. 1574, Sec. 2.)

§ 1102. (a) Except as provided in Section 1102.2, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1102.2, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, which manufactured home or mobilehome is classified as personal property and intended for use as a residence.

(c) Any waiver of the requirements of this article is void as against public policy.

(Amended by Stats. 1999, Ch. 517, Sec. 2. Effective January 1, 2000.)

§ 1102.1. (a) In enacting Chapter 817 of the Statutes of 1994, it was the intent of the Legislature to clarify and facilitate the use of the real estate disclosure statement, as specified in Section 1102.6. The Legislature intended the statement to be used by transferors making disclosures required under this article and by agents making disclosures required by Section 2079 on the agent's portion of the real estate disclosure statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to affect the existing obligations of the parties to

a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the disclosure form set forth in Section 1102.6 or 1102.6a, and that nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079.

It is also the intent of the Legislature that the delivery of a real estate transfer disclosure statement may not be waived in an “as is” sale, as held in *Loughrin v. Superior Court* (1993) 15 Cal. App. 4th 1188.

(b) In enacting Chapter 677 of the Statutes of 1996, it was the intent of the Legislature to clarify and facilitate the use of the manufactured home and mobilehome transfer disclosure statement applicable to the resale of a manufactured home or mobilehome pursuant to subdivision (b) of Section 1102. The Legislature intended the statements to be used by transferors making disclosures required under this article and by agents making disclosures required by Section 2079 on the agent’s portion of the disclosure statement and as required by Section 18046 of the Health and Safety Code on the dealer’s portion of the manufactured home and mobilehome transfer disclosure statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the disclosure form set forth in Section 1102.6 or 1102.6a or to affect the existing obligations of the parties to a manufactured home or mobilehome purchase contract, and nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079 or the duty of a manufactured home or mobilehome dealer or salesperson pursuant to Section 18046 of the Health and Safety Code.

It is also the intent of the Legislature that the delivery of a mobilehome transfer disclosure statement may not be waived in an “as is” sale.

(c) It is the intent of the Legislature that manufactured home and mobilehome dealers and salespersons and real estate brokers and salespersons use the form provided pursuant to Section 1102.6d. It is also the intent of the Legislature for sellers of manufactured homes or mobilehomes who are neither manufactured home dealers or salespersons nor real estate brokers or salespersons to use the Manufactured Home/Mobilehome Transfer Disclosure Statement contained in Section 1102.6d.

(Amended by Stats. 1999, Ch. 517, Sec. 3. Effective January 1, 2000.)

§ 1102.2. This article does not apply to the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code.

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage,

transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure, transfers to the legal owner or lienholder of a manufactured home or mobilehome by a registered owner or successor in interest who is in default, or transfers by reason of any foreclosure of a security interest in a manufactured home or mobile-home.

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust. This exemption shall not apply to a transfer if the trustee is a natural person who is sole trustee of a revocable trust and he or she is a former owner of the property or an occupant in possession of the property within the preceding year.

(e) Transfers from one coowner to one or more other coowners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to that judgment.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(j) Transfers or exchanges to or from any governmental entity.

(Amended by Stats. 2000, Ch. 135, Sec. 11. Effective January 1, 2001.)

§ 1102.3. The transferor of any real property subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(a) In the case of a sale, as soon as practicable before transfer of title.

(b) In the case of transfer by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer.

With respect to any transfer subject to subdivision (a) or (b), the transferor shall indicate compliance with this article either on the receipt for deposit, the real property sales contract, the lease, or any addendum attached thereto or on a separate document.

If any disclosure, or any material amendment of any disclosure, required to be made by this article, is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of a written notice of termination to the transferor or the transferor's agent.

(Added by renumbering Section 1102.2 by Stats. 1995, Ch. 335, Sec. 4. Effective January 1, 1996.)

§ 1102.3a. (a) The transferor of any manufactured home or mobilehome subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(1) In the case of a sale, or a lease with an option to purchase, of a manufactured home or mobilehome, involving an agent, as defined in Section 18046 of the Health and Safety Code, as soon as practicable, but no later than the close of escrow for the purchase of the manufactured home or mobilehome.

(2) In the case of a sale, or lease with an option to purchase, of a manufactured home or mobilehome, not involving an agent, as defined in Section 18046 of the Health and Safety Code, at the time of execution of any document by the prospective transferee with the transferor for the purchase of the manufactured home or mobilehome.

(b) With respect to any transfer subject to this section, the transferor shall indicate compliance with this article either on the transfer disclosure statement, any addendum thereto, or on a separate document.

(c) If any disclosure, or any material amendment of any disclosure, required to be made pursuant to subdivision (b) of Section 1102, is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of a written notice of termination to the transferor.

(Added by Stats. 1999, Ch. 517, Sec. 5. Effective January 1, 2000.)

§ 1102.4. (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or that listing or selling agent, was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting it.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. In responding to such a request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1102.6 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where such a statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

(Amended by Stats. 1986, Ch. 460, Sec. 4.)

§ 1102.5. If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this article. If at the time the disclosures are required to be made, an item of information required to be disclosed is unknown or not available to the transferor, and the transferor or his or her agent has made a reasonable effort to ascertain it, the transferor

may use an approximation of the information, provided the approximation is clearly identified as such, is reasonable, is based on the best information available to the transferor or his or her agent, and is not used for the purpose of circumventing or evading this article.

(Added by Stats. 1985, Ch. 1574, Sec. 2. Operative January 1, 1987, by Sec. 3 of Ch. 1574.)

§ 1102.6. (a) The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following disclosure form:

NOTICE OF INCOMPLETE TEXT: The Local Option Real Estate Transfer Disclosure Statement appears in the hard-copy publication of the chaptered bill. See Sec. 15 of Chapter 71, Statutes of 2014.

(b) The amendments to this section by the act adding this subdivision shall become operative on July 1, 2014.

(Amended by Stats. 2014, Ch. 71, Sec. 15. Effective January 1, 2015. Note: See published chaptered bill for complete section text; the Real Estate Transfer Disclosure Statement appears on pages 18 to 22 of Stats. 2014, Ch. 71.)

§ 1102.6a. (a) On and after July 1, 1990, any city or county may elect to require disclosures on the form set forth in subdivision (b) in addition to those disclosures required by Section 1102.6. However, this section does not affect or limit the authority of a city or county to require disclosures on a different disclosure form in connection with transactions subject to this article pursuant to an ordinance adopted prior to July 1, 1990. An ordinance like this adopted prior to July 1, 1990, may be amended thereafter to revise the disclosure requirements of the ordinance, in the discretion of the city council or county board of supervisors.

(b) Disclosures required pursuant to this section pertaining to the property proposed to be transferred, shall be set forth in, and shall be made on a copy of, the following disclosure form:

NOTICE OF INCOMPLETE TEXT: The Local Option Real Estate Transfer Disclosure Statement appears in the hard-copy publication of the chaptered bill. See Sec. 33 of Chapter 181, Statutes of 2012.

(c) This section does not preclude the use of addenda to the form specified in subdivision (b) to facilitate the required disclosures. This section does not preclude a city or county from using the disclosure form specified in subdivision (b) for a purpose other than that specified in this section.

(d) (1) On and after January 1, 2005, if a city or county adopts a different or additional disclosure form pursuant to this section regarding the proximity or effects of an airport, the statement in that form shall contain, at a minimum, the information in the statement “Notice of Airport in Vicinity” found in Section 11010 of the Business and Professions Code, or Section 1103.4 or 4255.

(2) On and after January 1, 2006, if a city or county does not adopt a different or additional disclosure form pursuant to this section, then the provision of an “airport influence area” disclosure pursuant to Section 11010 of the Business and Professions Code, or Section 1103.4 or 4255, or if there is not a

current airport influence map, a written disclosure of an airport within two statute miles, shall be deemed to satisfy any city or county requirements for the disclosure of airports in connection with transfers of real property.

(Amended by Stats. 2012, Ch. 181, Sec. 33. Effective January 1, 2013. Operative January 1, 2014, by Sec. 86 of Ch. 181. Note: See published chaptered bill for complete section text; the Local Option Real Estate Transfer Disclosure Statement appears on pages 26 and 27 of Ch. 181.)

§ 1102.6b. (a) This section applies to all transfers of real property for which all of the following apply:

(1) The transfer is subject to this article.

(2) The property being transferred is subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), to a fixed lien assessment collected in installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), or to a contractual assessment program authorized pursuant to Chapter 29 (commencing with Section 5898.10) of Part 3 of Division 7 of the Streets and Highway Code.

(3) A notice is not required pursuant to Section 53341.5 of the Government Code.

(b) In addition to any other disclosure required pursuant to this article, the seller of any real property subject to this section shall make a good faith effort to obtain a disclosure notice concerning the special tax as provided for in Section 53340.2 of the Government Code, or a disclosure notice concerning an assessment installment as provided in Section 53754 of the Government Code, from each local agency that levies a special tax pursuant to the Mello-Roos Community Facilities Act, or that collects assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), or a disclosure notice concerning the contractual assessment as provided in Section 5898.24 of the Streets and Highways Code, on the property being transferred, and shall deliver that notice or those notices to the prospective purchaser, as long as the notices are made available by the local agency.

(c) (1) The seller of real property subject to this section may satisfy the disclosure notice requirements in regard to the bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) by delivering a disclosure notice that is substantially equivalent and obtained from another source, until December 31, 2004.

(2) The seller of real property subject to this section may satisfy the disclosure notice requirements in regard to the assessments collected under the contractual assessment program authorized pursuant to Chapter 29 (commencing with Section 5898.10) of Part 3 of Division 7 of the Streets and Highway Code by delivering a disclosure notice that is substantially equivalent and obtained from another source.

(3) For the purposes of this section, a substantially equivalent disclosure notice includes, but is not limited to, a copy of the most recent year's property tax bill or an itemization of current assessment amounts applicable to the property.

(d) (1) Notwithstanding subdivision (c), at any time after the effective date of this section, the seller of real property subject to this section may satisfy the disclosure notice requirements of this section by delivering a disclosure notice obtained from a nongovernmental source that satisfies the requirements of paragraph (2).

(2) A notice provided by a private entity other than a designated office, department, or bureau of the levying entity may be modified as needed to clearly and accurately describe a special tax pur-

suant to the Mello-Roos Community Facilities Act levied against the property or to clearly and accurately consolidate information about two or more districts that levy or are authorized to levy a special tax pursuant to the Mello-Roos Community Facilities Act against the property, and shall include the name of the Mello-Roos entity levying taxes against the property, the annual tax due for the Mello-Roos entity for the current tax year, the maximum tax that may be levied against the property in any year, the percentage by which the maximum tax for the Mello-Roos entity may increase per year, and the date until the tax may be levied against the property for the Mello-Roos entity and a contact telephone number, if available, for further information about the Mello-Roos entity. A notice provided by a private entity other than a designated office, department, or bureau of the levying entity may be modified as needed to clearly and accurately describe special assessments and bonds pursuant to the Improvement Bond Act of 1915 levied against the property, or to clearly and accurately consolidate information about two or more districts that levy or are authorized to levy special assessments and bonds pursuant to the Improvement Bond Act of 1915 against the property, and shall include the name of the special assessments and bonds issued pursuant to the Improvement Bond Act of 1915, the current annual tax on the property for the special assessments and bonds issued pursuant to the Improvement Bond Act of 1915 and a contact telephone number, if available, for further information about the special assessments and bonds issued pursuant to the Improvement Bond Act of 1915.

(3) This section does not change the ability to make disclosures pursuant to Section 1102.4 of the Civil Code.

(e) If a disclosure received pursuant to subdivision (b), (c), or (d) has been delivered to the transferee, a seller or his or her agent is not required to provide additional information concerning, and information in the disclosure shall be deemed to satisfy the responsibility of the seller or his or her agent to inform the transferee regarding the special tax or assessment installments and the district. Notwithstanding subdivision (b), (c), or (d), nothing in this section imposes a duty to discover a special tax or assessment installments or the existence of any levying district not actually known to the agents.

(Amended by Stats. 2009, Ch. 444, Sec. 1. Effective January 1, 2010.)

§ 1102.6c. (a) In addition to any other disclosure required pursuant to this article, it shall be the sole responsibility of the seller of any real property subject to this article, or his or her agent, to deliver to the prospective purchaser a disclosure notice that includes both of the following:

(1) A notice, in at least 12-point type or a contrasting color, as follows:

“California property tax law requires the Assessor to revalue real property at the time the ownership of the property changes. Because of this law, you may receive one or two supplemental tax bills, depending on when your loan closes.

The supplemental tax bills are not mailed to your lender. If you have arranged for your property tax payments to be paid through an impound account, the supplemental tax bills will not be paid by your lender. It is your responsibility to pay these supplemental bills directly to the Tax Collector.

If you have any question concerning this matter, please call your local Tax Collector’s Office.”

(2) A title, in at least 14-point type or a contrasting color, that reads as follows: “Notice of Your ‘Supplemental’ Property Tax Bill.”

(b) The disclosure notice requirements of this section may be satisfied by delivering a disclosure notice pursuant to Section 1102.6b that satisfies the requirements of subdivision (a).

(Added by Stats. 2005, Ch. 392, Sec. 2. Effective January 1, 2006.)

§ 1102.6d. Except for manufactured homes and mobilehomes located in a common interest development governed by Part 5 (commencing with Section 4000) of Division 4, the disclosures applicable to the resale of a manufactured home or mobilehome pursuant to subdivision (b) of Section 1102 are set forth in, and shall be made on a copy of, the following disclosure form:

NOTICE OF INCOMPLETE TEXT: The Manufactured Home and Mobilehome Transfer Disclosure Statement appears in the hard-copy publication of the chaptered bill. See Sec. 34 of Chapter 181, Statutes of 2012.

(Amended by Stats. 2012, Ch. 181, Sec. 34. Effective January 1, 2013. Operative January 1, 2014, by Sec. 86 of Ch. 181. Note: See published chaptered bill for complete section text; the Manufactured Home and Mobilehome Transfer Disclosure Statement appears on pages 29 to 33 of Ch. 181.)

§ 1102.6e. If a property being transferred on or after January 1, 2008, is subject to a transfer fee, as defined in Section 1098, the transferor shall provide, at the same time as the transfer disclosure statement required pursuant to Section 1102.6 is provided, an additional disclosure statement containing all of the following:

- (a) Notice that payment of a transfer fee is required upon transfer of the property.
- (b) The amount of the fee required for the asking price of the real property and a description of how the fee is calculated.
- (c) Notice that the final amount of the fee may be different if the fee is based upon a percentage of the final sale price.
- (d) The entity to which funds from the fee will be paid.
- (e) The purposes for which funds from the fee will be used.
- (f) The date or circumstances under which the obligation to pay the transfer fee expires, if any.

(Added by Stats. 2007, Ch. 689, Sec. 3. Effective January 1, 2008.)

§ 1102.7. Each disclosure required by this article and each act which may be performed in making the disclosure, shall be made in good faith. For purposes of this article, “good faith” means honesty in fact in the conduct of the transaction.

(Added by Stats. 1985, Ch. 1574, Sec. 2. Operative January 1, 1987, by Sec. 3 of Ch. 1574.)

§ 1102.8. The specification of items for disclosure in this article does not limit or abridge any obligation for disclosure created by any other provision of law or which may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(Added by Stats. 1985, Ch. 1574, Sec. 2. Operative January 1, 1987, by Sec. 3 of Ch. 1574.)

§ 1102.9. Any disclosure made pursuant to this article may be amended in writing by the transferor or his or her agent, but the amendment shall be subject to Section 1102.3 or 1102.3a.

(Amended by Stats. 1999, Ch. 517, Sec. 7. Effective January 1, 2000.)

§ 1102.10. Delivery of disclosures required by this article shall be by personal delivery to the transferee or by mail to the prospective transferee. For the purposes of this article, delivery to the spouse of a transferee

shall be deemed delivery to the transferee, unless provided otherwise by contract.

(Added by Stats. 1985, Ch. 1574, Sec. 2. Operative January 1, 1987, by Sec. 3 of Ch. 1574.)

§ 1102.11. Any person or entity, other than a real estate licensee licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, acting in the capacity of an escrow agent for the transfer of real property subject to this article shall not be deemed the agent of the transferor or transferee for purposes of the disclosure requirements of this article, unless the person or entity is empowered to so act by an express written agreement to that effect. The extent of such an agency shall be governed by the written agreement.

(Added by Stats. 1985, Ch. 1574, Sec. 2. Operative January 1, 1987, by Sec. 3 of Ch. 1574.)

§ 1102.12. (a) If more than one licensed real estate broker is acting as an agent in a transaction subject to this article, the broker who has obtained the offer made by the transferee shall, except as otherwise provided in this article, deliver the disclosure required by this article to the transferee, unless the transferor has given other written instructions for delivery.

(b) If a licensed real estate broker responsible for delivering the disclosures under this section cannot obtain the disclosure document required and does not have written assurance from the transferee that the disclosure has been received, the broker shall advise the transferee in writing of his or her rights to the disclosure. A licensed real estate broker responsible for delivering disclosures under this section shall maintain a record of the action taken to effect compliance in accordance with Section 10148 of the Business and Professions Code.

(Amended by Stats. 1986, Ch. 460, Sec. 6.)

§ 1102.13. No transfer subject to this article shall be invalidated solely because of the failure of any person to comply with any provision of this article. However, any person who willfully or negligently violates or fails to perform any duty prescribed by any provision of this article shall be liable in the amount of actual damages suffered by a transferee.

(Added by Stats. 1985, Ch. 1574, Sec. 2. Operative January 1, 1987, by Sec. 3 of Ch. 1574.)

§ 1102.14. (a) As used in this article, "listing agent" means listing agent as defined in subdivision (f) of Section 1086.

(b) As used in this article, "selling agent" means selling agent as defined in subdivision (g) of Section 1086, exclusive of the requirement that the agent be a participant in a multiple listing service as defined in Section 1087.

(Added by Stats. 1986, Ch. 460, Sec. 7.)

§ 1102.15. The seller of residential real property subject to this article who has actual knowledge of any former federal or state ordnance locations within the neighborhood area shall give written notice of that knowledge as soon as practicable before transfer of title.

For purposes of this section, "former federal or state ordnance locations" means an area identified by an agency or instrumentality of the federal or state government as an area once used for military training purposes which may contain potentially explosive munitions. "Neighborhood area" means within one mile of the residential real property.

The disclosure required by this section does not limit or abridge any obligation for disclosure created by any other law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction. *(Added by Stats. 1989, Ch. 294, Sec. 1.)*

§ 1102.155. (a) (1) The seller of residential real property subject to this article shall disclose, in writing, that Section 1101.4 of the Civil Code requires that California single-family residences be equipped with water-conserving plumbing fixtures on or before January 1, 2017, and shall disclose whether the property includes any noncompliant plumbing fixtures.

(2) The seller shall affirm that this representation is that of the seller and not a representation of any agent, and that this disclosure is not intended to be part of any contract between the buyer and the seller. The seller shall further affirm that this disclosure is not a warranty of any kind by the seller or any agent representing any principal in the transaction and is not a substitute for any inspections that or warranties any principal may wish to obtain.

(b) This section shall become operative on January 1, 2017.

(Added by Stats. 2009, Ch. 587, Sec. 2. Effective January 1, 2010. Section operative January 1, 2017, by its own provisions.)

§ 1102.16. The disclosure of the existence of any window security bars and any safety release mechanism on those window security bars shall be made pursuant to Section 1102.6 or 1102.6a of the Civil Code.

(Amended by Stats. 2004, Ch. 183, Sec. 26. Effective January 1, 2005.)

§ 1102.17. The seller of residential real property subject to this article who has actual knowledge that the property is adjacent to, or zoned to allow, an industrial use described in Section 731a of the Code of Civil Procedure, or affected by a nuisance created by such a use, shall give written notice of that knowledge as soon as practicable before transfer of title.

(Amended by Stats. 2004, Ch. 66, Sec. 2. Effective January 1, 2005.)

**Article 1.7. Disclosure of Natural and Environmental Hazards, Right-to-Farm,
and Other Disclosures Upon Transfer of Residential Property**

[1103-1103.14] (Heading of Article 1.7 amended by Stats. 2008, Ch. 686, Sec. 2.)

§ 1103. (a) Except as provided in Section 1103.1, this article applies to the transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any real property described in subdivision (c), or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1103.1, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, that is classified as personal property intended for use as a residence, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, that is classified as personal property intended for use as a residence, if the real property on which the manufactured home or mobilehome is located is real property described in subdivision (c).

(c) This article shall apply to the transactions described in subdivisions (a) and (b) only if the transferor or his or her agent is required by one or more of the following to disclose the property's location within a hazard zone:

(1) A person who is acting as an agent for a transferor of real property that is located within a special flood hazard area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a special flood hazard area if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a special flood hazard area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood hazard area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(2) A person who is acting as an agent for a transferor of real property that is located within an area of potential flooding designated pursuant to Section 8589.5 of the Government Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within an area of potential flooding if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within an inundation area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(3) A transferor of real property that is located within a very high fire hazard severity zone, designated pursuant to Section 51178 of the Government Code, shall disclose to any prospective transferee the fact that the property is located within a very high fire hazard severity zone and is subject to the requirements of Section 51182 of the Government Code if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a very high fire hazard severity zone.

(B) A map that includes the property has been provided to the local agency pursuant to Section 51178 of the Government Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the local agency.

(4) A person who is acting as an agent for a transferor of real property that is located within an earthquake fault zone, designated pursuant to Section 2622 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a delineated earthquake fault zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a delineated earthquake fault zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2622 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(5) A person who is acting as an agent for a transferor of real property that is located within a seismic hazard zone, designated pursuant to Section 2696 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a seismic hazard zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a seismic hazard zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2696 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(6) A transferor of real property that is located within a state responsibility area determined by the board, pursuant to Section 4125 of the Public Resources Code, shall disclose to any prospective transferee the fact that the property is located within a wildland area that may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291 if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a wildland fire zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 4125 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) Any waiver of the requirements of this article is void as against public policy.
(Amended by Stats. 2004, Ch. 183, Sec. 27. Effective January 1, 2005.)

§ 1103.1. (a) This article does not apply to the following transfers:

(1) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(2) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure.

(3) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(4) Transfers from one coowner to one or more other coowners.

(5) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(6) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation of the parties or from a property settlement agreement incidental to that judgment.

(7) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(8) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(9) Transfers or exchanges to or from any governmental entity.

(b) Transfers not subject to this article may be subject to other disclosure requirements, including those under Sections 8589.3, 8589.4, and 51183.5 of the Government Code and Sections 2621.9, 2694, and 4136 of the Public Resources Code. In transfers not subject to this article, agents may make required disclosures in a separate writing.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.2. (a) The disclosures required by this article are set forth in, and shall be made on a copy of, the following Natural Hazard Disclosure Statement:

NATURAL HAZARD DISCLOSURE STATEMENT

This statement applies to the following property: _____

The transferor and his or her agent(s) or a third-party consultant disclose the following information with the knowledge that even though this is not a warranty, prospective transferees may rely on this information in deciding whether and on what terms to purchase the subject property. Transferor hereby authorizes any agent(s) representing any principal(s) in this action to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

The following are representations made by the transferor and his or her agent(s) based on their knowledge and maps drawn by the state and federal governments. This information is a disclosure and is not intended to be part of any contract between the transferee and transferor.

THIS REAL PROPERTY LIES WITHIN THE FOLLOWING HAZARDOUS AREA(S):

A SPECIAL FLOOD HAZARD AREA (Any type Zone "A" or "V") designated by the Federal Emergency Management Agency.

Yes _____ No _____ Do not know and information not available from local jurisdiction _____

AN AREA OF POTENTIAL FLOODING shown on a dam failure inundation map pursuant to Section 8580.5 of the Government Code.

Yes _____ No _____ Do not know and information not available from local jurisdiction _____

A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to Section 51178 or 51179 of the Government Code. The owner of this property is subject to the maintenance requirements of Section 51182 of the Government Code.

Yes _____ No _____

A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of the Public Resources Code. The owner of this property is subject to the maintenance requirements of Section 4291 of the Public Resources Code. Additionally, it is not the state's responsibility to provide fire protection services to any building or structure located within the wildlands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142 of the Public Resources Code.

Yes _____ No _____

AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the Public Resources Code.

Yes _____ No _____

A SEISMIC HAZARD ZONE pursuant to Section 2606 of the Public Resources Code.

Yes (Landslide Zone) _____ Yes (Liquefaction Zone) _____
 No _____ Map not yet released by state _____

THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER.

THE MAPS ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. TRANSFEREE(S) AND TRANSFEROR(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

Signature of Transferor(s) _____ Date _____

Signature of Transferor(s) _____ Date _____

Agent(s) _____ Date _____

Agent(s) _____ Date _____

Check only one of the following:

Transferor(s) and their agent(s) represent that the information herein is true and correct to the best of their knowledge as of the date signed by the transferor(s) and agent(s)

Transferee(s) and their agent(s) acknowledge that they have exercised good faith in the selection of a third-party report provider as required in Civil Code Section 1103.7, and that the representations made in this Natural Hazard Disclosure Statement are based upon information provided by the independent third-party disclosure provider as a substituted disclosure pursuant to Civil Code Section 1103.4. Neither transferor(s) nor their agent(s) (1) has independently verified the information contained in this statement and report or (2) is personally aware of any errors or inaccuracies in the information contained on the statement. This statement was prepared by the provider below:

Third-Party
Disclosure Provider(s) _____ Date _____

Transferee represents that he or she has read and understands this document. Pursuant to Civil Code Section 1103.8, the representations made in this Natural Hazard Disclosure Statement do not constitute all of the transferor's or agent's disclosure obligations in this transaction.

Signature of Transferee(s) _____ Date _____

Signature of Transferee(s) _____ Date _____

(b) If an earthquake fault zone, seismic hazard zone, very high fire hazard severity zone, or wild-land fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural hazard area, the transferor or transferor's agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The transferor or transferor's agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1103.4 that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the transferor or the transferor's agents to exercise reasonable care in making a determination under this subdivision.

(c) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is no longer within a special flood hazard area, then the transferor or transferor's agent may mark "No" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The transferor or transferor's agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(d) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is within a special flood hazard area and the location of the letter has been posted pursuant to subdivision (g) of Section 8589.3 of the Government Code, then the transferor or transferor's agent shall mark "Yes" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The transferor or transferor's agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(e) The disclosure required pursuant to this article may be provided by the transferor and the transferor's agent in the Local Option Real Estate Disclosure Statement described in Section 1102.6a, provided that the Local Option Real Estate Disclosure Statement includes substantially the same information and substantially the same warnings that are required by this section.

(f) (1) The legal effect of a consultant's report delivered to satisfy the exemption provided by Section 1103.4 is not changed when it is accompanied by a Natural Hazard Disclosure Statement.

(2) A consultant's report shall always be accompanied by a completed and signed Natural Hazard Disclosure Statement.

(3) In a disclosure statement required by this section, an agent and third-party provider may cause his or her name to be preprinted in lieu of an original signature in the portions of the form reserved for signatures. The use of a preprinted name shall not change the legal effect of the acknowledgment.

(g) The disclosure required by this article is only a disclosure between the transferor, the transferor's agents, and the transferee, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose.

(h) In any transaction in which a transferor has accepted, prior to June 1, 1998, an offer to purchase, the transferor, or his or her agent, shall be deemed to have complied with the requirement of subdivision (a) if the transferor or agent delivers to the prospective transferee a statement that includes substantially the same information and warning as the Natural Hazard Disclosure Statement.

(Amended by Stats. 2004, Ch. 66, Sec. 3. Effective January 1, 2005.)

§ 1103.3. (a) The transferor of any real property subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(1) In the case of a sale, as soon as practicable before transfer of title.

(2) In the case of transfer by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as prac-

licable before execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer.

(b) The transferor shall indicate compliance with this article either on the receipt for deposit, the real property sales contract, the lease, any addendum attached thereto, or on a separate document.

(c) If any disclosure, or any material amendment of any disclosure, required to be made pursuant to this article is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail to terminate his or her offer by delivery of a written notice of termination to the transferor or the transferor's agent.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.4. (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or the listing or selling agent, and was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting the information.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, or expert in natural hazard discovery dealing with matters within the scope of the professional's license or expertise shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. In responding to that request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1103.2 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where that statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

(1) In responding to the request, the expert shall determine whether the property is within an airport influence area as defined in subdivision (b) of Section 11010 of the Business and Professions Code. If the property is within an airport influence area, the report shall contain the following statement:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(2) In responding to the request, the expert shall determine whether the property is within the jurisdiction of the San Francisco Bay Conservation and Development Commission, as defined in Section 66620 of the Government Code. If the property is within the commission’s jurisdiction, the report shall contain the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission’s jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(3) In responding to the request, the expert shall determine whether the property is presently located within one mile of a parcel of real property designated as “Prime Farmland,” “Farmland of Statewide Importance,” “Unique Farmland,” “Farmland of Local Importance,” or “Grazing Land” on the most current “Important Farmland Map” issued by the California Department of Conservation, Division of Land Resource Protection, utilizing solely the county-level GIS map data, if any, available on the Farmland Mapping and Monitoring Program Web site. If the residential property is within one mile of a designated farmland area, the report shall contain the following notice:

NOTICE OF RIGHT TO FARM

This property is located within one mile of a farm or ranch land designated on the current county-level GIS “Important Farmland Map,” issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

(4) In responding to the request, the expert shall determine, utilizing map coordinate data made available by the Office of Mine Reclamation, whether the property is presently located within one mile of a mine operation for which map coordinate data has been reported to the director pursuant to Section 2207 of the Public Resources Code. If the expert determines, from the available map coordinate data, that the residential property is located within one mile of a mine operation, the report shall contain the following notice:

NOTICE OF MINING OPERATIONS:

This property is located within one mile of a mine operation for which the mine owner or operator has reported mine location data to the Department of Conservation pursuant to Section 2207 of the Public

Resources Code. Accordingly, the property may be subject to inconveniences resulting from mining operations. You may wish to consider the impacts of these practices before you complete your transaction.
(Amended by Stats. 2011, Ch. 253, Sec. 1. Effective January 1, 2012.)

§ 1103.5. (a) After a transferor and his or her agent comply with Section 1103.2, they shall be relieved of further duty under this article with respect to those items of information. The transferor and his or her agent shall not be required to provide notice to the transferee if the information provided subsequently becomes inaccurate as a result of any governmental action, map revision, changed information, or other act or occurrence, unless the transferor or agent has actual knowledge that the information has become inaccurate.

(b) If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any governmental action, map revision, changed information, or other act or occurrence subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this article.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.7. Each disclosure required by this article and each act that may be performed in making the disclosure shall be made in good faith. For purposes of this article, “good faith” means honesty in fact in the conduct of the transaction.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.8. (a) The specification of items for disclosure in this article does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction. The legislature does not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical condition of the property and previously received reports of physical inspection noted on the disclosure form provided pursuant to Section 1102.6 or 1102.6a.

(b) Nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.9. Any disclosure made pursuant to this article may be amended in writing by the transferor or his or her agent, but the amendment shall be subject to Section 1103.3.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.10. Delivery of disclosures required by this article shall be by personal delivery to the transferee or by mail to the prospective transferee. For the purposes of this article, delivery to the spouse of a transferee shall be deemed delivery to the transferee, unless provided otherwise by contract.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.11. Any person or entity, other than a real estate licensee licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, acting in the capacity of an escrow agent for the transfer of real property subject to this article shall not be deemed the agent of the transferor or transferee for purposes of the disclosure requirements of this article, unless the person or entity is empow-

ered to so act by an express written agreement to that effect. The extent of that agency shall be governed by the written agreement.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.12. (a) If more than one licensed real estate broker is acting as an agent in a transaction subject to this article, the broker who has obtained the offer made by the transferee shall, except as otherwise provided in this article, deliver the disclosure required by this article to the transferee, unless the transferor has given other written instructions for delivery.

(b) If a licensed real estate broker responsible for delivering the disclosures under this section cannot obtain the disclosure document required and does not have written assurance from the transferee that the disclosure has been received, the broker shall advise the transferee in writing of his or her rights to the disclosure. A licensed real estate broker responsible for delivering disclosures under this section shall maintain a record of the action taken to effect compliance in accordance with Section 10148 of the Business and Professions Code.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.13. No transfer subject to this article shall be invalidated solely because of the failure of any person to comply with any provision of this article. However, any person who willfully or negligently violates or fails to perform any duty prescribed by any provision of this article shall be liable in the amount of actual damages suffered by a transferee.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

§ 1103.14. (a) As used in this article, “listing agent” means listing agent as defined in subdivision (f) of Section 1086.

(b) As used in this article, “selling agent” means selling agent as defined in subdivision (g) of Section 1086, exclusive of the requirement that the agent be a participant in a multiple listing service as defined in Section 1087.

(Added by Stats. 1999, Ch. 876, Sec. 3. Effective January 1, 2000.)

Government Code

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA

[8000-22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 1. General

[8000-8899.24] (Division 1 enacted by Stats. 1943, Ch. 134.)

CHAPTER 12. Seismic Safety Commission Act

[8870-8870.95] (Heading of Chapter 12 renumbered (and relocated) from Chapter 13 by Stats. 1991, Ch. 188, Sec. 8.)

§ 8870. The Legislature finds and declares as follows:

First, many different agencies at various levels of government have substantial responsibilities in the fields of earthquake preparedness and seismic safety.

Second, there is a pressing need to provide a consistent policy framework and a means for coordinating on a continuing basis the earthquake-related programs of agencies at all governmental levels and their relationships with elements of the private sector involved in practices important to seismic safety. This need is not being addressed by any continuing state government organization.

Third, through concerted efforts of broad scope, coordinated by a seismic safety commission, long-term progress should be made toward higher levels of seismic safety.

Fourth, to provide and maintain effective policy guidance and leadership on seismic safety issues, and to fulfill its duties under this chapter, it is imperative that the State Seismic Safety Commission carry out its mission as an independent state agency, with direct access and accountability to the Governor and the Legislature.

Fifth, it is not the purpose of this chapter to transfer to the commission the authorities and responsibilities now vested by law in state and local agencies.

(Amended by Stats. 2006, Ch. 532, Sec. 1. Effective January 1, 2007.)

§ 8870.1. (a) (1) There is created in the state government the Alfred E. Alquist Seismic Safety Commission as an independent unit within the Business, Consumer Services, and Housing Agency.

(2) Any reference in statute or regulation to the Seismic Safety Commission shall be deemed to refer to the Alfred E. Alquist Seismic Safety Commission.

(b) The commission shall report annually to the Governor and to the Legislature on its findings, progress, and recommendations relating to earthquake hazard reduction, and any other seismic safety issues, as requested by the Governor or the Legislature.

(Amended by Stats. 2012, Ch. 147, Sec. 6. Effective January 1, 2013. Operative July 1, 2013, by Sec. 23 of Ch. 147.)

§ 8870.2. (a) The Alfred E. Alquist Seismic Safety Commission shall consist of 15 members appointed by the Governor and confirmed by the Senate, one member representing the Office of Emergency Services, one member representing the Division of the State Architect in the Department of General Services, one member representing the California Building Standards Commission, one member appointed by the Senate Committee on Rules, and one member appointed by the Speaker of the Assembly. The commission shall elect annually from its membership its own chairperson and vice chairperson and may replace them with other commissioners by majority vote. Commission members shall be residents of California.

(b) A quorum shall consist of 11 members if there are no vacancies, or else a majority of the members of the commission at the time.

(c) The Legislature declares that the individuals appointed to the commission are intended to represent the professions of architecture, planning, fire protection, public utilities, structural engineering, geotechnical engineering, geology, seismology, local government, insurance, social services, emergency services, and the Legislature and that such representation serves the public interest. Accordingly, the Legislature finds that for purposes of persons who hold this office the specified professions are tantamount to and constitute the public generally within the meaning of Section 87103.

(d) The commission exists as a separate unit within the Business, Consumer Services, and Housing Agency, and has the functions of prescribing policy, holding meetings and setting dates of the meetings, conducting investigations, and holding hearings insofar as those powers are given by statute to the commission.

(e) The decisions and actions of the commission, with respect to exercising its authority and carrying out its duties under this chapter, or any other applicable law, are not subject to review by the Secretary of Business, Consumer Services, and Housing, but are final within the limits provided by this chapter.

(f) The Legislature further declares that the highest level of service that the individuals appointed to the commission can provide to the residents of California is to offer professional, unbiased, scientifically based advice to the Governor and the Legislature. To maintain this quality of service, it is imperative that the commission retain its functional autonomy and access to the Governor and the Legislature. As such, the commission shall retain its existing authority to issue reports, publications, and literature, as well as to sponsor legislation, and to take official positions on proposed state and federal legislation.

(Amended by Stats. 2012, Ch. 147, Sec. 7. Effective January 1, 2013. Operative July 1, 2013, by Sec. 23 of Ch. 147.)

§ 8870.3. (a) The membership of the Alfred E. Alquist Seismic Safety Commission shall be appointed by the Governor and confirmed by the Senate from lists of nominees submitted by organizations as listed below:

(1) Four members appointed from established organizations in the fields of architecture and planning, fire protection, public utilities, electrical engineering, and mechanical engineering.

(2) Four members appointed from established organizations in the fields of structural engineering, geotechnical engineering, geology, and seismology.

(3) Four members submitted by the League of California Cities and the California State Association of Counties.

(4) Three members appointed from established organizations in the fields of insurance, social services, and emergency services. One of these members shall be a building official.

(b) One member shall be appointed from the Senate by the Senate Rules Committee, and one member shall be appointed from the Assembly by the Speaker of the Assembly. Each of the members appointed pursuant to this subdivision may designate an alternate who shall be counted toward a quorum, who may vote, and who may receive the expenses specified in Section 8870.4.

(Amended by Stats. 2006, Ch. 532, Sec. 5. Effective January 1, 2007.)

§ 8870.35. The term of office for each member of the Seismic Safety Commission shall be four years and each shall hold office until the appointment and qualification of his or her successor. However, of the initial commissioners, the Governor shall appoint seven members whose terms will expire two years after appointment and seven members plus the chairperson whose terms shall expire four years after appointment. All initial appointments shall be made by July 1, 1975. Any vacancies shall be immediately filled by the appointing power for the unexpired portion of the term in which they occur.

(Amended by Stats. 2006, Ch. 532, Sec. 6. Effective January 1, 2007.)

§ 8870.4. (a) Except as provided in subdivision (d), the members of the Alfred E. Alquist Seismic Safety Commission shall serve without compensation but shall be paid per diem expenses of one hundred dollars (\$100) for each day's attendance at a meeting of the commission, plus actual necessary travel expenses as determined by Department of Human Resources rules.

(b) The members of the commission who represent the Office of Emergency Services, the California Building Standards Commission, and the Division of the State Architect shall be employees in good standing of those respective entities. Any per diem and travel expenses of those members of the commission

shall be paid by the agencies that they represent on the commission, in compliance with applicable conditions or regulations set by the Department of Human Resources.
(Amended by Stats. 2013, Ch. 352, Sec. 212. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8870.5. The commission, in the discharge of its responsibilities, may do any of the following:

(a) Accept grants, contributions, and appropriations from public agencies, private foundations, or individuals.

(b) Appoint committees from its membership, appoint advisory committees from interested public and private groups, and appoint ex officio members who shall not be entitled to vote, to advise the commission.

(c) Contract for or employ, with the approval of the Director of Finance, any professional services and research required by the commission or required for the performance of necessary work and services which, in the commission's opinion, cannot satisfactorily be performed by its officers and employees or by other federal, state, or local governmental agencies.

(d) Enter into agreements to act cooperatively with private nonprofit scientific, educational, or professional associations or foundations engaged in promoting seismic safety in California. These associations or foundations may furnish materials for sale, and the commission may provide personnel services and office space therefor. Subject to rules and regulations adopted by the commission, all moneys received from the sale of publications or other materials provided by an association or foundation shall be returned to the association or foundation for use in furthering seismic safety programs.

(e) Do any and all other things necessary to carry out the purposes of this chapter.
(Amended by Stats. 2006, Ch. 532, Sec. 8. Effective January 1, 2007.)

§ 8870.55. The commission shall initiate, with the assistance and participation of other state, federal, and local government agencies, a comprehensive program to prepare the state for responding to a major earthquake prediction. The program should be implemented in order to result in specific tools or products to be used by governments in responding to an earthquake prediction, such as educational materials for citizens. This program may be implemented on a prototypical basis in one area of the state affected by earthquake predictions, provided that it is useful for application in other areas of the state upon its completion.
(Added by renumbering Section 8895.1 by Stats. 1991, Ch. 188, Sec. 17.)

§ 8870.6. The commission shall appoint an executive director who shall be responsible for managing the affairs of the commission, subject to the direction and policies of the commission. The executive director shall appoint such employees as may be necessary to carry out the functions of the commission.
(Added by renumbering Section 8896 by Stats. 1991, Ch. 188, Sec. 18.)

§ 8870.7. The commission is responsible for all of the following in connection with earthquake hazard mitigation:

(a) Setting goals and priorities in the public and private sectors.

(b) Requesting appropriate state agencies to devise criteria to promote earthquake and disaster safety.

(c) Scheduling a report on disaster mitigation issues from the Office of Emergency Services, on the commission agenda as required. For the purposes of this subdivision, the term disaster refers to all natural

hazards which could have an impact on public safety.

(d) Recommending program changes to state agencies, local agencies, and the private sector where such changes would improve earthquake hazards and reduction.

(e) Reviewing the recovery and reconstruction efforts after damaging earthquakes.

(f) Gathering, analyzing, and disseminating information.

(g) Encouraging research.

(h) Sponsoring training to help improve the competence of specialized enforcement and other technical personnel.

(i) Helping to coordinate the earthquake safety activities of government at all levels.

(j) Establishing and maintaining necessary working relationships with any boards, commissions, departments, and agencies, or other public or private organizations.

(Amended by Stats. 2013, Ch. 352, Sec. 213. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8870.71. To implement the foregoing responsibilities, the commission may do any of the following:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, for earthquake-related activities and to advise the Governor and Legislature thereon.

(b) Review legislative proposals related to earthquake safety to advise the Governor and the Legislature concerning the proposals and to propose needed legislation.

(c) Recommend the addition, deletion, or changing of state agency standards when, in the commission's view, the existing situation creates undue hazards or when new developments would promote earthquake hazard mitigation, and conduct public hearings as deemed necessary on the subjects.

(d) In the conduct of any hearing, investigation, inquiry, or study that is ordered or undertaken in any part of the state, administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts, documents, and testimony.

(e) In addition, the commission may perform any of the functions contained in subdivisions (a) to (d), inclusive, in relation to disasters, as defined in subdivision (c) of Section 8870.7, in connection with issues or items reported or discussed with the Office of Emergency Services at any commission meeting.

(Amended by Stats. 2013, Ch. 352, Sec. 214. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8870.9. Prior to July 1, 2010, the Legislature shall hold public hearings to receive testimony from the Alfred E. Alquist Seismic Safety Commission, any interested organizations, and members of the public or private sector. At the hearing, the Legislature shall receive testimony and other information concerning the mission, membership, duties, and operations of the commission.

(Amended by Stats. 2006, Ch. 532, Sec. 10. Effective January 1, 2007.)

§ 8870.95. The Hospital Building Safety Board established in Section 129925 of the Health and Safety Code shall report annually to the Alfred E. Alquist Seismic Safety Commission.

(Amended by Stats. 2006, Ch. 532, Sec. 11. Effective January 1, 2007.)

CHAPTER 12.1. The California Earthquake Hazards Reduction Act

[8871-8871.5] (Heading of Chapter 12.1 renumbered from Chapter 12 by Stats. 1991, Ch. 188, Sec. 1.)

§ 8871. The Legislature finds and declares as follows:

(a) California is situated on the rim of the Circum-Pacific seismic belt and it is inevitable that earthquakes along the state's numerous faults will cause extensive property damage and endanger the lives of people nearby. The risk to life and property is especially significant near the San Andreas fault where rapid growth and population increases have occurred in our largest urban centers over the last several decades. With each passing year, the potential for an earthquake-caused catastrophe increases as California's growth continues and the time lengthens since the last great earthquake.

(b) Earthquakes have caused and can cause in the future enormous loss of life, injury, destruction of property, and economic and social disruption. With respect to future earthquakes, that loss, injury, destruction, and disruption can be reduced substantially by developing and implementing earthquake hazards reduction measures, including, but not limited to, the following:

- (1) Improving design and construction methods and practices.
- (2) Rehabilitating hazardous buildings.
- (3) Coordinating emergency planning for response by the government and private sectors.
- (4) Implementing land use and redevelopment planning.
- (5) Developing public information and education programs.
- (6) Improving emergency response capabilities and emergency management systems.
- (7) Developing long-term social and economic recovery strategies.
- (8) Upgrading the strong motion instrumentation system.
- (9) Improving basic research of physical and social earthquake phenomena.

(c) While the major responsibility for dealing with earthquakes before and after they happen is firmly fixed with local government, state government also has fundamental responsibilities to take all reasonable measures to reduce the seismic hazards to which the citizens of California are exposed. The state should assume a leadership role by influencing the direction of existing and future national earthquake hazard reduction programs and should serve as a model for local hazard reduction measures.

(d) Earthquake hazard reduction measures often benefit many state programs and bring about improvements in buildings, dams, transportation facilities, communications, fire safety, toxic materials handling, and emergency response preparations.

(e) Over the past 10 years, numerous studies have been completed by the Seismic Safety Commission, the Office of Emergency Services, the California Division of Mines and Geology, the Governor's Earthquake Task Force, the federal government, and private sector organizations recommending improvements in hazard mitigation programs to reduce the earthquake threat in California. Implementing recommendations from these studies will reduce earthquake hazards, improve earthquake disaster response, and guide reconstruction and recovery efforts.

(Added by renumbering Section 8870 by Stats. 1991, Ch. 188, Sec. 2.)

§ 8871.1. This chapter shall be known and may be cited as The California Earthquake Hazards Reduction Act of 1986.

(Added by renumbering Section 8871 by Stats. 1991, Ch. 188, Sec. 3.)

§ 8871.2. (a) There is hereby established a coordinated program pursuant to which the state shall implement new and expanded activities to significantly reduce the earthquake threat to its citizens. This program, to be known as the California Earthquake Hazard Reduction Program, shall be prepared and administered by the Seismic Safety Commission pursuant to its existing authority under Section 8870.7.

(b) The program set forth in subdivision (a) shall specify priorities, funding sources, and amounts, schedules, and other resources needed to significantly reduce earthquake hazards statewide by January 1, 2000. The achievement of this goal shall be undertaken with the following objectives:

(1) Mitigation. The reduction of the earthquake hazard to acceptable levels through significant reduction in the number of hazardous buildings and the expansion of scientific and engineering studies.

(2) Preparedness. The increase in the level of preparedness statewide by appropriate measures to deal with special issues, such as earthquake prediction, hazardous materials, critical facilities, and disaster preparedness plans for all major population centers, and education, training, and public information.

(3) Response. The enhancement of the state's capability to respond to a major earthquake disaster by giving priority to increased coordination and integration of federal, state, and local plans and preparedness activities, improvements in the statewide communication system, creation of a state emergency coordination center or centers, and greater automation of emergency management data.

(4) Recovery. The development of management systems for major earthquake recovery, the enhancement of resources management, and the minimization of high unemployment, multiple business failures, tax base erosion, and associated monetary and financial issues critical to the restoration of California's economy and public services.

(c) The state's existing seismic safety activities are currently administered by over two dozen separate agencies. Responsibility for administering these activities shall remain with these agencies. These existing activities shall continue and shall be incorporated into the coordinated program established under subdivision (a).

(d) The program shall consist of a series of five-year programs and each five-year program shall be revised by the Seismic Safety Commission annually and submitted to the Governor and the Legislature. Each revision shall include a finding on the state's progress toward the goal stated in subdivision (b).

(e) The immediate steps to be undertaken by the commission shall include the performance of existing activities provided in the budget prepared by the Governor for the 1985-86 fiscal year and the Budget Act of 1985 and the preparation of the first five-year program.

(f) The first five-year program document shall be completed by September 1, 1986, and shall include specific measures and funding needed for adequate progress towards the state's earthquake safety goals by January 1, 2000. This program and subsequent programs shall cover a five-year implementation period and shall recommend any necessary statutory changes for program implementation.

(Added by renumbering Section 8872 by Stats. 1991, Ch. 188, Sec. 4.)

§ 8871.3. (a) The office shall establish an interim state operations center in southern California to coordinate response to a major earthquake. The office shall also develop an operational communications plan for the center based upon an inventory of current communications capabilities and an assessment of structural vulnerabilities.

(b) The office shall undertake a design analysis regarding construction of a permanent state operations center in southern California, including an evaluation of telecommunications and information technology systems for emergency management functions.

(c) All appropriations for the purposes of subdivision (a) or (b) shall be reviewed by the Department of Finance prior to obligation of funds.

(Amended by Stats. 2013, Ch. 352, Sec. 215. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8871.4. The commission shall prepare the California Earthquake Hazard Reduction Program, in consultation with the Office of Emergency Services, the Division of Mines and Geology in the Department of Conservation, the Office of the State Architect, the Emergency Medical Services Authority, the University of California and other appropriate institutions of higher learning, the California National Guard, the Department of Finance, other appropriate state and local agencies, the private sector, volunteer groups, and the Legislature.

The commission may hold public hearings or joint hearings with other groups and conduct other activities as necessary for the development of the program.

(Amended by Stats. 2013, Ch. 352, Sec. 216. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8871.5. The disastrous effects and after effects of the Mexico City earthquake of September 19, 1985, have increased the urgency for development of local plans to provide authority and procedures for orderly transition from emergency disaster response operations to short- and long-range efforts toward reestablishment of governmental services, private business activity, and reconstruction and rehabilitation.

In furtherance of that purpose, the commission shall enter into a grant agreement with a local agency situated in a high earthquake-hazard area for development of a program model for use by local agencies and the state which will address at least, but need not be limited to, the following elements:

(a) Establishment of a coordinating body within the jurisdiction to assess the various impacts of the disaster, recommend appropriate legislative, administrative, and private actions, and monitor implementation efforts.

(b) Creation of an information-gathering mechanism to provide the basis for evaluation, prioritization, and implementation.

(c) Procedures for coordination and orderly transition from disaster response to reconstruction and rehabilitation.

(d) Identification, delineation, and preparation of legislation, both statutory and local, necessary to provide authority on a preevent basis for postevent activity to accomplish the purposes of this program.

(e) Integration and coordination with this chapter, the California Emergency Services Act (Chapter 7 (commencing with Section 8550)), the Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680)), the Economic Disaster Act of 1984 (Chapter 7.6 (commencing with Section 8695)), the Planning and Zoning Law (Title 7 (commencing with Section 65000)), the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), and the Community Development Financial Assistance and Disaster Project Law (Part 1.5 (commencing with Section 34000) of Division 24 of the Health and Safety Code).

(f) Identification of those components of the local program which may serve as a program model for disasters other than those caused by earthquake.

(Amended by Stats. 2002, Ch. 461, Sec. 16. Effective January 1, 2003.)

CHAPTER 12.2. Building Earthquake Safety

[8875-8875.95] (Chapter 12.2 added by Stats. 1986, Ch. 250, Sec. 2.)

§ 8875. Unless the context otherwise requires, the following definitions shall govern the construction of this chapter:

(a) “Potentially hazardous building” means any building constructed prior to the adoption of local building codes requiring earthquake resistant design of buildings and constructed of unreinforced masonry wall construction. “Potentially hazardous building” includes all buildings of this type, including, but not limited to, public and private schools, theaters, places of public assembly, apartment buildings, hotels, motels, fire stations, police stations, and buildings housing emergency services, equipment, or supplies, such as government buildings, disaster relief centers, communications facilities, hospitals, blood banks, pharmaceutical supply warehouses, plants, and retail outlets. “Potentially hazardous building” does not include warehouses or similar structures not used for human habitation, except for warehouses or structures housing emergency services equipment or supplies. “Potentially hazardous building” does not include any building having five living units or less. “Potentially hazardous building” does not include, for purposes of subdivision (a) of Section 8877, any building which qualifies as “historical property” as determined by an appropriate governmental agency under Section 37602 of the Health and Safety Code.

(b) “Local building department” means a department or agency of a city or county charged with the responsibility for the enforcement of local building codes.

(Added by Stats. 1986, Ch. 250, Sec. 2.)

§ 8875.1. A program is hereby established within all cities, both general law and chartered, and all counties and portions thereof located within seismic zone 4, as defined and illustrated in Chapter 2-23 of Part 2 of Title 24 of the California Administrative Code, to identify all potentially hazardous buildings and to establish a program for mitigation of identified potentially hazardous buildings.

(Amended by Stats. 2004, Ch. 193, Sec. 38. Effective January 1, 2005.)

§ 8875.2. Local building departments shall do all of the following:

(a) Identify all potentially hazardous buildings within their respective jurisdictions on or before January 1, 1990. This identification shall include current building use and daily occupancy load. In regard to identifying and inventorying the buildings, the local building departments may establish a schedule of fees to recover the costs of identifying potentially hazardous buildings and carrying out this chapter.

(b) Establish a mitigation program for potentially hazardous buildings to include notification to the legal owner that the building is considered to be one of a general type of structure that historically has exhibited little resistance to earthquake motion. The mitigation program may include the adoption by ordinance of a hazardous buildings program, measures to strengthen buildings, measures to change the use to acceptable occupancy levels or to demolish the building, tax incentives available for seismic rehabilitation, low-cost seismic rehabilitation loans available under Division 32 (commencing with Section 55000) of the Health and Safety Code, application of structural standards necessary to provide for life safety above current code requirements, and other incentives to repair the buildings which are available from federal, state, and local programs. Compliance with an adopted hazardous buildings ordinance or mitigation program shall be the responsibility of building owners.

Nothing in this chapter makes any state building subject to a local building mitigation program or makes the state or any local government responsible for paying the cost of strengthening a privately owned structure,

reducing the occupancy, demolishing a structure, preparing engineering or architectural analysis, investigation, or design, or other costs associated with compliance of locally adopted mitigation programs.

(c) By January 1, 1990, all information regarding potentially hazardous buildings and all hazardous building mitigation programs shall be reported to the appropriate legislative body of a city or county and filed with the Seismic Safety Commission.

(Added by renumbering Section 8877 by Stats. 1987, Ch. 56, Sec. 63.)

§ 8875.3. Local jurisdictions undertaking inventories and providing structural evaluations of potentially hazardous buildings pursuant to this chapter shall have the same immunity from liability for action or inaction taken pursuant to this chapter as is provided by Section 19167 of the Health and Safety Code for action or failure to take any action pursuant to Article 4 (commencing with Section 19160) of Chapter 2 of Part 3 of Division 13 of the Health and Safety Code.

(Added by renumbering Section 8878 by Stats. 1987, Ch. 56, Sec. 64.)

§ 8875.4. The Seismic Safety Commission shall report annually to the Legislature on the filing of mitigation programs from local jurisdictions. The annual report required by this section shall review and assess the effectiveness of building reconstruction standards adopted by cities and counties pursuant to this article and shall, commencing on or before January 1, 2007, include an evaluation of the impact and effectiveness of Section 8875.10.

(Amended by Stats. 2004, Ch. 663, Sec. 1. Effective January 1, 2005.)

§ 8875.5. The Seismic Safety Commission shall coordinate the earthquake-related responsibilities of government agencies imposed by this chapter to ensure compliance with the purposes of this chapter.

(Added by renumbering Section 8879.5 by Stats. 1987, Ch. 56, Sec. 66.)

§ 8875.6. On and after January 1, 1993, the transferor, or his or her agent, of any unreinforced masonry building with wood frame floors or roofs, built before January 1, 1975, which is located within any county or city shall, as soon as practicable before the sale, transfer, or exchange, deliver to the purchaser a copy of the Commercial Property Owner's Guide to Earthquake Safety described in Section 10147 of the Business and Professions Code. This section shall not apply to any transfer described in Section 8893.3.

(Amended by Stats. 1993, Ch. 686, Sec. 10. Effective January 1, 1994.)

§ 8875.7. If the transferee has received notice pursuant to Section 8875.8, and has not brought the building or structure into compliance within five years of that date, the owner shall not receive payment from any state assistance program for earthquake repairs resulting from damage during an earthquake until all other applicants have been paid.

(Added by Stats. 1992, Ch. 941, Sec. 4. Effective January 1, 1993.)

§ 8875.8. (a) An owner who has received actual or constructive notice that a building located in seismic zone 4 is constructed of unreinforced masonry shall post in a conspicuous place at the entrance of the building, on a sign not less than 5" × 7" the following statement, printed in not less than 30-point bold type:

“This is an unreinforced masonry building. Unreinforced masonry buildings may be unsafe in the event of a major earthquake.”

(b) Notwithstanding subdivision (a), unless the owner of a building subject to subdivision (a) is in compliance with that subdivision on and after December 31, 2004, an owner who has received actual or constructive notice that a building located in seismic zone 4 is constructed of unreinforced masonry and has not been retrofitted in accordance with an adopted hazardous building ordinance or mitigation program shall post in a conspicuous place at the entrance of the building, on a sign not less than 8"× 10" the following statement, with the first two words printed in 50-point bold type and the remaining words in at least 30-point type:

"Earthquake Warning. This is an unreinforced masonry building. You may not be safe inside or near unreinforced masonry buildings during an earthquake."

(c) Notice of the obligation to post a sign, as required by subdivisions (a) and (b), shall be included in the Commercial Property Owner's Guide to Earthquake Safety.

(d) Every rental or lease agreement entered into after January 1, 2005, involving a building subject to the requirements of subdivision (b) shall contain the following statement: This building, which you are renting or leasing, is an unreinforced masonry building. Unreinforced masonry buildings have proven to be unsafe in the event of an earthquake. Owners of unreinforced masonry buildings are required to post in a conspicuous place at the entrance of the building, the following statement:

"Earthquake Warning. This is an unreinforced masonry building. You may not be safe inside or near an unreinforced masonry building during an earthquake."

(e) An owner who is subject to subdivision (b) and who does not comply with subdivision (a) may be subject to an administrative fine of two hundred fifty dollars (\$250) to be levied by the local building department no sooner than 15 days after the local building department notifies the owner that the owner is subject to the administrative fine. If the owner does not comply with the requirements of that subdivision within 30 days of the first administrative fine, the owner may be subject to an additional administrative fine of one thousand dollars (\$1,000).

(f) If an owner who is subject to subdivision (b) does not comply with subdivision (b), any person may bring a civil action for injunctive relief if all of the following have been met:

(1) He or she has made a request to an appropriate authority for administrative enforcement of this section at least 90 days prior to the action.

(2) An administrative fine has not been levied since the request was made pursuant to paragraph (1).

(3) At least 15 days prior to the filing of the action, the person has served on each proposed defendant a notice containing the following statement:

"You are receiving this notice because you are alleged to be in violation of Section 8875.8 of the Government Code, which requires that the owner of an unreinforced masonry building post a sign, not less than 8"× 10", in a conspicuous place at the entrance of the building with the following statement, with the first two words printed in 50-point boldface type and the remaining words in at least 30-point type:

"Earthquake Warning. This is an unreinforced masonry building. You may not be safe inside or near unreinforced masonry buildings during an earthquake."

Failure to post the sign in compliance with subdivision (b) of Section 8875.8 within 15 days of receipt of this notice entitles the sender of the notice to file an action against you in a court of law for injunctive relief.’’

(4) The owner has failed to post the sign in accordance with the requirements of subdivision (b) within 15 days of receipt of the notice served pursuant to this subdivision.

(g) The prohibitions and sanctions imposed pursuant to this section are in addition to any other prohibitions and sanctions imposed by law. A civil action for injunctive relief pursuant to this section shall be independent of any other rights and remedies.

(Amended by Stats. 2004, Ch. 659, Sec. 2. Effective January 1, 2005.)

§ 8875.9. Section 8875.8 shall not apply to either one of the following:

(a) Unreinforced masonry construction if the walls are nonload bearing with steel or concrete frame.

(b) A building that has been retrofitted in accordance with an adopted hazardous buildings ordinance or mitigation program, in which case the local jurisdiction may authorize the owner to post in a conspicuous place at the entrance of the building, on a sign not less than 5" × 7" the following statement, printed in not less than 30-point bold type:

“This building has been improved in accordance with the seismic safety standards of a local building ordinance that is applicable to unreinforced masonry buildings.”

(Amended by Stats. 2004, Ch. 308, Sec. 2. Effective January 1, 2005.)

§ 8875.95. No transfer of title shall be invalidated on the basis of a failure to comply with this chapter.

(Added by Stats. 1992, Ch. 941, Sec. 7. Effective January 1, 1993.)

CHAPTER 12.3. Center for Earthquake Engineering Research

[8876.1-8876.10] (Chapter 12.3 repealed and added by Stats. 1996, Ch. 966, Sec. 2.)

§ 8876.1. The Legislature hereby finds and declares the following:

(a) This state is located along a major tectonic plate boundary that is part of the Circum-Pacific seismic belt, and it is inevitable that earthquakes will continue to occur along the state’s numerous faults causing extensive damage to property and potentially extensive loss of life and injury. In the last decade, this state and its residents have endured a number of moderate earthquakes resulting in injuries, loss of life, and in excess of thirty billion dollars (\$30,000,000,000) in property damage. Projected losses in future earthquakes could exceed one hundred fifty billion dollars (\$150,000,000,000) as was the case for the recent Kobe earthquake in Japan.

(b) Moderate, potentially damaging earthquakes occur on the average of every couple of years somewhere in this state, and another great earthquake in southern California can be expected within the next 20 to 30 years. However, recent increased seismic activity in the San Francisco Bay area and Los Angeles Basin, coupled with new estimates of long-term seismic patterns, suggest that the seismicity in this state has been anomalously low in the recent past, and we may be returning to a normal period of more frequent large earthquakes. Also, a damaging earthquake near San Diego cannot be ruled out.

(c) Continued advances in the knowledge and practice of science, engineering, and other earthquake-related disciplines are critical to the development of state and local earthquake risk reduction programs and practices that lead to improvements in existing and new buildings, dams and utility systems, transportation facilities, communications systems, fire and toxic materials safety, and disaster preparedness.

(d) It is important to all California residents that new and improved cost-effective earthquake risk reduction measures be developed that will appreciably lower the potential for death, injury, damage to property and disruption of lives and businesses in this state.

(e) It is the consensus of the California engineering and scientific communities that while damaging earthquakes are inevitable in this state, significant levels of earthquake risk reduction will be achievable if steps are taken to provide the needed focus and coordination of earthquake risk reduction efforts.

(f) In 1986, the Governor signed Senate Bill 1667, which formalized this state's commitment to the establishment of a center for earthquake engineering research within the state, but this center has yet to be established.

(g) The National Science Foundation has indicated that it may fund such a center on a competitive basis at a level of two million dollars (\$2,000,000) per year for five years beginning in 1996, if the center matches the foundation contribution on at least a dollar-for-dollar basis from nonfederal funds.

(h) A center for earthquake engineering research will provide a much needed multidisciplinary, integrated research program to develop new and improved cost-effective earthquake risk reduction measures.

(i) A center for earthquake engineering research will enhance California's worldwide competitiveness in the fields of earthquake design and construction and may serve as a catalyst for developing new products and services that have global implications.

(j) Therefore, it is in the interest of the safety of all California residents and visitors that a center for earthquake engineering research be created to develop, through research and application, new and improved, cost-effective risk reduction measures that will reduce the potential for death and injury and damage to property.

(Repealed and added by Stats. 1996, Ch. 966, Sec. 2. Effective September 27, 1996.)

§ 8876.2. The Legislature hereby requests that on or after July 1, 1996, the University of California establish the California Center for Earthquake Engineering Research in this state. The center shall involve all the university members of the California Universities for Research in Earthquake Engineering. The center shall be the first step to realizing the goals and objectives contained in the Seismic Safety Commission's research and implementation plan for earthquake risk reduction drafted pursuant to Section 8899.15.

(a) The objective of the center shall be to reduce casualties, property losses, and economic or other disruptive consequences of earthquakes in areas of high seismicity through the advancement of knowledge and technology in the earthquake engineering field. The center shall develop methods for identifying and quantifying the risks of great urban earthquakes and shall develop cost-effective strategies for reducing those risks to reasonable levels.

(b) The center shall operate a comprehensive, multiple college and university research program designed to meet the requirements of National Science Foundation funding, taking full advantage of the capabilities of leading colleges and universities in the state. The center shall carry out an integrated plan for a coordinated research program and shall actively manage all of the activities funded by it. Colleges, universities, organizations, agencies, and researchers with special expertise in the earthquake engineering field shall be encouraged to submit proposals to the center and to cooperate in obtaining additional funding from private or public research sponsors for collaborative research involving the center.

(c) The center shall conduct research on topics relevant to regions of high seismicity such as the following:

(1) Performance-based design at the scale of individual buildings, utility or transportation components, and other structures as complemented by performance-based design at the urban scale of large numbers of these facilities.

(2) Identification of key sources of future earthquake losses, quantification of these sources of risk, and development of strategies for reliably controlling losses.

(3) Development of cost-effective techniques for the analysis and design of retrofit measures for existing construction.

(4) Improved structural design and analysis methods for new construction.

(5) Development of techniques for determining the suitability of sites and for understanding critical design relationships among soil conditions, foundations, and structures and for predicting response to earthquake ground motions and earthquake-caused ground failures.

(6) Experimentation to verify the seismic behavior of bridges, dams, ports, critical communications facilities, utility and transportation system elements, and nonstructural and structural components of buildings.

(7) Development of a research infrastructure, including upgrading experimental facilities to more accurately simulate earthquakes.

(8) Expansion of the data base of performance from actual earthquakes to ensure that the unfortunate occurrence of earthquakes also serves the positive societal and scientific purpose of systematically advancing knowledge.

(9) Encouragement and development of emerging technologies, design strategies, and analytical capabilities that offer the potential for breakthroughs in earthquake risk reduction.

(Repealed and added by Stats. 1996, Ch. 966, Sec. 2. Effective September 27, 1996.)

§ 8876.3. The center shall disseminate its findings among the academic community, design professionals, government officials, building regulatory personnel, and the public. In carrying out this objective, the center shall devise an effective dissemination program that includes actions such as the following:

(a) Publication of the results of research in appropriate print, electronic, or audio-visual formats to reach technical audiences and, where appropriate, nontechnical users.

(b) Encouragement of interdisciplinary communication among civil, structural, and geotechnical engineers, earth scientists, planners, and architects during all phases of the research projects.

(c) Training of practitioners, educators, and researchers to inform them of the latest developments in the earthquake engineering field.

(d) Facilitation of the educational development of faculty and students at all grade levels.

(e) Sponsorship of seminars, briefings, courses, and other means of widening the circle of knowledge among design practitioners, university faculty and students, construction industry technicians and representatives, building department personnel, and other potential audiences.

(Repealed and added by Stats. 1996, Ch. 966, Sec. 2. Effective September 27, 1996.)

§ 8876.4. The center shall cooperate and coordinate with other leading organizations in the earthquake engineering field to achieve the following collaborative objectives:

(a) Timely communication to potential users of center research project results to facilitate the implementation of research into practice and application.

(b) Enhancement of the focus and value of center research projects through better understanding by researchers of the needs of earthquake engineering practitioners and other users of earthquake research.
(Repealed and added by Stats. 1996, Ch. 966, Sec. 2. Effective September 27, 1996.)

§ 8876.5. (a) The Legislature finds that the National Science Foundation will require the center to provide an annual report of its activities. The center shall make a copy of that report available to the Governor, the Legislature, and the Seismic Safety Commission.

(b) The Legislature further finds that the National Science Foundation will require the center to have an external oversight committee consisting of representatives from industry, government, and academia to provide advice on the center's goals, planning, research thrusts, and accomplishments regarding earthquake hazard mitigation needs in the nation. The Seismic Safety Commission shall appoint a member of the commission or staff to serve on the oversight committee.
(Repealed and added by Stats. 1996, Ch. 966, Sec. 2. Effective September 27, 1996.)

§ 8876.6. The governance, administration, and operation of the center shall be established by agreement between the University of California and the National Science Foundation.
(Added by Stats. 1996, Ch. 966, Sec. 2. Effective September 27, 1996.)

§ 8876.7. In carrying out its responsibilities under this chapter, the Seismic Safety Commission, in close consultation with the Transportation Agency, the Office of Emergency Services, and the Business, Consumer Services and Housing Agency, may do the following:

(a) Monitor the work of the center on behalf of the state.

(b) Produce and deliver for each year that the center is in operation, an independent evaluation of the work conducted at the center as it pertains to the objectives of the center and reducing earthquake losses and earthquake risk in the state recognizing that as a national center it will undertake basic research of national and international consequence as well. The report shall include the following tasks:

(1) Interpret the results of research to indicate how the research may affect state law and policy.

(2) Recommend ways to promote the application of research.

(3) Recommend priorities that would contribute to achieving the center's objectives, provide direct benefits to California residents and businesses, and lead to the completion of specific recommendations in the state's earthquake risk reduction program.

(Amended by Stats. 2013, Ch. 352, Sec. 217. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8876.8. Funding for the Seismic Safety Commission under this chapter shall be made available by interagency agreement with the University of California the first year that the center is in operation and the commission shall seek a budget augmentation in all subsequent years that the center is in operation in order to produce and deliver an independent evaluation, monitor the work of the center, and provide a forum at which the information may be disseminated to those interested, as prescribed in Section 8876.7.

(Added by Stats. 1996, Ch. 966, Sec. 2. Effective September 27, 1996.)

§ 8876.9. (a) The Earthquake Risk Reduction Fund of 1996 is hereby created in the State Treasury for support of the center. All moneys for support of the center shall be deposited into the fund and are available to the Regents of the University of California if the Director of Finance determines that matching federal funds have been approved and are available for support of the center.

(b) The sum of one million dollars (\$1,000,000), only to be used for activities related to transportation infrastructure, is hereby transferred from the State Highway Account to the Earthquake Risk Reduction Fund of 1996 and the sum of five hundred thousand dollars (\$500,000) is hereby transferred from the General Fund to the Earthquake Risk Reduction Fund of 1996, and, if the Director of Finance determines that matching federal funds have been approved and are available, is hereby appropriated from that fund to the Regents of the University of California for expenditure during the 1996–97 fiscal year for support of the center.

(Added by Stats. 1996, Ch. 966, Sec. 2. Effective September 27, 1996.)

§ 8876.10. No provision of this chapter shall apply to the Regents of the University of California, unless the regents adopt a resolution making that provision applicable.

(Added by Stats. 1996, Ch. 966, Sec. 2. Effective September 27, 1996.)

CHAPTER 12.4. Disaster Recovery Reconstruction Act of 1986 [8877.1-8877.6] (Chapter 12.4 added by Stats. 1986, Ch. 1470, Sec. 2.)

§ 8877.1. This chapter shall be known and may be cited as the Disaster Recovery Reconstruction Act of 1986.

(Added by Stats. 1986, Ch. 1470, Sec. 2. Effective September 30, 1986.)

§ 8877.2. The Legislature finds and declares that the impact of the Mexico City earthquake disaster of September 19, 1985, has rendered more cogent and compelling the findings of the Legislature set forth in Section 8870, particularly subdivision (c) thereof, and heightened the need for authority for local agencies to engage in effective preevent and postevent activity to accomplish those goals set forth in paragraph (4) of subdivision (b) of Section 8872. It is the intent of this chapter to provide that authority.

(Added by Stats. 1986, Ch. 1470, Sec. 2. Effective September 30, 1986.)

§ 8877.3. It is the purpose of this chapter to authorize, guide, and otherwise enable cities, counties, and other entities to prepare in advance of a disaster, such as a devastating earthquake, for the expeditious and orderly recovery and reconstruction of the community or region.

(Added by Stats. 1986, Ch. 1470, Sec. 2. Effective September 30, 1986.)

§ 8877.4. As used in this chapter:

(a) “Disaster” means a devastating earthquake or other conditions specified in subdivisions (b) and (c) of Section § 8558.

(b) “Recovery” means the overall short-term and long-term restoration of social, economic, and institutional activity to levels comparable to those which existed prior to the disaster.

(c) “Reconstruction” means the renovation, replacement, or rebuilding of damaged or destroyed facilities which will enable this recovery to occur.

(Added by Stats. 1986, Ch. 1470, Sec. 2. Effective September 30, 1986.)

§ 8877.5. Each city, county, or other local subdivision of the state, in conjunction with planning activities authorized under Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 and Article 10 (commencing with Section 8610) of Chapter 7 of Division 1 of Title 2 of the Government Code, may prepare, prior to a disaster, plans and ordinances facilitating the expeditious and orderly recovery and reconstruction of the area under its jurisdiction, should a disaster occur. These plans and ordinances may include any of the following:

(a) An evaluation of the vulnerability of specific areas under its jurisdiction to damage from a potential disaster, together with streamlined procedures for the appropriate modification of existing general plans or zoning ordinances affecting those areas after a disaster.

(b) A contingency plan of action and organization for short-term and long-term recovery and reconstruction to be instituted after a disaster.

(c) An ordinance, to be adopted prior to the disaster, which could be invoked as soon as possible after the event and which would provide necessary local authorization for activities designated under subdivisions (a) and (b).

These plans and ordinances may include the authority and proposed organization for establishment of a local reconstruction authority with powers parallel to those of a community redevelopment agency, except that the reconstruction authority would be authorized to operate beyond the confines of designated redevelopment areas and would have financing sources other than tax increment sources.

The plans and organizational arrangements may be made separately or jointly by formal cooperative arrangements with other local entities.

(Added by Stats. 1986, Ch. 1470, Sec. 2. Effective September 30, 1986.)

§ 8877.6. Each city, county, or other local subdivision of the state may take such actions as are necessary to assure the orderly transition from emergencies declared under subdivision (b) or (c) of Section 8558 to a systematic program of short-term and long-term recovery and reconstruction, including, but not limited to, any of the following:

(a) Activate the ordinances, plans, and organizational arrangements made prior to the disaster, including the establishment of a reconstruction authority as specified by ordinance.

(b) Coordinate these actions with those taken under other provisions of law governing a declared emergency.

(c) Identify areas where substantial damage or destruction has occurred.

(d) Review and recommend modifications to the governing body of recovery and reconstruction plans adopted prior to the disaster.

(e) Determine appropriate methods of financing of activities undertaken by the reconstruction authority, including postevent funding sources both public and private.

These actions may be taken separately or jointly through cooperative arrangements made with other entities.

(Added by Stats. 1986, Ch. 1470, Sec. 2. Effective September 30, 1986.)

CHAPTER 12.45. California Earthquake Safety and Housing Rehabilitation Bond Act of 1988
[8878.15-8878.35] (Chapter 12.45 added by Stats. 1988, Ch. 27, Sec. 2.)

Article 1. General Provisions

[8878.15-8878.16] (Article 1 added by Stats. 1988, Ch. 27, Sec. 2.)

§ 8878.15. This chapter shall be known and may be cited as the California Earthquake Safety and Housing Rehabilitation Bond Act of 1988.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

§ 8878.16. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words have the following meanings:

(a) “Bond” means a bond, authorized by Sections 8878.20 and 8878.25, that is tax exempt under both state and federal law, or a bond that is tax exempt under state law and taxable under federal law.

(b) “Committee” means the California Earthquake Safety and Housing Rehabilitation Finance Committee.

(c) “Department” means Department of Housing and Community Development.

(d) “Fund” means the Housing Rehabilitation Loan Fund established by Section 50661 of the Health and Safety Code.

(e) “Local agency” means any city, city and county, or county.

(Amended by Stats. 1990, Ch. 216, Sec. 35.)

Article 2. California Earthquake Safety and Housing Rehabilitation Program

[8878.20-8878.22] (Article 2 added by Stats. 1988, Ch. 27, Sec. 2.)

§ 8878.20. (a) Of the proceeds of bonds issued and sold pursuant to this chapter, eighty million dollars (\$80,000,000) shall be deposited in a special account in the Housing Rehabilitation Loan Fund and shall be used by the department, in accordance with the criteria and priorities now or hereafter established by statute, to make deferred payment loans to increase the ability of unreinforced masonry multifamily residential structures to withstand earthquakes. To be eligible for a loan funded pursuant to this section, not less than 70 percent of the tenants shall be households specified in Section 50079.5 of the Health and Safety Code.

(b) Prior to making commitments under this program for loans in a particular local agency’s jurisdiction, the department shall determine that the local agency has completed an inventory of the unreinforced masonry structures within its jurisdiction and has adopted a mitigation ordinance pursuant to Section 8875.2 or Section 19163 of the Health and Safety Code. The local agency shall establish criteria, terms, and conditions to identify eligible rental housing developments. Only structures identified as potentially hazardous buildings by a local agency, in accordance with criteria of Section 8875, shall be eligible for the loans.

(c) All seismic safety rehabilitation improvements made with loans funded pursuant to this section shall be in accordance with a plan developed for the structure by a civil engineer or architect.

(d) Loans made pursuant to this section shall constitute liens in favor of the department. Payments of the principal of, and interest on, the loans shall be deposited in the Housing Rehabilitation Loan Fund.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

§ 8878.21. Of the proceeds of bonds issued and sold pursuant to this chapter, seventy million dollars (\$70,000,000) shall be deposited in a special account in the Housing Rehabilitation Loan Fund and shall be used by the department, in accordance with the criteria and priorities now or hereafter established by statute, for the housing rehabilitation loan programs authorized by Chapter 6.5 (commencing with Section 50660) of Part 2 of Division 31 of the Health and Safety Code, including the Special User Housing Rehabilitation Program authorized by Section 50670 of the Health and Safety Code, but not including the special program authorized by Section 50662.5. However, none of the moneys allocated pursuant to this section shall be used to make deferred payment loans to acquire residential hotels.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

§ 8878.22. Notwithstanding the allocation of bond proceeds specified in Sections 8878.20 and 8878.21, the director of the department every two years, commencing June 30, 1990, may reallocate the bond proceeds pursuant to this section between the accounts established in the Housing Rehabilitation Loan Fund by Sections 8878.20 and 8878.21. The director of the department may reallocate these moneys as necessary to satisfy program needs if demand for loans from one of the accounts substantially exceeds the level of funding therein and there is an unencumbered balance in the other account which exceeds the amount of loans for which there are then pending applications. The amount of any transfer from an account in the Housing Rehabilitation Loan Fund pursuant to this section may not include moneys for which loan applications from potentially eligible applicants are then pending.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

Article 3. Fiscal Provisions

[8878.25-8878.35] (Article 3 added by Stats. 1988, Ch. 27, Sec. 2.)

§ 8878.25. Bonds in the total amount of one hundred fifty million dollars (\$150,000,000), exclusive of refunding bonds issued pursuant to Section 8878.34, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. All bonds herein authorized which have been duly sold and delivered as provided herein shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

§ 8878.26. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

§ 8878.27. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the California Earthquake Safety and Housing Rehabilitation Finance Committee is hereby created. For purposes of this chapter, the California Earthquake Safety and Housing Rehabilitation Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, the Director of Finance, or their designated representatives, a person appointed by the Senate Rules Committee, a person appointed by the Speaker of the Assembly, and the Executive Director of the Seismic Safety Commission. The Treasurer shall serve as the chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Department of Housing and Community Development is designated the “board.”

(c) The board may adopt rules and regulations establishing requirements for local administration of the financing program to the extent necessary to protect the validity of, and tax exemption for, interest on the bonds.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

§ 8878.28. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Sections 8878.20 and 8878.21, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

§ 8878.29. There shall be collected annually in the same manner and at the same time as other state revenue is collected, a sum of money in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein, and all officers required by law to perform any duty in regard to the collection of state revenues shall collect that additional sum.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

§ 8878.30. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 8878.31, appropriated without regard to fiscal years.

(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)

§ 8878.31. For the purposes of carrying out this chapter, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any money made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money In-

vestment Account, from money received from the sale of bonds for the purpose of carrying out this chapter. *(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)*

§ 8878.315. Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state. *(Added by Stats. 1991, Ch. 652, Sec. 10.)*

§ 8878.32. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest. *(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)*

§ 8878.33. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article. *(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)*

§ 8878.34. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of these bonds shall include the approval of any bonds issued to refund any bonds originally issued or previously issued refunding bonds. *(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)*

§ 8878.35. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out the provisions of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute such documents as are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter. *(Added by Stats. 1988, Ch. 27, Sec. 2. Approved June 7, 1988, by adoption of Proposition 77.)*

CHAPTER 12.47. Earthquake Safety and Public Buildings Rehabilitation Bond Act of 1990

[8878.50-8878.126] (Chapter 12.47 added by Stats. 1990, Ch. 23, Sec. 2.)

Article 1. General Provisions

[8878.50-8878.52] (Article 1 added by Stats. 1990, Ch. 23, Sec. 2.)

§ 8878.50. This chapter shall be known and may be cited as the Earthquake Safety and Public Buildings Rehabilitation Bond Act of 1990.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.51. The Legislature finds and declares all of the following:

(a) California is likely to experience moderate to severe earthquakes in the foreseeable future, and increased efforts to reduce earthquake hazards should be encouraged and supported.

(b) Hundreds of state and local government buildings which are vulnerable to severe earthquake damage continue to be a serious danger to the lives of thousands of state and local government employees and the people who must visit and depend on these buildings in which vital services are often provided.

(c) The Loma Prieta Earthquake of October 17, 1989, caused damage to state-owned buildings resulting in relocations of state government operations into more expensive leased facilities and some state buildings are now vacant. These facilities should be rehabilitated or replaced in order to reduce the long-term costs of providing state government services.

(d) It is the responsibility of state and local governments to provide, to the greatest extent feasible, their employees and the public throughout the state with buildings that are safe, accessible, and able to withstand earthquake forces without endangering occupants or significantly disrupting the performance of essential services.

(e) Therefore, the purposes of this bond act are to:

(1) Fund retrofitting, reconstruction, repair, replacement, or relocation of state-owned buildings or facilities which have earthquake or other safety deficiencies.

(2) Provide financial assistance to local governments for earthquake safety improvements in structures housing those agencies critical to the delivery of essential government functions in the event of emergencies and disasters.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.52. As used in this chapter, the following terms have the following meanings:

(a) "Agency" or "office" means the Office of Emergency Services.

(b) "Committee" means the Earthquake Safety and Public Buildings Rehabilitation Finance Committee created pursuant to subdivision (a) of Section 8878.111.

(c) "Commission" means the Seismic Safety Commission.

(d) "Fund" means the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 created pursuant to Section 8878.55.

(e) "Local government" means any city, county, city and county, or special district.

(f) "Project" means a program of work to retrofit, reconstruct, repair, replace, or relocate, for local government-owned facilities only, a building, facility, or both, which is owned by any city, county, city and county, or special district and which is included in an application for a grant of funds.

(g) "State Architect" means the Office of the State Architect.

(h) "State building or facility" means any building or structure owned by a state agency, which is identified pursuant to Section 8878.60, except for vehicular bridges, roadways, highways, or any facilities or buildings owned by the University of California or the California State University.

(i) "Local government building or facility" means an existing essential services building, as defined in Section 16007 of the Health and Safety Code, or an emergency or public safety local building as identified in Section 8878.99, which is owned by a city, county, city and county, or special district.

(j) State or local government buildings shall not include those owned by private for-profit or private nonprofit corporations, or those owned by any combination, consortium, or joint powers agreement that includes a private nonprofit corporation.

(k) "Retrofit" means to either strengthen the structure of a building or facility, or to provide the means necessary to reduce the seismic force level experienced by a building or facility during an earthquake, so as to significantly reduce hazards to life and safety while concomitantly providing for the substantially safe egress of occupants during and immediately after such an earthquake.

(Amended by Stats. 2013, Ch. 352, Sec. 218. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

Article 2. Earthquake Safety and Public Buildings Rehabilitation Fund of 1990

[8878.55-8878.55] (Article 2 added by Stats. 1990, Ch. 23, Sec. 2.)

§ 8878.55. The Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 is hereby created. The proceeds of bonds issued and sold pursuant to this chapter for the purposes of the programs established in Article 3 (commencing with Section 8878.60) and Article 4 (commencing with Section 8878.90) shall be deposited in the fund and shall be available, upon appropriation by the Legislature, for expenditure pursuant to this chapter for the following purposes:

(a) Two hundred fifty million dollars (\$250,000,000) for the following:

(1) Financing the costs of retrofitting, reconstruction, repair, replacement, or relocation of state buildings or facilities which are seismically unsafe or have other safety deficiencies. For these projects, allowable costs include the cost of abating falling hazards; the cost of engineering, architectural, financial, and legal services; preparation of plans, specifications, studies, surveys, and estimates; administrative expenses; land acquisition for replacement projects, direct construction, or rehabilitation; and costs necessary or incidental to the project.

(2) Investigating state buildings which have been determined to be, or are suspected to be, inadequate for earthquake safety and associated fire and life safety deficiencies, asbestos, other toxics, or falling hazards, and handicap accessibility deficiencies.

(b) Fifty million dollars (\$50,000,000) for the following:

(1) Financial assistance to local governments for the costs of retrofitting, reconstructing, repairing, replacing, or relocating earthquake-unsafe buildings or facilities, including, but not limited to, the abatement of falling hazards.

(2) Financial assistance to local governments for the costs of working drawings, plan reviews, and inspections to effect a significant life-hazard reduction. The costs of preliminary plans may be reimbursed upon the appropriation for the project. Reasonable administrative costs of administering state agencies may be appropriated from this source.

(c) Projects approved pursuant to subdivision (b) shall be limited to buildings or facilities which provide essential services or emergency or public safety services which meet the requirements of Section

8878.99 and for which local matching funds equaling at least 25 percent of the total cost of the seismic rehabilitation portion of the project are guaranteed.

(d) Notwithstanding any other provision of this section, the Seismic Safety Commission may, to further the objectives of subdivision (a) or (b), and if appropriated by the Legislature, use up to 1 percent of the proceeds of the bonds issued and sold pursuant to this chapter that are deposited into the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 to research methods, techniques, and technologies to identify and analyze existing potentially hazardous buildings and facilities, including, but not limited to, unreinforced masonry construction, as well as for the additional purposes of researching and developing methods, techniques, and technologies for seismic safety retrofitting of the buildings, as well as helping to develop and prepare building standards and administrative regulations relating to the retrofitting of the buildings for seismic safety purposes.

(1) All research funds appropriated pursuant to this subdivision shall be administered and disbursed according to guidelines established by the commission.

(2) These guidelines shall set forth the terms and conditions upon which the commission is prepared to fund research projects pursuant to this subdivision. The guidelines do not constitute rules, regulations, orders, or standards of general application.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

Article 3. State Buildings or Facilities

[8878.60-8878.61] (Article 3 added by Stats. 1990, Ch. 23, Sec. 2.)

§ 8878.60. (a) State building or facility projects eligible for retrofitting, reconstruction, repair, replacement, relocation, or other seismic hazard abatement shall be based upon criteria established by the State Architect. The criteria shall include the factor of the population at risk of injury and may include, but are not limited to, the report by H.J. Degenkolb and Associates to the Seismic Safety Commission dated April 19, 1981, Seismic Safety Commission Report Number 604, as revised on December 31, 1987, or any updates of those reports received and adopted by the Seismic Safety Commission.

(b) If the state building or facility is designated as a historic building as defined in Section 18955 of the Health and Safety Code, the State Architect shall consult with the Office of Historic Preservation before proposing to demolish the building or facility.

(c) The State Architect may determine that because of the age, material used in construction, potential for ground failure in an earthquake, or the type of construction or the design of the structure, it would be more cost-effective to replace or relocate rather than rehabilitate the state building or facility. Upon that determination, the Director of General Services may submit to the Department of Finance a recommendation that the building be replaced or relocated. Upon receipt of the recommendation, the Director of Finance shall review and consider that recommendation and may recommend to the Governor inclusion of this project in the annual Budget Bill or any other legislative bill.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.61. The Director of General Services shall provide to the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature a listing of expenditures for activities pursuant to this article by January 10 each year. This information shall be submitted either in the Governor's Budget documents or a separate report.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

Article 4. Local Government Buildings

[8878.90-8878.107] (Article 4 added by Stats. 1990, Ch. 23, Sec. 2.)

§ 8878.90. (a) The State Architect, with the consultation of the Seismic Safety Commission and the office, shall establish criteria for projects potentially eligible for an appropriation from the Legislature, pursuant to subdivision (b) of Section 8878.55 based on factors including the populations at risk of injury and the cost-effectiveness of remedial actions.

(b) The State Architect shall establish the criteria for potential funding pursuant to subdivision (b) of Section 8878.55 based upon the following order of seismic hazard reduction priorities:

(1) Abatement of falling hazards, as defined by the State Architect with the consultation of the Seismic Safety Commission, that are structural or nonstructural components of buildings or facilities and that pose serious threats to life, including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding.

(2) The seismic retrofitting of those buildings or facilities for which partial, localized, or phased seismic retrofits will significantly reduce collapse hazards with minimal disruption to either the operation of the buildings or facilities or disruption of the occupants of the buildings or facilities.

(3) All other buildings or facilities requiring seismic retrofitting.

(Amended by Stats. 2013, Ch. 352, Sec. 219. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8878.95. Applications for funds for local government buildings under this article shall be made to the State Architect in the form and with the supporting material as prescribed by the State Architect.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.96. Any appropriation of bond funds pursuant to this article may include provisions as agreed by the parties thereto, and the contract shall include, but not be limited to, all of the following:

(a) An estimate of the reasonable cost of the project.

(b) An agreement by the State Architect to grant to the local government, during the progress of construction or following completion of construction as agreed by the parties, an amount which equals no more than 75 percent of the portion of construction costs found by the State Architect to be eligible for a state grant.

(c) An agreement by the local government to (1) proceed expeditiously with, and complete, the project, (2) commence operation of the project upon completion thereof, (3) properly operate and maintain the project in accordance with the applicable provisions of law, and (4) provide for payment of the local government's share of the cost of the project.

(d) At least 25 percent of the total cost for the seismic rehabilitation of the project, for the purposes specified in subdivision (b) of Section 8878.55, shall be paid by the local government.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.98. Allocations are limited to only the seismic rehabilitation portion of the improvement project, as determined by the State Architect. To the extent that other elements of work are proposed, a cost-sharing formula shall be developed by the State Architect which will be applicable to planning and design costs for the total project. The retrofitting portion of any project shall, to the greatest extent possible, be conducted during the same general period of time that life safety hazards, including, but not limited to, asbestos-related

hazards or fire and panic safety hazards, are abated, or when periodic renovation or maintenance of the essential services building is performed.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.99. (a) Allocations made by the State Architect to local governments shall only be used to improve existing essential services buildings, as defined in Section 16007 of the Health and Safety Code, and emergency and public safety local buildings, including, but not limited to, county hospitals, courthouses, and city halls to resist earthquakes, and remain operational after a major earthquake. The allocations may be made with respect to all, or any part, of the building, but the allocations shall be used only for seismic retrofitting.

(b) Improvements to essential services facilities of local governments shall be considered in the order prescribed by the State Architect, consistent with subdivision (b) of Section 8878.100.

(c) Notwithstanding any other provision of law, except for Section 8878.90, if a local government determines, and the State Architect concurs, that because of the age, material used in construction, potential for ground failure in an earthquake, or the type of construction or the design of the structure that it would be more cost-effective to replace or relocate rather than rehabilitate the potentially eligible essential services facility or emergency or public safety local building, an allocation of up to that amount determined to be necessary for the seismic retrofit of the original structure, but not to exceed the actual cost of replacement and relocation, may be applied to the construction of the replacement facility under the following conditions:

(1) The essential services contained in the original facility shall be relocated to the replacement facility.

(2) If a new facility is constructed, the original facility shall not be eligible for additional funding under this program.

(3) If the original essential services facility or emergency or public safety local building is designated as an historic building as defined in Section 18955 of the Health and Safety Code, the State Architect shall consult with the Office of Historic Preservation before agreeing to any proposal to demolish the facility.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.100. Funds shall be distributed by the State Architect in the following manner:

(a) Upon receipt of an application by a local government for a grant pursuant to this article, the office or the State Architect may propose improvements to the project which will meet regional needs in a cost-effective manner. These improvements may include, but need not be limited to, structural strengthening, hardening of communication equipment, providing emergency power equipment, and other capital improvements which can be demonstrated as part of an emergency response plan which has a description of the critical facilities needed to support emergency response. The office, the State Architect, and the applicant may agree to include these capital improvements in the grant.

(b) In coordination with the Seismic Safety Commission and the office, and with the input of the potentially eligible local governments, the State Architect, consistent with Section 8878.90, shall establish a priority list of the types of potentially eligible local government buildings and facilities which are eligible to receive a state grant pursuant to this article.

(c) After completion of the priority list, the State Architect shall present this list of potentially eligible local government buildings and facilities to the Department of Finance for its review and consideration of whether to recommend to the Governor to include this list in the Budget Bill or other legislative proposal.

The Legislature may review and appropriate funds available under this bond act for specific projects on the list which it deems appropriate.

(d) The State Architect shall allocate funds to local governments for the seismic retrofit of buildings or facilities based upon projects and appropriations approved in the Budget Bill or some other bill by the Legislature as provided in this section. Payments shall be made on a progress basis.

(Amended by Stats. 2013, Ch. 352, Sec. 220. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8878.101. (a) An application for an allocation pursuant to this article shall not be recommended for approval by the State Architect unless the project meets the minimum seismic safety standards as established by the State Architect. Preliminary design work, including preliminary plans and a detailed cost estimate for the project shall be completed and submitted with the application.

(b) Any proposal for a project addressing more than seismic retrofit shall include a certification by the project architect or consulting engineer of the portion of the cost required for the eligible seismic improvements.

(c) If the project involves an essential services building, no allocation of funds may be made unless the State Architect finds that the project or the project plan is consistent with the Essential Services Building Seismic Safety Act of 1986 (Chapter 2 (commencing with Section 16000) of Division 12.5 of the Health and Safety Code).

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.102. For a local government to be eligible for funding, the local government must have complied with Chapter 12.2 (commencing with Section 8875) and also have an emergency plan approved by the office as being consistent with the state planning guidelines and the State Emergency Plan and the most recent catastrophic emergency response plan. The local government shall also have a priority list that identifies those facilities which are not expected to be operational after a major earthquake and which are critical to carrying out the emergency plan.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.103. First priority for allocations of funds shall be given to projects located in seismic hazard zone 4, as defined and illustrated in Chapter 23 (commencing with Section 2301) of Part 2 of Title 24 of the California Code of Regulations, and projects located in San Diego and Sacramento Counties. The office shall certify that the local government projects are needed for emergency response to a major earthquake.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.104. Operation and maintenance costs shall be the responsibility of the grantee and may not be considered as part of the project cost. Costs for planning preliminary engineering studies, including preliminary plans, may be reimbursed following the receipt of an allocation of funds, subject to approval by the State Architect.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.105. Funds allocated pursuant to this article shall be available for expenditure by the local government within three years of the awarding of the allocation.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.106. (a) The office and the State Architect, after public notice and hearing and with the concurrence of the Seismic Safety Commission, shall establish guidelines necessary to carry out the purposes of this article. The guidelines shall include, but not be limited to, criteria and procedures for establishing the eligibility of the applicant, but shall not constitute rules, regulations, orders, or standards of general application.

(b) The office and the State Architect, with the concurrence of the Seismic Safety Commission, shall establish guidelines that will carry out this article and provide an adequate emergency response capability after a major earthquake. The guidelines may provide for the denial of funds when the purposes of this article may most economically and efficiently be attained by means other than the construction of the proposed project.

(c) The office and the State Architect, with the concurrence of the Seismic Safety Commission, may subsequently revise the guidelines as necessary to implement provisions of this chapter for any other reason to carry out the purposes of this article.

(d) Guidelines established pursuant to the provisions of this section shall not constitute rules, regulations, orders, or standards of general application.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.107. The office shall notify local governments that may be eligible for grants pursuant to this article of the following:

(a) The purposes of this article.

(b) The guidelines established by the office and the State Architect.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

Article 5. Fiscal Provisions

[8878.109-8878.122] (Article 5 added by Stats. 1990, Ch. 23, Sec. 2.)

§ 8878.109. Bonds in the total amount of three hundred million dollars (\$300,000,000), exclusive of refunding bonds issued pursuant to Section 8878.118, or so much thereof as is necessary, may be issued and sold to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5. A sum, not to exceed three hundred million dollars (\$300,000,000) of the bond proceeds shall be deposited in the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 for the purposes of this chapter. All bonds herein authorized which have been duly sold and delivered as provided herein shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.110. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.111. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Earthquake Safety and Public Build-

ings Rehabilitation Finance Committee is hereby created. For the purposes of this chapter, the Earthquake Safety and Public Buildings Rehabilitation Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, the Director of Finance, the Director of General Services, or a designated representative of each of those officials. The Treasurer shall serve as the chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of this chapter and the State General Obligation Bond Law, the entity designated as the “board” means the Department of General Services.

(c) The committee designated in subdivision (a) may adopt guidelines establishing requirements for administration of its financing programs to the extent necessary to protect the validity of, and tax exemption for, interest on the bonds. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.112. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 8878.55, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.113. There shall be collected annually in the same manner and at the same time as other state revenue is collected, a sum of money in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein, and all officers required by law to perform any duty in regard to the collection of state revenues shall collect that additional sum.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.114. Notwithstanding Section 13340, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out Section 8878.115, appropriated without regard to fiscal years.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.115. For the purposes of carrying out this chapter, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds which would otherwise be deposited in that fund.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.116. All moneys derived from premium and accrued interest on bonds sold shall be reserved and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.
(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.117. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this article are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.
(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.118. Any bonds issued and sold pursuant to this article may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4. Approval by the electors of the state for the issuance of these bonds shall include the approval of any bonds issued to refund any bonds originally issued or previously issued refunding bonds.
(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.119. The “board” may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312, for the purposes of carrying out this chapter. The amount of any request shall not exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The applicable board shall execute those documents as are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 to be allocated by the board designated in subdivision (c) of Section 8878.111 in accordance with this chapter.
(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.120. Notwithstanding any provision of this chapter or the State General Obligation Bond Law set forth in Chapter 4 (commencing with Section 16720) of Part 3 of Division 4, if the Treasurer sells bonds pursuant to this chapter the interest on which is intended to be excluded from gross income for federal tax purposes, the Treasurer shall be authorized to maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds, and the Treasurer shall be authorized to use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.
(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.121. Notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of any bonds authorized by this chapter shall not exceed 20 years from the date of each respective series. The maturity of each series shall be calculated from the date of each series.
(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.122. All moneys deposited in the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 pursuant to any provision of law requiring repayments to the state which are financed by the proceeds

of bonds authorized by this chapter shall be available for transfer to the General Fund. When transferred to the General Fund, that money shall be applied as a reimbursement to the General Fund on account of principal and interest on the bonds which has been paid from the General Fund.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

Article 6. Miscellaneous Provisions

[8878.123-8878.126] (Article 6 added by Stats. 1990, Ch. 23, Sec. 2.)

§ 8878.123. The administrative provisions of Article 3 (commencing with Section 8878.60) and Article 4 (commencing with Section 8878.95) may be amended by statute without submission to the voters.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.124. Charges incurred by the Attorney General in protecting the state's interest in the grant funds under this chapter shall be payable from proceeds of bond sales for the purposes of this chapter. These charges shall not be paid from funds allocated for administrative purposes, but shall be treated as a program expense not to exceed one hundred fifty thousand dollars (\$150,000).

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

§ 8878.125. (a) The proceeds from the sale of the bonds pursuant to this chapter shall not replace or supplant funds available from the Federal Emergency Management Agency (FEMA). If funds are received from FEMA for costs applied for under this chapter, then proceeds from the fund shall not be allocated, or if already allocated, then the fund shall be reimbursed for any ineligible amount.

(b) No allocations shall be made from the fund for local buildings or facilities that qualified for state or federal assistance under the Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680)) for retrofitting, reconstruction, repair, replacement, or relocation of structures damaged by a disaster until the office determines either: (1) that reasonable efforts have been made to secure other state and federal funds, or (2) that the other sources of funding are insufficient to make the necessary seismic improvements. Similarly, no allocations from the fund shall be made for state buildings or facilities unless the Department of Finance determines either: (1) the responsible agency has made reasonable efforts to secure other state and federal funds, or (2) that the other sources of funding are insufficient to correct state buildings or facilities that are seismically unsafe or suffer from other safety deficiencies.

(Amended by Stats. 2013, Ch. 352, Sec. 221. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8878.126. (a) No local government building or facility that is listed or is eligible for listing on the National Register of Historic Places or listed on any officially sponsored state or local register or inventory of historic places, may be demolished, destroyed, or significantly altered, except for restoration to preserve or enhance its historical value, unless the local government finds that the structure presents a clear and imminent threat to the public of bodily harm or of damage to adjacent property which threat cannot be mitigated by isolation or other measures less damaging than removal, or unless the State Office of Historic Preservation determines, pursuant to subdivision (b), that the structure may be demolished, destroyed, or significantly altered.

(b) Any local government may apply to the State Office of Historic Preservation for its determination as to whether a structure meeting the description set forth in subdivision (a) shall be demolished,

destroyed, or significantly altered. That determination shall be based upon the extent of damage to the structure, the structure's historic significance, and any other factor deemed by the State Office of Historic Preservation to be relevant. In making that determination, the State Office of Historic Preservation shall consider the recommendation of a team selected by the State Office of Historic Preservation composed of three residents with historic preservation expertise who reside in the affected county.

(Added by Stats. 1990, Ch. 23, Sec. 2. Approved June 5, 1990, by adoption of Proposition 122.)

CHAPTER 12.48. Seismic Retrofit Bond Act of 1996

[8879-8879.16] (Chapter 12.48 added by Stats. 1995, Ch. 310, Sec. 1.)

Article 1. General Provisions

[8879-8879.2] (Article 1 added by Stats. 1995, Ch. 310, Sec. 1.)

§ 8879. (a) This chapter shall be known as the Seismic Retrofit Bond Act of 1996.

(b) This chapter shall only become operative upon adoption by the voters at the March 26, 1996, direct primary election.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.1. (a) The Legislature finds and declares that the completion of seismic safety retrofit work is essential to the welfare and economy of the state.

(b) It is the intent of the Legislature to ensure that the work be completed as quickly as possible.

(c) In order to avoid delays in the completion of the work, it is necessary that certain statutes that would otherwise be applicable be temporarily suspended.

(Amended by Stats. 2003, Ch. 525, Sec. 1. Effective January 1, 2004.)

§ 8879.2. As used in this chapter, the following terms have the following meanings:

(a) "Board" means any department receiving an allocation from the Department of Finance.

(b) "Committee" means the Seismic Retrofit Finance Committee created pursuant to Section 8879.7.

(c) "Fund" means the Seismic Retrofit Bond Fund of 1996 created pursuant to Section 8879.3.

(d) "State Highway Account" means the State Highway Account in the State Transportation Fund.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

Article 2. Seismic Retrofit Bond Fund and Program

[8879.3-8879.3] (Article 2 added by Stats. 1995, Ch. 310, Sec. 1.)

§ 8879.3. The Seismic Retrofit Bond Fund of 1996 is hereby created in the State Treasury. The proceeds of bonds issued and sold pursuant to this chapter for the purposes specified in this chapter are hereby appropriated, without regard to fiscal years, to the Department of Finance for allocation in the following manner:

(a) Two billion dollars (\$2,000,000,000) for the seismic retrofit of state-owned highways and bridges, including toll bridges, throughout the state. Funds allocated by the California Transportation Commission for this purpose shall be deposited in the 1996 Seismic Retrofit Account, which is hereby created in

the fund, and, upon deposit, are continuously appropriated to the Department of Transportation. Funds may be used to match any available federal funds for transportation purposes or may be used without matching federal funds to reconstruct, replace, or retrofit state-owned highways and bridges, including toll bridges.

(b) Funds described in this section shall be spent exclusively for the seismic retrofit of state-owned toll bridges in an amount equal to six hundred fifty million dollars (\$650,000,000).

(c) The funds in the 1996 Seismic Retrofit Account are available for borrowing only for cash-flow purposes of the State Highway Account, and the funds borrowed shall be repaid to the account within one year. In addition, the proceeds of the bonds sold shall be used to reimburse the State Highway Account and the Consolidated Toll Bridge Fund for Phase Two retrofit expenditures incurred in the 1994–95 and 1995–96 fiscal years.

(Amended by Stats. 2001, Ch. 745, Sec. 75. Effective October 12, 2001.)

Article 3. Fiscal Provisions

[8879.5-8879.16] (Article 3 added by Stats. 1995, Ch. 310, Sec. 1.)

§ 8879.5. Bonds in the total amount of two billion dollars (\$2,000,000,000), exclusive of refunding bonds, or so much thereof as is necessary, are hereby authorized to be issued and sold for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5. All bonds herein authorized which have been duly sold and delivered as provided herein shall constitute valid and legally binding general obligations of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal and interest thereof.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.6. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and re-deemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4), except Section 16727, and all of the other provisions of that law as amended from time to time apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.7. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Seismic Retrofit Finance Committee is hereby created. For the purposes of this chapter, the Seismic Retrofit Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, the Director of Finance, and the Secretary of Transportation, or a designated representative of each of those officials. The Treasurer shall serve as the chairperson of the committee. A majority of the committee may act for the committee.

(b) The committee may adopt guidelines establishing requirements for administration of its financing programs to the extent necessary to protect the validity of, and tax exemption for, interest on the bonds. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(c) For the purposes of the State General Obligation Bond Law, any department receiving an allocation from the Department of Finance is designated to be the “board.”

(Amended by Stats. 2013, Ch. 352, Sec. 222. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 8879.8. Upon request of the board stating that funds are needed for earthquake relief purposes, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 8879.3, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and be sold at any one time. Bonds may bear interest subject to federal income tax.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.9. There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, the bonds as provided herein, and all officers required by law to perform any duty in regard to the collections of state revenues shall collect that additional sum.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.10. Notwithstanding Section 13340, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out Section 8879.12, appropriated without regard to fiscal years.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.11. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312, for purposes of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this chapter, less any amount withdrawn pursuant to Section 8879.12. The board shall execute any documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated by the California Transportation Commission in accordance with this chapter.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.12. For the purpose of carrying out this chapter, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of any amount or amounts not to exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the Seismic Retrofit Bond Fund of 1996. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds which would otherwise be deposited in that fund.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.13. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law. Approval by the electors of this act shall constitute approval of any refunding bonds issued pursuant to the State General Obligation Bond Law.

(Amended (as added by Stats. 1995, Ch. 310, Sec. 1) by Stats. 1996, Ch. 124, Sec. 32. Effective January 1, 1997.)

§ 8879.14. Notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of any bonds authorized by this chapter shall not exceed 30 years from the date of each respective series. The maturity of each series shall be calculated from the date of each series.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.15. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

§ 8879.16. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this chapter that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4, the Treasurer may maintain a separate account for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

(Added by Stats. 1995, Ch. 310, Sec. 1. Approved March 26, 1996, by adoption of Proposition 192.)

CHAPTER 14. Earthquake Research Evaluation Conference and Five-Year Statewide Research Plan (Chapter 14 added by Stats. 1990, Ch. 782, Sec. 1.)

§ 8899.10. The Legislature finds and declares all of the following:

(a) (1) As demonstrated by the California earthquake of October 17, 1989, the citizens of California live under the constant shadow of death, personal injury, and property damage from earthquakes.

(2) During the same year as the California earthquake of October 17, 1989, there were over 15,000 earthquakes of varying magnitude recorded in this state.

(3) A cohesive plan to optimize current and emerging earthquake research for the benefit of the citizens of California does not exist.

(4) A cohesive plan to optimize current and emerging earthquake research is critical to protect the health and safety of the citizens of California.

(b) It is therefore appropriate for the State of California to fund an Earthquake Research Evaluation Conference for the purpose of critiquing existing and emerging technologies for earthquake research and recommending a comprehensive plan for earthquake research in California.

The findings of the Earthquake Research Evaluation Conference should be used by the Seismic Safety Commission, in collaboration with the California Council on Science and Technology, the Office of Competitive Technology in the Trade and Commerce Agency, and the Division of Mines and Geology in the Department of Conservation, as the basis for finalizing and implementing a five-year earthquake research plan for the State of California.

(Amended by Stats. 2000, Ch. 1055, Sec. 26. Effective September 30, 2000.)

§ 8899.11. There shall be an Earthquake Research Evaluation Conference (EREC) for the purposes set forth in this chapter.

(Added by Stats. 1990, Ch. 782, Sec. 1. Effective September 13, 1990.)

§ 8899.12. (a) Participants in the EREC shall be selected by the Seismic Safety Commission in collaboration with the California Council on Science and Technology and the California Geological Survey in the Department of Conservation. EREC participants shall include, but not be limited to, representatives from all of the following:

- (1) Research universities.
- (2) Major professional organizations.
- (3) State agencies.
- (4) Federal agencies.
- (5) Private industry.

(b) The organization and management of the EREC shall be the responsibility of the Seismic Safety Commission, in collaboration with the California Council on Science and Technology and the California Geological Survey.

(Amended by Stats. 2006, Ch. 869, Sec. 1. Effective January 1, 2007.)

§ 8899.13. (a) The purpose of the EREC shall be to develop and present to the Seismic Safety Commission a strategy for earthquake research in California which will identify the state seismic safety needs, with particular attention given to research likely to bring about a significant reduction of loss of life and property damage and improved ability for economic recovery. The research shall include, but not be limited to, the following four research categories:

- (1) Understanding the causes, prediction of, and nature of earthquakes.
- (2) Understanding and mitigating geotechnical and structural hazards.
- (3) Understanding the social and economic effects of earthquakes.
- (4) Policies and strategies for mitigation and recovery.

(b) Included in this strategy shall be all of the following:

- (1) The type of research.
- (2) The priorities for research.
- (3) The sources of funding.
- (4) The state's role in coordinating and facilitating seismic research in California.

(Added by Stats. 1990, Ch. 782, Sec. 1. Effective September 13, 1990.)

§ 8899.14. The Seismic Safety Commission, in collaboration with the California Council on Science and Technology, the California Geological Survey, and the Office of Competitive Technology, shall provide structure for the EREC by submitting a proposed five-year plan for review and consideration. Included with this submission shall be an appropriate schedule and structure for reviewing and critiquing existing and emerging technologies for earthquake research. The EREC shall review, critique, and revise the proposed plan submitted by the Seismic Safety Commission, as appropriate to the needs of California. The EREC shall present its findings to the Seismic Safety Commission.

(Amended by Stats. 2006, Ch. 869, Sec. 2. Effective January 1, 2007.)

§ 8899.15. The Seismic Safety Commission shall develop a final five-year statewide earthquake research plan as part of its five-year hazard reduction plan. The findings made by the EREC shall be incorporated into the plan.

The plan shall contain appropriate strategies to receive additional federal funding in order to implement the plan.

(Amended by Stats. 2005, Ch. 92, Sec. 1. Effective July 21, 2005.)

TITLE 7. PLANNING AND LAND USE

[65000-66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. Planning and Zoning

[65000-66103] (Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 3. Local Planning

[65100-65763] (Chapter 3 repealed and added by Stats. 1965, Ch. 1880.)

Article 5. Authority for and Scope of General Plans

[65300-65303.4] (Article 5 added by Stats. 1965, Ch. 1880.)

§ 65300. Each planning agency shall prepare and the legislative body of each county and city shall adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning. Chartered cities shall adopt general plans which contain the mandatory elements specified in Section 65302.

(Amended by Stats. 1984, Ch. 1009, Sec. 3.)

§ 65300.2. (a) For the purposes of this article, a "200-year flood plain" is an area that has a 1 in 200 chance of flooding in any given year, based on hydrological modeling and other engineering criteria accepted by the Department of Water Resources.

(b) For the purposes of this article, a "levee protection zone" is an area that is protected, as determined by the Central Valley Flood Protection Board or the Department of Water Resources, by a levee that is part of the facilities of the State Plan of Flood Control, as defined under Section 5096.805 of the Public Resources Code.

(Added by Stats. 2007, Ch. 369, Sec. 1. Effective January 1, 2008.)

§ 65300.5. In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.

(Added by Stats. 1975, Ch. 1104.)

§ 65300.7. The Legislature finds that the diversity of the state's communities and their residents requires planning agencies and legislative bodies to implement this article in ways that accommodate local conditions and circumstances, while meeting its minimum requirements.

(Added by Stats. 1980, Ch. 837.)

§ 65300.9. The Legislature recognizes that the capacity of California cities and counties to respond to state planning laws varies due to the legal differences between cities and counties, both charter and general law, and to differences among them in physical size and characteristics, population size and density, fiscal and administrative capabilities, land use and development issues, and human needs. It is the intent of the Legislature in enacting this chapter to provide an opportunity for each city and county to coordinate its local budget planning and local planning for federal and state program activities, such as community development, with the local land use planning process, recognizing that each city and county is required to establish its own appropriate balance in the context of the local situation when allocating resources to meet these purposes.

(Added by Stats. 1984, Ch. 1009, Sec. 3.5.)

§ 65301. (a) The general plan shall be so prepared that all or individual elements of it may be adopted by the legislative body, and so that it may be adopted by the legislative body for all or part of the territory of the county or city and any other territory outside its boundaries that in its judgment bears relation to its planning. The general plan may be adopted in any format deemed appropriate or convenient by the legislative body, including the combining of elements. The legislative body may adopt all or part of a plan of another public agency in satisfaction of all or part of the requirements of Section 65302 if the plan of the other public agency is sufficiently detailed and its contents are appropriate, as determined by the legislative body, for the adopting city or county.

(b) The general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.

(c) The general plan shall address each of the elements specified in Section 65302 to the extent that the subject of the element exists in the planning area. The degree of specificity and level of detail of the discussion of each element shall reflect local conditions and circumstances. However, this section shall not affect the requirements of subdivision (c) of Section 65302, nor be construed to expand or limit the authority of the Department of Housing and Community Development to review housing elements pursuant to Section 65585 of this code or Section 50459 of the Health and Safety Code.

The requirements of this section shall apply to charter cities.

(Amended by Stats. 2006, Ch. 890, Sec. 1. Effective January 1, 2007.)

§ 65301.5. The adoption of the general plan or any part or element thereof or the adoption of any amendment to such plan or any part or element thereof is a legislative act which shall be reviewable pursuant to Section 1085 of the Code of Civil Procedure.

(Added by Stats. 1980, Ch. 837.)

§ 65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various

districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) (1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2) (A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, "users of streets, roads, and highways" mean bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared.

Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

(A) The reclamation of land and waters.

(B) Prevention and control of the pollution of streams and other waters.

(C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(E) Protection of watersheds.

(F) The location, quantity and quality of the rock, sand, and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight online railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA). The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research's most recent publication of "Fire Hazard Planning, General Technical Advice Series" and shall also include all of the following:

(A) Information regarding fire hazards, including, but not limited to, all of the following:

(i) Fire hazard severity zone maps available from the Department of Forestry and Fire Protection.

(ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.

(iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.

(iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur on publicly owned lands or open space designations of homeowner associations.

(v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.

(B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Avoiding or minimizing the wildfire hazards associated with new uses of land.

(ii) Locating, when feasible, new essential public facilities outside of high fire risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.

(iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.

(iv) Working cooperatively with public agencies with responsibility for fire protection.

(D) If a city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county's adopted fire safety plan or document that fulfills commensurate goals and objectives and contains information required pursuant to this paragraph.

(4) After the initial revision of the safety element pursuant to paragraphs (2) and (3), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

(5) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(6) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(7) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision. *(Amended by Stats. 2014, Ch. 201, Sec. 8. Effective January 1, 2015.)*

§ 65302.1. (a) The Legislature finds and declares all of the following:

(1) The San Joaquin Valley has a serious air pollution problem that will take the cooperation of land use and transportation planning agencies, transit operators, the development community, the San Joaquin Valley Air Pollution Control District and the public to solve. The solution to the problem requires changes in the way we have traditionally built our communities and constructed the transportation systems. It involves a fundamental shift in priorities from emphasis on mobility for the occupants of private automobiles to a multimodal system that more efficiently uses scarce resources. It requires a change in attitude from the public to support development patterns and transportation systems different from the status quo.

(2) In 2003 the district published a document entitled, Air Quality Guidelines for General Plans. This report is a comprehensive guidance document and resource for cities and counties to use to include air quality in their general plans. It includes goals, policies, and programs that when adopted in a general plan will reduce vehicle trips and miles traveled and improve air quality.

(3) Air quality guidelines are recommended strategies that do, when it is feasible, all of the following:

(A) Determine and mitigate project level and cumulative air quality impacts under the California Environmental Quality Act (CEQA) (Division 13 (commencing with Section 21000) of the Public Resources Code).

(B) Integrate land use plans, transportation plans, and air quality plans.

(C) Plan land uses in ways that support a multimodal transportation system.

(D) Local action to support programs that reduce congestion and vehicle trips.

(E) Plan land uses to minimize exposure to toxic air pollutant emissions from industrial and other sources.

(F) Reduce particulate matter emissions from sources under local jurisdiction.

(G) Support district and public utility programs to reduce emissions from energy consumption and area sources.

(4) The benefits of including air quality concerns within local general plans include, but are not limited to, all of the following:

(A) Lower infrastructure costs.

- (B) Lower public service costs.
- (C) More efficient transit service.
- (D) Lower costs for comprehensive planning.
- (E) Streamlining of the permit process.
- (F) Improved mobility for the elderly and children.

(b) The legislative body of each city and county within the jurisdictional boundaries of the district shall amend the appropriate elements of its general plan, which may include, but are not limited to, the required elements dealing with land use, circulation, housing, conservation, and open space, to include data and analysis, goals, policies, and objectives, and feasible implementation strategies to improve air quality.

(c) The adoption of air quality amendments to a general plan to comply with the requirements of subdivision (d) shall include all of the following:

(1) A report describing local air quality conditions including air quality monitoring data, emission inventories, lists of significant source categories, attainment status and designations, and applicable state and federal air quality plans and transportation plans.

(2) A summary of local, district, state, and federal policies, programs, and regulations that may improve air quality in the city or county.

(3) A comprehensive set of goals, policies, and objectives that may improve air quality consistent with the strategies listed in paragraph (3) of subdivision (a).

(4) A set of feasible implementation measures designed to carry out those goals, policies, and objectives.

(d) At least 45 days prior to the adoption of air quality amendments to a general plan pursuant to this section, each city and county shall send a copy of its draft document to the district. The district may review the draft amendments to determine whether they may improve air quality consistent with the strategies listed in paragraph (3) of subdivision (a). Within 30 days of receiving the draft amendments, the district shall send any comments and advice to the city or county. The legislative body of the city or county shall consider the district's comments and advice prior to the final adoption of air quality amendments to the general plan. If the district's comments and advice are not available by the time scheduled for the final adoption of air quality amendments to the general plan, the legislative body of the city or county may act without them. The district's comments shall be advisory to the city or county.

(e) The legislative body of each city and county within the jurisdictional boundaries of the district shall comply with this section no later than one year from the date specified in Section 65588 for the next revision of its housing element that occurs after January 1, 2004.

(f) As used in this section, "district" means the San Joaquin Valley Air Pollution Control District. *(Added by Stats. 2003, Ch. 472, Sec. 1. Effective January 1, 2004.)*

§ 65302.2. Upon the adoption, or revision, of a city or county's general plan, on or after January 1, 1996, the city or county shall utilize as a source document any urban water management plan submitted to the city or county by a water agency.

(Added by Stats. 1995, Ch. 881, Sec. 2. Effective January 1, 1996.)

§ 65302.3. (a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.

(c) If the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

(d) In each county where an airport land use commission does not exist, but where there is a military airport, the general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport.

(Amended by Stats. 2002, Ch. 971, Sec. 4. Effective January 1, 2003.)

§ 65302.4. The text and diagrams in the land use element that address the location and extent of land uses, and the zoning ordinances that implement these provisions, may also express community intentions regarding urban form and design. These expressions may differentiate neighborhoods, districts, and corridors, provide for a mixture of land uses and housing types within each, and provide specific measures for regulating relationships between buildings, and between buildings and outdoor public areas, including streets.

(Added by Stats. 2004, Ch. 179, Sec. 1. Effective January 1, 2005.)

§ 65302.5. (a) At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the California Geological Survey of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each county and city shall provide the division with a copy of its adopted safety element or amendments. The division may review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

(b) (1) The draft element of or draft amendment to the safety element of a county or a city's general plan shall be submitted to the State Board of Forestry and Fire Protection and to every local agency that provides fire protection to territory in the city or county at least 90 days prior to either of the following:

(A) The adoption or amendment to the safety element of its general plan for each county that contains state responsibility areas.

(B) The adoption or amendment to the safety element of its general plan for each city or county that contains a very high fire hazard severity zone as defined pursuant to subdivision (i) of Section 51177.

(2) A county that contains state responsibility areas and a city or county that contains a very high fire hazard severity zone as defined pursuant to subdivision (i) of Section 51177 shall submit for review the safety element of its general plan to the State Board of Forestry and Fire Protection and every local agency that provides fire protection to territory in the city or county in accordance with the following dates, as specified, unless the local government submitted the element within five years prior to that date:

(A) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 2010.

(B) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2011.

(C) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2012.

(D) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2013.

(E) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2014.

(F) All other local governments: December 31, 2015.

(3) The State Board of Forestry and Fire Protection shall, and a local agency may, review the draft or an existing safety element and recommend changes to the planning agency within 60 days of its receipt regarding both of the following:

(A) Uses of land and policies in state responsibility areas and very high fire hazard severity zones that will protect life, property, and natural resources from unreasonable risks associated with wild land fires.

(B) Methods and strategies for wild land fire risk reduction and prevention within state responsibility areas and very high fire hazard severity zones.

(4) Prior to the adoption of its draft element or draft amendment, the board of supervisors of the county or the city council of a city shall consider the recommendations, if any, made by the State Board of Forestry and Fire Protection and any local agency that provides fire protection to territory in the city or county. If the board of supervisors or city council determines not to accept all or some of the recommendations, if any, made by the State Board of Forestry and Fire Protection or local agency, the board of supervisors or city council shall communicate in writing to the State Board of Forestry and Fire Protection or the local agency, its reasons for not accepting the recommendations.

(5) If the State Board of Forestry and Fire Protection's or local agency's recommendations are not available within the time limits required by this section, the board of supervisors or city council may act without those recommendations. The board of supervisors or city council shall take the recommendations into consideration the next time it considers amendments to the safety element.

(Amended by Stats. 2013, Ch. 76, Sec. 101. Effective January 1, 2014.)

§ 65302.6. (a) A city, county, or a city and county may adopt with its safety element pursuant to subdivision (g) of Section 65302 a local hazard mitigation plan (HMP) specified in the federal Disaster Mitigation Act of 2000 (Public Law 106-390). The hazard mitigation plan shall include all of the following elements called for in the federal act requirements:

(1) An initial earthquake performance evaluation of public facilities that provide essential services, shelter, and critical governmental functions.

(2) An inventory of private facilities that are potentially hazardous, including, but not limited to, multiunit, soft story, concrete tilt-up, and concrete frame buildings.

(3) A plan to reduce the potential risk from private and governmental facilities in the event of a disaster.

(b) Local jurisdictions that have not adopted a local hazard mitigation plan shall be given preference by the Office of Emergency Services in recommending actions to be funded from the Pre-Disaster Mitigation Program, the Hazard Mitigation Grant Program, and the Flood Mitigation Assistance Program to assist the local jurisdiction in developing and adopting a local hazard mitigation plan, subject to available

funding from the Federal Emergency Management Agency.

(Amended by Stats. 2013, Ch. 352, Sec. 312. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 65302.7. (a) For the purposes of complying with Section 65302.5, each county or city located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, shall submit the draft element of, or draft amendment to, the safety element to the Central Valley Flood Protection Board and to every local agency that provides flood protection to territory in the city or county at least 90 days prior to the adoption of, or amendment to, the safety element of its general plan.

(b) The Central Valley Flood Protection Board and each local agency described in paragraph (1) shall review the draft or an existing safety element and report their respective written recommendations to the planning agency within 60 days of the receipt of the draft or existing safety element. The Central Valley Flood Protection Board and each local agency shall review the draft or existing safety element and may offer written recommendations for changes to the draft or existing safety element regarding both of the following:

(1) Uses of land and policies in areas subjected to flooding that will protect life, property, and natural resources from unreasonable risks associated with flooding.

(2) Methods and strategies for flood risk reduction and protection within areas subjected to flooding.

(c) Prior to the adoption of its draft element or draft amendments to the safety element, the board of supervisors of the county or the city council of a city shall consider the recommendations made by the Central Valley Flood Protection Board and any local agency that provides flood protection to territory in the city or county. If the board of supervisors or the city council determines not to accept all or some of the recommendations, if any, made by the Central Valley Flood Protection Board or the local agency, the board of supervisors or the city council shall make findings that state its reasons for not accepting a recommendation and shall communicate those findings in writing to the Central Valley Flood Protection Board or to the local agency.

(d) If the Central Valley Flood Protection Board's or the local agency's recommendations are not available within the time limits required by this section, the board of supervisors or the city council may act without those recommendations. The board of supervisors or city council shall consider the recommendations at the next time it considers amendments to its safety element.

(Added by Stats. 2007, Ch. 369, Sec. 2. Effective January 1, 2008.)

§ 65302.8. If a county or city, including a charter city, adopts or amends a mandatory general plan element which operates to limit the number of housing units which may be constructed on an annual basis, such adoption or amendment shall contain findings which justify reducing the housing opportunities of the region. The findings shall include all of the following:

(a) A description of the city's or county's appropriate share of the regional need for housing.

(b) A description of the specific housing programs and activities being undertaken by the local jurisdiction to fulfill the requirements of subdivision (c) of Section 65302.

(c) A description of how the public health, safety, and welfare would be promoted by such adoption or amendment.

(d) The fiscal and environmental resources available to the local jurisdiction.

(Added by Stats. 1980, Ch. 823.)

§ 65302.9. (a) Within 24 months of July 2, 2013, each city and county within the Sacramento-San Joaquin Valley shall amend its general plan to contain all of the following:

(1) (A) The data and analysis contained in the Central Valley Flood Protection Plan pursuant to Section 9612 of the Water Code, including, but not limited to, the locations of the facilities of the State Plan of Flood Control and the locations of the real property protected by those facilities.

(B) The locations of flood hazard zones, including, but not limited to, locations mapped by the Federal Emergency Management Agency Flood Insurance Rate Map or the Flood Hazard Boundary Map, locations that participate in the National Flood Insurance Program, locations of undetermined risk areas, and locations mapped by a local flood agency or flood district.

(2) Goals, policies, and objectives, based on the data and analysis identified pursuant to paragraph (1), for the protection of lives and property that will reduce the risk of flood damage.

(3) Feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to paragraph (2).

(b) An undetermined risk area shall be presumed to be at risk during flooding that has a 1-in-200 chance of occurring in any given year unless deemed otherwise by the State Plan of Flood Control, an official National Flood Insurance Program rate map issued by the Federal Emergency Management Agency, or a finding made by a city or county based on a determination of substantial evidence by a local flood agency.

(c) To assist each city or county in complying with this section, the Central Valley Flood Protection Board, the Department of Water Resources, and local flood agencies shall collaborate with cities or counties by providing them with information and other technical assistance.

(d) In implementing this section, each city and county, both general law and charter, within the Sacramento-San Joaquin Valley, shall comply with this article, including, but not limited to, Sections 65300.5, 65300.7, 65300.9, and 65301.

(e) Notwithstanding any other law, this section shall apply to all cities, including charter cities, and counties within the Sacramento-San Joaquin Valley. The Legislature finds and declares that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

(f) This section shall not be construed to limit or remove any liability of a city or county prior to the amendment of the general plan except as provided in Section 8307 of the Water Code.

(Amended by Stats. 2012, Ch. 553, Sec. 2. Effective January 1, 2013.)

§ 65302.10. (a) As used in this section, the following terms shall have the following meanings:

(1) “Community” means an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another.

(2) “Disadvantaged unincorporated community” means a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income.

(3) “Fringe community” means any inhabited and unincorporated territory that is within a city’s sphere of influence.

(4) “Island community” means any inhabited and unincorporated territory that is surrounded or substantially surrounded by one or more cities or by one or more cities and a county boundary or the Pacific Ocean.

(5) “Legacy community” means a geographically isolated community that is inhabited and has existed for at least 50 years.

(b) On or before the due date for the next adoption of its housing element pursuant to Section 65588, each city or county shall review and update the land use element of its general plan, based on available data, including, but not limited to, the data and analysis developed pursuant to Section 56430, of unincorporated island, fringe, or legacy communities inside or near its boundaries. The updated land use element shall include all of the following:

(1) In the case of a city, an identification of each island or fringe community within the city's sphere of influence that is a disadvantaged unincorporated community. In the case of a county, an identification of each legacy community within the boundaries of the county that is a disadvantaged unincorporated community, but not including any area within the sphere of influence of any city. This identification shall include a description of the community and a map designating its location.

(2) For each identified community, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies.

(3) An analysis, based on then existing available data, of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible.

(c) On or before the due date for each subsequent revision of its housing element pursuant to Section 65588, each city and county shall review, and if necessary amend, its general plan to update the analysis required by this section.

(Amended by Stats. 2012, Ch. 330, Sec. 14. Effective January 1, 2013.)

§ 65302.11. (a) Notwithstanding subdivision (b) of Section 65302.3, the general plan, and any applicable specific plan, for the City of Coronado shall be amended, as necessary, within 540 days of any amendment to the plan required under Section 21675 of the Public Utilities Code if the amendment is made prior to January 1, 2017.

(b) This section shall remain in effect only until January 1, 2019, or 540 days after an amendment to the plan required under Section 21675 of the Public Utilities Code, whichever is earlier, and as of that date is repealed.

(Added by Stats. 2013, Ch. 606, Sec. 1. Effective January 1, 2014. Repealed on or before January 1, 2019, as prescribed by its own provisions.)

§ 65303. The general plan may include any other elements or address any other subjects which, in the judgment of the legislative body, relate to the physical development of the county or city.

(Repealed and added by Stats. 1984, Ch. 1009, Sec. 9.)

§ 65303.4. The Department of Water Resources or the Central Valley Flood Protection Board, as appropriate, and the Department of Fish and Game may develop site design and planning policies to assist local agencies which request help in implementing the general plan guidelines for meeting flood control objectives and other land management needs.

(Amended by Stats. 2007, Ch. 369, Sec. 3. Effective January 1, 2008.)

DIVISION 2. Subdivisions

[66410-66499.38] (Division 2 added by Stats. 1974, Ch. 1536.)

CHAPTER 1. General Provisions and Definitions

[66410-66424.6] (Chapter 1 added by Stats. 1974, Ch. 1536.)

Article 1. General Provisions

[66410-66413.5] (Article 1 added by Stats. 1974, Ch. 1536.)

§ 66413.5. (a) When any area in a subdivision or proposed subdivision as to which a tentative map meeting the criteria of this section has been approved by a board of supervisors is incorporated into a newly incorporated city, the newly incorporated city shall approve the final map if it meets all of the conditions of the tentative map and meets the requirements and conditions for approval of final maps as provided in Article 4 (commencing with Section 66456), and other requirements of this division.

(b) When any area in a subdivision or proposed subdivision as to which a vesting tentative map meeting the criteria of this section has been approved by a board of supervisors is incorporated into a newly incorporated city, the newly incorporated city shall approve the final map and give effect to the vesting tentative map as provided in Chapter 4.5 (commencing with Section 66498.1), if the final map meets all of the conditions of the vesting tentative map and meets the requirements and conditions for approval of final maps as provided in Article 4 (commencing with Section 66456), Chapter 4.5 (commencing with Section 66498.1), and other requirements of this division.

(c) Notwithstanding subdivisions (a) and (b), the newly incorporated city may condition or deny a permit, approval, or extension, or entitlement if it determines either of the following:

(1) Failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required, in order to comply with state or federal law.

(d) The rights conferred by this section shall expire if a final map application is not timely filed prior to the expiration of the tentative or vesting tentative map. Prior to the approval of the final map, the rights conferred by this section shall be subject to the applicable time periods set forth in Section 66452.6, which shall not exceed eight years from the date of the incorporation unless an applicant and the newly incorporated city mutually agree to a longer period provided by this division.

(e) An approved tentative map or vesting tentative map shall not limit a newly incorporated city from imposing reasonable conditions on subsequent required approvals or permits necessary for the development, and authorized by the ordinances, policies, and standards described in Section 66474.2.

(f) Except as otherwise provided in subdivision (g), this section applies to any approved tentative map or approved vesting tentative map that meets both of the following requirements:

(1) The application for the tentative map or the vesting tentative map is submitted prior to the date that the first signature was affixed to the petition for incorporation pursuant to Section 56704, regardless of the validity of the first signature, or the adoption of the resolution pursuant to Section 56800, whichever occurs first.

(2) The county approved the tentative map or the vesting tentative map prior to the date of the election on the question of incorporation.

(g) This section does not apply to any territory for which the effective date of the incorporation is prior to January 1, 1999.

(h) It is not the intent of the Legislature to influence or affect any litigation pending on or initiated before January 1, 1999.

(Added by Stats. 1998, Ch. 689, Sec. 7.5. Effective January 1, 1999.)

Public Resources Code

DIVISION 1. ADMINISTRATION

[500-830] (Division 1 repealed and added by Stats. 1965, Ch. 1144.)

CHAPTER 2. Department of Conservation

[600-690] (Chapter 2 added by Stats. 1965, Ch. 1144.)

Article 1. Organization and General Powers

[600-615] (Article 1 added by Stats. 1965, Ch. 1144.)

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

- (a) California Geological Survey.
- (b) Division of Oil, Gas, and Geothermal Resources.
- (c) Division of Land Resource Protection.
- (d) Office of Mine Reclamation.

(Amended by Stats. 2013, Ch. 472, Sec. 3. Effective January 1, 2014.)

§ 611. Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the department, director, the State Geologist, the State Mining and Geology Board, or the California Geological Survey shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

(Amended by Stats. 2006, Ch. 869, Sec. 10. Effective January 1, 2007.)

Article 2. State Mining and Geology Board

[660-678] (Heading of Article 2 renumbered from Article 3 by Stats. 1976, Ch. 1300.)

§ 670. The board may appoint an executive officer who shall be exempt from civil service pursuant to subdivision (e) of Section 4 of Article XXIV of the California Constitution. The board may also employ such clerical assistance as may be necessary for the proper discharge of its duties. Neither the board nor its

employees shall have or be given any powers in relation to the administration of the division.
(Added by Stats. 1975, Ch. 1131.)

§ 677. The board shall nominate, and the director shall appoint, the State Geologist, who shall either be registered in compliance with the Geologist and Geophysicist Act (Chapter 12.5 (commencing with Section 7800) of Division 3 of the Business and Professions Code) at least one year from the date of appointment, or the Board for Professional Engineers and Land Surveyors may, upon the review of academic and professional experience, grant registration. The State Geologist shall possess general knowledge of mineral resources, structural geology, seismology, engineering geology, and related disciplines in science and engineering, and the reclamation of mined lands and waters. The State Geologist shall advise the director regarding technical, scientific, and engineering issues, including the scientific quality of the division's products and activities.

(Amended by Stats. 2009, 4th Ex. Sess., Ch. 18, Sec. 68. Effective October 23, 2009.)

§ 678. The director may authorize the State Geologist to exercise his power to appoint employees of the division in accordance with the State Civil Service Act. The director may authorize the State Geologist, or any employee of the division, to exercise any power granted to, or perform any duty imposed upon, the director by the State Civil Service Act.

(Added by Stats. 1975, Ch. 1131.)

DIVISION 2. GEOLOGY, MINES AND MINING

[2001-2815] (Heading of Division 2 amended by Stats. 1965, Ch. 1143.)

CHAPTER 1. Definitions

[2001-2010] (Chapter 1 enacted by Stats. 1939, Ch. 93.)

§ 2001. Unless the context otherwise requires, the definitions hereinafter set forth shall govern the construction of Division II of this code.

(Enacted by Stats. 1939, Ch. 93.)

§ 2002. "Department," in reference to the government of this state, means the Department of Conservation.

(Amended by Stats. 1965, Ch. 1144.)

§ 2002.5. "Director" means the Director of Conservation.

(Added by Stats. 1992, Ch. 1019, Sec. 1. Effective January 1, 1993.)

§ 2003. "Division," in reference to the government of this state, means the California Geological Survey in the Department of Conservation.

Wherever any reference is made to the Division of Mines and Geology in the Department of Conservation pertaining to a duty, power, purpose, responsibility, or jurisdiction of that division, it shall be deemed to be a reference to, and to mean a duty, power, purpose, responsibility, or jurisdiction of, the California Geological Survey of the Department of Conservation.

(Amended by Stats. 2006, Ch. 869, Sec. 12. Effective January 1, 2007.)

§ 2004. “Person” includes any individual, firm, association, corporation, organization, limited liability company, or partnership, or any city, county, district, or the state or any department or agency thereof.
(Amended by Stats. 1994, Ch. 1010, Sec. 203. Effective January 1, 1995.)

§ 2005. “Minerals” means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.
(Added by Stats. 1975, Ch. 1131.)

§ 2006. “State Geologist” means the individual holding the office created by Section 677.
(Added by Stats. 1975, Ch. 1131.)

§ 2007. “Exploration” or “prospecting” means the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of minerals present.
(Added by Stats. 1975, Ch. 1131.)

§ 2008. “Board” means the State Mining and Geology Board.
(Added by Stats. 1975, Ch. 1131.)

§ 2009. “Geologic hazard” means a geologic condition that is a potential danger to life and property. Geologic hazards include, but are not limited to, earthquake shaking, landslide, erosion, expansive soil, fault displacement, and volcanic eruption.
(Added by Stats. 1988, Ch. 259, Sec. 3.)

§ 2010. “Director” means the Director of Conservation.
(Added by Stats. 1992, Ch. 999, Sec. 5. Effective January 1, 1993.)

CHAPTER 2. The Division of Mines and Geology

[2200-2211] (Heading of Chapter 2 amended by Stats. 1975, Ch. 1131.)

§ 2200. For the purposes of this chapter, “mine” includes all mineral bearing properties of whatever kind or character, whether underground, or in a quarry or pit, or any other source from which any mineral substance is or may be obtained.
(Amended by Stats. 1975, Ch. 1131.)

§ 2200.5. For the purposes of this chapter, “lead agency” means the city, county, San Francisco Bay Conservation and Development Commission, or the board that has the principal responsibility for approving a surface mining operation or reclamation plan pursuant to Chapter 9 (commencing with Section 2710).
(Added by Stats. 2003, Ch. 240, Sec. 4. Effective August 13, 2003.)

§ 2201. The division shall carry out programs, in cooperation with federal, state, and local government agencies, that will reduce the loss of life and property, and protect the environment, by mitigating geologic hazards. Specific activities to be carried out by the division include, but are not limited to, all of the following:

(a) Hazard assessment, including identification and mapping of geologic hazards and estimates of their potential consequences to life, property, and the environment, and likelihood of occurrence.

(b) Information and advisory services, including the maintenance of a geologic library, a public education program, maintenance of a geologic data base, review functions, and expert consulting to federal, state, and local government agencies.

(c) Emergency response to geologic hazards, including, but not limited to, those related to natural disasters, including monitoring and assessment of anomalous geologic activity, and operation of a clearing-house for postevent earth science investigations.

(d) Development and application of mitigation methods, including identifying state research needs, facilitating needed research, and expediting the application of new research results to public policy and all division activities related to geologic hazards.

(Amended by Stats. 2007, Ch. 254, Sec. 1. Effective September 26, 2007.)

§ 2202. The director may do any of the following:

(a) (1) Make a collection of typical geological and mineralogical specimens, especially those of economic and commercial importance, and of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes and geology, that collection constituting the museum of the division, which shall be known as the California State Mining and Mineral Museum.

(2) For the purpose of ensuring financial support and oversight of the museum, the department, museum staff, and the California State Mining and Mineral Museum Association may take all appropriate measures to encourage donations for support of the museum by individuals, companies, and organizations. These donations shall be collected by the department and deposited in the California State Mining and Mineral Museum Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the department for expenditure for the following activities, in the following order of priority:

(A) Payment of curation, interpretation services, and administrative costs.

(B) Payment of management and visitation enhancement services.

(C) Operational costs of the museum.

(b) Provide a library of books, reports, and drawings bearing upon the mineral industries, the sciences of mineralogy and geology, and the arts of mining and metallurgy.

(c) Preserve and maintain that collection and library as to make them available for reference and examination, and open to public inspection at reasonable hours.

(d) Maintain a bureau of information concerning the mineral industries of this state, to consist of that collection and library, and arrange, classify, catalog, and index the data therein contained in a manner that makes the information available to those desiring it.

(Added by Stats. 1992, Ch. 1019, Sec. 2. Effective January 1, 1993.)

§ 2203. The State Geologist shall provide all requested and recommended information to the director who shall prepare a report for transmission to the Governor on or before the 15th day of September of each year. The report shall include a section reviewing the status of measures taken in the state to counter geologic hazards and a section reviewing the economic utilization and conservation of the state's mineral resources and problems related thereto pursuant to Chapter 7.6 (commencing with Section 2650).

(Amended by Stats. 1992, Ch. 999, Sec. 6. Effective January 1, 1993.)

§ 2204. The director may receive on behalf of this state, for the use and benefit of the division, gifts, bequests, devises, and legacies of real or other property and may use the same in accordance with the wishes

of the donors. If no instructions are given by the donors, the director shall manage, use, and dispose of the gifts, bequests, and legacies for the best interests of the division and in such manner as the director may determine to be proper.

(Amended by Stats. 1992, Ch. 999, Sec. 7. Effective January 1, 1993.)

§ 2205. (a) The State Geologist may do all of the following:

(1) Make, facilitate, and encourage special studies of the mineral resources, mineral industries, and geology of the state.

(2) Collect statistics concerning the occurrence and production of the economically important minerals and the methods pursued in making their valuable constituents available for commercial use.

(3) Conduct, with governmental and nongovernmental entities, geological investigations, studies, and other activities for purposes, including, but not limited to, the timely identification, delineation, and assessment of geological hazards and their potential consequences.

(4) Identify and delineate deposits of mineral raw materials in order to prevent their loss to urban encroachment and to assist in their ultimate utilization; and enter into, as the need arises, cooperative agreements, for geological or mineral industry investigations, with cities, cities and counties, counties, federal agencies, and universities that may provide for cost-sharing or cooperative funding.

(5) Maintain a laboratory to provide support to the division staff and to conduct other investigations in the line of physical and chemical testing and analysis and mineral identification as may be required in the execution of the plans and operations of the division under this chapter.

(6) Issue from time to time reports and maps concerning the geology of the state and the statistics and technology of the mineral industries of the state, including results of investigations in mineral resources conservation practices, the use and recycling of scrap mineral products, the control, disposal, reclamation, and utilization of mining and mineral processing waste products, and the reclamation of mined lands.

(7) Conduct, with cities or counties, other state agencies, universities, federal agencies, or private industry, investigations in mining and metallurgy, including the use and recycling of scrap mineral products, and land use practices as these apply to mineral resources conservation, and enter into, as the need arises, cooperative or contractual agreements for those investigations that may provide for cost-sharing or cooperative funding.

(8) Conduct, with cities and counties, other state agencies, universities, federal agencies, or private industry, investigations in the study and development of methods for the control, disposal, reclamation, and utilization of mining and mineral processing waste products and the reclamation of mined lands, and enter into, as the need arises, cooperative or contractual agreements for those investigations that may provide for cost-sharing or cooperative funding.

(9) Enter into, as the need arises, agreements including, but not limited to, contracts, grant agreements, and cooperative agreements, with governmental and nongovernmental entities that may provide funding for activities of the California Geological Survey and for the activities of the department that are directly related to the activities of the California Geological Survey. Activities that may be funded include, but are not limited to, technical, analytic, and research services related to geologic hazards and resources that the California Geological Survey may provide directly to those entities.

(b) For purposes of this section, the following definitions shall apply:

(1) "Governmental entities" include, but are not limited to, cities, counties, special districts, school districts, state agencies, federal agencies, public hospitals, colleges, and universities.

(2) "Nongovernmental entities" include, but are not limited to, private academic institutions, nonprofit organizations, and private hospitals.

(Amended by Stats. 2010, Ch. 271, Sec. 1. Effective January 1, 2011.)

§ 2205.1. None of the provisions of Division 1 (commencing with Section 501) or this division shall be construed as abridging the authorized geologic functions of other state agencies.

(Added by Stats. 1965, Ch. 1143.)

§ 2206. The State Geologist may prepare a special collection of ores and minerals of California to be sent to or used at any world's fair or exposition in order to display the mineral wealth of the State.

(Amended by Stats. 1961, Ch. 371.)

§ 2206.1. Notwithstanding Section 14670 of the Government Code, subject to the approval of the Director of General Services, the State Geologist may lease, for a period not to exceed 20 years, collections of ores and minerals of California for the public benefit.

(Added by Stats. 1984, Ch. 1042, Sec. 2. Effective September 12, 1984.)

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

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

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

(3) The location of the mining operation, its name, its mine number as issued by the Bureau of Mines or the director, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7 1/2-minute or 15-minute quadrangle map.

(4) The lead agency.

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

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

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

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

(9) Proof of financial assurances.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of three million five hundred thousand dollars (\$3,500,000), as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using

the percentage change in the previous year, beginning with the 2005–06 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

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

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

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

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 11/2 percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations that have not submitted a report shall submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

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

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

(g) Any information in reports submitted pursuant to subdivision (a) that includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation may not be disclosed to any member of the public, as defined in subdivision (b) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the pro-

duction, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

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

(Amended by Stats. 2006, Ch. 869, Sec. 13. Effective January 1, 2007.)

§ 2207.1. A manufacturer or processor, at his option, may upon request report to the State Geologist data on consumption or utilization of mineral materials. Such reports shall be confidential. Publications issued as commodity or marketing studies under the provisions of Section 2205 of this code may contain figures from such reports, provided that these figures are presented so as not to disclose the consumption or utilization of minerals by any user.

(Amended by Stats. 1965, Ch. 70.)

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

(Amended by Stats. 1992, Ch. 999, Sec. 8. Effective January 1, 1993.)

§ 2209. The director may fix a price upon and dispose of to the public all publications of the division, including reports, bulletins, maps, registers, or other publications. The price shall approximate the cost of publication and distribution. The director may also furnish the publications of the division to public libraries without cost and may exchange publications with geological surveys, scientific societies, and other like bodies.

(Amended by Stats. 1992, Ch. 999, Sec. 9. Effective January 1, 1993.)

§ 2210. All money received by the division from sales of publications issued by the division shall be deposited at least once each month in the State treasury to the credit of the General Fund.

(Amended by Stats. 1945, Ch. 425.)

§ 2211. The department is the primary state agency responsible for geologic hazard review and investigation, including, but not limited to, investigation of geologic hazards that may occur in relation to natural disasters. In that capacity, the department is responsible for the seismological, geological, and strong motion aspects of earthquake and other geological hazards investigations.

(Amended by Stats. 2007, Ch. 254, Sec. 3. Effective September 26, 2007.)

CHAPTER 7.5. Earthquake Fault Zoning

[2621-2630] (Heading of Chapter 7.5 amended by Stats. 1993, Ch. 197, Sec. 1.)

§ 2621. This chapter shall be known, and may be cited, as the Alquist-Priolo Earthquake Fault Zoning Act. (Amended by Stats. 1993, Ch. 197, Sec. 2. Effective January 1, 1994.)

§ 2621.5. (a) It is the purpose of this chapter to provide for the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties in implementation of the general plan that is in effect in any city or county. The Legislature declares that this chapter is intended to provide policies and criteria to assist cities, counties, and state agencies in the exercise of their responsibility to prohibit the location of developments and structures for human occupancy across the trace of active faults. Further, it is the intent of this chapter to provide the citizens of the state with increased safety and to minimize the loss of life during and immediately following earthquakes by facilitating seismic retrofitting to strengthen buildings, including historical buildings, against ground shaking.

(b) This chapter is applicable to any project, as defined in Section 2621.6, which is located within a delineated earthquake fault zone, upon issuance of the official earthquake fault zones maps to affected local jurisdictions, except as provided in Section 2621.7.

(c) The implementation of this chapter shall be pursuant to policies and criteria established and adopted by the board.

(Amended by Stats. 1993, Ch. 916, Sec. 1. Effective January 1, 1994.)

§ 2621.6. (a) As used in this chapter, “project” means either of the following:

(1) Any subdivision of land which is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), and which contemplates the eventual construction of structures for human occupancy.

(2) Structures for human occupancy, with the exception of either of the following:

(A) Single-family wood-frame or steel-frame dwellings to be built on parcels of land for which geologic reports have been approved pursuant to paragraph (1).

(B) A single-family wood-frame or steel-frame dwelling not exceeding two stories when that dwelling is not part of a development of four or more dwellings.

(b) For the purposes of this chapter, a mobilehome whose body width exceeds eight feet shall be considered to be a single-family wood-frame dwelling not exceeding two stories.

(Amended by Stats. 1992, Ch. 506, Sec. 2. Effective August 17, 1992.)

§ 2621.7. This chapter, except Section 2621.9, shall not apply to any of the following:

(a) The conversion of an existing apartment complex into a condominium.

(b) Any development or structure in existence prior to May 4, 1975, except for an alteration or addition to a structure that exceeds the value limit specified in subdivision (c).

(c) An alteration or addition to any structure if the value of the alteration or addition does not exceed 50 percent of the value of the structure.

(d) (1) Any structure located within the jurisdiction of the City of Berkeley or the City of Oakland which was damaged by fire between October 20, 1991, and October 23, 1991, if granted an exemption pursuant to this subdivision.

(2) The city may apply to the State Geologist for an exemption and the State Geologist shall grant the exemption only if the structure located within the earthquake fault zone is not situated upon a trace of an active fault line, as delineated in the official earthquake fault zone map or in more recent geologic data, as determined by the State Geologist.

(3) When requesting an exemption, the city shall submit to the State Geologist all of the following information:

(A) Maps noting the parcel numbers of proposed building sites that are at least 50 feet from an identified fault and a statement that there is not any more recent information to indicate a geologic hazard.

(B) Identification of any sites that are within 50 feet of an identified fault.

(C) Proof that the property owner has been notified that the granting of an exemption is not any guarantee that a geologic hazard does not exist.

(4) The granting of the exemption does not relieve a seller of real property or an agent for the seller of the obligation to disclose to a prospective purchaser that the property is located within a delineated earthquake fault zone, as required by Section 2621.9.

(e) (1) Alterations that include seismic retrofitting, as defined in Section 8894.2 of the Government Code, to any of the following listed types of buildings in existence prior to May 4, 1975:

(A) Unreinforced masonry buildings, as described in subdivision (a) of Section 8875 of the Government Code.

(B) Concrete tilt-up buildings, as described in Section 8893 of the Government Code.

(C) Reinforced concrete moment resisting frame buildings as described in Applied Technology Council Report 21 (FEMA Report 154).

(2) The exemption granted by paragraph (1) shall not apply unless a city or county acts in accordance with all of the following:

(A) The building permit issued by the city or county for the alterations authorizes no greater human occupancy load, regardless of proposed use, than that authorized for the existing use permitted at the time the city or county grants the exemption. This may be accomplished by the city or county making a human occupancy load determination that is based on, and no greater than, the existing authorized use, and including that determination on the building permit application as well as a statement substantially as follows: "Under subparagraph (A) of paragraph (2) of subdivision (e) of Section 2621.7 of the Public Resources Code, the occupancy load is limited to the occupancy load for the last lawful use authorized or existing prior to the issuance of this building permit, as determined by the city or county."

(B) The city or county requires seismic retrofitting, as defined in Section 8894.2 of the Government Code, which is necessary to strengthen the entire structure and provide increased resistance to ground shaking from earthquakes.

(C) Exemptions granted pursuant to paragraph (1) are reported in writing to the State Geologist within 30 days of the building permit issuance date.

(3) Any structure with human occupancy restrictions under subparagraph (A) of paragraph (2) shall not be granted a new building permit that allows an increase in human occupancy unless a geologic report, prepared pursuant to subdivision (d) of Section 3603 of Title 14 of the California Code of Regulations in effect on January 1, 1994, demonstrates that the structure is not on the trace of an active fault, or the requirement of a geologic report has been waived pursuant to Section 2623.

(4) A qualified historical building within an earthquake fault zone that is exempt pursuant to this subdivision may be repaired or seismically retrofitted using the State Historical Building Code, except

that, notwithstanding any provision of that building code and its implementing regulations, paragraph (2) shall apply.

(Amended by Stats. 2010, Ch. 251, Sec. 1. Effective January 1, 2011.)

§ 2621.8. Notwithstanding Section 818.2 of the Government Code, a city or county which knowingly issues a permit that grants an exemption pursuant to subdivision (e) of Section 2621.7 that does not adhere to the requirements of paragraph (2) of subdivision (e) of Section 2621.7, may be liable for earthquake-related injuries or deaths caused by its failure to so adhere.

(Repealed and added by Stats. 1993, Ch. 916, Sec. 4. Effective January 1, 1994.)

§ 2621.9. (a) A person who is acting as an agent for a transferor of real property that is located within a delineated earthquake fault zone, or the transferor, if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a delineated earthquake fault zone.

(b) Disclosure is required pursuant to this section only when one of the following conditions is met:

(1) The transferor, or the transferor's agent, has actual knowledge that the property is within a delineated earthquake fault zone.

(2) A map that includes the property has been provided to the city or county pursuant to Section 2622, and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(c) In all transactions that are subject to Section 1103 of the Civil Code, the disclosure required by subdivision (a) of this section shall be provided by either of the following means:

(1) The Local Option Real Estate Transfer Disclosure Statement as provided in Section 1102.6a of the Civil Code.

(2) The Natural Hazard Disclosure Statement as provided in Section 1103.2 of the Civil Code.

(d) If the map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a delineated earthquake fault hazard zone, the agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1103.4 of the Civil Code that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the transferor or the transferor's agents to exercise reasonable care in making a determination under this subdivision.

(e) For purposes of the disclosures required by this section, the following persons shall not be deemed agents of the transferor:

(1) Persons specified in Section 1103.11 of the Civil Code.

(2) Persons acting under a power of sale regulated by Section 2924 of the Civil Code.

(f) For purposes of this section, Section 1103.13 of the Civil Code shall apply.

(g) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(Amended by Stats. 1999, Ch. 876, Sec. 8. Effective January 1, 2000.)

§ 2622. (a) In order to assist cities and counties in their planning, zoning, and building-regulation functions, the State Geologist shall delineate, by December 31, 1973, appropriately wide earthquake fault zones

to encompass all potentially and recently active traces of the San Andreas, Calaveras, Hayward, and San Jacinto Faults, and such other faults, or segments thereof, as the State Geologist determines to be sufficiently active and well-defined as to constitute a potential hazard to structures from surface faulting or fault creep. The earthquake fault zones shall ordinarily be one-quarter mile or less in width, except in circumstances which may require the State Geologist to designate a wider zone.

(b) Pursuant to this section, the State Geologist shall compile maps delineating the earthquake fault zones and shall submit those maps to all affected cities, counties, and state agencies, not later than December 31, 1973, for review and comment. Concerned jurisdictions and agencies shall submit all comments to the State Mining and Geology Board for review and consideration within 90 days. Within 90 days of that review, the State Geologist shall provide copies of the official maps to concerned state agencies and to each city or county having jurisdiction over lands lying within that zone.

(c) The State Geologist shall continually review new geologic and seismic data and shall revise the earthquake fault zones or delineate additional earthquake fault zones when warranted by new information. The State Geologist shall submit all revised maps and additional maps to all affected cities, counties, and state agencies for their review and comment. Concerned jurisdictions and agencies shall submit all comments to the State Mining and Geology Board for review and consideration within 90 days. Within 90 days of that review, the State Geologist shall provide copies of the revised and additional official maps to concerned state agencies and to each city or county having jurisdiction over lands lying within the earthquake fault zone.

(d) In order to ensure that sellers of real property and their agents are adequately informed, any county that receives an official map pursuant to this section shall post a notice within five days of receipt of the map at the offices of the county recorder, county assessor, and county planning commission, identifying the location of the map and the effective date of the notice.

(Amended by Stats. 1993, Ch. 197, Sec. 7. Effective January 1, 1994.)

§ 2623. (a) The approval of a project by a city or county shall be in accordance with policies and criteria established by the State Mining and Geology Board and the findings of the State Geologist. In the development of those policies and criteria, the State Mining and Geology Board shall seek the comment and advice of affected cities, counties, and state agencies. Cities and counties shall require, prior to the approval of a project, a geologic report defining and delineating any hazard of surface fault rupture. If the city or county finds that no undue hazard of that kind exists, the geologic report on the hazard may be waived, with the approval of the State Geologist.

(b) After a report has been approved or a waiver granted, subsequent geologic reports shall not be required, provided that new geologic data warranting further investigations is not recorded.

(c) The preparation of geologic reports that are required pursuant to this section for multiple projects may be undertaken by a geologic hazard abatement district.

(Amended by Stats. 1993, Ch. 916, Sec. 5. Effective January 1, 1994.)

§ 2624. Notwithstanding any provision of this chapter, cities and counties may do any of the following:

- (1) Establish policies and criteria which are stricter than those established by this chapter.
- (2) Impose and collect fees in addition to those required under this chapter.
- (3) Determine not to grant exemptions authorized under this chapter.

(Amended by Stats. 1993, Ch. 916, Sec. 6. Effective January 1, 1994.)

§ 2625. (a) Each applicant for approval of a project may be charged a reasonable fee by the city or county having jurisdiction over the project.

(b) Such fees shall be set in an amount sufficient to meet, but not to exceed, the costs to the city or county of administering and complying with the provisions of this chapter.

(c) The geologic report required by Section 2623 shall be in sufficient detail to meet the criteria and policies established by the State Mining and Geology Board for individual parcels of land.

(Amended by Stats. 1975, Ch. 61.)

§ 2630. In carrying out the provisions of this chapter, the State Geologist and the board shall be advised by the Seismic Safety Commission.

(Amended by Stats. 1976, Ch. 1243.)

CHAPTER 7.6. State Mining and Minerals Policy

[2650-2650] (Heading of Chapter 7.6 renumbered from Chapter 7.5

(as added by Stats. 1972, Ch. 1225) by Stats. 1974, Ch. 545.)

§ 2650. (a) It is the continuing policy of the State of California, in the interest of the needs of society for the wise use of mineral resources and for other sound conservation practices, to foster and encourage private enterprise in all of the following activities:

(1) The development within the state of economically sound and beneficial mineral industries and metal and mineral product reclamation industries.

(2) The orderly and economic exploration, development, and utilization of the state's mineral resources and reclamation of metal and mineral products.

(3) Mining, mineral, and metallurgical research to promote the wise and efficient use of natural and reclaimable mineral resources.

(4) The study and development of methods for the control, disposal, reclamation, and utilization of mining and mineral processing waste products and the reclamation of mined lands so as to minimize any adverse effects of mineral extraction and processing upon the physical environment.

(b) The director shall carry out the policy set forth in this section.

(Amended by Stats. 1992, Ch. 999, Sec. 10. Effective January 1, 1993.)

CHAPTER 7.8. Seismic Hazards Mapping

[2690-2699.6] (Chapter 7.8 added by Stats. 1990, Ch. 1168, Sec. 3.)

§ 2690. This chapter shall be known and may be cited as the Seismic Hazards Mapping Act.

(Added by Stats. 1990, Ch. 1168, Sec. 3. Section operative April 1, 1991, pursuant to Section 2599.6 (later renumbered as 2699.6).)

§ 2691. The Legislature finds and declares all of the following:

(a) The effects of strong ground shaking, liquefaction, landslides, or other ground failure account for approximately 95 percent of economic losses caused by an earthquake.

(b) Areas subject to these processes during an earthquake have not been identified or mapped statewide, despite the fact that scientific techniques are available to do so.

(c) It is necessary to identify and map seismic hazard zones in order for cities and counties to adequately prepare the safety element of their general plans and to encourage land use management policies and regulations to reduce and mitigate those hazards to protect public health and safety.

(Amended by Stats. 1991, Ch. 550, Sec. 3.)

§ 2692. (a) It is the intent of the Legislature to provide for a statewide seismic hazard mapping and technical advisory program to assist cities and counties in fulfilling their responsibilities for protecting the public health and safety from the effects of strong ground shaking, liquefaction, landslides, or other ground failure and other seismic hazards caused by earthquakes.

(b) It is further the intent of the Legislature that maps and accompanying information provided pursuant to this chapter be made available to local governments for planning and development purposes.

(c) It is further the intent of the Legislature that the California Geological Survey, in implementing this chapter, shall, to the extent possible, coordinate its activities with, and use existing information generated from, the earthquake fault zones mapping program pursuant to Chapter 7.5 (commencing with Section 2621), and the inundation maps prepared pursuant to Section 8589.5 of the Government Code.

(Amended by Stats. 2006, Ch. 869, Sec. 14. Effective January 1, 2007.)

§ 2692.1. The State Geologist may include in maps compiled pursuant to this chapter information on the potential effects of tsunami and seiche when information becomes available from other sources and the State Geologist determines the information is appropriate for use by local government. The State Geologist shall not be required to provide this information unless additional funding is provided both to make the determination and to distribute the tsunami and seiche information.

(Added by Stats. 1991, Ch. 550, Sec. 5.)

§ 2693. As used in this chapter:

(a) “City” and “county” includes the City and County of San Francisco.

(b) “Geotechnical report” means a report prepared by a certified engineering geologist or a civil engineer practicing within the area of his or her competence, which identifies seismic hazards and recommends mitigation measures to reduce the risk of seismic hazard to acceptable levels.

(c) “Mitigation” means those measures that are consistent with established practice and that will reduce seismic risk to acceptable levels.

(d) “Project” has the same meaning as in Chapter 7.5 (commencing with Section 2621), except as follows:

(1) A single-family dwelling otherwise qualifying as a project may be exempted by the city or county having jurisdiction of the project.

(2) “Project” does not include alterations or additions to any structure within a seismic hazard zone which do not exceed either 50 percent of the value of the structure or 50 percent of the existing floor area of the structure.

(e) “Commission” means the Seismic Safety Commission.

(f) “Board” means the State Mining and Geology Board.

(Amended by Stats. 1991, Ch. 550, Sec. 6.)

§ 2694. (a) A person who is acting as an agent for a transferor of real property that is located within a seismic hazard zone, as designated under this chapter, or the transferor, if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a seismic hazard zone.

(b) Disclosure is required pursuant to this section only when one of the following conditions is met:

(1) The transferor, or transferor's agent, has actual knowledge that the property is within a seismic hazard zone.

(2) A map that includes the property has been provided to the city or county pursuant to Section 2622, and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(c) In all transactions that are subject to Section 1103 of the Civil Code, the disclosure required by subdivision (a) of this section shall be provided by either of the following means:

(1) The Local Option Real Estate Transfer Disclosure Statement as provided in Section 1102.6a of the Civil Code.

(2) The Natural Hazard Disclosure Statement as provided in Section 1103.2 of the Civil Code.

(d) If the map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a seismic hazard zone, the agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1103.4 of the Civil Code that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the transferor or the transferor's agents to exercise reasonable care in making a determination under this subdivision.

(e) For purposes of the disclosures required by this section, the following persons shall not be deemed agents of the transferor:

(1) Persons specified in Section 1103.11 of the Civil Code.

(2) Persons acting under a power of sale regulated by Section 2924 of the Civil Code.

(f) For purposes of this section, Section 1103.13 of the Civil Code applies.

(g) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(Amended by Stats. 1999, Ch. 876, Sec. 9. Effective January 1, 2000.)

§ 2695. (a) On or before January 1, 1992, the board, in consultation with the director and the commission, shall develop all of the following:

(1) Guidelines for the preparation of maps of seismic hazard zones in the state.

(2) Priorities for mapping of seismic hazard zones. In setting priorities, the board shall take into account the following factors:

(A) The population affected by the seismic hazard in the event of an earthquake.

(B) The probability that the seismic hazard would threaten public health and safety in the event of an earthquake.

(C) The willingness of lead agencies and other public agencies to share the cost of mapping within their jurisdiction.

(D) The availability of existing information.

(3) Policies and criteria regarding the responsibilities of cities, counties, and state agencies pursuant to this chapter. The policies and criteria shall address, but not be limited to, the following:

(A) Criteria for approval of a project within a seismic hazard zone, including mitigation measures.

(B) The contents of the geotechnical report.

(C) Evaluation of the geotechnical report by the lead agency.

(4) Guidelines for evaluating seismic hazards and recommending mitigation measures.

(5) Any necessary procedures, including, but not limited to, processing of waivers pursuant to Section 2697, to facilitate the implementation of this chapter.

(b) In developing the policies and criteria pursuant to subdivision (a), the board shall consult with and consider the recommendations of an advisory committee, appointed by the board in consultation with the commission, composed of the following members:

(1) An engineering geologist registered in the state.

(2) A seismologist.

(3) A civil engineer registered in the state.

(4) A structural engineer registered in the state.

(5) A representative of city government, selected from a list submitted by the League of California Cities.

(6) A representative of county government, selected from a list submitted by the County Supervisors Association of California.

(7) A representative of regional government, selected from a list submitted by the Council of Governments.

(8) A representative of the insurance industry.

(9) The Insurance Commissioner.

All of the members of the advisory committee shall have expertise in the field of seismic hazards or seismic safety.

(c) At least 90 days prior to adopting measures pursuant to this section, the board shall transmit or cause to be transmitted a draft of those measures to affected cities, counties, and state agencies for review and comment.

(Amended by Stats. 1992, Ch. 999, Sec. 11. Effective January 1, 1993.)

§ 2696. (a) The State Geologist shall compile maps identifying seismic hazard zones, consistent with the requirements of Section 2695. The maps shall be compiled in accordance with a time schedule developed by the director and based upon the provisions of Section 2695 and the level of funding available to implement this chapter.

(b) The State Geologist shall, upon completion, submit seismic hazard maps compiled pursuant to subdivision (a) to the board and all affected cities, counties, and state agencies for review and comment. Concerned jurisdictions and agencies shall submit all comments to the board for review and consideration within 90 days. Within 90 days of board review, the State Geologist shall revise the maps, as appropriate, and shall provide copies of the official maps to each state agency, city, or county, including the county recorder, having jurisdiction over lands containing an area of seismic hazard. The county recorder shall record all information transmitted as part of the public record.

(c) In order to ensure that sellers of real property and their agents are adequately informed, any county that receives an official map pursuant to this section shall post a notice within five days of receipt of the map at the office of the county recorder, county assessor, and county planning agency, identifying the

location of the map, any information regarding changes to the map, and the effective date of the notice. *(Amended (as amended by Stats. 1992, Ch. 999) by Stats. 1998, Ch. 65, Sec. 14. Effective June 9, 1998. Applicable from June 1, 1998, by Sec. 18 of Ch. 65. Note: Ch. 65 (pursuant to Sec. 20) supersedes, and precludes operation of, Stats. 1997, 1st Ex. Sess., Ch. 7.)*

§ 2697. (a) Cities and counties shall require, prior to the approval of a project located in a seismic hazard zone, a geotechnical report defining and delineating any seismic hazard. If the city or county finds that no undue hazard of this kind exists, based on information resulting from studies conducted on sites in the immediate vicinity of the project and of similar soil composition to the project site, the geotechnical report may be waived. After a report has been approved or a waiver granted, subsequent geotechnical reports shall not be required, provided that new geologic datum, or data, warranting further investigation is not recorded. Each city and county shall submit one copy of each approved geotechnical report, including the mitigation measures, if any, that are to be taken, to the State Geologist within 30 days of its approval of the report.

(b) In meeting the requirements of this section, cities and counties shall consider the policies and criteria established pursuant to this chapter. If a project's approval is not in accordance with the policies and criteria, the city or county shall explain the reasons for the differences in writing to the State Geologist, within 30 days of the project's approval.

(Added by Stats. 1990, Ch. 1168, Sec. 3. Section operative April 1, 1991, pursuant to Section 2599.6 (later renumbered as 2699.6).)

§ 2698. Nothing in this chapter is intended to prevent cities and counties from establishing policies and criteria which are more strict than those established by the board.

(Added by Stats. 1990, Ch. 1168, Sec. 3. Section operative April 1, 1991, pursuant to Section 2599.6 (later renumbered as 2699.6).)

§ 2699. Each city and county, in preparing the safety element to its general plan pursuant to subdivision (g) of Section 65302 of the Government Code, and in adopting or revising land use planning and permitting ordinances, shall take into account the information provided in available seismic hazard maps.

(Added by Stats. 1990, Ch. 1168, Sec. 3. Section operative April 1, 1991, pursuant to Section 2599.6 (later renumbered as 2699.6).)

§ 2699.5. (a) There is hereby created the Seismic Hazards Identification Fund, as a special fund in the State Treasury.

(b) Upon appropriation by the Legislature, the moneys in the Strong-Motion Instrumentation and Seismic Hazards Mapping Fund shall be allocated to the division for purposes of this chapter and Chapter 8 (commencing with Section 2700).

(c) On and after July 1, 2004, the Seismic Hazards Identification Fund shall be known as the Strong-Motion Instrumentation and Seismic Hazards Mapping Fund.

(Amended by Stats. 2003, Ch. 240, Sec. 5. Effective August 13, 2003.)

§ 2699.6. This chapter shall become operative on April 1, 1991.

(Added by renumbering Section 2599.6 by Stats. 1991, Ch. 1091, Sec. 126. Note: This section, as formerly numbered 2599.6, prescribed a delayed operative date (April 1, 1991) for Chapter 7.8, commencing with Section 2690.)

CHAPTER 8. Strong-Motion Instrumentation Program

[2700-2709.1] (Chapter 8 added by Stats. 1971, Ch. 1152.)

§ 2700. There is hereby established in the State of California a strong-motion instrumentation program for the purpose of administering the program and of acquiring strong-motion instruments and installing and maintaining such instruments as needed in representative geologic environments and structures throughout the state.

(Added by Stats. 1971, Ch. 1152.)

§ 2701. The division shall organize and monitor the program with the advice of the Seismic Safety Commission.

(Amended by Stats. 1976, Ch. 1243.)

§ 2702. The division shall purchase, install, and maintain instruments in representative structures and geologic environments throughout the state, and shall process the data obtained from such instruments resulting from periodic earthquakes, as deemed necessary and desirable by the Seismic Safety Commission.

(Amended by Stats. 1976, Ch. 1243.)

§ 2703. The division shall maintain and service the strong-motion instruments installed, shall collect and interpret all records from the instruments, and shall make the records, record interpretations, and technical assistance available to the construction industry.

(Amended by Stats. 1987, Ch. 783, Sec. 2.)

§ 2704. It is the intent of the Legislature in enacting this chapter to provide adequate instrumentation throughout California.

(Added by Stats. 1971, Ch. 1152.)

§ 2705. (a) A city, county, and city and county shall collect a fee from each applicant for a building permit. Each fee shall be equal to a specific amount of the proposed building construction for which the building permit is issued as determined by the local building officials. The fee amount shall be assessed in the following way:

(1) Group R occupancies, as defined in the California Building Code (Part 2 of Title 24 of the California Code of Regulations), one to three stories in height, except hotels and motels, shall be assessed at the rate of thirteen dollars (\$13) per one hundred thousand dollars (\$100,000), with appropriate fractions thereof.

(2) All other buildings shall be assessed at the rate of twenty-eight dollars (\$28) per one hundred thousand dollars (\$100,000), with appropriate fractions thereof.

(3) The fee shall be the amount assessed under paragraph (1) or (2), depending on building type, or fifty cents (\$0.50), whichever is the higher.

(b) (1) In lieu of the requirements of subdivision (a), a city, county, and city and county may elect to include a rate of thirteen dollars (\$13) per one hundred thousand dollars (\$100,000), with appropriate fractions thereof, in its basic building permit fee for any Group R occupancy defined in paragraph (1) of subdivision (a), and a rate of twenty-eight dollars (\$28) per one hundred thousand dollars (\$100,000), with

appropriate fractions thereof, for all other building types. A city, county, and city and county electing to collect the fee pursuant to this subdivision need not segregate the fees in a fund separate from any fund into which basic building permit fees are deposited.

(2) "Building," for the purpose of this chapter, is any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

(c) (1) A city, county, and city and county may retain up to 5 percent of the total amount it collects under subdivision (a) or (b) for data utilization, for seismic education incorporating data interpretations from data of the strong-motion instrumentation program and the seismic hazards mapping program, and, in accordance with paragraph (2), for improving the preparation for damage assessment after strong seismic motion events.

(2) A city, county, and city and county may use any funds retained pursuant to this subdivision to improve the preparation for damage assessment in its jurisdiction only after it provides the Department of Conservation with information indicating to the department that data utilization and seismic education activities have been adequately funded.

(d) Funds collected pursuant to subdivisions (a) and (b), less the amount retained pursuant to subdivision (c), shall be deposited in the Strong-Motion Instrumentation and Seismic Hazards Mapping Fund, as created by Section 2699.5 to be used exclusively for purposes of this chapter, Chapter 7.5 (commencing with Section 2621), and Chapter 7.8 (commencing with Section 2690).

(Amended by Stats. 2014, Ch. 35, Sec. 129. Effective June 20, 2014.)

§ 2705.5. The California Geological Survey shall advise counties and cities as to that portion of the total fees allocated to the Strong-Motion Instrumentation and Seismic Hazards Mapping Fund, so that this information may be provided to building permit applicants.

(Amended by Stats. 2006, Ch. 869, Sec. 15. Effective January 1, 2007.)

§ 2707. The division, upon advice of the Seismic Safety Commission, whenever it determines that an adequate instrumentation program has been achieved, may reduce the fee levied against building permits as provided in Section 2705 to a level sufficient to maintain the program established pursuant to this chapter.

(Amended by Stats. 1976, Ch. 1243.)

§ 2709. Any city or county that has been exempted from the provisions of Section 2705 by Section 2708 may participate in the state strong-motion instrumentation program by a written request to the State Geologist by the governing body of such city or county that its exemption be rescinded.

(Added by Stats. 1975, Ch. 47.)

§ 2709.1. (a) No strong-motion instrumentation shall be installed pursuant to this chapter in the structural types identified in subdivision (b) unless funds proportionate to the construction value as called for under Section 2705 are received from organizations or entities representing these structural types, or the instrumentation is specifically called for by the Seismic Safety Commission in urgency situations.

(b) The structural types subject to this section include all of the following:

- (1) Hospitals.
- (2) Dams.
- (3) Bridges.
- (4) Schools.
- (5) Powerplants.

(c) The Strong-Motion Instrumentation and Seismic Hazards Mapping Fund may accept funds from sources other than the permit fees identified in this chapter. The priority of installations performed under this chapter shall be determined by the Seismic Safety Commission.
(Amended by Stats. 2003, Ch. 240, Sec. 9. Effective August 13, 2003. Operative July 1, 2004, by Sec. 43 of Ch. 240.)

CHAPTER 9. Surface Mining and Reclamation Act of 1975

[2710-2796.5] (Chapter 9 added by Stats. 1975, Ch. 1131.)

Article 1. General Provisions

[2710-2719] (Article 1 added by Stats. 1975, Ch. 1131.)

§ 2710. This chapter shall be known and may be cited as the Surface Mining and Reclamation Act of 1975.
(Added by Stats. 1975, Ch. 1131.)

§ 2711. (a) The Legislature hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

(b) The Legislature further finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

(c) The Legislature further finds that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefor may vary accordingly.

(d) The Legislature further finds that the production and development of local mineral resources that help maintain a strong economy and that are necessary to build the state's infrastructure are vital to reducing transportation emissions that result from the distribution of hundreds of millions of tons of construction aggregates that are used annually in building and maintaining the state.

(e) The Legislature further finds and recognizes the need of the state to provide local governments, metropolitan planning organizations, and other relevant planning agencies with the information necessary to identify and protect mineral resources within general plans.

(f) The Legislature further finds that the state's mineral resources are vital, finite, and important natural resources and the responsible protection and development of these mineral resources is vital to a sustainable California.

(Amended by Stats. 2011, Ch. 218, Sec. 1. Effective January 1, 2012.)

§ 2712. It is the intent of the Legislature to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to assure that:

(a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.

(b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

(c) Residual hazards to the public health and safety are eliminated.
(*Added by Stats. 1975, Ch. 1131.*)

§ 2713. It is not the intent of the Legislature by the enactment of this chapter to take private property for public use without payment of just compensation in violation of the California and United States Constitutions.

(*Added by Stats. 1975, Ch. 1131.*)

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

(a) Excavations or grading of lands conducted for farming.

(b) Onsite excavation and onsite earthmoving activities that are an integral and necessary part of a construction project and that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements associated with those structures, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, Division 13 (commencing with Section 21000).

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

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

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

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

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

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

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

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

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

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the board, as defined by Section 2008, determines to be of an infrequent nature and that involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) (1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.

(2) Nothing in this subdivision shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with this chapter.

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

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

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

- (1) The operations are being conducted in accordance with Division 3 (commencing with Section 3000).
- (2) The operations are consistent with any general plan or zoning applicable to the site.
- (3) The earthmoving activities are within oil or gas field properties under a common owner or operator.
- (4) No excavated materials are sold for commercial purposes.

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

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

(Amended by Stats. 2012, Ch. 177, Sec. 1. Effective January 1, 2013.)

§ 2715. No provision of this chapter or any ruling, requirement, or policy of the board is a limitation on any of the following:

(a) On the police power of any city or county or on the power of any city or county to declare, prohibit, and abate nuisances.

(b) On the power of the Attorney General, at the request of the board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance.

(c) On the power of any state agency in the enforcement or administration of any provision of law which it is specifically authorized or required to enforce or administer.

(d) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in Part 3 (commencing with Section 3479) of Division 4 of the Civil Code or for any other private relief.

(e) On the power of any lead agency to adopt policies, standards, or regulations imposing additional requirements on any person if the requirements do not prevent the person from complying with the provisions of this chapter.

(f) On the power of any city or county to regulate the use of buildings, structures, and land as between industry, business, residences, open space (including agriculture, recreation, the enjoyment of scenic beauty, and the use of natural resources), and other purposes.

(Amended by Stats. 1980, Ch. 800, Sec. 1. Effective July 28, 1980.)

§ 2715.5. (a) The Cache Creek Resource Management Plan, in conjunction with a site specific plan deemed consistent by the lead agency with the Cache Creek Resource Management Plan, until December 31, 2017, shall be considered to be a functional equivalent of a reclamation plan for the purposes of this chapter. No other reclamation plan shall be required to be reviewed and approved for any excavation project subject to the Cache Creek Resource Management Plan that is conducted in conformance with an approved site specific plan that is consistent with the Cache Creek Resource Management Plan, and the standards specified in that plan governing erosion control, channel stabilization, habitat restoration, flood control, or infrastructure maintenance, if that plan is reviewed and approved by a lead agency pursuant to this chapter.

(b) For purposes of this section, the board of supervisors of the county in which the Cache Creek Resource Management Plan is to be implemented shall prepare and file the annual report required to be prepared pursuant to Section 2207.

(c) Nothing in this section precludes an enforcement action by the board or the department brought pursuant to this chapter or Section 2207 if the lead agency or the director determines that a surface mining operator, acting under the authority of the Cache Creek Resource Management Plan, is not in compliance with the requirements of this chapter or Section 2207.

(d) "Site specific plan," for the purposes of this section, means an individual project plan approved by the lead agency that is consistent with the Cache Creek Resource Management Plan. Site specific plans prepared in conformance with the Cache Creek Resource Management Plan shall, at a minimum, include the information required pursuant to subdivision (c) of Section 2772, shall comply with the requirements of Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and shall be provided along with a financial assurance estimate to the department for review and comment pursuant to Section 2774. Notwithstanding the number of days authorized by paragraph (1) of subdivision (d) of Section 2774, the department shall review the site specific plan and the financial assurance estimate and prepare any written comments within 15 days from the date of receipt of the plan and the estimate.

(e) Prior to engaging in an excavation activity in conformance with the Cache Creek Resource Management Plan, a surface mining operation shall be required to obtain financial assurances that meet the requirements of Section 2773.1.

(f) This section shall remain in effect only until December 31, 2017, and as of that date is repealed, unless a later enacted statute that is enacted before December 31, 2017, deletes or extends that date. *(Amended by Stats. 2011, Ch. 145, Sec. 1. Effective January 1, 2012. Repealed as of December 31, 2017, by its own provisions.)*

§ 2716. (a) Any interested person may commence an action on his or her own behalf against the board, the lead agency, the State Geologist, or the director for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to compel the board, the State Geologist, or the director to carry out any duty imposed upon them pursuant to this chapter.

(b) For purposes of this section, “person” means an individual, firm, association, corporation, organization, or partnership, or a city, county, district, or the state or any department or agency of the state. *(Amended by Stats. 2006, Ch. 869, Sec. 17. Effective January 1, 2007.)*

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

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

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

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

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

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

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

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

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

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

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

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

(i) The approved reclamation plan.

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

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

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

(C) In accordance with Section 2773.1 and Article 11 (commencing with Section 3800) of Title 14 of the California Code of Regulations, as amended, the surface mining operation has an approved financial assurance in place that is adequate for reclamation pursuant to the approved reclamation plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

(Amended by Stats. 2013, Ch. 417, Sec. 2. Effective January 1, 2014. Repealed as of January 1, 2019, by its own provisions. See later operative version added by Sec. 3 of Ch. 417.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Repealed (in Sec. 2) and added by Stats. 2013, Ch. 417, Sec. 3. Effective January 1, 2014. Section operative January 1, 2019, by its own provisions.)

§ 2718. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. *(Added by Stats. 1975, Ch. 1131.)*

§ 2719. Notwithstanding any other provision of law, neither the state nor any county, city, district, or other political subdivision shall be exempt from any fee imposed upon a mining operation pursuant to subdivision (d) of Section 2207.

(Added by Stats. 1992, Ch. 1066, Sec. 1. Effective January 1, 1993.)

Article 2. Definitions

[2725-2735] (Article 2 added by Stats. 1975, Ch. 1131.)

§ 2725. Unless the context otherwise requires, the definitions set forth in this article shall govern the construction of this chapter.

(Added by Stats. 1975, Ch. 1131.)

§ 2726. “Area of regional significance” means an area designated by the board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the state within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local significance.

(Added by Stats. 1975, Ch. 1131.)

§ 2727. “Area of statewide significance” means an area designated by the board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the state and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

(Added by Stats. 1975, Ch. 1131.)

§ 2727.1. “Idle” means that an operator of a surface mining operation has curtailed production at the surface mining operation, with the intent to resume the surface mining operation at a future date, for a period of one year or more by more than 90 percent of its maximum annual mineral production within any of the last five years during which an interim management plan has not been approved.

(Amended by Stats. 2011, Ch. 491, Sec. 1. Effective January 1, 2012.)

§ 2728. “Lead agency” means the city, county, San Francisco Bay Conservation and Development Commission, or the board which has the principal responsibility for approving a reclamation plan pursuant to this chapter.

(Amended by Stats. 2006, Ch. 869, Sec. 18. Effective January 1, 2007.)

§ 2729. “Mined lands” includes the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

(Added by Stats. 1975, Ch. 1131.)

§ 2730. “Mining waste” includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.

(Added by Stats. 1975, Ch. 1131.)

§ 2731. “Operator” means any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

(Added by Stats. 1975, Ch. 1131.)

§ 2732. “Overburden” means soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.

(Added by Stats. 1975, Ch. 1131.)

§ 2732.5. “Permit” means any authorization from, or approval by, a lead agency, the absence of which would preclude surface mining operations.

(Added by Stats. 1975, Ch. 1131.)

§ 2733. “Reclamation” means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

(Added by Stats. 1975, Ch. 1131.)

§ 2734. “State policy” means the regulations adopted by the board pursuant to Section 2755.

(Amended by Stats. 1980, Ch. 800, Sec. 2.2. Effective July 28, 1980.)

§ 2735. “Surface mining operations” means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:

- (a) Inplace distillation or retorting or leaching.
- (b) The production and disposal of mining waste.
- (c) Prospecting and exploratory activities.

(Added by Stats. 1975, Ch. 1131.)

Article 3. District Committees

[2740-2741] (Article 3 added by Stats. 1975, Ch. 1131.)

§ 2740. In carrying out the provisions of this chapter, the board may establish districts and appoint one or more district technical advisory committees to advise the board. In establishing districts for these committees, the board shall take into account physical characteristics, including, but not limited to, climate, topography, geology, type of overburden, and principal mineral commodities. Members of the committees shall be selected and appointed on the basis of their professional qualifications and training in mineral resource conservation, development and utilization, land use planning, mineral economics, or the reclamation of mined lands.

(Added by Stats. 1975, Ch. 1131.)

§ 2741. The members of the committee shall receive no compensation for their services, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.
(*Added by Stats. 1975, Ch. 1131.*)

Article 4. State Policy for the Reclamation of Mined Lands
[2755-2764] (Article 4 added by Stats. 1975, Ch. 1131.)

§ 2755. The board shall adopt regulations that establish state policy for the reclamation of mined lands in accordance with Article 1 (commencing with Section 2710) of this chapter and pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
(*Amended by Stats. 2004, Ch. 183, Sec. 285. Effective January 1, 2005.*)

§ 2756. State policy shall apply to the conduct of surface mining operations and shall include, but shall not be limited to, measures to be employed by lead agencies in specifying grading, backfilling, resoiling, revegetation, soil compaction, and other reclamation requirements, and for soil erosion control, water quality and watershed control, waste disposal, and flood control.
(*Amended by Stats. 1980, Ch. 800, Sec. 3. Effective July 28, 1980.*)

§ 2757. The state policy adopted by the board shall be based upon a study of the factors that significantly affect the present and future condition of mined lands, and shall be used as standards by lead agencies in preparing specific and general plans, including the conservation and land use elements of the general plan and zoning ordinances. The state policy shall not include aspects of regulating surface mining operations which are solely of local concern, and not of statewide or regional concern, as determined by the board, such as, but not limited to, hours of operation, noise, dust, fencing, and purely aesthetic considerations.
(*Amended by Stats. 1980, Ch. 800, Sec. 4. Effective July 28, 1980.*)

§ 2758. Such policy shall include objectives and criteria for all of the following:

- (a) Determining the lead agency pursuant to the provisions of Section 2771.
- (b) The orderly evaluation of reclamation plans.
- (c) Determining the circumstances, if any, under which the approval of a proposed surface mining operation by a lead agency need not be conditioned on a guarantee assuring reclamation of the mined lands.

(*Added by Stats. 1975, Ch. 1131.*)

§ 2759. The state policy shall be continuously reviewed and may be revised. During the formulation or revision of the policy, the board shall consult with, and carefully evaluate the recommendations of, the director, any district technical advisory committees, concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals.
(*Amended by Stats. 1992, Ch. 1077, Sec. 5. Effective January 1, 1993.*)

§ 2760. The board shall not adopt or revise the state policy, unless a public hearing is first held respecting its adoption or revision. At least 30 days prior to the hearing, the board shall give notice of the hearing by publication pursuant to Section 6061 of the Government Code.
(*Amended by Stats. 1981, Ch. 714, Sec. 344.*)

§ 2761. (a) On or before January 1, 1977, and, at a minimum, after the completion of each decennial census, the Office of Planning and Research shall identify portions of the following areas within the state that are urbanized or are subject to urban expansion or other irreversible land uses that would preclude mineral extraction:

(1) Standard metropolitan statistical areas and other areas for which information is readily available.

(2) Other areas as may be requested by the board.

(b) In accordance with a time schedule, and based upon guidelines adopted by the board, the State Geologist shall classify, on the basis solely of geologic factors, and without regard to existing land use and land ownership, the areas identified by the Office of Planning and Research, any area for which classification has been requested by a petition that has been accepted by the board, or any other areas as may be specified by the board, as one of the following:

(1) An area that contains mineral deposits and is not of regional or statewide significance.

(2) An area that contains mineral deposits and is of regional or statewide significance.

(3) An area that contains mineral deposits, the significance of which requires further evaluation.

(c) The State Geologist shall require the petitioner to pay the reasonable costs of classifying an area for which classification has been requested by the petitioner.

(d) The State Geologist shall transmit the information to the board for incorporation into the state policy and for transmittal to lead agencies.

(e) The board shall transmit mineral resource information on areas classified by the State Geologist pursuant to paragraph (2) of subdivision (b), or on applicable areas designated by the board pursuant to Section 2790, or both, to a lead agency or a metropolitan planning organization within 30 days of receiving a request for the mineral resource information identified within the jurisdiction of the lead agency or the metropolitan planning organization.

(Amended by Stats. 2011, Ch. 218, Sec. 2. Effective January 1, 2012.)

§ 2762. (a) Within 12 months of receiving the mineral information described in Section 2761, and also within 12 months of the designation of an area of statewide or regional significance within its jurisdiction, a lead agency shall, in accordance with state policy, establish mineral resource management policies to be incorporated in its general plan that will:

(1) Recognize mineral information classified by the State Geologist and transmitted by the board.

(2) Assist in the management of land use that affects access to areas of statewide and regional significance.

(3) Emphasize the conservation and development of identified mineral deposits.

(b) A lead agency shall submit proposed mineral resource management policies to the board for review and comment prior to adoption.

(c) A subsequent amendment of the mineral resource management policy previously reviewed by the board shall also require review and comment by the board.

(d) (1) If an area is classified by the State Geologist as an area described in paragraph (2) of subdivision (b) of Section 2761 and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a), or otherwise has not yet acted pursuant to subdivision (a), then prior to permitting a use that would threaten the potential to extract minerals in that area, the lead agency shall prepare, in conjunction with preparing, if required, an environmental document

required by Division 13 (commencing with Section 21000), a statement specifying its reasons for permitting the proposed use, and shall forward a copy to the State Geologist and the board for review.

(2) If the proposed use is subject to the requirements of Division 13 (commencing with Section 21000), the lead agency shall comply with the public review requirements of that division. Otherwise, the lead agency shall provide public notice of the availability of its statement by all of the following:

(A) Publishing the notice at least one time in a newspaper of general circulation in the area affected by the proposed use.

(B) Directly mailing the notice to owners of property within one-half mile of the parcel or parcels on which the proposed use is located as those owners are shown on the latest equalized assessment roll.

(3) The public review period shall not be less than 60 days from the date of the notice and shall include at least one public hearing. The lead agency shall evaluate comments received and shall prepare a written response. The written response shall describe the disposition of the major issues raised. In particular, if the lead agency's position on the proposed use is at variance with recommendations and objections raised in the comments, the written response shall address in detail why specific comments and suggestions were not accepted.

(e) Prior to permitting a use that would threaten the potential to extract minerals in an area classified by the State Geologist as an area described in paragraph (3) of subdivision (b) of Section 2761, the lead agency may cause to be prepared an evaluation of the area in order to ascertain the significance of the mineral deposit located in the area. The results of the evaluation shall be transmitted to the State Geologist and the board.

(Amended by Stats. 2012, Ch. 162, Sec. 142. Effective January 1, 2013.)

§ 2763. (a) If an area is designated by the board as an area of regional significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of regional significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction.

(b) If an area is designated by the board as an area of statewide significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of statewide significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of the mineral resources to the state and nation as a whole.

(Amended by Stats. 1990, Ch. 1097, Sec. 6.)

§ 2764. (a) Upon the request of an operator or other interested person and payment by the requesting person of the estimated cost of processing the request, the lead agency having jurisdiction shall amend its general plan, or prepare a new specific plan or amend any applicable specific plan, that shall, with respect to the continuation of the existing surface mining operation for which the request is made, plan for future land uses in the vicinity of, and access routes serving, the surface mining operation in light of the importance of the minerals to their market region as a whole, and not just their importance to the lead agency's area of jurisdiction.

(b) In adopting amendments to the general plan, or adopting or amending a specific plan, the lead agency shall make written legislative findings as to whether the future land uses and particular access routes will be compatible or incompatible with the continuation of the surface mining operation, and if they are found to be incompatible, the findings shall include a statement of the reasons why they are to be provided for, notwithstanding the importance of the minerals to their market region as a whole or their previous designation by the board, as the case may be.

(c) Any evaluation of a mineral deposit prepared by a lead agency for the purpose of carrying out this section shall be transmitted to the State Geologist and the board.

(d) The procedure provided for in this section shall not be undertaken in any area that has been designated pursuant to Article 6 (commencing with Section 2790) if mineral resource management policies have been established and incorporated in the lead agency's general plan in conformance with Article 4 (commencing with Section 2755).

(Added by Stats. 1986, Ch. 82, Sec. 1.)

Article 5. Reclamation Plans and the Conduct of Surface Mining Operations

[2770-2779] (Article 5 added by Stats. 1975, Ch. 1131.)

§ 2770. (a) Except as provided in this section, a person shall not conduct surface mining operations unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by, the lead agency for the operation pursuant to this article.

(b) A person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan application is not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the lead agency. For purposes of this subdivision, a reclamation plan may consist of all or the appropriate sections of any plans or written agreements previously approved by the lead agency or another agency, together with any additional documents needed to substantially meet the requirements of Sections 2772 and 2773 and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, provided that all documents which together were proposed to serve as the reclamation plan are submitted for approval to the lead agency in accordance with this chapter.

(c) If a person with an existing surface mining operation has received lead agency approval of its financial assurances for reclamation prior to January 1, 1991, the lead agency shall administratively review those existing financial assurances in accordance with subdivision (d) prior to January 1, 1992. The review of existing financial assurances shall not be considered a project for purposes of Division 13 (commencing with Section 21000). A person with an existing surface mining operation that does not have financial assurances that received lead agency approval prior to January 1, 1991, shall submit financial assurances for reclamation for review in accordance with subdivision (d).

(d) The lead agency's review of a reclamation plan submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, but, in any event, the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances determined to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. The operator has 60 days to revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval. Except as specified in subdivision (e) or (i), unless the operator has filed on or before July 1, 1990, an appeal pursuant to subdivision (e) with regard to nonapproval of the reclamation plan, or has filed on or before January 1, 1994, an appeal pursuant to subdivision (e) with regard to nonapproval of financial assurances, and that appeal is pending before the board, the continuation of the surface mining operation is prohibited until a reclamation plan and financial assurances for reclamation are approved by the lead agency.

(e) A person who, based on the evidence of the record, can substantiate that a lead agency has either (1) failed to act according to due process or has relied on considerations not related to the specific applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, in reaching a decision to deny approval of a reclamation plan or financial assurances for reclamation, (2) failed to act within a reasonable time of receipt of a completed application, or (3) failed to review and approve reclamation plans or financial assurances as required by subdivisions (c) and (d), may appeal that action or inaction to the board.

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

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

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

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

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

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

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

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

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

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

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

(Amended by Stats. 2012, Ch. 324, Sec. 1. Effective January 1, 2013.)

§ 2770.5. Whenever surface mining operations are proposed in the 100-year flood plain for any stream, as shown in Zone A of Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the lead agency receiving the application for the issuance or renewal of a permit to conduct the surface mining operations shall notify the Department of Transportation that the application has been received. The Department of Transportation shall have a period of not more than 45 days to review and comment on the proposed surface mining operations with respect to any potential damage to the state highway bridge from the proposed surface mining operations. The lead agency shall not issue or renew the permit until the Department of Transportation has submitted its comments or until 45 days from the date the application for the permit was submitted, whichever occurs first.

(Added by Stats. 1984, Ch. 254, Sec. 1.)

§ 2770.6. (a) Whenever surface mining operations are proposed within the boundaries of the San Gabriel Basin Water Quality Authority that may penetrate the groundwater, and whenever proposed reclamation activities may impact groundwater quality, the lead agency reviewing an application to conduct surface mining operations, or reviewing an application for the approval of a reclamation plan, shall notify and provide copies of the subject application to the appropriate California regional water quality control board, and any watermaster for the groundwater recharge basin. Notwithstanding any other provision of law, the appropriate California regional water quality control board may impose an administrative fee on the applicant to cover its costs associated with the review of, and preparation of, comments on the subject application, as required pursuant to this section.

(b) Each agency shall have 60 days to review and comment on the proposed surface mining operation described in subdivision (a) and the adoption of any reclamation plan therefor. Each agency shall comment on the existing groundwater quality and the potential impacts to water quality that may result from the mining operations and the proposed reclamation plan, and shall recommend methods and procedures to protect groundwater quality and prevent groundwater degradation. Each agency shall also comment on the proposed mining activities, including the conduct of excavation and backfilling operations in contact with groundwater, and the impact of any proposed alternative land uses on groundwater quality. When the proposed surface mining operations or reclamation plan will impact the groundwater, the lead agency shall not approve the reclamation plan without requiring actions to ensure the reasonable protection of the beneficial uses of groundwater and the prevention of nuisance. Each agency shall have 60 days to review and comment or until 60 days from the date of application, whichever occurs first.

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

(Added by Stats. 2000, Ch. 515, Sec. 1. Effective January 1, 2001.)

§ 2771. Whenever a proposed or existing surface mining operation is within the jurisdiction of two or more public agencies, is a permitted use within the agencies, and is not separated by a natural or manmade barrier coinciding with the boundary of the agencies, the evaluation of the proposed or existing operation shall be made by the lead agency in accordance with the procedures adopted by the lead agency pursuant to Section 2774. If a question arises as to which public agency is the lead agency, any affected public agency, or the affected operator, may submit the matter to the board. The board shall notify in writing all affected public agencies and operators that the matter has been submitted, specifying a date for a public hearing. The board shall designate the public agency which shall serve as the lead agency, giving due consideration to the capability of the agency to fulfill adequately the requirements of this chapter and to an examination of which of the public agencies has principal permit responsibility.

(Repealed and added by Stats. 1990, Ch. 1097, Sec. 10.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Any other information which the lead agency may require by ordinance.

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

(e) Nothing in this section is intended to limit or expand the department's authority or responsibility to review a document in accordance with Division 13 (commencing with Section 21000).

(Amended by Stats. 1995, Ch. 529, Sec. 18. Effective October 4, 1995.)

§ 2772.5. (a) A reclamation plan by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands within the boundaries of the San Gabriel Basin Water Quality Authority, and who plans to conduct surface mining operations on those lands, in addition to the information required pursuant to subdivision (c) of Section 2772, shall include a description of any programs necessary to monitor the effects of mining and reclamation operations on air, water, and soil quality, on the surrounding area,

backfill characteristics, geologic conditions, and slope stability, similar to the California Environmental Quality Act document for the reclamation project.

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

(Added by Stats. 2000, Ch. 515, Sec. 2. Effective January 1, 2001.)

§ 2772.6. (a) In addition to meeting the requirements of Section 2773.1, the amount of financial assurances required of a surface mining operation within the boundaries of the San Gabriel/Basin Water Quality Authority for any one year shall be in an amount not less than that required to ensure reclamation of the disturbed areas is completed in accordance with the approved reclamation plan.

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

(Added by Stats. 2000, Ch. 515, Sec. 3. Effective January 1, 2001.)

§ 2772.7. (a) A lead agency, upon approval of a reclamation plan or an amendment to a reclamation plan, shall record a "Notice of Reclamation Plan Approval" with the county recorder. The notice shall read:

"Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the ____ (lead agency), a copy of which is on file with the ____."

(b) In addition to the information required by subdivision (a), the notice shall also include the name of the owner of record of the mine operation, the name of the lead agency, and the acknowledged signature of the lead agency representative.

(Amended by Stats. 2009, Ch. 208, Sec. 3. Effective January 1, 2010.)

§ 2773. (a) The reclamation plan shall be applicable to a specific piece of property or properties, shall be based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities, and shall establish site-specific criteria for evaluating compliance with the approved reclamation plan, including topography, revegetation and sediment, and erosion control.

(b) By January 1, 1992, the board shall adopt regulations specifying minimum, verifiable statewide reclamation standards. Subjects for which standards shall be set include, but shall not be limited to, the following:

- (1) Wildlife habitat.
- (2) Backfilling, regrading, slope stability, and recontouring.
- (3) Revegetation.
- (4) Drainage, diversion structures, waterways, and erosion control.
- (5) Prime and other agricultural land reclamation.
- (6) Building, structure, and equipment removal.
- (7) Stream protection.
- (8) Topsoil salvage, maintenance, and redistribution.
- (9) Tailing and mine waste management.

These standards shall apply to each mining operation, but only to the extent that they are consistent with the planned or actual subsequent use or uses of the mining site.

(Amended by Stats. 1990, Ch. 1097, Sec. 11.)

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

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

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

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

(4) The financial assurances shall be made payable to the lead agency and the department. Financial assurances that were approved by the lead agency prior to January 1, 1993, and were made payable to the State Geologist shall be considered payable to the department for purposes of this chapter. However, if a surface mining operation has received approval of its financial assurances from a public agency other than the lead agency, the lead agency shall deem those financial assurances adequate for purposes of this section, or shall credit them toward fulfillment of the financial assurances required by this section, if they are made payable to the public agency, the lead agency, and the department and otherwise meet the requirements of this section. In any event, if a lead agency and one or more public agencies exercise jurisdiction over a surface mining operation, the total amount of financial assurances required by the lead agency and the public agencies for any one year shall not exceed that amount which is necessary to perform reclamation of lands remaining disturbed. For purposes of this paragraph, a "public agency" may include a federal agency.

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

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

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

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

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

(c) Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the lead agency, which shall be forwarded to the operator and the

director, that reclamation has been completed in accordance with the approved reclamation plan. If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the lead agency until new financial assurances are secured from the new owner and have been approved by the lead agency in accordance with Section 2770.

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

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

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

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

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

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

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

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

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

(Amended by Stats. 1998, Ch. 643, Sec. 1. Effective January 1, 1999.)

§ 2773.15. Notwithstanding Section 2773.1, a surety bond that was executed by any personal surety that was approved by the lead agency prior to February 13, 1998, to ensure that reclamation is performed in accordance with a reclamation plan approved by a lead agency prior to that date, may be utilized to satisfy the requirements of this chapter, if the amount of the financial assurance required to perform the approved reclamation plan, as amended or updated from time to time, does not change from the amount approved prior to February 13, 1998.

(Added by Stats. 1998, Ch. 643, Sec. 2. Effective January 1, 1999.)

§ 2773.2. The mineral owner and owner of the surface estate, if legally entitled to do so, shall allow access to the property on which the mining operation is located to any governmental agency or the agent of any company providing financial assurances in connection with the reclamation plan and expending those finan-

cial assurances for reclamation, in order that reclamation may be carried out by the governmental agency or company, in accordance with the reclamation plan.

(Added by Stats. 2006, Ch. 869, Sec. 22. Effective January 1, 2007.)

§ 2773.3. (a) In addition to other reclamation plan requirements of this chapter and regulations adopted by the board pursuant to this chapter, a lead agency may not approve a reclamation plan for a surface mining operation for gold, silver, copper, or other metallic minerals or financial assurances for the operation, if the operation is located on, or within one mile of, any Native American sacred site and is located in an area of special concern, unless both of the following criteria are met:

(1) The reclamation plan requires that all excavations be backfilled and graded to do both of the following:

(A) Achieve the approximate original contours of the mined lands prior to mining.

(B) Grade all mined materials that are in excess of the materials that can be placed back into excavated areas, including, but not limited to, all overburden, spoil piles, and heap leach piles, over the project site to achieve the approximate original contours of the mined lands prior to mining.

(2) The financial assurances are sufficient in amount to provide for the backfilling and grading required by paragraph (1).

(b) For purposes of this section, the following terms have the following meaning:

(1) “Native American sacred site” means a specific area that is identified by a federally recognized Indian Tribe, Rancheria or Mission Band of Indians, or by the Native American Heritage Commission, as sacred by virtue of its established historical or cultural significance to, or ceremonial use by, a Native American group, including, but not limited to, any area containing a prayer circle, shrine, petroglyph, or spirit break, or a path or area linking the circle, shrine, petroglyph, or spirit break with another circle, shrine, petroglyph, or spirit break.

(2) “Area of special concern” means any area in the California desert that is designated as Class C or Class L lands or as an Area of Critical Environmental Concern under the California Desert Conservation Area Plan of 1980, as amended, by the United States Department of the Interior, Bureau of Land Management, pursuant to Section 1781 of Title 43 of the United States Code.

(Added by Stats. 2002, Ch. 1154, Sec. 1. Effective January 1, 2003. Operative April 7, 2003, pursuant to Stats. 2003, Ch. 3, Secs. 2 and 3.)

§ 2773.5. Section 2773.3 does not apply to either of the following:

(a) Any surface mining operation in existence on January 1, 2003, for which the lead agency has issued final approval of a reclamation plan and the financial assurances prior to September 1, 2002.

(b) Any amended reclamation plan or financial assurances that are necessary for the continued operation or expansion of a surface mining operation in existence on January 1, 2003, that otherwise satisfies the requirements of subdivision (a).

(Added by Stats. 2002, Ch. 1154, Sec. 2. Effective January 1, 2003. Operative April 7, 2003, pursuant to Stats. 2003, Ch. 3, Secs. 2 and 3.)

§ 2774. (a) Every lead agency shall adopt ordinances in accordance with state policy that establish procedures for the review and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. The ordinances shall establish procedures requiring at least one public hearing and shall be periodically

reviewed by the lead agency and revised, as necessary, to ensure that the ordinances continue to be in accordance with state policy.

(b) The lead agency shall conduct an inspection of a surface mining operation within six months of receipt by the lead agency of the surface mining operation's report submitted pursuant to Section 2207, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall a lead agency inspect a surface mining operation less than once in any calendar year. The lead agency may cause an inspection to be conducted by a state licensed geologist, state licensed civil engineer, state licensed landscape architect, or state licensed forester, who is experienced in land reclamation and who has not been employed by a surface mining operation within the jurisdiction of the lead agency in any capacity during the previous 12 months. All inspections shall be conducted using a form developed by the department and approved by the board that shall include the professional licensing and disciplinary information of the person who conducted the inspection. The operator shall be solely responsible for the reasonable cost of the inspection. The lead agency shall notify the director within 30 days of the date of completion of the inspection that the inspection has been conducted. The notice shall contain a statement regarding the surface mining operation's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations, if any, are inconsistent with this chapter. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending under subdivision (b), (c), (d), or (h) of Section 2770, or an appeal pending before the board or lead agency governing body under subdivision (e) or (h) of Section 2770, the notice shall so indicate. The lead agency shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, but not limited to, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester, who conducted the inspection.

(c) Before approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the lead agency pursuant to subdivision (c) of Section 2770, or any amendments, the lead agency shall submit the plan, assurances, or amendments to the director for review. All documentation for that submission shall be submitted to the director at one time. When the lead agency submits a reclamation plan or plan amendments to the director for review, the lead agency shall also submit to the director, for use in reviewing the reclamation plan or plan amendments, information from any related document prepared, adopted, or certified pursuant to Division 13 (commencing with Section 21000), and shall submit any other pertinent information. The lead agency shall certify to the director that the reclamation plan is in compliance with the applicable requirements of this chapter and Article 1 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations and the lead agency's mining ordinance in effect at the time that the reclamation plan is submitted to the director for review.

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

(2) The lead agency shall prepare a written response to the director's comments describing the disposition of the major issues raised by the director's comments, and submit the lead agency's proposed response to the director at least 30 days prior to approval of the reclamation plan, plan amendment, or financial assurance. The lead agency's response to the director's comments shall describe whether the lead agency proposes to adopt the director's comments to the reclamation plan, plan amendment, or financial assurance. If the lead agency does not propose to adopt the director's comments, the lead agency shall specify, in

detail, why the lead agency proposes not to adopt the comments. Copies of any written comments received and responses prepared by the lead agency shall be forwarded to the operator. The lead agency shall also give the director at least 30 days' notice of the time, place, and date of the hearing before the lead agency at which time the reclamation plan, plan amendment, or financial assurance is scheduled to be approved by the lead agency. If no hearing is required by this chapter, or by the local ordinance, or other state law, then the lead agency shall provide 30 days' notice to the director that it intends to approve the reclamation plan, plan amendment, or financial assurance. The lead agency shall send to the director its final response to the director's comments within 30 days following its approval of the reclamation plan, plan amendment, or financial assurance during which period the department retains all powers, duties, and authorities of this chapter.

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

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

(Amended by Stats. 2013, Ch. 472, Sec. 4. Effective January 1, 2014.)

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

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

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

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

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

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

(f) (1) The lead agency has primary responsibility for enforcing this chapter and Section 2207. In cases where the board is not the lead agency pursuant to Section 2774.4, enforcement actions may be initiated by the director pursuant to this section only after the violation has come to the attention of the director and either of the following occurs:

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

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

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

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

(Amended by Stats. 2013, Ch. 417, Sec. 4. Effective January 1, 2014.)

§ 2774.2. (a) Within 30 days of the issuance of an order setting administrative penalties under subdivision (c) of Section 2774.1, the operator may petition that legislative body of the lead agency, if the lead agency has issued the order, or the board for orders issued by the director, for review of the order. If the operator does not petition for review within the time limits set by this subdivision, the order setting administrative penalties shall not be subject to review by any court or agency.

(b) The legislative body of the lead agency or the board shall notify the operator by personal service or certified mail whether it will review the order setting administrative penalties. In reviewing an order pursuant to this section, the record shall consist of the record before the lead agency or the director, and any other relevant evidence which, in the judgment of the legislative body or the board, should be considered to effectuate and implement the policies of this chapter.

(c) The legislative body or the board may affirm, modify, or set aside, in whole or in part, by its own order, any order of the lead agency or the director setting administrative penalties reviewed by the legislative body or the board pursuant to this section.

(d) Any order of the legislative body or the board issued under subdivision (c) shall become effective upon issuance thereof, unless the operator petitions the superior court for review as provided in subdivision (e). Any order shall be served by personal service or by certified mail upon the operator. Payment of any administrative penalty which is specified in an order issued under subdivision (c), shall be made to the lead agency or the director within 30 days of service of the order; however, the payment shall be held in an interest bearing impound account pending the resolution of a petition for review filed pursuant to subdivision (e).

(e) Any operator aggrieved by an order of the legislative body or the board issued under subdivision (c) may obtain review of the order by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the order. Any operator aggrieved by an order of a lead agency or the director setting administrative penalties under subdivision (c) of Section 2774.1, for which the legislative body or board denies review, may obtain review of the order in the superior court by filing in the court a petition for writ of mandate within 30 days following the denial of review. The provisions of Section 1094.5 of the Code of Civil Procedure shall govern judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If the operator does not petition for a writ of mandate within the time limits set by this subdivision, an order of the board or the legislative body shall not be subject to review by any court or agency.

(Amended by Stats. 1992, Ch. 1077, Sec. 9. Effective January 1, 1993.)

§ 2774.3. The board shall review lead agency ordinances which establish permit and reclamation procedures to determine whether each ordinance is in accordance with state policy, and shall certify the ordinance as being in accordance with state policy if it adequately meets, or imposes requirements more stringent than, the California surface mining and reclamation policies and procedures established by the board pursuant to this chapter.

(Amended by Stats. 1987, Ch. 975, Sec. 3.)

§ 2774.4. (a) If the board finds that a lead agency either has (1) approved reclamation plans or financial assurances which are not consistent with this chapter, (2) failed to inspect or cause the inspection of surface mining operations as required by this chapter, (3) failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by this chapter, (4) failed to take appropriate enforcement actions as required by this chapter, (5) intentionally misrepresented the results of inspections required under this chapter, or (6) failed to submit information to the department as required by this chapter, the board shall exercise any of the powers of that lead agency under this chapter, except for permitting authority.

(b) If, no sooner than three years after the board has taken action pursuant to subdivision (a), the board finds, after a public hearing, that a lead agency has corrected its deficiencies in implementing and enforcing this chapter, and the rules and regulations adopted pursuant to this chapter, the board shall restore to the lead agency the powers assumed by the board pursuant to subdivision (a).

(c) Before taking any action pursuant to subdivision (a), the board shall first notify the lead agency of the identified deficiencies, and allow the lead agency 45 days to correct the deficiencies to the satisfaction of the board. If the lead agency has not corrected the deficiencies to the satisfaction of the board within

the 45-day period, the board shall hold a public hearing within the lead agency's area of jurisdiction, upon a 45-day written notice given to the public in at least one newspaper of general circulation within the city or county, and directly mailed to the lead agency and to all surface mining operators within the lead agency's jurisdiction who have submitted reports as required by Section 2207.

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

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

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

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

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

(Amended by Stats. 1992, Ch. 1077, Sec. 10. Effective January 1, 1993.)

§ 2774.5. (a) If, upon review of an ordinance, the board finds that it is not in accordance with state policy, the board shall communicate the ordinance's deficiencies in writing to the lead agency. Upon receipt of the written communication, the lead agency shall have 90 days to submit a revised ordinance to the board for certification as being in accordance with state policy. The board shall review the lead agency's revised ordinance for certification within 60 days of its receipt. If the lead agency does not submit a revised ordinance within 90 days, the board shall assume full authority for reviewing and approving reclamation plans submitted to the lead agency until the time the lead agency's ordinances are revised in accordance with state policy.

(b) If, upon review of a lead agency's revised ordinance, the board finds the ordinance is still not in accordance with state policy, the board shall again communicate the ordinance's deficiencies in writing to the lead agency. The lead agency shall have a second 90-day period in which to revise the ordinance and submit it to the board for review. If the board again finds that the revised ordinance is not in accordance with state policy or if no revision is submitted, the board shall assume full authority for reviewing and approving reclamation plans submitted to the lead agency until the time the lead agency's ordinances are revised in accordance with state policy.

(c) In any jurisdiction in which the lead agency does not have a certified ordinance, no person shall initiate a surface mining operation unless a reclamation plan has been submitted to, and approved by, the board. Any reclamation plan, approved by a lead agency under the lead agency's ordinance which was not in accordance with state policy at the time of approval, shall be subject to amendment by the board or under the ordinance certified by the board as being in accordance with state policy.

(d) Reclamation plans approved by the board pursuant to this section shall not be subject to modification by the lead agency at a future date but may be amended by the board. Reclamation plans approved by the board shall be remanded to the lead agency upon certification of the lead agency's ordinance, and the lead agency shall approve the reclamation plan as approved by the board, except that a subsequent amendment as may be agreed upon between the operator and the lead agency may be made according to this chapter. No additional public hearing shall be required prior to the lead agency's approval. Nothing in this section shall be construed as authorizing the board to issue a permit for the conduct of mining operations. *(Amended by Stats. 1987, Ch. 975, Sec. 4.)*

§ 2775. (a) An applicant whose request for a permit to conduct surface mining operations in an area of statewide or regional significance has been denied by a lead agency, or any person who is aggrieved by the granting of a permit to conduct surface mining operations in an area of statewide or regional significance, may, within 15 days of exhausting his rights to appeal in accordance with the procedures of the lead agency, appeal to the board.

(b) The board may, by regulation, establish procedures for declining to hear appeals that it determines raise no substantial issues.

(c) Appeals that the board does not decline to hear shall be scheduled and heard at a public hearing held within the jurisdiction of the lead agency which processed the original application within 30 days of the filing of the appeal, or such longer period as may be mutually agreed upon by the board and the person filing the appeal. In any such action, the board shall not exercise its independent judgment on the evidence but shall only determine whether the decision of the lead agency is supported by substantial evidence in the light of the whole record. If the board determines the decision of the lead agency is not supported by substantial evidence in the light of the whole record it shall remand the appeal to the lead agency and the lead agency shall schedule a public hearing to reconsider its action.

(Added by Stats. 1975, Ch. 1131.)

§ 2776. (a) No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with this chapter. A person shall be deemed to have vested rights if, prior to January 1, 1976, the person has, in good faith and in reliance upon a permit or other authorization, if the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary for the surface mining operations. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

(b) The reclamation plan required to be filed under subdivision (b) of Section 2770, shall apply to operations conducted after January 1, 1976, or to be conducted.

(c) Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to January 1, 1976.

(Amended by Stats. 2006, Ch. 538, Sec. 560. Effective January 1, 2007.)

§ 2777. Amendments to an approved reclamation plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the lead agency.
(Added by Stats. 1975, Ch. 1131.)

§ 2777.5. (a) A mine operator who has failed to properly report a mine's mineral production or mine status in any previous year, pursuant to the annual reporting requirement in Section 2207, prior to January 1, 2012, may attach corrected annual reports to the 2012 annual report so long as the corrected annual reports are submitted on or before July 1, 2013, and if the lead agency confirms in writing to the department all of the following:

- (1) The operator has provided written notification to the lead agency and the director of their intention to continue surface mining operations.
- (2) The operator has an existing, valid permit or a vested right to conduct surface mining operations pursuant to Section 2776.
- (3) (A) The operator's reclamation plan has been approved and is in compliance with this chapter, the mining operation is in compliance with the approved reclamation plan or applicable compliance order issued pursuant to this chapter, the mining operation has an approved financial assurance in place that the lead agency determines is adequate for reclamation pursuant to the approved reclamation plan, and the mining operation has been inspected by the lead agency as provided by Section 2774.

(B) The Office of Mine Reclamation may enter any mine site for which a mine operator has requested a correction of mine status or a return to idle status pursuant to this section in order to conduct an inspection.

(4) The operator has demonstrated that there are commercially useful mineral reserves remaining at the surface mining operation.

(5) Unpaid fees for years during which the operation's status was not properly reported have been paid to the department.

(6) The operator provides evidence to support any modified production reported on corrected annual reports.

(b) A mining operation that became idle, as defined in Section 2727.1, that failed to prepare and have approved an interim management plan and was thus considered abandoned pursuant to paragraph (6) of subdivision (h) of Section 2770 prior to January 1, 2013, may, without prejudice, be returned to idle status at the request of the operator if an interim management plan is approved by July 1, 2013, and upon lead agency verification of compliance with subdivision (a).

(c) The mine operator shall be responsible for the reasonable costs of an inspection conducted by the Office of Mine Reclamation pursuant to subparagraph (B) of paragraph (3) of subdivision (a).

(Added by Stats. 2011, Ch. 491, Sec. 3. Effective January 1, 2012.)

§ 2778. (a) Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records, unless it can be demonstrated to the satisfaction of the lead agency that the release of that information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The lead agency shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the director and to persons authorized in writing by the operator and by the owner.

(b) A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the director by lead agencies on request.
(Amended by Stats. 1992, Ch. 1077, Sec. 11. Effective January 1, 1993.)

§ 2779. Whenever one operator succeeds to the interest of another in any incompleting surface mining operation by sale, assignment, transfer, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this chapter.
(Added by Stats. 1975, Ch. 1131.)

Article 6. Areas of Statewide or Regional Significance
[2790-2793] (Article 6 added by Stats. 1975, Ch. 1131.)

§ 2790. After receipt of mineral information from the State Geologist pursuant to subdivision (d) of Section 2761, the board may, by regulation adopted after a public hearing, designate specific geographic areas of the state as areas of statewide or regional significance and specify the boundaries of the geographic areas. The designation shall be included as a part of the state policy and shall indicate the reason for which the particular area designated is of significance to the state or region, the adverse effects that might result from premature development of incompatible land uses, the advantages that might be achieved from extraction of the minerals of the area, and the specific goals and policies to protect against the premature incompatible development of the area.
(Amended by Stats. 2013, Ch. 472, Sec. 5. Effective January 1, 2014.)

§ 2791. The board shall seek the recommendations of concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals in the identification of areas of statewide and regional significance.
(Added by Stats. 1975, Ch. 1131.)

§ 2792. Neither the designation of an area of regional or statewide significance nor the adoption of any regulations for such an area shall in any way limit or modify the rights of any person to complete any development that has been authorized pursuant to Part 2 (commencing with Section 11000) of Division 4 of the Business and Professions Code, pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or by a building permit or other authorization to commence development, upon which such person relies and has changed his position to his substantial detriment, and, which permit or authorization was issued prior to the designation of such area pursuant to Section 2790. If a developer has by his actions taken in reliance upon prior regulations obtained vested or other legal rights that in law would have prevented a local public agency from changing such regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.
(Added by Stats. 1975, Ch. 1131.)

§ 2793. The board may, by regulation adopted after a public hearing, terminate, partially or wholly, the designation of any area of statewide or regional significance on a finding that the direct involvement of the board is no longer required.
(Added by Stats. 1975, Ch. 1131.)

Article 7. Fiscal Provisions

[2795-2796.5] (Article 7 added by Stats. 1980, Ch. 800, Sec. 12.)

§ 2795. (a) Notwithstanding any other provision of law, the first two million dollars (\$2,000,000) of moneys from mining activities on federal lands disbursed by the United States each fiscal year to this state pursuant to Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. Sec. 191), shall be deposited in the Surface Mining and Reclamation Account in the General Fund, which account is hereby created, and may be expended, upon appropriation by the Legislature, for purposes of this chapter.

(b) Proposed expenditures from the account shall be included in a separate item in the Budget Bill for each fiscal year for consideration by the Legislature. Each appropriation from the account shall be subject to all of the limitations contained in the Budget Act and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.

(Amended by Stats. 2005, Ch. 81, Sec. 4. Effective July 19, 2005.)

§ 2796.5. (a) The director, with the consultation of appropriate state and local agencies, may remediate or complete reclamation of abandoned mined lands that meet all of the following requirements:

- (1) No operator having both the responsibility and the financial ability to remediate or reclaim the mined lands can be found within the state.
- (2) No reclamation plan is in effect for the mined lands.
- (3) No financial assurances exist for the mined lands.
- (4) The mined lands are abandoned, as that term is used in paragraph (6) of subdivision (h) of Section 2770.

(b) In deciding whether to act pursuant to subdivision (a), the director shall consider whether the action would accomplish one of the following:

- (1) The protection of the public health and safety or the environment from the adverse effects of past surface mining operations.
- (2) The protection of property that is in danger as a result of past surface mining operations.
- (3) The restoration of land and water resources previously degraded by the adverse effects of surface mining operations.

(c) The director may also consider the potential liability to the state in deciding whether to act under this section. Neither the director, the department, nor the state, or its appointees, employees, or agents, in conducting remediation or reclamation under this section, shall be liable under applicable state law, and it is the intent of the Legislature that those persons and entities not be liable for those actions under federal laws.

(d) (1) The remediation or reclamation work performed under this section includes, but is not limited to, supervision of remediation or reclamation activities that, in the director's judgment, is required by the magnitude of the endeavor or the urgency for prompt action needed to protect the public health and safety or the environment. The action may be taken in default of, or in addition to, remedial work by any other person or governmental agency, and regardless of whether injunctive relief is being sought.

(2) The director may authorize the work to be performed through department staff, with the cooperation of any other governmental agency, or through contracts, and may use rented tools or equipment, either with or without operators furnished.

(3) In cases of emergency where quick action is necessary, notwithstanding any other provision of law, the director may enter into oral contracts for the work, and the contracts, whether written or oral, may include provisions for the rental of tools or equipment and in addition the furnishing of labor and

materials necessary to accomplish the work. These emergency contracts are exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(4) The director shall be permitted reasonable access to the abandoned mined lands as necessary to perform any remediation or reclamation work. The access shall be obtained with the consent of the owner or possessor of the property or, if the consent is withheld or otherwise unobtainable, with a warrant duly issued pursuant to the procedure described in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, the director may enter the property without consent or the issuance of a warrant.

(e) For any remediation or reclamation work accomplished, or other necessary remedial action taken by any governmental agency, the operator, landowner, and the person or persons who allowed or caused any pollution or nuisance are liable to that governmental agency to the extent of the reasonable costs actually incurred in remediating, reclaiming, or taking other remedial action. The amount of the costs is recoverable in a civil action by, and paid to, the governmental agency and the director to the extent of the director's contribution to the costs of the remediation, reclamation, cleanup, and abatement or other corrective action.

(f) (1) The amount of the costs constitutes a lien on the affected property upon service of a copy of the notice of lien on the owner and upon the recordation of a notice of lien, which identifies the property on which the remediation or reclamation was accomplished, the amount of the lien, and the owner of record of the property, in the office of the county recorder of the county in which the property is located. Upon recordation, the lien has the same force, effect, and priority as a judgment lien, except that it attaches only to the property posted and described in the lien. The lien shall continue for 10 years from the time of the recording of the notice of the lien unless sooner released or otherwise discharged, and may be renewed.

(2) Not later than 45 days after receiving a notice of lien, the owner may petition the court for an order releasing the property from the lien or reducing the amount of the lien. In this court action, the governmental agency that incurred the costs shall establish that the costs were reasonable and necessary. The lien may be foreclosed by an action brought by the director, for a money judgment. Money recovered by a judgment in favor of the director shall be used for the purposes of this chapter.

(g) If the operation has been idle for more than one year without obtaining an approved interim management plan, an application for the review of an interim management plan filed for the purpose of preventing the director from undertaking remediation or reclamation of abandoned mined lands under this section shall be voidable by the lead agency or the board upon notice and hearing by the lead agency or the board. In the event of conflicting determinations, the decision of the board shall prevail.

(h) "Remediate," for the purposes of this section, means to improve conditions so that threat to or damage to public health and safety or the environment are lessened or ameliorated, including the cleanup and abatement of pollution or nuisance or threatened pollution or nuisance.

(i) "Threaten," for the purposes of this section, means a condition creating a probability of harm, when the probability and potential extent of harm make it reasonably necessary to take action to prevent, reduce, or mitigate damages to persons, property, or the environment.

(j) This section shall apply to abandoned mined lands on which the mining operations were conducted after January 1, 1976.

(k) The director may act under this section only upon the appropriation of funds by the Legislature for the purposes of carrying out this section.

(l) Nothing in this section limits the authority of any state agency under any other law or regulation to enforce or administer any cleanup or abatement activity.

(Amended by Stats. 2006, Ch. 869, Sec. 24. Effective January 1, 2007.)

CHAPTER 10. Earthquakes

[2800-2804] (Chapter 10 added by Stats. 1985, Ch. 1198, Sec. 1.)

§ 2800. The Legislature finds and declares all of the following:

(a) The state's major metropolitan areas are subject to potentially devastating large magnitude earthquakes and earth scientists estimate that there is a high probability that one or more large earthquakes will occur in California between now and the end of the century.

(b) Loss of life and property damage resulting from a damaging earthquake could be substantially reduced if there existed a reliable short-term earthquake prediction system capable of providing public warning of the size and location of a damaging earthquake within a timeframe of a few weeks to a few hours.

(c) While earth scientists are not in full agreement about the feasibility of short-term earthquake prediction, there is increasing interest in the possibility that precursory geochemical and geophysical phenomena can be identified within short timeframes and that these precursory events can become the basis for timely and reliable warnings of damaging earthquakes.

(d) California currently has a unique opportunity to assess the feasibility of short-term earthquake prediction by joining the United States Geological Survey in a study of the Parkfield section of the San Andreas fault in Monterey County. This section has, between 1857 and 1966, produced almost identical earthquakes of about 5.6 magnitude on the average of every 22 years. Another earthquake probably will occur in January of 1988, plus or minus four years. If adequate instrumentation is in place by the time the earthquake occurs, it may be possible to identify specific precursory phenomena. However, at present, the instrumentation is not considered adequate to fully monitor precursory events and, because of anticipated federal budget cuts, additional instrumentation is unlikely to be installed unless the state is able to participate in the Parkfield study. State participation would also allow the United States Geological Survey to share its data from Parkfield and permit the state to independently analyze and evaluate this data specifically for earthquake prediction and response purposes.

(e) If precursory earthquake phenomena are identified as a result of the Parkfield study, there is a need to assess the feasibility of establishing a statewide earthquake prediction system and to develop a short-term response plan which, among other things, would include development of procedures for verifying the predicted event and guidelines for taking state action in response to anomalous precursory phenomena.

(Added by Stats. 1985, Ch. 1198, Sec. 1. Effective September 29, 1985.)

§ 2801. As used in this chapter:

(a) "Long-term prediction" means a prediction of an earthquake that is expected to occur within a few years up to a few decades.

(b) "Intermediate-term prediction" means a prediction of an earthquake that is expected to occur within a period of a few weeks to a few years.

(c) "Short-term prediction" means a prediction of an earthquake that is expected to occur within a few hours to a few weeks.

(d) "Parkfield prototype earthquake prediction system" means a dense cluster of instruments along the Parkfield section of the San Andreas fault which monitors earthquake activity, local distortion of the Earth's crust, strain levels, creep adjustments along the fault, and other phenomena which may be useful in making a short-term earthquake prediction.

(e) "Parkfield characteristic earthquake" means an earthquake that has, among other qualities, a magnitude between 5.5 and 6.0 on the Richter scale, and occurs on a location somewhere along the 15-mile section of the San Andreas fault that is centered in the City of Parkfield.
(Added by Stats. 1985, Ch. 1198, Sec. 1. Effective September 29, 1985.)

§ 2802. (a) The department shall develop jointly with the United States Geological Survey a prototype earthquake prediction system along the central San Andreas fault near the City of Parkfield.

(b) The system shall include a dense cluster of seismic and crustal deformation instrumentation capable of monitoring geophysical and geochemical phenomena associated with earthquakes in the region. These data shall be analyzed continuously to determine if precursory anomalies can be identified with sufficient certainty to make a short-term prediction. The department shall not duplicate any of the ongoing efforts of the United States Geological Survey or any public or private college or university in the development of this system.

(c) In meeting its obligations under this chapter, the department shall develop, in cooperation with the United States Geological Survey, a plan for completion of the Parkfield instrumentation network. The plan shall provide for all of the following:

(1) Augmentation of monitoring instruments with the goal of detecting precursors of the Parkfield characteristic earthquake.

(2) Operation by the department of a remote data review station in Sacramento which will provide state scientists with data from the Parkfield prototype earthquake prediction system and other data, as required, to advise the Office of Emergency Services of the occurrence of precursors and verification of the predicted event.

(3) Advising the United States Geological Survey, the Office of Emergency Services, the Seismic Safety Commission, and the California Earthquake Prediction Evaluation Council, regarding the department's review of Parkfield data.

(d) On January 1, 1987, the department shall issue a progress report to the Governor, the Legislature, and the Seismic Safety Commission. An annual progress report shall be made each year thereafter. The project shall terminate on January 1, 1992, unless extended by statute.

(Amended by Stats. 2013, Ch. 352, Sec. 474. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 2803. (a) Concurrently with the development of the Parkfield prototype earthquake prediction system, the Office of Emergency Services, in consultation with the California Earthquake Prediction Evaluation Council, shall develop a comprehensive emergency response plan for short-term earthquake predictions. The plan shall include all of the following:

(1) A method of peer review involving the California Earthquake Prediction Evaluation Council to evaluate the validity of short-term earthquake predictions and to develop guidelines for initiating state action in response to anomalous geochemical and geophysical phenomena.

(2) A means of rapidly activating governmental response to a predicted event.

(3) Plans for mitigating earthquake losses to vulnerable populations, including, but not limited to, drawdown of impoundment levels behind dams, positioning of emergency equipment in safe areas, and mobilization of firefighting, law enforcement, rescue, and medical personnel.

(4) A public warning system.

(5) Strategies for dealing with earthquake predictions that fail to occur (false alarms) and the failure of an earthquake prediction system to forecast a damaging event.

(b) The Office of Emergency Services shall consult with the department, the Seismic Safety Commission, the United States Geological Survey, and the Federal Emergency Management Agency in the development of the plan.

(Amended by Stats. 2013, Ch. 352, Sec. 475. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

§ 2804. The department and the Seismic Safety Commission may solicit and receive gifts and grants from other public and private agencies for the state's share of costs under this chapter.

(Added by Stats. 1985, Ch. 1198, Sec. 1. Effective September 29, 1985.)

CALIFORNIA CODE OF REGULATIONS

TITLE 14. NATURAL RESOURCES

DIVISION 2. Department of Conservation

CHAPTER 8. Mining and Geology

Subchapter 1. State Mining and Geology

Article 1. Surface Mining and Reclamation Practice

§ 3500. Purpose

It is the purpose of this subchapter to establish state policy for the reclamation of mined lands and the conduct of surface mining operations in accord with the general provisions set forth in Public Resources Code, Division 2, Chapter 9, Section 2710 et seq. (Surface Mining and Reclamation Act of 1975, as amended by Statutes of 1980).

Authority: Section 2755, Public Resources Code. Reference: Sections 2710-2795, Public Resources Code.

§ 3501. Definitions

The following definitions as used herein shall govern the interpretation of these regulations:

Agricultural Activity. The cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural commodity, the raising of livestock or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation of these products for market.

Angle of Repose. The maximum angle of slope (measured from horizontal plane) at which loose cohesionless material will come to rest on a pile of similar material.

Backfill. Earth, overburden, mine waste or imported material used to replace material removed during mining.

Borrow Pits. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

Critical Gradient. The maximum stable inclination of an unsupported slope under the most adverse conditions that it will likely experience, as determined by current engineering technology.

Excavations for On-Site Construction. Earth material moving activities that are required to prepare a site for construction of structures, landscaping, or other land improvements (such as excavation, grading, compaction, and the creation of fills and embankments), or that in and of themselves constitute engineered works (such as dams, road cuts, fills, and catchment basins).

Grading. To bring an existing surface to a designed form by cutting, filling, and/or smoothing operations.

Minerals. Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

Person. Any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.

Reclamation Plan. The applicant's (operator's) completed and approved plan for reclaiming the lands affected by his surface mining operations conducted after January 1, 1976, as called for in Section 2772 of the Act.

Resoiling. The process of artificially building or reconstructing a soil profile.

Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

Surface Mining Operations. In addition to the provisions of Section 2735 of the Act, borrow pitting, streambed skimming, segregation and stockpiling of mined materials (and recovery of same) are deemed to be surface mining operations unless specifically excluded under Section 2714 of the Act or Section 3505 of these regulations.

Topsoil. The upper part of the soil profile that is relatively rich in humus, which is technically known as the A-horizon of the soil profile.

Authority: Section 2755, Public Resources Code. Reference: Sections 2726-2735, Public Resources Code.

§ 3502. The Reclamation Plan

(a) Objectives. Reclamation plans shall be developed to attain the objectives of Public Resources Code Section 2712(a)-(c).

(b) Reclamation Plan Elements. In addition to the information required by Public Resources Code Section 2772, the following elements shall be included in the reclamation plan:

(1) The environmental setting of the site of operations and the effect that possible alternate reclaimed site conditions may have upon the existing and future uses of surrounding lands.

(2) The public health and safety, giving consideration to the degree and type of present and probable future exposure of the public to the site.

(3) The designed steepness and proposed treatment of the mined lands' final slopes shall take into consideration the physical properties of the slope material, its probable maximum water content, landscaping requirements, and other factors. In all cases, reclamation plans shall specify slope angles flatter than the critical gradient for the type of material involved. Whenever final slopes approach the critical gradient for the type of material involved, regulatory agencies shall require an engineering analysis of the slope stability. Special emphasis on slope stability and design shall be necessary when public safety or adjacent property may be affected.

(4) Areas mined to produce additional materials for backfilling and grading, as well as settlement of filled areas, shall be considered in the reclamation plan. Where ultimate site uses include roads,

building sites, or other improvements sensitive to settlement, the reclamation plans shall include compaction of the fill materials in conformance with good engineering practice.

(5) Disposition of old equipment.

(6) Temporary stream or watershed diversions.

(c) Adequacy. In judging the adequacy of a particular reclamation plan in meeting the requirements described herein and within the Act, the lead agency shall consider the physical and land-use characteristics of the mined lands and their surrounding area pursuant to Public Resources Code Section 2773.

(d) Each surface mining operation as defined in Public Resources Code Section 2735 and Title 14 California Code of Regulations Section 3501, shall have no more than one approved reclamation plan applicable to that operation except as described in subsection (i) to this section. An amended reclamation plan shall be approved by the lead agency prior to the commencement of activities determined to be a substantial deviation from the approved plan. For purposes of the Surface Mining and Reclamation Act of 1975 and regulations adopted pursuant thereto, a substantial deviation shall be defined as a change or expansion to a surface mining operation that substantially affects the completion of the previously approved reclamation plan, or that changes the end use of the approved plan to the extent that the scope of the reclamation required for the surface mining operation is substantially changed. In determining whether a change or expansion constitutes a substantial deviation, the lead agency shall take into consideration the following factors:

(1) A substantial increase in the disturbance of a surface area or in the maximum depth of mining;

(2) A substantial extension of the termination date of the mining operation as set out in the approved reclamation plan;

(3) Changes that would substantially affect the approved end use of the site as established in the reclamation plan;

(4) The consistency of any proposed change to the operation with the previously adopted environmental determinations.

(5) Any other changes that the lead agency deems substantial deviations as defined in this subsection.

(e) An amended reclamation plan shall be filed if the lead agency determines, after an inspection, that the surface mining operation can no longer be reclaimed in accordance with its approved reclamation plan. Such amended plan shall incorporate current reclamation standards as described in Chapter 9 (commencing with Section 2710) and Title 14 of the California Code of Regulations commencing with Section 3700.

(f) In the event that a proposed change is determined not to be a substantial deviation from an approved reclamation plan, then current reclamation standards need only apply to the amended portion of the plan. An amendment to the originally approved reclamation plan that includes an expanded operating area shall be approved by the lead agency prior to implementation of the activities in the expansion area.

(g) Should an expansion of an operation into an area not covered by an approved reclamation plan be determined by the lead agency to be a substantial deviation, an amended reclamation plan shall be prepared that ensures adequate reclamation for the surface mining operation. The amended reclamation plan shall incorporate current reclamation standards for the entire area governed by the plan that is impacted by the deviation. If reclamation has been substantially initiated at the time that a lead agency determines that an amended reclamation plan is required, the operator may complete reclamation of those areas according to the previously approved reclamation plan, except for those areas that are or will be affected by the proposed expanded mining activities which shall be subject to the requirements of the amended reclamation plan.

(h) Where a surface mining operation has in effect an approved reclamation plan and approved financial assurance covering a surface mining operation, and the mining operator proposes to utilize a new surface area, not included within the approved reclamation plan, for purposes of creating a new and separate pit, quarry, or other excavation, the operator may, at the option of the operator do one of two things:

(1) Amend the existing reclamation plan to encompass the new area designated for use as a pit, quarry, or excavation, together with any other changes necessary to make the reclamation plan, as amended, conform to the Act and these regulations. If such an amended plan is proposed, the amended plan must conform to the current reclamation standards required by the Act and the regulations, as to the new area(s) designated as a quarry, pit or excavation, and any processing facilities, roads, sumps, drainage systems or storage or processing areas, which that new area will utilize within the previously approved reclamation plan area or within the new area. Concurrently with the approval of the amended reclamation plan to encompass the new area operations, unless such a provision already is in the existing reclamation plan, the lead agency may require an amendment to the existing reclamation plan to provide for the immediate commencement of the reclamation of any mined lands which no longer are required for mining operations.

(2) Obtain approval of a new reclamation plan covering the new area and any facilities, roads, sumps, drainage systems, or storage or processing areas, utilized in connection with operations in the new area. Any areas encompassed within such plan shall conform to the reclamation standards of the Act and these regulations that are in effect at the time the reclamation plan is approved.

(i) The following exemptions to this section shall apply:

(1) Where a single surface mining operation has separate facilities located within different lead agency jurisdictions, and where these facilities are separated by a distinct and significant physical boundary such as a major highway, stream channel, or the like, the operator may obtain separate reclamation plans and financial assurances for the facilities from the lead agencies in which those facilities are located.

(2) Those surface mining operations that have more than one reclamation plan approved on or before October 1, 2002 shall not be subject to the requirements for a single reclamation plan as described in subsection (d) of this section unless new mining operations or substantial deviations to the operation are proposed after that date that require one of the plans to be amended.

Authority: Section 2755, Public Resources Code. Reference: Sections 2712(a)-(c), 2756-2757, 2770 and 2772-2773, Public Resources Code.

§ 3503. Surface Mining and Reclamation Practice

The following are minimum acceptable practices to be followed in surface mining operations:

(a) Soil Erosion Control.

(1) The removal of vegetation and overburden, if any, in advance of surface mining shall be kept to the minimum.

(2) Stockpiles of overburden and minerals shall be managed to minimize water and wind erosion.

(3) Erosion control facilities such as retarding basins, ditches, streambank stabilization, and diking shall be constructed and maintained where necessary to control erosion.

(b) Water Quality and Watershed Control.

(1) Settling ponds or basins shall be constructed to prevent potential sedimentation of streams at operations where they will provide a significant benefit to water quality.

(2) Operations shall be conducted to substantially prevent siltation of ground-water recharge areas.

(c) Protection of Fish and Wildlife Habitat. All reasonable measures shall be taken to protect the habitat of fish and wildlife.

(d) Disposal of Mine Waste Rock and Overburden. Permanent piles or dumps of mine waste rock and overburden shall be stable and shall not restrict the natural drainage without suitable provisions for diversion.

(e) Erosion and Drainage. Grading and revegetation shall be designed to minimize erosion and to convey surface runoff to natural drainage courses or interior basins designed for water storage. Basins that will store water during periods of surface runoff shall be designed to prevent erosion of spillways when these basins have outlet to lower ground.

(f) Resoiling. When the reclamation plan calls for resoiling, coarse hard mine waste shall be leveled and covered with a layer of finer material or weathered waste. A soil layer shall then be placed on this prepared surface. Surface mines that did not salvage soil during their initial operations shall attempt, where feasible, to upgrade remaining materials. The use of soil conditioners, mulches, or imported topsoil shall be considered where revegetation is part of the reclamation plan and where such measures appear necessary. It is not justified, however, to denude adjacent areas of their soil, for any such denuded areas must in turn be reclaimed.

(g) Revegetation. When the reclamation plan calls for revegetation the available research addressing revegetation methods and the selection of species having good survival characteristics, for the topography, resoiling characteristics, and climate of the mined areas shall be used.

Authority: Section 2755, Public Resources Code. Reference: Sections 2756 and 2757, Public Resources Code.

§ 3504. Administration by Lead Agency

(a) Record Keeping. The lead agency shall establish and maintain in-house measures and procedures to ensure organized record-keeping and monitoring of surface mining reclamation under its jurisdiction. The lead agency shall forward a copy of each permit and approved reclamation plan and financial assurance instrument to the director of the Department of Conservation.

(b) Financial Assurances. The lead agency shall ensure that the objectives of the reclamation plan will be attained. This may include provisions for surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances adopted by the board in accordance with PRC s 2773.1(e), to guarantee the reclamation in accordance with the approved reclamation plan.

Authority: Section 2755, Public Resources Code. Reference: Sections 2757, 2758(b), 2774(a) and 2778, Public Resources Code.

§ 3504.5. Mine Inspections per Calendar Year

The purpose of this section is to clarify and make specific the scope, nature, and frequency of a surface mine inspection required under Public Resources Code Section 2774(b).

(a) Inspection of a surface mining operation shall be conducted not less than once each calendar year to determine if the operation is in compliance with the requirements of Public Resources Code Chapter 9, commencing with section 2710. The lead agency, or the board if the board is the lead agency, shall send written notice to the operator at least ten days prior to any inspection.

(b) A person, who in the determination of the lead agency has demonstrated competence in performing inspections of surface mining operations, shall perform inspections. Evaluation of geological and engineering conditions, when required, shall be performed by or under the supervision of a Geologist Registered to practice in the state under the Geologists and Geophysicists Act or a Professional Engineer registered to practice in the state under the Professional Engineers Act.

(c) A surface mine inspection shall not be performed by any person who holds a financial interest in or has been employed by the surface mining operation in any capacity, including as a consultant or as a contractor, during the year preceding the inspection.

(d) Annual surface mine inspections may be conducted by a specialist or a team of specialists with expertise that includes but is not limited to, geology, engineering, surveying, ecology, water chemistry and quality, and permitting. Persons participating in the inspection shall follow such reasonable requirements of the operator so that there is minimal interference with the surface mining operation and the inspection is conducted in a safe manner in accordance with all state and federal safety requirements.

(e) The operator shall be responsible for the reasonable cost of the annual inspection conducted by the lead agency or by the board if the board is the lead agency.

(f) Inspections may include, but shall not be limited to the following: the operation's horizontal and vertical dimensions; volumes of materials stored on the site; slope angles of stock piles, waste piles and quarry walls; potential geological hazards; equipment and other facilities; samples of materials; photographic or other electronic images of the operation; any measurements or observations deemed necessary by the inspector or the lead agency to ensure the operation is in compliance with Public Resources Code Chapter 9.

(g) The inspection report to the lead agency shall consist of the inspection form MRRC-1 (4/97), developed by the department and approved by the board, and any other reports or documents prepared by the inspector or inspection team. The lead agency shall provide a copy of the completed inspection report along with the lead agency's statement regarding the status of compliance of the operation to the director within 30 days of completion of the inspection. A copy of the completed inspection report and lead agency statement of compliance shall also be provided to the mine operator within 30 days of completion of the inspection.

Authority: Section 2755, Public Resources Code Reference: Section 2774, Public Resources Code.

§ 3505. Special Provisions

(a) Exemptions.

(1) In addition to the provisions of Public Resources Code Section 2714(a), (c) and (d), any surface mining operation that does not involve either the removal of a total of more than 1000 cubic yards of minerals, ores, and overburden, or involve more than one acre in any one location, shall be exempt from the provisions of the Act.

(2) The purpose of this subdivision is to define the criteria of a "flood control facility," the clean-out of which is exempt from the requirements of the Surface Mining and Reclamation Act of 1975 under PRC Section 2714(a) and (b). It is intended that cleaning out of a previously engineered, constructed facility for which approved design plans exist is an activity to restore the usefulness of that flood control facility to its original design purpose. It is not the intent of this subsection to exempt the removal of materials from natural channels.

The removal of post-construction accumulated materials from a responsible public agency-approved, managed, engineered, constructed facility intended for the purpose of water retention or detention, debris retention, or from a flood water conveyance, where the post-extraction condition, capacity or grade of the facility or conveyance does not exceed the as-built approved design specification contained in the approved documents for the facility or conveyance, shall be exempt from the provisions of the Act.

(3) The excavation, grading, or transportation of mineral materials, including overburden, exclusive of commercial surface mining activities as defined in Public Resources Code Section 2714(d), that is wholly integral and necessary to the conduct of agricultural activities either on-site or on non-contiguous parcels, shall meet the requirements of Public Resources Code Section 2714(a) for farming excava-

tions or grading. This exemption does not apply to the exportation of mineral materials, including overburden, from the property that is in excess of 1,000 cubic yards for commercial purposes.

(b) Vested Rights. The permit and reclamation plan requirements for persons with vested rights are stated in Public Resources Code Section 2776.

Where a person with vested rights continues surface mining in the same area subsequent to January 1, 1976, he shall obtain an approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the reclamation plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act.

Authority: Section 2755, Public Resources Code. Reference: Sections 2714, 2758(c) and 2776, Public Resources Code; and 78 Ops.Cal.Atty.Gen. 343 (1995).

Article 2. Areas Designated to be of Regional Significance

§ 3550. Introduction

Pursuant to Section 2790 of the Surface Mining and Reclamation Act, the Mining and Geology Board designates certain mineral resource sectors within the following geographical areas to be of regional significance.

Authority and reference: Section 2790, Public Resources Code.

§ 3550.1. Tujunga and Pacoima Wash Areas of the San Fernando Valley Region, Los Angeles County

On January 7, 1981, following a December 11, 1980, public hearing, the Mining and Geology Board designated Sectors A, B, C, and D of the Tujunga and Pacoima Wash areas to be of regional significance. In general, these sectors are described as follows:

- (1) Sector A -Tujunga Valley east of the Hansen Dam flood control basin, west of the 210 freeway and excluding identified archaeological sites;
- (2) Sector B -the Hansen Dam Area;
- (3) Sector C -an area southwest of Hansen Dam; and
- (4) Sector D -Pacoima Wash north of Lopez Dam.

These sectors contain sand and gravel deposits which provide a source of construction aggregate for the region's future need.

Designation Map #81-1 and a report summarizing the designation findings of the State Mining and Geology Board are on file at the Board's office in Sacramento.

Authority and reference: Section 2790, Public Resources Code.

§ 3550.2. Santa Clara River Valley Area of the Western Ventura County Region, Ventura County

On January 28, 1982, following a November 19, 1981, public hearing, the State Mining and Geology Board designated Sectors A, B, C, D, E, F, G, H, I, and J, on Designation Map #82-1, in the Santa Clara River Valley to be of regional significance. In general, these sectors are described as follows:

- (1) Sector A -Instream deposits of the Santa Clara River near the community of El Rio beginning approximately one mile downstream of the U.S. Highway 101 bridge and extending to a point approximately two miles upstream of the Los Angeles Avenue bridge.

- (2) Sector B -Offstream deposits located adjacent to Vineyard Avenue in the community of El Rio.
- (3) Sector C -Offstream deposits located in and adjacent to the community of El Rio.
- (4) Sector D -Offstream deposits located east of Los Angeles Avenue and south of the Santa Clara River.
- (5) Sector E -Instream deposits of the Santa Clara River beginning at the eastern boundary of Sector A and extending upstream to the confluence of Santa Paula Creek.
- (6) Sector F -Instream deposits extending from the eastern boundary of Sector E upstream to the confluence of Sespe Creek.
- (7) Sector G -Instream deposits extending from the eastern boundary of Sector F upstream to Cavin Road.
- (8) Sector H -Instream deposits extending from the eastern boundary of Sector G upstream to Piru.
- (9) Sector I -Instream deposits extending from the eastern boundary of Sector H upstream for approximately three miles.
- (10) Sector J -Instream deposits extending from the eastern boundary of Sector I upstream to the Ventura County line.

These sectors contain sand and gravel deposits that provide a source of construction aggregate for the region's future need.

Designation Map #82-1 and a report summarizing the designation findings of the State Mining and Geology Board, "Designation of Regionally Significant Construction Aggregate Resource Areas in the Western Ventura County and Simi Production-Consumption Regions -March 1982," are on file at the Board's office in Sacramento.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2791, Public Resources Code.

§ 3550.3. Simi Valley Area of the Simi Region, Ventura County

On January 28, 1982, following a November 19, 1981, public hearing, the State Mining and Geology Board designated Sectors A, B, and C, on Designation Map 82-1, in the Simi Valley area to be of regional significance. In general, these sectors are described as follows:

- (1) Sector A -Hillside deposits located on Oak Ridge and the Simi Hills.
- (2) Sector B -Hillside deposits located along a portion of Oak Ridge extending from Long Canyon eastward to the Ventura County line.
- (3) Sector C -Hillside deposits located above Meir and Runkle Canyons in the Simi Hills.

These sectors contain sand and gravel deposits that provide a source of construction aggregate for the region's future needs.

Designation Map #82-1 and a report summarizing the designation findings of the State Mining and Geology Board, "Designation of Regionally Significant Construction Aggregate Resource Areas in the Western Ventura County and Simi Production-Consumption regions -March 1982," are on file at the Board's office in Sacramento.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2791, Public Resources Code.

§ 3550.4. Santa Ana River, Santiago Creek Arroyo Trabuco, San Juan Creek, and Temescal Valley Areas of the Orange County-Temescal Valley Region, Orange, Riverside, and San Bernardino Counties

A set of maps identifying the exact locations of the designated areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Orange County-Temescal Valley and San Gabriel Valley Production-Consumption Regions," is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas have been designated as being of regional significance:

Sector A -Instream deposits of the Santa Ana River beginning at Prado Dam and extending downstream for one and one-half miles.

Sector B -Instream deposits along the north side of the Santa Ana River beginning near Coal Canyon and extending downstream for approximately three miles.

Sector C -Instream deposits along the south side of the Santa Ana River from Horseshoe Bend downstream to the Weir Canyon Bridge.

Sector D -Offstream deposits located between Orangethorpe Avenue and La Palma Avenue in the northeastern part of Anaheim.

Sector E -Offstream deposits located near the intersection of Fee Ana Street and La Palma Avenue in Anaheim.

Sector F -Offstream deposits in the Warner Basin located near Jefferson Street and the Riverside Freeway in Anaheim.

Sector G -Offstream deposit located on the south side of the Santa Ana River near Lincoln Avenue in Anaheim.

Sector H -Hillside deposit located immediately east of Prado Dam in the Chino Hills.

Sector I -Hillside deposit located east of Gypsum Canyon in the Santa Ana Mountains.

Sector J -Instream deposit of Santiago Creek beginning near Villa Park Dam and extending downstream to approximately the Newport Freeway.

Sector K -A conglomerate deposit in upper Blind Canyon east of Villa Park Dam.

Sector L -Instream deposit located on Santiago Creek between Santiago Dam and Irvine Park.

Sector M -Instream deposit located under the Santiago Reservoir on Santiago Creek.

Sector N -Instream deposits of Santiago Creek beginning near Santiago Reservoir and extending upstream to the confluence of Williams Canyon, including a portion of Silverado Canyon.

Sector O -Offstream deposit located on the southeast side of Cota Street in Corona.

Sector P -Offstream deposits of Temescal Wash near the intersection of the Riverside Freeway and Interstate 15 near Corona.

Sector Q -Instream deposits located in Temescal Wash beginning near Magnolia Avenue and extending upstream to Cajalco Road.

Sector R -Instream deposits located in Temescal Wash beginning near the Olsen Canyon confluence and extending upstream to Lee Lake.

Sector S -Offstream deposits of the Coldwater Mayhew Fan near Glen Ivy Hot Springs.

Sector T -Instream deposits of San Juan Creek beginning near Casper Regional Park and extending downstream to approximately Ganado Road in San Juan Capistrano.

Sector U -Instream deposits of Arroyo Trabuco beginning one-half mile above Interstate 5 and extending approximately five miles upstream.

Sector V -Instream deposits of Arroyo Trabuco beginning at the Live Oak Canyon Road crossing and extending upstream for approximately two miles.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2791, Public Resources Code.

§ 3550.5. San Gabriel River, Eaton Wash, Devils Gate, and Palos Verdes Areas of the San Gabriel Valley Region, Los Angeles County

A set of maps identifying the exact locations of the designated areas, entitled “Updated Designation of Regionally Significant Construction Resources in the Northern San Gabriel Production-Consumption Regions, Los Angeles County, California, 2013” and “Updated Designation of Regionally Significant Construction Aggregate Resources in the Eaton Wash, Devils Gate Reservoir, and Palos Verdes Areas, San Gabriel Production-Consumption Region, Los Angeles County, California, 2013” is incorporated by reference into this regulation. The areas for designation or termination of designation are shown on the two Plates. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas have been designated as being of regional significance:

Sector A -Offstream and instream deposits of the San Gabriel River below Morris Dam near Azusa.

Sector B -Instream deposit consisting of the flood control channel of the San Gabriel River upstream of Foothill Boulevard near Azusa.

Sector C -Instream deposits in a portion of the Santa Fe Flood Control Basin and spillway channel near Irwindale.

Sector D -Offstream and instream deposits in the western portion of the San Gabriel River Fan near Baldwin Park and Arcadia.

Sector E -Offstream deposits in the eastern portion of the San Gabriel River Fan in Irwindale.

Sector F -Instream deposits of Eaton Wash located in the Eaton Wash Flood Control Basin.

Sector H -Instream deposits of Arroyo Seco in the Devils Gate Reservoir area.

Sector I -Hillside deposit in the Palos Verdes Hills on Narbonne Avenue in Bent Springs Canyon.

Sector J - Hard rock deposits in the San Gabriel Mountains northeast of San Gabriel Creek in the City of Azusa.

Sector K - Offstream deposits in the eastern portion of the San Gabriel River Fan in Irwindale.

Sector L - Offstream deposits in the eastern portion of the San Gabriel River Fan in Irwindale.

Sector M - Offstream and instream deposits in the western portion of the San Gabriel River Fan near Baldwin Park and Arcadia.

Six Sectors are identified for termination of designation status because of high-value incompatible land use developments.

Sector A (263 acres): There are six separate areas that are now incompatible with mining. Forty-three million tons of resources in these areas have been lost because of urbanization and 24 million tons of resources have been lost because of landfill operations.

Sector B (12 acres): There is one area that has become incompatible with mining. Eight million tons of resources have been lost to urbanization.

Sector C (42 acres): There are two areas that have become incompatible with mining. Thirty-six million tons of resources have been lost to urbanization.

Sector D (391 acres): There are eleven areas that are now incompatible with mining. Fifty-two million tons of resources have been lost to urbanization and 64 million tons of resources have been lost because of landfill operations.

Sector E (422 acres): There are six areas that have become incompatible with mining. Fourteen million tons of resources have been lost to urbanization, and 179 million tons of resources have been lost to landfill operations.

Sector I (104 acres): There are two areas that have become incompatible with mining. Fifteen million tons of resources have been lost to landfill operations.

Authority: Sections 2790 and 2793, Public Resources Code. Reference: Sections 2726, 2761-2763, 2790-2791 and 2793, Public Resources Code.

§ 3550.6. Construction Aggregate Resources, Western San Diego County Region

A set of maps identifying the exact locations of the designated resource areas, entitled “Regionally Significant Construction Aggregate Resource Areas in the Western San Diego County Production-Consumption Region” is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A -A granitic rock deposit located in eastern Oceanside, southwest of the intersection of Highway 78 and College Boulevard, near Buena Vista Creek Canyon.

Sector B -Channel and flood-plain deposits of the San Luis Rey River beginning near North River Road in Oceanside and extending upstream for approximately six miles.

Sector C -Channel and flood-plain deposits of the San Luis Rey River from near the Highway 78 bridge upstream to approximately the Interstate 15 bridge.

Sector D -Alluvial deposits of the upper San Luis Rey River, extending discontinuously from the Interstate 15 bridge upstream to the community of Rincon in Pauma Valley.

Sector E -A hillside alluvial fan deposit located northeast of the San Luis Rey River, extending from the community of Pala to Pauma Valley.

Sector F -An alluvial fan deposit located in upper Pauma Valley near the community of Rincon.

Sector H -A granitic rock deposit located in Twin Oaks Valley approximately three miles east of the City of Vista.

Sector I -An alluvial fan deposit extending eastward from Lake Hodges on the San Dieguito River to the upper end of San Pasqual Valley.

Sector J -A mesa-top conglomerate deposit consisting of 4 areas located in or near the communities of Rancho Bernardo, Rancho Penasquitos, Poway Mira Mesa, Tierra Santa, and Santee, and on the Miramar Naval Air Station.

Sector K -A metavolcanic rock deposit located in Mission Gorge on the San Diego River.

Sector M -Channel and flood-plain deposits of the upper San Diego River from Magnolia Avenue in the City of Santee to within one mile of El Capitan Dam.

Sector N -A channel deposit of the lower Sweetwater River located near the community of Sunny-side.

Sector O -A channel deposit of the Sweetwater River located at the upper end of Sweetwater Reservoir.

Sector P -A channel deposit of the Sweetwater River located in upper Jamacha Valley.

Sector Q -A channel deposit of the Sweetwater River that extends from near the Singing Hills Golf Course upstream for a distance of approximately four miles.

Sector R -Channel and adjacent mesa deposits of the Otay River extending from near Interstate 805 upstream to approximately the head of Otay Valley.

Sector S -A metavolcanic rock deposit on Rock Mountain located on the north side of upper Otay Valley.

Sector U -Flood-plain deposits of the Tijuana River extending from the international boundary downstream for a distance of approximately four miles.

Sector V -Conglomerate deposits located on the Border Highlands immediately south of the Tijuana River.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.7. Construction Aggregate Resources, Claremont – Upland Region

A set of maps identifying the exact locations of the designated resources areas entitled “Regionally Significant Construction Aggregate Resources Areas in Claremont-Upland Production-Consumption Region” is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A-The annual recharge area upstream from the San Antonio Creek Flood Control Dam.

Sector B-Eight parcels south of San Antonio Creek Flood Control Dam in the unurbanized areas of the San Antonio Creek Fan, northeast of the City of Claremont. Sector B is roughly bounded by Foothill Boulevard on the south, San Antonio Avenue on the east, and Thompson Creek on the west.

Sector C-Four parcels in the proximal part of the Cucamonga Creek Fan, north of the City of Upland. The area is generally north of 19th Street, west of Carmelian Avenue, east of Euclid Avenue, and south of the San Bernadino National Forest.

Sector D-Three parcels covering parts of the Day Creek and Deer Creek Fans between the Cities of Cucamonga and Fontana. It is bounded by the San Gabriel Mountains on the north and Highland Avenue on the south.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.8. Constructive Aggregate Resources, San Bernardino Region

The areas for designation and termination of designation are shown on two plates entitled “Updated Designation in the Northern San Bernardino Production-Consumption (P-C) Region, San Bernardino and Riverside Counties, California (2013) Plate I, Updated Designation in the Southern San Bernardino Production-Consumption (P-C) Region, San Bernardino and Riverside Counties, (2013) Plate 2, and are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A: This Sector includes nineteen subsectors on the Lytle Creek Fan in and around the City of Fontana. Includes subsectors A-4-a, A-4-b, A-4-c, A-7-a, A-7-b, A-7-c, A-8-a, A-8-b, A-9-a, A-9-b, A-13-a,

A-14, A-16-a, A-16-b, A-17-a, A-19-a, and A-19-b, The larger subsectors are north of Fontana; several smaller subsectors are scattered to the east and south of Fontana to the Santa Ana River.

Sector B: This Sector includes twelve subsectors covering the unurbanized portions of Lytle Creek Wash from north of Freeway 15, west to the downtown area of the City of San Bernardino. Includes subsectors B-1-a, B-1-b, B-5-a, B-5-b, B-5-c, B-6-a, B-7-a, B-8, B-9, B-10, B-14, and B-15.

Sector C: This Sector includes fourteen subsectors along the Cajon Creek Wash from the bend in the wash south of Lost Lake, southward to the confluence of Cajon Creek and Lytle Creek. Includes subsectors C-1-a, C-1-b, C-3-a, C-4-a, C-5-a, C-5-b, C-5-c, C-6-a, C-6-b, C-6-c, C-6-d, C-6-e, C-8, and C-10-a.

Sector E: This Sector includes fifteen subsectors in and along the Santa Ana River from Freeway 395, south and west to the town of Rubidoux. Includes subsectors E-1, E-2-a, E-5-a, E-9, E-10-a, E-10-b, E-13-a, E-13-b, E-14-a, E-17-a, E-19, E-20, E-22, E-23, and E-24-a

Sector F: This Sector includes eighteen subsectors along the upper Santa Ana River and Santa Ana Wash and areas along smaller drainages merging with the Santa Ana Wash, including Warm Creek, City Creek, and Mill Creek. Includes subsectors F-2-a, F-3-a, F-6-a, F-6-b, F-9, F-14-a, F-14-b, F-15-a, F-15-b, F-15-c, F-16-a, F-17-a, F-18, F-20-a, F-23-a, F-23-b, F-32-a, and F-33.

Subsector G-1: This Sector includes subsectors G-1-a, G-1-b and G-1-c. These subsectors cover parts of the San Gorgonio River alluvial fan, east of the City of Banning, and extends from the mouth of Banning Canyon.

Subsector G-2: This Sector includes subsectors G-2-a, G-2-b, and G-2-c. These subsectors cover parts of the San Gorgonio River alluvial fan, west and south of the community of Cabazon.

Subsector J-1: This subsector is bounded to the southeast by the 15 Freeway and on the northwest by Lytle Creek Road. It is adjacent to Sector B-2 on the northeast.

Subsector J-2: This subsector is northeast of the 15 Freeway.

Subsector J-3: This subsector is bounded on the northwest by the 15 Freeway, on the east by Citrus Avenue, and on the south by Duncan Canyon Road.

Subsector J-4: This subsector is bounded on the southeast by a transmission line, on the northwest by the 15 Freeway, and on the west by Citrus Avenue.

Subsector J-5: This subsector is bounded on the south by a utility corridor, on the west by a transmission line, and on the northwest by the 15 Freeway.

Subsector J-6: This subsector is bounded on the north by a transmission line and utility corridor, on the west by Citrus Avenue, on the east by Sierra Avenue, and on the south by Highland Avenue.

Subsector J-7: This subsector is bounded on the south by a utility corridor, on the north by Duncan Canyon Road, on the east by Sierra Avenue, and on the west by Lytle Creek Road.

Subsector J-8: This subsector is bounded on the north by a utility corridor, on the south by a transmission line, on the west by Lytle Creek Road, and on the east by Sierra Avenue.

Subsector J-9: This subsector is bounded on the north by Summit Avenue, on the east by Citrus Avenue, and on the south by La Sierra Drive.

Subsector J-10: This subsector is bounded by Sierra Avenue on the west, by Windflower Avenue on the south, and by Mango Avenue on the east.

Subsector J-11: This subsector is bounded on the east by Alder Avenue, on the north by Summit Avenue.

Subsector J-12: This subsector is bounded on the east by Alder Avenue. The Mid-Valley Landfill Pit operated by Robertson's Ready Mix Concrete Company is in this Sector.

Subsector J-13: This subsector is bounded on west by Ayala Drive and on the south by Jerry Eaves Park.

Sector K: This Sector is north of Lake Elsinore, on the northeast corner of the Corona Freeway and Nichols Road. The area is the site of an active crushed-stone quarry operated by the Pacific Aggregates, Inc.

AREAS FOR TERMINATION OF DESIGNATION:

The following Sectors are identified by the State Geologist for termination of designation status due to high-value incompatible land use developments. These areas are shown on the accompanying Plates.

Subsector A-4: This Sector includes subsectors A-4-d, A-4-e, A-4-f, A-4-g and A-4-h which are now covered by housing developments, freeway and freeway interchange.

Subsector A-6: This Sector is north of Highland Avenue and is now covered by the State Route 210 Freeway.

Subsector A-7: Includes subsector A-7-d, which is now covered by housing developments, urbanization and freeway.

Subsector A-8-c: Most of this subsector is covered by housing development.

Subsector A-9: Includes subsector A-9-c, which is now covered by housing development.

Subsector A-13: Includes subsector A-13-b, which is covered by housing development.

Subsector A-15: This subsector is in an area south of Foothill Boulevard, east of Beech Avenue, north of Arrow Route, and west of Lime Avenue, and is covered by industrial development.

Subsector A-16-c: This subsector is now mainly covered by industrial development.

Subsector A-17: Includes subsectors A-17-b and A-17-c, which are now covered by Industrial development.

Subsector A-18: This subsector is south of Arrow Boulevard and north of the Burlington Northern-Southern Pacific Railway Line, between Beech and Lime Avenues. Industrial development now covers this Sector.

Subsector A-19-c: This subsector, on the northwestern corner of Citrus Avenue and the Burlington Northern-Southern Pacific Railway Line, is now covered by industrial development.

Subsector A-23: This subsector is south of Freeway 10, north of Slover Avenue and east of Sierra Avenue. Urban and industrial development now covers this Sector.

Subsector A-24: This subsector is south of Slover Avenue and north of Santa Ana Avenue, between Spruce and Cactus avenues. Housing development now covers the Sector.

Subsector A-27: This subsector is south of Santa Ana Avenue and north of Jurupa Avenue, between Lilac and Cactus avenues. Housing and industrial development now covers this Sector.

Subsector A-28: This subsector is between Hall Avenue and South Riverside Avenue, and northwest of Agua Mansa Road, is now covered by housing development.

Subsector A-29-b: This subsector is between Hall Avenue and South Riverside Avenue, and northwest of Agua Mansa Road, is now covered by housing development.

Subsector A-30: This subsector is between Hall Avenue and South Riverside Avenue, and northwest of Agua Mansa Road, is now covered by housing development.

Subsector B-2: The northern and northeastern part of the subsector, south of Freeway 210 and west of Brampton Avenue is now covered by housing development.

Subsector B-5: Includes subsectors B-5-d, B-5-e, B-5-f, B-5-g, B-5-h and B-5-i: The northern and northeastern part of the Sector, south of Freeway 210 and west of Brampton Avenue is now covered by housing development.

Subsector B-6-b: The northern and northeastern part of the subsector, south of Freeway 210 and west of Brampton Avenue is now covered by housing development.

Subsector B-7-b: The northern edge of the subsector is now covered by the State Route 210 Freeway.

Subsector B-12: This subsector is now covered by industrial development.

Subsector B-16: This subsector is now covered by industrial development.

Subsector B-17: This subsector is now covered by industrial development.

Subsector C-3-b: The subsector east of Little League Drive is now covered by urban development.

Subsector C-4-b: The subsector east of Little League Drive is now covered by urban development.

Subsector C-10-b: The subsector east of Cable Creek is now covered by housing development.

Subsector D-2: This subsector is now covered by industrial development.

Subsector D-3: This subsector is now covered by industrial development.

Subsector D-4: This subsector is now covered by industrial development.

Subsectors D-5: This subsector is now covered by industrial development.

Subsector D-6: This subsector is comprised of two subsectors, D-6-a and D-6-b, which are now covered by industrial development.

Subsector E-2-b: This subsector is now covered by industrial development.

Subsector E-4: This subsector is now covered by industrial development.

Subsectors E-5: This subsector is comprised of two subsectors, E-5-b and E-10-c, which are now covered by industrial development.

Subsectors E-10: This subsector includes three subsectors, E-10-c, E-10-d and E-10-e, just east of South Riverside Avenue and north of the Santa Ana River which are now covered by industrial development.

Subsector E-13-c: The subsector along the south side of Pellisier Road is now covered by industrial development.

Subsector E-14-b: The subsector along the south side of Pellisier Road is now covered by industrial development.

Subsector E-17-b: This subsector in and along the Santa Ana River from Freeway 395, south and west to the town of Rubidoux, is now covered by industrial development.

Subsector E-24-c: This subsector, along Crestmore Road, is now covered by housing development.

Subsector F-1: This subsector is mostly covered by urban development.

Subsector F-2-b: This subsector is now covered by housing development.

Subsector F-3-b: This subsector is now covered by housing development.

Subsectors F-4-a, F-4-b, F-4-c, and F-14-d: These subsectors are now covered by housing development.

Subsector F-5: This subsector is now covered by housing development.

Subsector F-6: This subsector includes subsectors F-6-c, F-6-d and F-6-e which are now covered by industrial development.

Subsector F-12: This subsector is now covered by industrial development.

Subsectors F-14-c and F-14-d: Parts of these subsectors are now covered by housing development.

Subsector F-15: This Sector includes subsectors F-15-d, F-15-e, F-15-f, F-15-g and F-15-h, which are now covered by housing and other urban development.

Subsector F-16-b: This subsector is now covered by industrial development.

Subsector F-17-b: This subsector is now covered by industrial development.

Subsector F-20-b: This subsector is now covered by industrial development.

Sector F-23: This subsector includes subsectors F-23-c and F-23-d, which are now covered by industrial development and a bridge.

Sector F-32-b: This subsector is now covered by industrial development and a bridge.

Sector G: This Sector includes three subsectors, G-1-d, G-1-e and G-1-f, covering parts of the San Gorgonio River alluvial fan, northeast of the City of Banning, and extends from the mouth of Banning Canyon. These subsectors are now covered by housing and other urban development.

Sector H: This Sector is now depleted.

Sector I: This subsector is now covered by housing and other urban development.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.9. Construction Aggregate Resources, Saugus-Newhall and Palmdale Regions

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in Saugus-Newhall and Palmdale Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A-Portions of the Santa Clara River and its immediate flood plain extending from the Los Angeles County Line to Bee Canyon, parts of Castiac Creek, and Oak Spring Canyon.

Sector B-An area bounded by Bee Canyon on the northwest, the Santa Clara River to the south, and extending approximately one mile east of the Agua Dulce Canyon; and a triangle-shaped area with a boundary extending from the mouth of Pole Canyon west along an old railroad grade, south to Oak Spring Canyon then northeast back to the mouth of Pole Canyon.

Sector C-A triangular area beginning at the mouth of Pole Canyon, running southeast along the canyon to Oak Spring Canyon then southwest to Coyote Canyon, turning northeast to close the triangle back at the mouth of Pole Canyon.

Sector D-An area north of the California Aqueduct whose eastern boundary is along Little Rock Wash then turns west approximately one mile north of Boundary Avenue. The western boundary runs south near 47th Street and Fort-Tejon Road.

Sector E-An area of the Big Rock Wash bounded by the aqueduct on the south, North 165th Street on the east, Palmdale Boulevard on the north, and 116th Street on the west.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.10. Construction Aggregate Resources, South San Francisco Bay Region

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in South San Francisco Bay Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

Sector A-Aggregate deposit located in Amador Valley and Livermore Valley areas in the Cities of Pleasanton and Livermore in Alameda County.

Sector B-Alluvial deposit consisting of six parcels along Arroyo del Valle on the southwestern edge of Livermore in Alameda County.

Sector C-Alluvial deposit consisting of six parcels located along Arroyo Mucho on the eastern edge of Livermore in Alameda County.

Sector D-Greenstone deposit located on Apperson Ridge east of Sunol Valley in Alameda County.

Sector E-Alluvial deposit consisting of five parcels in Sunol Valley in southern Alameda County.

Sector H-Elongated sandstone deposit located on the foothills of the Cities of Fremont and Union City.

Sector I-Elongated series of parcels consisting of a sandstone deposit along the foothills east of the Cities of Fremont and Milpitas.

Sector J-Alluvial deposit located near Mowry Landing on the southern edge of Fremont in Alameda County.

Sector K-Alluvial deposit located west of Highway 17 on the southern edge of Fremont in Alameda County.

Sector L-Alluvial deposit consisting of three parcels located between the Nimitz Freeway, Alameda Creek, the Coyote Hills, and Jarvis Avenue in the northwestern portion of the City of Fremont in Alameda County.

Sector M-Located at the southern end of the Coyote Hills on the west side of Fremont in Alameda County.

Sector N-Greenstone deposit in the foothills east of the City of Hayward in Alameda County.

Sector O-Consists of greenstone and rhyolite located in the Berkeley Hills west of Lake Chabot in Alameda County.

Sector P-Consists of rhyolite located north of the Oak Knoll Naval Hospital in the Berkeley Hills.

Sector S-Mount Zion and a smaller adjacent hill in central Contra Costa County.

Sector T-Consists of basalt and andesite located at the south end of Gudde Ridge in the City of Moraga in southwestern Contra Costa County.

Sector U-Consists of basalt and andesite located on a small ridge southwest of the City of Orinda in Contra Costa County.

Sector V-Consists of basalt and andesite located on a small ridge southwest of the city of Orinda in Contra Costa County.

Sector W-Sandstone and shale deposit consisting of three parcels located on the west side of the City of Richmond in Contra Costa County.

Sector X-The Guadalupe Quarry property on the north side of Mount San Bruno adjacent to the City of Brisbane in San Mateo County.

Sector Y-Limestone and greenstone deposits located west of Pacifica near Rockway Beach in northern San Mateo County.

Sector Z-Greenstone deposit located in the Los Altos Hills in northwestern Santa Clara County.

Sector BB-Limestone deposit located west of the City of Cupertino on upper Permanente Creek in Santa Clara County.

Sector CC-Greenstone deposit located northwest of Stevens Creek Reservoir on the western edge of the City of Cupertino in Santa Clara County.

Sector DD-Conglomerate deposit located northwest of Stevens Creek Reservoir west of the City of Cupertino in Santa Clara County.

Sector EE-Located immediately northwest of the intersection of Capitol Expressway and Monterey Road (highway 82) on the City of San Jose in Santa Clara County.

Sector GG-Sandstone deposit located approximately four miles south of Brentwood in eastern Contra Costa County.

Sector HH-Granitic rock deposit located northwest of the City of Half Moon Bay in western San Mateo County.

Sector II-Sandstone and siltstone deposit located in Limekiln Canyon east of Lexington Reservoir in southwestern Santa Clara County.

Sector LL-Sandstone deposit located in the foothills east of the City of Fremont in Alameda County.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.11. Construction Aggregate Resources, North San Francisco Bay Region

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in North San Francisco Bay Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A-Channel and floodplain alluvium deposits located in Alexander Valley of Sonoma County; extends from approximately the City of Cloverdale downstream to a point 3.25 miles southeast of the community of Jintown.

Sector B-Alluvial deposits of the middle reach of the Russian River and a small portion of Dry Creek 0.5 miles west of Healdsburg. The sector extends from the City of Healdsburg down the Russian River to a point near the Wohler Road bridge.

Sector C-Alluvial deposits restricted to two small portions of Sonoma Creek. The first is about one mile south of Sonoma State Hospital, and the second is about one mile south of Boyes Hot Springs.

Sector D-Consists of Novato Conglomerate deposits located near Black Point in eastern Marin County.

Sector E-A small basalt deposit located on Petaluma Hill near the southeastern edge of the City of Petaluma in Sonoma County.

Sector F-A small aggregate deposit located west of the City of Cotati on Stony Point Road in Sonoma County.

Sector G-Three contiguous parcels consisting of metamorphosed graywacke and greenstone deposits located east of the City of Vallejo at the southern end of Sulphur Springs Mountain.

Sector H-Aggregate deposit located southeast of the City of Napa in Napa County.

Sector I-Metamorphosed sandstone deposit located on Point San Pedro in eastern Marin County.

Sector J-A large block of andesite located on Burdell Mountain approximately two miles north of the City of Novato in Marin County.

Sector K-Two areas east of Dunbar Union School and northeast of the community of Glen Ellen in Sonoma County.

Sector L-Small greenstone and pillow lavas deposits located in Millerton Gulch approximately 3.5 miles north of the community of Point Reyes Station in Marin County.

Sector M-A small serpentinite deposit located in upper Bowman Canyon on Burdell Mountain approximately three miles northwest of Novato in Marin County.

Section N-A small siltstone deposit located approximately one mile west of the community of Forestville and south of Highway 116.

Sector O-A small siltstone deposit located approximately one mile west of the community of Forestville and north of Highway 116.

Sector P-Located along the west side of Green Valley approximately three miles southwest of Forestville in Sonoma County.

Sector Q-Sandstone deposit located in Cheney Gulch approximately 2.5 miles east of Bodega Bay in western Sonoma County.

Sector R-Located approximately 2.5 miles southeast of the City of Petaluma in Sonoma County.

Sector S-Located approximately five miles west of Petaluma on Petaluma Creek Road in Sonoma County.

Sector T-Sandstone deposits located 1.5 miles north of Duncan Mills on Austin Creek in western Sonoma County.

Sector U-Located at the confluence of the South Fork and Wheatfield Fork of the Gualala River in northwestern Sonoma County.

Sector V-Consists of andesite located on Burdell Mountain approximately two miles north of the City of Novato in Marin County.

Sector W-Located on Porter Creek Road approximately four miles east of the community of Mark West Springs in eastern Sonoma County.

Sector X-Consists of sandstone and andesite located along Highway 121 approximately 2.5 miles north of Sears Point in southeastern Sonoma County.

Sector Y-Shale deposit located approximately 2.5 miles west of Healdsburg in Sonoma County.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.12. Construction Aggregate Resources, Monterey Bay Region

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in Monterey Bay Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A-Consists of quartz diorite located on Ben Lomond Mountain southwest of Felton in Santa Cruz County.

Sector B-Consists of sandstone deposit divided into three large non-contiguous parcels located east of Felton in Santa Cruz County.

Sector C-Sandstone deposit located near Wilder Ranch west of the City of Santa Cruz.

Sector D-Alluvial deposit located in a portion of Uvas Creek located west of Gilroy in southern Santa Clara County.

Sector E-Channel and floodplain deposits located in a long portion of the San Benito River extending from lower Tres Pinos Creek west to State Highway 101 in central San Benito County.

Sector F-Two elongated deposits located near the community of Aromas in western San Benito County, extending from State Highway 101 northwesterly to Pajaro Gap on Highway 129, a distance of approximately five miles.

Sector G-The Natividad Quarry located northeast of Salinas in Monterey County.

Sector H-Sand deposits in two separate but adjacent parcels located along the southern portion of Monterey Bay, north of the City of Marina.

Sector I-A large sand dune area located on the northern edge of the City of Marina in Monterey County.

Sector J-Quartz diorite located on Huckleberry Hill on the east side of the community of Pebble Beach in Monterey County.

Sector K-Stream channel and floodplain deposits consisting of a one mile long portion of the lower Carmel River in the Carmel Valley of Monterey County.

Sector L-Consists of quartz diorite and siltstone located on upper Soquel Creek on the east side of Sugarloaf Mountain in Santa Cruz County.

Sector M-Fluvial sand and gravel deposit located on Freedom Boulevard approximately seven miles northwest of Watsonville in southern Santa Cruz County.

Sector N-Located at the confluence of Chalone Creek with the Salinas River in southern Monterey County, approximately three miles southwest of the community of Greenfield, northeast of the Southern Pacific Railroad tracks.

Sector O-Located at the confluence of Chalone Creek with the Salinas River in southern Monterey County, approximately three miles southwest of the community of Greenfield.

Sector P-Stream channel and floodplain deposits of San Lorenzo Creek located in the foothills of the Gabilan Range in southern Monterey County, approximately six miles northwest of King City.

Sector U-Stream channel and floodplain deposits of Upper Pacheco Creek located near Bells Station in southeastern Santa Clara County.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12-3-86.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.13. Construction Aggregate Resources, Fresno Production-Consumption Region

A set of maps identifying the exact locations of the designated resource areas entitled "Regionally Significant Construction Aggregate Resource Areas in the Fresno Production-Consumption Region," February 2000, is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector K -Alluvial deposits of the Kings River between Avocado Lake on the northeast and the Southern Pacific Railroad tracks on the southwest.

Sector S -Portions of the San Joaquin River floodplain between Friant Dam and Highway 99.

Authority: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.14. Construction Aggregate Resources, Stockton-Lodi Production-Consumption Region

A map identifying the exact locations of the designated resource areas entitled, "Regionally Significant Construction Aggregate Resource Areas in the Stockton-Lodi Production-Consumption Region, 1989," is incorporated by reference into this regulation. This map is available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A-Aggregate deposits on the alluvial fan created by Corral Hollow Creek, situated south of the City of Tracy.

Sector B-Aggregate deposit on the alluvial fan created by Lone Tree Creek. Deposit extends from just west of Interstate 580 near the base of the Coast Range hills northwest to the alignment of Interstate 5.

Sector C-Aggregate deposit that consists of the alluvial fan formed by Hospital Creek. Deposit extends from west of Interstate 580 within the foothills of the Coast Range and east into the San Joaquin Valley.

Sector D-Sand deposit centered on the San Joaquin River near the intersection of Highway 120 and Interstate 5 west of the City of Manteca.

Authority: Section 2790, Public Resources Code. Reference: Sections 2762, 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.15. Construction Aggregate Resources, Palm Springs Production-Consumption Region

The areas for designation are shown on two plates: Updated Regionally Significant Construction Aggregate Resources Areas in the Palm Springs Production-Consumption Region, Riverside County, California (Western Area) - SMARA Designation Report Number 13 - Plate 1 - March 2013, and Updated Regionally Significant Construction Aggregate Resources Areas in the Palm Springs Production-Consumption Region, Riverside County, California (Eastern Area) - SMARA Designation Report Number 13 - Plate 2 - March 2013, and are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A-1 - Aggregate deposits located adjacent to the southeast border of the community of Cabezon at the base of the San Jacinto Mountains.

Sector A-2 - Aggregate deposits located between the Colorado River Aqueduct and the Morongo Indian Reservation.

Sector B-1 - Aggregate deposit located at the mouth of the Whitewater Canyon north of Interstate 10.

Sector B-2-b - Aggregate deposit located immediately south of Interstate 10 at the intersection of Highway 62.

Sector B-3a - Aggregate deposit located immediately south of Sector B-2 and east of the San Geronio Pass to Garnet Hill.

Sector B-3-c - Aggregate deposit located immediately south of Sector B-2 and east of the San Geronio Pass to Garnet Hill.

Sector B-3-e - Aggregate deposit located immediately south of Sector B-2 and east of the San Geronio Pass to Garnet Hill.

Sector B-4 - Aggregate deposit located east of Indian Avenue and south of Garnet Hill.

Sector B-5-a - Aggregate deposit located south of Interstate 10.

Sector B-5-c - Aggregate deposit located adjacent to the northern border of Sector B-3 and the southern border of Interstate 10 near Garnet Hill.

Sector C-1 - Aggregate deposit located in the Little Morongo Canyon approximately one mile north of the City of Desert Hot Springs.

Sector D - Aggregate deposit located in a small unnamed wash in the foothills of the community of Thousand Palms (Plate 2, Inset Map B).

Sector E-1 - Aggregate deposit located northeast of Dillon Road, approximately six miles northeast of the City of Indio.

Sector E-2 - Aggregate deposit located approximately six miles northeast of the City of Indio.

Sector F - Aggregate deposit located approximately four miles northeast of the City of Indio.

Sector G-1 - Aggregate deposit located approximately three miles north of the City of Indio.

Sector G-2 - Aggregate deposit located approximately three miles north of the City of Indio

Sector G-3 - Aggregate deposit located approximately three miles north of the City of Indio

Sector H-1 - Aggregate deposit located approximately four miles east of the community of Thermal.

Sector H-2 - Aggregate deposit located northeast of the Coachella Canal approximately three and a half miles east of the community of Thermal.

Sector H-3 - Aggregate deposit located southwest of the Coachella Canal approximately three miles east of the community of Thermal.

Sector I - Aggregate deposits comprising part of Thermal Canyon wash, south of Interstate Highway 10, east of the Coachella Canal, and four miles northeast of the community of Thermal. Sector I is approximately one mile north of the previously designated Sectors H-1, H-2, and H-3 (Plate 2, Inset Map A).

Sector J - Aggregate deposits located near the community of Indio Hills that formed as a series of coalescing alluvial fans deposited from material discharged from canyons cut northward into the Little San Bernardino Mountains.

Sector J-4 - Aggregate deposits located north and east of the community of Indio Hills in Sections 1, 2, 11, and 12, T4S, R7E, SBBM. It is separated from Sector J-5 to the southeast by a public road and residential development in the community of Indio Hills.

Sector J-5 - Aggregate deposits located east of the community of Indio Hills in Sections 13, and 24, T4S, R7E; and Section 19, T4S, R8E, SBBM. It is separated from Sector J-4 to the northwest by a public road and urbanization in the community of Indio Hills, and from Sector J-6 to the south by Dillon Road and a utility easement. Sector J-5 is contiguous with Sector E-1, to the southeast.

Sector J-6 - Aggregate deposits located southeast of the community of Indio Hills in Sections 13 and 24, T4S, R7E, SBBM. It is separated from Sector J-5 to the north by Dillon Road and a utility easement. Sector J-6 is contiguous with Sector E-2, to the southeast.

Sector K-1 - Aggregate deposits located in Section 33, T4S, R7E, SBBM. It is bounded to the north by the Mission Creek Branch of the San Andreas Fault near the base of the south flank of the Indio Hills. It is adjacent to the original Sector G on the east. On the south it is bounded by a utility corridor, which separates it from Sector K-2.

Sector K-2 - Aggregate deposits located in Section 33, T4S, R7E, SBBM. It is bounded to the north by a utility corridor, which separates it from Sector K-1. On the south, it is bounded by a second utility corridor separating it from Sector K-3.

Sector K-3 - Aggregate deposits located in Section 33, T4S, R7E; and Section 3, T5S, R7E, SBBM. It is adjacent to the original Sector G on the east. It is bounded to the north by a utility corridor, which separates it from Sector K-2. On the south, it is bounded by agricultural land of the Coachella Valley.

Sector K-4 - Aggregate deposits located in Section 34, T4S, R7E, SBBM. It is bounded on the south by the Mission Creek Branch of the San Andreas Fault.

Sector K-5 - Aggregate deposits located in Sections 33, 34, and 35, T4S, R7E, SBBM. It is adjacent to the original Sector G on the south. On the north, it is bounded by the Mission Creek Branch of the San Andreas Fault, which separates it from Sector K-4.

Sector K-6 - Aggregate deposits located in Section 2, T5S, R7E, SBBM, east of the original Sector G. It is bounded by the Mission Creek Branch of the San Andreas Fault on the north and a utility corridor to the south. Sector K-6 has less than the threshold amount of material within it; however, it could be mined in conjunction with Sector G.

Sector K-7 - Aggregate deposits located in Section 2, T5S, R7E, SBBM, southeast of the original Sector G. Utility corridors separate it from Sector K-6 to the north and Sector K-8 to the west.

Sector K-8 - Aggregate deposits located in Section 2, T5S, R7E, SBBM, southeast of the original Sector G. A utility corridor separates it from Sector K-7 to the east.

The construction aggregate deposits in the following areas are designated for termination of designation status due to high-value incompatible land use developments:

Sector A-3 - Aggregate deposits located directly south of Interstate 10 two miles east of the community of Cabazon.

Sector B-2-a - Aggregate deposit located immediately south of Interstate 10.

Sector B-3-b - Aggregate deposit located immediately south of Interstate 10 and north of the main line of the Southern Pacific Railroad.

Sector B-3-d - Aggregate deposit located immediately south of Interstate 10 and north of the main line of the Southern Pacific Railroad.

Sector B-5-b - Aggregate deposit located south of Interstate 10.

Sector C-2 - Aggregate deposit located in the Little Morongo Canyon approximately one mile north of the City of Desert Hot Springs.

Authority: Section 2790 and 2793, Public Resources Code. Reference: Sections 2761-2763 and 2790-2792, Public Resources Code.

§ 3550.16. Construction Aggregates Resources, Bakersfield Production-Consumption Region

The areas for designation are shown on two plates: Plate 1, Candidate Areas for Designation in the Bakersfield Production-Consumption (P-C) Region, Kern County California, Northern Area (2009), and Plate 2, Candidate Areas for Designation in the Bakersfield Production-Consumption (P-C) Region, Kern County California, Southern Area (2009), and are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following area are designated as being of regional significance:

Candidate Sector A - Deposits of the James Road Resource Area, five miles north of Bakersfield and southwest of the intersection of James Road and State Highway 65, are in a small alluvial fan composed of reworked sediments derived from older alluvial fan deposits and the Kern River Formation. (Plate 1)

Candidate Sector A (247 acres) is in Sections 28 and 29, T28S, R27E, MDBM, five miles north of Bakersfield, west of State Route 65 and southwest of the intersection of James Road and State Route 65.

Candidate Sector Group B - Deposits of the Kern River floodplain and alluvial fan, north of State Route 58 (Rosedale Highway) and west of Highway 99. Sector B is divided into five subsectors identified as B-1 through B-5. The combined area of the subsectors of Sector B is 231 acres. (Plate 1)

Candidate Sector B-1 (108 acres) is in Sections 14 and 15, T29S, R27E, MDBM, northwest of Bakersfield, north of State Route 58 and west of Highway 99.

Candidate Sector B-2 (70 acres) is in Section 15, T29S, R27E, MDBM, west of Highway 99 and north of State Route 58.

Candidate Sector B-3 (24 acres) is in Section 22, T29S, R27E, MDBM, west of Highway 99 and north of State Route 58.

Candidate Sector B-4 (14 acres) is in Section 22, T29S, R27E, MDBM, west of Highway 99 and north of State Route 58.

Candidate Sector B-5 (15 acres) is in Section 22, T29S, R27E, MDBM, west of Highway 99 and north of State Route 58.

Candidate Sector Group C - Deposits of the Kern River floodplain along the main course of the Kern River from Coffee Road east to Rio Bravo Ranch. Sector C is divided into 21 subsectors identified as C-1 through C-21. The combined area of Group C subsectors is 1,418 acres. (Plate 1)

Candidate Sector C-1 (20 acres) is in Section 33, T29S, R27E, MDBM, north of Kern River, west of Highway 99 and south of State Route 58.

Candidate Sector C-2 (149 acres) is in Sections 27, 33 and 34, T29S, R27E, MDBM, west of Highway 99 and south of State Route 58.

Candidate Sector C-3 (8 acres) is in Section 27, T29S, R27E, MDBM, west of Highway 99 and south of State Route 58.

Candidate Sector C-4 (51 acre) is in Sections 26 and 27, T29S, R27E, MDBM, west of Highway 99 and south of State Route 58.

Candidate Sector C-5 (36 acres) is in Sections 23, 24 and 26, T29S, R27E, MDBM, east of Highway 99 and west of State Route 204.

Candidate Sector C-6 (18 acres) is in Section 24, T29S, R27E, MDBM, east of Highway 99 and west of State Route 204.

Candidate Sector C-7 (14 acres) is in Sections 13 and 24, T29S, R27E, MDBM, east of State Route 204 and west of Chester Ave.

Candidate Sector C-8 (46 acres) is in Section 13, T29S, R27E, MDBM, and Section 18, T29S, R28E, MDBM, east of State Route 204 and west of Chester Ave.

Candidate Sector C-9 (85 acres) is in Section 18, T29S, R28E, MDBM, east of Chester Avenue and west of Manor St.

Candidate Sector C-10 (15 acres) is in Section 18, T29S, R28E MDBM, east of Chester Avenue and west of Manor St.

Candidate Sector C-11 (124 acres) is in Sections 8, 17 and 18, T29S, R28E, MDBM, east of Manor St.

Candidate Sector C-12 (104 acres) is in Sections 7 and 8, T29S, R28E, MDBM, north of Kern River and East of Manor St.

Candidate Sector C-13 (26 acres) is in Section 8, T29S, R28E, MDBM, north of Kern River, east of Manor Street.

Candidate Sector C-14 (163 acres) is in Sections 8, 9, 16 and 17, T29S, R28E, MDBM. Kern River, east of Manor St.

Candidate Sector C-15 (32 acres) is in Section 9, T29S, R28E, MDBM. Kern River, east of Manor St.

Candidate Sector C-16 (12 acres) is in Section 9, T29S, R28E, MDBM. Kern River, west of China Grade Bridge.

Candidate Sector C-17 (101 acres) is in Section 10, T29S, R28E, MDBM, south of Kern River and north of Alfred Harrell Highway.

Candidate Sector C-18 (70 acres) is in Sections 2, 3 and 10, T29S, R28E, MDBM. Kern River, south of Round Mountain Rd.

Candidate Sector C-19 (80 acres) is in Section 36, T28S, R28E, MDBM, Section 31, T28S, R29E, MDBM, and Section 6, T29S, R29E MDBM, northeast of Kern River and east of Hart Memorial Park.

Candidate Sector C-20 (11 acres) is in Section 5, T29S, R29E, MDBM, south of Kern River and north of Alfred Harrell Highway.

Candidate Sector C-21 (253 acres) is in Sections 33 and 34, T28S, R29E, MDBM, and Sections 2, 3, 10 and 11, T29S, R29E, MDBM, north of Kern River and east of Kern River Golf Course.

Candidate Sector Group D - Deposits of the floodplain and alluvial fan of Cottonwood Creek, ten miles east of Bakersfield, south of State Highway 178. Sector D is divided into four subsectors identified as D-1 through D-4. The combined area of the subsectors is 356 acres. (Plate 1)

Candidate Sector D-1 (105 acres) is in Sections 19 and 20, T29S, R30E, MDBM. Cottonwood Creek, south of Breckenridge Road.

Candidate Sector D-2 (19 acres) is in Section 24, T29S, R29E, MDBM. Cottonwood Creek, south of Breckenridge Road.

Candidate Sector D-3 (101 acres) is in Sections 12, 13 and 24, T29S, R29E, MDBM. Cottonwood Creek, south of State Route 178.

Candidate Sector D-4 (131 acres) is in Sections 1, 11 and 12,, T29S, R29E, MDBM. Cottonwood Creek, south of State Route 178 and north of Breckenridge Road.

Candidate Sector Group E - Deposits of the floodplain of Caliente Creek, 15 to 20 miles east of Bakersfield, north of State Highway 58. Sector E is divided into 10 subsectors identified as E-1 through E-10. The combined area of the subsectors is 2,685 acres. (Plate 1)

Candidate Sector E-1 (572 acres) is in Sections 17, 18, 19 and 20, T30S, R30E, MDBM. Caliente Creek, south of State Route 58.

Candidate Sector E-2 (1,330 acres) is in Sections 9, 10, 14, 15, 16, 17, 20 and 21, T30S, R30E, MDBM (Rancho El Tejon). Caliente Creek, north of State Route 58.

Candidate Sectors E-3 (357 acres) is in Sections 9, 10, 11, 12, 13 and 14, T30S, R30E, MDBM (Rancho El Tejon). Caliente Creek, north of Bena Road.

Candidate Sector E-4 (171 acres) is in Sections 13 and 24, T30S, R30E, MDBM, and Sections 18, 19 and 20, T30S, R31E, MDBM (Rancho El Tejon). Caliente Creek, north of Bena Road.

Candidate Sector E-5 (18 acres) is in Sections 13, T30S, R30E, MDBM, and Section 18 T30S, R31E, MDBM (Rancho El Tejon). Caliente Creek, north of Bena Road.

Candidate Sector E-6 (8 acres) is in Section 19, T30S, R31E, MDBM (Rancho El Tejon). Caliente Creek, south of Bena Road.

Candidate Sector E-7 (11 acres) is in Section 27, T30S, R31E, MDBM. Caliente Creek, west of Caliente.

Candidate Sector E-8 (45 acres) is in Section 27, T30S, R31E, MDBM. Caliente Creek, west of Caliente.

Candidate Sector E-9 (24 acres) is in Section 26, T30S, R31E, MDBM. Caliente Creek, south of Caliente.

Candidate Sector E-10 (149 acres) is in Sections 24, 25 and 26, T30S, R31E, MDBM, and Section 19, T30S, R32E, MDBM. Caliente Creek, east of Caliente.

Candidate Sector Group F - Deposits of the alluvial fan of San Emigdio Creek, 25 miles southwest of Bakersfield, north and south of State Highway 166. Sector F is divided into eleven subsectors identified as F-1 through F-11. The combined area of the subsectors is 11,271 acres. (Plate 2)

Candidate Sector F-1 (289 acres) is in Sections 34, 35, and 36, T12N, R22W, MDBM, and Sections 1, 2 and 3, T11N, R22W, SBBM. San Emigdio Creek, north of the California Aqueduct.

Candidate Sector F-2 (44 acres) is in Section 36, T12N, R22W, SBBM, Section 6, T11N, R21W, SBBM, and Section 1 T11N, R22W, SBBM. San Emigdio Creek, north of the California Aqueduct.

Candidate Sector F-3 (782 acres) is in Sections 1, 2 and 3, T11N, R22W, SBBM, and Sections 5 and 6, T11N, R21W, SBBM. San Emigdio Creek, south of the California Aqueduct and north of State Route 166.

Candidate Sector F-4 (142 acres) is in Section 1 T11N, R22W, SBBM, and Sections 5 and 6, T11N, R21W, SBBM. San Emigdio Creek, south of the California Aqueduct and north of State Route 166.

Candidate Sector F-5 (1,468 acres) is in Sections 1, 2, 3, 10, 11, and 12, T11N, R22W, SBBM, and Sections 5, 6, 7 and 8, T11N, R21W, SBBM. San Emigdio Creek south of the California Aqueduct and north of State Route 166.

Candidate Sector F-6 (347 acres) is in Sections 10, 11 and 12, T11N, R22W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-7 (183 acres) is in Sections 7 and 8, T11N, R21W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-8 (2,254 acres) is in Sections 10, 11, 12, 13, 14 and 15, T11N, R22W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-9 (1,566 acres) is in Sections 7, 8, 17 and 18, T11N, R21W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-10 (3,356 acres) is in Sections 22, 23, 24, 25, 26, 35 and 36, T11N, R22W, SBBM, Sections 30 and 31, T11N, R21W, and Sections 1 and 2, T10N, R22W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector F-11 (840 acres) is in Sections 19, 20, 29 and 30, T11N, R21W, SBBM. San Emigdio Creek, south of State Route 166.

Candidate Sector G - Deposits of Wheeler Ridge, 25 miles south of Bakersfield, west of Interstate Highway 5, and south of State Highway 166. The deposits are in an uplifted ridge of Pleistocene sand and gravel of the Tulare Formation. The area of Sector G is 882 acres. (Plate 2)

Candidate Sector G (882 acres) is in Sections 25, 35, and 36, T11N, R20W, SBBM and Sections 30 and 31, T11N, R19W, SBBM, at Wheeler Ridge, west of Highways I-5 and 99.

Candidate Sector Group H - Deposits of the alluvial fan of Pastoria Creek, 30 miles southeast of Bakersfield, and north of Edmonston Pumping Plant Road. Sector H is divided into five subsectors identified as H-1 through H-5. The combined area of the subsectors is 467 acres. (Plate 2)

Candidate Sector H-1 (35 acres) is in Sections 18 and 19, T10N, R18W, SBBM, (projected - in Rancho El Tejon). Pastoria Creek, south of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector H-2 (48 acres) is in Section 19, T10N, R18W, SBBM, (projected - in Rancho El Tejon). Pastoria Creek, south of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector H-3 (47 acres) is in Sections 18 and 19, T10N, R18W, SBBM, (projected - in Rancho El Tejon). Pastoria Creek, south of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector H-4 (108 acres) is in Sections 12 and 13, T10N, R19W, SBBM, and Section 18 T10N, R18W, SBBM, (projected - Rancho El Tejon). Pastoria Creek, north of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector H-5 (409 acres) is in Sections 12 and 13, T10N, R19W, SBBM, and Sections 7 and 18, T10N, R18W, SBBM (projected - in Rancho El Tejon). Pastoria Creek, north of the California Aqueduct and Edmonston Pumping Plant Road.

Candidate Sector I - Deposits of the alluvial fan of El Paso Creek, 25 miles southeast of Bakersfield, east of Rancho Road and south of Sebastian Road. The area of Sector I is 2,151 acres. (Plate 2)

Candidate Sector I (2,151 acres) is in Sections 16, 17, 18, 19, 20, 21, 28, 29 and 30, T11N, R18W, SBBM. El Paso Creek east of Rancho Drive and south of Sebastian Road.

Candidate Sector Group J - Deposits of the floodplain of Cuddy Creek located 40 miles south of Bakersfield, along Frazier Mountain Park Road, two miles west of Interstate Highway 5. Sector J is divided into two subsectors identified as J-1 and J-2. The combined area of the subsectors is 180 acres. (Plate 2)

Candidate Sector J-1 (35 acres) is in Sections 31 and 32, T9N, R19W, SBBM. Cuddy Creek, east of Frazier Park, south of Frazier Mountain Park Road.

Candidate Sector J-2 (145 acres) is in Sections 32 and 33, T9N, R19W, SBBM. Cuddy Creek, east of Frazier Park, south of Frazier Mountain Park Road.

Candidate Sector K - Basement outcrops and the alluvial fan and floodplain of Little Sycamore Creek (La Liebre Ranch area), 40 miles southeast of Bakersfield, east of Interstate Highway 5 and north of State Highway 138. The area of Sector K is 125 acres. (Plate 2)

Candidate Sector K (125 acres) is in Sections 29 and 32, T9N, R17W, SBBM, (projected - in Rancho La Liebre), Little Sycamore Canyon.

Authority: Section 2790, Public Resources Code. Reference: Sections 2207, 2726, 2761-2763 and 2790-2791, Public Resources Code.

§ 3550.17. Construction Aggregate Resources, San Luis Obispo-Santa Barbara Production-Consumption Region

The areas for designation are shown on four Plates: Plate 1, Designation in the San Luis Obispo-Santa Barbara Production-Consumption (P-C) Region, California - Northern Part (2015); Plate 2, Designation in the San Luis Obispo-Santa Barbara Production-Consumption Region, California - Middle Part (2015); Plate 3, Designation in the San Luis Obispo-Santa Barbara Production-Consumption Region, California - Southern Part (2015); and Plate 4, Designation in the San Luis Obispo-Santa Barbara Production-Consumption Region, California - Cuyama Valley (2015). These Plates are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A - Deposits of the Salinas River Resource Area: Deposits in the recent river channel and adjacent floodplain along about fourteen miles of the Salinas River, from the southeastern city limits of Atascadero north (downstream) to the Niblick Road Bridge in the city of Paso Robles. Sector A has been subdivided into five subsectors identified as A-1a, A-1b, A-2a, A-2b, and A-3 (Plate 1). Portions of this Sector are under the land use jurisdiction of the County of San Luis Obispo, City of Paso Robles, and City of Atascadero.

Subsector A-1a: Section 4, T27S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101, south of Niblick Road, and north of an unnamed pipeline.

Subsector A-1b: Sections 4, 9, 16, 20, 21, 28, 29, and 32, T27S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101, south of an unnamed pipeline, and north of Templeton Road.

Subsector A-2a: Sections 32, 33, T27S, R12E; 3, 4, 5, and 10, T28S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101, south of Templeton Road, and north of State Highway 41.

Subsector A-2b: Sections 10, 11, 14, and 15, T28S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101 and Sycamore Road, south of State Highway 41, west of Templeton Road, and north of unnamed pipelines.

Subsector A-3: Sections 13, 14, 23, 24, and 25, T28S, R12E, MDBM, (projected), and in the flood plain of the Salinas River east of US Highway 101, south of unnamed pipelines, and west of Rocky Canyon Road.

Sector B - Deposits of the Navajo Creek Resource Area: Deposits of the active channel and floodplain of Navajo Creek, from one-and-a-half miles upstream of the Highway 58 crossing to about three miles upstream of the crossing (Plate 1). This Sector is under the land use jurisdiction of the County of San Luis Obispo.

Sector B: Sections 15 and 16, T29S, R16E, MDBM, and is in the flood plain of Navajo Creek south of State Highway 58, and east of USFS Road 29S15.

Sector C - Deposits of the La Panza Granitics Resource Area: The La Panza Granitics outcrop southeast of the City of Atascadero. Sector C is divided into four subsectors identified as C-1a, C-1b, C-2, and C-3 (Plate 1). This Sector is under the land use jurisdiction of the County of San Luis Obispo.

Subsector C-1a: Sections 19, 20, 27, 28, 29, 30, 32, 33, 34, 35, T28S, R13E; 2, 3, 4, 5, 9, 10, and 11, T29S, R13E, MDBM, and is in the La Panza Granitics south of State Highway 41, east of the Salinas River, north of State Highway 58, and west of State Highway 229.

Subsector C-1b: Sections 35, 36, T28S, R13E; 1, 2, and 11, T29S, R13E, MDBM, and is in the La Panza Granitics north of State Highway 58, and east of State Highway 229.

Subsector C-2: Sections 1, 2, 10, 11, 12, 13, 14, T29S, R13E; 7, 8, 17, 18 and 19, T29S, R14E, MDBM, and is in the La Panza Granitics south of State Highway 58, north and east of Parkhill Road.

Subsector C-3: Sections 10, 13, 14, 15, 22, 23, 24, 25, 26, 27, 35, 36, T29S, R13E; 18, and 19, T29S, R14E, MDBM, and is in the La Panza Granitics east of West Pozo Road, south of State Highway 58 and Parkhill Road, and north of Las Pilitas Road.

Sector D - Deposits of the Santa Maria River Resource Area: Alluvial deposits of the active river channel and adjacent floodplain of the Santa Maria River. This Sector includes land in both San Luis Obispo and Santa Barbara counties and is divided into 41 subsectors identified as D-1 through D-11, and D-13 through D-37 (Plate 2). Portions of this Sector are under the land use jurisdiction of the County of San Luis Obispo, County of Santa Barbara, and City of Santa Maria.

Subsector D-1: Sections 22, 23, 25, 26, 27, T11N, R35W; and 30, T11N, R34W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of Nipomo Mesa, north of Division Street and Oso Flaco Lake Road, east of State Highway 1 (Guadalupe Road), and west of US Highway 101.

Subsector D-2: Sections 28, 29, 30, 31, 32, 33, T11N, R34W; 25, and 36, T11N, R35W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of Nipomo Mesa, Division Street and Riverside Road; east of Bonita School Road; north of the Santa Maria River flood control channel; and west of US Highway 101.

Subsector D-3: Sections 26, 27, 34, and 35, T11N, R35W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of Oso Flaco Lake Road, north of Division Street, and east of State Highway 1 (Guadalupe Road).

Subsector D-4: Sections 25, 26, 34, 35, and 36, T11N, R35W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of Division Street, west of Bonita School Road, north of the Santa Maria River flood control channel, and east of State Highway 1 (Guadalupe Road).

Sector D-5: Sections 35, 36, T11N, R35W; 1, and 2, T10N, R35W, SBBM, (projected), and is in the flood control channel of the Santa Maria River south of Division Street, west of Bonita School Road, north of State Highway (West Main Street), and east of State Highway 1 (Guadalupe Road).

Subsector D-6: Sections 36, T11N, R35W; 1, T10N, R35W; 31, 32, 33, T11N, R34W; and 6, T10N, R34W, SBBM, (projected), and is in the flood control channel of the Santa Maria River south of Division Street, east of Bonita School Road, north of State Highway 166 (West Main Street), and west of an unnamed utility corridor and US Highway 101.

Subsector D-7: Sections 32, 33, and 34, T11N, R34W, SBBM, (projected), and is in the flood control channel of the Santa Maria River south of Nippon Mesa, east of an unnamed utility corridor, west of US Highway 101, and north of Atlantic Place and the City of Santa Maria.

Subsector D-8: Sections 34 and 35, T11N, R34W, SBBM, (projected), and is in the flood control channel of the Santa Maria River east of an unnamed utility corridor, west of US Highway 101, and north of Atlantic Place and the City of Santa Maria.

Sector D-9: Sections 1 and 2, T10N, R35W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of the Santa Maria River flood control channel, west of Bonita School Road, and north of State Highway 166 (West Main Street).

Subsector D-10: Sections 1, T10N, R35W; 31, 32, T11N, R34W; 5, 6, and 7, T10N, R34W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of the Santa Maria River flood control channel, east of Bonita School Road, north of State Highway 166 (West Main Street), and west of an unnamed utility corridor.

Subsector D-11: Sections 32, 33, T11N, R34W; 4, and 5, T10N, R34W, SBBM, (projected), and is in the flood plain of the Santa Maria River south of the Santa Maria River flood control channel, east of an unnamed utility corridor, north of West Donovan Road, and west of North Blosser Road and the City of Santa Maria.

NOTE: There is no Subsector D-12

Subsector D-13a: Sections 35, T11N, R34W; 1, and 2, T10N, R34E, SBBM, and is in the flood control channel of the Santa Maria River east of US Highway 101, north of Seaward Drive, and west of Bull Canyon Road.

Subsector D-13b: Sections 1, 12, T10N, R34E; 6, 7, 8, 15, 16, 17, 21, 22, 23, 26, 27, 35, and 36, T10N, R33W, SBBM, (projected), and is in the flood control channel of the Santa Maria River east of Bull Canyon Road, north and east of East Main Street and Foxen Canyon Road, and north of the Santa Maria Mesa Road river crossing.

Subsector D-14: Sections 35, T11N, R34W; and 2, T10N, R34E, SBBM, and is in the flood plain of the Santa Maria River south of the flood control channel, east of US Highway 101, and west of Mariah Drive.

Subsector D-15: Sections 5, 6, 7, and 8, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River north of State Highway 166, east of Bonita Lateral Road, and west of the City of Santa Maria.

Subsector D-16: Sections 8 and 9, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River north of State Highway 166, south of West Donovan Road, and west of North Blosser Road and the City of Santa Maria.

Subsector D-17: Section 9, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River north of State Highway 166, south of West Donovan Road, and west of North Blosser Road and the City of Santa Maria.

Subsector D-18: Sections 12, T10N, R34W; and 7, T10N, R33W, SBBM, (projected), and is on the Santa Maria River plain south of the Santa Maria River channel, east of Panther Drive, and north of East Main Street.

Subsector D-19: Sections 7 and 18, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of State Highway 166, east of Ray Road, and west of Black Road.

Subsector D-20a: Sections 8, 16, and 17, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of State Highway 166, north of West Stowell Road, west of Hanson Way, and east of Black Road.

Subsector D-20b: Section 16, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of State Highway 166, north of West Stowell Road, west of North Blosser Road, and east of Hansen Way.

Subsector D-21: Sections 13, T10N, R34W; 17, and 18, T10N, R33W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River north of East Jones Street, south of East Main Street, and east of US Highway 101 and Suey Road.

Subsector D-22: Section 18, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of State Highway 166, east of Ray Road, and west of Black Road.

Subsector D-23: Section 13, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Jones Street, north of East Stowell Road, east of US Highway 101, and west of Rosemary Road.

Subsector D-24a: Section 17 and 18, T10N, R33W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Jones Street, north of East Stowell Road, east of Rosemary Road, and west of Philbric Road.

Subsector D-24b: Sections 16, 17, 20, and 21, T10N, R33W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River east of Philbric Road, west of Andrew Avenue, and north of Foxen Canyon Road.

Subsector D-25: Sections 16, 17, and 21, T10N, R33W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River east of Philbric Road, west of Andrew Avenue, and south of Sugar Street.

Subsector D-26: Section 20, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, and east of Black Road.

Subsector D-27: Sections 20 and 21, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, and east of South East Street.

Subsector D-28a: Sections 20 and 21, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, east of Black Road, and west of A Street.

Subsector D-28b: Section 21, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, north of Battles Street, and west of South Blosser Road.

Subsector D-29: Section 22, T10N, R34W, SBBM, (projected), and is in the ancestral flood plain of the Santa Maria River south of West Stowell Road, north of Battles Street, east of South Blosser Road, and west of South Depot Street.

Subsector D-30a: Section 23, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Battles Road, north of East Betteravia Road, west of South College Drive, and east of Newlove Drive.

Subsector D-30b: Section 23, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Battles Road, north of East Betteravia Road, east of South College Drive, and west of US Highway 101.

Subsector D-31: Section 24, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Stowell Road, north of East Battles Road, east of US Highway 101, and west of Rosemary Road.

Subsector D-32: Sections 19 and 20, T10N, R33W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Stowell Road, north of East Betteravia Road, east of Rosemary Road and US Highway 101, and west of Philbric Road.

Subsector D-33: Section 24, T10N, R34W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of East Battles Road, north of East Betteravia Road, east of US Highway 101, and west of Rosemary Road.

Subsector D-34: Sections 28 and 29, T10N, R33W, SBBM, and is in the ancestral flood plain of the Santa Maria River south of Foxen Canyon Road, and east of Telephone Road.

Subsector D-35: Section 28, T10N, R33W, SBBM, and is in the ancestral flood plain of the Santa Maria River south and west of Foxen Canyon Road.

Subsector D-36: Sections 16, 21, 22, 26, 27, 28, and 35, T10N, R33W, SBBM (projected), and is in the flood plain of the Santa Maria River east of Andrew Avenue, north and east of Foxen Canyon Road.

Subsector D-37: Sections 34, and 35, T10N, R33W, SBBM, and is in the flood plain of the Santa Maria River south of Foxen Canyon Road.

Sector E - Deposits of the Sisquoc River Resource Area: Alluvial deposits of the active river channel and adjacent floodplain of the Sisquoc River. The Sector extends along the river from about seven miles east of the community of Sisquoc, downstream to the confluence with the Cuyama River. Sector E is divided into five subsectors identified as E-1 through E-4 (with subsector E-3 split into "a" and "b;" See Plate 2). This Sector is under the land use jurisdiction of the County of Santa Barbara.

Subsector E-1: Sections 1, 2, 12, T9N, R33W; 7, 8, and 17, T9N, R32W, SBBM, and is in the flood plain of the Sisquoc River north of Foxen Canyon Road, south of Santa Maria Mesa Road, and west of Tepusquet Road.

Subsector E-2: Section 18, T9N, R32W, SBBM, and is in the flood plain of the Sisquoc River south of Foxen Canyon Road, and east of the community of Sisquoc.

Subsector E-3a: Sections 16 and 17, T9N, R32W, SBBM, and is in the flood plain of the Sisquoc River north of Foxen Canyon Road, south of Santa Maria Mesa Road, and west of Tepusquet Road.

Subsector E-3b: Sections 14, 15, 16, 21, 22, and 23, T9N, R32W, SBBM, (projected), and is in the flood plain of the Sisquoc River east of Tepusquet Road, north of Foxen Canyon Road and USFS Route 10N06/Rancho Sisquoc Road.

Subsector E-4: Sections 13, 14, 23, 24, T9N, R32W; 19, 20, 29, and 30, T9N, R31W, SBBM, (projected), and is in the flood plain of the Sisquoc River in Rancho Sisquoc, east of Tepusquet Road, north of Foxen Canyon Road, and east of USFS Route 10N06.

Sector F - Deposits of Santa Ynez River Resource Area: Alluvial deposits of the active river channel and adjacent floodplain of the Santa Ynez River. The Sector extends from just downstream of Cachuma Dam to about eight miles west (downstream) of the Highway 101 Bridge. Sector F is divided into seven subsectors identified as F-1 through F-7 (Plate 3). Portions of this Sector are under the land use jurisdiction of the County of Santa Barbara, City of Buellton, and City of Solvang.

Subsector F-1: Sections 12, 13, T6N, R33W; 3, 7, 8, 9, 10, 11, 12, and 13, T6N, R32W, SBBM, (projected), and is in the flood plain of the Santa Ynez River west of US Highway 101 and Avenue of the Flags, north of Santa Rosa Road, and south of State Highway 246 and Mail Road.

Subsector F-2: Sections 12, T6N, R32W; 7, and 18, T6N, R31W, SBBM, (projected), and is in the flood plain of the Santa Ynez River west of US Highway 101, east of Avenue of the Flags, and north of Santa Rosa Road.

Subsector F-3: Sections 7, 16, 17, 18, 20, and 21, T6N, R31W, SBBM, (projected), and is in the flood plain of the Santa Ynez River east of US Highway 101, south of State Highway 246/Mission Avenue, and west of Alisal Road.

Subsector F-4: Sections 7, 8, 17, and 18, T6N, R31W, SBBM, (projected), and is in the ancestral flood plain of the Santa Ynez River east of US Highway 101 and Ballard Canyon Road, and north of State Highway 246/Mission Avenue.

Subsector F-5: Sections 21, 22, 23, and 24, T6N, R31W, SBBM, and is in the flood plain of the Santa Ynez River east of Alisal Road, north of Three Springs Road, south of Mesa Verde Road, and west of Refugio Road.

Subsector F-6: Sections 24, T6N, R31W; 19, 20, 21, 22, 29, and 30, T6N, R30W, SBBM (projected), and is in the flood plain of the Santa Ynez River east of Refugio Road, north of Old Santa Rosa Road, and west of State Highway 154/San Marcos Pass Road.

Subsector F-7: Sections 13, 14, 15, 22, 23, and 24, T6N, R30W, SBBM, (projected), and is in the flood plain of the Santa Ynez River east and north of State Highway 154/San Marcos Pass Road, and west of Cachuma Reservoir Dam.

Sector G - Deposits of the Upper Cuyama River Resource Area: Alluvial deposits of the Cuyama River, in the Cuyama Valley from the Highway 166 bridge, south (upstream) to the Ventura County line - a distance of about 24 miles. Sector G is divided into four subsectors identified as G-1 through G-4 (Plate 4). This deposit is under the land use jurisdiction of San Luis Obispo and Santa Barbara Counties, but currently serves the western Kern County market. Portions of this Sector are under the land use jurisdiction of the County of San Luis Obispo and County of Santa Barbara.

Subsector G-1: Sections 19, 20, 28, 29, 30, 33, and 34, T10N, R25W, SBBM, and is in the flood Plain of the Cuyama River south of State Highway 166, west of State Highway 33, east of Kirschenmann Road, and north of Foothill Road.

Subsector G-2: Sections 2, 3, 11, and 12, T9N, R25W, SBBM, and is in the flood Plain of the Cuyama River south of Foothill Road, west of State Highway 33, and north of USFS Route 9N11/Big Pine Road.

Subsector G-3: Sections 12, 13, 24, T9N, R25W; 18, 19, 30, and 31, T9N, R24W, SBBM, and is in the flood Plain of the Cuyama River south of USFS Route 9N11/Big Pine Road, west of State Highway 33, and north of unnamed pipeline.

Subsector G-4: Sections 31, 32, T9N, R24W; 1, T8N, R25W; 6, 7, 8, 17, and 18, T8N, R24W, SBBM, and is in the flood Plain of the Cuyama River south of an unnamed pipeline, and west of State Highway 33 and the Ventura County Line.

Sector H - Deposits of the Bee Rock Resource Area: Limestone deposits on the south side of Bee Rock in the Santa Ynez Mountains approximately two miles south of Cachuma Dam (Plate 3). This Sector is under the land use jurisdiction of the County of Santa Barbara.

Sector H: Section 31, T6N, R29W, SBBM, (projected), and is the Bee Rock Limestone Deposit in the Santa Ynez Mountains south of State Highway 154/San Marcos Pass Road and Cachuma Reservoir Dam.

Sector I - Deposits of the Huerhuero Creek Resource Area: Alluvial deposits in the active channel of the Main Branch, Middle Branch and East Branch of Huerhuero Creek, from 1.1 mile north of the intersection of State Highway 58 and O'Donovan Road, north (downstream) to approximately 0.25 mile north of the Creston Road crossing over Huerhuero Creek three miles north of State Highway 4 - a linear distance (in two segments) of about 10 miles. Sector I is divided into 11 subsectors identified as I-1 through I-11 (Plate 1). From north to south, Sectors I-1 through I-8 are in the Main and Middle Branches of Huerhuero Creek. Sectors I-9 through I-11 are in the East Branch of Huerhuero Creek. This Sector is under the land use jurisdiction of the County of San Luis Obispo.

Subsector I-1: Sections 14 and 23, T27S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek north of Creston Road, and east of Geneseo Road.

Subsector I-2: Section 23, T27S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek south and west of Creston Road, and north of unnamed pipeline.

Subsector I-3: Sections 23 and 26, T27S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek west of Creston Road, south of unnamed pipeline, and north of another unnamed pipeline.

Subsector I-4: Sections 25, 26, and 36, T27S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek north of State Highway 41, west of Creston Road, and south of an unnamed pipeline.

Subsector I-5: Sections 36, T27S, R13E; and 1, T28S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek south of State Highway 41, east of State Highway 229/Webster Road, west of La Panza Road, and north of an unnamed pipeline.

Subsector I-6: Section 1, T28S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek south of unnamed pipeline, east of State Highway 229/Webster Road and the community of Creston, and north of O'Donovan Road.

Subsector I-7: Sections 1 and 12, T28S, R13E, MDBM, (projected), and is in the active channel of Huerhuero Creek south of the community of Creston, east of State Highway 229/Webster Road, and north of Reeves Pheasant Way.

Subsector I-8: Sections 1 and 12, T28S, R13E, MDBM, (projected), and in the active channel of Huerhuero Creek south of Reeves Pheasant Way, and east of State Highway 229/Webster Road.

Subsector I-9: Section 7, T28S, R14E, MDBM, (projected), and in the active channel of Huerhuero Creek east of O'Donovan Road, and north of Lady Amherst Way.

Subsector I-10: Sections 18 and 19, T28S, R14E, MDBM, (projected), and in the active channel of Huerhuero Creek west of O'Donovan Road, and south of Lady Amherst Way.

Subsector I-11: Sections 19, 20, and 29, T28S, R14E, MDBM, (projected), and in the active channel of Huerhuero Creek east of O'Donovan Road.

Authority: Section 2790, Public Resources Code. Reference: Sections 2761 and 2790, Public Resources Code.

Article 3. Policies and Criteria of the State Mining and Geology Board with Reference to the Alquist-Priolo Earthquake Fault Zoning Act

§ 3600. Purpose

It is the purpose of this subchapter to set forth the policies and criteria of the State Mining and Geology Board, hereinafter referred to as the "Board," governing the exercise of city, county, and state agency responsibilities to prohibit the location of developments and structures for human occupancy across the trace of active faults in accordance with the provisions of Public Resources Code Section 2621 et seq. (Alquist-Priolo Earthquake Fault Zoning Act). The policies and criteria set forth herein shall be limited to potential hazards resulting from surface faulting or fault creep within earthquake fault zones delineated on maps officially issued by the State Geologist.

Authority: Section 2621.5, Public Resources Code. Reference: Sections 2621-2630, Public Resources Code.

§ 3601. Definitions

The following definitions as used within the Act and herein shall apply:

- (a) An “active fault” is a fault that has had surface displacement within Holocene time (about the last 11,000 years), hence constituting a potential hazard to structures that might be located across it.
- (b) A “fault trace” is that line formed by the intersection of a fault and the earth's surface, and is the representation of a fault as depicted on a map, including maps of earthquake fault zones.
- (c) A “lead agency” is the city or county with the authority to approve projects.
- (d) “Earthquake fault zones” are areas delineated by the State Geologist, pursuant to the Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code Section 2621 et seq.) and this subchapter, which encompass the traces of active faults.
- (e) A “structure for human occupancy” is any structure used or intended for supporting or sheltering any use or occupancy, which is expected to have a human occupancy rate of more than 2,000 person-hours per year.
- (f) “Story” is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. For the purpose of the Act and this subchapter, the number of stories in a building is equal to the number of distinct floor levels, provided that any levels that differ from each other by less than two feet shall be considered as one distinct level.

Authority: Section 2621.5, Public Resources Code. Reference: Sections 2621-2630, Public Resources Code.

§ 3602. Review of Preliminary Maps

(a) Within 45 days from the issuance of proposed new or revised preliminary earthquake fault zone map(s), cities and counties shall give notice of the Board's announcement of a ninety (90) day public comment period to property owners within the area of the proposed zone. The notice shall be by publication, or other means reasonably calculated to reach as many of the affected property owners as feasible. Cities and counties may also give notice to consultants who may conduct geologic studies in fault zones. The notice shall state that its purpose is to provide an opportunity for public comment including providing to the Board geologic information that may have a bearing on the proposed map(s).

(b) The Board shall also give notice by mail to those California Registered Geologists and California Registered Geophysicists on a list provided by the State Board of Registration for Geologists and Geophysicists. The notice shall indicate the affected jurisdictions and state that its purpose is to provide an opportunity to present written technical comments that may have a bearing on the proposed zone map(s) to the Board during a 90-day public comment period.

(c) The Board shall receive public comments during the 90-day public comment period. The Board shall conduct at least one public hearing on the proposed zone map(s) during the 90-day public comment period.

(d) Following the end of the 90-day public comment period, the Board shall forward its comments and recommendations, with supporting data received, to the State Geologist for consideration prior to the release of official earthquake fault zone map(s).

Authority: Section 2621.5, Public Resources Code. Reference: Section 2622, Public Resources Code.

§ 3603. Specific Criteria

The following specific criteria shall apply within earthquake fault zones and shall be used by affected lead agencies in complying with the provisions of the act.

(a) No structure for human occupancy, identified as a project under Section 2621.6 of the Act, shall be permitted to be placed across the trace of an active fault. Furthermore, as the area within fifty (50) feet of such active faults shall be presumed to be underlain by active branches of that fault unless proven otherwise by an appropriate geologic investigation and report prepared as specified in Section 3603(d) of this subchapter, no such structures shall be permitted in this area.

(b) Affected lead agencies, upon receipt of official earthquake fault zones maps, shall provide for disclosure of delineated earthquake fault zones to the public. Such disclosure may be by reference in general plans, specific plans, property maps, or other appropriate local maps.

(c) No change in use of character of occupancy, which results in the conversion of a building or structure from one not used for human occupancy to one that is so used, shall be permitted unless the building or structure complies with the provisions of the Act.

(d) Application for a development permit for any project within a delineated earthquake fault zone shall be accompanied by a geologic report prepared by a geologist registered in the State of California, which is directed to the problem of potential surface fault displacement through the project site, unless such report is waived pursuant to Section 2623 of the Act. The required report shall be based on a geologic investigation designed to identify the location, recency, and nature of faulting that may have affected the project site in the past and may affect the project site in the future. The report may be combined with other geological or geotechnical reports.

(e) A geologist registered in the State of California, within or retained by each lead agency, shall evaluate the geologic reports required herein and advise the lead agency.

(f) One (1) copy of all such geologic reports shall be filed with the State Geologist by the lead agency within thirty (30) days following the report's acceptance. The State Geologist shall place such reports on open file.

Authority: Section 2621.5, Public Resources Code. Reference: Sections 2621.5, 2622, 2623 and 2625(c), Public Resources Code.

§ 3604. Selection of Professional Service Firms

(a) The purpose of these regulations is to establish those procedures authorized and required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code. These regulations are specific to the Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code Sections 2621 et seq.).

(b) Selection by the department for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management, firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.

Authority: Section 2621.5, Public Resources Code; and Section 4526, Government Code. Reference: Sections 4525-4529.5, Government Code.

§ 3605. Definitions, as Used in These Regulations

(a) "Small business" shall mean a small business firm as defined by the Director of General Services (section 1896 of Title 2 of the California Code of Regulations) pursuant to section 14837 of the Government Code.

(b) "Architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services" are those services to be procured outside State of California Civil

Service procedures and of a character necessarily rendered by an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor but may include ancillary services logically or justifiably performed in connection therewith.

(c) "Project" means a project as defined in Section 10105 of the Public Contract Code, or as defined in the Public Resources Code Section 21065.

Authority: Section 4526, Government Code. Reference: Sections 4525 and 14837, Government Code; Section 10105, Public Contract Code; and Section 21065, Public Resources Code.

§ 3606. Establishment of Criteria

(a) The department shall establish criteria, on a case by case instance, which will comprise the basis for selection for each project. The criteria shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload, ability to meet schedules, nature and quality of completed work, reliability and continuity of the firm, location, and other considerations deemed relevant. Such factors shall be weighted by the department according to the nature of the project, the needs of the State and complexity and special requirements of the specific project.

(b) In no event shall the criteria include practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration. Department employees with a relationship to a person or business entity seeking a contract under this section are prohibited from participating in the selection process if the employee would be subject to the prohibition of Section 87100 of the Government Code.

Authority: Section 4526, Government Code. Reference: Sections 4526 and 87100, Government Code.

§ 3607. Estimate of Value of Services

Before any discussion with any firm concerning fees, the department may cause an estimate of the value of such services to be prepared. This estimate shall serve as a guide in determining fair and reasonable compensation for the services rendered. Such estimate shall be, and remain, confidential until award of contract or abandonment of any further procedure for the services to which it relates. At any time the department determines the estimates to be unrealistic because of rising costs, special conditions, or for other relevant considerations, the estimate may be reevaluated and modified if necessary.

Authority: Section 4526, Government Code. Reference: Section 4528, Government Code.

§ 3608. Request for Proposals

(a) Where a project requires architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, the department shall make an announcement through a publication of the respective professional society, if any exist, in a construction trade journal or, if none exist, in other appropriate publications that are published within a reasonable time frame such that a lengthy publication delay does not adversely affect the project.

(b) The announcement shall contain the following information: The nature of the work, the criteria upon which the award shall be made, and the time within which statements of interest, qualification and performance data will be received.

(c) The department shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for projects for which the department concludes that small business firms could be especially qualified. A failure of the department to send a copy of an announcement to any firm shall not operate to preclude any contract.

Authority: Section 4526, Government Code. Reference: Section 4527, Government Code.

§ 3609. Selection of Firm

After expiration of the period stated in the publications or other public announcements, the department shall evaluate statements of qualifications and performance data which have been submitted to the department. Discussions shall be conducted with no less than three firms regarding the required service. Where three firms cannot be found which could provide the required service, a full explanation including names and addresses of firms and individuals requested to submit proposals must be entered in the files. From the firms with which discussions are held, the department shall select no less than three, provided at least three firms submit proposals, in order of preference, based upon the established criteria, which are deemed to be the most highly qualified to provide the services required.

Authority: Section 4526, Government Code. Reference: Sections 4526-4527, Government Code.

§ 3610. Negotiation

The department shall attempt to negotiate a contract with the most highly qualified firm. When the department is unable to negotiate a satisfactory contract with this firm with fair and reasonable compensation provisions, as determined by the procedure set forth in Section 3923 if those procedures were used, negotiations shall be terminated. The department shall then undertake negotiations with the second most qualified firm on the same basis. Failing accord, negotiations shall be terminated. The department shall then undertake negotiations with the third most qualified firm on the same basis. Failing accord, negotiations shall be terminated. Should the department be unable to negotiate a satisfactory contract at fair and reasonable compensation with any of the selected firms, additional firms may be selected in the manner prescribed in this article and the negotiation procedure continued.

Authority: Section 4526, Government Code. Reference: Section 4528, Government Code.

§ 3611. Amendments

In instances where the department effects a necessary change in the project during the course of performance of the contract, the firm's compensation may be adjusted by negotiation of a mutual written agreement in a fair and reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

Authority: Section 4526, Government Code. Reference: Section 4526, Government Code.

§ 3612. Contracting in Phases

Should the department determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price or compensation provisions in the initial instance, provided that the department shall have determined that the firm is best qualified to perform the whole project at a fair and reasonable cost, and the contract contains provisions that the department, at its option, may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

Authority: Section 4526, Government Code. Reference: Section 4526, Government Code.

§ 3613. Department's Power to Require Bids

Where the department determines that the services needed are technical in nature and involve little professional judgment and that requiring bids would be in the public interest, a contract shall be awarded on the basis of bids rather than by following the foregoing procedures for requesting proposals and negotiation.

Authority: Section 4526, Government Code. Reference: Section 4529, Government Code.

§ 3614. Exclusions

The provisions of this article shall not apply to service agreements for an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor, engaged to provide consulting services on specific problems on projects where the architectural, landscape architectural, engineering, environmental, land surveying, or construction project management work is being performed by State of California Civil Service employees.

Authority: Section 4526, Government Code. Reference: Section 4526, Government Code.

Article 4. Designation Appeal Procedures

§ 3625. Purpose of Regulations

The regulations contained in this article govern procedures affecting appeals to the Board on the approval or denial of a permit to conduct surface mining operations by a city or county, hereinafter referred to as the "lead agency," in an area designated as containing mineral deposits of statewide or regional significance pursuant to the provisions of Section 2775, Public Resources Code (PRC 2775).

Authority: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

§3626. Filing of Intent to Appeal

(a) Any person filing an appeal to the Board pursuant to PRC 2775 shall, within 15 days of exhausting his or her rights to appeal in accordance with the procedures of the lead agency, file an intent to appeal by submitting the following information. Failure to submit all the required, completed documents to the Board within the 15 days filing period will result in an incomplete filing of intent and an automatic rejection of the appeal.

(1) A map indicating the exact location of the disputed area, including township and range, and corresponding to the designation map prepared for the region;

(2) Written statements with supporting documentation indicating the basis for the appellant's challenge to the decision by the lead agency either to approve or deny a permit to mine in an area designated as being of statewide or regional significance.

(3) Copy of notice to the lead agency that the appellant has filed an intent to appeal to the Board.

Authority: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

§ 3627. Determination of Jurisdiction

The Chairman of the Mining and Geology Board, or the Chairman's designee, based upon the information submitted pursuant Section 3626 of this article, shall determine whether the appeal is within the jurisdiction of the Board for purposes of hearing the appeal, and determine whether the appellant's challenge raises substantial issues with respect to the action taken to approve or deny the permit to conduct surface mining operations by the lead agency. The Chairman of the Board, or the Chairman's designee, shall make such determination within 15 days of receipt of the information required by Section 3626 of this article, and shall notify the appellant and the lead agency of the determination by certified mail.

If the Chairman finds, based upon the criteria stated in (a), (b) or (c) below, that the appeal raises no substantial issues with respect to the action taken by the lead agency to approve or deny the permit to conduct

surface mining operations in a designated area, he or she shall refuse to grant a hearing on an appeal. In making this determination, the Chairman, or the Chairman's designee, shall consider the following:

(a) Whether the appeal raises any issues which legally can be addressed by the Board within the limits of the Public Resources Code and the rules of the Board; and

(b) Whether the appeal specifically relates to the approval or denial of a permit to conduct surface mining operations in an area designated by the Board as being of statewide or regional significance.

(c) Whether the appeal is that of a lead agency's reconsideration of an appeal previously remanded by the board to that lead agency, and the appellant's challenge raises no new substantial issues with respect to the action taken by the lead agency to approve or deny the permit to conduct surface mining operations.

Authority: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

§ 3628. Administrative Record

(a) Once the appellant has been notified that a determination has been made that an appeal is within the jurisdiction of the Board for purposes of hearing the appeal, the appellant shall submit to the board within 30 days of receipt of notification three certified copies for the complete administrative record, which shall include, but not be limited to, all of the following information.

(1) Project application and complete, detailed description of the proposed project, including conditions added for mitigation of environmental impacts;

(2) Location and site description maps submitted to the lead agency as part of the application process;

(3) All reports, findings, communications, correspondence, and statements in the file of the lead agency relating to the project; and

(4) Written transcripts of all public hearings related to the decision of the lead agency.

(b) In cases where the appellant is faced with more than 30 days delay in gathering the administrative record because of internal procedures of the lead agency, the appellant shall so notify the Board in writing and the Board may require the lead agency to immediately submit three copies of the administrative record to the Board for purposes of hearing the appeal without undue delay.

(c) Failure of the lead agency to produce the administrative record upon request of the Board within 30 days shall be deemed grounds to remand the appeal to the lead agency for reconsideration.

Authority: Section 2772, 2773, Public Resources Code. Reference: Section 2775, Public Resources Code.

§ 3629. Hearing Procedures-Scheduling

The Board shall schedule and hold a public hearing on an appeal no later than 30 days from the filing of the complete administrative record, or at such time as may be mutually agreed upon by the Board and the appellant. In no case shall the hearing be scheduled beyond 180 days of the receipt of the complete administrative record without the concurrence of the Board, the appellant, and the project proponent (when not the same person as the appellant). The hearing may be scheduled as part of a regular business meeting of the Board or may be conducted by a committee of the Board.

Authority: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

§ 3630. Hearing Procedures-Authority for Delegation

The Board may delegate conduct of the hearing to a committee of at least two members to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the Board at

its next regular business meeting for a decision of the full Board consistent with the procedures set forth in Section 3634 of these regulations.

Authority: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

§ 3631. Hearing Procedures-Notice

(a) At least 10 working days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the lead agency, the appellant, and the project proponent (when not the same person as the appellant);

(2) Mailing the notice to any person who requests notice of the appeal or hearing;

(3) Mailing the notice to the Board's regular mailing list; and

(4) Posting of the notice in a place where notices are customarily posted in the city or county jurisdiction within which the proposed surface mining operations are to take place.

(b) The notice of hearing shall include the following:

(1) The name of the appellant;

(2) Identification of the proposed surface mining operation, a brief description of the location of the operation by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;

(3) A statement that the appellant has appealed the lead agency's decision to approve or deny the project and has requested the Board hear the appeal;

(4) A statement inviting the appellant, the lead agency, the project proponent (when not the same person as the appellant), and the public to make statements at the hearing regarding the decision of the lead agency; and

(5) The time, date, and location of the public hearing.

Authority: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

§ 3632. Hearing Procedures-Record

The record before the Board at the public hearing shall be the administrative record submitted pursuant to Sections 3626 and 3628 of this article.

Authority: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

§ 3633. Hearing Procedures-Sequence

(a) The public hearing should normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the appellant;

(3) Statements on behalf of the lead agency;

(4) Statements on behalf of the project proponent (when not the same person as the appellant);

(5) Statements on behalf of the public;

(6) Rebuttal on behalf of the appellant; and

(7) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements. Written statements must be submitted to the Board at least five days prior to the hearing.

(d) The public hearing shall be recorded either electronically or by other convenient means.
Authority: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

§ 3634. Hearing Procedures - Determination

Following the public hearing, the Board shall determine whether, upon the record before it, the lead agency decision was made based on substantial evidence in light of the whole record. Notification of the Board's determination shall be made by certified mail to the appellant, the lead agency, and the project proponent (when not the same person as the appellant) within 15 days following the regular business meeting of the Board at which the decision is made.

Authority: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

Article 5. Reclamation Plan Appeals

§ 3650. Filing of Intent to Appeal

Any person filing an appeal to the Board pursuant to PRC 2770 shall, within 15 days of exhausting his or her rights to appeal in accordance with the procedures of the lead agency, file an intent to appeal by submitting the following information. Failure to submit all the required, completed documents to the board within the 15 days filing period will result in an incomplete filing of intent and an automatic rejection of the appeal.

(a) A map indicating the exact location of the surface mining operation, including township and range.

(b) A copy of all documents which together were proposed to serve as the reclamation plan and which were submitted to the lead agency for review and approval pursuant to PRC 2770.

(c) Written statements with supporting documentation indicating the basis for the appellant's challenge of:

(1) the lead agency's action to deny approval of the reclamation plan submitted pursuant to PRC 2770; or

(2) the lead agency's failure to act according to due process; or

(3) the lead agency's failure to act within a reasonable period of time of submittal of a completed application.

(A) failure to act means a lead agency's inaction in processing the reclamation plan through its successive steps as provided for in the lead agency's surface mining and reclamation ordinance adopted pursuant to PRC Section 2774, and as provided for in PRC Section 2774(c).

(B) reasonable time means the time period specified in the lead agency's surface mining and reclamation ordinance, or that which is mutually agreed upon by the applicant and the lead agency. Where no times are specified in the lead agency's ordinance, then the interval between successive review steps shall not exceed 60 days.

(d) Copy of notice to the lead agency that the appellant intends to file an appeal to the Board.

Authority: Section 2770, Public Resources Code. Reference: Section 2770(c)-(e), Public Resources Code.

§ 3651. Determination of Jurisdiction

The Chairman of the Mining and Geology Board, or the Chairman's designee (Board Member), shall determine whether the appeal is within the jurisdiction of the Board for purposes of hearing the appeal, and determine whether the appellant's challenge raises substantial issues related to the lead agency's review of reclamation plans submitted for surface mining operations pursuant to the provisions of PRC 2770. If the

Chairman finds, based upon the criteria stated in (a) plus (b) below, that the appeal raises no substantial issues with respect to the lead agency's review of reclamation plans submitted for surface mining operations pursuant to the provisions of PRC 2770, he or she shall refuse to grant a hearing on the appeal. In making these determinations, the Chairman shall consider the following:

(a) Whether the appeal raises any issues which can legally be addressed by the Board within the limits of PRC 2770(e) and the rules of the Board; and

(b) Whether the appeal specifically relates to the lead agency's review of reclamation plans submitted for surface mining operations pursuant to the provisions of PRC 2770.

Authority: Section 2770, Public Resources Code. Reference: Section 2770(c)-(e), Public Resources Code.

§ 3652. Administrative Record

(a) Once the appellant has been notified that a determination has been made that an appeal is within the jurisdiction of the Board for purposes of hearing the appeal, the appellant shall submit to the board within 30 days of receipt of notification three certified copies of the complete administrative record, which shall include, but not be limited to, all of the following information:

(1) All documents which together are proposed to serve as the reclamation plan and which were submitted to the lead agency for review and approval pursuant to PRC 2770;

(2) Location and site description maps submitted to the lead agency as part of the reclamation plan application;

(3) Environmental documentation prepared pursuant to the provisions of the California Environmental Quality Act (CEQA), PRC Sections 21000 et seq., including conditions added for mitigation of environmental impacts, if any;

(4) A copy of the lead agency surface mining and reclamation ordinance under which the reclamation plan may have been judged pursuant to PRC 2770;

(5) All reports, findings, communications, correspondence, and statements in the file of the lead agency relating to the proposed reclamation plan; and

(6) Written transcripts of all public hearings related to the lead agency review for approval of the reclamation plan pursuant to PRC Section 2770.

(b) Should the lead agency choose not to complete an environmental review of the project pursuant to the provisions of CEQA, or should the Board deem such review inadequate under the provisions of CEQA, the record will not be considered complete until an adequate CEQA review is completed.

(1) In those instances in which the Board is the CEQA lead agency, the Board shall be responsible for the preparation of new or supplemental environmental documents.

(2) Pursuant to PRC Section 15045, the project proponent shall bear any costs relating to preparation and completion of any required environmental documents.

(c) Failure of the appellant to request in writing the administrative record from the lead agency within 10 days of receiving notification of the Board's acceptance of the appeal may be deemed grounds for dismissal of the appeal.

(d) If the appellant is unable to obtain the administrative record from the lead agency within 15 days, the appellant shall so notify the Board in writing and the Board may require the lead agency to immediately submit three copies of the administrative record to the Board for purposes of hearing the appeal without undue delay.

(e) Failure of the lead agency to produce the administrative record upon request of the Board within 30 days shall be deemed grounds for Board action based on information provided solely by the appellant.

(f) Following production of the administrative record by the lead agency, failure of the appellant to produce the administrative record upon the request of the Board within 10 days may be deemed grounds for dismissal of the appeal.

Authority: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e) and 21000 et seq., Public Resources Code; and Section 15000 et seq., California Code of Regulations.

§ 3653. Technical Review for Adequacy of Reclamation Plan

(a) The Board may consult with the technical staff of the Department of Conservation for determination of the adequacy of reclamation plans prepared for surface mining operations that are appealed to the Board. Preliminary determination of technical adequacy shall be based on, but shall not be limited to, the following:

- (1) Substantial compliance with the requirements of PRC Sections 2772 and 2773;
- (2) Substantial compliance with the requirements of Board rules and regulations (14 CCR Sections 3500 et seq. and Sections 3700 et seq.);
- (3) Substantial compliance with the reclamation provisions of the lead agency surface mining and reclamation ordinance as certified by the Board pursuant to the provisions of PRC 2774; and
- (4) Whether the proposed reclamation plan is technically feasible given the scope of the mining operations.

(b) The determination of whether substantial compliance with PRC Sections 2772 and 2773, 14 CCR Sections 3500 et seq. and Sections 3700 et seq., and the Board-certified lead agency surface mining and reclamation ordinance have been met shall be based on whether all elements of these provisions that are necessary to ensure viable, planned reclamation of a particular site are included and are technically feasible so as to satisfy the objectives of the Surface Mining and Reclamation Act. For example, a description of revegetation efforts might not be necessary for a pit to be used as a landfill, just as a description of final slope angles may not be necessary for a gravel bar skimming operation. In other sites, however, such information may be critical. In all cases, a site visit by the technical staff of the Department of Conservation shall be made before substantial compliance is determined.

Authority: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e) and 2774, Public Resources Code.

§ 3654. Hearing Procedures - Scheduling

The Board shall schedule and hold a public hearing on an appeal no later than 45 days from the filing of the complete administrative record, or at such time as may be mutually agreed upon by the Board and the appellant. The hearing may be scheduled as part of a regular business meeting of the Board or may be conducted by a committee of the Board. The Board shall endeavor to schedule such public hearings in the jurisdiction from which the appeal originated, but may otherwise schedule such appeals to be heard in Sacramento.

Authority: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e), Public Resources Code.

§ 3655. Hearing Procedures - Authority for Delegation

The Board may delegate conduct of the hearing to a committee of at least two members of the Board to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee (Board Member) shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the Board at a regular business meeting for a decision of the full Board consistent with the procedures set forth in Section 3659 of these regulations.

Authority: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e), Public Resources Code.

§ 3656. Hearing Procedures - Notice

(a) At least 10 days prior to the hearing, the Board shall give public notice as follows:

- (1) Mailing the notice to the lead agency and to the appellant;
- (2) Mailing the notice to any person who requests notice of the appeal or hearing;
- (3) Mailing the notice to the Board's regular mailing list; and
- (4) Posting of the notice in a place where notices are customarily placed within the jurisdiction of the lead agency.

(b) The notice of hearing shall include the following:

- (1) The name of the appellant;
- (2) Identification of the proposed reclamation plan, a brief description of the location of the surface mining operation for which the reclamation plan was prepared by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;
- (3) A statement that the appellant has appealed the lead agency's decision to deny approval of the reclamation plan, or that the lead agency is being challenged based on failure to act according to due process, or that the lead agency is being challenged based on failure to act within a reasonable period of time;
- (4) A statement explaining that the Board may approve or deny approval of the reclamation plan, and that if the reclamation plan is denied approval, it shall be returned to the operator who then must revise it and resubmit the revised plan to the lead agency within 30 days of receipt from the Board;
- (5) A statement inviting the appellant, the lead agency, and the public to make statements at the hearing regarding the action (or inaction) of the lead agency; and
- (6) The time, date, and location of the public hearing.

Authority: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e), Public Resources Code.

§ 3657. Hearing Procedures - Record

The record before the Board at the public hearing shall be the administrative record submitted pursuant to Sections 3650 and 3652 of this article, together with any findings from the technical review pursuant to Section 3653 of this article, and any CEQA documents prepared pursuant to Section 3652 of this article.

Authority: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e) and 2774, Public Resources Code.

§ 3658. Hearing Procedures - Sequence

(a) The public hearing shall normally proceed in the following manner:

- (1) Identification of the record;
- (2) Statements on behalf of the appellant;
- (3) Statements on behalf of the lead agency;
- (4) Statements on behalf of the public;
- (5) Rebuttal on behalf of the appellant; and
- (6) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee (Board Member) for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee (Board Member) shall have the authority to impose time limits upon statements and presentations and accept written statements in lieu of oral statements. Written statements (12 copies) must be submitted to the Board at least five days prior to the hearing.

(d) The public hearing shall be recorded.

Authority: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e), Public Resources Code.

§ 3659. Hearing Procedures - Determination

Following the public hearing, the Board shall determine whether, based on the record before it, the proposed reclamation plan substantially meets the requirements of PRC 2772 and 2773 and the lead agency surface mining and reclamation ordinance, and the provisions of Section 3654 of this article. Notification of the Board's determination shall be made by certified mail to the appellant and the lead agency within 15 days following the regular business meeting of the Board at which the decision is made. In cases where the reclamation plan is not approved, deficiencies shall be noted in the correspondence notifying the appellant and the lead agency of the Board's decision, and the operator shall be put on notice that deficiencies must be corrected and a revised reclamation plan filed with the lead agency within 30 days.

Authority: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e), 2772, 2773 and 2774, Public Resources Code.

Article 6. Mineral Resource Management Policies

§ 3675. Definitions

The following definitions as used herein shall govern the interpretation of these regulations:

Compatible Land Use. Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

Incompatible Land Use. Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

Authority: Section 2755, Public Resources Code. Reference: Sections 2761-2762, Public Resources Code.

§ 3676. Mineral Resource Management Policies

Lead agency mineral resource management policies adopted pursuant to the provisions of PRC Section 2762 shall include but not be limited to, the following:

(a) A summary of the information provided by the classification and/or designation reports, or incorporation of PRC Sections 2710 et seq., and state policy by reference, together with maps of the identified mineral deposits or incorporation by reference of the classification and/or designation maps provided by the Board.

(b) Statements of policy in accordance with the provisions of PRC Section 2762(a).

(c) Implementation measures that shall include:

(1) Reference in the general plan of the location of identified mineral deposits, and a discussion of those areas targeted for conservation and possible future extraction by the lead agency.

(2) Use of overlay maps or inclusion of information on any appropriate planning maps to clearly delineate identified mineral deposits and those areas targeted by the lead agency for conservation and possible future extraction.

(3) At least one of the following:

(A) Use of special purpose overlay zones, mineral resource/open space zoning, or any other appropriate zoning that identifies the presence of identified mineral deposits and restricts the encroachment of incompatible land uses in those areas that are to be conserved.

(B) Record, on property titles in the affected mineral resource areas, a notice identifying the presence of identified mineral deposits.

(C) Impose conditions upon incompatible land uses in and surrounding areas containing identified mineral deposits for the purpose of mitigating the significant land use conflicts prior to approving a use that would otherwise be incompatible with mineral extraction.

Authority: Section 2755, Public Resources Code. Reference: Sections 2757 and 2761-63, Public Resources Code.

Article 7. Financial Assurances Appeal Procedures

§ 3680. Purpose of Regulations

The regulations contained in this article govern procedures for appeals to the State Mining and Geology Board (“the Board”) concerning financial assurances for reclamation of existing surface mining operations under section 2770 of the Public Resources Code.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

§ 3681. Filing of Intent to Appeal

Any person filing an appeal to the Board pursuant to section 2770 of the Public Resources Code concerning financial assurances for reclamation shall, within 15 days of exhausting his or her right to appeal in accordance with the procedures of the lead agency, file a notice of intent to appeal by submitting the following information:

(1) A map indicating the exact location of the surface mining operation, including township and range.

(2) A copy of all documents which together comprise the financial assurances for reclamation which are the subject of the appeal.

(3) Written statements, with supporting documentation, indicating the basis for the appellant's challenge of the action or inaction by the lead agency concerning financial assurances for reclamation.

(4) Copy of the notice to the lead agency that the appellant intends to file an appeal with the Board.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

§ 3682. Determination of Jurisdiction

The Chairman of the Board, or the Chairman's designee (Board Member), shall determine whether the appeal is within the jurisdiction of the Board for purposes of hearing the appeal, and determine whether the appellant's challenge raises any substantial issues related to the review by the lead agency of financial assurances for reclamation for existing surface mining operations pursuant to Public Resources Code section 2770. If the Chairman finds, based on the criteria stated in (a) through (c) below, that the appeal raises no substantial issues with respect to the review by the lead agency of financial assurances for existing surface

mining operations under Public Resources Code section 2770, he or she shall refuse to grant a hearing on the appeal. In making this determination, the Chairman shall consider the following:

- (a) Whether the appeal raises any issues which legally can be addressed by the Board within the limits of Public Resources Code section 2770 and the rules of the Board;
- (b) Whether the appeal specifically relates to the lead agency's review of financial assurances submitted for existing surface mining operations pursuant to the provisions of Public Resources Code section 2770; and
- (c) Whether the appellant exhausted his or her appeal remedies before the lead agency.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

§ 3683. Limit on Number of Filings of Appeal

Upon a finding by the Chairman, or the Chairman's designee (Board Member), that the appeal is not within the jurisdiction of the Board, the appellant may refile the notice of intent to appeal, once only, with the identified information needed to complete the appeal, within 21 days of receipt of the letter of denial of the original notice of intent to appeal.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

§ 3684. Administrative Record

(a) Once the appellant has been notified that a determination has been made that an appeal is within the jurisdiction of the Board for purposes of hearing the appeal, the appellant shall submit three certified copies of the complete administrative record, which shall include, but shall not be limited to, all of the following information:

- (1) A copy of the approved reclamation plan for the mining operation and any permit conditions or California Environmental Quality Act mitigations which pertain to reclamation for which the financial assurances for reclamation are proposed;
- (2) A copy of the documents comprising the financial assurances or the proposed financial assurances for reclamation which were submitted to the lead agency for review and approval pursuant to Public Resources Code section 2770;
- (3) Location and site description maps submitted to the lead agency as part of the reclamation plan;
- (4) A detailed estimate of the cost of the reclamation, in accordance with the approved reclamation plan, of the lands remaining disturbed and/or to be disturbed by the surface mining operation in the applicable twelve (12) month period, together with a map clearly delineating the boundaries of those lands;
- (5) All reports, findings, communications, correspondence and statements in the file of the lead agency relating to the financial assurances in question;
- (6) Written transcripts of all public hearings related to the lead agency's review of the financial assurances.

(b) Failure of the appellant to request the administrative record from the lead agency within 21 days of receiving the notice stating the Board's acceptance of the appeal, may be deemed grounds for dismissal of the appeal.

(c) If the appellant is unable to obtain the administrative record from the lead agency within 10 working days after submission of the request for the record, the appellant shall so notify the Board in writ-

ing. The Board may then require the lead agency to immediately submit three certified copies of the administrative record to the Board for purposes of hearing the appeal without undue delay.

(d) Failure of the lead agency to produce the administrative record upon request of the Board within 30 days may be deemed grounds for Board action based on information provided solely by the appellant.

(e) Following production of the administrative record by the lead agency, failure of the appellant to produce the administrative record upon the request of the Board within 21 days may be deemed grounds for dismissal of the appeal.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

§ 3685. Hearing Procedures - Scheduling

The Board shall schedule and hold a public hearing on an appeal no later than 45 days from the filing of the complete administrative record, or at such time as may be mutually agreed upon by the Board and the appellant. The hearing may be scheduled as part of a regular business meeting of the Board or may be conducted by a committee of the Board.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

§ 3686. Hearing Procedures - Authority for Delegation

The Board may delegate conduct of the hearing to a committee of at least two Board members to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee (Board Member) shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the board at a regular business meeting for a decision of the full Board consistent with the procedures set forth in section 3690 of these regulations.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

§ 3687. Hearing Procedures - Notice

(a) At least 10 working days prior to the hearing, the Board shall give public notice as follows:

- (1) Mailing the notice to the lead agency and to the appellant;
- (2) Mailing the notice to any person who requests notice of the appeal or hearing;
- (3) Mailing the notice to the Board's regular mailing list; and
- (4) Posting of the notice in a place where notices are customarily placed within the jurisdiction of the lead agency.

(b) The notice of hearing shall include the following:

- (1) The name of the appellant;
- (2) Description of the financial assurances for reclamation, identification of the surface mining operation for which the financial assurances for reclamation were provided, a brief description of the location of the surface mining operation by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;
- (3) A statement of the grounds for the appeal;
- (4) A statement that the Board may approve or deny approval of the financial assurances for reclamation;
- (5) A statement that if the Board denies approval of the financial assurances, they shall be returned to the mine operator who shall be granted, once only, a period of 30 days, or a longer period mutu-

ally agreed upon by the operator and the Board, to correct the noted deficiencies and submit the revised financial assurances to the lead agency for review and approval;

(6) A statement inviting the appellant, the lead agency, and the public to provide testimony and evidence at the hearing regarding the action or inaction of the lead agency; and

(7) The time, date, and location of the public hearing.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

§ 3688. Hearing Procedures - Record

The record before the Board at the public hearing shall be the administrative record submitted pursuant to sections 3681 and 3684 of this article.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Sections 2770 and 2774, Public Resources Code.

§ 3689. Hearing Procedures – Sequence

(a) The public hearing shall normally proceed in the following manner:

- (1) Identification of the record;
- (2) Statements on behalf of the appellant;
- (3) Statements on behalf of the lead agency;
- (4) Statements on behalf of the public;
- (5) Rebuttal on behalf of the appellant; and
- (6) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee (Board Member) for purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee (Board Member) shall have the authority to impose time limits upon statements and presentations and to accept written statements in lieu of oral statements. Written statements shall be submitted to the Board at least ten days prior to the hearing.

(d) The public hearing shall be recorded.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

§ 3690. Hearing Procedures - Determination

Following the public hearing, the Board shall determine whether, based on the record before it, the proposed or existing financial assurances for reclamation substantially meet the applicable requirements of Public Resources Code sections 2770, 2773.1., and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of section 2774. Financial assurances determined to meet these requirements shall be approved. Notification of the Board's determination shall be made by certified mail to the appellant and the lead agency within 15 days following the regular business meeting of the Board at which the decision was made. In cases where the financial assurances for reclamation are not approved, deficiencies shall be noted in the correspondence notifying the appellant and the lead agency of the Board's decision. The appellant shall be granted, once only, a period of 30 days, or a longer period mutually agreed upon by the operator and the Board, to correct the noted deficiencies and submit the revised financial assurances for reclamation to the lead agency for review and approval.

Authority: Sections 2755 and 2770, Public Resources Code. Reference: Sections 2770 and 2774, Public Resources Code.

Article 8. Fees Schedule

§ 3695. Definitions

The following definitions shall govern the interpretation of these regulations:

“Produced Minerals” means minerals extracted at the site of the mining operation, and either:

(a) sold, given or otherwise moved off the site of the operation, as defined in the approved reclamation plan, or;

(b) used on-site for production of completed products (e.g. cement, bricks, asphaltic concrete, etc.), Stockpiles of mineral products that remain on the site, as defined in the lead agency approved reclamation plan, are not produced minerals for purposes of these regulations.

“Primary Mineral Commodity Produced” means the produced mineral that provides the highest dollar values sales for the operation.

“Board” means State Mining and Geology Board.

As used in Section 3697 and 3699 “Mining Company” means any entity, corporation, partnership, parent or holding company. Any subsidiaries of the above are deemed to be part of the mining company.

As used in section 3699, “Gross Income” means all income from whatever source derived as defined by, and determined in accordance with, Section 61 of the Internal Revenue Code, Title 26, U.S.C.S.

“Aggregate Products” means decomposed granite, sand and gravel, slag, or stone.

“Industrial Minerals” means borates, cinders, clay, diatomite, dolomite, gypsum, iron ore, lime, limestone, perlite, pumice, rare earth elements, saline compounds, salt, shale, silica, specialty sand, abrasives, asbestos, barite, bituminous rock, decorative rock, dimension stone, feldspar, fluorite, gemstones, graphite, kyanite, lignite, lithium, magnesite, mica, olivine, peat, phosphate, potash, pyrophyllite, quartz crystal, sea shells, sericite, sulfur, talc, vermiculite, wollastonite, zeolites, and zircon.

“Gold, Silver, and Precious Metals” means gold (lode), gold (placer), platinum group metals, and silver.

“Base Metals and Other Metals” means antimony, arsenic, chromite, copper, lead, manganese, mercury, molybdenum, nickel, pyrite, tin, titanium, tungsten, uranium, vanadium, and zinc.

Authority: Sections 2207(d)(1)-(2), Public Resources Code. Reference: Sections 2207(d)(1)-(2) and 2207(f), Public Resources Code.

§ 3696. Operations Subject to Fees

(a) Each surface mining operation, as defined in Public Resources Code Sections 2719, 2727.1, 2735, and California Code of Regulations, Title 14, Section 3501, unless exempted by Public Resources Code Section 2714, shall be assessed an annual reporting fee according to the schedule established pursuant to in Section 3698 each May 1 following the reporting calendar year.

(b) In addition to the annual reporting fee, each surface mining operation that is newly permitted shall be assessed an initial reporting fee according to the schedule in Section 3698 of this article.

Authority: Section 2207, Public Resources Code. Reference: Sections 2207 and 2719, Public Resources Code.

§ 3696.5. Board Administration Fee

Each surface mining operation, as defined in Public Resources Code sections 2719, 2727.1, and 2735, and, Title 14 California Code of Regulations, Section 3501, unless exempted by Public Resources Code Section 2714, shall be assessed each January 31 an annual administration fee of \$14 (fourteen dollars) per day for each day of the previous calendar year that the surface mine operation was under the board's jurisdiction as lead agency pursuant to Chapter 9, commencing with Section 2710. The administration fee is due and payable to the State Mining and Geology Board not later than April 1 each year by the surface mine's owner or operator of record on the preceding December 31.

Authority: Sections 2207 and 2755, Public Resources Code. Reference: Section 2207, Public Resources Code.

§ 3697. Fees Due and Delinquent

(a) The annual reporting fee and Mining Operation Annual Report (MRRC-2) are due and payable to the Department of Conservation not later than July 1 for the prior reporting year, by the owner or operator of record on the preceding December 31. The initial reporting fee for a new surface mining operation, together with an initial report, are due and payable to the Department of Conservation not later than thirty (30) days after permit approval. An owner or operator of a surface mining operation submitting an annual reporting fee or annual report after July 1, or more than thirty (30) days after permit approval, shall be assessed a penalty fee and interest as provided in Public Resources Code Section 2207(c) and (d)(5).

(b) Except as otherwise provided in (c), for the purposes of this article, surface mining operations are deemed to be discrete operations per each reclamation plan required.

(c) Multiple site surface mining operations are deemed to be those active surface mining operations which meet all of the following criteria:

- (1) one or more surface mining operations are operated on one or more sites by a single operator or mining company;
- (2) the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity product is not precious metals;
- (3) all of the sites included are active;
- (4) all of the operator or company's entire active surface mining operations located in the State of California are tied to, or located on, the listed sites; and

(d) In addition to the criteria provided in (c), multiple site mining operator's submittal of the annual report form (Mining Operation Annual Report, Form MRRC-2) shall be accompanied by a multiple site form (Multiple Site Single Fee Request, Form MRRC-4M) supplied by the Department of Conservation.

Authority: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

§ 3698. Fees Calculation

Annual reporting fees cited in sections 3698 and 3699 shall be adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005-2006 fiscal year and annually thereafter.

(a) The annual reporting fee for a multiple site surface mining operation shall be four thousand dollars (\$4,000).

(b) The annual reporting fee for surface mining operations which are no longer in operation with no intent to resume, which had no mineral production in the reporting calendar year, and

(1) which did not complete reclamation during the reporting calendar year shall be \$100; or

(2) which completed reclamation during the reporting calendar year shall be \$100. Proof of completion of reclamation, approved by the lead agency, shall be submitted with this fee.

(c) Except as otherwise provided, the annual reporting fee for surface mining operations shall be calculated on the total primary mineral commodity produced in the reporting calendar year. A factor to determine the amount of fee adjustments from one reporting calendar year to the next shall be calculated according to the following formula:

$$[\frac{((AT RY) - (AT PY))}{(AT PY)}] = \text{Factor}$$

Where: Adjusted Total (AT) equals the Amount Requested by the Director, less a projected amount from fees set in CCR §3698(a)(b)(d)(e) and CCR §3699, and less a projected amount from mine operations subject to the maximum fee amount of \$4,000;

Where: ATRY is the Adjusted Total for the current "Reporting Year"

Where: ATPY is the Adjusted Total for the "Prior Year"

The new Fee Amount for each category is determined by the following formulae (calculated amounts cannot be less than \$100 or more than \$4,000, as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005-2006 fiscal year and annually thereafter, and may be rounded to the nearest \$1 (one dollar):

Formula 1: Current Year Reporting Fee = Prior Year Reporting Fee times (1 + Factor) if Factor is positive;

Formula 2: Current Year Reporting Fee = Prior Year Reporting Fee times (1 - Factor) if Factor is negative.

(1) Operations where the primary mineral commodity produced is either aggregate products or industrial minerals shall be assessed a fee as follows:

Tons		Fee in Dollars
0	— 100	Formula 1 or 2 (not less than \$100)
>100	— 1,000	Formula 1 or 2
>1,000	— 10,000	Formula 1 or 2
>10,000	— 50,000	Formula 1 or 2
>50,000	— 100,000	Formula 1 or 2
	>100,000	4,000

(2) Operations where the primary mineral commodity produced is gold, silver, or precious metals shall be assessed a fee as follows:

Ounces			Fee in Dollars
0	—	1	Formula 1 or 2 (not less than \$100)
>1	—	10	Formula 1 or 2
>10	—	50	Formula 1 or 2
>50	—	150	Formula 1 or 2
>150	—	300	Formula 1 or 2
		>300	4,000

(3) Operations where the primary mineral commodity produced is base metals or other metals shall be assessed a fee as follows:

Pounds			Fee in Dollars
0	—	10	Formula 1 or 2 (not less than \$100)
>10	—	100	Formula 1 or 2
>100	—	1,000	Formula 1 or 2
>1,000	—	10,000	Formula 1 or 2
>10,000	—	20,000	Formula 1 or 2
		>20,000	4,000

(d) The initial reporting fee for surface mining operations shall be five hundred dollars (\$500).

(e) The annual reporting fee for newly permitted surface mining operations which have not yet begun operations shall be one hundred dollars (\$100).

(f) In addition to the annual reporting fees, the board shall collect five dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of silver based on the amount of product mined within the state during the reporting year.

Authority: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

§ 3699. Low Gross Exemptions

(a) For the calendar reporting year, a single operator or mining company may file with the Office of Mine Reclamation of the Department of Conservation, a written request for an exemption from the method of fee assessment set forth in Section 3698. Neither the State, nor any county, city, district or other political subdivision shall be eligible for an exemption under this Section. A request for an exemption must be filed on a form (Low Gross Exemption Fee Request, Form MRRC-4L) supplied by the Department of Conservation and received by the Department of Conservation by July 1 following the calendar reporting year. The Department of Conservation shall grant the exemption if information submitted and confirmed by the annual report form and approved reclamation plan, clearly demonstrates that the operation meets the following criteria:

(1) material is extracted from one surface mining operation, and lead agency approval of a reclamation plan and financial assurance has been obtained; and

(2) all of the single operator or mining company's surface mining operation located in the State of California is tied to, or located on, one site; and

(3) the amount of the operator's gross income from the surface mining operation for the reporting calendar year was less than \$100,000, and proof of gross income is supplied in the form of a signed federal tax return or returns accompanied by a complete and signed Federal Internal Revenue Service Form 4506, or a report prepared and signed by a certified public accountant; and

(4) the owner or operator has submitted an annual reporting fee of four hundred dollars (\$400) as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005-2006 fiscal year and annually thereafter.

(b) For any request received on or before July 1 following the reporting calendar year the Department may afford the applicant one 30-day period in which to correct minor deficiencies in the application.

(c) If the Department of Conservation determines that an exemption is not warranted, the operator may appeal that determination to the Board. The appeal must be submitted in writing within fifteen (15) days of the denial of exemption notification by the Department of Conservation. The Chairman of the Board or his designee (Board Member), shall determine whether the Board has jurisdiction for the purposes of an appeal. In order for the Board to have jurisdiction the appeal must:

- (1) Demonstrate the exemption request was complete and filed in a timely fashion;
- (2) Specifically relate to the exemption criteria outlined in this Section; and
- (3) Specify the appellant's arguments for granting the exemption.

(d) If the appeal is within the Board's jurisdiction, the Board, based on all the evidence in the record, may affirm the Department's decision or grant the exemption. If the operator does not appeal, the appeal is not within the Board's jurisdiction, or the Board affirms the Department's decision, the operator or owner shall submit an annual reporting fee calculated upon the total mineral commodity produced pursuant to Section 3698. Such fee shall be submitted within thirty (30) days of notification by the Department of Conservation or the Board. An operator or owner submitting an annual reporting fee later than thirty (30) days after notification shall be assessed a penalty and interest as provided in Public Resources Code Section 2207(d)(5).

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[See Illustration In Original Printed Version]

Authority: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

Article 9. Reclamation Standards

§ 3700. Applicability

Reclamation of mined lands shall be implemented in conformance with the standards in this Article.

(a) The standards shall apply to each surface mining operation to the extent that:

- (1) they are consistent with required mitigation identified in conformance with the California Environmental Quality Act, provided that such mitigation is at least as stringent as the standards; and
- (2) they are consistent with the planned or actual subsequent use or uses of the mining site.

(b) Where an applicant demonstrates to the satisfaction of the lead agency that an exception to the standards specified in this article is necessary based upon the approved end use, the lead agency may approve a different standard for inclusion in the approved reclamation plan. Where the lead agency allows such an exception, the approved reclamation plan shall specify verifiable, site-specific standards for reclamation. The lead agency may set standards which are more stringent than the standards set forth in this Article; however, in no case may the lead agency approve a reclamation plan which sets any standard which is less stringent than the comparable standard specified in this Article.

(c) When substantial amendments are proposed to reclamation plans which were approved prior to January 15, 1993, the standards set forth in this Article shall be applied by the lead agency in approving or denying approval of the amended reclamation plan.

(d) The standards in this Article shall not apply to mining operations:

(1) which completed reclamation prior to January 15, 1993, in conformance with an approved reclamation plan; or

(2) for which a reclamation plan has been approved prior to January 15, 1993.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3701. Definitions

The following definitions shall govern the interpretation of these regulations:

“Arid” means landscapes with an average annual precipitation of five inches or less.

“Contamination” means an impairment of the quality of the waters of the state to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

“Highwall” means the unexcavated face of exposed overburden and ore in a surface mine.

“Indigenous Plants” means plants occurring naturally in an area, not introduced.

“Native Species” means plant species indigenous to California, using pre-European as the historic time reference.

“Noxious Weeds” means any species of plant that is or is likely to become destructive or difficult to control or eradicate, and is termed to be so by the Director of the Department of Food and Agriculture in section 4500, Title 3 of the California Code of Regulations, pursuant to the Food and Agriculture Code section 5004 et seq.

“Vegetative Cover” means the vertical projection of the crown or shoot area of a species to the ground surface expressed as a percentage of the reference area (percentage can be greater than 100 percent).

“Vegetative Density” means the number of individuals or stems of each species rooted within the given reference area.

“Vegetative Species-richness” means the number of different plant species within the given reference area.

“Wetlands” for the purposes of these regulations, the definition of wetlands shall be the same as defined in the California Fish and Game Code, section 2785, subdivision (g).

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3702. Financial Assurances

Lead agencies shall require financial assurances for reclamation in accordance with Public Resources Code section 2773.1 to ensure that reclamation is performed in accordance with the approved reclamation plan and with this article.

Authority: Sections 2755, 2773 and 2773.1, Public Resources Code. Reference: Sections 2773 and 2773.1, Public Resources Code.

§ 3703. Performance Standards for Wildlife Habitat

Wildlife and wildlife habitat shall be protected in accordance with the following standards:

(a) Rare, threatened or endangered species as listed by the California Department of Fish and Game, (California Code of Regulations, Title 14, sections 670.2 - 670.5) or the U.S. Fish and Wildlife Service, (50 CFR 17.11 and 17.12) or species of special concern as listed by the California Department of Fish and Game in the Special Animals List, Natural Diversity Data Base, and their respective habitat, shall be conserved as prescribed by the federal Endangered Species Act of 1973, 16 U.S.C. section 1531 et seq., and the California Endangered Species Act, Fish and Game Code section 2050 et seq. If avoidance cannot be achieved through the available alternatives, mitigation shall be proposed in accordance with the provisions of the California Endangered Species Act, Fish and Game Code section 2050 et seq., and the federal Endangered Species Act of 1973, 16 U.S.C. section 1531 et seq.

(b) Wildlife habitat shall be established on disturbed land in a condition at least as good as that which existed before the lands were disturbed by surface mining operations, unless the proposed end use precludes its use as wildlife habitat or the approved reclamation plan establishes a different habitat type than that which existed prior to mining.

(c) Wetland habitat shall be avoided. Any wetland habitat impacted as a consequence of surface mining operations shall be mitigated at a minimum of one to one ratio for wetland habitat acreage and wetland habitat value.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3704. Performance Standards for Backfilling, Regrading, Slope Stability, and Recontouring

Backfilling, regrading, slope stabilization, and recontouring shall conform with the following standards:

(a) Where backfilling is proposed for urban uses (e.g., roads, building sites, or other improvements sensitive to settlement), the fill material shall be compacted in accordance with the Uniform Building Code, published by the International Conference of Building Officials and as adopted by the lead agency, the local grading ordinance, or other methods approved by the lead agency as appropriate for the approved end use.

(b) Where backfilling is required for resource conservation purposes (e.g., agriculture, fish and wildlife habitat, and wildland conservation), fill material shall be backfilled to the standards required for the resource conservation use involved.

(c) Piles or dumps of mining waste shall be stockpiled in such a manner as to facilitate phased reclamation. They shall be segregated from topsoil and topsoil substitutes or growth media salvaged for use in reclamation.

(d) Final reclaimed fill slopes, including permanent piles or dumps of mine waste rock and overburden, shall not exceed 2:1 (horizontal:vertical), except when site-specific geologic and engineering analysis demonstrate that the proposed final slope will have a minimum slope stability factor of safety that is suitable for the proposed end use, and when the proposed final slope can be successfully revegetated.

(e) At closure, all fill slopes, including permanent piles or dumps of mine waste and overburden, shall conform with the surrounding topography and/or approved end use.

(f) Cut slopes, including final highwalls and quarry faces, shall have a minimum slope stability factor of safety that is suitable for the proposed end use and conform with the surrounding topography and/or approved end use.

(g) Permanent placement of piles or dumps of mining waste and overburden shall not occur within wetlands unless mitigation acceptable to the regulatory agencies with jurisdiction over wetlands, which may include the lead agency, has been proposed to offset wetland impacts and/or losses.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3704.1. Performance Standards for Backfilling Excavations and Recontouring Lands Disturbed by Open Pit Surface Mining Operations for Metallic Minerals

Notwithstanding the provisions of Section 3700(b) of this Article, no reclamation plan, including any reclamation plan in which the end use is for wildlife habitat, wildland conservation, or open space, or financial assurance for a surface mining operation subject to the provisions of this section, shall be approved by a lead agency unless the reclamation plan meets the provisions of this section. Financial assurances must be maintained in an amount sufficient to provide for the backfilling and contour grading of the mined lands as required in this section.

(a) An open pit excavation created by surface mining activities for the production of metallic minerals shall be backfilled to achieve not less than the original surface elevation, unless the circumstances under subsection (h) are determined by the lead agency to exist.

(b) Backfilling shall be engineered, and backfilled materials shall be treated, if necessary, to meet all of the provisions of Title 27, California Code of Regulations, Division 2, Chapter 7, Subchapter 1, Mining Waste Management, commencing with Section 22470, and the applicable Regional Water Quality Control Board's Water Quality Control Plan.

(c) Excavated materials remaining in overburden piles, waste rock piles, and processed or leached ore piles not used in the backfilling process and remaining on the mine site shall be graded and contoured to create a final surface that is consistent with the original topography of the area. Care shall be taken to avoid the creation of un-natural topographic features, impediments to natural drainage, or conditions hazardous to human life and wildlife.

(d) Backfilling, recontouring, and revegetation activities shall be performed in clearly defined phases to the engineering and geologic standards required for the end use of the site as stipulated in the approved reclamation plan. All fills and fill slopes shall be designed to protect groundwater quality, to prevent surface water ponding, to facilitate revegetation, to convey runoff in a non-erosive manner, and to account for long term settlement.

(e) The requirements of subsections (a), (b), (c), and (d) notwithstanding, no final reclaimed fill slopes shall exceed 2:1 (horizontal:vertical), nor shall the resultant topography exceed in height the pre-mining surface contour elevations by more than 25 feet. Final fill slopes shall have static and dynamic factors of safety, as determined by an engineer licensed in California, that are suitable for the proposed end

use of the site and meet or exceed the requirements of applicable building or grading codes, ordinances, statutes, and regulations. Final slopes must be capable of being revegetated, and shall blend visually with the local topography. Surface soil shall be salvaged, stored, and reapplied to facilitate revegetation of recontoured material in accordance with the requirements of Section 3711 of this Article.

(f) For the purposes of this section, a metallic mine is defined as one where more than ten percent of the mining operation's gross annual revenues as averaged over the last five years are derived from the production of, or any combination of, the following metallic minerals by the open pit extraction method: Precious metals (gold, silver, platinum);

Iron;

Nickel;

Copper;

Lead;

Tin;

Ferro-alloy metals (tungsten, chromium, manganese);

Mercury;

Uranium and thorium;

Minor metals including rubidium, strontium, and cesium;

Niobium and tantalum;

(g) For the purposes of this regulation, an open pit mine is the same as an open pit quarry, opencast mine, or opencut mine, and is defined as a mine working or excavation that is open to the surface and in which the opening is approximately the full size of the excavation.

(h) The requirement to backfill an open pit excavation to the surface pursuant to this section using materials mined on site shall not apply if there remains on the mined lands at the conclusion of mining activities, in the form of overburden piles, waste rock piles, and processed or leached ore piles, an insufficient volume of materials to completely backfill the open pit excavation to the surface, and where, in addition, none of the mined materials has been removed from the mined lands in violation of the approved reclamation plan. In such case, the open pit excavation shall be backfilled in accordance with subsections (b) and (d) to an elevation that utilizes all of the available material remaining as overburden, waste rock, and processed or leached ore.

(i) This regulation does not apply to any surface mining operation as defined in Public Resources Code Section 2735(a) and (b) for which the lead agency has issued final approval of a reclamation plan and a financial assurance prior to December 18, 2002.

Authority: Sections 2755 and 2756, Public Resources Code; Reference: Sections 2733, 2772 and 2773, Public Resources Code.

§ 3705. Performance Standards for Revegetation

Revegetation shall be part of the approved plan, unless it is not consistent with the approved end use.

(a) A vegetative cover suitable for the proposed end use and capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer shall be established on disturbed land unless an artificially maintained landscape is consistent with the approved reclamation plan. Vegetative cover or density, and species-richness shall be, where appropriate, sufficient to stabilize the surface against effects of long-term erosion and shall be similar to naturally occurring habitats in the surrounding area. The vegetative density, cover and species richness of naturally occurring habitats shall be documented in baseline studies carried out prior to the initiation of mining activities. However, for areas that will not be reclaimed to prior conditions, the use of data from reference areas in lieu of baseline site data is permissible.

(b) Test plots conducted simultaneously with mining shall be required to determine the most appropriate planting procedures to be followed to ensure successful implementation of the proposed revegetation plan. The lead agency may waive the requirement to conduct test plots when the success of the proposed revegetation plan can be documented from experience with similar species and conditions or by relying on competent professional advice based on experience with the species to be planted.

(c) Where surface mining activities result in compaction of the soil, ripping, disking, or other means shall be used in areas to be revegetated to eliminate compaction and to establish a suitable root zone in preparation for planting.

(d) Prior to closure, all access roads, haul roads, and other traffic routes to be reclaimed shall be stripped of any remaining roadbase materials, prepared in accordance with subsection 3705(g), covered with suitable growth media or topsoil, and revegetated. When it is not necessary to remove roadbase materials for revegetative purposes, lead agencies may set a different standard as specified in section 3700(b) of this Article.

(e) Soil analysis shall be required to determine the presence or absence of elements essential for plant growth and to determine those soluble elements that may be toxic to plants, if the soil has been chemically altered or if the growth media consists of other than the native topsoil. If soil analysis suggests that fertility levels or soil constituents are inadequate to successfully implement the revegetative program, fertilizer or other soil amendments may be incorporated into the soil. When native plant materials are used, preference shall be given to slow-release fertilizers, including mineral and organic materials that mimic natural sources, and shall be added in amounts similar to those found in reference soils under natural vegetation of the type being reclaimed.

(f) Temporary access for exploration or other short-term uses on arid lands shall not disrupt the soil surface except where necessary to gain safe access. Barriers shall be installed when necessary to gain safe access. Barriers shall be installed when necessary to prevent unauthorized vehicular traffic from interfering with the reclamation of temporary access routes.

(g) Native plant species shall be used for revegetation, except when introduced species are necessary to meet the end uses specified in the approved reclamation plan. Areas to be developed for industrial, commercial, or residential use shall be revegetated for the interim period, as necessary, to control erosion. In this circumstance, non-native plant species may be used if they are not noxious weeds and if they are species known not to displace native species in the area.

(h) Planting shall be conducted during the most favorable period of the year for plant establishment.

(i) Soil stabilizing practices shall be used where necessary to control erosion and for successful plant establishment. Irrigation may be used when necessary to establish vegetation.

(j) If irrigation is used, the operator must demonstrate that the vegetation has been self-sustaining without irrigation for a minimum of two years prior to release of the financial assurances by the lead agency, unless an artificially maintained landscape is consistent with the approved end use.

(k) Noxious weeds shall be managed: (1) when they threaten the success of the proposed revegetation; (2) to prevent spreading to nearby areas; and (3) to eliminate fire hazard.

(l) Protection measures, such as fencing of revegetated areas and/or the placement of cages over individual plants, shall be used in areas where grazing, trampling, herbivory, or other causes threaten the success of the proposed revegetation. Fencing shall be maintained until revegetation efforts are successfully completed and the lead agency authorizes removal.

(m) Success of revegetation shall be judged based upon the effectiveness of the vegetation for the approved end use, and by comparing the quantified measures of vegetative cover, density, and species-richness of the reclaimed mined-lands to similar parameters of naturally occurring vegetation in the area. Either

baseline data or data from nearby reference areas may be used as the standard for comparison. Quantitative standards for success and the location(s) of the reference area(s) shall be set forth in the approved reclamation plan. Comparisons shall be made until performance standards are met provided that, during the last two years, there has been no human intervention, including, for example, irrigation, fertilization, or weeding. Standards for success shall be based on expected local recovery rates. Valid sampling techniques for measuring success shall be specified in the approved reclamation plan. Sample sizes must be sufficient to produce at least an 80 percent confidence level. There are standard statistical methods in commonly available literature for determining an 80 percent confidence level on a site-by-site basis. Examples of such literature include, but are not limited to, D. Mueller-Dombois and H. Ellenberg, 1974, "Aims and Methods of Vegetation Ecology", John Wiley and Sons, Inc., or C. D. Bonham, 1988, "Measurements for Terrestrial Vegetation", John Wiley and Sons, Inc., and are available at many university libraries. The texts are also available at some local libraries through the Inter-Library Loan Program.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3706. Performance Standards for Drainage, Diversion Structures, Waterways, and Erosion Control

(a) Surface mining and reclamation activities shall be conducted to protect on-site and downstream beneficial uses of water in accordance with the Porter-Cologne Water Quality Control Act, Water Code section 13000, et seq., and the Federal Clean Water Act, 33 U.S.C. section 1251, et seq.

(b) The quality of water, recharge potential, and storage capacity of ground water aquifers which are the source of water for domestic, agricultural, or other uses dependent on the water, shall not be diminished, except as allowed in the approved reclamation plan.

(c) Erosion and sedimentation shall be controlled during all phases of construction, operation, reclamation, and closure of a surface mining operation to minimize siltation of lakes and watercourses, as required by the Regional Water Quality Control Board or the State Water Resources Control Board.

(d) Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gulying, sedimentation and contamination. Erosion control methods shall be designed to handle runoff from not less than the 20 year/1 hour intensity storm event.

(e) Where natural drainages are covered, restricted, rerouted, or otherwise impacted by surface mining activities, mitigating alternatives shall be proposed and specifically approved in the reclamation plan to assure that runoff shall not cause increased erosion or sedimentation.

(f) When stream diversions are required, they shall be constructed in accordance with:

(1) the stream and lake alteration agreement between the operator and the Department of Fish and Game; and

(2) the requirements of the Federal Clean Water Act, Sections 301 (33 U.S.C. 1311) and Section 404 (33 U.S.C. 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(g) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3707. Performance Standards for Prime Agricultural Land Reclamation

In addition to the standards for topsoil salvage, maintenance, and redistribution, the following standards shall apply to mining operations on prime agricultural lands where the approved end use is agriculture:

(a) Mining operations which will operate on prime agricultural lands, as defined by the U.S. Soil Conservation Service, shall return all disturbed areas to a fertility level as specified in the approved reclamation plan.

(b) When distinct soil horizons are present, topsoil shall be salvaged and segregated by defined A, B, and C soil horizons. Upon reconstruction of the soil, the sequence of horizons shall have the A atop the B, the B atop the C, and the C atop graded overburden.

(c) Reclamation shall be deemed complete when productive capability of the affected land is equivalent to or exceeds, for two consecutive crop years, that of the premining condition or similar crop production in the area. Productivity rates, based on reference areas described in the approved reclamation plan, shall be specified in the approved reclamation plan.

(d) Use of fertilizers or other soil amendments shall not cause contamination of surface or ground water.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3708. Performance Standards for Other Agricultural Land

The following standards shall apply to agricultural lands, other than prime agricultural lands, when the approved end use is agriculture.

In addition to the standards for topsoil salvage, maintenance, and redistribution, non-prime agricultural lands shall be reclaimed so as to be capable of sustaining economically viable production of crops commonly grown in the surrounding areas.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3709. Performance Standards for Building, Structure, and Equipment Removal

(a) All equipment, supplies and other materials shall be stored in designated areas (as shown in the approved reclamation plan). All waste shall be disposed of in accordance with state and local health and safety ordinances.

(b) All buildings, structures, and equipment shall be dismantled and removed prior to final mine closure except those buildings, structures, and equipment approved in the reclamation plan as necessary for the end use.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3710. Performance Standards for Stream Protection, Including Surface and Groundwater

(a) Surface and groundwater shall be protected from siltation and pollutants which may diminish water quality as required by the Federal Clean Water Act, sections 301 et seq. (33 U.S.C. section 1311), 404 et seq. (33 U.S.C. section 1344), the Porter-Cologne Act, section 13000 et seq., County anti-siltation ordinances, the Regional Water Quality Control Board or the State Water Resources Control Board.

(b) In-stream surface mining operations shall be conducted in compliance with Section 16000 et seq. of the California Fish and Game Code, section 404 of the Clean Water Act, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(c) Extraction of sand and gravel from river channels shall be regulated to control channel degradation in order to prevent undermining of bridge supports, exposure of pipelines or other structures buried within the channel, loss of spawning habitat, lowering of ground water levels, destruction of riparian vegetation, and increased stream bank erosion (exceptions may be specified in the approved reclamation plan). Changes in channel elevations and bank erosion shall be evaluated annually using records of annual extraction quantities and benchmarked annual cross sections and/or sequential aerial photographs to determine appropriate extraction locations and rates.

(d) In accordance with requirements of the California Fish and Game Code section 1600 et seq., in-stream mining activities shall not cause fish to become entrapped in pools or in off-channel pits, nor shall they restrict spawning or migratory activities.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3711. Performance Standards for Topsoil Salvage, Maintenance, and Redistribution

When the approved reclamation plan calls for revegetation or cultivation of disturbed lands, the following performance standards shall apply to topsoil salvage, maintenance, and redistribution activities:

(a) All salvageable topsoil suitable for revegetation shall be removed as a separate layer from areas to be disturbed by mining operations. Topsoil and vegetation removal shall not precede surface mining activities by more than one year, unless a longer time period is approved by the lead agency.

(b) Topsoil resources shall be mapped prior to stripping and the location of topsoil stockpiles shall be shown on a map in the reclamation plan. If the amount of topsoil needed to cover all surfaces to be revegetated is not available on site, other suitable material capable of sustaining vegetation (such as subsoil) shall be removed as a separate layer for use as a suitable growth media. Topsoil and suitable growth media shall be maintained in separate stockpiles. Test plots may be required to determine the suitability of growth media for revegetation purposes.

(c) Soil salvage operations and phases of reclamation shall be carried out in accordance with a schedule that: (1) is set forth in the approved reclamation plan; (2) minimizes the area disturbed; and (3) is designed to achieve maximum revegetation success allowable under the mining plan.

(d) Topsoil and suitable growth media shall be used to phase reclamation as soon as can be accommodated by the mining schedule presented in the approved reclamation plan following the mining of an area. Topsoil and suitable growth media that cannot be utilized immediately for reclamation shall be stockpiled in an area where it will not be disturbed until needed for reclamation. Topsoil and suitable growth media stockpiles shall be clearly identified to distinguish them from mine waste dumps. Topsoil and suitable growth media stockpiles shall be planted with a vegetative cover or shall be protected by other equally effective measures to prevent water and wind erosion and to discourage weeds. Relocation of topsoil or suitable growth media stockpiles for purposes other than reclamation shall require prior written approval from the lead agency.

(e) Topsoil and suitable growth media shall be redistributed in a manner that results in a stable, uniform thickness consistent with the approved end use, site configuration, and drainage patterns.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3712. Performance Standards for Tailing and Mine Waste Management

State Water Resources Control Board mine waste disposal regulations in Article 1, Subchapter 1, Chapter 7 of Title 27, California Code of Regulations, shall govern mine waste and tailings, and mine waste disposal

units shall be reclaimed in conformance with this article.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3713. Performance Standards for Closure of Surface Openings

(a) Except those used solely for blasting or those that will be mined through within one year, all drill holes, water wells, and monitoring wells shall be completed or abandoned in accordance with each of the following:

- (1) Water Code sections 13700, et seq. and 13800, et seq.;
- (2) the applicable local ordinance adopted pursuant to Water Code section 13803;
- (3) the applicable Department of Water Resources report issued pursuant to Water Code section 13800; and
- (4) Subdivisions (1) and (2) of section 2511(g) of Chapter 15 of Title 23 regarding discharge of waste to land.

(b) Prior to closure, all portals, shafts, tunnels, or other surface openings to underground workings shall be gated or otherwise protected from public entry in order to eliminate any threat to public safety and to preserve access for wildlife habitat.

Authority: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

Article 10. Seismic Hazards Mapping

§ 3720. Purpose

These regulations shall govern the exercise of city, county and state agency responsibilities to identify and map seismic hazard zones and to mitigate seismic hazards to protect public health and safety in accordance with the provisions of the Public Resources Code, section 2690 et seq. (Seismic Hazards Mapping Act).

Authority: Section 2695, Public Resources Code. Reference: Section 2695(a)(1) and (3)-(5), Public Resources Code.

§ 3721. Definitions

(a) “Acceptable Level” means that level that provides reasonable protection of the public safety, though it does not necessarily ensure continued structural integrity and functionality of the project.

(b) “Lead Agency” means the city, county or state agency with the authority to approve projects.

(c) “Registered civil engineer” or “certified engineering geologist” means a civil engineer or engineering geologist who is registered or certified in the State of California.

Authority: Section 2695, Public Resources Code. Reference: Sections 2690-2696.6, Public Resources Code.

§ 3722. Requirements for Mapping Seismic Hazard Zones

(a) The Department of Conservation, Division of Mines and Geology, shall prepare one of more State-wide probabilistic ground shaking maps for a suitably defined reference soil column. One of the maps shall show ground shaking levels which have a 10% probability of being exceeded in 50 years. These maps shall be used with the following criteria to define seismic hazard zones:

- (1) Amplified shaking hazard zones shall be delineated as areas where historic occurrence of amplified ground shaking, or local geological and geotechnical conditions indicate a potential for ground

shaking to be amplified to a level such that mitigation as defined in Public Resources Code Section 2693(c) would be required.

(2) Liquefaction hazard zones shall be delineated as areas where historic occurrence of liquefaction, or local geological, geotechnical and ground water conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.

(3) Earthquake-induced landslide hazard zones shall be delineated as areas where Holocene occurrence of landslide movement, or local slope of terrain, and geological, geotechnical and ground moisture conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.

(b) Highest priority for mapping seismic hazard zones shall be given to areas facing urbanization or redevelopment in conjunction with the factors listed in section 2695(a)(2)(A), (B), (C) and (D) of the Public Resources Code.

Authority: Section 2695, Public Resources Code. Reference: Section 2695(a)(1), Public Resources Code.

§ 3723. Review of Preliminary Seismic Hazard Zones Maps

(a) The Mining and Geology Board shall provide an opportunity for receipt of public comments and recommendations during the 90-day period for review of preliminary seismic hazard zone maps provided by the Public Resources Code Section 2696. At least one public hearing shall be scheduled for that purpose.

(b) Following the end of the review period, the Board shall forward its comments and recommendations, with supporting data received, to the State Geologist for consideration prior to revision and official issuance of the maps.

Authority: Section 2696, Public Resources Code. Reference: Section 2696, Public Resources Code.

§ 3724. Specific Criteria for Project Approval

The following specific criteria for project approval shall apply within seismic hazard zones and shall be used by affected lead agencies in complying with the provisions of the Act:

(a) A project shall be approved only when the nature and severity of the seismic hazards at the site have been evaluated in a geotechnical report and appropriate mitigation measures have been proposed.

(b) The geotechnical report shall be prepared by a registered civil engineer or certified engineering geologist, having competence in the field of seismic hazard evaluation and mitigation. The geotechnical report shall contain site-specific evaluations of the seismic hazard affecting the project, and shall identify portions of the project site containing seismic hazards. The report shall also identify off-site seismic hazards that could adversely affect the site in the event of an earthquake. The contents of the geotechnical report shall include, but shall not be limited, the following:

(1) Project description.

(2) A description of the geologic and geotechnical conditions at the site, including an appropriate site location map.

(3) Evaluation of site-specific seismic hazards based on geological and geotechnical conditions, in accordance with current standards of practice.

(4) Recommendations for appropriate mitigation measures as required in section 3724 (a), above

(5) Name of report preparer(s), and signature(s) of a certified engineering geologist and/or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation.

(c) Prior to approving the project, the lead agency shall independently review the geotechnical report to determine the adequacy of the hazard evaluation and proposed mitigation measures and to determine that the requirements of section 3724 (a), above, are satisfied. Such reviews shall be conducted by a certified engineering geologist or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation.

Authority: Section 2695, Public Resources Code. Reference: Section 2695(a)(3)(A), (B), and (C), Public Resources Code.

§ 3725. Waivers of Geotechnical Report Requirements

For a specific project, the lead agency may determine that the geological and geotechnical conditions at the site are such that public safety is adequately protected and no mitigation is required. This finding shall be based on a report presenting evaluations of sites in the immediate vicinity having similar geologic and geotechnical characteristics. The report shall be prepared by a certified engineering geologist or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation. The lead agency shall review submitted reports in the same manner as in section 3724(c) of this article. The lead agency shall also provide a written commentary that addresses the report conclusions and the justification for applying the conclusions contained in the report to the project site. When the lead agency makes such a finding, it may waive the requirement of a geotechnical report for the project. All such waivers shall be recorded with the county recorder and a separate copy, together with the report and the commentary, filed with the State Geologist within 30 days of the waiver.

Authority: Section 2695, Public Resources Code. Reference: Section 2697(a)(5), Public Resources Code.

Article 10.5. Selection of Professional Service Firms

§ 3726. Selection of Professional Service Firms

(a) The purpose of these regulations is to establish those procedures authorized and required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code. These regulations are specific to the Seismic Hazards Mapping Act (PRC Section 2690 et. seq.).

(b) Selection by the department for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.

Authority: Section 2695, Public Resources Code; and Section 4526, Government Code. Reference: Sections 4525-4529.5, Government Code.

§ 3727. Definitions, as Used in These Regulations

(a) “Small business” shall mean a small business firm as defined by the Director of General Services (section 1896 of Title 2 of the California Code of Regulations) pursuant to section 14837 of the Government Code.

(b) “Architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services” are those services to be procured outside State of California Civil Service procedures and of a character necessarily rendered by an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor but may include ancillary services logically or justifiably performed in connection therewith.

(c) "Project" means a project as defined in Section 10105 of the Public Contract Code, or as defined in the Public Resources Code Section 21065.

Authority: Section 4526, Government Code. Reference: Sections 4525 and 14837, Government Code; Section 10105, Public Contract Code; and Section 21065, Public Resources Code.

§ 3728. Establishment of Criteria

(a) The department shall establish criteria, on a case by case instance, which will comprise the basis for selection for each project. The criteria shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload, ability to meet schedules, nature and quality of completed work, reliability and continuity of the firm, location, and other considerations deemed relevant. Such factors shall be weighted by the department according to the nature of the project, the needs of the State and complexity and special requirements of the specific project.

(b) In no event shall the criteria include practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration. Department employees with a relationship to a person or business entity seeking a contract under this section are prohibited from participating in the selection process if the employees would be subject to the prohibition of Section 87100 of the Government Code.

Authority: Section 4526, Government Code. Reference: Sections 4526 and 87100, Government Code.

§ 3729. Estimate of Value of Services

Before any discussion with any firm concerning fees, the department may cause an estimate of the value of such services to be prepared. This estimate shall serve as a guide in determining fair and reasonable compensation for the services rendered. Such estimate shall be, and remain, confidential until award of contract or abandonment of any further procedure for the services to which it relates. At any time the department determines the estimates to be unrealistic because of rising costs, special conditions, or for other relevant considerations, the estimate may be reevaluated and modified if necessary.

Authority: Section 4526, Government Code. Reference: Section 4528, Government Code.

§ 3730. Request for Proposals

(a) Where a project requires architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, the department shall make an announcement through a publication of the respective professional society, if any exist, in a construction trade journal or, if none exist, in other appropriate publications that are published within a reasonable time frame such that a lengthy publication delay does not adversely affect the project.

(b) The announcement shall contain the following information: The nature of the work, the criteria upon which the award shall be made, and the time within which statements of interest, qualification and performance data will be received.

(c) The department shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for projects for which the department concludes that small business firms could be especially qualified. A failure of the department to send a copy of an announcement to any firm shall not operate to preclude any contract.

Authority: Section 4526, Government Code. Reference: Section 4527, Government Code.

§ 3731. Selection of Firm

After expiration of the period stated in the publications or other public announcements, the department shall evaluate statements of qualifications and performance data which have been submitted to the department. Discussions shall be conducted with no less than three firms regarding the required service. Where three firms cannot be found which could provide the required service, a full explanation including names and addresses of firms and individuals requested to submit proposals must be entered in the files. From the firms with which discussions are held, the department shall select no less than three, provided at least three firms submit proposals, in order of preference, based upon the established criteria, which are deemed to be the most highly qualified to provide the services required.

Authority: Section 4526, Government Code. Reference: Sections 4526-4527, Government Code.

§ 3732. Negotiation

The department shall attempt to negotiate a contract with the most highly qualified firm. When the department is unable to negotiate a satisfactory contract with this firm with fair and reasonable compensation provisions, as determined by the procedure set forth in Section 3729 if those procedures were used, negotiations shall be terminated. The department shall then undertake negotiations with the second most qualified firm on the same basis. Failing accord, negotiations shall be terminated. The department shall then undertake negotiations with the third most qualified firm on the same basis. Failing accord, negotiations shall be terminated. Should the department be unable to negotiate a satisfactory contract at fair and reasonable compensation with any of the selected firms, additional firms may be selected in the manner prescribed in this article and the negotiation procedure continued.

Authority: Section 4526, Government Code. Reference: Section 4528, Government Code.

§ 3733. Amendments

In instances where the department effects a necessary change in the project during the course of performance of the contract, the firm's compensation may be adjusted by negotiation of a mutual written agreement in a fair and reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

Authority: Section 4526, Government Code. Reference: Section 4526, Government Code.

§ 3734. Contracting in Phases

Should the department determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price or compensation provisions in the initial instance, provided that the department shall have determined that the firm is best qualified to perform the whole project at a fair and reasonable cost, and the contract contains provisions that the department, at its option, may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

Authority: Section 4526, Government Code. Reference: Section 4526, Government Code.

§ 3735. Department's Power to Require Bids

Where the department determines that the services needed are technical in nature and involve little professional judgment and that requiring bids would be in the public interest, a contract shall be awarded on the basis of bids rather than by following the foregoing procedures for requesting proposals and negotiation.

Authority: Section 4526, Government Code. Reference: Section 4529, Government Code.

§ 3736. Exclusions

The provisions of this article shall not apply to service agreements for an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor, engaged to provide consulting services on specific problems on projects where the architectural, landscape architectural, engineering, environmental, land surveying, or construction project management work is being performed by State of California Civil Service employees.

Authority: Section 4526, Government Code. Reference: Section 4526, Government Code.

Article 11. Financial Assurance Mechanisms

§ 3800. Purpose

It is the purpose of this article to specify additional financial assurance mechanisms to assure reclamation pursuant to Public Resources Code Section 2710 et seq. (Surface Mining and Reclamation Act, as amended).

Authority: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

§ 3801. Authority

Review, approval, adjustment, enforcement, notification, forfeiture and all other responsibilities of the lead agency, operator and Department of Conservation with respect to financial assurances shall be conducted as prescribed in Public Resources Code Section 2710 et seq. unless expressly outlined in this article.

Authority: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

§ 3802. Definitions

The following definitions shall govern the interpretation of this article:

(a) "Budget Set Aside" means a financial assurance mechanism, meeting the requirements of Section 3806.2 of this article, by which a government entity proposes to make specific identified monies within the entity's budget available to perform reclamation pursuant to the approved reclamation plan.

(b) "Financial Assurance Amount" means that amount of money necessary to conduct and complete reclamation on the mined lands in accordance with the approved reclamation plan, plus a reasonable estimate of the administrative costs and expenses which would be incurred by the lead agency or the Department of Conservation, the total of which shall be calculated in accordance with section 3804, and shall constitute an obligation to pay by the operator.

(c) "Financial Assurance" means an instrument, fund or other form of Financial Assurance as provided in Section 2773.1(a) and (e) of the Public Resources Code and this Article.

(d) "Pledge of Revenue" means a financial assurance mechanism meeting the requirements of Section 3806.1, of this Article, by which a governmental entity proposes to make specific, identified future revenue available to perform reclamation pursuant to the approved reclamation plan.

Authority: Section 2755, Public Resources Code. Reference: Sections 2726-2734, Public Resources Code.

§ 3803. Financial Assurance Mechanisms

As outlined by this article, financial assurances may take the form of any one or a combination of the following, which the lead agency, upon review by the Department of Conservation, reasonably determines are adequate to perform reclamation in accordance with the approved reclamation plan.

(a) For non-governmental entity operators:

(1) Surety bonds;

- (2) Irrevocable letters of credit; and
- (3) Trust funds;
- (b) For governmental entity operators:
 - (1) Surety bonds;
 - (2) Irrevocable letters of credit;
 - (3) Trust funds;
 - (4) Pledges of Revenue; or
 - (5) Budget Set Aside.

Authority: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

§ 3804. Calculation of Financial Assurance Amount

(a) The Financial Assurance Amount shall be calculated as prescribed in Public Resources Code Section 2773.1 and based on:

- (1) an analysis of the physical activities and materials necessary to implement the approved reclamation plan;
- (2) the lead agency's unit costs, or costs for third party contracting, for each of these activities, if applicable;
- (3) the number of units of each of these activities, if applicable;
- (4) a contingency amount not to exceed 10% of the reclamation costs.

(b) The calculated amount should not include the cost of completing mining of the site.

(c) In order for the lead agency or the Department of Conservation to determine what annual adjustments, if any, are appropriate to the Financial Assurance Amount, the operator shall annually submit to the lead agency a revision of the written calculation required under Section 3804(a).

Authority: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

§ 3805. Review by the Department of Conservation

Pursuant to Section 2774(c), Public Resources Code, the lead agency shall submit a copy of the proposed Financial Assurance and the Calculation of Financial Assurance Amount submitted by the operator pursuant to Section 3804 to the Director of the Department of Conservation for review. With this submittal the lead agency shall include the information and documentation relied upon in calculating the amount of the proposed Financial Assurance and indicate to the Director that the Financial Assurance Amount is adequate for the lead agency or the Department of Conservation to conduct and complete reclamation on the mined lands in accordance with the approved reclamation plan. The Director shall have 45 days, upon receipt, to prepare written comments regarding the proposed Financial Assurance, if he/she so chooses.

Authority: Section 2774, Public Resources Code. Reference: Section 2774(c), (d), Public Resources Code.

§ 3805.5. Modification or Release of Financial Assurance

(a) Prior to the modification of a financial assurance amount, or to the release of the financial assurance instrument to which both the lead agency and the Department of Conservation are co-beneficiaries under Public Resources Code section 2773.1, the lead agency shall provide to the director of the department the following documents at one time:

- (1) An inspection report, prepared by a qualified person as provided for in Public Resources Code section 2774, indicating that there are aspects of the surface mining operation that require modification of the existing financial assurance amount, or stating that the mined land has been reclaimed in accordance with the approved reclamation plan, and that there are no aspects of the reclaimed surface mining

operation that are inconsistent with the meaning of reclamation as defined in Public Resources Code section 2733, and the Surface Mining and Reclamation Act of 1975, Chapter 9, commencing with section 2710.

(2) A revised financial assurance cost estimate prepared by the operator and accepted by the lead agency, or prepared by the lead agency, in accordance with Public Resources Code section 2773.1, with supporting documentation, indicating the specific cost changes to the existing financial assurance amount, or indicating that there are no further outstanding reclamation liabilities to be included in the financial assurance.

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

(b) The director shall have 45 days from the date of receipt of the documents to review and comment on them as provided for in Public Resources Code section 2774, and to conduct the director's own inspection of the surface mining operation if the director determines it necessary under Public Resources Code section 2774.1, and do one of the following:

(1) Notify the lead agency of the director's concurrence that the modified financial assurance amount is adequate, or that there are no outstanding reclamation liabilities on the mined land and that the original financial assurance should be released pursuant to Public Resources Code section 2773.1, at which time the financial assurance shall be released; or,

(2) Notify the lead agency that the director has found, based upon an inspection, aspects of the surface mining operation that require additional modifications to the financial assurance amount, or aspects that are not in compliance with the approved reclamation plan and the Surface Mining and Reclamation Act of 1975; or,

(3) Commence the financial assurance forfeiture process under Public Resources Code section 2773.1.

(c) If a violation by the surface mining operation is confirmed by an inspection either by the lead agency or by the director, then the lead agency, or the director, may take actions under Public Resources Code section 2774.1 to ensure that the violation is corrected. In any event, the financial assurance shall not be released until the violation is corrected.

(d) Prior to sending written notification and release of financial assurances as provided under Public Resources Code section 2773.1, the lead agency shall obtain written concurrence of the director that the completion of reclamation of the mined land disturbed by the surface mining operation is in accordance with the requirements of the lead agency-approved reclamation plan.

(e) If a violation of the Surface Mining and Reclamation Act of 1975 or of the approved reclamation plan is confirmed by the inspection, and the lead agency does not take action under Public Resources Code section 2774.1 to ensure that the violation is corrected or take action under Public Resources Code section 2773.1 for forfeiture of the financial assurance, then the director may refer the matter to the board for further action under Public Resources Code section 2774.4.

Authority: Section 2755, Public Resources Code. Reference: Sections 2729, 2731, 2733, 2735, 2773.1, 2774 and 2774.1, Public Resources Code.

§ 3806. Surface Mining Operations Owned and Operated by State or Local Governmental Entities

In addition to the mechanisms provided in Public Resources Section 2773.1 and this article, a financial assurance mechanism for reclamation for a surface mining operation owned and operated by the state, county,

city, district, or other political subdivision may be in the form of a:

- (a) Pledge of Revenue; or
- (b) Budget Set Aside.

These financial assurance mechanisms may only be used by the state, county, city, district, or other political subdivision.

Authority: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

§ 3806.1. Pledge of Revenue

(a) A pledge of revenue shall consist of a resolution or other appropriate document from the governing body of the state, county, city, district, or other political subdivision responsible for reclamation of the mined lands pursuant to the approved reclamation plans. The resolution or document shall remain effective continuously throughout the period in which the pledge of revenue is used to satisfy the requirements of Section 2773.1, Public Resources Code.

(b) The pledge of revenue shall contain the following items:

- (1) The resolution or document establishing the pledge of revenue;
- (2) The types and sources of pledged revenue;
- (3) The period of time that each source of revenue is pledged to be available;
- (4) The calculation amount of the financial assurance prepared pursuant to Section 3804;

and

(5) The authorization for the lead agency or the Department of Conservation to use the proceeds of the pledge to conduct and complete reclamation if the lead agency or the Department of Conservation determines that the operator is incapable of performing the reclamation covered by the pledge pursuant to Section 2773.1(b).

(c) The state, county, city, district, or other political subdivision may pledge any following types of revenue that it controls and that will be available in a timely manner to conduct and complete reclamation:

- (1) Fees, rents, or other charges;
- (2) Tax revenues within statutory limitations; and/or
- (3) Other guaranteed revenues that are acceptable to the lead agency and the Board.

(d) If the governmental entity ceases at any time to retain control of its ability to allocate any pledged revenue to conduct and complete reclamation, the entity shall notify the lead agency and the Department of Conservation and shall obtain alternative coverage within 60 days after control lapses.

Authority: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

§ 3806.2. Budget Set Aside

(a) A Budget Set Aside shall consist of a specific fund or line item set aside by the state, county, city, district or other political subdivision responsible for reclamation of the mined lands. The Budget Set Aside shall remain effective continuously throughout the period in which the Budget Set Aside is used to satisfy the requirements of Section 2773.1, Public Resources Code.

(b) The set aside shall contain the following items:

- (1) A resolution or other appropriate document establishing the set aside or line item including proof of approval by the governing body or appropriate official of the state, county, city, district, or other political subdivision;
- (2) The types and sources of specific funds;
- (3) The period of time that each funding source is to be available;

(4) The calculation amount of the financial assurance prepared pursuant to Section 3804;
and

(5) The authorization for the lead agency or the Department of Conservation to use the funds to conduct and complete reclamation if the lead agency or the Department of Conservation determines that the operator is incapable of performing the reclamation covered by the set aside pursuant to Section 2773.1(b).

Authority: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

§ 3806.3. Acceptance of Liability

(a) An Acceptance of Liability shall consist of a specific written statement by a Federal entity responsible for performing reclamation that obligates that Federal entity for all costs associated with the full reclamation of mined lands in accordance with the requirements of an approved reclamation plan.

(b) The Acceptance of Liability shall contain the following items:

(1) a duly authorized resolution, statement, or other appropriate document that guarantees liability and obligates the Federal entity to reclaim the mine site; and,

(2) a statement that if the Federal entity ceases at any time to retain control of the mine operation, that the Federal entity's Acceptance of Liability shall remain in effect until the succeeding mine operator provides a financial assurance mechanism provided for in Public Resources Code Section 2773.1 and this Article 11. In no event shall any succeeding mine operator commence surface mining operations until a financial assurance mechanism is accepted by the lead agency.

Authority: Sections 2755 and 2773.1, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

§ 3806.5. Surface Mining Operations Owned and Operated by a Federal Entity on State Owned Land

In addition to the financial assurance mechanisms provided in Public Resources Code Section 2773.1 and this Article 11, a financial assurance mechanism for reclamation for a surface mining operation owned and operated on State lands by a Federal entity may be in the form of a:

(a) Pledge of Revenue

(b) Budget Set Aside

(c) Acceptance of Liability

Authority: Sections 2755 and 2773.1, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

Article 11.5. Forfeiture of Financial Assurance

§ 3810. Purpose

The purpose of this article is to define the procedures to be followed by the lead agency, or the board acting at the request of the director, or when the board is acting as lead agency pursuant to Public Resources Code Section 2774.4 or Section 2774.5, in determining whether a surface mine operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation, and should therefore forfeit its financial assurance pursuant to Public Resources Code Section 2773.1(b).

Authority: Section 2755, Public Resources Code. Reference: Sections 2773.1, 2774.4 and 2774.5, Public Resources Code.

§ 3811. Circumstances Leading to a Hearing

A lead agency or the board may conduct a hearing to determine the forfeiture of financial assurances when any of the following circumstances has occurred:

(a) Unless an appeal of a financial assurance amount is pending before the board pursuant to Public Resources Code Section 2770, an operator has failed to provide an acceptable financial assurance mechanism within 30 days of notification by the lead agency of its approval of an adequate financial assurance amount. Acceptable financial assurance mechanisms are described in Title 14, California Code of Regulations Section 3803.

(b) The operator has failed to provide the lead agency with a revised financial assurance cost estimate as required by Public Resources Code Section 2773.1 that adequately addresses the criteria contained in Title 14, California Code of Regulations Section 3804 within 30 days of receipt of notification to provide a revised cost estimate.

(c) An acceptable financial assurance mechanism has lapsed and has not been renewed or replaced by another acceptable mechanism within 30 days and any remaining financial assurance coverage is not, according to the lead agency, adequate by itself to ensure the reclamation of the mine site according to the approved reclamation plan.

(d) The lead agency is unable to contact the mine operator or the mine's agent of record after 90 days of the mine's becoming idle as defined in Public Resources Code Section 2727.1.

(e) The surface mining operation meets the criteria stated under Public Resources Code Section 2770(h)(6). Submitting of an interim management plan after the operator has been notified that his or her mine meets the criteria in Section 2770(h)(6) shall not prevent the lead agency or the board from proceeding with its hearing.

Authority: Section 2755, Public Resources Code. Reference: Sections 2727.1, 2770 and 2773.1, Public Resources Code.

§ 3812. Public Hearing

The determination by the lead agency or the board that a surface mine operator is financially incapable of reclaiming according to an approved reclamation plan, or that an operator has abandoned a mine site without commencing reclamation, shall be made during a public hearing. The hearing may be conducted as part of a regularly scheduled business meeting of the lead agency, or may be held during a special meeting. Where the board is the lead agency, the board may delegate the hearing to a committee composed of not less than two board members selected by the board Chairman or the Chairman's designee. The determination of the board committee shall be reported to the full board for its action at its next meeting.

Authority: Section 2755, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

§ 3813. Hearing Procedure – Notice

(a) The local lead agency shall give prior notice of the public hearing in accordance with the provisions of its local ordinances.

(b) Where the board is the lead agency, at least 10 days prior to the hearing date, public notice shall be given as follows:

- (1) Mailing the notice to the operator and to the director.
- (2) Mailing the notice to any person who requests notice of the hearing;
- (3) Mailing the notice to the board's regular mailing list; and,
- (4) Mailing the notice to the city or county jurisdiction within which the surface mining operation is located.

(c) The notice of hearing shall include the following:

- (1) The name of the surface mine operator or agent of record;
- (2) Identification of the surface mining operation, and a brief description of the location of the operation by reference to any commonly known landmarks in the area;
- (3) A statement that the purpose of the hearing is to determine the financial capability of the operator to reclaim his or her mining operation in accordance with the approved reclamation plan;
- (4) A statement inviting the operator, public agencies, and other interested persons to make statements at the hearing regarding the decision of the lead agency; and,
- (5) The time, date, and location of the public hearing.

Authority: Section 2755, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

§ 3814. Administrative Record

The administrative record shall consist of, but not be limited to, the following:

- (a) The approved reclamation plan for the mining operation;
- (b) The currently approved financial assurance mechanism in an amount certain;
- (c) The name and address of the surface mining operator and the name and address of any person designated by the operator as an agent for the service of process;
- (d) A detailed cost estimate provided by the operator and supporting a financial assurance amount prepared by a qualified individual, such as a licensed grading contractor, licensed civil engineer, or a licensed geologist, who must be licensed in the state of California, and prepared not more than six months from the last annual inspection of the mine conducted by the lead agency;
- (e) A copy of the last annual inspection report conducted by the lead agency pursuant to Public Resources Code Section 2774, or any other more recent inspection report conducted by the lead agency or the Department of Conservation.

Authority: Section 2755, Public Resources Code. Reference: Sections 2773.1 and 2774, Public Resources Code.

§ 3815. Criteria for Determining Financial Capability

The lead agency or the board shall use, but not be limited to, the following criteria when determining the financial capability of a mine operator to perform reclamation. It is the sole responsibility of the surface mine operator to provide the lead agency or the board with sufficient information to reasonably demonstrate his or her financial capability. An operator shall be found financially incapable if the lead agency or the board makes any of the following findings:

- (a) The operator is incapable of providing, or refuses to provide, a financial assurance in an amount deemed adequate by the lead agency or the board; or,
- (b) The operator is incapable of providing, or refuses to provide, a financial assurance mechanism approved by the board in Section 3803 of this subchapter; or,
- (c) The lead agency, the board, or the director, is unable to contact the mine operator or the mine's agent of record after 90 days of the mine's becoming idle as defined in Public Resources Code Section 2727.1; or,
- (d) The mine operation meets the criteria stated in Public Resources Code Section 2770(h)(6).

Authority: Section 2755, Public Resources Code. Reference: Sections 2727.1, 2770 and 2773.1, Public Resources Code.

§ 3816. Hearing Procedures – Sequence

(a) The public hearing conducted before the board shall normally proceed in the following manner; a local lead agency may conduct the hearing sequence according to its locally adopted procedures:

- (1) Identification of the record;
- (2) Statements on behalf of the lead agency;
- (3) Statements on behalf of the operator;
- (4) Statements on behalf of the public;
- (5) Rebuttal on behalf of the lead agency
- (6) Rebuttal on behalf of the operator; and
- (7) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman of the board or the Chairman's designee for purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee shall have the authority to impose time limits upon statements and presentations and accept written statements in lieu of oral statements. Written statements (12 copies) must be submitted to the board at least five days prior to the hearing.

(d) The public hearing conducted before the board or a lead agency shall be recorded.

Authority: Section 2755, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

§ 3817. Hearing Procedures – Determination

Following the public hearing, the lead agency or the board shall determine whether, based on the record before it and the criteria described in Section 3815 of this Article, the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation. If the operator is determined to be financially incapable of performing reclamation or to have abandoned the operation, then the following shall occur:

(a) The lead agency, or the director in cases where the Board is the lead agency, shall notify the operator within 10 days of the date of determination of its intent to take appropriate actions to cause forfeiture of the operator's financial assurances. Notification shall be made by personal service or certified mail.

(b) The lead agency, or the director, or the board in cases where the board is the lead agency, shall follow the procedures described in Public Resources Code Section 2773.1(b).

Authority: Section 2755, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

Article 12. Administrative Penalty Petition Procedures

§ 3900. Purpose of Regulations

The regulations contained in this article govern procedures for petitions to the State Mining and Geology Board pursuant to Public Resources Code Section 2774.2 concerning the issuance of an Administrative Penalty by the Director of the Department of Conservation.

Authority: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3901. Filing of Petition / Notice of Defense

Any person filing a petition to the Board pursuant to Public Resources Code Section 2774.2 concerning the issuance of an administrative penalty by the Director of the Department of Conservation shall, within 30

days of the date of issuance of the order setting an administrative penalty, file a petition/notice of defense with the Board requesting a hearing. The petition/notice of defense shall be on the form set forth in Section 3911 of this article, or shall supply the following information to the Board. Failure to submit all the following documents within the 30 days filing period will result in an incomplete filing and an automatic rejection of the appeal.

(1) Written statements, with supporting documentation, indicating specifically the basis for the petitioner's challenge of the Director's order of administrative penalty;

(2) A written statement advising the Board of the name, address and telephone number of the petitioner's representative, if any;

Authority: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3902. Determination of Jurisdiction

The Chairman of the Board, or the Chairman's designee who is a Board member, shall determine within 15 days of receipt of the information required by Section 3901 of this article, whether the petition is within the jurisdiction of the Board for the purpose of hearing the petition, and determine whether the petition's challenge raises substantial issues related to the validity of the allegations supporting the Director's order. If the Chairman finds, based upon the criteria stated in (a), (b), and (c) below, that the petition raises no substantial issues with respect to the Director's allegations contained in the order of administrative penalty, or has not been filed within statutory time limits, then the Chairman shall refuse to grant a hearing on the petition. In making these determinations, the Chairman shall consider the following:

(a) Whether the filing of the petition/notice of defense with the Board is within the time limits stipulated in Public Resources Code Section 2774.2;

(b) Whether the petition specifically relates to the allegations contained in the Director's notice and order of administrative penalty;

(c) Whether prima facie documentation supporting the petition's position is reasonably sufficient to substantiate the petition's challenge.

Authority: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3903. Administrative Record

The Administrative Record shall consist of the record before the Director, evidence submitted on behalf of the petitioner, any other relevant evidence which, in the judgment of the Board, should be considered applicable, and evidence presented during the hearing on the petition.

Authority: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3904. Hearing Procedures – Scheduling

The Board shall schedule and hold a public hearing on a petition no later than 60 days from the Chairman's acceptance of the petition, or at such time as may be mutually agreed upon by the Board and the petitioner. The hearing may be conducted as part of a regular business meeting of the Board, or may be conducted by a committee of the Board. The Board shall endeavor to schedule such public hearings in or near the jurisdiction from which the petition originated, but may otherwise schedule such petitions to be heard in Sacramento.

Authority: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§3905. Hearing Procedures - Authority for Delegation

The Board may delegate conduct of the hearing to a committee composed of three members of the Board, who shall consist of either the Chairman or Vice Chairman of the Board, and two other members of the Board selected by the Chairman. The Chairman or Vice Chairman shall conduct the hearing. The record of the hearing and the recommendations of the committee shall be presented to a quorum of the Board at its next regular business meeting for a decision of the full Board consistent with the procedures set forth in Section 3910 of this article.

Authority: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3906. Hearing Procedures - Notice

- (a) At least 10 days prior to the hearing, the Board shall give public notice as follows:
- (1) Mailing or delivering by personal service the notice to the petitioner and to the petitioner's lead agency;
 - (2) Mailing or delivering by personal service the notice to the Director of the Department of Conservation.
 - (3) Mailing the notice to any person who requests notice of the petition or hearing; and,
 - (4) Mailing the notice to the Board's regular mailing list.
- (b) The notice of hearing shall include the following:
- (1) The name of the petitioner;
 - (2) A statement describing the basis for the action;
 - (3) The amount of the administrative penalty petitioned;
 - (4) The time, date, and location of the public hearing.

Authority: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3907. Hearing Procedures – Record

The record before the Board at the public hearing shall be the administrative record submitted pursuant to Sections 3901, 3902, and 3903 of this article.

Authority: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3908. Hearing Procedures - Recording and Transcription

Hearings conducted under the procedures of this article shall be electronically recorded by the Board. Cost of transcription or reproduction of the electronic recording, if requested, shall be borne by the party making such request.

Authority: Section 2755, Public Resources Code. Reference: Section 2755, Public Resources Code.

§ 3909. Hearing Procedures - Use of Informal Hearing Procedure and Sequence

- (a) The Board may conduct the petition hearing under this article pursuant to the informal hearing adjudicative proceedings described in the California Administrative Procedure Act. The informal hearing procedure is intended to satisfy due process and public policy requirements in a manner that is simpler and more expeditious than hearing procedures otherwise required by statute, for use in appropriate circumstances.

(b) The public hearing shall normally proceed in the following manner:

- (1) Identification of the record;
- (2) Statements on behalf of the petitioner;
- (3) Statements on behalf of the Director;
- (4) Statements on behalf of the lead agency;
- (5) Statements on behalf of the public;
- (6) Rebuttal on behalf of the petitioner;
- (7) Rebuttal on behalf of the Director;
- (8) Motion to close the public hearing.

(c) Notwithstanding the above, the Chairman or the Chairman's designee (Board member) for the purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(d) The Chairman or the Chairman's designee (Board member) shall have the authority to impose time limits upon statements and presentations and to accept written statements in lieu of oral statements. Four copies of any written statements shall be submitted to the Board at least ten days prior to the hearing.

(e) Should the appellant, or his or her representative, fail to appear at the scheduled hearing, the board may make a determination upon the record otherwise before it, or, in the alternative, the board may consider the petition for hearing withdrawn.

(f) If the board determines that the petition for hearing has been withdrawn and more than 30 days has passed since the date of issuance of the order setting an administrative penalty, the order setting the administrative penalty shall not be subject to review by any court or agency.

(g) The actions of the Chairman or the Chairman's designee (Board member) under this section are not subject to judicial review.

Authority: Sections 2755 and 2774.2, Public Resources Code; and Article 10, Administrative Procedure Act. Reference: Section 2774.2, Public Resources Code; and Article 10, Administrative Procedure Act.

§ 3910. Hearing Procedures – Determination

(a) Following the public hearing, the Board shall determine: (1) whether the alleged violations cited in the Director's order are supported by substantial evidence in light of the whole record before it; and, (2) the action the Board should take to affirm, modify, or set aside, in whole or in part, the administrative penalty issued by the Director. The Board shall issue its own order upholding its determination.

(b) Modify means to change the administrative penalty from its original construction by the director. The board may modify the administrative penalty, in whole or in part, by such measures as it deems appropriate which include, but are not limited to, increasing or decreasing the penalty amount, establishing compliance deadlines, and structuring a method for payment of the penalty.

(c) Notification of the Board's determination shall be made by certified mail or personal service to the petitioner, the lead agency, and the Director within 15 days following the regular business meeting of the Board at which the decision is made.

Authority: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

§ 3911. Petition / Notice of Defense Form

STATE OF CALIFORNIA

**DEPARTMENT OF CONSERVATION
STATE MINING AND GEOLOGY BOARD**

**IN THE MATTER OF THE
ADMINISTRATIVE PENALTY
ASSESSED AGAINST:**

an individual,

d.b.a.

PETITIONER(S)

Case No.

**PETITION/
NOTICE OF DEFENSE**

- I acknowledge receipt of this action assessing an administrative penalty under Public Resources Code Section 2774.1 (c) against me or the company for which I am the agent.
- I request a hearing before the State Mining and Geology Board.
- I object to the action on the ground that it does not state acts or omissions upon which the Department of Conservation may proceed.
- I object to the form of the action on the ground that it is so indefinite or uncertain that I cannot identify the transaction or prepare a defense.
- I admit the action in whole or in part. (Indicate which parts you admit by paragraph number or list on a separate page facts or allegations admitted.)
- I deny the action in whole or in part. (Indicate which parts you deny by paragraph number or list on a separate page facts or allegations denied.)
- I have no personal knowledge of the facts or allegations. (Indicate which parts by paragraph number or on a separate page.)
- I present the following new matter by way of defense:
(On a separate page, list other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the alleged violation. Be as specific as you can. If you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) cop(y/ies) if you can).

() I wish to present the following information, statement, etc. in addition:
(Use a separate page, if needed.)

() I have documents, exhibits, declarations under penalty of perjury and/or other materials that I am attaching to this form or that I want to be made a part of the administrative record for this administrative penalty.
(Please list in chronological order by date, author and title and enclose a copy with this completed form.)

() I object to the action on the ground that, under the circumstances, compliance with the requirement of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights. (List the other regulation(s).)

() I will pay the full assessed amount and waive a hearing.

DO NOT SEND CASH. Please your case number on your remittance, made payable to: **State of California, Department of Conservation**, to ensure proper credit and mail it to this address: *Department of Conservation, Office of Mine Reclamation, 801 K Street, MS 09-06, Sacramento, California 95814.*

If you intend to be represented by an attorney, please state his/her name, address, and telephone number. Otherwise, state the address and phone number where you want legal documents sent. Mail this Notice of Defense to: *Executive Officer, State Mining and Geology Board, 801 K Street, MS 24-05, Sacramento, California 95814.*

DATED: _____
_____ Petitioner's Signature

Name of Counsel/Petitioner (circle one) Phone Number

Address City State Zip

Article 13. Selection of Professional Service Firms

§ 3920. Selection of Professional Service Firms

(a) The purpose of these regulations is to establish those procedures authorized and required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code. These regulations are specific to the Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710, et seq.

(b) Selection by the board for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management, firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.

Authority: Sections 2755-2759, Public Resources Code; and Section 4526, Government Code. Reference: Sections 4525-4529.5, Government Code.

§ 3921. Definitions, as Used in These Regulations

(a) "Small business" shall mean a small business firm as defined by the Director of General Services (section 1896 of Title 2 of the California Code of Regulations) pursuant to section 14837 of the Government Code.

(b) "Architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services" are those services to be procured outside State of California Civil Service procedures and of a character necessarily rendered by an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor but may include ancillary services logically or justifiably performed in connection therewith.

(c) "Project" means a project as defined in Section 10105 of the Public Contract Code, or as defined in the Public Resources Code Section 21065.

Authority: Section 4526, Government Code. Reference: Sections 4525 and 14837, Government Code; Section 10105, Public Contract Code; and Section 21065, Public Resources Code.

§ 3922. Establishment of Criteria

(a) The board shall establish criteria, on a case by case instance, which will comprise the basis for selection for each project. The criteria shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload ability to meet schedules, nature and quality of completed work, reliability and continuity of the firm, location, and other considerations deemed relevant. Such factors shall be weighted by the board according to the nature of the project, the needs of the State and complexity and special requirements of the specific project.

(b) In no event shall the criteria include practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration. Board members with a relationship to a person or business entity seeking a contract under this section are prohibited from participating in the selection process if the board member would be subject to the prohibition of Section 87100 of the Government Code.

Authority: Section 4526, Government Code. Reference: Sections 4526 and 87100, Government Code.

§ 3923. Estimate of Value of Services

Before any discussion with any firm concerning fees, the board may cause an estimate of the value of such services to be prepared. This estimate shall serve as a guide in determining fair and reasonable compensa-

tion for the services rendered. Such estimate shall be, and remain, confidential until award of contract or abandonment of any further procedure for the services to which it relates. At any time the board determines the estimates to be unrealistic because of rising costs, special conditions, or for other relevant considerations, the estimate may be reevaluated and modified if necessary.

Authority: Section 4526, Government Code. Reference: Section 4528, Government Code.

§ 3924. Request for Proposals

(a) Where a project requires architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, the board shall make an announcement through a publication of the respective professional society, if any exist, in a construction trade journal or, if none exist, in other appropriate publications that are published within a reasonable time frame such that a lengthy publication delay does not adversely affect the project.

(b) The announcement shall contain the following information: The nature of the work, the criteria upon which the award shall be made, and the time within which statements of interest, qualification and performance data will be received.

(c) The board shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for projects for which the board concludes that small business firms could be especially qualified. A failure of the board to send a copy of an announcement to any firm shall not operate to preclude any contract.

Authority: Section 4526, Government Code. Reference: Section 4527, Government Code.

§ 3925. Selection of Firm

After expiration of the period stated in the publications or other public announcements, the board shall evaluate statements of qualifications and performance data which have been submitted to the board. Discussions shall be conducted with no less than three firms regarding the required service. Where three firms cannot be found which could provide the required service, a full explanation including names and addresses of firms and individuals requested to submit proposals must be entered in the files. From the firms with which discussions are held, the board shall select no less than three, provided at least three firms submit proposals, in order of preference, based upon the established criteria, which are deemed to be the most highly qualified to provide the services required.

Authority: Section 4526, Government Code. Reference: Sections 4526-4527, Government Code.

§ 3926. Negotiation

The board shall attempt to negotiate a contract with the most highly qualified firm. When the board is unable to negotiate a satisfactory contract with this firm with fair and reasonable compensation provisions, as determined by the procedure set forth in Section 3923 if those procedures were used, negotiations shall be terminated. The board shall then undertake negotiations with the second most qualified firm on the same basis. Failing accord, negotiations shall be terminated. The board shall then undertake negotiations with the third most qualified firm on the same basis. Failing accord, negotiations shall be terminated. Should the board be unable to negotiate a satisfactory contract at fair and reasonable compensation with any of the selected firms, additional firms may be selected in the manner prescribed in this article and the negotiation procedure continued.

Authority: Section 4526, Government Code. Reference: Section 4528, Government Code.

§ 3927. Amendments

In instances where the board effects a necessary change in the project during the course of performance of the contract, the firm's compensation may be adjusted by negotiation of a mutual written agreement in a fair and reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

Authority: Section 4526, Government Code. Reference: Section 4526, Government Code.

§ 3928. Contracting in Phases

Should the board determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price or compensation provisions in the initial instance, provided that the board shall have determined that the firm is best qualified to perform the whole project at a fair and reasonable cost, and the contract contains provisions that the board, at its option, may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

Authority: Section 4526, Government Code. Reference: Section 4526, Government Code.

§ 3929. Board's Power to Require Bids

Where the board determines that the services needed are technical in nature and involve little professional judgment and that requiring bids would be in the public interest, a contract shall be awarded on the basis of bids rather than by following the foregoing procedures for requesting proposals and negotiation.

Authority: Section 4526, Government Code. Reference: Section 4529, Government Code.

§ 3930. Exclusions

The provisions of this article shall not apply to service agreements for an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor, engaged to provide consulting services on specific problems on projects where the architectural, landscape architectural, engineering, environmental, land surveying, or construction project management work is being performed by State of California Civil Service employees.

Authority: Section 4526, Government Code. Reference: Section 4526, Government Code.

Article 14. Appeals of Orders to Comply with the Surface Mining and Reclamation Act of 1975

§ 3940. Purpose of Regulations

The regulations contained in this article govern procedures affecting the review of orders to comply with the Surface Mining and Reclamation Act of 1975 (Act) issued by the director of the department, or by the board when acting in the capacity of lead agency pursuant to Public Resources Code Section 2774.4.

Authority: Section 2755, Public Resources Code. Reference: Sections 2774.1 and 2774.4, Public Resources Code.

§ 3941. Determination of Jurisdiction

(a) The Chairman of the board, or the Chairman's designee, shall determine whether the review of the order is within the jurisdiction of the board for the purposes of hearing the alleged violation. If the Chairman or the designee finds that the criteria listed in (1) and (2) below have been satisfied, then he or she shall schedule a hearing of the order before the board, otherwise he or she shall refuse to grant a hearing. In

making this determination, the Chairman, or the Chairman's designee, shall consider the following:

(1) Whether the order addresses violations related to the Act which have been confirmed by findings during an annual inspection or as the result of another physical site inspection of the mine;

(2) Whether the alleged violation has extended beyond 30 days from the date of receipt by the operator of notification from the director or the board.

(b) The Chairman of the board or designee shall make such a determination within 15 days of receipt of an order issued by the director. Where the board issues the order to comply pursuant to its lead agency authority under Public Resources Code Section 2774.4, no independent determination by the Chairman or the designee is required. The board shall notify the appellant and the director of its determination by certified mail or personal service.

Authority: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

§ 3942. Administrative Record

The administrative record shall consist of the information that was before the director for an order issued by the director, or before the board for an order issued by the board, at the time the order was issued and which comprised the basis for the order. The information before the director, or the board, shall consist of but may not be limited to the following:

(a) The name and address of the surface mining operator and the name and address of any person designated by the operator as an agent for the service of process;

(b) A general description of the surface mining operation;

(c) A description of the alleged violation specifying which aspects of the surface mine's activities or operations are inconsistent with the Act;

(d) A time for achieving compliance that the director, or the board, has determined to be reasonable.

Authority: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

§ 3943. Hearing Procedures – Scheduling

The board shall schedule and hold a public hearing on an order no sooner than 30 days from the date of issuance of the order. In no case shall the hearing be scheduled beyond 60 days after the issuance of the order. The hearing may be scheduled as part of a regular business meeting of the board or may be conducted by a committee of the board.

Authority: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

§ 3944. Hearing Procedures – Authority for Delegation

The board may delegate conduct of the hearing to a committee of at least two members of the board to be appointed for that hearing by the Chairman of the board. The Chairman of the board or the Chairman's designee shall conduct the hearing; the recommendations of the hearing committee shall be presented to a quorum of the board at its next regular business meeting for a decision of the full board consistent with the procedures set forth in Section 3948 of these regulations.

Authority: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

§ 3945. Hearing Procedures – Notice

(a) At least 10 days prior to the hearing, the board shall give public notice as follows:

(1) Mailing the notice to the lead agency (if the board is not the lead agency), the operator subject to the order to comply, and the director;

- (2) Mailing the notice to any person who requests notice of the hearing;
- (b) The notice of hearing shall include the following:
 - (1) The name of the operator subject to the order to comply;
 - (2) Identification of the proposed surface mining operation and a brief description of the location of the operation by reference to any commonly known landmarks in the area;
 - (3) A statement that the operator has been issued an order to comply with specific aspects of the Act;
 - (4) A statement inviting the operator, the lead agency, and the public to make statements at the hearing regarding the decision of board; and,
 - (5) The time, date, and location of the public hearing.

Authority: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

§ 3946. Hearing Procedures – Record

The record before the board at the public hearing shall be the administrative record submitted pursuant to Section 3942 of this article.

Authority: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

§ 3947. Hearing Procedures – Sequence

- (a) The public hearing should normally proceed in the following manner:
 - (1) Identification of the record;
 - (2) Statements on behalf of the operator subject to the order;
 - (3) Statements on behalf of the director, or the board if acting as the lead agency;
 - (4) Statements on behalf of the public;
 - (5) Rebuttal on behalf of the operator; and
 - (6) Rebuttal on behalf of the director, or the board if acting as the lead agency;
 - (7) Motion to close the public hearing.
- (b) Notwithstanding the above, the Chairman or the Chairman's designee for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings.
- (c) The Chairman or the Chairman's designee may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements. Written statements (12 copies) must be submitted to the board at least five days prior to the hearing.
- (d) The public hearing shall be recorded.

Authority: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

§ 3948. Hearing Procedures – Determination

Following the public hearing, the board shall determine whether, based on the record before it, the evidence before the director for orders issued by the director, or the board for orders issued by the board, substantially supports the basis for the order at the time the order was issued. If the board finds that the evidence in the record supports the issuance of the order, the board shall uphold the order and any effective date contained in the order. If no effective date is contained in the order, then the board shall set a date upon which the order takes effect. If the board finds that the evidence in the record does not substantially support the order, then the board shall not uphold the order and shall notify the director of the specific reasons for not upholding the director's order. Notification of the board's determination shall be made by certified mail or personal service to the operator and the director within 15 days following the regular business meeting of the board at which the determination is made.

Authority: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

Article 15. Vested Rights Determination

§ 3950. Purpose of Regulations

No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976 shall be required to secure a permit pursuant to Section 2770 of the Public Resources Code. Any person claiming a vested right to conduct surface mining operations in a jurisdiction where the State Mining and Geology Board (the Board) is lead agency pursuant to section 2774.4 of the Public Resources Code must establish such claim in a public proceeding under this article. In such a proceeding the Claimant shall assume the burden of proof.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3951. Vested Right(s) - Definition

A “vested right” is the right to conduct a legal nonconforming use of real property if that right existed lawfully before a zoning or other land use restriction became effective and the use is not in conformity with that restriction when it continues thereafter. A vested mining right, in the surface mining context, may include but shall not be limited to: the area of mine operations, the depth of mine operations, the nature of mining activity, the nature of material extracted, and the quantity of material available for extraction.

A person shall be deemed to have a vested right or rights to conduct surface mining operations if, prior to January 1, 1976, the person has, in good faith and in reliance upon a permit or other authorization, if the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary for the surface mining operations. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials. Expansion of surface mining operations after January 1, 1976 may be recognized as a vested nonconforming use under the doctrine of (A diminishing assets” as set forth in Hansen Brothers Enterprises, Inc. v. Board of Supervisors (1996) 12 Cal.4th 533.

Authority: Sections 2755, 2776 and 2775, Public Resources Code; and Hansen Brothers Enterprises, Inc. v. Board of Supervisors (1996) 12 Cal.4th 533.) Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3952. Filing of Request for Determination

A claim of vested rights shall be initiated by filing a Request for Determination with the Board. At a minimum the Request for Determination shall include the following information:

- (1) Name, address, and telephone number (and name, address, and telephone number of any agent for contact or service of notice, if different) of Claimant;
- (2) Name, address, and telephone number of the property owner(s) if different than (1) above;
- (3) Name, address, and telephone number of any lessee, lien holder, or other potential claimant to the vested right(s) asserted;
- (4) A map indicating the exact location of the property upon which vested rights are asserted;
- (5) A legal description of such property including township and range, metes and bounds, parcel numbers, or other descriptive methods to specifically identify such property;
- (6) Copies of all documents which Claimant asserts establish title to such property;
- (7) Written statements, with supporting documentation, indicating the basis for claim of a vested right to conduct surface mining operations upon such property;

(8) Written statements, with supporting documentation, identifying the scope or scale of the vested right claimed;

(9) Copies of, or statements specifically identifying, all local land use or mining ordinances or regulations which either may presently, or have historically, governed conduct of surface mining operations upon such property;

(10) The names and mailing addresses of the owners of all properties adjacent to property upon which a vested right is being asserted; and

(11) The name and address of any other governmental agency or entity having jurisdiction over the property or the surface mining operations on the property that may be affected by a determination of vested rights.

All information submitted pursuant to this section shall be accompanied by a declaration or affidavit attesting to the true and accurate nature of the materials provided.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3953. Review and Determination Fee

Two fees are to be paid by the claimant submitting a Request for Determination. Any person submitting a Request for Determination shall pay to the Board the following processing fee:

(a) A minimum processing fee of five thousand dollars (\$5,000) as compensation for the initial review and notification. Should the Request for Determination be denied, any funds not used will be refunded.

(b) A determination fee for conducting the vested rights determination will be established. The claimant will be provided with an estimate of the cost of conducting a vested rights determination. Any funds in excess of the amount actually needed for conducting the determination will be refunded to the claimant. Any uncollected funds must be submitted prior to the official release of the determination. The fees in this subdivision shall be paid to the Board prior to release of any vested rights determination.

(1) If the Board employs an administrative hearing officer or special master for, and in, making the determination, an additional fee of one hundred dollars (\$100) per hour for each full hour of time reasonably employed by such hearing officer or special master for drafting the findings and recommendation or proposed decision for the Board.

(2) If the Board employs a committee of its members for, and in, making the determination, an additional fee of one hundred dollars (\$100) per Board committee member per day of service (or part thereof);

(c) Upon a showing of good cause the Board may waive all but a minimum of one hundred dollars (\$100) of the fees imposed in subdivisions (a) and (b) above.

(d) Failure to submit the initial fee (identified in subsection (a) above) shall result in immediate rejection of the Request for Determination.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3954. Determination of Jurisdiction

The Chairman of the Board, or the Chairman's designee, based upon the information submitted pursuant to Section 3952 of this article, shall initially evaluate whether the Request for Determination is within the jurisdiction of the Board for purposes of making a vested rights determination and whether the Request for Determination contains the minimum information specified in Section 3952 of this article. The Chairman of the Board, or the Chairman's designee, shall make such initial determination within 15 business days of

receipt of the Request for Determination. If the Chairman, or the Chairman's designee, determines that the Request for Determination is not within the Board's jurisdiction or does not contain the information required by the Board to evaluate the Request, the Request for Determination shall be rejected and the deficiencies in the Request specifically identified in correspondence to the claiming party.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3955. Notice of Pending Determination

Within 30 business days after the Chairman of the Board, or the Chairman's designee, concludes that the Request for Determination is within the Board's jurisdiction and contains the minimum information required by Section 3952 a notice of pending vested rights determination shall be mailed by the executive officer of the Board to every adjacent landowner identified in the Request for Determination and to the county, city, or regional agency originally holding lead agency status for the identified property and mining operation. A notice of pending vested rights determination shall also be provided to the person claiming vested rights for posting, within 5 days of receipt, upon the property in question in an open and conspicuous place that is reasonably visible to the public and at all points of entry to the property. The notice of pending vested rights determination shall identify the specific property upon which such vested rights are asserted and shall identify the Board as the agency which will be making the determination. The notice shall contain the Board's mailing and electronic addresses and a request that comments be forwarded to the Board. The notice shall remain posted as required through the conclusion of any hearing on the vested rights claim. The notice shall also be immediately noticed and placed on the Board's electronic website. Where the Board determines that additional notice is required, it may require the person claiming vested rights to provide such additional notice.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3956. Public Hearing

No vested rights determination will be made by the Board without a public hearing and an opportunity for the vested rights claimant, the original lead agency, and the public to comment.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3957. Selection of Hearing Officer

The Board may delegate conduct of a vested rights public hearing to a committee of at least two Board members to be appointed for that hearing by the Chairman of the Board. The Board may also delegate conduct of a vested rights public hearing to an administrative hearing officer or special master.

As soon as practicable after the Chairman, or the Chairman's designee, concludes that the Request for Determination is within the Board's jurisdiction and contains the minimum information required by Section 3952, and in no event more than 45 business days from such conclusion, the Board, or a designee of the Board shall decide whether a vested rights public hearing will be conducted by the Board, a committee of the Board, an administrative hearing officer selected by the Board, or a special master selected by the Board.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3958. Vested Rights Hearing - Schedule

The Board, its delegated committee, administrative hearing officer or special master shall schedule and hold a public hearing on a vested rights determination no less than 90 business days after the notice of pending vested rights determination was mailed pursuant to Section 3955. In no case shall the hearing be scheduled more than 180 business days after the Chairman, or the Chairman's designee, concludes that the Request for Determination is within the Board's jurisdiction and contains the minimum information required by Section 3952 unless such hearing schedule is agreed to by the party claiming vested rights. The hearing scheduled may be within the county where the vested right is claimed or within the county of the Board's offices (County of Sacramento).

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3959. Vested Rights Hearing Procedure – Notice/Submission of Written Materials

(a) At least 90 calendar days prior to a vested rights public hearing, the Board shall give further public notice as follows:

- (1) By mailing the notice to the Claimant and all parties receiving notice pursuant to Section 3955;
- (2) By mailing the notice to any person who requests notice of the hearing;
- (3) By mailing the notice to the Board's regular mailing list; and
- (4) By posting of the notice in a place where notices are customarily posted in the city, or county, or regional jurisdiction within which the property is located or the surface mining operations are to take place (or both, if affected operations and affected property are in different jurisdictions.)

(b) The notice of hearing shall include the following:

- (1) The name of the party claiming vested rights;
- (2) Identification of the surface mining operation, a brief description of the location of the operation and area of asserted vested rights by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;
- (3) A statement inviting the party claiming vested rights, the original lead agency, and the public to make statements at the hearing regarding the vested rights asserted;
- (4) A request that any additional written materials be delivered to the Board by the public no less than 60 calendar days before the hearing and in no case will any responsive materials be submitted by the claimant less than 45 calendar days prior to the hearing.
- (5) The time, date, and location of the public hearing.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3960. Vested Rights Hearing Procedure - Record

The initial record before the Board, its delegated committee, administrative hearing officer, or special master shall be all of the materials provided pursuant to Section 3952, and all other written materials and public comments provided in response to the notice of pending determination or received at the public hearing.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3961. Vested Rights Hearing - Sequence

(a) The public hearing should normally proceed in the following manner:

- (1) Identification of the record;
- (2) Statements on behalf of the vested rights Claimant;
- (3) Statements on behalf of the agency originally holding lead agency status;
- (4) Statements on behalf of the public;
- (5) Rebuttal on behalf of the Claimant; and
- (6) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman of the Board or the delegated committee's selected chair, or the Board's designee for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings, provide for additional testimony, or provide for additional rebuttal.

(c) The Chairman of the Board or the delegated committee's selected chair, or the Board's designee may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements. Written statements must be submitted at least five business days prior to the hearing.

(d) All statements of fact made at the hearing shall be under oath as administered by the Chairman of the Board or the delegated committee's selected chair, or the Board's designee.

(e) The public hearing shall be recorded either electronically or by other convenient means.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3962. Vested Rights Hearing Procedure – Continuance

The public hearing may be continued from day to day as necessary to receive all of the statements, information, and testimony identified in Section 3961.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3963. Vested Rights Hearing Procedure - Evidence

Relevant evidence in a proceeding for determination of a claim of vested rights shall be written or oral evidentiary statements or material demonstrating or delimiting the existence, nature and scope of the claimed vested right[s]. Such evidence shall include, but is not limited to, evidence of any permit or authorization to conduct mining operation on the property in question prior to January 1, 1976, evidence of mining activity commenced or pursued pursuant to such permit or authorization, and evidence of any zoning or land use restrictions applicable to the property in question prior to January 1, 1976.

As to any land for which Claimant asserts a vested right for expansion of operations, Claimant shall produce evidence demonstrating that the Claimant clearly intended to expand into such areas. Such evidence shall be measured by objective manifestations, and not subjective intent at the time of passage of the law, or laws, affecting Claimant's right to continue surface mining operations without a permit.

Authority: Sections 2755 and 2775, Public Resources Code. (See, Hansen Brothers Enterprises, Inc. v. Board of Supervisors (1996) 12 Cal.4th 533.) Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3964. Vested Rights Hearing Procedure - Determination

Following the public hearing, the Board, if the Board conducted the hearing, or its committee, administrative hearing officer, or special master shall determine whether the Claimant, by a preponderance of the evidence, has demonstrated a claim for vested rights pursuant to Public Resources Code Section 2776. The

determination shall identify upon what specific property the vested rights are established and the scope and nature of surface mining operations included within the established vested right or rights. If the public hearing was conducted by a committee of the Board or an administrative hearing officer or special master designated by the Board, the findings and recommendation or proposed decision of the committee of the Board, administrative hearing officer, or special master shall be presented to a quorum of the Board at a regular business meeting, no later than 60 business days after completion of the vested rights public hearing, for consideration and adoption by the full Board. The Board may adopt the recommendation or proposed decision or reject the recommendation or proposed decision and direct the matter back to its delegee for further consideration in light of the discussion before the full Board. The Board may also modify the proposed decision based upon the record before it or make an alternative determination based upon the record or following receipt of additional evidence before the full Board. Following adoption of the Board's final determination notification shall be made by certified mail to the party claiming vested rights and to the local agency originally holding lead agency status. Notification of the final determination of the Board shall also be made by regular mail to any person who commented at, or participated in, the public hearing, any person who has requested such notice, and shall be immediately posted upon the Board's website.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

§ 3965. Effect of Vested Rights Determination

A final determination by the Board recognizing a claim of vested rights shall constitute acknowledgment that the specific surface mining operations as identified upon the specific property or properties does not require a permit under Public Resources Code Section 2770 provided that no substantial change may be made in such mining operations. If any vested rights identified pursuant to this article are waived or abandoned the surface mining operations identified shall become subject to the permit requirements of the Surface Mining and Reclamation Act.

Authority: Sections 2755 and 2775, Public Resources Code. Reference: Calvert v. County of Yuba, (2007) 145 Cal. App. 4th 613.

Article 16. Mining Ordinances

§ 4000. Certification and Recertification of Mining Ordinances

(a) Upon adoption of a new mining ordinance, or amendment of an existing mining ordinance, a lead agency shall, within 30 days of such action, provide written notice of the complete text of the resulting mining ordinance to the State Mining and Geology Board, to enable the Board to review the ordinance in accordance with Public Resources Code Sections 2774.3, 2774.5(a) and 2774.5(b).

(b) Where a lead agency has not provided the Board with timely notice of the complete text of its mining ordinance, consistent with subparagraph (a) herein, the mining ordinance shall not be considered to be in accordance with state policy until the mining ordinance is certified by the Board as being in accordance with state policy.

Authority: Section 2755, Public Resources Code. Reference: Sections 2756, 2758, 2759, 2774.3, 2774.5(a), 2774.5(b) and 2774.5(c), Public Resources Code.

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS

Division 29. Board for Geologists and Geophysicists

Article 1. General Provisions

§ 3000. Location of Offices

The principal office of the Board for Professional Engineers, Land Surveyors, and Geologists is located at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944.

Authority: Section 7818, Business and Professions Code. Reference: Section 7818, Business and Professions Code.

§ 3001. Correspondence

All correspondence relating to the functions of the board including remittances and renewal fees shall be directed to the principal office of the board.

Authority: Section 7818, Business and Professions Code. Reference: Section 7818, Business and Professions Code.

§ 3002. Tenses, Gender and Number

For the purposes of these rules and regulations, the present tense includes the past and the future tenses, and the future includes the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, and the plural, the singular.

§ 3003. Definitions

For the purposes of the rules and regulations contained in this chapter, the term:

(a) "Board" means the Board for Professional Engineers, Land Surveyors, and Geologists.

(b) "Engineering Geology" means the application of geologic data, principles and interpretation so that geologic factors and processes affecting planning, design, construction, maintenance, and vulnerability of civil engineering works are properly recognized and utilized.

(c) "Responsible Position" means a position whereby a person having individual control and direction of a geological project exercises individual initiative, skill and judgment in the investigation and interpretation of geological features, or the supervision of such projects. An individual can be considered to be in a responsible position even though not registered and working as a subordinate employee to a registered or qualified geologist.

(d) "Professional geological work" is work performed at a professional level rather than at a sub-professional or apprentice level and requires the application of scientific knowledge, principles and methods to geological problems through the exercise of individual initiative and judgment in investigating, measuring, interpreting and reporting on the physical phenomena of the earth. Implicit in this definition is the recognition of professional responsibility and integrity and the acknowledgment of minimal supervision. "Professional geological work" specifically does not include such routine activities as drafting, sampling, sample preparation, routine laboratory work, etc., where the elements of initiative, scientific judgment and decision making are lacking, nor does it include activities which do not use scientific methods to process and interpret geologic data. Further, it specifically does not include soils engineering, soils sampling, soils testing or other activities in or related to the agricultural application of soils sciences. It also does not in-

clude mining, mining engineering or other engineering disciplines and/or other physical sciences wherein geological investigation, analysis and interpretation are minimal or lacking.

(e) “Professional geophysical work” is work performed at a professional level rather than at a sub-professional or apprentice level and requires the application of scientific knowledge, principles and methods to geophysical problems through the exercise of individual initiative and judgment in investigating, measuring, interpreting and reporting on the physical phenomena of the earth. The term includes the practice of geophysics for the evaluation and mitigation of earthquake hazards, and environmental and groundwater resource assessment. Implicit in this definition is the recognition of professional responsibility and integrity and the acknowledgment of minimal supervision.

“Professional geophysical work” specifically does not include activities wherein the analysis or interpretation of geophysical or geological information is lacking. Such nonprofessional work could encompass party or crew chief and would encompass lesser forms of employment in field parties, the manufacture, assembly or maintenance and repair of geophysical instruments and equipment, computer programming, data processing or retrieval and routine activities normally performed by a technician in acquiring and reporting on geophysical information where the elements of initiative, scientific judgment and decision making are absent. It also does not include those engineering disciplines and other physical sciences wherein geophysical or geological investigation, analysis and interpretation are minimal or lacking.

(f) “Practice of Geology or Geophysics.”

(1) The practice of geology or geophysics “for others” includes but is not limited to the preparation of geologic or geophysical reports, documents or exhibits by any commission, board, department, district or division of the state or any political subdivision thereof or of any county, city or other public body or by the employees or staff members of such commission, board, department, district or division of the state or any political subdivision thereof or of any county, city or other public body when such reports, documents or exhibits are disseminated or made available to the public in such a manner that the public may reasonably be expected to rely thereon or be affected thereby.

(2) The practice of geology or geophysics “for others” includes but is not limited to the performance of geological or geophysical services by any individual, firm, partnership, corporation or other association or by the employees or staff members thereof, whether or not the principal business of such organization is the practice of geology or geophysics, when the geological or geophysical reports, documents or exhibits constituting the practice of geology or geophysics are disseminated or made available to the public or any individual or combination of individuals other than the employees or staff of such organization in such a manner that the public or said individual or combination of individuals may reasonably be expected to rely thereon or be affected thereby.

(3) Geological or geophysical reports, documents or exhibits which are prepared by the employees or staff members of any individual, firm, partnership, corporation or other association or commission, board, department, district, or division of the state or any political subdivision thereof or of any county, city or other public body which are for use solely within such organization are considered “in-house” reports, documents or exhibits and are not the practice of geology or geophysics for others unless or until such reports are disseminated or made available as set forth in subsection (1) or (2).

(g) “Code” means the Business and Professions Code.

(h) “Hydrogeology” means the application of the science of geology to the study of the occurrence, distribution, quantity and movement of water below the surface of the earth, as it relates to the interrelationships of geologic materials and processes with water, with particular emphasis given to groundwater quality. *Authority: Section 7818, Business and Professions Code. Reference: Sections 7800, 7801, 7802, 7802.1, 7803, 7803.1, 7804, 7804.1, 7822, 7841 and 7841.1, Business and Professions Code.*

§ 3004. Delegation of Certain Functions

(a) Whenever it is stated in these rules and regulations that the “board” may or shall exercise or discharge any power, duty, purpose, function, or jurisdiction, the board specifically has reserved the same for its own, exclusive action.

(b) Whenever it is stated the “executive officer” may or shall exercise or discharge any power, duty, purpose, function, or jurisdiction, the executive officer for the board has the authority to act thereon.

(c) Any real party in interest may appeal to the board for review of the actions and decisions of the executive officer.

(d) Nothing herein prohibits the executive officer from re delegating duties to his or her subordinates as provided in Section 18572 of the Government Code.

(e) The power and discretion conferred by law upon the board to receive and file accusations; issue notices of hearings, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code, issue subpoenas and subpoenas duces tecum, set and calendar cases for hearing and perform other functions necessary to the businesslike dispatch of the business of the board in connection with proceedings under the provisions of Section 11500 through 11528 of the Government Code prior to the hearing of such proceeding; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon the executive officer, or, in his or her absence from the office of the board, his or her designee.

Authority: Section 7818, Business and Professions Code. Reference: Section 7818, Business and Professions Code.

§ 3005. Fees

(a) All fees required by provisions of the code and rules of the board shall be transmitted by money order, bank draft, or check, payable to the Department of Consumer Affairs.

(b) The following is the prescribed application fee for:

- (1) Licensure as a Professional Geologist or a Professional Geophysicist \$250.00;
- (2) Certification as a specialty geologist or specialty geophysicist \$250.00;

(c) The following is the prescribed examination fee for:

- (1) The Practice of Geology national examination \$250.00;
- (2) The California specific geologist examination \$150.00;
- (3) The Fundamentals of Geology national examination \$150.00;
- (4) Examination for licensure as a geophysicist \$100.00;
- (5) Examination for certification as a specialty geologist or specialty geophysicist \$100.00.

(d) The duplicate certificate fee \$6.00.

(e) The following is the prescribed renewal fee for:

- (1) Licensure as a geologist or a geophysicist \$270.00;
- (2) Certification as a specialty geologist or a specialty geophysicist \$67.50.

(f) The delinquency fee for renewal of licensure as a geologist or geophysicist or certification as a specialty geologist or specialty geophysicist is 50% of the renewal fee in effect on the last regular renewal date.

(g) When transmitted through the mail, fees required under provisions of this rule shall be deemed filed on the date shown by the post office cancellation mark appearing on the envelope containing the fee.

(h) The fee for the retired license shall be \$62.50. No renewal fee or other fee shall be charged for the retired license. As used in this subdivision, "license" includes certificate of registration or license as a professional geologist, certificate of registration as a registered certified specialty geologist, and certificate of registration as a professional geophysicist.

Authority: Sections 7818 and 7851, Business and Professions Code. Reference: Sections 7846 and 7887, Business and Professions Code.

§ 3008. Seal

(a) The seal authorized by Section 7852 of the Code may be purchased by the licensee from any convenient source. It shall be not less than one and one-half (1 1/2) inches in diameter and shall contain the following information:

- (1) Within the top border of seal: "Professional Geologist."
- (2) Within the bottom border of seal: "State of California."
- (3) In the center of seal:

(A) The licensee's name as it appears on the certificate issued by the Board or as abbreviated pursuant to subdivision (e);

(B) Number of license or authority.

The seal shall be of a design similar to that shown below and shall bear at minimum those elements specified above.



(b) The certified specialty geologist seal shall be not less than one and one-half (1 1/2) inches in diameter and shall contain the following information:

(1) Within the top border of seal: Either "Certified Engineering Geologist" or "Certified Hydrogeologist," depending on the certification of the license.

(2) Within the bottom border of seal: "State of California."

(3) In the center of seal:

(A) The licensee's name as it appears on the certificate issued by the Board or as abbreviated pursuant to subdivision (e);

(B) Number of certification or authority;

The seal shall be of a design similar to that shown below and shall bear at minimum those elements specified above.



(c) The seal authorized by Section 7852.1 may be purchased by the licensee from any convenient source. It shall not be less than one and one-half (1 1/2) inches in diameter and shall contain the following information:

- (1) Within the top border of seal: "Professional Geophysicist."
- (2) Within the bottom border of seal: "State of California."
- (3) In the center of seal:

(A) The licensee's name as it appears on the certificate issued by the Board or as abbreviated pursuant to subdivision (e);

(B) Number of license or authority.

The seal shall be of a design similar to that shown below and shall bear at minimum those elements specified above.



(d) The seals authorized by Section 7852 and Section 7852.1 shall not be used on a Real Estate Transfer Disclosure Statement required by Section 1102.6 of the Civil Code. However the seals authorized by Sections 7852 and 7852.1 shall be used on any geologic or geophysical report or opinion, dealing with matters within the scope of the professional's license and expertise, if said report or opinion is attached separately as a substituted disclosure pursuant to a Real Estate Transfer Disclosure Statement required by Section 1102.6 of the Civil Code.

(e) The seal may contain an abbreviated form of the licensee's given name or a combination of initials representing the licensee's given name provided the surname listed with the Board appears on the seal and in the signature.

(f) The seal shall be capable of leaving a permanent ink representation, a permanent impression, or an electronically-generated representation on the documents. The signature may be applied to the documents electronically.

(g) Preprinting of blank forms with the seal or signature, the use of decals of the seal or signature, or the use of a rubber stamp of the signature is prohibited.

(h)(1) All professional geological plans, specifications, reports, or documents (hereinafter referred to as "documents") shall be signed and sealed in accordance with the requirements of the Geologist and Geophysicist Act and any other laws related to the practice of professional geology and shall be signed and sealed in a manner such that all work can be clearly attributed to the licensee(s) in responsible charge of the work.

(2) All professional geophysical plans, specifications, reports, or documents (hereinafter referred to as "documents") shall be signed and sealed in accordance with the requirements of the Geologist and Geophysicist Act and any other laws related to the practice of professional geophysics and shall be signed and sealed in a manner such that all work can be clearly attributed to the licensee(s) in responsible charge of the work.

(3) When signing and sealing documents containing work done by or under the responsible charge of two or more licensees, the signature and seal of each licensee in responsible charge shall be placed on the documents with a notation describing the work done under each licensee's responsible charge.

(i) Each licensee shall include the date of signing and sealing immediately below or next to the signature and seal.

Authority: Section 7818, Business and Professions Code. Reference: Sections 7835, 7835.1, 7852 and 7852.1, Business and Professions Code.

§ 3009. Address Change

Each person who is an applicant for or a holder of a certificate or license issued by the Board shall file his or her address of record with the Board. Within thirty (30) days after any change to his or her address of record, he or she shall notify the Board in writing of such change.

Authority: Section 7818, Business and Professions Code. Reference: Sections 7815 and 7821, Business and Professions Code.

Article 2. Applications

§ 3021. Applications

Applications for registration as a geologist, certified specialty geologist, or geophysicist shall be:

(a) Filed on a form prescribed by the board, accompanied by the required application fee and examination fee.

(b) Filed with the board at least one hundred (100) days prior to the scheduled examination. All documentation in support of the applications shall be submitted to the board within seventy (70) days prior to the scheduled examination. Applications and supporting documentation not received by the board within the timeframes specified shall not be considered for that examination. An application mailed to the board shall be deemed filed on the date shown by the post office cancellation mark appearing on the envelope.

(c) An application which is not submitted in proper form will not be accepted by the board and will be returned by the executive officer with a statement of the reason therefor.

Authority: Section 7818, Business and Professions Code. Reference: Section 7841, Business and Professions Code.

§ 3021.1. Applicant Fingerprint Submittal and Review

(a) Pursuant to Section 144 of the Business and Professions Code, the Board has the authority to obtain and review criminal offender record information. The information obtained as a result of the fingerprinting shall be used in accordance with Section 11105 of the Penal Code and to determine whether the applicant is subject to denial of license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code or Sections 7841, 7841.1, or 7884 of the Business and Professions Code.

(b) As a condition of application for a license, each applicant shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.

(c) The applicant shall pay any costs for furnishing the fingerprints and conducting the searches.

(d) The applicant shall certify when applying for a license whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.

(e) Failure to comply with the requirements of this section renders the application for license incomplete, and the application shall not be considered until the applicant demonstrates compliance with all requirements of this section.

(f) Notwithstanding any other provision of law, the results of any criminal offender record information request by either state or federal law enforcement authorities shall not be released by the Board except in accordance with state and federal requirements.

(g) This section shall apply to all applicants, including those applicants who submit applications pursuant to Sections 7840, 7841, 7841.1, 7841.2, 7842, 7842.1, 7843, 7846, 7847, 7848, 7848.1, and 7884 of the Business and Professions Code.

(h) As used in this section, "license" includes certification as a geologist-in-training, registration or license as a professional geologist or a professional geophysicist, and registered certifications as a specialty geologist or a specialty geophysicist.

(i) As used in this section, the term "applicant" shall have the meaning given to it by Section 144(c) of the Business and Professions Code, which states, "the term 'applicant' shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category."

Authority: Section 7818, Business and Professions Code. Reference: Sections 144, 475, 480, 7840, 7841, 7841.1, 7841.2, 7842, 7842.1, 7843, 7846, 7847, 7848, 7848.1 and 7884, Business and Professions Code; and Section 11105, Penal Code.

§ 3023. Date of Education and Experience

The qualifying education and experience for examination and registration as a geologist or geophysicist or certification as a specialty geologist or specialty geophysicist shall include the one hundred (100) days provided in Section 3021 for processing and acceptance of the application by the board prior to the date of the examination. The applicant shall promptly give written notice to the board in the event the applicant's work situation changes and the one hundred (100) days from the final filing date of the application to the examination date credited for qualifying education and experience, or the portion that is required for qualification, are not performed.

Authority: Section 7818, Business and Professions Code. Reference: Sections 7841 and 7841.1, Business and Professions Code.

§ 3024. Abandoned Applications

(a) In the absence of special circumstances, the board shall consider an application abandoned when:

(1) The applicant fails to submit a registration fee within 6 months of the date of the letter of notification that the application has been received and approved or

(2) The applicant fails to appear for a scheduled examination without obtaining a postponement from the board prior to the date of the examination or without scheduling to take the examination within the next two subsequent examinations as follows:

(A) An applicant for registration as a geologist shall obtain a postponement no later than fifty (50) days prior to the date of the examination.

(B) An applicant for registration as a geophysicist or certification as a specialty geologist or specialty geophysicist shall obtain a postponement no later than fifteen (15) days prior to the date of the examination, or

(3) The applicant fails to respond within 6 months of a board request for additional information concerning the applicant's educational background or professional geological or geophysical work experience.

(b) An applicant may be granted an emergency postponement not less than five days prior to such examination by the board for good cause.

(c) The application fee will be retained by the board when an application has been declared abandoned.

(d) In the event an applicant fails to appear for a scheduled examination without obtaining a postponement from the board, the board shall retain a portion of the examination fee as follows:

(1) For failure to appear as scheduled for two sections of the national examination the board shall retain \$75.00 of the examination fee.

(2) For failure to appear as scheduled for one section of the national examination, the board shall retain \$50.00 of the examination fee.

(3) For failure to appear as scheduled for an examination for registration as a geophysicist or certified engineering geologist or certified hydrogeologist, the Board shall retain \$25.00 of the examination fee.

Authority: Section 7818, Business and Professions Code. Reference: Sections 7818 and 7841.1, Business and Professions Code.

§ 3026. Unqualified Applicant: Refund of Examination Fee

If an applicant for registration as a geologist or geophysicist or certification as a specialty geologist or specialty geophysicist is found by the Board to lack the qualifications required for admission to the examination for such registration, the board shall refund to the applicant the amount of the applicant's examination fee only.

Authority: Section 7818, Business and Professions Code. Reference: Sections 7822, 7841, 7841.1, 7842 and 7887, Business and Professions Code.

§ 3028. Review of Applications

(a) Within one hundred twenty (120) days after receipt of an application, the board shall inform the candidate in writing whether the application is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

(b) The board shall render a decision concerning a candidate's written examination results within three hundred thirty (330) days after the filing of a completed application for written examination. This processing time applies to those candidates who submit their completed written examination application on the examination filing deadline.

(c) The following time frame shall apply to applications for registration under section 7847, when no examination is required.

(1) Within ninety (90) days of receipt of an application the board shall inform the applicant in writing that the application is either complete or that it is deficient and what specific information or document is required to complete the application.

(2) Within two hundred seventy (270) calendar days after the date of filing an application, the board shall make a decision on the application for registration.

Authority: Section 7818, Business and Professions Code; Section 15376, Government Code. Reference: Section 15376, Government Code.

§ 3029. Processing Times

(a) The minimum, median and maximum process time for an application from the time of receipt of the completed application until the board makes a decision thereon concerning an applicant's eligibility to take an examination is set forth below.

Minimum - 41 days

Median - 113 days

Maximum - 239 days

(b) The minimum, median and maximum processing times for written examination results from the time of receipt of a completed application until the board makes a decision thereon is set forth below:

Minimum - 175 days

Median - 202 days

Maximum - 236 days

These processing times apply to those candidates who submit a completed written examination application on the examination filing deadline.

(c) The minimum, median and maximum process time for an application filed under section 7847 from the time of receipt of an application until the applicant is informed in writing that the application is complete or that it is deficient and what specific information or documents are required to complete the application is set forth below.

Minimum - 30 days

Median - 60 days

Maximum - 90 days

(d) The minimum, median and maximum process time for an application filed under section 7847 from the time of receipt of the completed application until the board makes a decision thereon concerning an applicant's eligibility to be registered under that section is set forth below.

Minimum - 30 days

Median - 150 days

Maximum - 270 days

Authority: Section 7818, Business and Professions Code; Section 15376, Government Code. Reference: Section 15376, Government Code.

Article 3. Examinations

§ 3031. Examination Required

(a) Every applicant for registration as a geologist shall be required to take and pass examinations as provided in Section 7841(d) of the code or every applicant for registration as a geophysicist, or every applicant for certification in any specialty, shall be required to take and pass an examination as prescribed by the board except as provided in Section 7847 of the code.

(b) To be eligible for the geological examination, an applicant shall have completed at least five years of educational and work experience in professional geological work, as set forth in subdivisions (b) and (c) of Section 7841 of the code.

(1) Graduate study or research in geological sciences at a school or university whose geological curricula meet criteria established by rules of the board, shall be counted on a year-for-year basis in computing the experience requirements specified in Section 7841 of the code. A year of graduate study or research is defined as being a 12 calendar month period during which the candidate is enrolled in a full-time program of graduate study or research. Shorter periods will be prorated.

(2) An applicant shall not be eligible to earn credit for professional geological work performed under the supervision of a professional geologist or registered civil or petroleum engineer until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841 of the code.

(3) In no case will credit be given for professional geological work experience performed during the same time period when full-time graduate study or research is being done for which educational experience credit is being allowed. Part-time graduate study or research and part-time professional geological work experience will be prorated and combined on a 12 calendar month basis.

(c) To be eligible for the geophysical examination, an applicant shall have completed at least seven years of educational and work experience in professional geophysical work, as set forth in subdivisions (b) and (c) of Section 7841.1 of the code.

(1) Graduate study or research in geophysical related sciences at a school or university whose geophysical curricula meet criteria established by rules of the board, shall be counted on a year-for-year basis in computing the experience requirements specified in Section 7841.1 of the code. A year of graduate study or research is defined as being a 12 calendar month period during which the candidate is enrolled in a full-time program of graduate study or research. Shorter periods will be prorated.

(2) An applicant shall not be eligible to earn credit for professional geophysical work performed under the supervision of a professional geophysicist until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841.1 of the code.

(3) In no case will credit be given for professional geophysical work experience performed during the same time period when full-time graduate study or research is being done for which educational experience credit is being allowed. Part-time graduate study or research and part-time professional geophysical work experience will be prorated and combined on a 12 calendar month basis.

(d) Every applicant for registration as a geologist who obtains a passing score determined by a recognized criterion-referenced method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may vary moderately with changes in test composition. This subsection shall become effective on December 1, 1998, and shall be repealed on December 31, 1999.

(e) Each applicant for registration as a geologist who obtains a passing score on the Fundamentals of Geology and Practice of Geology examinations created by the National Association of State Boards of Geology on or after November 1, 1996 and obtains a passing score as determined by a recognized criterion-referenced method of establishing the pass point in the California specific examination pursuant to Section 7841(d) shall be deemed to have passed the required examinations for licensure as a professional geologist in California. This subsection shall become effective on January 1, 2000.

(1) Candidates shall receive credit for obtaining a passing score on the Fundamentals of Geology examination, the Practice of Geology examination and the California specific examination and shall be required to submit an application to retake and pass only those examinations previously failed.

(f) Every applicant for registration as a geophysicist or for certification in any specialty, who obtains a passing score determined by a recognized criterion-reference method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may vary moderately with changes in test composition.

Authority: Section 7818, Business and Professions Code. Reference: Sections 7841 and 7841.1, Business and Professions Code.

§ 3032. Regular Written Examination

(a) The regular written examination for registration as a geologist, geophysicists, or for certification in a specialty shall be held not less than once nor more than twice each calendar year.

(b) The executive officer shall publish annually, not later than October 1st of each calendar year, a schedule of examinations for the following year.

(c) Whenever circumstances warrant, the board may postpone, advance, or otherwise change the examination schedule previously published.

Authority: Section 7818, Business and Professions Code. Reference: Section 7844, Business and Professions Code.

§ 3035. Examination Subversion

(a) Examination subversion is the use of any means to alter the results of an examination to cause the results to inaccurately represent the competency of an examinee. Examination subversion includes, but is not limited to:

(1) Communication between examinees inside of the examination room.

(2) Giving or receiving any unauthorized assistance on the examination while an examination is in progress.

(3) Having any unauthorized printed or written matter or other devices in his or her possession which might serve to aid the examinee on the examination.

(4) Obtaining, using, buying, selling, distributing, having possession of, or having unauthorized access to secured examination questions or other secured examination material prior to, during, or after the administration of the examination.

(5) Copying another examinee's answers or looking at another examinee's materials while an examination is in progress.

(6) Permitting anyone to copy answers to the examination.

(7) Removing any secured examination materials from the examination facility.

(8) Allowing another person to take the examination in the examinee's place.

(9) Placing any identifying mark upon his or her examination papers other than his or her identification number or other identifiers as directed by the examination administrator.

(10) Use by an examinee of any written material, audio material, video material, digital material, or any other mechanism not specifically authorized during the examination for the purpose of assisting an examinee in the examination.

(11) Writing on anything other than designated examination material.

(12) Writing or erasing anything after time is called.

(b) At the discretion of the Executive Officer, if there is evidence of examination subversion by an examinee prior to, during, or after the administration of the examination, one or more of the following may occur:

(1) The examinee may be denied the privilege of taking the examination if examination subversion is detected before the administration of the examination.

(2) If the examination subversion detected has not yet compromised the integrity of the examination, such steps as are necessary to prevent further examination subversion shall be taken, and the examinee may be permitted to continue with the examination.

(3) The examinee may be requested to leave the examination facility if examination subversion is detected during the examination.

(4) The examinee may be requested to submit written advisement of his or her understanding of and intent to comply with the law.

(5) The examination results may be voided and the application and examination fee forfeited.

(6) The examinee may not be allowed to sit for an examination for up to three (3) years.

(c) If examination subversion is detected after the administration of the examination, the Executive Officer shall make appropriate inquiry to determine the facts concerning the examination subversion and may take any of the actions as described in subdivision (b) of this section.

(d) The Executive Officer reserves the right not to release the examination results to the examinee pending the outcome of any investigation of examination subversion.

(e) Removal from or voidance of one part of a multiple-part examination taken during a single examination administration may be cause for removal from or voidance of all other parts of the multiple-part examination.

Authority: Section 7818, Business and Professions Code. Reference: Section 123, 496 and 7844, Business and Professions Code.

§ 3036.1. Inspection of Geophysicist or Specialty Geologist or Specialty Geophysicist Examination

(a) An applicant for registration as a geophysicist or certification as a specialty geologist or specialty geophysicist who obtains a failing score of 10 percentage points or less below the passing score established by the criterion-referenced pass point method on the written examination may inspect the applicant's examination papers at such times and locations as may be designated by the executive officer. Inspection of such examination papers shall be permitted within 60 days after receipt of notice by the applicant of the applicant's failure to pass the examination. Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be allowed to inspect their examinations.

(b) At the time of inspection, no one other than the examinee or the applicant's attorney and a representative of the board shall have access to such examination papers.

Authority: Section 7818, Business and Professions Code. Reference: Sections 7818 and 7844, Business and Professions Code.

§ 3036.2. Inspection of Geologist Examination

(a) An applicant for registration as a geologist who obtains a failing score of 10 percentage points or less below the passing score established by the criterion-referenced pass point method on the written examination may inspect the applicant's examination papers at such times and locations as may be designated by the executive officer. Inspection of such examination papers shall be permitted within 60 days after receipt of notice by the applicant of the applicant's failure to pass the examination. Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be allowed to inspect their examinations.

(b) At the time of inspection, no one other than the examinee or the applicant's attorney and a representative of the board shall have access to such examination papers.

This section shall be repealed on December 31, 1999.

Authority: Section 7818, Business and Professions Code. Reference: Sections 7818 and 7844, Business and Professions Code.

§ 3037.1. Geophysicist or Specialty Geologist or Specialty Geophysicist Examination Appeal

(a) At the time of inspection of an applicant's examination papers as provided in section 3036.1, an applicant for registration as a geophysicist or certification as a specialty geologist or specialty geophysicist who obtained a failing score of 10 percentage points or less below the passing score established by

the criterion-referenced pass point method on the examination may appeal to the board for a review of the applicant's examination papers. Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be eligible to appeal their examination results.

(b) The appeal for a review shall be made in writing stating the reason for such appeal and citing the item or items against which the request is directed.

Authority: Section 7818, Business and Professions Code. Reference: Section 7844, Business and Professions Code.

§ 3037.2. Geologist Examination Appeal Until January 1, 2000

(a) At the time of inspection of an applicant's examination papers as provided in section 3036.1, an applicant for registration as a geologist who obtained a failing score of 10 percentage points or less below the passing score established by the criterion-referenced pass point method on the examination may appeal to the board for a review of the applicant's examination papers. Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be eligible to appeal their examination results.

(b) The appeal for a review shall be made in writing stating the reason for such appeal and citing the item or items against which the request is directed.

This section shall be repealed on December 31, 1999.

Authority: Section 7818, Business and Professions Code. Reference: Section 7844, Business and Professions Code.

Article 4. Specialties

§ 3041. Specialty in Engineering Geology

Only a professional geologist is eligible for certification in a specialty. Application may be submitted for both registration as a geologist and for certification in a specialty at the same time, but the applicant must be approved for registration as a geologist before being considered for certification in a specialty. The certification in a specialty is, in every case, dependent upon the approval of registration as a geologist.

(a) The specialty of "Engineering Geology" is hereby created as a division of the certification of registration as a geologist.

In addition to the provisions of Section 7842 of the Code, an applicant for certification in the specialty of "Engineering Geology" shall:

(1) Be registered as a geologist in the State of California.

(2) Have a knowledge of:

(A) Geology of the State of California.

(B) Geologic factors relating to Civil Engineering problems typically encountered

in the State.

(C) Elementary soil and rock mechanics.

(D) Principles of grading codes and other pertinent regulations. (Appendix Chapter 33, 1997 Uniform Building Code).

Experience in engineering geology used to qualify for registration as a geologist may also be used to qualify for certification as an engineering geologist.

In addition to the above, an applicant shall submit three references from qualified engineering geologists, and may be required, in the board's discretion, to submit one or more engineering geology reports prepared mainly or wholly by the applicant.

Authority: Section 7818, Business and Professions Code. Reference: Sections 7804, 7822, 7841 and 7842, Business and Professions Code.

§ 3042. Specialty in Hydrogeology

(a) A specialty in "Hydrogeology" is hereby created as a division of the certification of registration as a geologist. The creation of the certification in hydrogeology is established to protect the health, safety and welfare of the people of the State of California.

(b) In addition to the provisions of section 7842 of the Code, an applicant for certification in the specialty of "hydrogeology" shall comply with the following:

(1) Be registered as a geologist in the State of California.

(2) Have a knowledge of and experience in:

(A) Geology of the State of California.

(B) Geologic factors relating to the water resources of this State.

(C) Principles of groundwater hydraulics/hydrology and groundwater quality including the vadose zone.

(D) Applicable federal, state and local rules and regulations.

(E) Principles of water well, monitoring well, disposal well, and injection well construction.

(F) Elementary soil and rock mechanics in relation to groundwater, including the description of rock and soil samples from wells.

(G) Interpretation of borehole logs as they relate to porosity, hydraulic conductivity or fluid character.

(c) Experience in hydrogeology used to qualify for registration as a geologist may also be used to qualify for certification as a hydrogeologist.

(d) An applicant for certification as a hydrogeologist shall submit, with the applicant's application, three (3) references from either certified hydrogeologists or professional geologists who have a minimum of five years' experience in responsible charge of hydrogeological work. An applicant may also be required to submit one or more hydrogeology reports which were prepared by the applicant or the applicant was closely associated with during its preparation.

(e) A civil engineer registered to practice engineering in this state, under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, insofar as he or she practices civil engineering is exempt from the provisions for certification as a hydrogeologist.

Authority: Sections 7818 and 7822, Business and Professions Code. Reference: Sections 7804, 7822, 7841 and 7842, Business and Professions Code.

Article 5. Denial, Suspension and Revocation of Registration

§ 3060. Substantial Relationship Criteria

For the purpose of denial, suspension, or revocation of the registration of a geologist, specialty geologist, geophysicists or specialty geophysicists pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifica-

tions, functions, and duties of a geologist, specialty geologist, geophysicists or specialty geophysicists if to a substantial degree it evidences present or potential unfitness of such geologist or geophysicists to perform the functions authorized by his registration in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include, but not be limited to, the following:

(a) Any violation of the provisions of Chapter 12.5 of Division 3 of the Business and Professions Code.

Authority: Sections 481 and 7818, Business and Professions Code. Reference: Sections 481, 490, and 7860, Business and Professions Code.

§ 3061. Criteria for Rehabilitation

(a) When considering the denial of an application for licensure as a professional geologist or professional geophysicist, or certification as a specialty geologist, specialty geophysicist, or geologist-in-training under Section 480 of the Code, the Board, in evaluating the rehabilitation of the applicant and his or her present eligibility for such a license or certification, will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed prior to or subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.
- (6) Total criminal record.
- (7) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(b) When considering the suspension or revocation of the license of a professional geologist or professional geophysicist, or certification of a specialty geologist, specialty geophysicist, or geologist-in-training under Section 490 of the Code, the Board will consider the following criteria in evaluating the rehabilitation of such person and his or her present eligibility to retain his or her license:

- (1) Nature and severity of the act(s) or offense(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s) committed prior to or subsequent to the act(s) or offense(s) under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2).
- (4) The extent to which the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.
- (7) Total criminal record.

(c) When considering a petition of reinstatement of the certification as a geologist-in-training, specialty geologist, or specialty geophysicist, or the license of a professional geologist, or professional ge-

physicist, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, including but not limited to the following:

- (1) Educational courses, including college-level courses, seminars, and continuing professional development courses, completed after the effective date of the Board's decision ordering revocation.
- (2) Professional geological or geophysical work done under the responsible charge of a licensee in good standing or under the direction of a person legally authorized to practice.
- (3) Payment of restitution to the consumer(s) by the petitioner.
- (4) Actual or potential harm to the public, client(s), employer(s), and/or employee(s) caused by the action(s) that led to the revocation or that could be caused by the reinstatement of the certificate, license, or authority.
- (5) The criteria specified in subsection (b)(1) through (7), as applicable.
- (6) Disciplinary history, other than criminal actions, after the revocation.
- (7) Recognition by the petitioner of his or her own actions and/or behavior that led to the revocation.
- (8) Correction of the petitioner's actions and/or behavior that led to the revocation.

Authority: Section 7818, Business and Professions Code. Reference: Sections 475, 480, 482, 490 and 7862, Business and Professions Code.

§ 3062. Citations of Unregistered Persons

(a) The executive officer is authorized to issue citations containing orders of abatement or administrative fines pursuant to Business and Professions Code sections 148 and 149 against persons acting in the capacity of or engaging in the practice of a geologist, geophysicist, or certified specialist within this state without registration or certification in any discipline as a geologist, geophysicist, or certified specialist.

(b) If the executive officer has reasonable cause to believe that a person is acting in the capacity of, or engaging in the practice of, a geologist, geophysicist or certified specialist within this state without having a registration to so act or engage, the executive officer may issue a citation to that person.

(c) Each citation for violation shall be in writing and shall describe with particularity the basis of the citation including specific reference to the provision of law determined to have been violated.

(d) Each citation may contain an order of abatement or may contain an assessment of an administrative fine in an amount not more than two thousand five hundred dollars (\$2,500).

(e) Service of a citation issued under this section shall be made by certified mail at the last known business address or residence address of the person cited and shall include information regarding appeal rights and copies of the applicable code sections violated.

Authority: Sections 125.9, 148, 149 and 7818, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

§ 3062.1. Assessment of Administrative Fines

(a) Before assessing an administrative fine pursuant to Section 3062, the executive officer shall give due consideration to the gravity of the violation, the good faith of the person cited, and the history of previous violations.

(b) In no event shall the administrative fine be assessed in an amount greater than two thousand five hundred dollars (\$2,500) for each inspection or each investigation made with respect to any violation of the following provisions:

Business and Professions Code section and Description
7830 Title Professional Geologist, or Certified Engineering Geologist, or Hydrogeologist

7830.1 Title of Professional Geophysicist
7832 Offers to Practice or Practices Geology or Geophysics for Others
7834 Unregistered Practice by Partnership or Corporation
7835 Sign or Seal Reports (Geology)
7835.1 Sign or Seal Reports (Geophysics)
7872(a) Unregistered Practice
7872(b) Presents or Attempts to File as His/Her Own the Certificate of Another
7872(d) Impersonates or Uses the Seal of Any Other Practitioner
7872(e) Uses Expired or Revoked Certificate of Registration
7872(g) Unregistered Manager, Proprietor, or Agent of Business from Which Geological or Geophysical Work is Solicited, Performed, or Practiced for Others
7872(h) Violation of Any Provision of the Geologist and Geophysicist Act

(c) Notwithstanding the administrative fine amounts specified in this section, a citation may include a fine between \$2,501 and \$5,000 if one or more of the following circumstances apply:

1. The citation involves a violation that has an immediate relationship to the health and safety of another person;
2. The cited person has a history of two or more prior citations of the same or similar violations;
3. The citation involves multiple violations that demonstrate a willful disregard of the law;
4. The citation involves a violation or violations perpetrated against a child, elderly person or person with a disability.

Authority: Sections 125.9 and 7818, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

§ 3062.2. Appeal of Citations

(a) Any person served with a citation pursuant to Section 3062 may submit a written request for appeal to the executive officer within 30 days of the date of issuance of the citation. The person cited, also, may submit a written request within 30 days of the date of issuance of the citation for an informal conference with the executive officer with respect to violations alleged, scope of the order of abatement, or amount of administrative fine assessed.

(b) The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the person cited and/or his or her legal counsel or authorized representative. The 30 day period may be extended by the executive officer for good cause. At the conclusion of the informal conference, the executive officer shall either affirm, modify or dismiss the citation, including any administrative fine levied or order of abatement issued. The executive officer shall state in writing the reasons for his or her action and serve a copy of the findings and decision to the cited person within 30 days from the date of the informal conference. Service shall be made by certified mail at the last known business address or residence address of the person cited. The decision shall be deemed to be a final order of the executive officer.

(c) If the person cited submits a written request to appeal the citation within 30 days of the citation's issuance, the cited person shall be afforded an opportunity for a hearing, as provided for in subsection (b)(4) of section 125.9 of the Business and Professions Code.

(d) The cited person does not waive his or her right to request a hearing to appeal the citation by requesting an informal conference after which conference the citation is affirmed by the executive officer. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation is modified, the citation originally issued shall be consid-

ered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested in writing within 30 days of issuance of the subsequent citation in accordance with subsection (b) (4) of Section 125.9 of the Business and Professions Code.

(e) If, within 30 days of the date of issuance of the citation, the person cited has failed to file a written request to appeal the citation with the executive officer, the citation shall be deemed a final order.

Authority: Sections 125.9 and 7818, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

§ 3062.3. Failure to Comply with Order

(a) The failure of an unregistered person acting as a geologist, geophysicist or certified specialist to comply with a citation or pay a fine after it is final is a ground for denial of registration.

(b) Notwithstanding any other provisions of the law, the executive officer may waive all or part of the administrative fine if the cited person satisfactorily completes all the requirements for, and is issued, a registration. Any outstanding injury to the public shall be settled to the satisfaction of a majority of the Board members prior to issuance of the registration.

Authority: Sections 125.9 and 7818, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

§ 3062.4. Disconnection of Telephone Service

(a) If, upon investigation, the executive officer has probable cause to believe that an unregistered individual acting in the capacity of a geologist, geophysicist or certified specialist, who is not otherwise exempted from the provisions of the Geologist and Geophysicist Act and is advertising in a telephone directory, without being properly registered, or certified, the executive officer may issue a citation under Section 3062 containing an order of abatement which requires the cited person to both cease the unlawful advertising and notify the telephone company furnishing services to the cited person to disconnect the telephone services furnished to any telephone number contained in the unlawful advertising, and that subsequent calls to that number shall not be referred by the telephone company to any new telephone number obtained by that person. The cited person shall provide written evidence of compliance to the executive officer.

(b) The citation shall be stayed if the person to whom a citation is issued under subdivision (a) submits a written request to the executive officer for a hearing to appeal the citation. The executive officer shall afford an opportunity for a hearing, as specified in Section 3062.2.

(c) If the person to whom a citation and order of abatement is issued under subdivision (a) fails to comply with the order of abatement after the order is final as provided in Section 3062.2, the executive officer shall inform the Public Utilities Commission of the violation in accordance with Business and Professions Code section 149.

Authority: Sections 125.9, 148 and 7818, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

§ 3063. Citations of Registered Persons

(a) The executive officer is authorized to issue citations containing orders of abatement or administrative fines pursuant to Business and Professions Code section 125.9.

(b) If the executive officer has reasonable cause to believe that a geologist, geophysicist or certified specialist has committed any act or omission where the registrant is in violation of the Geologist and Geophysicist Act, the executive officer may, in lieu of filing an accusation, issue a citation to the registrant.

(c) Each citation for violation shall be in writing and shall describe with particularity the basis of the citation, including specific reference to the provision of law determined to have been violated.

(d) Each citation may contain: (1) an order of abatement, which may include the fixing of a reasonable time for abatement of the violation; or (2) an assessment of an administrative fine in an amount not more than two thousand five hundred dollars (\$2,500).

(e) Service of a citation issued under this section shall be made by certified mail to the registrant's address of record and shall include information regarding appeal rights and copies of the applicable code sections violated.

Authority: Sections 125.9 and 7818, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

§ 3063.1. Assessment of Administrative Fines

(a) Before assessing an administrative fine under section 3063, the executive officer shall give due consideration to the gravity of the violation, the good faith of the cited person, and the history of previous violations.

(b) In no event shall the administrative fine be assessed in an amount greater than two thousand five hundred dollars (\$2,500) for each inspection or each investigation made with respect to any violation of the following provisions:

- Business and Professions Code section and Description
- 7831 Use of Expired, Suspended, or Revoked Registration
- 7839 Practice or Attempts to Practice Civil Engineering
- 7839.1 Geologist or Geophysicist Practicing Outside Area of Registered Practice
- 7860(b) Committed Deceit, Misrepresentation, Violation of Contract, Fraud, Negligence, Incompetence in Practice
- 7860(d) Aiding and Abetting in the Violation of Any Provision of the Geologist and Geophysicist Act
- 7872(b) Presents or Attempts to File as His/Her Own the Certificate of Another
- 7872(d) Impersonates or Uses the Seal of Any Other Practitioner
- 7872(e) Uses Expired or Revoked Certificate of Registration
- 7872(h) Violation of Any Provision of the Geologist and Geophysicist Act

(c) Notwithstanding the administrative fine amounts specified in this section, a citation may include a fine between \$2,501 and \$5,000 if one or more of the following circumstances apply:

1. The citation involves a violation that has an immediate relationship to the health and safety of another person;
2. The cited person has a history of two or more prior citations of the same or similar violations;
3. The citation involves multiple violations that demonstrate a willful disregard of the law;
4. The citation involves a violation or violations perpetrated against a child, elderly person or person with a disability.

Authority: Sections 125.9 and 7818, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

§ 3063.3. Appeal of Citations

(a) Any geologist, geophysicist or certified specialist served with a citation pursuant to Section 3063, may submit a written request for appeal to the executive officer within 30 days of the date of issuance of the citation. The cited person, also, may submit a written request within 30 days of the date of issuance of the citation for an informal conference with the executive officer with respect to violations alleged, abatement periods, amount of fines, and the reasonableness of the action required to abate the violation.

(b) The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the person cited and/or his or her legal counsel or authorized representative. The 30 day period may be extended by the executive officer for good cause. At the conclusion of the informal conference, the executive officer shall either affirm, modify or dismiss the citation, including any administrative fine levied or order of abatement issued. The executive officer shall state in writing the reasons for his or her action and serve a copy of the findings and decision to the cited person within 30 days from the date of the informal conference. Service shall be made by certified mail at the last known business address or residence address of the person cited. The decision shall be deemed to be a final order of the executive officer.

(c) If the geologist, geophysicist or certified specialist cited submits a written request for a hearing to appeal the citation within 30 days of the citation's issuance, the cited person shall be afforded an opportunity for a hearing, as provided for in subsection (b)(4) of section 125.9 of the Business and Professions Code.

(d) The cited person does not waive his or her right to request a hearing to appeal the citation by requesting an informal conference, after which conference the citation is affirmed by the executive officer. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested in writing within 30 days of issuance of the subsequent citation in accordance with subsection (b)(4) of Section 125.9 of the Business and Professions Code.

(e) If, within 30 days of the date of issuance of the citation, the geologist, geophysicist or certified specialist cited has failed to file a written request to appeal the citation with the executive officer, the citation shall be deemed a final order.

Authority: Sections 125.9 and 7818, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

§ 3063.4. Failure to Comply with Citations

(a) The failure of a geologist, geophysicist or certified specialist to comply with a citation or pay a fine after it is final is grounds for suspension or revocation of a registration.

(b) If a geologist, geophysicist or certified specialist does not appeal a citation and fails to pay all of the fine, the balance due for the fine shall be added to the renewal fee for the registration and the registration shall not be renewed until the fine is paid in full pursuant to subsection (b)(5) of Section 125.9 of the Business and Professions Code.

Authority: Sections 125.9 and 7818, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

§ 3064. Disciplinary Orders

For violations of Business and Professions Code section 7860 which result in an order issued in accordance with Chapters 4.5 and 5 of Part 1 of Division 3 of Title 2 of the Government Code against a professional geologist and/or a professional geophysicist license, the following provisions shall apply to disciplinary orders contained in decisions of the Board:

(a) The minimum disciplinary order shall be reproof. The maximum disciplinary order shall be revocation of the license.

(b) If warranted by extenuating and/or mitigating factors in the matter, the disciplinary order may be stayed by an express condition that the respondent comply with probationary conditions. The minimum time period in which the respondent shall have to comply with the conditions shall be two years. For purposes of this section, this time period shall be known as the "period of probation."

(c) All decisions containing stayed disciplinary orders as described in subdivision (b) shall include the following probationary conditions:

(1) The respondent shall obey all laws and regulations related to the practices of professional geology and geophysics.

(2) The respondent shall submit such special reports as the Board may require.

(3) The period of probation shall be tolled during the time the respondent is practicing exclusively outside the state of California. If, during the period of probation, the respondent practices exclusively outside the state of California, the respondent shall immediately notify the Board in writing.

(4) If the respondent violates the probationary conditions in any respect, the Board, after giving the respondent notice and the opportunity to be heard, may vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of probation, an accusation or petition to vacate stay is filed against the respondent, or if the matter has been submitted to the Office of the Attorney General for the filing of such, the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.

(5) Upon successful completion of all of the probationary conditions and the expiration of the period of probation, the respondent's license shall be unconditionally restored.

(d) All decisions containing stayed disciplinary orders as described in subdivision (b) may include one or more of the following probationary conditions:

(1) The respondent's license shall be suspended for a period not to exceed two years. If a suspension of the license is ordered, it shall begin on the effective date of the decision.

(2) The respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee. The probationary condition shall include a time period in which this course shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

(3) Within 30 days of the effective date of the decision, the respondent shall provide the Board with evidence that he or she has provided all persons or entities with whom he or she has a contractual or employment relationship such that the relationship is in the area of practice of professional geology and/or professional geophysics in which the violation occurred with a copy of the decision and order of the Board and shall provide the Board with the name and business address of each person or entity required to be so notified. During the period of probation, the respondent may be required to provide the same notification to each new person or entity with whom he or she has a contractual or employment relationship such that the relationship is in the area of practice of professional geology and/or professional geophysics in which the violation occurred and shall report to the Board the name and address of each person or entity so notified.

(4) The respondent shall provide verifiable proof to the Board that restitution has been paid as ordered. The probationary condition shall include a time period in which the verifiable proof shall be provided to the Board which time period shall be at least 60 days less than the time period ordered for the period of probation.

(e) In addition to the conditions as may be ordered pursuant to subdivisions (c) and/or (d), the following conditions shall be included for the following specific violations:

(1) Incompetency in the practice of professional geology and/or professional geophysics:

(A) The respondent shall successfully complete and pass, with a grade of "C" or better, a minimum of one and a maximum of three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of violation. For purposes of this subdivision, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars. The probation-

ary condition shall include a time period in which the course(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

(B) The respondent shall take and achieve the passing score for the Professional Geologist or Professional Geophysicist examination, provided that in the event the respondent holds multiple licenses, the Board shall select the examination in the area of practice of professional geology and/or professional geophysics in which the violation occurred and in the area of professional geology and/or professional geophysics in which the respondent is licensed. The Board or its designee may select the specific examination questions such that the questions relate to the specific area of violation and comprise an examination of the same duration as that required of an applicant for licensure. The respondent shall be required to pay the application and examination fees as described in Section 3005. The probationary condition shall include a time period in which the examination(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

(C) During the period of probation, the respondent may practice professional geology and/or professional geophysics only under the review of a professional geologist and/or professional geophysicist licensed in the same branch as the respondent. This person or persons shall be approved in advance by the Board or its designee. Such reviewing professional geologist and/or professional geophysicist shall initial every stamped or sealed document in close proximity to the respondent's stamp or seal.

(2) Negligence in the practice of professional geology and/or professional geophysics:

(A) The respondent shall successfully complete and pass, with a grade of "C" or better, a minimum of one and a maximum of three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of violation. For purposes of this subdivision, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars. The probationary condition shall include a time period in which the course(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

(3) Violation and/or breach of contract in the practice of professional geology and/or professional geophysics:

(A) The respondent shall successfully complete and pass, with a grade of "C" or better, a minimum of one and a maximum of three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of violation. For purposes of this subdivision, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars. The probationary condition shall include a time period in which the course(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

In addition to the disciplinary orders described in this section, all decisions shall address recovery of the Board's investigation and enforcement costs, as described in and authorized by Business and Professions Code section 125.3.

Notwithstanding this section, non-conforming terms and conditions may be included as part of the disciplinary order, including such other further or lesser action as the Board deems appropriate, in the interest of protecting the public health, safety, and welfare.

Authority: Section 7818, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 125.3, 494, 7860, 7861, 7863 and 7872, Business and Professions Code; and Sections 11400.20, 11415.60, 11425.50 and 11519, Government Code.

§ 3065. Professional Standards and Code of Professional Conduct – Professional Geology and Professional Geophysics

To protect and safeguard the health, safety, welfare, property of the public, and California's environmental quality, every person who is licensed by the Board as a professional geologist or professional geophysicist, including licensees employed in any manner by a governmental entity or in private practice, shall comply with the professional standards in this section. A violation of any of the following professional standards shall constitute unprofessional conduct and shall be sufficient grounds for disciplinary action.

(a) Compliance with Applicable Law:

A licensee shall provide all geological and geophysical services in a manner consistent with applicable laws, codes, ordinances, rules, and regulations. A licensee may obtain and rely upon the knowledge and advice of other professionals (e.g., architects, attorneys, professional engineers, other professional geologists and geophysicists, land surveyors, and other qualified persons) concerning the intent and meaning of such laws, codes, and regulations.

(b) Competence:

(1) Licensed geologists or licensed geophysicists (together with those whom the licensee may engage as consultants) shall perform, or offer to perform, only those professional services for which they are qualified by education, training, experience, and licensure as required by law, in the specific technical and scientific areas involved.

(2) When practicing geology or geophysics, a licensee shall act with competence and reasonable care, and shall apply the technical knowledge and skill which is ordinarily practiced by licensees in good standing, practicing in this state under similar circumstances and conditions.

(c) Representations:

(1) A licensee shall not misrepresent, or permit the misrepresentation, of his or her professional qualifications, affiliations, or purposes, or those of the institutions, organizations, or other businesses with which they are associated.

(2) A licensee may advertise or solicit those professional services for which he or she is authorized by licensure, provided such services are within his or her field of competence.

(3) A licensee shall not misrepresent his or her qualifications to a prospective or existing client or employer.

(4) A licensee shall not misrepresent to a prospective or existing client the licensee's scope of responsibility in connection with those professional services for which the licensee is receiving or will receive compensation, whether directly or indirectly. Specifically, a licensee who represents that a project was completed under his or her responsible charge (i.e., stamped and/or signed) must also have maintained responsible charge of the work.

(5) A licensee shall only express professional opinions which have a basis in fact, are within the scope of the licensee's own experience or knowledge, and are generally accepted geologic or geophysical principles.

(6) A licensee shall attribute proper credit to others for their professional work or professional contribution.

(7) A licensee shall not knowingly permit the publication or use of his or her data, reports, maps, plans, or other professional documents for any unlawful purpose.

(8) A licensee shall not falsely or maliciously attempt to injure, impugn, or injure the professional reputation or business of others.

(9) A licensee shall not misrepresent data or its relative significance in any geologic or geophysical work product or oral conveyance of his or her professional opinion.

(10) A licensee shall not misrepresent or conceal the scope of his or her professional responsibility in connection with those professional services for which the licensee is claiming any responsibility or credit, or for which the licensee is receiving any compensation.

(11) When providing information to the Board pursuant to another's application for licensure to practice professional geology or geophysics, a licensee shall accurately represent his or her knowledge of the applicant's qualifications and qualifying experience.

(d) Conflict of Interest:

(1) A licensee shall not concurrently engage in any other business, occupation, or have a financial interest in any entity that may impair his or her independent judgment and/or objectivity, or which may create a conflict of interest in rendering his or her professional services.

(2) A licensee shall not accept compensation for his or her professional services from more than one party on any project, endeavor, or proceeding unless the circumstances are fully disclosed and agreed to in writing by all concerned parties.

(3) If a licensee has any business association or financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the licensee shall fully disclose in writing to his or her client(s) or employer(s) the nature of the business association or financial interest. If the client(s) or employer(s) object(s) to such association or financial interest, the licensee shall either terminate such association or interest or offer to give up the project or employment.

(4) A licensee shall not solicit or accept payments, rebates, refunds, commissions, or compensation, whether in the form of money or otherwise from other professionals, contractors, suppliers of materials, systems, or equipment in return for specifying their products or professional services to a client or employer of the licensee.

(5) A licensee, while engaged by a governmental agency as an officer, employee, appointee, agent, or consultant of that agency shall not engage in a professional geological or geophysical business or activity that may be subject to that licensee's direct or indirect control, inspection, review, audit, or enforcement on behalf of that agency, unless the circumstances are disclosed to and approved by that agency in writing prior to such engagement.

(e) Confidential Information:

As used in this section, "confidential information" includes all information specifically identified as confidential by the licensee's client, employer, representative, or other related entity. Confidential information obtained by a licensee in his or her professional capacity shall not be disclosed by the licensee without prior permission, except under the following specific conditions:

(1) Disclosures made in response to a subpoena or summons enforceable by an order of a court;

(2) Disclosures made in response to an official inquiry from a governmental regulatory agency;

(3) Disclosures made by a licensee to another licensee to the extent necessary for purposes of professional consultation;

(4) Disclosures made when required by law, code, or regulation;

(5) Disclosures made upon discovery of a hazard within the licensee's field of professional expertise, which, in the licensee's professional opinion, is a threat to the health, safety, and welfare of the public;

(6) Disclosures made when providing evidence to the Board concerning another licensee or unlicensed individual, who may have violated any part of the Geologist and Geophysicist Act or this Section;

- (7) Disclosures made regarding alleged illegal conduct; or
- (8) Disclosures made in an adjudicatory proceeding or pursuant to an order of the court.

(f) Document Submittal:

(1) A licensee shall not misrepresent the completeness of any professional geologic or geophysical document submitted to any governmental or regulatory agency.

(2) A licensee shall not misrepresent the completeness of any professional geologic or geophysical document prepared for his or her client, employer, or other involved party.

Authority: Sections 7818 and 7860(c)(3), Business and Professions Code. Reference: Section 7860(c)(3), Business and Professions Code.

§ 3066. License Notification

(a) Every licensee shall provide notice to his or her clients that he or she is licensed by the Board. Notice shall be provided by any of the following methods:

(1) Displaying his or her license certificate in a public area of the premises where the licensee provides the licensed service.

(2) Posting a notice in a public area of the premises where the licensee provides the licensed services, in at least 48-point type, that states that the named licensee is licensed by the Board.

(3) Providing a statement to each client, to be signed and dated by the client and retained in the licensee's records, that states that the client understands that the licensee is licensed by the Board.

(b) The party or parties in responsible charge of geologic and/or geophysical projects shall:

(1) Include a statement that he or she is licensed by the Board on contracts for service, bid documents, and/or responses to requests for proposals or qualifications, where the notice is placed immediately above the signature line for the client in at least 12-point type.

(2) Print his or her license number on the firm's correspondence.

(3) Print his or her license number on the firm's business cards bearing his or her name.

(c) A licensed principal or partner in a geologic or geophysical firm shall:

(1) Print his or her license number on all advertising including telephone directory and website.

Authority: Section 7818, Business and Professions Code. Reference: Section 138, Business and Professions Code.

§ 3067. Public Information System – Disclosure

(a) The Board has established and maintains a public information system to provide members of the public with information regarding complaints and disciplinary or enforcement actions against professional geologists, geophysicists and unlicensed persons subject to the Board's jurisdiction. Such a system also provides the public with information regarding the license status of the Board's licensees and registrants. Information subject to the public information system shall be disclosed to members of the public, upon request, by telephone, in person, or in writing (including fax or e-mail). Such information, when feasible and to the extent required or permitted by law, shall be made available by the Board in writing or by telephone. Requests for information shall be responded to within 10 days.

(b) The Board shall disclose the following information regarding past and current licensees:

(1) The name of the licensee, as it appears in the Board's records;

(2) The license number;

(3) The address of record;

- (4) The license issue date;
- (5) The license expiration date; and
- (6) The license status and history.

(c) Unless otherwise required by law, the Board shall disclose the following information regarding disciplinary or enforcement action taken against licensees and unlicensed persons, if applicable:

- (1) Total number of disciplinary and enforcement actions taken by the Board;
- (2) Brief summary of disciplinary and enforcement actions taken by the Board; citations that have been satisfactorily resolved shall be disclosed as such;
- (3) Current status of pending Accusations, Statements of Issues, and Citations filed by the Board. Disclosure of pending actions shall contain a disclaimer stating that any pending administrative action against the person is alleged and no final legal determination has yet been made. Further disclaimers or cautionary statements regarding such pending actions may also be made; and
- (4) Information which is statutorily mandated to be disclosed.

(d) The Board shall disclose complaint information when the Executive Officer has determined that:

- (1) The complaint information has a direct and immediate relationship to the health and safety of another person; and
- (2) One or more of the following have occurred:
 - (A) A complaint involves a dangerous act or condition caused by the subject of the complaint that has or could result in a death, bodily injury, or severe consequences, and disclosure may protect the consumer or prevent additional harm to the public;
 - (B) A series of complaints against a party alleging a pattern of unlawful activity have been received by the Board and it has been determined that disclosure may protect the consumer or prevent additional harm to the public;
 - (C) A complaint has been referred to the Attorney General for filing of an Accusation or Statement of Issues; or
 - (D) A complaint has been referred to other law enforcement entity for prosecution.

(e) Complaint information that is determined to meet the conditions for disclosure listed in subsection (d) shall be incorporated into the public information system no later than 10 days after the conditions for disclosure have been met.

(f) Information about a complaint shall not be disclosed if it is determined by the Executive Officer that any of the following apply:

- (1) Disclosure is prohibited by statute or regulation;
- (2) Disclosure might compromise an investigation or prosecution; or
- (3) Disclosure might endanger or injure the complainant or third party.

(g) When conditions for disclosure have been met, the Board shall disclose the following information regarding complaints received against licensees and unlicensed persons, if applicable:

- (1) Total number of complaints meeting conditions of disclosure;
- (2) Date of receipt and nature of any complaint;
- (3) Disposition of each complaint by indicating whether the matter has been:
 - (A) Referred to formal disciplinary action;
 - (B) Disposed of through any other action, formal or informal; or
 - (C) Other disposition.
- (4) Information which is statutorily mandated to be disclosed;
- (5) Current status of criminal prosecution resulting from a complaint received by the Board;

(6) A description of the type of public information not included in the system (i.e., civil judgments, criminal convictions, unsubstantiated complaints); and

(7) Disclaimers indicating that the system does not constitute endorsement or non-endorsement of a person, and that the system may not contain all available information.

Authority: Section 7818, Business and Professions Code. Reference: Sections 129 and 7819, Business and Professions Code; and Section 6253, Government Code.

