



STATE MINING AND GEOLOGY BOARD
DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

PHONE: 916 / 322-1082 • FAX: 916 / 445-0738 • TDD: 916 / 324-2555 • INTERNET: conservation.ca.gov/smgb

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UPDATED INFORMATIVE DIGEST STATEMENT

The Surface Mining and Reclamation Act of 1975 (“SMARA,” Public Resources Code (PRC), section 2710 et seq.) was enacted to ensure that any significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Local governments, acting as lead agencies, have the primary responsibility to administer and enforce the provisions of SMARA. Under SMARA, surface mining operators are required to submit to their respective lead agencies for approval a permit to engage in mining. PRC section 2776 provides that mining operators that were mining at the time SMARA was enacted, may continue to operate pursuant to a vested right, avoiding the need to submit and obtain an approved permit.

The Department of Conservation (Department) and the SMGB provide lead agency assistance and oversight. The SMGB can exercise or assume some or all of a lead agency’s powers to administer and enforce the provisions of SMARA in two situations pursuant to PRC sections 2774.4 and 2774.5. Under PRC section 2774.4 the SMGB may assume some or all of a lead agency’s powers, except for permitting authority and vested rights determinations. PRC section 2774.5 provides that the SMGB can assume full authority for reviewing and approving reclamation plans, except for permitting, if a local lead agency either does not have a certified mining ordinance or the SMGB finds that the certified mining ordinance is not in accordance with state policy.

Regulations for any person claiming a vested right to conduct surface mining operations in a jurisdiction where the SMGB assumed lead agency status pursuant to PRC section 2774.4 are currently found in Article 15 of the CCR, Title 14, Division 2, Chapter 8, Subchapter 1. The proposed amended regulations would implement the Legislature’s intent of AB 1142 (Gray) by removing the authority of the SMGB to make vested rights determinations. The proposed amended regulations clarify, interpret, and make specific that the SMGB will not make Vested Rights Determinations under any circumstances when acting as the lead agency pursuant to PRC section 2774.4 or PRC section 2774.5.

Anticipated Benefits of the Proposed Regulation

The broad objective of the proposed amended regulatory language is to meet the statutory goals of AB 1142 (Gray) to improve how the SMGB, the Department, and local lead agencies oversee

The Mission of the State Mining and Geology Board is to Provide Professional Expertise and Guidance, and to Represent the State’s Interest in the Development, Utilization and Conservation of Mineral Resources, the Reclamation of Mined Lands, and the Development and Dissemination of Geologic and Seismic Hazard Information to Protect the Health and Welfare of the People of California.

and implement SMARA, specifically in regards to vested rights determinations. The proposed amended regulations are intended to provide non-monetary benefits such as such as the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government by shifting the hearing forum to the local government when the SMGB is acting as the SMARA lead agency pursuant to PRC section 2774.5. This would allow the determination to take place where the petitioner resides and has been conducting the activity for which the vested right is claimed