

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME State Mining and Geology Board	CONTACT PERSON Nicholas Lash	EMAIL ADDRESS nicholas.lash@conservation.ca.gov	TELEPHONE NUMBER 916-322-1082
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Mining Operation Fees Calculation and Schedule			NOTICE FILE NUMBER Z 2017-0919-09

**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:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements              |
| <input checked="" type="checkbox"/> b. Impacts small businesses          | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations                  | <input type="checkbox"/> g. Impacts individuals                         |
| <input type="checkbox"/> d. Impacts California competitiveness           | <input type="checkbox"/> 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 State Mining and Geology Board estimates that the economic impact of this regulation (which includes the fiscal impact) is:  
(Agency/Department)

- 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: Approx. 1,100

Describe the types of businesses (Include nonprofits): Mining Operations

Enter the number or percentage of total businesses impacted that are small businesses: Approx. 160

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

Explain: \_\_\_\_\_

5. Indicate the geographic extent of impacts:  Statewide  
 Local or regional (List areas): \_\_\_\_\_

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

Describe the types of jobs or occupations 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  NO

If YES, explain briefly: See attached.

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**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? \$ unknown

a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ see attached Years: see attached

b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ see attached Years: see attached

c. Initial costs for an individual: \$ N/A Annual ongoing costs: \$ N/A Years: N/A

d. Describe other economic costs that may occur: The SMGB is unaware of other economic costs that may occur.

2. If multiple industries are impacted, enter the share of total costs for each industry: N/A

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.* \$ see attached

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

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

Number of units: \_\_\_\_\_

5. Are there comparable Federal regulations?  YES  NO

Explain the need for State regulation given the existence or absence of Federal regulations: see attached

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

**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: see attached

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

Explain: see attached

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

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: \_\_\_\_\_

The SMGB does not anticipate expansion of businesses currently doing business in the state resulting from the amending of the regulations.

**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: see attached

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT (CONTINUED)**

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

Regulation: Benefit: \$ See C1, C2, & C3 Cost: \$ See Section B.

Alternative 1: Benefit: \$ See D3. Cost: \$ See D3.

Alternative 2: Benefit: \$ See D3. Cost: \$ See D3.

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: see attached.

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: see attached.

**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 through 12 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 incentive for innovation in products, materials or processes: \_\_\_\_\_

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: \_\_\_\_\_

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2013)

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

**ECONOMIC AND FISCAL IMPACT STATEMENT**

**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**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)

\$ \_\_\_\_\_

*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 see attached.

**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

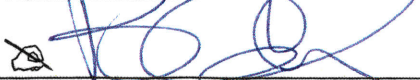


DATE

12/21/17

*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

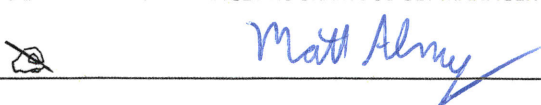


DATE

12/21/2017

*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

2/6/17



# STATE MINING AND GEOLOGY BOARD

## DEPARTMENT OF CONSERVATION

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### DEPARTMENT OF CONSERVATION STATE MINING AND GEOLOGY BOARD (SMGB)

#### TITLE 14. NATURAL RESOURCES Division 2. Department of Conservation Chapter 8. Mining and Geology Subchapter 1. State Mining and Geology Board Article 8. Fees Schedule

#### CA DEPARTMENT OF FINANCE STD. 399 ATTACHMENT

#### Economic Impact Statement

#### Section A. Estimated Private Sector Cost Impacts

7. The revisions of the regulations do not affect the ability of California's businesses to compete with other states by making it costlier to produce goods or services. California's mining industry is greatly dependent on readily available mineral deposits that are within reasonable distance to market regions. For example, aggregate is a low unit-value, high bulk-weight commodity; therefore, aggregate for construction must be obtained from nearby resources in order to minimize the costs to the consumer. If nearby mineral sources do not exist, transportation costs quickly exceed the value of the mineral mined. Transportation cost is one of the most important factors for mine operations, not the cost of associated fees set forth by the state. Additionally, mineral resources are limited within a given geographical region. As more and more areas of the state become urbanized, mineral deposits are being lost. New mining operations are not wanted in the newly urbanized locations because of the potential affects a mining operation may have on the environment (i.e. The "Not In My Backyard (NIMBY)" concept). Obtaining a permit for mining operations in California is a thorough and time consuming process in order to address the potential affects to the environment.

Thus, the State Mining and Geology Board (SMGB) has determined that transportation costs and the permitting and entitlement process associated with mining operations affect the ability of California's mining businesses to compete with other states, not the proposed amendments to the regulatory text. The changes to California Code of Regulations (CCR) sections 3697, 3698, and 3699 clean-up regulatory language based on revisions to statute caused by SB 209 (Pavley), reset and adjust the low gross exemption maximum income limit and associated fee based on the cost of living as measured by the California Consumer Price Index (CPI), and clarify language for consistency throughout the regulatory sections.

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*The Mission of the State Mining and Geology Board is to Provide Professional Expertise and Guidance, and to Represent the State's Interest 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.*

### **Section B. Estimated Costs**

1. (a & b) The changes to CCR sections 3697, 3698, and 3699 do not create initial and/or ongoing costs for small or typical businesses in the mining industry. Statute, PRC section 2207 (d)(1), provides that the SMGB shall impose by regulation an annual reporting fee on each mining operation. The SMGB promulgates Article 8 in Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR pertaining to mining operation fees. Businesses, both typical and small, have been subject to the requirements of CCR sections 3697 and 3698 since their inception in 1991, and have had the opportunity to request a low gross exemption in CCR section 3699 since 1992. The SMGB has determined that no initial and/or ongoing costs are created with the amendment of the regulations because the changes to CCR sections 3697, 3698, and 3699 clean-up regulatory language based on revisions to statute caused by SB 209 (Pavley), reset and adjust the low gross exemption maximum income limit and associated fee based on the cost of living as measured by the CPI, and clarify language for consistency throughout the regulatory sections.

Furthermore, CCR section 3698 is amended to delete existing specific references to the former maximum reporting fee of \$4,000 for the largest producers, and replace them with a general reference to the maximum reporting fee set in Public Resources Code (PRC) section 2207. The SMGB does this to circumvent the need to update the maximum reporting fee in the regulation caused by future revisions to statute. The largest producers have been subject to the maximum reporting fee outlined in PRC section 2207 since the regulation's inception in 1991. Thus, it is the SMGB's position that amending CCR section 3698 to include the general reference to the maximum reporting fee set in PRC section 2207 is caused by the revisions to statute as a result of SB 209 (Pavley).

3. As mentioned above, businesses have been subject to the reporting requirements of CCR sections 3697 and 3698 since their inception in 1991, and have had the opportunity to request a low gross exemption in CCR section 3699 since 1992. Merely updating the regulations to clean-up regulatory language based on revisions to statute caused by SB 209 (Pavley), to reset and adjust the low gross exemption maximum income limit and associated fee based on the cost of living as measured by the CPI, and to clarify language for consistency throughout the regulatory sections do not impose new reporting requirements. Therefore, changes to CCR sections 3697, 3698, and 3699 do not create costs for typical businesses to comply with reporting requirements.

5. By Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the SMGB, the Surface Mining and Reclamation Act ("SMARA," PRC section 2710 et seq.) and its implementing regulations and federal law are coordinated.

### **Section C. Estimated Benefits**

1. The SMGB anticipates that the proposed regulatory amendments will result in nonmonetary benefits such as protection of public health and safety, environmental safety, and transparency in business and government, and the promotion of fairness by:

- Ensuring the public will have sufficient and reliable industry funding for State oversight of local implementation of SMARA.

- Adjusting for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year and annually thereafter.

In regards to the changes to CCR section 3699, adjusting for the cost of living as measured by the CPI ensures consistent application of the intended benefits of the low gross exemption. The SMGB anticipates more operators may likely take advantage of the low gross exemption with the reset and adjustment of the maximum income limit as well as encourage more operators to pay a fee they see as more reasonable based on their income level. The SMGB cannot quantify the number of operators that may take advantage of the new maximum income limit as it only has access to income levels of those operators who have previously filed for the low gross exemption. The fees associated with methods of fee assessment in CCR 3698 (c)(1), (2), and (3) are all based on production.

Additionally, CCR section 3699 was amended to include "an enrolled agent listed on the active roster maintained by the Federal Internal Revenue Service" as an additional means to verify the single operator or mining company's gross income from the mining operation. Mining operations can now utilize an additional means for income verification if a certified public accountant's services are too expensive or unavailable.

2. Changes to statute under SB 209 (Pavley) require the SMGB to make the necessary revisions to CCR sections 3697 and 3698 to ensure statute and regulations are not in conflict with each other. CCR section 3699 was developed in 1992 to offer an alternate fee for single operators or mining companies with low gross incomes. Adjusting for the cost of living as measured by the CPI ensures consistent application of the intended benefits of the low gross exemption. Therefore, the SMGB has determined the benefits are a result of both statutory requirements and goals it has developed based on broad statutory authority.

#### **Section D. Alternatives to the Regulation**

1. A proposed alternative of taking no action would result in unnecessary and potentially confusing provisions of existing regulatory requirements remaining in publication.

In one alternative considered, the tiers in CCR section 3698 (c)(1), (c)(2), and (c)(3) were amended to change the annual reporting fee table of production categories from a six-tier system to five-tier system. This was done to make the production rates for the individual tiers based on a factor of 10. Following the 45-day formal public comment period the SMGB chose to revert portions of the proposed amended regulatory text in CCR sections 3697, 3698, and 3699 to the original regulatory text. Reverting these portions of regulatory text will allow the SMGB to dedicate additional time and resources to research, analyze, and provide opportunities for public comment should it choose to make substantial changes to regulatory text regarding the fees structure in Article 8, of Title 14, Division 2, Chapter 8, Subchapter 1 of the CCR, in the future.

The SMGB considered other alternatives in adjusting the tiers for CCR section 3698 (c)(1), (c)(2), and (c)(3) that involved keeping the 6-tier system. One alternative changed only the production



category tiers for CCR section 3698 (c)(1) and (c)(3) by making them based on a factor of 10. It made no change to the production category tiers for CCR section 3698 (c)(2). Another alternative was similar to the one mentioned above however, the only difference was that it included making the production category tiers for CCR section 3698 (c)(2) based on a factor of 10 as well. The SMGB chose not to pursue them because the schedule of fees is intended to cover the costs of the Department to implement SMARA, and the two alternatives did not.

3. The determination of annual mine fees to cover the costs of implementing SMARA and Chapter 2 of the PRC, pursuant to PRC section 2207 and CCR sections 3697, 3698, and 3699 are based on a number of variable factors including, but not limited to: number of mines reporting production, amount collected from operators in the previous reporting year, the projected amount to be collected from those operations subject to a fixed fee method of fee assessment (i.e. newly permitted, closed no intent to resume, closed reclamation complete, initial reports), amount collected through low gross exemptions, amount collected from multiple site operations, projected amounts from mine operations subject to the maximum fee, and the number of operators that fail to pay their annual reporting fee from the previous year. Quantifications issues arise in the alternatives because the large number of variables associated with determination of annual mine fees to cover the cost to implement SMARA and Chapter 2 of the PRC.

4. The amendments of CCR sections 3697, 3698, and 3699 clean-up regulatory language based on revisions to statute caused by SB 209 (Pavley), reset and adjust the low gross exemption maximum income limit and associated fee based on the cost of living as measured by the CPI, and clarify language for consistency throughout the regulatory sections.

## **Fiscal Impact Statement**

### **Section B. Fiscal Effect on State Government**

4. The amendments of CCR sections 3697, 3698, and 3699 clean-up regulatory language based on revisions to statute caused by SB 209 (Pavley), reset and adjust the low gross exemption maximum income limit and associated fee based on the cost of living as measured by the CPI, and clarify language for consistency throughout the regulatory sections.

Additionally, CCR section 3698 is amended to delete existing specific references to the former maximum reporting fee of \$4,000 for the largest producers, and replace them with a general reference to the maximum reporting fee set in PRC section 2207. The SMGB does this to circumvent the need to update the maximum reporting fee in the regulation caused by future revisions to statute. The largest producers have been subject to the maximum reporting fee outlined in PRC section 2207 since the regulation's inception in 1991. Thus, it is the SMGB's position that amending CCR section 3698 to include the general reference to the maximum reporting fee set in PRC section 2207 is caused by the revisions to statute as a result of SB 209 (Pavley).