

Public Resource Code section 2714

This chapter does not apply to any of the following activities:

(f) Any other surface mining operations that the board determines to be of an infrequent nature and that involve only minor surface disturbances.

Title 14. Natural Resources

Division 2. Department of Conservation

Chapter 8. Mining and Geology

Subchapter 1. State Mining and Geology Board

Article 17. Surface Mining Operations of Infrequent Nature That Involve Minor Surface Disturbances

14 CCR § 4050

§ 4050 Purpose of Regulations. The regulations contained in this article set forth the standards and procedures that the Board uses to for the determination of exemption pursuant to Public Resources Code section 2714(f).

§ 4051 Eligibility for Exemption. Only surface mining operations that the Board determines to be of an infrequent nature and that involve only minor surface disturbances shall be eligible for the exemption. For any surface mining operation granted this exemption by the Board, the final condition of mined lands shall minimize adverse effects on the environmental, not create residual hazards to public health and safety, and not pose a financial liability to the public.

§ 4052 Filing a Request for a Determination of Exemption. A request for exemption under Public Resources Code section 2714(f) shall be initiated by filing a request for determination of exemption with the Board. At a minimum, the request for determination of exemption shall include the following information:

- a) Name, address, telephone number, and email address (and name, address, telephone number of any agent for contact or service, if different) of applicant;
- b) Name, address, telephone number, and email address of property owner(s) if different that (a) above;
- c) Name, address, telephone number, and email address of mineral rights owner(s) if different than (a) above;
- d) Name, address, telephone number, and email address of any lessee or lien holder to the surface mining operation;
- e) A map indicating the location of the surface mining operation;
- f) Environmental review documentation for the project, the permit application and/or the approved permit and conditions of approval for the surface mining operation;
- g) Copies of any other permits associated with the surface mining operations;
- h) Lead agency Staff reports concerning the project and meeting minutes of any public hearings related to the lead agency's consideration or approval of the permit to conduct surface mining operations;

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- i) A legal description of such property comprising the surface mining operation, including township and range, metes and bounds, parcel numbers, or other descriptive methods to specifically identify such property;
- j) Copies of all federal, state, and local land use, zoning, mining ordinances or regulations which apply to the surface mining operation;
- k) The names and mailing addresses of the owners of all properties adjacent to the surface mining operation;
- l) The names, locations, and mailing addresses of other surface mining operations within 60 miles of the property;
- m) The time interval that proposed surface mining operations will be conducted;
- n) Approximate volume of topsoil proposed to be disturbed by surface mining operations;
- o) Approximate volume of overburden proposed to be disturbed by surface mining operations;
- p) Approximate volume of residual mining waste proposed to remain onsite following surface mining operations;
- q) The funding and insurance for the surface mining operation;
- r) Engineered grading plan for proposed final elevations of mined lands; and,
- s) All information submitted pursuant to this section shall be accompanied by a declaration or affidavit attesting to the true and accurate nature of the materials provided.

§ 4053 Initial Review of a Request for a Determination of Exemption. The Board's Executive Officer shall initially evaluate whether the request for determination of exemption contains the minimum information specified in Section 4052 of this article for purposes of making a determination. The Board's Executive Officer shall determine the request for a determination of exemption is complete within fifteen business days of receipt of the filing. If the Board's Executive Officer determines that the request for determination of exemption does not contain sufficient information required in Section 4052, the request for determination may be rejected and the deficiencies in the request will be identified by the Board's Executive Officer in written correspondence to the applicant.

§ 4054 Administrative Record. The administrative record before the Board consists of the documents specified in 14 California Code of Regulations section 4051, Board staff reports, and related materials the public or third parties submit to the Board.

§ 4055 Public Hearing. No determination of exemption will be made by the Board without a public hearing and an opportunity for the applicant, the lead agency, any persons, and the public to comment. The public hearing will be held by the Board within ninety of days of the Board Executive Officer's determination that the request is complete and within the county where the exemption is claimed or within the county of the Board's offices (County of Sacramento).

§ 4056 Hearing Procedures.

(a) The public hearing should normally proceed in the following manner:

- (1) Identification of the administrative record;
- (2) Statements on behalf of the applicant;
- (3) Statements on behalf of the lead agency;

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(4) Statements on behalf of the public;

(5) Rebuttal on behalf of the applicant;

(6) The Board shall determine whether the activity is exempt pursuant to Public Resources Code section 2714(f). The determination shall identify the specific facts that support the determination of exemption and upon what specific property the exemption is established.

(7) Motion to close the public hearing.

(b) Notwithstanding the above, the Board Chair, may in the exercise of discretion, determine the order of the proceedings, provide for additional testimony, or provide for additional rebuttal.

(c) The Board Chair may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements. Written statements must be submitted at least five business days prior to the hearing.

§ 4057 Following the Public Hearing. Within ten days following the public hearing, the Board's Executive Officer will notify the applicant and the lead agency, by certified mail, of the determination of exemption. Notification of the final determination of the Board shall also be made to any person who commented at, or participated in, the public hearing, and any person who has requested such notice.

§ 4058 Effect of a Determination of Exemption. Under Public Resources Code section 2714(f), a determination of exemption by the Board exempts a surface mining operation from SMARA (Public Resources Code sections 2710 et. Seq.). The applicant shall notify the Board within thirty days of any modification to the surface mining operation. The Board may conduct periodic inspections of the surface mining operation. If surface mining operations are modified or conducted inconsistent with the submitted documents under 14 California Code of Regulations section 4052, the Board may, within its discretion, hold a public hearing to reconsider its prior determination of exemption.