

SMARA LEAD AGENCY RESPONSIBILITIES
under the Surface Mining and Reclamation Act (SMARA)
and State Mining and Geology Board's (SMGB) Regulations
(Revised August 11, 2015)

SMARA STATUTORY AND REGULATORY REQUIREMENTS

Item	Element	Public Resources Code or Code of Regulations Section	Remarks
RECLAMATION			
Administration			
1	Has principal responsibility for approving a reclamation plan per PRC Division 2, Chapter 9.	PRC Section 2728	Principal responsibility for reclamation plan approval.
2	State Policy for the Reclamation of Mined Lands shall be used as standards by lead agencies in preparing specific and general plans, including the conservation and land use elements of the general plan and zoning ordinances.	PRC Section 2757	State policy standards.
3	Issue permit, approve reclamation plan and financial assurance before surface mining operations may be conducted.	PRC 2770(a)	Issues permit, approve reclamation plans and financial assurances prior to mining.
4	Whenever surface mining operations are proposed in the 100-year flood plain for any stream, as shown in Zone A of Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the lead agency receiving the application for the issuance or renewal of a permit to conduct the surface mining operations shall notify the Department of Transportation that the application has been received. The Department of Transportation shall have a period of not more than 45 days to review and comment on the proposed surface mining operations with respect to any potential damage to the state highway bridge from the proposed surface mining operations. The lead agency shall not issue or renew the permit until the Department of Transportation has submitted its comments or until 45 days from the date the application for the permit was submitted, whichever occurs first.	PRC 2770.5	Caltrans notification when mining proposed in 100-yr flood plain.

5	Whenever surface mining operations are proposed within the boundaries of the San Gabriel Basin Water Quality Authority that may penetrate the groundwater, and whenever proposed reclamation activities may impact groundwater quality, the lead agency reviewing an application to conduct surface mining operations, or reviewing an application for the approval of a reclamation plan, shall notify and provide copies of the subject application to the appropriate California regional water quality control board, and any watermaster for the groundwater recharge basin. Notwithstanding any other provision of law, the appropriate California regional water quality control board may impose an administrative fee on the applicant to cover its costs associated with the review of, and preparation of, comments on the subject application, as required pursuant to this section.	PRC 2770.6(a)	Notification to RWQCB and watermaster for proposed mining in San Gabriel Basin.
6	Each agency shall have 60 days to review and comment on the proposed surface mining operation described in subdivision (a) and the adoption of any reclamation plan therefore. Each agency shall comment on the existing groundwater quality and the potential impacts to water quality that may result from the mining operations and the proposed reclamation plan, and shall recommend methods and procedures to protect groundwater quality and prevent groundwater degradation. Each agency shall also comment on the proposed mining activities, including the conduct of excavation and backfilling operations in contact with groundwater, and the impact of any proposed alternative land uses on groundwater quality. When the proposed surface mining operations or reclamation plan will impact the groundwater, the lead agency shall not approve the reclamation plan without requiring actions to ensure the reasonable protection of the beneficial uses of groundwater and the prevention of nuisance. Each agency shall have 60 days to review and comment or until 60 days from the date of application, whichever occurs first.	PRC 2770.6(b)	Shall not approve a reclamation plan in San Gabriel Basin without requiring actions to ensure reasonable protection.
7	The lead agency, or the board when acting as the lead agency, may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).	PRC 2207(e)	May impose administrative fee.
Compliance/Enforcement			
8	Except as provided in subdivision (i) of Section 2770, if the lead agency or the director determines, based upon an annual inspection pursuant to Section 2774, or otherwise confirmed by an inspection of the mining operation, that a surface mining operation	PRC 2774.1(a)	May notify operator of violation.

	is not in compliance with this chapter, the lead agency or the director may notify the operator of that violation by personal service or certified mail.		
9	If the violation extends beyond 30 days after the date of the lead agency's or the director's notification, the lead agency or the director may issue an order by personal service or certified mail requiring the operator to comply with this chapter or, if the operator does not have an approved reclamation plan or financial assurances, cease all further mining activities.	PRC 2774.1(a)	May issue operator order to comply.
10	An order issued under subdivision (a) shall not take effect until the operator has been provided a hearing before the lead agency for orders issued by the lead agency, or board for orders issued by the director, concerning the alleged violation. Any order issued under subdivision (a) shall specify which aspects of the surface mine's activities or operations are inconsistent with this chapter, shall specify a time for compliance which the lead agency or director determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements, and shall set a date for the hearing, which shall not be sooner than 30 days after the date of the order.	PRC 2774.1(b)	Provide operator hearing before order takes effect.
11	Any operator who violates or fails to comply with an order issued under subdivision (a) after the order's effective date, as provided in subdivision (b), or who fails to submit a report to the director or lead agency as required by Section 2207, shall be subject to an order by the lead agency or the director imposing an administrative penalty of not more than five thousand dollars (\$5,000) per day, assessed from the original date of noncompliance with this chapter or Section 2207. The penalty may be imposed administratively by the lead agency or the director. In determining the amount of the administrative penalty, the lead agency or the director shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and any other matters justice may require. Orders setting administrative penalties shall become effective upon issuance thereof and payment shall be made to the lead agency or the director within 30 days, unless the operator petitions the legislative body of the lead agency, the board, or the superior court for review as provided in Section 2774.2. Any order shall be served by personal service or by certified mail upon the operator. Penalties collected by the director	PRC 2774.1(c)	May issue order imposing administrative penalty.

	shall be used for no purpose other than to cover the reasonable costs incurred by the director in implementing this chapter or Section 2207.		
12	If the lead agency or the director determines that the surface mine is not in compliance with this chapter, so that the surface mine presents an imminent and substantial endangerment to the public health or the environment, the lead agency or the Attorney General, on behalf of the director, may seek an order from a court of competent jurisdiction enjoining that operation.	PRC 2774.1(d)	May seek court order enjoining operation.
13	The lead agency has primary responsibility for enforcing this chapter and Section 2207.	PRC 2774.1(f)	Has primary responsibility for enforcing Chapter 9 and Section 2207.
14	Appeals that the board does not decline to hear shall be scheduled and heard at a public hearing held within the jurisdiction of the lead agency which processed the original application within 30 days of the filing of the appeal, or such longer period as may be mutually agreed upon by the board and the person filing the appeal. In any such action, the board shall not exercise its independent judgment on the evidence but shall only determine whether the decision of the lead agency is supported by substantial evidence in the light of the whole record. If the board determines the decision of the lead agency is not supported by substantial evidence in the light of the whole record it shall remand the appeal to the lead agency and the lead agency shall schedule a public hearing to reconsider its action.	PRC 2775(c)	Schedule public hearing to reconsider its action if appeal of permitting decision remanded by SMGB – only applies in areas of statewide or regional significance.
Financial Assurances			
15	Lead agencies shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan.	PRC 2773.1(a)	Require financial assurances.
16	Financial assurances may take the form of surety bonds executed by an admitted surety insurer, as defined in subdivision (a) of Section 995.120 of the Code of Civil Procedure, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the board pursuant to subdivision (e), which the lead agency reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.	PRC 2773.1(a)(1)	Determine adequacy of financial assurance.

17	The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.	PRC 2773.1(a)(3)	Adjust financial assurance amount annually. ¹
18	If the lead agency or the board, following a public hearing, determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation, either the lead agency or the director shall do all of the following:	PRC 2773.1(b)	Conduct public hearing to determine financial incapability or site abandonment.
19	Notify the operator by personal service or certified mail that the lead agency or the director intends to take appropriate action to forfeit the financial assurances and specify the reasons for so doing.	PRC 2773.1(b)(1)	Notify operator of intent to forfeit FA.
20	Allow the operator 60 days to commence or cause the commencement of reclamation in accordance with its approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed upon by the lead agency or the director and the operator.	PRC 2773.1(b)(2)	Allow operator 60 days to commence reclamation.
21	Proceed to take appropriate action to require forfeiture of the financial assurances if the operator does not substantially comply with paragraph (2).	PRC 2773.1(b)(3)	Take action to require forfeiture of FA.
22	Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurances be used for any other purpose. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances.	PRC 2773.1(b)(4)	Conduct and complete reclamation.
23	Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the lead agency, which shall be forwarded to the operator and the director, that reclamation has been completed in accordance with the approved reclamation plan. If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the	PRC 2773.1(c)	Release financial assurances upon reclamation.

¹ FA adjustment should follow SMGB's Financial Assurance Guidelines (<http://www.conservation.ca.gov/smgb/Guidelines/Pages/guidelines.aspx>)

	lead agency until new financial assurances are secured from the new owner and have been approved by the lead agency in accordance with Section 2770.		
24	The lead agency shall have primary responsibility to seek forfeiture of financial assurances and to reclaim mine sites under subdivision (b).	PRC 2773.1(d)	Primary responsibility to seek forfeiture of FA and reclaim mine sites.
25	As outlined by this article, financial assurances may take the form of any one or a combination of the following, which the lead agency, upon review by the Department of Conservation, reasonably determines are adequate to perform reclamation in accordance with the approved reclamation plan. (a) For non-governmental entity operators: (1) Surety bonds; (2) Irrevocable letters of credit; and (3) Trust funds; (b) For governmental entity operators: (1) Surety bonds; (2) Irrevocable letters of credit; (3) Trust funds; (4) Pledges of Revenue; or (5) Budget Set Aside.	CCR 3803	Determine financial assurance mechanism(s) are adequate.
26	Pursuant to Section 2774(c), Public Resources Code, the lead agency shall submit a copy of the proposed Financial Assurance and the Calculation of Financial Assurance Amount submitted by the operator pursuant to Section 3804 to the Director of the Department of Conservation for review. With this submittal the lead agency shall include the information and documentation relied upon in calculating the amount of the proposed Financial Assurance and indicate to the Director that the Financial Assurance Amount is adequate for the lead agency or the Department of Conservation to conduct and complete reclamation on the mined lands in accordance with the approved reclamation plan. The Director shall have 45 days, upon receipt, to prepare written comments regarding the proposed Financial Assurance, if he/she so chooses.	CCR 3805	Submit copy of proposed FA and FACE to indicate to the director that the FA amount is adequate to conduct and complete reclamation. Include backup information. (Proposed FAM is normally submitted after the FACE has been approved)
27	Prior to the modification of a financial assurance amount, or to the release of the financial assurance instrument to which both the lead agency and the Department of Conservation are co-beneficiaries under Public Resources Code section 2773.1, the lead agency shall provide to the director of the department the following documents at one time:	CCR 3805.5(a)(1)	Prior to modification or release of FA provide DOC inspection report.

	(1) An inspection report, prepared by a qualified person as provided for in Public Resources Code section 2774, indicating that there are aspects of the surface mining operation that require modification of the existing financial assurance amount, or stating that the mined land has been reclaimed in accordance with the approved reclamation plan, and that there are no aspects of the reclaimed surface mining operation that are inconsistent with the meaning of reclamation as defined in Public Resources Code section 2733, and the Surface Mining and Reclamation Act of 1975, Chapter 9, commencing with section 2710.		
28	(2) A revised financial assurance cost estimate prepared by the operator and accepted by the lead agency, or prepared by the lead agency, in accordance with Public Resources Code section 2773.1, with supporting documentation, indicating the specific cost changes to the existing financial assurance amount, or indicating that there are no further outstanding reclamation liabilities to be included in the financial assurance.	CCR 3805.5(a)(2)	Prior to modification or release of FA provide DOC revised financial assurance cost estimate.
29	(3) A statement by the lead agency, with supporting documentation that may include the most recent inspection report and any geological and engineering reports prepared as part of the inspection report, that the mined land remains subject to a financial assurance as modified, or that the mined land has been reclaimed in accordance with the approved reclamation plan, that there are no outstanding reclamation liabilities, and recommending to the director that the financial assurance be released.	CCR 3805.5(a)(3)	Prior to modification or release of FA provide DOC statement that mined land remains subject to FA as modified, or that reclamation is complete and FA release is recommended.
30	The director shall have 45 days from the date of receipt of the documents to review and comment on them as provided for in Public Resources Code section 2774, and to conduct the director's own inspection of the surface mining operation if the director determines it necessary under Public Resources Code section 2774.1, and do one of the following: (1) Notify the lead agency of the director's concurrence that the modified financial assurance amount is adequate, or that there are no outstanding reclamation liabilities on the mined land and that the original financial assurance should be released pursuant to Public Resources Code section 2773.1, at which time the financial assurance shall be released; or,	CCR 3805.5(b)(1)	Release FA upon receipt of notification from DOC.
31	If a violation by the surface mining operation is confirmed by an inspection either by the lead agency or by the director, then the lead agency, or the director, may take actions under Public Resources Code section 2774.1 to ensure that the violation is	CCR 3805.5(c)	FA shall not be released until violation corrected.

	corrected. In any event, the financial assurance shall not be released until the violation is corrected.		
32	Prior to sending written notification and release of financial assurances as provided under Public Resources Code section 2773.1, the lead agency shall obtain written concurrence of the director that the completion of reclamation of the mined land disturbed by the surface mining operation is in accordance with the requirements of the lead agency-approved reclamation plan.	CCR 3805.5(d)	Obtain written concurrence from director that reclamation is complete prior to releasing FA.
33	<p>A lead agency or the board may conduct a hearing to determine the forfeiture of financial assurances when any of the following circumstances has occurred:</p> <p>(a) Unless an appeal of a financial assurance amount is pending before the board pursuant to Public Resources Code Section 2770, an operator has failed to provide an acceptable financial assurance mechanism within 30 days of notification by the lead agency of its approval of an adequate financial assurance amount. Acceptable financial assurance mechanisms are described in Title 14, California Code of Regulations Section 3803.</p> <p>(b) The operator has failed to provide the lead agency with a revised financial assurance cost estimate as required by Public Resources Code Section 2773.1 that adequately addresses the criteria contained in Title 14, California Code of Regulations Section 3804 within 30 days of receipt of notification to provide a revised cost estimate.</p> <p>(c) An acceptable financial assurance mechanism has lapsed and has not been renewed or replaced by another acceptable mechanism within 30 days and any remaining financial assurance coverage is not, according to the lead agency, adequate by itself to ensure the reclamation of the mine site according to the approved reclamation plan.</p> <p>(d) The lead agency is unable to contact the mine operator or the mine's agent of record after 90 days of the mine's becoming idle as defined in Public Resources Code Section 2721.1.</p> <p>(e) The surface mining operation meets the criteria stated under Public Resources Code Section 2770(h)(6). Submitting of an interim management plan after the operator has been notified that his or her mine meets the criteria in Section 2770(h)(6) shall not prevent the lead agency or the board from proceeding with its hearing.</p>	CCR 3811	May conduct a hearing to determine the forfeiture of financial assurances under several circumstances.
34	The determination by the lead agency or the board that a surface mine operator is financially incapable of reclaiming according to an	CCR 3812	Hold public hearing to determine that operator is financially incapable of reclaiming, or that

	approved reclamation plan, or that the operator has abandoned a mine site without commencing reclamation, shall be made during a public hearing. The hearing may be conducted as part of a regularly scheduled business meeting of the lead agency, or may be held during a special meeting. Where the board is the lead agency, the board may delegate the hearing to a committee composed of not less than two board members selected by the board Chairman or the Chairman's designee. The determination of the board committee shall be reported to the full board for its action at its next meeting.		operator has abandoned site without commencing reclamation.
35	The local lead agency shall give prior notice of the public hearing in accordance with the provisions of its local ordinances.	CCR 3813(a)	Shall give notice of public hearing to determine financial capability in accordance with ordinances.
36	Where the board is the lead agency, at least 10 days prior to the hearing date, public notice shall be given as follows: (1) Mailing the notice to the operator and to the director. (2) Mailing the notice to any person who requests notice of the hearing; (3) Mailing the notice to the board's regular mailing list; and, (4) Mailing the notice to the city or county jurisdiction within which the surface mining operation is located.	CCR 3813(b)	When SMGB is LA, at least 10 days notice shall be given according to specific procedure.
37	The notice of hearing shall include the following: (1) The name of the surface mine operator or agent of record; (2) Identification of the surface mining operation, and a brief description of the location of the operation by reference to any commonly known landmarks in the area; (3) A statement that the purpose of the hearing is to determine the financial capability of the operator to reclaim his or her mining operation in accordance with the approved reclamation plan; (4) A statement inviting the operator, public agencies, and other interested persons to make statements at the hearing regarding the decision of the lead agency; and, (5) The time, date, and location of the public hearing.	CCR 3813(c)	Notice of public hearing shall contain specific items.
38	The lead agency or the board shall use, but not be limited to, the following criteria when determining the financial capability of a mine operator to perform reclamation. It is the sole responsibility of the surface mine operator to provide the lead agency or the board with sufficient information to reasonably demonstrate his or her financial capability. An operator shall be found financially incapable if the lead agency or the board makes any of the following findings:	CCR 3815	Shall use specific criteria when determining financial capability of mine operator to reclaim, and shall find operator financially incapable if any one of four specific findings apply.

	<p>(a) The operator is incapable of providing, or refuses to provide, a financial assurance in an amount deemed adequate by the lead agency or the board; or,</p> <p>(b) The operator is incapable of providing, or refuses to provide, a financial assurance mechanism approved by the board in Section 3803 of this subchapter; or,</p> <p>(c) The lead agency, the board, or the director, is unable to contact the mine operator or the mine's agent of record after 90 days of the mine's becoming idle as define in Public Resources Code Section 2727.1; or,</p> <p>(d) The mine operation meets the criteria stated in Public Resources Code Section 2770(h)(6).</p>		
39	<p>Hearing Procedures – Sequence.</p> <p>(a) The public hearing conducted before the board shall normally proceed in the following manner; a local lead agency may conduct the hearing sequence according to its locally adopted procedures:</p> <ol style="list-style-type: none"> (1) Identification of the record; (2) Statements of behalf of the lead agency; (3) Statements on behalf of the operator (4) Statements on behalf of he public; (5) Rebuttal on behalf of the lead agency; (6) Rebuttal on behalf of the operator; and (7) Motion to close the public hearing. <p>(b) Notwithstanding the above, the Chairman of the board or the Chairman's designee for purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.</p> <p>(c) The Chairman or the Chairman's designee shall have the authority to impose time limits upon statements and presentations and accept written statements in lieu of oral statements. Written statements (12 copies) must be submitted to the board at least five days prior to the hearing.</p> <p>(d) The public hearing conducted before the board or a lead agency shall be recorded.</p>	CCR 3816	Public hearing shall follow specific sequence.
40	<p>Hearing Procedures – Determination</p> <p>Following the public hearing, the lead agency or the board shall determine whether, based on the record before it and the criteria described in Section 3815 of the Article, the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation.</p>	CCR 3817	Following hearing make determination based on record.

41	<p>If the operator is determined to be financially incapable of performing reclamation or to have abandoned the operation, then the following shall occur:</p> <p>(a) The lead agency, or the director in cases where the Board is the lead agency, shall notify the operator within 10 days of the date of determination of its intent to take appropriate actions to cause forfeiture of the operator's financial assurances. Notification shall be made by personal service or certified mail.</p> <p>(b) The lead agency, or the director, or the board in cases where the board is the lead agency, shall follow the procedures described in Public Resources Code Section 2773.1(b).</p>	CCR 3817	If operator determined to be financially incapable or to have abandoned operation, LA or director shall notify operator of intent to cause forfeiture of FA, and shall follow procedures in PRC 2773.1(b).
Inspections			
42	The lead agency shall conduct an inspection of a surface mining operation within six months of receipt by the lead agency of the surface mining operation's report submitted pursuant to Section 2207, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall a lead agency inspect a surface mining operation less than once in any calendar year.	PRC 2774(b)	Conduct inspection once per calendar year.
43	All inspections shall be conducted using a form developed by the department and approved by the board that shall include the professional licensing and disciplinary information of the person who conducted the inspection.	PRC 2774(b)	Conduct inspection using form developed by DOC and approved by SMGB.
44	The lead agency shall notify the director within 30 days of the date of completion of the inspection that the inspection has been conducted. The notice shall contain a statement regarding the surface mining operation's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations, if any, are inconsistent with this chapter. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending under subdivision (b), (c), (d), or (h) of Section 2770, or an appeal pending before the board or lead agency governing body under subdivision (e) or (h) of Section 2770, the notice shall so indicate.	PRC 2774(b)	Notify DOC that inspection has been conducted.
45	The lead agency shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, but not limited to, any inspection report	PRC 2774(b)	Forward copy of inspection notice and inspection report to operator.

	prepared by the geologist, civil engineer, landscape architect, or forester, who conducted the inspection.		
46	A person, who in the determination of the lead agency has demonstrated competence in performing inspections of surface mining operations, shall perform inspections. Evaluation of geological and engineering conditions, when required, shall be performed by or under the supervision of a Geologist Registered to practice in the state under the Geologists and Geophysicists Act or a Professional Engineer registered to practice in the state under the Professional Engineers Act.	3504.5(b)	Determine person conducting inspections has demonstrated competence and is properly licensed when required.
47	The lead agency shall provide a copy of the completed inspection report along with the lead agency's statement regarding the status of compliance of the operation to the director within 30 days of completion of the inspection.	3504.5(g)	Provide copy of completed inspection report and statement regarding compliance to director within 30 days of completion.
48	A copy of the completed inspection report and lead agency statement of compliance shall also be provided to the mine operator within 30 days of completion of the inspection.	3504.5(g)	Provide copy of completed inspection report and compliance statement to operator within 30 days of completion.
Interim Management Plans (IMP)			
49	Review and approved interim management plans when required.	PRC 2770(h)(1)	IMP review/approval.
50	After five years under IMP the LA may renew the IMP for an additional period not to exceed five years, which may be renewed for one additional five-year renewal period at the expiration of the first five-year renewal period, if the lead agency finds that the surface mining operator has complied fully with the interim management plan. (OR see below)	PRC 2770(h)(2)(A)	IMP renewal.
51	After five years under IMP the LA may require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.	PRC 2770(h)(2)(B)	Reclamation after IMP termination.
52	Within 60 days of the receipt of the interim management plan, or a longer period mutually agreed upon by the lead agency and the operator, the lead agency shall review and approve the plan in accordance with its ordinance adopted pursuant to subdivision (a) of Section 2774, so long as the plan satisfies the requirements of this subdivision, and so notify the operator in writing. Otherwise, the lead agency shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the lead agency, to submit a revised plan.	PRC 2770(h)(4)	IMP review/approval.

53	The lead agency shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the lead agency denies approval of the revised interim management plan, the operator may appeal that action to the lead agency's governing body, which shall schedule a public hearing within 45 days of the filing of the appeal, or a longer period mutually agreed upon by the operator and the governing body.	PRC 2770(h)(5)	Revised IMP review/approval/denial.
Performance Standards			
54	The designed steepness and proposed treatment of the mined lands' final slopes shall take into consideration the physical properties of the slope material, its probable maximum water content, landscaping requirements, and other factors. In all cases, reclamation plans shall specify slope angles flatter than the critical gradient for the type of material involved. Whenever final slopes approach the critical gradient for the type of material involved, regulatory agencies shall require an engineering analysis of the slope stability. Special emphasis on slope stability and design shall be necessary when public safety or adjacent property may be affected.	CCR 3502(b)(3)	Require slope stability analysis when final slopes approach critical gradient.
55	In judging the adequacy of a particular reclamation plan in meeting the requirements described herein and within the Act, the lead agency shall consider the physical and land-use characteristics of the mined lands and their surrounding area pursuant to Public Resources Code Section 2773.	CCR 3502(c)	Consider physical and land-use characteristics of mined lands and their surrounding area in judging adequacy of reclamation plan.
56	An amended reclamation plan shall be approved by the lead agency prior to the commencement of activities determined to be a substantial deviation from the approved plan.	CCR 3502(d)	Approve amendment prior to commencement of activities deemed to be substantial deviation.
57	In determining whether a change or expansion constitutes a substantial deviation, the lead agency shall take into consideration the following factors: (1) A substantial increase in the disturbance of a surface area or in the maximum depth of mining; (2) A substantial extension of the termination date of the mining operation as set out in the approved reclamation plan; (3) Changes that would substantially affect the approved end use of the site as established in the reclamation plan; (4) The consistency of any proposed change to the operation with the previously adopted environmental determinations. (5) Any other changes that the lead agency deems substantial deviations as defined in the subsection.	CCR 3502(d)(1) – (5)	Take several factors into consideration in determining whether a change constitutes a substantial deviation.

58	An amended reclamation plan shall be filed if the lead agency determines, after an inspection, that the surface mining operation can no longer be reclaimed in accordance with its approved reclamation plan. Such amended plan shall incorporate current reclamation standards as described in Chapter 9 (commencing with Section 2710) and Title 14 of the California code of Regulations commencing with Section 3700.	CCR 3502(e)	Require amended RP if, after inspection, LA determines operation can no longer be reclaimed in accordance with approved RP.
59	In the event that a proposed change is determined not to be a substantial deviation from an approved reclamation plan, then current reclamation standards need only apply to the amended portion of the plan. An amendment to the originally approved reclamation plan that includes an expanded operating area shall be approved by the lead agency prior to implementation of the activities in the expansion area.	CCR 3502(f)	Approve amendment for expanded mining prior to activities in expansion area.
60	Concurrently with the approval of the amended reclamation plan to encompass the new area operations, unless such a provision already is in the existing reclamation plan, the lead agency may require an amendment to the existing reclamation plan to provide for the immediate commencement of the reclamation of any mined lands which no longer are required for mining operations.	CCR 3502(h)(1)	May require amendment of existing RP to provide for immediate commencement of reclamation of mined lands no longer required for mining operations concurrently with approval of amended RP covering new area.
61	The lead agency shall establish and maintain in-house measures and procedures to ensure organized record-keeping and monitoring of surface mining reclamation under its jurisdiction.	3504(a)	Ensure organized record-keeping and monitoring of mining reclamation.
62	The lead agency shall forward a copy of each permit and approved reclamation plan and financial assurance instrument to the director of the Department of Conservation.	3504(a)	Forward copies of permits and approved RPs and FA instruments to DOC.
63	The lead agency shall ensure that the objectives of the reclamation plan will be attained. This may include provisions for surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances adopted by the board in accordance with PRC § 2773.1 (e), to guarantee the reclamation in accordance with the approved reclamation plan.	3504(b)	Ensure objective of RP will be attained through adequate FAs to guarantee reclamation.
64	Inspection of a surface mining operation shall be conducted not less than once each calendar year to determine if the operation is in compliance with the requirements of Public Resources Code Chapter 9, commencing with section 2710.	3504.5(a)	Conduct inspection not less than once per calendar year.
65	The lead agency, or the board if the board is the lead agency, shall send written notice to the operator at least ten days prior to any inspection.	3504.5(a)	Send written notice to operator at least 10 days prior to inspection.
66	Where an applicant demonstrates to the satisfaction of the lead agency that an exception to the standards specified in this article	CCR 3700(b)	May approve exception to reclamation standards in certain instances.

	is necessary based upon the approved end use, the lead agency may approve a different standard for inclusion in the approved reclamation plan. Where the lead agency allows such an exception, the approved reclamation plan shall specify verifiable, site-specific standards for reclamation. The lead agency may set standards which are more stringent than the standards set forth in this Article; however, in no case may the lead agency approve a reclamation plan which sets any standard which is less stringent than the comparable standard specified in this Article.		
67	When substantial amendments are proposed to reclamation plans which were approved prior to January 15, 1993, the standards set forth in this Article shall be applied by the lead agency in approving or denying approval of the amended reclamation plan.	CCR 3700(c)	Reclamation standards shall be applied in review of substantial amendments to RPs approved prior to 1/15/1993.
68	Financial Assurances. Lead agencies shall require financial assurances for reclamation in accordance with Public Resources Code section 2773.1 to ensure that reclamation is performed in accordance with the approved reclamation plan and with this article.	CCR 3702	Require financial assurances in accordance with PRC 2773.1.
69	Where backfilling is proposed for urban uses (e.g., roads, building sites, or other improvements sensitive to settlement), the fill material shall be compacted in accordance with the Uniform Building Code, published by the International Conference of Building Officials and as adopted by the lead agency, the local grading ordinance, or other methods approved by the lead agency as appropriate for the approved end use.	CCR 3704(a)	Approve alternative compaction methods for backfilling in certain instances appropriate for approved end use.
70	Permanent placement of piles or dumps of mining waste and overburden shall not occur within wetlands unless mitigation acceptable to the regulatory agencies with jurisdiction over wetlands, which may include the lead agency, has been proposed to offset wetland impacts and/or losses.	CCR 3704(g)	Accept mitigation for placement of materials in wetlands when necessary.
71	Notwithstanding the provisions of Section 3700(b) of the Article, no reclamation plan, including any reclamation plan in which the end use is for wildlife habitat, wildland conservation, or open space, or financial assurance for a surface mining operation subject to the provisions of this section, shall be approved by a lead agency unless the reclamation plan meets the provisions of this section. Financial assurances must be maintained in an amount sufficient to provide for the backfilling and contour grading of the mined lands as required in this section.	CCR 3704.1	May only approve reclamation plan for metallic minerals mine if backfilling provisions are met.

72	Test plots conducted simultaneously with mining shall be required to determine the most appropriate planting procedures to be followed to ensure successful implementation of the proposed revegetation plan. The lead agency may waive the requirement to conduct test plots when the success of the proposed revegetation plan can be documented from experience with similar species and conditions or by relying on competent professional advice based on experience with the species to be planted.	CCR 3705(b)	May waive test plot requirement when success of proposed revegetation can be documented/supported.
73	Prior to closure, all access roads, haul roads, and other traffic routes to be reclaimed shall be stripped of any remaining roadbase materials, prepared in accordance with subsection 3705(g), covered with suitable growth media or topsoil, and revegetated. When it is not necessary to remove roadbase materials for revegetative purposes, lead agencies may set a different standard as specified in section 3700(b) of this Article.	CCR 3705(d)	May set a different standard for revegetation when roadbase material removal is not necessary.
74	If irrigation is used, the operator must demonstrate that the vegetation has been self-sustaining without irrigation for a minimum of two years prior to release of the financial assurances by the lead agency, unless an artificially maintained landscape is consistent with the approved end use.	CCR 3705(j)	May not release FA unless vegetation has been demonstrated to be self-sustaining without irrigation for two years.
75	Protection measures, such as fencing of revegetated areas and/or the placement of cages over individual plants, shall be used in areas where grazing, trampling, herbivory, or other causes threaten the success of the proposed revegetation. Fencing shall be maintained until revegetation efforts are successfully completed and the lead agency authorizes removal.	CCR 3705(l)	Must authorize fencing removal.
76	All salvageable topsoil suitable for revegetation shall be removed as a separate layer from areas to be disturbed by mining operations. Topsoil and vegetation removal shall not precede surface mining activities by more than one year, unless a longer time period is approved by the lead agency.	CCR 3711(a)	May approve topsoil and vegetation removal preceding mining activities for period of more than one year.
77	Relocation of topsoil or suitable growth media stockpiles for purposes other than reclamation shall require prior written approval from the lead agency.	CCR 3711(d)	Provide written approval prior to relocation of topsoil or suitable growth media for purposes other than reclamation.
Reclamation Plans			
78	The reclamation plan shall be filed with the lead agency, on a form provided by the lead agency, by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands, and who plans to conduct surface mining operations on the lands.	PRC 2772(a)	Provide form for filing reclamation plan.

79	All documentation for the reclamation plan shall be submitted by the lead agency to the department at one time.	PRC 2772(b)	Submit all documentation to DOC at one time.
80	A lead agency, upon approval of a reclamation plan or an amendment to a reclamation plan, shall record a "Notice of Reclamation Plan Approval" with the county recorder. The notice shall read: "Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the _____ (lead agency), a copy of which is on file with the _____."	PRC 2772.7(a)	Record 'Notice of Reclamation Plan Approval'.
81	<p>In addition to other reclamation plan requirements of this chapter and regulations adopted by the board pursuant to this chapter, a lead agency may not approve a reclamation plan for a surface mining operation for gold, silver, copper, or other metallic minerals or financial assurances for the operation, if the operation is located on, or within one mile of, any Native American sacred site and is located in an area of special concern, unless both of the following criteria are met:</p> <p>(1) The reclamation plan requires that all excavations be backfilled and graded to do both of the following:</p> <p>(A) Achieve the approximate original contours of the mined lands prior to mining.</p> <p>(B) Grade all mined materials that are in excess of the materials that can be placed back into excavated areas, including, but not limited to, all overburden, spoil piles, and heap leach piles, over the project site to achieve the approximate original contours of the mined lands prior to mining.</p> <p>(2) The financial assurances are sufficient in amount to provide for the backfilling and grading required by paragraph (1).</p>	PRC 2773.3(a)	Require backfilling of metallic mines near certain Native American sites.
82	Prior to approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the lead agency pursuant to subdivision (c) of Section 2770, or any amendments, the lead agency shall submit the plan, assurances, or amendments to the director for review. All documentation for that submission shall be submitted to the director at one time. When the lead agency submits a reclamation plan or plan amendments to the director for review, the lead agency shall also submit to the director, for use in reviewing the reclamation plan or plan amendments, information from any related document prepared, adopted, or certified pursuant to Division 13 (commencing with Section 21000), and shall submit any other pertinent information. The lead agency shall certify to	PRC 2774(c)	Prior to approval of RP/amendment/FA, submit all documents at one time, and certification of compliance, to DOC for review.

	the director that the reclamation plan is in compliance with the applicable requirements of this chapter and Article 9 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations and the lead agency's mining ordinance in effect at the time that the reclamation plan is submitted to the director for review.		
83	The director shall have 30 days from the date of receipt of a reclamation plan or plan amendments submitted pursuant to subdivision (c), and 45 days from the date of receipt of financial assurances submitted pursuant to subdivision (c), to prepare written comments, if the director so chooses. The lead agency shall evaluate any written comments received from the director relating to the reclamation plan, plan amendments, or financial assurances within a reasonable amount of time	PRC 2774(d)(1)	Evaluate comments received from DOC within reasonable amount of time.
84	The lead agency shall prepare a written response to the director's comments describing the disposition of the major issues raised by the director's comments, and submit the lead agency's proposed response to the director at least 30 days prior to approval of the reclamation plan, plan amendment, or financial assurance. The lead agency's response to the director's comments shall describe whether the lead agency proposes to adopt the director's comments to the reclamation plan, plan amendment, or financial assurance. If the lead agency does not propose to adopt the director's comments, the lead agency shall specify, in detail, why the lead agency proposes not to adopt the comments. Copies of any written comments received and responses prepared by the lead agency shall be forwarded to the operator. The lead agency shall also give the director at least 30 days' notice of the time, place, and date of the hearing before the lead agency at which time the reclamation plan, plan amendment, or financial assurance is scheduled to be approved by the lead agency. If no hearing is required by this chapter, or by the local ordinance, or other state law, then the lead agency shall provide 30 days' notice to the director that it intends to approve the reclamation plan, plan amendment, or financial assurance.	PRC 2774(d)(2)	Prepare written response to DOC comments 30 days prior to approval, Provide 30-days notice of approval.
85	The lead agency shall send to the director its final response to the director's comments within 30 days following its approval of the reclamation plan, plan amendment, or financial assurance during which period the department retains all powers, duties, and authorities of this chapter.	PRC 2774(d)(2)	Send final response to DOC comments within 30 days following approval.

86	To the extent that there is a conflict between the comments of a trustee agency or a responsible agency that are based on the agency's statutory or regulatory authority and the comments of other commenting agencies which are received by the lead agency pursuant to Division 13 (commencing with Section 21000) regarding a reclamation plan or plan amendments, the lead agency shall consider only the comments of the trustee agency or responsible agency.	PRC 2774(d)(3)	Consider only comments of trustee agency or responsible agency if they conflict with other commenting agencies.
87	Lead agencies shall notify the director of the filing of an application for a permit to conduct surface mining operations within 30 days of an application being filed with the lead agency.	PRC 2774(e)	Notify DOC of filing of application for permit to mine within 30 days of filing.
88	By July 1 of each subsequent year, the lead agency shall submit to the director for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the director the information required under this section shall be cause for action under Section 2774.4.	PRC 2774(e)	By July 1 of each year, for each active or idle operation, submit to DOC copies of permit/RP amendments, or statement that there have been no changes during previous year.
89	Amendments to an approved reclamation plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the lead agency.	PRC 2777	Approve substantial deviations prior to undertaking.
90	Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records, unless it can be demonstrated to the satisfaction of the lead agency that the release of that information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The lead agency shall identify such proprietary information as a separate part of the application.	PRC 2778(a)	Identify proprietary information as separate part of RP application.
91	Proprietary information shall be made available only to the director and to persons authorized in writing by the operator and by the owner.	PRC 2778(a)	Proprietary information made available to director and those authorized by operator and owner.
92	A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the director by lead agencies on request.	PRC 2778(b)	Copies of all RPs and related documents furnished to director on request.

MINERAL CONSERVATION

Designation

93	<p>If an area is designated by the board as an area of regional significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of regional significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction.</p>	PRC 2763(a)	<p>Prepare a statement of reasons prior to permitting incompatible use in designated area of regional significance.</p>
94	<p>If an area is designated by the board as an area of statewide significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of statewide significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of the mineral resources to the state and nation as a whole.</p>	PRC 2763(b)	<p>Prepare a statement of reasons prior to permitting incompatible use in designated area of statewide significance.</p>
Mineral Resources Management Policies			
95	<p>Within 12 months of receiving mineral information described in PRC Section 2761, and also within 12 months of the designation of an area of statewide or regional significance within its jurisdiction, a lead agency shall, in accordance with state policy, establish MRMP to be incorporated in its general plan that will:</p>	PRC Section 2762	<p>Establish MRMP in accordance with state policy within 12 months of designation.</p>

96	Recognize mineral information classified by the State Geologist and transmitted by the SMGB.	PRC Section 2762(a)(1)	MRMP will recognize classification.
97	Assist in the management of land use that affects areas of statewide and regional significance.	PRC Section 2762(a)(2)	MRMP will assist in management of land use that affects areas of significance.
98	Emphasize the conservation and development of identified mineral deposits.	PRC Section 2762(a)(3)	MRMP emphasize mineral conservation and development.
99	If the proposed use is subject to the requirements of Division 13 (commencing with Section 21000), the lead agency shall comply with the public review requirements of that division. Otherwise, the lead agency shall provide public notice of the availability of its statement by all of the following:	PRC Section 2762(d)(2)	Public review requirements.
100	Publishing the notice at least one time in a newspaper of general circulation in the area affected by the proposed use.	PRC Section 2762(d)(2)(A)	Publishing of Notice requirement.
101	Directly mailing the notice to owners of property within one-half mile of the parcel or parcels on which the proposed use is located as those owners are shown on the latest equalized assessment role.	PRC Section 2762(d)(2)(B)	Direct mailing requirement.
102	The public review period shall not be less than 60 days from the date of the notice and shall include at least one public hearing. The lead agency shall evaluate comments received and shall prepare a written response. The written response shall describe the disposition of the major issues raised. In particular, if the lead agency's position on the proposed use is at variance with recommendations and objections raised in the comments, the written response shall address in detail why specific comments and suggestions were not accepted.	PRC Section 2762(d)(3)	Public review requirement.
103	Prior to permitting a use that would threaten the potential to extract minerals in an area classified by the State Geologist as an area described in paragraph (3) of subdivision (b) of Section 2761, the lead agency may cause to be prepared an evaluation of the area in order to ascertain the significance of the mineral deposit located in the area. The results of the evaluation shall be transmitted to the State Geologist and the board.	PRC Section 2762(e)	Prior to permitting requirement.
Lead agency mineral resource management policies adopted pursuant to the provisions of PRC Section 2762 shall include, but not be limited to, the following:		CCR Section 3676	
104	A summary of information provided by the classification and/or designation reports, or incorporation of PRC Section 2710 et seq., and state policy by reference, together with maps of the identified mineral deposits or incorporation by reference of the classification and/or designation maps provided by the SMGB.	CCR Section 3676(a)	MRMP requirements.

105	Statement of policy in accordance with the provisions of PRC Section 2762(a).	CCR Section 3676(b)	MRMP Statement of Policy requirement.
Implementation measures that shall include:		CCR Section 3676(c)	
106	Reference in the general plan of the location of identified mineral deposits, and a discussion of those areas targeted for conservation and possible future extraction by the lead agency.	CCR Section 3676(c)(1)	Reference in General Plan requirement.
107	Use of overlay maps or inclusion of information on any appropriate planning maps to clearly delineate identified mineral deposits and those areas targeted by the lead agency for conservation and possible future extraction.	CCR Section 3676(c)(2)	Use of overlay maps or inclusion of information requirements.
At least one of the following:		CCR Section 3676(c)(3)	
107a	Use of special purpose overlay zones, mineral resource/open space zoning, or any other appropriate zoning that identifies the presence of identified mineral deposits and restricts the encroachment of incompatible land uses in those areas that are to be conserved.	CCR Section 3676(c)(3)(A)	Use of special overlay maps, mineral resource/open space zoning, or any other appropriate zoning.
107b	Record, on property titles in the affected mineral resource areas, a notice identifying the presence of identified mineral deposits.	CCR Section 3676(c)(3)(B)	Notice identifying presence of identified minerals.
107c	Impose conditions upon incompatible land uses in and surrounding areas containing identified mineral deposits for the purpose of mitigating the significant land use conflicts prior to approving a use that would otherwise be incompatible with mineral extraction.	CCR Section 3676(c)(3)(C)	Imposed conditions upon incompatible land uses in and surrounding areas.