

**STATE MINING AND GEOLOGY BOARD**

D E P A R T M E N T O F C O N S E R V A T I O N

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July 11, 2017

**NOTICE OF AVAILABILITY OF MODIFICATIONS TO THE  
TEXT OF PROPOSED REGULATIONS AND  
NOTICE OF ADOPTION MEETING****Surface Mining Operation Inspections****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**

Pursuant to the requirements of Government Code Section 11346.8 (c) and section 44 of Title 1 of the California Code of Regulations (CCR), **NOTICE IS HEREBY GIVEN** that the State Mining and Geology Board (SMGB) will receive comments on modifications to the proposed amended text of the regulation for CCR, Title 14, section 3504.5 in response to comments received during the formal comment period.

**NOTICE IS ADDITIONALLY HEREBY GIVEN** that the State Mining and Geology Board (SMGB) will consider adoption and approval of the final draft of proposed amended regulatory language for CCR, Title 14, section 3504.5 pertaining to Surface Mining Operation Inspections. The date, time, and location of the meeting are:

**Thursday, August 10, 2017 – 9:30 a.m.  
California State Capitol  
Assembly Hearing Room #444  
Sacramento, California 95814**

## **BACKGROUND**

Since 1991, surface mines inspections have been statutorily required to ensure mine operators are complying with their permits, conditions of approval that relate to reclamation plans, and SMARA. On April 18, 2016, Governor Brown signed AB 1142 (Gray) into law and thereby enacted significant reform to SMARA. The proposed amended regulatory language makes procedural improvements and updates to the conduct of mine inspections based on statutory changes to Public Resources Code (PRC) section 2774.

Currently, 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 would ensure inspections are conducted by California state-licensed persons or qualified lead agency employees, would clarify the term “qualified lead agency employee,” and would make specific that those conducting inspections seek input from a California state-licensed person or specialist when an aspect or condition requires such. Additionally, it would include contract employees and those hired pursuant to third-party contracts to adhere to the ethical responsibilities of mine inspectors, and expand the timeframe of when the completed inspection notice is provided to the Department of Conservation and mine operator.

The modified proposed amended regulatory text takes into consideration comments received during the required formal comment period which ran from April 28 – June 12, 2017. The SMGB will analyze all comments received pertaining to the modified proposed amended regulatory text during the comment period mentioned below, prior to consideration of adoption at its August 10, 2017 regular business meeting. All comments pertaining to the proposed amended regulatory language for CCR, Title 14, section 3504.5 received during formal comment periods will be properly addressed in the Final Statement of Reasons (FSOR). Upon its completion, copies of the FSOR may be obtained by contacting Nick Lash at the address below.

### **WRITTEN COMMENT PERIOD FOR MODIFICATIONS TO PROPOSED REGULATORY TEXT**

Any person, or his or her authorized representative, may submit written statements, arguments, or comments related to the modified proposed amended regulatory text to the SMGB. Comments may be submitted by email to [smgb@conservation.ca.gov](mailto:smgb@conservation.ca.gov), fax to 916-445-0738, or by mail to:

State Mining and Geology Board  
801 K Street, MS 20-15  
Sacramento, CA 95814  
ATTN: Inspections

**The written comment period begins on July 11, 2017 and closes at 5:00 p.m. on July 26, 2017.** The SMGB will only consider comments received at the SMGB office by that time.

### **CONTACT PERSONS**

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### **AVAILABILITY OF DOCUMENTS**

The modified proposed amended regulatory text of this regulation is enclosed and can be viewed and downloaded from the SMGB website at:

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

Please direct requests for copies of the modified proposed amended regulatory text of this regulation or components of the entire rulemaking file to Nick Lash at the above address.