



STATEMENT OF EXPLANATION FOR SECTION 100 FILING

CALIFORNIA CODE OF REGULATIONS

TITLE 14, DIVISION 2, CHAPTER 8, SUBCHAPTER 1

Article 11: Financial Assurance Mechanisms

§3805.1 Financial Assurance Cost Estimate Form

The State Mining and Geology Board (“SMGB”) proposes to make changes without regulatory effect to section 3805.1 of Title 14 of the California Code of Regulations, commonly known as form FACE-1. This form has been in public use since July 1, 2017. These changes are necessary for incorporation of observations received from users of the form, to allow for easier completion of the form, and for easier review once completed and submitted. Form FACE-1 Instructions and Form FACE-1 are attached with proposed changes in red. Following are details of each proposed change.

Form FACE-1 Instructions

- **Pages 1, 3, 5, and 6 of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** the expression “labor burden” is replaced by the expression “labor surcharge” in five locations.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is needed for cross-reference and consistency with the term “Caltrans Labor Surcharge and Equipment Rental Rates” already mentioned throughout the documents.
- **Page 2 first paragraph of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** the word “reference” is replaced by the word “include”.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This corrects a grammatical error by changing wording to be more suited to the instruction.
- ~~**Page 3 Sections II, III, and IV of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** the word “brief” has been removed from the expression “...brief description...”.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. Instruction to either ‘describe’ or to give a ‘description’ are provided routinely throughout both the FACE 1 and FACE 1 Instructions documents without the presence of an adverb or adjective. For grammar/syntax consistency, the adjective ‘brief’ has been removed in the listed locations.~~
- **Page 4 Section VI of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** the words “cuts, fills, export,” have been replaced with the words “cuts/fills, import/export, compaction/decompaction”

- This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This is changed to make instruction wording more closely match cost estimate work items.
- **Page 4 Section V of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** in the paragraph “Methods to be Used”, the line “• signature of responsible party, and seal/stamp of licensed professional as required by law” has been added.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. These requirements for ‘third party estimates’ are established and have been in continual use for more than ten years in the form of the SMGB’s Financial Assurance Guidelines paragraph 8. They were created pursuant to CCR subdivision (f) of section 2773.1. Including this line provides cross-reference and consistency with these established guidelines.
- **Page 3 Sections II, III, and IV of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** the word “brief” has been removed.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. Instruction to either ‘describe’ or to give a ‘description’ are provided routinely throughout both the FACE-1 and FACE-1 Instructions documents without the presence of an adverb or adjective. For grammar/syntax consistency, the adjective ‘brief’ has been removed in the listed locations.
- **Page 5 Section VI of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** the word “brief” has been removed from the paragraph “Current Site Conditions”.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. Instruction to either ‘describe’ or to give a ‘description’ are provided routinely throughout both the FACE-1 and FACE-1 Instructions documents without the presence of an adverb or adjective. For grammar/syntax consistency, the adjective ‘brief’ has been removed in the listed locations.
- **Page 6 Section VII of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** the word “brief” has been removed from the paragraph “Current Site Conditions”.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. Instruction to either ‘describe’ or to give a ‘description’ are provided routinely throughout both the FACE-1 and FACE-1 Instructions documents without the presence of an adverb or adjective. For grammar/syntax consistency, the adjective ‘brief’ has been removed in the listed locations.
- **Page 8 Section XI of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** in paragraph ‘D’ the reference to “Section X” has been changed to “Section XI”.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This correction is needed for cross-reference within the document by matching the form FACE-1 Instructions paragraph to the correct item in form FACE-1.

- **Page 8 Section XI of the FINANCIAL ASSURANCE COST ESTIMATE INSTRUCTIONS:** in paragraph 'E' a "period" has been removed and replaced with a comma in the number '99,000'.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is a punctuation correction of the listed number.

Form FACE-1

- **Section I paragraph 5:** the expression "labor burden" is replaced by the expression "labor surcharge".
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is needed for cross-reference and consistency with the term "Caltrans Labor Surcharge and Equipment Rental Rates" already referenced throughout the document.
- **Sections V, VI, and VII:** the note "Add additional pages as needed" has been included at the page bottom.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is needed for cross-reference within the document by matching the existing note on the page bottom below Section IV.
- **Section V paragraph "A":** the sentence "(for large reclamation project sites or separate mine areas)" has been replaced with "For large reclamation projects, separate mine areas".
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is needed for syntax and cross-reference to match the same sentences in Section VII paragraph "A".
- **Section V paragraph "D":** the sentence "Total Direct Cost of Structure and Equipment Removal (Sum of A+B+C)" has been replaced with "Total Direct Cost of Structure and Equipment Removal (Total A+B+C)".
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is needed for syntax and cross-reference to match similar phrases on this page.
- **Section V paragraphs "D", "E", and "F":** An underline has been added to the space provided for the dollar amount at the end of each of these three lines.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is needed for syntax and cross-reference to match similar formatting on this page.
- **Table A in Sections V, VI, and VII:** one column has been added for "Unit of Measure".
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This added column provides a standard location for the estimator to define the use of the term "Unit" used in the two adjacent columns.
- **Table B in Sections V, VI, and VII:** one column has been added for "Labor Surcharge/Hr (where applicable)" "(enter % of wage)".
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. The form's instructions require inclusion of labor surcharge in the cost estimate, but

the original structure of this form failed to provide a place for entering this item. This additional column provides working space for the estimator to list the Labor Surcharge component of job labor costs. Labor surcharge (formerly named Labor Burden but changed to Labor Surcharge under these proposed modifications) is a required cost item as specified in Form FACE-1 Instructions on page one in the third paragraph, on page 3 under paragraph "Wage Rates used in Cost Estimate", on page 5 in paragraph "Methods to be Used", on page 6 paragraph "Methods to be used", and on page 6 paragraph "Section VIII- Miscellaneous Costs". This new column provides a location for listing cost itemization detail when completing the cost estimate form.

- **Table B in Sections V, VI, and VII:** the heading titles of "\$/Unit" and "# of Units" have both been changed from "Units" to "Hours".
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This is needed for cross-reference due to prevailing wage rates being published by the State of California, Department of Industrial Relations in dollars per hours.
- **Table B in Sections V, VI, and VII:** the term "(incl labor burden)" has been removed.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This is needed for cross-reference due to Labor surcharge (formerly named Labor Burden but changed to Labor Surcharge under these proposed modifications) now having its own column in this table.
- **Table B in Sections V, VI, and VII:** the term "(prevailing wage)" has been added.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is needed for cross-reference to this form's requirement to use prevailing wage rates in the cost estimate. The prevailing wage requirement is listed on Section I paragraph "Wage Rates used in Cost Estimates" of form FACE-1, and also on page 1, Section I, Section VI, and Section VII of the form FACE-1 Instructions.
- **Section VI first page:** at the top of the page the first line's blank space and its descriptor adjacent to "VI PRIMARY RECLAMATION ACTIVITY" have been removed.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This is needed for cross-reference within the document to match the same heading lines in Sections V and VII. Also, it is redundant due to the same information being requested at the top of the second page of Section VI.
- **Section VI second page:** at the top of the page the top line's term "(Cont.)" has been removed.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This is needed for cross-reference to match the first line on Section V second page.
- **Section VI second page:** at the top of the page in the first line, the expression "(use multiple sheets as needed)" has been added.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This is needed so this sheet matches the same note on the first line of Section V second page.

- **Section VI second page:** in paragraph 'A' the expression "(for large reclamation jobs separate mine areas)" has been replaced with "For large reclamation projects, separate mine areas."
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is needed for cross-reference so this line matches the same line in Section VII second page.

- **Table C in Sections VI and VII:** a column has been included for "Sales tax (enter local rate in %)"
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. The FACE-1 form requires inclusion of sales tax in the cost estimate, but the original structure of this form failed to provide a place for entering this item. Providing a separate column for sales tax provides a location for this.

- **Table C in Sections VI and VII:** the locations of columns "\$/Unit" and "Quantity" have been reversed.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This structure change is needed as a result of the proposed addition of the "Sales tax" column, to maintain a flow of work from left to right.

- **Section VII second page:** at top of page the top line's term "(Cont.)" has been removed.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. It is needed for cross-reference to match the first line of Section V second page.

- **Section VII paragraph "A":** in the second the word "jobs" has been replaced with the word "projects".
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. The words 'jobs' and 'projects' have been inadvertently used interchangeably in these documents. For cross-reference and consistency, the word "jobs" has been changed to "projects" to match the use of this word in Section I, just below the paragraph "Equipment Production Rates used in Cost Estimate", and elsewhere.

- **Section VIII:** the word "of" has been added to the "# of Visits/Year" column.
 - This is a change without regulatory effect pursuant to section 100 (a)(4) of Title 1 of the CCR. This provides matching grammar (cross-reference) between this column's title and the adjacent column's title.

- **On all pages:** header form date of (01/17) has been updated to reflect current update cycle.
 - This is a change without regulatory effect pursuant to section 100 (a)(1) of Title 1 of the CCR. This provides differentiation between update versions of the FACE-1 form.

