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STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME	CONTACT PERSON	EMAIL ADDRESS	TELEPHONE NUMBER
State Board of Mining and Geology	Jeffrey Schmidt	jeffrey.schmidt@conservation.c	(916) 322-1082

DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400	NOTICE FILE NUMBER
SMARA Exemption 2714(f) Regulations	Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- [X] a. Impacts business and/or employees
- [ ] b. Impacts small businesses
- [ ] c. Impacts jobs or occupations
- [ ] d. Impacts California competitiveness
- [ ] e. Imposes reporting requirements
- [ ] f. Imposes prescriptive instead of performance
- [ ] g. Impacts individuals
- [ ] h. None of the above (Explain below):

If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.

2. The Department of Conservation (Agency/Department) estimates that the economic impact of this regulation (which includes the fiscal impact) is:

- [X] Below $10 million
- [ ] Between $10 and $25 million
- [ ] Between $25 and $50 million
- [ ] Over $50 million *[If the economic impact is over $50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 2 (est. 1 per year)

Describe the types of businesses (Include nonprofits): Project proponents applying for exemptions from SMARA

Enter the number or percentage of total businesses impacted that are small businesses: 0

4. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: The Dept. determined that the proposed regulations will not affect the creation or elimination of businesses.

5. Indicate the geographic extent of impacts:
- [X] Statewide
- [ ] Local or regional (List areas):

6. Enter the number of jobs created: 0 and eliminated: 0

Describe the types of jobs or occupations impacted: Jobs or occupations are not anticipated to be impacted.

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? [ ] YES [X] NO

If YES, explain briefly:

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ECONOMIC IMPACT STATEMENT (CONTINUED)

B. ESTIMATED COSTS *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $ Y1, 2: 72K-173K

   a. Initial costs for a small business: $0 Annual ongoing costs: $ 0 Years: 2

   b. Initial costs for a typical business: $72-173 thousand Annual ongoing costs: $ 72-173 thousand Years: 2

   c. Initial costs for an individual: $0 Annual ongoing costs: $ 0 Years: 2

   d. Describe other economic costs that may occur: Fiscal costs of $19,443 in both Years 1 and 2.

2. If multiple industries are impacted, enter the share of total costs for each industry: The direct cost of compliance is anticipated to be borne almost entirely by project proponents applying for an exemption from SMARA.

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* $Y1,2: 0

4. Will this regulation directly impact housing costs? ☐ YES ☒ NO

   If YES, enter the annual dollar cost per housing unit: $0

   Number of units: 0

5. Are there comparable Federal regulations? ☐ YES ☒ NO

   Explain the need for State regulation given the existence or absence of Federal regulations: The standardization of the exemption process addresses issues of inconsistency which fosters a fair and impartial procedure for all future applicants.

   Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $ 0

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: Qualitative benefits include creating a more efficient exemption process which conserves resources for both project proponents and state government.

2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?

   Explain: The benefits are the result of agency goals based on the broad authority of PRC sec. 2710, 2770, 2774, and 2714

3. What are the total statewide benefits from this regulation over its lifetime? $ Unquantifiable

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: The Department has determined that the proposed regulations will not result in the expansion of businesses currently doing business in the State of California.

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: An alternative the Department considered was the Board taking no action to address the unprescribed nature of section 2714(f). This alternative would have left an ambiguous process that could be perceived as unequal.

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ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: $ Unquantified Cost: $ Unquantified

Alternative 1: Benefit: $ Unquantified Cost: $ Unquantified

Alternative 2: Benefit: $ Unquantified Cost: $ Unquantified

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: Such counterfactual analysis of quantifying alternatives was beyond the scope of this analysis.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☒ NO

Explain: The regulation does not require use of specific technologies or equipment for compliance.

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises **exceed $10 million**? ☐ YES ☒ NO

If YES, complete E2. and E3
If NO, skip to E4

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1:

Alternative 2:

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost $ Cost-effectiveness ratio: $

Alternative 1: Total Cost $ Cost-effectiveness ratio: $

Alternative 2: Total Cost $ Cost-effectiveness ratio: $

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding $50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO

If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: The analysis was unable to quantify how the regulations will affect investment.

The incentive for innovation in products, materials or processes: The analysis was unable to quantify the incentive for innovation.

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: Qualitative benefits include conserving resources for both project proponents and state government.

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FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

$ _____

☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____ , Statutes of _____

☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

☐ a. Implements the Federal mandate contained in _____

☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

_____

☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 3. Annual Savings. (approximate)

$ _____

☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

☐ 6. Other. Explain _____

_____

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FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

☒ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

$ 19,443

It is anticipated that State agencies will:

☒ a. Absorb these additional costs within their existing budgets and resources.

☐ b. Increase the currently authorized budget level for the _____ Fiscal Year

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.

☒ 4. Other. Explain It is assumed that additional fiscal costs will be absorbed by the existing budget as no additional positions within the Division will be needed.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE	DATE
DocuSigned by: Jeffrey Schmidt FDB286A57A76488...	11/8/2024

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY	DATE
Bryan Cash	12/16/2024

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER	DATE

Public Resources Code Section 2714(f) Exemption Regulations

Economic Impact Assessment

1. Summary of Economic Impact Assessment

The Public Resources Code 2714(f) Exemption draft regulations would have a negligible economic impact on California's mining industry and no noticeable consequences to the state economy. The economic impact is summarized as follows:

- Total direct costs to project proponents would be an estimated range of $71,600 to $172,800 in both the first year after the proposed regulations were effective ("Year 1") and in the second year ("Year 2"). This analysis is explained in Section 3.

- Total fiscal costs to California would be $19,443 in both Years 1 and 2. This analysis is explained in Section 4.

- Total costs aggregating both direct and fiscal costs would be an estimated range from $91,043 to $192,243 in both Years 1 and 2. Given California's Gross State Product (GSP) of over $3 trillion, this impact is negligible to California's economy.[1]

- There would be virtually no impact on the creation or elimination of jobs within California, no impact on the expansion of businesses within the state, no impact on the creation of new businesses or the elimination of existing businesses within the state, and no impact on the ability of businesses within the state to compete with businesses in other states.

- Although not quantified in this analysis, the proposed regulations could increase efficiency of the exemption process which would lead to reduced costs to project proponents, lead agencies, and the State Mining and Geology Board (Board).

- The proposed regulations would not have significant economic impacts on individuals, businesses, or the government.

[1] State of California Department of Finance, "Gross State Product," https://dof.ca.gov/gross-state-product/

2. 2714(f) Exemption in California

Established in 1885, the Board serves as a regulatory, policy, and hearing body representing the state's interests 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.

The Surface Mining and Reclamation Act of 1975 (Public Resources Code (PRC) section 2710 et seq., (SMARA)) was enacted into law to create and maintain an effective and comprehensive surface mining and reclamation policy in California. SMARA Lead Agencies, comprised of cities, counties, the San Francisco Bay Conservation and Development Commission, and the Board, have the principal responsibility to implement and administer SMARA within their respective jurisdictions.

SMARA provides that Surface Mining Operations shall not be conducted "unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency" (PRC section 2770(a)).

SMARA requires at least one public hearing for the approval of a mining permit, Reclamation Plan, and financial assurances pursuant to PRC section 2774(a). Prior to or at the time of approval, the lead agency must also comply with the California Environmental Quality Act (CEQA). Lead agencies often combine the approval of a mining permit and applicable CEQA documents with the approval of a Reclamation Plan and/or related approvals.

The subsections of PRC section 2714 list activities that are considered exempt from the requirements of SMARA. The majority of the listed exemptions under PRC section 2714 describe projects or activities that include mining as a component of the activity or project. For example, some exemptions identify certain excavations, grading, or other earthmoving activities that might appear to be mining, such as excavations or grading associated with farming (PRC § 2714(a)) or excavations or grading to obtain materials for roadbed construction and maintenance for timber operations (PRC § 2714(k)(1)). Others outright exempt traditional surface mining operations under a certain size (PRC §

2714(d)) or the mining of a particular mineral such as salt or other minerals from sea or bay water (PRC § 2714(g)).

As extensive as the list of exemptions under PRC section 2714 might be, generating a list of every situation involving surface mining operations that might best be exempt from SMARA is problematic. In those cases, including where surface mining operations are conducted as a component of an activity, like construction or restoration projects not covered by any exemption, the PRC 2714(f) exemption allows the Board to fill the gap and exempt "any other Surface Mining Operations that the Board determines to be of an infrequent nature and that involve only minor surface disturbances". A survey of every exemption request submitted to the Board since 2008 demonstrates the range of projects without an express exemption that included surface mining as a component of the activity. PRC section 2714(f) provides the Board the authority to exempt the mining component of the project or activity, especially in cases where the primary or underlying purpose of the project is not a traditional commercial surface mining operation.

Currently, no statutory or regulatory process for seeking an exemption from the Board under PRC section 2714(f) exists. This leaves an applicant with little choice but to contact Board staff to determine what the exemption process entails. Board staff must decide on a case-by-case basis, the content of the application including the amount and type of information required, the time it will take for Board staff to process the application, if and when a hearing is required and how the hearing will be conducted, and when the applicant can expect to receive a decision from the Board.

The lack of procedures and instructions describing the exemption request process results in, among other things; (1) a longer process, (2) increased costs to the applicant, (3) a lack of transparency for applicants and the public, (4) increased Board staff resources, (5) potentially disparate exemption outcomes or decisions, (6) potential reduced protections to the environment, (7) and an overall lack of fairness, perceived or otherwise.

The process for application for exemption from SMARA under PRC section 2714(f) is currently unstandardized, which can create confusion for operators and lead agencies about what is needed for the Board to make a

determination of exemption, thereby lengthening the process. The intent of this rulemaking is to standardize the exemption application process by clearly stating the criteria required for each request for exemption and ensuring that each request receives a diligent, objective, and comprehensive evaluation by the Board before the determination of exemption is made.

3. Direct Costs of Proposed Regulations for Project Proponents

The standardization of the exemption application process has various economic costs, both directly to the project proponents and fiscally. The analysis has segmented the total costs into two sections indicating how they will be distributed; Section 3 will cover costs pertaining to project proponents and Section 4 will cover fiscal costs to lead agencies and the state. The analysis calculated costs with the assumption that an exemption application will occur once a year. This assumption is conservative because since 2014, exemptions have occurred less than annually.[2] Since exemptions have been granted in the past, it is plausible that project proponents already abide by some of the requirements outlined in the regulations. However, the analysis has proceeded with the assumption that the standardization of exemptions has created a formal list of action steps that all project proponents must adhere to going forward. Therefore, the analysis acknowledges that estimates may be inflated depending upon the information previously prepared by project proponents.

The analysis has identified five regulation sections as being economically significant for project proponents and estimated the total direct costs for each section in Table 1. These sections detail the requirements that will be imposed by the regulations and the costs associated with each element. It is worth noting that costs in Years 1 and 2 are identical. Therefore, it is implied that any costs referenced in this document apply to both years. Lastly, the total direct costs are displayed in a range of a lower and upper bound format. The analysis proceeded with this methodology to mitigate the uncertainty of particular cost elements.

[2] Data about the frequency of exemptions were obtained from Board professional staff.

Table 1- Total Direct Costs by Proposed Regulation Section

Section		Year 1	Year 2
4051	Pre-submittal Consultation.	$1,000-$2,000	$1,000-$2,000
4053	Filing a Request for a Determination of Exemption.	$22,400-$66,000	$22,400-$66,000
4054	Response to Initial Review of a Request for a Determination of Exemption.	$2,000-$4,000	$2,000-$4,000
4056	Public Hearing.	$10,400-$14,400	$10,400-$14,400
4059	Future Modification to the Surface Mining Operation.	$35,800-$86,400	$35,800-$86,400
	Total	$71,600-172,800	$71,600-172,800

3.1. Pre-submittal Consultation, Proposed Section 4051.

Proposed section 4051 requires the project proponent to participate in a pre-submittal consultation prior to submitting the exemption application. The pre-submittal consultation consists of three components. The first would be the Board professional staff time needed to prepare for the consultation. The second component would be the staff time for the lead agency to coordinate with the Board. The first and second cost components are fiscal costs and will be discussed in Section 4. Lastly, the third component would be the submission of the request which would take approximately four to eight hours by the project manager. Direct costs to the project proponents for section 4051 therefore amount to $1,000 and $2,000 for lower and upper bound estimates.

3.2. Filing a Request for a Determination of Exemption, Proposed Section 4053.

Proposed section 4053 requires the project proponent to submit information to the Board in order to be considered for an exemption. The collection, aggregation, and verification of this information has various associated economic costs.

The analysis uses estimations from multiple consultants within the industry to calculate the direct costs for the project proponent. The consultants identified several professions within the organization that would be responsible for obtaining the necessary information; the hourly wage rate for each of these professions was estimated by the consultants and will be used throughout Section 3.

Administrative staff for the project proponent would spend six hours collecting the name, address, telephone number, and email address of the applicant, property owner, mineral rights owner, lessee, and SMARA lead agency with jurisdiction. Administrative staff would then spend two hours compiling legal descriptions of such property comprising the Surface Mining Operation-which would require a Title Report from a Title Company ranging from $500 to $2,500. Lastly, the administrative staff would spend two hours documenting the time frame planned for the proposed Surface Mining Operations and attesting to the true and accurate nature of the materials and information required by this proposed regulation section. Therefore, accounting for the title report and an estimated hourly wage for administrative staff of $125, the lower bound estimate is $1,750 and the upper bound estimate is $3,750.[3]

Proposed regulation section 4053 would also likely require services from a project manager. The project manager would spend an hour on a map indicating the location and boundary limits of the Surface Mining Operation. The project manager would also spend eight hours assisting with the engineered grading plans. With an hourly wage of $250, the direct costs for the project manager relating to proposed section 4053 would be $2,250 for both the lower and upper bound estimate.[4]

The graphics information system (GIS) department of the project proponent would be responsible for several tasks related to section 4053. For example, GIS staff would spend two to four hours on three separate items of information: collecting identification information for each mining operation within 60 miles of the proposed operation, collecting identification information of the owner of properties contiguous to the surface mining operation, and work on a map indicating the boundaries and limits of the operation. In addition to spending two to four hours on each of those tasks, GIS staff would spend 40 hours on the engineered grading plans. With an hourly wage of $150, the direct costs associated with GIS staff would be a lower bound estimate of $6,900 and upper bound estimate of $7,800.

[3] The number of hours worked by the administrative staff member is 10 for both the lower and upper bound estimates.
[4] The number of hours worked by the project manager is 9 for both the lower and upper bound estimates.

A planner would be required to work on three cost elements associated with proposed section 4053. Each of these cost elements would take the planner two to four hours to complete. The first would be to review the documentation prepared for the Surface Mining Operation. Secondly, the planner would prepare a statement regarding the current status of the permits associated with the Surface Mining Operations. Lastly, the planner would gather and provide the lead agency staff reports concerning the approval or impacts of the Surface Mining Operation. With an hourly wage of $200, the direct costs associated with a planner would be a lower bound estimate of $1,200 and upper bound estimate of $2,400.

Proposed regulation section 4053 would require work from engineers. Grading plans showing the current topography and proposed final elevations of mined lands would require 24 hours of a Mine Engineer with an hourly wage of $200. An estimated $5,000 would be required for an engineer to review and stamp the grading plans. So, the total estimated costs associated with engineers for proposed section 4053 would be $9,800.

Proposed section 4053 requires the project proponent to approximate the volume of four quantifiable amounts of material pertaining to the Surface Mining Operation. Given the uncertainty of the materials for each potential surface mining project, the analysis provides an estimated range of $125 to $10,000 for each of the four cost elements. For these calculations, the project proponent would need to approximate the volume and the nature and type of material to be removed, the volume of the topsoil proposed to be disturbed, the volume of the overburden proposed to be disturbed, and the volume of residual mining waste proposed to remain onsite. Aggregating these costs of approximations for the four cost elements would amount to a lower bound estimate of $500 and an upper bound estimate of $40,000. The analysis determined it was necessary to have such a large discrepancy in the range of estimates to account for the uncertainty of the details of such approximations.

Therefore, the sum of all lower and upper bound direct cost estimates associated with proposed section 4053 is $22,400 and $66,000 respectively.

3.3. Response to Initial Review of a Request for a Determination of Exemption, Proposed Section 4054.

Proposed section 4054 outlines the requirements for the Board and the project proponent to initially review an exemption request which requires costs for the project proponent and fiscal costs that will be discussed in Section 4. The project proponent will respond to the Board's initial review after the determination has been made. It is estimated that the project manager would spend 8 to 16 hours to respond. As previously mentioned, their hourly wage is $250. Therefore, the economic costs associated with section 4054 for project proponents are a lower bound of $2,000 and an upper bound of $4,000.

3.4. Public Hearing, Proposed Section 4056.

For any exemption to be determined, proposed regulation section 4056 would require a public hearing be held by the Board within 90 days of the Executive Officer's determination that the Surface Mining Operation is eligible for exemption under the regulatory scheme and SMARA. Public hearing costs would be incurred once per exemption. As a request for a determination of exemption is only expected to occur once per year, the public hearing costs would be incurred once in Year 1 and once in Year 2. These hearings would be held in the Board's offices in the County of Sacramento.

Project proponents would incur various costs as a result of the public hearing. For example, it is estimated that a project manager would spend anywhere from 24 to 40 hours preparing for the public hearing, attending it, and then following up. It is assumed that travel expenses such as transportation, lodging, and food would be included in the lower and upper bound estimates of $6,000 and $10,000 respectively. GIS and administrative staff would also contribute 16 hours each for the public hearing. With their hourly wage of $150 for GIS staff and $125 for administrative staff, direct costs from these components would be $2,400 and $2,000. Therefore, adding up the costs from the project manager, GIS staff, and administrative staff, the lower bound estimate is $10,400 and the upper bound estimate is $14,400.

3.5. Future Modification to the Surface Mining Operation, Proposed Section 4059.

Proposed section 4059 states the process an applicant must abide by if there is any future modification to the Surface Mining Operation after the initial exemption has been approved. This is the most expensive section because it requires project proponents to resubmit all of their documentation updated for the modifications, incurring the costs a second time. Although unlikely, it is possible that the Board may determine that the modifications are inconsistent with the exemption as approved and require the project proponent to resubmit for the exemption. Board staff determined that there is a five percent chance of this occurring and if it does, the applicant must restart the application process. This analysis takes a conservative approach and uses the sum of all other proposed regulation sections for project proponents of $35,800 for the lower bound estimate and $86,400 for the upper bound estimate.[5] The analysis acknowledges that this estimate may be overinflating the costs to project proponents because it is assuming a full cost of an element that only has a five percent chance of occurring. However, this assumption was determined to best account for the uncertainty of driving factors that may result in higher costs.

Therefore, the sum of all lower bound estimates in Section 3 is $71,600 and the sum of all upper bound estimates is $172,800.

4. Fiscal impact of proposed regulations

The following sections highlight the fiscal impact of the proposed regulations. Of the estimated range of $91,043 to $192,243 total of the entire regulations, $19,443 is associated with fiscal costs. The breakdown of fiscal costs for each regulation section can be seen in Table 2.

Table 2- Total Fiscal Costs by Proposed Regulation Section

[5] The $35,800 and $86,400 figures come from the aggregated lower and upper bound estimates from sections 4053, 4056, 4054, and 4051. These numbers can be seen in Table 1.

Section		YEAR 1	YEAR 2
4051	Pre-submittal Consultation.	$1,704	$1,704
4054	Initial Review of a Request for a Determination of Exemption.	$2,123	$2,123
4055	Administrative Record.	$3,277	$3,277
4058	Following the Public Hearing.	$1,373	$1,373
4059	Future Modification to the Surface Mining Operation.	$10,966	$10,966
	Total	**$19,443**	**$19,443**

4.1. Pre-submittal Consultation, Proposed Section 4051.

Direct costs to project proponents were discussed in Section 3. However, there are fiscal costs associated with proposed section 4051. For example, the Board would need to prepare for the consultation on an exemption. This would take four hours of scheduling and meeting by the Board Executive Officer, Senior Engineering Geologist, and Engineering Geologist. Considering the hourly wages of each of these positions, fiscal costs amount to $1,319. Also, proposed section 4051 would require four hours of consulting with the Board for a lead agency planner and a staff planner. The analysis estimates the hourly wage to be $58 and $38 for a lead agency planner and staff planner respectively.[6] Therefore, total fiscal costs for section 4051 amount to $1,704.

4.2. Initial Review of a Request for a Determination of Exemption, Proposed Section 4054.

Proposed section 4054 requires the Board to determine if the exemption request is complete within 30 days of receipt of the filing. The Board's determination would take eight hours of review by the Senior Engineering Geologist and Engineering Geologist, and four hours by the Executive Officer. Multiplying the number of hours of review by each of the position's hourly rate, the costs of the determination are $2,123.

[6] Hourly wage estimates for the lead agency planner and the staff planner are from Occupational Employment and Wage Statistics (OEWS). https://www.bls.gov/oes/current/oes193051.htm. There was no distinction between the lead agency planner and staff planner by the OEWS, so the analysis uses the median hourly wage rates for the staff planner and the hourly wage rate in the 90th percentile for the lead agency planner.

4.3. Administrative Record, Proposed Section 4055.

Proposed section 4055 specifies the documentation, known as the Administrative Record, that must be created and maintained by the Board to document the exemption request and processing of the exemption. One of these specifications would require the Board to prepare a staff report for each exemption processed. The staff report would take eight hours of work by the Senior Engineering Geologist and the Engineering Geologist, one hour of review by the Executive Officer, and four hours of review by the Board's attorney.[7] In addition to the preparation of the staff report, the Board staff would hold an exemption request hearing which would take two hours for the Senior Engineering Geologist, Engineering Geologist, and Executive Officer. Hourly wage rates for Board staff were determined by the State of California's Civil Service and Exempt Pay Scales.[8] The analysis calculated a midpoint between the minimum and maximum values for each position and accounted for wages, employee benefits, and other operating expenses in order to determine the hourly wage; these estimates will be utilized throughout the document.

The estimated hourly wage is $128 for the Executive Officer, $115 for the Senior Engineering Geologist, $87 for the Engineering Geologist, and $220 for the attorney.[9] Therefore, after multiplying the hourly wage rate for each position by the number of hours required to review the staff report, the total fiscal costs associated with section 4055 are $3,277.

4.4. Following the Public Hearing, Proposed Section 4058.

Proposed section 4058 requires the Board's Executive Officer to notify the applicant and the lead agency by certified mail of the determination regarding the exemption request within 10 days of the public hearing. The preparation to inform the applicant and the lead agency would take the Executive Officer one hour, the Senior Engineering Geologist and Engineering Geologist four hours of

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[7] All estimates about hours of work dedicated to each regulation section throughout the fiscal cost section have been determined by Board professional staff.
[8] https://www.calhr.ca.gov/Documents/exempt-pay-scale.pdf
https://www.calhr.ca.gov/Pay%20Scales%20Library/PS_Sec_15.pdf
[9] The hourly wage rate of the attorney is an estimate by Board professional staff based on data from a previous project.

work each, and an attorney two hours. Therefore, with an estimated hourly wage of $128 for the Executive Officer, $115 for the Senior Engineering Geologist, $87 for the Engineering Geologist, and $220 for the attorney, the total costs for this regulation section are $1,373. The sum of all estimates in Section 4 is $19,443.

4.5. Future Modification to the Surface Mining Operation, Proposed Section 4059.

Proposed section 4059 states the process an applicant must follow if there is any future modification to the surface mining operation. The Board may also conduct an inspection of the Surface Mining Operations and must notify the operator and the lead agency at least five days prior. The event of an inspection is unlikely, and the Board determined that there is a 10 percent chance of it occurring. Similar to the cost calculation in Section 3.1, the analysis acknowledges the 10 percent likelihood but proceeds assuming the full cost will be absorbed.

If the Board conducts an inspection, it will require eight hours to inspect the site by both the Senior Engineering Geologist and Engineering Geologist. In addition to wages, the cost of travel from Sacramento must be accounted for. Because the Board may travel to anywhere in the state, the analysis used a methodology of identifying three major airports in California in terms of passenger traffic[10]: San Francisco (SFO), Los Angeles (LAX), and San Diego (SAN). While this approach acknowledges that the Board would not be traveling to these airports, it serves as an appropriate proxy to cover California's vast distances. This approach is conservative from an economic perspective as LAX and SAN are significant geographic distances from Sacramento. However, this method was determined to best mitigate the uncertainty of the locations that the Board would travel to. The travel costs are displayed in Table 3.

Table 3 – Estimated Travel Costs for Surface Mining Inspection under Proposed Section 4059

[10] "Visit California" provides data on the busiest airports in California in terms of Airport Passenger Traffic. https://industry.visitcalifornia.com/research/passenger-traffic?a1=LAX&a2=SAN. Accessed 8/18/23.

	Round Trip Vehicle (Miles)[11]	Private Car Costs ($0.66 per mile)
SMF-SFO	206	$135
SMF-LAX	798	$523
SMF-SAN	1,030	$627

Another assumption that the analysis uses is that a privately owned automobile is authorized which has a cost rate of $0.66 per mile.[12] Calculating the average of the potential distances traveled, the analysis estimated the travel costs to be $444. Also, lodging costs would be necessary for the two Board staff members. For this estimate, the analysis uses the median figure of $125 which incorporates the reimbursement rates for all counties in California.[13] The analysis uses maximum reimbursement allowance figures per day provided by CalHR to quantify the meals and incidental expenses-this figure is $46. Therefore, considering the two-day trip, the sum of all costs associated with the inspection would be $2,488.

As mentioned in Section 3, there is a five percent chance that the Board may determine that the modifications are inconsistent with the submitted documents under California Code of Regulations-this would prompt the project proponent to apply again. The analysis utilizes the same approach as in Section 3.1 and uses the sum of all previous fiscal costs of $8,478[14].

Therefore, the aggregated total fiscal costs for proposed section 4059 are $10,966.

[11] Driving distances were estimated from airmilescalculator.com, https://www.airmilescalculator.com. Accessed 8/18/23.
[12] According to the GSA as of January 1st 2023, cost rates per mile for a privately owned automobile is $0.66. https://www.gsa.gov/plan-book/transportation-airfare-pov-etc/privately-owned-vehicle-pov-mileage-reimbursement
[13] https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx
[14] The $8,748 figure comes from the aggregated fiscal totals from sections 4051, 4054, 4055, and 4058. These numbers can be seen in Table 2.

5. Benefits of the Proposed Regulations

Although the quantification of benefits associated with the proposed regulations is beyond the scope of this Economic Impact Assessment, there are many qualitative benefits. The standardization of the exemption process addresses issues of inconsistency which fosters a fair and impartial procedure for all future applicants. Also, because of the pre-submittal process, the Board is able to ensure that they are only reviewing Surface Mining Operations that would need an exemption under SMARA. Currently, the Board occasionally receives exemption requests for construction or agricultural projects that may have components that appear to be mining, but do not meet the definition of Surface Mining Operations under SMARA Section 2735. The pre-submittal process allows the Board to effectively screen out projects that are not Surface Mining Operations which conserves resources for both the Board and the agencies of these various industries seeking an exemption unnecessarily.

Additionally, the proposed regulations could, in theory, lead to reduced costs to operators, lead agencies, and the Board, as they would prevent superfluous actions, prevent unnecessary documents from being printed and/or submitted, and reduce the amount of correspondence needed between the Board and an applicant. Because of the unstandardized nature of the current exemption process, it is difficult to explicitly measure the potential reduced costs, but a standardized procedure that is publicly available should result in a more efficient process.

The thoroughness of the standardization would also provide the Board with better data and information to improve decision making. Lastly, the Public Hearing formally provides the public with an opportunity to voice their opinions in the exemption process. This could have many benefits for the communities in which the exemptions are taking place and also it could be beneficial for the Board's decision making to hear from multiple perspectives. The Public Hearing also provides the Board with a formal platform to ask the applicant questions which could potentially enlighten the decision-making process for an exemption.

6. Cost Impact in California

The Board estimates that the overall impact of the proposed regulations on California's economy would be negligible. The total direct and fiscal costs associated with the proposed regulations are a lower bound estimate of $91,043 and upper bound of $192,243. Therefore, the Board does not foresee the regulations significantly affecting the economy on either a macro or micro scale.

The Board projects that all additional work created by the regulations would be absorbed by positions already employed. So, it is assumed that no new jobs will be created or eliminated within the State of California as a result of the regulations. Similarly, the regulations would not expand businesses, create new businesses or eliminate existing businesses within California. Although the State and local agencies would bear the burden of costs ranging from $91,043 to $192,243, the standardization of the exemption process is expected to provide many benefits as discussed in the previous section.

7. Conclusion

The standardization of the exemption process would have a miniscule impact on California's economy of $91,043 to $192,243. Given this range of estimates, the Board forecasts that the proposed regulations would not have significant fiscal impacts on individuals, businesses, or the government. The proposed regulations promote a more efficient method for the Board to grant applicant exemptions and provide various other benefits to the State of California.