

**STATE MINING AND GEOLOGY BOARD****DEPARTMENT OF CONSERVATION**

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November 14, 2017

NOTICE OF ADOPTION PUBLIC HEARING**DEPARTMENT OF CONSERVATION
STATE MINING AND GEOLOGY BOARD****TITLE 14. NATURAL RESOURCES****Division 2. Department of Conservation****Chapter 8. Mining and Geology****Subchapter 1. State Mining and Geology Board****Article 1. Surface Mining and Reclamation Practice****Section 3504.5. Conduct of Mine Inspections****and****Article 8. Fee Schedule****Sections 3697, 3698, & 3699. Fees Due and Delinquent, Fees Calculation,
& Low Gross Exemptions**

Pursuant to Public Resources Code (PRC), section 2760, **NOTICE IS HEREBY GIVEN** that the State Mining and Geology Board (SMGB) will consider adoption and approval of the final draft of proposed amended regulatory language in the California Code of Regulations (CCR), Title 14, Sections:

3504.5, pertaining to Conduct of Mine Inspections,

3697, pertaining to Fees Due and Delinquent,

3698, pertaining to Fees Calculation, and

3699, pertaining to Low Gross Exemptions.

The date, time, and location of the public hearing are:

Thursday, December 14, 2017 – 10:00 a.m.

Granite Construction Supply

38000 Monroe Street

Indio, California 92203

BACKGROUND

Inspections

Since 1991, surface mine inspections have been statutorily required to ensure mine operators are complying with their permits, conditions of approval that relate to reclamation plans, and the Surface Mining and Reclamation Act ("SMARA," PRC section 2710 et seq.). On April 18, 2016, Governor Brown signed AB 1142 (Gray) into law and thereby enacted significant reform to SMARA.

Effective as of January 1, 2017, PRC section 2774 requires inspections for surface mine operations to occur in intervals of no more than 12 months. It requires inspections to be conducted by a state-licensed geologist, state-licensed civil engineer, state-licensed landscape architect, state-licensed forester, or a qualified lead agency employee. A qualified lead agency employee may only conduct the inspection if he/she has not been employed by the surface mining operation in any capacity during the previous 12 months, except that a qualified lead agency employee may inspect surface mining operations conducted by the local agency. The lead agency shall provide a notice of completion to the director within 90 days of conducting the inspection.

The proposed amended regulation makes procedural improvements and updates to the conduct of mine inspections as needed, based on the statutory changes to PRC section 2774.

Fees Due and Delinquent, Fees Calculation, & Low Gross Exemptions

As required by PRC section 2207(d)(1), the SMGB promulgates Article 8 in Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR pertaining to mining operations fee schedule. On April 18, 2016, Governor Brown signed Senate Bill 209 (Pavley) into law and thereby enacted significant reform to PRC section 2207.

Effective as of January 1, 2017, PRC section 2207 (d)(1) states the following:

*"The board shall impose, by regulation... 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 **ten thousand dollars (\$10,000)** 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, **except that the maximum fee for any single mining operation shall not exceed six thousand dollars (\$6,000) in the 2017-18 fiscal year and eight thousand dollars (\$8,000) in the 2018-19 fiscal year.**"*

In anticipation of the effect SB 209 (Pavley) would have on the mining operation annual report fee schedules and due to issues identified in calculating projected fees for the coming years, the Department of Conservation (Department) and SMGB staff determined the established fee calculation formulas needed to be changed. Calculating the reporting fees by means of existing formulas currently required under CCR section 3698 results in a continued increasing fee trend

for mining operators, without accounting for a decrease in the reporting fees where appropriate to help maintain a more equitable fee schedule for relatively smaller operations.

The proposed amended regulations are intended to enact the revisions to PRC section 2207, to address the fees calculation formula, to help maintain a more equitable fee schedule for relatively smaller operations, and to clarify regulation language for consistency.

All comments pertaining to the proposed amended regulatory language for CCR, Title 14, sections 3504.5, 3697, 3698, and 3699 received during formal comment periods will be properly addressed in the Final Statement of Reasons (FSOR).

CONTACT PERSONS

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AVAILABILITY OF DOCUMENTS

Please direct requests for components of the entire rulemaking file, including the FSOR, to Nick Lash at the above address. Final versions of all the proposed amended regulatory language up for adoption and associated rulemaking documents, including the FSOR, will be available for review and download approximately one week before the public hearing. For more information on the proposed amended regulations associated with Conduct of Mine Inspections, Fees Due and Delinquent, Fees Calculation, & Low Gross Exemptions please visit the SMGB website at:

<http://www.conservation.ca.gov/smgb/Pages/SMARAReform/index.aspx>