

Pre-Rulemaking Discussion
Surface Mine Reclamation Plan and
Financial Assurance Cost Estimate (FACE) Appeals

On April 18, 2016, Governor Brown signed into law Assembly Bill 1142 (AB 1142) and Senate Bill 209 (SB 209), reforming the Surface Mining and Reclamation Act (SMARA). The SMARA reforms became effective on January 1, 2017 and requires development of corresponding regulations through the rulemaking process.

Public Resources Code (PRC) §2770(e)-(g), as amended, requires the State Mining and Geology Board (SMGB) to revise the California Code of Regulations (CCR), including sections 3650 – 3659 and 3680 - 3690, regarding Reclamation Plan and FACE Appeals. The purpose of the pre-rulemaking discussion is to solicit input for developing associated revisions to the CCR. To assist in this effort, please provide comments on the discussion questions listed below. In order for your comments to best help the SMGB develop their respective regulations, you are encouraged to provide specific suggestions and/or language. The SMGB will be accepting comments until March 20, 2017 at 5:00 pm. Information about submitting comments can be found at the bottom of this document.

Provide your responses to the discussion questions associated with the amended language in PRC §2770:

- 1) Are there parts of the existing Reclamation Plan and FACE appeals process that are challenging for Operators and/or Lead Agencies? Do you have any recommendations for the existing process?
- 2) Pursuant to PRC 2770 (e)(2), the Division of Mine Reclamation now has a right to appeal a Lead Agency's approval of a FACE to the SMGB.

As an operator, are there recommendations you would like considered for this process?

As a Lead Agency, are there recommendations you would like considered for this process?

- 3) To what extent, if any, should the "consultation process," of the FACE, be a part of the appeals process?
- 4) What should the role of professional individuals, such as licensed grading contractors, licensed civil engineers, licensed surveyors, licensed geologists, licensed landscape architects, and licensed foresters be in the appeals process? Are there specific issues, such as cut/fill volumetric analysis or revegetation, which might require analysis by a licensed professional?

Written submissions may be provided to the SMGB by regular mail or email at:

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Reclamation Plan and FACE Appeals

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