

§ 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~~ no sites are reporting fee assessments set forth in Section 3698, subsections (b), (d), or (e);

(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.

Note: Authority cited: 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:

$$[((AT_{RY}) - (AT_{PY})) / (AT_{PY})] = \text{Factor}$$

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 in Public Resources Code Section 2207 ~~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 ~~formula~~formula (calculated amounts cannot be less than \$100 or more than the maximum fee in Public Resources Code Section 2207 ~~\$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-4: 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) ~~Mining Operations~~ operations where the primary mineral commodity produced is either aggregate products or industrial minerals shall be assessed an annual reporting 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 <u>Maximum fee per Public Resources Code Section 2207</u> |

(2) ~~Mining Operations~~ operations where the primary mineral commodity produced is gold, silver, or precious metals shall be assessed an annual reporting 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 <u>Maximum fee per Public Resources Code Section 2207</u> |

(3) ~~Mining Operations~~ operations where the primary mineral commodity produced is base metals or other metals shall be assessed an annual reporting 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 <u>Maximum fee per Public Resources Code Section 2207</u> |

(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 and disturbed the land 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.

Note: Authority cited: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

§ 3699. Low Gross Exemptions.

(a) For the ~~calendar~~-reporting calendar year, a single operator or mining company may file with the ~~Office-Division~~ 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 postmarked or received by the Department of Conservation by on or before July 1 following the calendar reporting calendar year in order to be considered. 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 mining 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 single operator or mining company's~~ gross income from the ~~surface~~-mining operation for the reporting calendar year was less than ~~\$100,000~~128,900, 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 and annually thereafter, 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 or an enrolled agent listed on the active roster maintained by the Federal Internal Revenue Service; and
- (4) the ~~owner single operator or operator mining company~~ has submitted an annual reporting fee of ~~four hundred dollars (\$400)~~five hundred fifteen dollars (\$515) 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 postmarked or received on or before July 1 following the reporting calendar year the Department of Conservation 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 single operator or mining company may appeal that determination to the Board for any request postmarked or received by the Department of Conservation on or before July 1 following the reporting calendar year. The appeal must be submitted in writing within fifteen (15) days of the denial of exemption notification by the Department of Conservation. The ~~Chairman~~Chairperson of the Board or ~~his~~their 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 and~~ postmarked or received by the Department of Conservation on or before July 1 following the reporting calendar year;
- (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~~ Department of Conservation's decision or grant the exemption. If the single operator or mining company does not appeal, the appeal is not within the Board's jurisdiction, or the Board affirms the ~~Department's~~ Department of Conservation's decision, the single operator or owner-mining company 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~~ A single operator or owner-mining company submitting an ~~who fails to submit the full~~ annual reporting fee ~~later than~~ within thirty (30) days after notification shall be assessed a penalty and interest as provided in Public Resources Code Section 2207(d)(5).

Note: Authority cited: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.