



FINAL STATEMENT OF REASONS

STATE MINING AND GEOLOGY BOARD

TITLE 14. NATURAL RESOURCES, CALIFORNIA CODE OF REGULATIONS Division 2. Department of Conservation, Chapter 8. Mining and Geology, Subchapter 1. State Mining and Geology Board Article 5. Reclamation Plan Appeals

UPDATE OF INITIAL STATEMENT OF REASONS

Section 3650(a)(3)(A): Remove “2774(c)” and replace with “2772.1” to define the correct statutory section referenced in the regulatory language. When AB 1142 was passed into law in 2016, the statutory requirements of submitting reclamation plans and plan amendments was moved from Public Resources Code (PRC) 2774 to new PRC Section 2772.1, where additional requirements were added.

Furthermore, as explained in the STD 399 Form, the proposed regulation impacts small businesses.

DETERMINATION OF LOCAL MANDATE

Local agencies are currently required to implement portions of the Surface Mining and Reclamation Act of 1975 (SMARA) through Public Resources Code (PRC) section 2710 et. seq., including the approval of reclamation plans, financial assurance cost estimates (FACE), and financial assurance mechanisms (FAM). Development and adoption of an approved reclamation plan is required by statute under PRC section 2770 and PRC section 2772.1 et. seq.

The proposed amended regulations provide procedures for a mine operator to appeal a denied reclamation plan or plan amendment to the State Mining and Geology Board (Board) once they have exhausted the right to appeal in accordance with the procedures of the lead agency. An appeal is also available on grounds of inaction to act in a reasonable time by the lead agency concerning approval of the reclamation plan or plan amendment. The regulations specifically outline the appeals process including: filing the appeal, determining jurisdiction, the contents of the administrative record, and the various hearing procedures.

The amended regulation simply updates the procedures to allow the Supervisor of Mines to provide input and statements along with rebuttals if necessary, during the hearing procedures. Therefore, the Board has determined that this new and amended regulatory language does not impose a mandate on local agencies or school districts.

STATEMENT OF ALTERNATIVES CONSIDERED

In accordance with Government Code Section 11346.9 (a)(9), the Board determined that no reasonable alternatives it considered or that had otherwise been identified and brought to their attention would be more effective in carrying out the purpose for which the action is proposed. In addition, the Board determined that no alternative would be as effective and less burdensome to affected private persons than the adopted regulations or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. A reasonable alternative to the proposed amended regulation does not exist because, existing legislative and regulatory requirements provide that a lead agency must require a reclamation plan that is compliant with state policy under PRC 2770 to allow surface mining operations to commence within their jurisdiction. The amended regulation simply updates Title 14 of the California Code of Regulations to allow for input from the Supervisor as required by the statutory changes that led to the need for amended regulation.

A proposed alternative of taking no action would result in ignoring recent statutory changes regarding the reclamation plan appeals process requirements. This would result in confusion within the regulated community because the current circumstances leading to a hearing for a denied or unacted upon reclamation plan or plan amendment would be inconsistent with existing statute.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

This regulation change does not duplicate or conflict with existing Federal statutes or regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department, and the SMGB, SMARA and its implementing regulations and federal law are coordinated.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE EXTENDED INITIAL 45-DAY NOTICE PERIOD OF NOVEMBER 1, 2019 THROUGH DECEMBER 31, 2019

No comments were received during this comment period.